

NATIONAL SECURITIES EXCHANGE REGULATORY PARITY
ACT

JANUARY 25, 2018.—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

together with

MINORITY VIEWS

[To accompany H.R. 4546]

[Including cost estimate of the Congressional Budget Office]

The Committee on Financial Services, to whom was referred the bill (H.R. 4546) to amend the Securities Act of 1933 to specify when a nationally traded security is exempt from State regulation of security offerings, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE AND SUMMARY

On December 5, 2017, Representative Ed Royce introduced H.R. 4546, the National Securities Exchange Regulatory Parity Act, which modernizes Section 18 of the Securities Act of 1933 (Securities Act) and eliminates references to specific national securities exchanges. H.R. 4546 also clarifies that the state “blue sky” exemption shall be available for all securities that qualify for trading in the national market system pursuant to section 11A(2) of the Securities Exchange Act of 1934.

BACKGROUND AND NEED FOR LEGISLATION

The goal of H.R. 4546 is to better reflect today’s equity markets, which compete aggressively to list securities and execute transactions. In 1996, Congress passed, and President Clinton signed into law, the National Securities Markets Improvement Act of 1996

(NSMIA). NSMIA amended Section 18 of the Securities Act to specifically and explicitly exempt from state registration the securities listed on three equity markets: the New York Stock Exchange (NYSE), the American Stock Exchange (AMEX), and the Nasdaq Stock Market (NASDAQ).

It is Section 18(b)(1) of the Securities Act that specifically exempts these certain securities from individual state-by-state registration. This provision, commonly known as a “blue sky” exemption, applies to the exchange on which securities are listed for trading. In setting forth the standard for blue sky exemption, this 1996 addition to the Securities Act enumerated certain exchanges with national listings programs that existed when Congress added the provision.

As previously mentioned, the “blue sky” exemption applies to securities listed on the NYSE, the AMEX, or the NASDAQ in addition to any national securities exchange the Securities and Exchange Commission (SEC) determines by rule has “substantially similar” listing standards to those enumerated exchanges. Since the exemption’s 1996 enactment, additional securities exchanges have registered with the SEC and one of the enumerated exchanges, AMEX, merged with the NYSE and no longer exists as an independently owned national securities exchange.

As a result, the current framework under Section 18 has created a two-tiered system to list securities whereby the enumerated exchanges can bypass unnecessary and burdensome scrutiny by the SEC as compared to those exchanges that the Securities Act does not specifically enumerate and have since registered with the SEC. For example, in 2012, the SEC amended Rule 146 under the Securities Act to designate Bats BZX Exchange (Bats) as an exchange that has “substantially similar” listing standards as the NYSE and NASDAQ. Consequently, the SEC granted the “blue sky” exemption to the securities listed on Bats. Unlike the enumerated exchanges, because Bats is not specifically listed in Section 18(b)(1), any proposed changes that Bats or its successor owner, the CBOE, may make to its listing standards are subject to a formal finding by the SEC that the Bats standards would remain “substantially similar” to those of either NYSE or Nasdaq, and possibly the non-existent AMEX, before Bats could implement the proposed changes.

The mandate that Section 18(b)(1) of the Securities Act imposes on the SEC unnecessarily stifles competition and innovation amongst equity markets, as the law forces the SEC to make a finding that a proposed change to a listings standard must be substantially similar to the rules in effect at NYSE and NASDAQ. In doing so, the NYSE and NASDAQ could change a listing standard solely to block competition from a new equity market. Interestingly, Section 18(b)(1) would appear to conflict with Section 106 of NSMIA, which amended Section 2 of the Securities Act. Section 106 of NSMIA now requires the SEC whenever it is engaged in rule-making to also consider whether the action will promote efficiency, competition, and capital formation. Ultimately, the Securities Act, as amended by NSMIA, allows the NYSE and NASDAQ to innovate its listing standards without going through the onerous process of first gaining SEC approval, but its plain language does not provide the same benefit to other national securities exchanges. H.R. 4546 therefore creates parity amongst all national market system par-

ticipants and levels the playing field to allow all national securities qualified for trading in the national market system to have the same blue sky exemptions without regard to whether an exchange is explicitly specified in the statute.

The alternative is to require state registration for non-enumerated exchanges, which is an additional burden and cost that is unnecessary for companies trying to access capital to grow. As Representative Royce said in 2016:

The SEC’s interpretation of the [current] law has created a two-tiered playing field by giving this “blue sky” exemption only to [three] exchanges which existed in 1996. It was not the intention of Congress to create such a carve-out. . . . Why is this exemption important? You could ask anyone from Massachusetts who tried to invest in a little company called Apple during its IPO. State regulators banned the stock for being “too risky.”

Opponents of this common-sense modernization of the law contend that the legislation somehow would increase the risks to investors by increasing the number of securities that do not need to register with the states. This concern is misguided. The SEC is the primary enforcement agency of securities fraud, and this bill in no way diminishes the SEC’s oversight or enforcement authority. The SEC also publishes rule changes proposed by the national securities exchanges for public comment. The intent of Congress in 1996 when it amended Section 18 of the Securities Act was not to entrench and favor the three referenced exchanges; rather Congress acknowledged the primary listing venues at the time of NSMIA’s drafting and enactment.

Any security listed on a registered national securities exchange is, and still would be, subject to SEC registration and required to provide periodic and annual reports to the shareholders. They would also still be required to comply with all applicable disclosure requirements that come with that registration. Forcing securities subject to SEC registration and disclosure obligations to also register with the states would create inefficiencies, stifle innovation, and cause conflicts amongst state statutory and regulatory regimes. While perhaps well intentioned, state securities registration and oversight can have negative market and economic consequences that include chilling public offerings of national securities and arbitrarily prohibiting investors in certain states from participating in potentially promising investment opportunities. What the SEC can approve by rule, the SEC can also reverse by rule. A future SEC could reverse these Rule 146 approvals and alter its interpretation of “substantially similar.” Congress has the responsibility to improve the law and modernize the law, and provide clear directives to Executive and independent agencies, such as the SEC. National market system participants deserve the legal certainty that they can compete for listings. The SEC should approve listing standards that are consistent with the federal securities laws rather than have the power to compare listing standards based on a well-intentioned but in retrospect a clumsy statutory construction. A legislