114TH CONGRESS
*1st Session*
HOUSE OF REPRESENTATIVES
REPORT
114–203

# IMPROVING ACCESS TO CAPITAL FOR EMERGING GROWTH COMPANIES ACT

JULY 14, 2015.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. HENSARLING, from the Committee on Financial Services, submitted the following

# R E P O R T

[To accompany H.R. 2064]

[Including cost estimate of the Congressional Budget Office]

The Committee on Financial Services, to whom was referred the bill (H.R. 2064) to amend certain provisions of the securities laws relating to the treatment of emerging growth companies, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Improving Access to Capital for Emerging Growth Companies Act".

**SEC. 2. FILING REQUIREMENT FOR PUBLIC FILING PRIOR TO PUBLIC OFFERING.**

Section 6(e)(1) of the Securities Act of 1933 (15 U.S.C. 77f(e)(1)) is amended by striking "21 days" and inserting "15 days".

**SEC. 3. GRACE PERIOD FOR CHANGE OF STATUS OF EMERGING GROWTH COMPANIES.**

Section 6(e)(1) of the Securities Act of 1933 (15 U.S.C. 77f(e)(1)) is further amended by adding at the end the following: "An issuer that was an emerging growth company at the time it submitted a confidential registration statement or, in lieu thereof, a publicly filed registration statement for review under this subsection but ceases to be an emerging growth company thereafter shall continue to be treated as an emerging market growth company for the purposes of this subsection through the earlier of the date on which the issuer consummates its initial public offering pursuant to such registrations statement or the end of the 1-year period beginning on the date the company ceases to be an emerging growth company.".

**SEC. 4. SIMPLIFIED DISCLOSURE REQUIREMENTS FOR EMERGING GROWTH COMPANIES.**

Section 102 of the Jumpstart Our Business Startups Act (Public Law 112–106) is amended by adding at the end the following:

"(d) SIMPLIFIED DISCLOSURE REQUIREMENTS.—With respect to an emerging growth company (as such term is defined under section 2 of the Securities Act of 1933):

"(1) REQUIREMENT TO INCLUDE NOTICE ON FORMS S–1 AND F-1.—Not later than 30 days after the date of enactment of this subsection, the Securities and Exchange Commission shall revise its general instructions on Forms S–1 and F-1 to indicate that a registration statement filed (or submitted for confidential review) by an issuer prior to an initial public offering may omit financial information for historical periods otherwise required by regulation S–X (17 C.F.R. 210.1–01 et seq.) as of the time of filing (or confidential submission) of such registration statement, provided that—

"(A) the omitted financial information relates to a historical period that the issuer reasonably believes will not be required to be included in the Form S–1 or F-1 at the time of the contemplated offering; and

"(B) prior to the issuer distributing a preliminary prospectus to investors, such registration statement is amended to include all financial information required by such regulation S–X at the date of such amendment.

"(2) RELIANCE BY ISSUERS.—Effective 30 days after the date of enactment of this subsection, an issuer filing a registration statement (or submitting the statement for confidential review) on Form S–1 or Form F-1 may omit financial information for historical periods otherwise required by regulation S–X (17 C.F.R. 210.1–01 et seq.) as of the time of filing (or confidential submission) of such registration statement, provided that—

"(A) the omitted financial information relates to a historical period that the issuer reasonably believes will not be required to be included in the Form S–1 or Form F-1 at the time of the contemplated offering; and

"(B) prior to the issuer distributing a preliminary prospectus to investors, such registration statement is amended to include all financial information required by such regulation S–X at the date of such amendment.".

## PURPOSE AND SUMMARY

H.R. 2064, the "Improving Access to Capital for Emerging Growth Companies Act," makes changes related to the treatment of Emerging Growth Companies (EGCs), as defined by the Jumpstart Our Business Startups Act. H.R. 2064 would reduce the number of days an EGC must have a confidential registration statement on file with the Securities and Exchange Commission before it may conduct a "road show" to provide financial and other information from 21 days to 15. H.R. 2064 also clarifies that an issuer that was an EGC at the time it filed a confidential registration statement but is no longer an EGC will continue to be treated as an EGC through the date of its IPO and requires the SEC to revise its general instructions on Form S–1 regarding the financial information an issuer must disclose prior to its IPO.

## BACKGROUND AND NEED FOR LEGISLATION

H.R. 2064 makes changes related to the treatment of Emerging Growth Companies (EGCs), which are a new category of issuers established in Title I of the JOBS Act.[1]

H.R. 2064 would reduce the number of days an EGC must have a confidential registration statement on file with the SEC before it may conduct a road show to provide financial and other information from 21 days to 15. A "road show" is one of the most important steps by a company planning to issue securities through an initial public offering (IPO). The company puts together a team of executives to provide financial information, such as a business outlook for the firm; explain why it is doing an IPO; identify a possible

[1] EGCs are issuers with annual gross revenues of less than $1 billion during its most recent fiscal year. A company retains emerging growth company status until the earliest of: 1) the end of the fiscal year in which its annual revenues exceed $1 billion, 2) the end of the fiscal year in which the fifth anniversary of its IPO occurred, 3) the date on which the company has, during the previous three-year period, issued more than $1 billion in non-convertible debt, or 4) the date on which the company has a public float of $700 million or more.

sales price for the stock; and answer questions from analysts and investors in order to spur positive interest. Road shows can literally be that—the company's team travels across the globe to make the presentation. Road shows, however, can also be done by phone or by a webcast.

H.R. 2064 also clarifies that an issuer that was an EGC at the time it filed a confidential registration statement but is no longer an emerging growth company will continue to be treated as an EGC through the date of its IPO. Gary K. Wunderlich, Jr., Chief Executive Officer of Wunderlich Securities, testified on the importance of this clarification at an October 2013 Capital Markets Subcommittee hearing:

> The cost and effort to create audited financial statements (and related narrative disclosures) for IPO issuers are significant, and is an entirely unnecessary burden for them where those financial statements will not be required to be included in a preliminary prospectus or final prospectus distributed to investors. It is our understanding that other securities regulators (for example, the UK FSA) currently permit the suggested approach.

H.R. 2064 also requires the SEC to revise its general instructions on Form S–1 regarding the financial information an issuer must disclose prior to its IPO. Section 4 is designed to simplify the financial statement disclosure requirements for EGCs. Currently, an EGC must include the previous two years of audited financials when it files its registration statement for review. The time required for SEC review could cause the EGC to roll into a new fiscal year before it launches its IPO, and as such the relevant two-year period may change. Identical legislation passed the Committee on Financial Services in the 113th Congress on a 56–0 vote.

H.R. 2064 is a reaction to the success of Title I of the JOBS Act and makes targeted changes to the federal securities laws to make IPOs even more appealing to small issuers. David Weild previously commented, "We support this bill as it creates generally greater optionality for issuers without altering the ultimate level of required disclosure to investors. This bill is in keeping with the philosophy that underlies Title I of the JOBS Act and the creation of safe harbors such as 'Testing the waters' and 'Confidential filings.' We believe, for example, that providing issuers with the ability to file without full financial statements will cut issuer time-to-market which is beneficial in mitigating market risk and speeding access to capital."

At a hearing on the 113th Congress version of H.R. 2064, Mr. Wunderlich supported the legislation's reduction of the 21-day quiet period: "In our experience however, this 21-day period is excessively long given the ready online access the public now possesses to such filings. The volatility in our markets can narrow the window of opportunity for an IPO to launch and price successfully and a 21-day quiet period inordinately and unnecessarily restricts an EGC's ability to come to market in a timely manner. We support a significant reduction in the quiet period as contemplated in the bill."

Finally, Tom Quaadman from the U.S. Chamber of Commerce testified in support of this legislation from the 113th Congress,

stating, "One of the most important contributions of the JOBS Act was that it removed many of the practical obstacles to an IPO for EGCs. Importantly, it would promote EGC access to the capital markets without denying investors with important real time information on which to base their investment decision."

## HEARINGS

The Committee on Financial Services held a hearing on April 29, 2015, titled "Legislative Proposals to Enhance Capital Formation and Reduce Regulatory Burdens," at which this matter was examined.

## COMMITTEE CONSIDERATION

The Committee on Financial Services met in open session on May 20, 2015, and ordered H.R. 2064 to be reported favorably to the House with an amendment by a recorded vote of 57 yeas to 0 nays (Record vote no. FC–38), a quorum being present.

## COMMITTEE VOTES

By voice vote, the Committee agreed to an amendment offered by Representatives Fincher of Tennessee and Delaney of Maryland. Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. The sole record vote in committee was a motion by Chairman Hensarling to report the bill favorably to the House with an amendment. The motion was agreed to by a recorded vote of 57 yeas to 0 nays (Record vote no. FC–38), a quorum being present.

Record vote no. FC-38

| Representative | Yea | Nay | Present | Representative | Yea | Nay | Present |
|---|---|---|---|---|---|---|---|
| Mr. Hensarling | X | | | Ms. Waters (CA) | X | | |
| Mr. King (NY) | | | | Mrs. Maloney (NY) | X | | |
| Mr. Royce | X | | | Ms. Velázquez | X | | |
| Mr. Lucas | X | | | Mr. Sherman | X | | |
| Mr. Garrett | X | | | Mr. Meeks | X | | |
| Mr. Neugebauer | X | | | Mr. Capuano | X | | |
| Mr. McHenry | X | | | Mr. Hinojosa | X | | |
| Mr. Pearce | X | | | Mr. Clay | X | | |
| Mr. Posey | X | | | Mr. Lynch | X | | |
| Mr. Fitzpatrick | X | | | Mr. David Scott (GA) | X | | |
| Mr. Westmoreland | X | | | Mr. Al Green (TX) | X | | |
| Mr. Luetkemeyer | X | | | Mr. Cleaver | | | |
| Mr. Huizenga (MI) | X | | | Ms. Moore | X | | |
| Mr. Duffy | X | | | Mr. Ellison | X | | |
| Mr. Hurt (VA) | X | | | Mr. Perlmutter | X | | |
| Mr. Stivers | X | | | Mr. Himes | X | | |
| Mr. Fincher | X | | | Mr. Carney | X | | |
| Mr. Stutzman | X | | | Ms. Sewell (AL) | X | | |
| Mr. Mulvaney | X | | | Mr. Foster | X | | |
| Mr. Hultgren | X | | | Mr. Kildee | X | | |
| Mr. Ross | X | | | Mr. Murphy (FL) | X | | |
| Mr. Pittenger | X | | | Mr. Delaney | X | | |
| Mrs. Wagner | X | | | Ms. Sinema | X | | |
| Mr. Barr | X | | | Mrs. Beatty | X | | |
| Mr. Rothfus | X | | | Mr. Heck (WA) | | | |
| Mr. Messer | X | | | Mr. Vargas | X | | |
| Mr. Schweikert | X | | | | | | |
| Mr. Guinta | X | | | | | | |
| Mr. Tipton | X | | | | | | |
| Mr. Williams | X | | | | | | |
| Mr. Poliquin | X | | | | | | |
| Mrs. Love | X | | | | | | |
| Mr. Hill | X | | | | | | |
| Mr. Emmer | X | | | | | | |

## COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

## PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee states that H.R. 2064 will enhance access to capital by emerging growth companies by enhancing their ability to conduct a "road show" to provide financial and other information to potential investors and by streamlining certain other regulatory requirements.

## NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

## COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

## CONGRESSIONAL BUDGET OFFICE ESTIMATES

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
*Washington, DC, June 17, 2015.*

Hon. JEB HENSARLING,
*Chairman, Committee on Financial Services,*
*House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2064, the Improving Access to Capital for Emerging Growth Companies Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Susan Willie and Ben Christopher.

Sincerely,

KEITH HALL.

Enclosure.

*H.R. 2064—Improving Access to Capital for Emerging Growth Companies Act*

H.R. 2064 would broaden some of the federal reporting exemptions available to emerging growth companies (EGCs) and allow a grace period to continue operations as an EGC if the company's status changes. (An EGC is a company that has issued or proposes to issue stock and had gross revenues of less than $1 billion during its most recently completed fiscal year; companies can retain that designation from the Securities and Exchange Commission (SEC) for up to five years.) The bill also would require the SEC to revise some of its forms to allow for a simplified registration process for EGCs.

Based on information from the SEC, CBO expects that the agency would spend $1 million under H.R. 2064 to revise instructions and other documents to reflect the new treatment of EGCs. In addition, limiting the information EGCs would need to report could increase the SEC's workload to review registration statements. Because the SEC is authorized to collect fees sufficient to offset its annual appropriation, CBO estimates that the net budgetary effect of H.R. 2064 would be negligible, assuming appropriation actions consistent with the agency's authority.

Enacting H.R. 2064 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

H.R. 2064 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

The CBO staff contacts for this estimate are Susan Willie and Ben Christopher. The estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

## FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

## ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

## APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of the section 102(b)(3) of the Congressional Accountability Act.

## EARMARK IDENTIFICATION

H.R. 2064 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.

## DUPLICATION OF FEDERAL PROGRAMS

Pursuant to section 3(g) of H. Res. 5, 114th Cong. (2015), the Committee states that no provision of H.R. 2064 establishes or re-

authorizes a program of the Federal Government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

## DISCLOSURE OF DIRECTED RULEMAKING

Pursuant to section 3(i) of H. Res. 5, 114th Cong. (2015), the Committee states that H.R. 2064 does not require any directed rulemakings.

## SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

*Section 1. Short title*

This section cites H.R. 2064 as the "Improving Access to Capital for Emerging Growth Companies Act."

*Section 2. Filing requirement for public filing prior to public offering*

This section amends Section 6(e)(1) of the Securities Act of 1933 (15 U.S.C. 77f(e)(1) by striking "21 days" and inserting "15 days."

*Section 3. Grace period for change of status of emerging growth companies*

This section amends Section 6(e)(1) of the Securities Act of 1933 (15 U.S.C. 77f(e)(1)) by providing that an issuer that was an EGC when it submitted a confidential registration statement or a publicly filed registration statement, but ceases to be an EGC thereafter, shall continue to be treated as an EGC through the earlier of the date on which the issuer consummates its IPO pursuant to such registration statement or the end of the 1-year period beginning on the date the company ceases to be an EGC.

*Section 4. Simplified disclosure requirements for emerging growth companies*

The section amends Section 102 of the Jumpstart Our Business Startups Act (P.L. 112–106) to simplify the types of financial data that an EGC must disclose in connection with certain SEC filings.

## CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

## SECURITIES ACT OF 1933

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### TITLE I—SHORT TITLE

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REGISTRATION OF SECURITIES AND SIGNING OF REGISTRATION STATEMENT

SEC. 6. (a) Any security may be registered with the Commission under the terms and conditions hereinafter provided, by filing a registration statement in triplicate, at least one of which shall be signed by each issuer, its principal executive officer or officers, its principal financial officer, its comptroller or principal accounting officer, and the majority of its board of directors or persons performing similar functions (or, if there is no board of directors or persons performing similar functions, by the majority of the persons or board having the power of management of the issuer), and in case the issuer is a foreign or Territorial person by its duly authorized representative in the United States; except that when such registration statement relates to a security issued by a foreign government, or political subdivision thereof, it need be signed only by the underwriter of such security. Signatures of all such persons when written on the said registration statements shall be presumed to have been so written by authority of the person whose signature is so affixed and the burden of proof, in the event such authority shall be denied, shall be upon the party denying the same. The affixing of any signature without the authority of the purported signer shall constitute a violation of this title. A registration statement shall be deemed effective only as to the securities specified therein as proposed to be offered.

(b) REGISTRATION FEE.—

(1) FEE PAYMENT REQUIRED.—At the time of filing a registration statement, the applicant shall pay to the Commission a fee at a rate that shall be equal to $92 per $1,000,000 of the maximum aggregate price at which such securities are proposed to be offered, except that during fiscal year 2003 and any succeeding fiscal year such fee shall be adjusted pursuant to paragraph (2).

(2) ANNUAL ADJUSTMENT.—For each fiscal year, the Commission shall by order adjust the rate required by paragraph (1) for such fiscal year to a rate that, when applied to the baseline estimate of the aggregate maximum offering prices for such fiscal year, is reasonably likely to produce aggregate fee collections under this subsection that are equal to the target fee collection amount for such fiscal year.

(3) PRO RATA APPLICATION.—The rates per $1,000,000 required by this subsection shall be applied pro rata to amounts and balances of less than $1,000,000.

(4) REVIEW AND EFFECTIVE DATE.—In exercising its authority under this subsection, the Commission shall not be required to comply with the provisions of section 553 of title 5, United States Code. An adjusted rate prescribed under paragraph (2) and published under paragraph (5) shall not be subject to judicial review. An adjusted rate prescribed under paragraph (2) shall take effect on the first day of the fiscal year to which such rate applies.

(5) PUBLICATION.—The Commission shall publish in the Federal Register notices of the rate applicable under this subsection and under sections 13(e) and 14(g) for each fiscal year not later than August 31 of the fiscal year preceding the fiscal

year to which such rate applies, together with any estimates or projections on which such rate is based.

(6) DEFINITIONS.—For purposes of this subsection:

(A) TARGET OFFSETTING COLLECTION AMOUNT.—The target fee collection amount for each fiscal year is determined according to the following table:

| Fiscal year: | Target fee collection amount |
|---|---|
| 2002 | $377,000,000 |
| 2003 | $435,000,000 |
| 2004 | $467,000,000 |
| 2005 | $570,000,000 |
| 2006 | $689,000,000 |
| 2007 | $214,000,000 |
| 2008 | $234,000,000 |
| 2009 | $284,000,000 |
| 2010 | $334,000,000 |
| 2011 | $394,000,000 |
| 2012 | $425,000,000 |
| 2013 | $455,000,000 |
| 2014 | $485,000,000 |
| 2015 | $515,000,000 |
| 2016 | $550,000,000 |
| 2017 | $585,000,000 |
| 2018 | $620,000,000 |
| 2019 | $660,000,000 |
| 2020 | $705,000,000 |
| 2021 and each fiscal year thereafter .. | An amount that is equal to the target fee collection amount for the prior fiscal year, adjusted by the rate of inflation. |

(B) BASELINE ESTIMATE OF THE AGGREGATE MAXIMUM OFFERING PRICES.—The baseline estimate of the aggregate maximum offering prices for any fiscal year is the baseline estimate of the aggregate maximum offering price at which securities are proposed to be offered pursuant to registration statements filed with the Commission during such fiscal year as determined by the Commission, after consultation with the Congressional Budget Office and the Office of Management and Budget, using the methodology required for projections pursuant to section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985.

(c) The filing with the Commission of a registration statement, or of an amendment to a registration statement, shall be deemed to have taken place upon the receipt thereof, but the filing of a registration statement shall not be deemed to have taken place unless it is accompanied by a United States postal money order or a certified bank check or cash for the amount of the fee required under subsection (b).

(d) The information contained in or filed with any registration statement shall be made available to the public under such regulations as the Commission may prescribe, and copies thereof, photostatic or otherwise, shall be furnished to every applicant at such reasonable charge as the Commission may prescribe.

(e) EMERGING GROWTH COMPANIES.—

(1) IN GENERAL.—Any emerging growth company, prior to its initial public offering date, may confidentially submit to the Commission a draft registration statement, for confidential nonpublic review by the staff of the Commission prior to public

filing, provided that the initial confidential submission and all amendments thereto shall be publicly filed with the Commission not later than [21 days] *15 days* before the date on which the issuer conducts a road show, as such term is defined in section 230.433(h)(4) of title 17, Code of Federal Regulations, or any successor thereto. *An issuer that was an emerging growth company at the time it submitted a confidential registration statement or, in lieu thereof, a publicly filed registration statement for review under this subsection but ceases to be an emerging growth company thereafter shall continue to be treated as an emerging market growth company for the purposes of this subsection through the earlier of the date on which the issuer consummates its initial public offering pursuant to such registrations statement or the end of the 1-year period beginning on the date the company ceases to be an emerging growth company.*

(2) CONFIDENTIALITY.—Notwithstanding any other provision of this title, the Commission shall not be compelled to disclose any information provided to or obtained by the Commission pursuant to this subsection. For purposes of section 552 of title 5, United States Code, this subsection shall be considered a statute described in subsection (b)(3)(B) of such section 552. Information described in or obtained pursuant to this subsection shall be deemed to constitute confidential information for purposes of section 24(b)(2) of the Securities Exchange Act of 1934.

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**JUMPSTART OUR BUSINESS STARTUPS ACT**

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# TITLE I—REOPENING AMERICAN CAPITAL MARKETS TO EMERGING GROWTH COMPANIES

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**SEC. 102. DISCLOSURE OBLIGATIONS.**

(a) EXECUTIVE COMPENSATION.—

(1) EXEMPTION.—Section 14A(e) of the Securities Exchange Act of 1934 (15 U.S.C. 78n-1(e)) is amended—

(A) by striking "The Commission may" and inserting the following:

"(1) IN GENERAL.—The Commission may";

(B) by striking "an issuer" and inserting "any other issuer"; and

(C) by adding at the end the following:

"(2) TREATMENT OF EMERGING GROWTH COMPANIES.—

"(A) IN GENERAL.—An emerging growth company shall be exempt from the requirements of subsections (a) and (b).

"(B) COMPLIANCE AFTER TERMINATION OF EMERGING GROWTH COMPANY TREATMENT.—An issuer that was an

emerging growth company but is no longer an emerging growth company shall include the first separate resolution described under subsection (a)(1) not later than the end of—

"(i) in the case of an issuer that was an emerging growth company for less than 2 years after the date of first sale of common equity securities of the issuer pursuant to an effective registration statement under the Securities Act of 1933, the 3-year period beginning on such date; and

"(ii) in the case of any other issuer, the 1-year period beginning on the date the issuer is no longer an emerging growth company.".

(2) PROXIES.—Section 14(i) of the Securities Exchange Act of 1934 (15 U.S.C. 78n(i)) is amended by inserting ", for any issuer other than an emerging growth company," after "including".

(3) COMPENSATION DISCLOSURES.—Section 953(b)(1) of the Investor Protection and Securities Reform Act of 2010 (Public Law 111-203; 124 Stat. 1904) is amended by inserting ", other than an emerging growth company, as that term is defined in section 3(a) of the Securities Exchange Act of 1934," after "require each issuer".

(b) FINANCIAL DISCLOSURES AND ACCOUNTING PRONOUNCEMENTS.—

(1) SECURITIES ACT OF 1933.—Section 7(a) of the Securities Act of 1933 (15 U.S.C. 77g(a)) is amended—

(A) by striking "(a) The registration" and inserting the following:

"(a) INFORMATION REQUIRED IN REGISTRATION STATEMENT.—

"(1) IN GENERAL.—The registration"; and

(B) by adding at the end the following:

"(2) TREATMENT OF EMERGING GROWTH COMPANIES.—An emerging growth company—

"(A) need not present more than 2 years of audited financial statements in order for the registration statement of such emerging growth company with respect to an initial public offering of its common equity securities to be effective, and in any other registration statement to be filed with the Commission, an emerging growth company need not present selected financial data in accordance with section 229.301 of title 17, Code of Federal Regulations, for any period prior to the earliest audited period presented in connection with its initial public offering; and

"(B) may not be required to comply with any new or revised financial accounting standard until such date that a company that is not an issuer (as defined under section 2(a) of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7201(a))) is required to comply with such new or revised accounting standard, if such standard applies to companies that are not issuers.".

(2) SECURITIES EXCHANGE ACT OF 1934.—Section 13(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a)) is amended by adding at the end the following: "In any registration statement, periodic report, or other reports to be filed with the

Commission, an emerging growth company need not present selected financial data in accordance with section 229.301 of title 17, Code of Federal Regulations, for any period prior to the earliest audited period presented in connection with its first registration statement that became effective under this Act or the Securities Act of 1933 and, with respect to any such statement or reports, an emerging growth company may not be required to comply with any new or revised financial accounting standard until such date that a company that is not an issuer (as defined under section 2(a) of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7201(a))) is required to comply with such new or revised accounting standard, if such standard applies to companies that are not issuers.".

(c) OTHER DISCLOSURES.—An emerging growth company may comply with section 229.303(a) of title 17, Code of Federal Regulations, or any successor thereto, by providing information required by such section with respect to the financial statements of the emerging growth company for each period presented pursuant to section 7(a) of the Securities Act of 1933 (15 U.S.C. 77g(a)). An emerging growth company may comply with section 229.402 of title 17, Code of Federal Regulations, or any successor thereto, by disclosing the same information as any issuer with a market value of outstanding voting and nonvoting common equity held by non-affiliates of less than $75,000,000.

*(d) SIMPLIFIED DISCLOSURE REQUIREMENTS.—With respect to an emerging growth company (as such term is defined under section 2 of the Securities Act of 1933):*

*(1) REQUIREMENT TO INCLUDE NOTICE ON FORMS S–1 AND F-1.—Not later than 30 days after the date of enactment of this subsection, the Securities and Exchange Commission shall revise its general instructions on Forms S–1 and F-1 to indicate that a registration statement filed (or submitted for confidential review) by an issuer prior to an initial public offering may omit financial information for historical periods otherwise required by regulation S–X (17 C.F.R. 210.1–01 et seq.) as of the time of filing (or confidential submission) of such registration statement, provided that—*

*(A) the omitted financial information relates to a historical period that the issuer reasonably believes will not be required to be included in the Form S–1 or F-1 at the time of the contemplated offering; and*

*(B) prior to the issuer distributing a preliminary prospectus to investors, such registration statement is amended to include all financial information required by such regulation S–X at the date of such amendment.*

*(2) RELIANCE BY ISSUERS.—Effective 30 days after the date of enactment of this subsection, an issuer filing a registration statement (or submitting the statement for confidential review) on Form S–1 or Form F-1 may omit financial information for historical periods otherwise required by regulation S–X (17 C.F.R. 210.1–01 et seq.) as of the time of filing (or confidential submission) of such registration statement, provided that—*

*(A) the omitted financial information relates to a historical period that the issuer reasonably believes will not be*

*required to be included in the Form S–1 or Form F-1 at the time of the contemplated offering; and*

*(B) prior to the issuer distributing a preliminary prospectus to investors, such registration statement is amended to include all financial information required by such regulation S–X at the date of such amendment.*

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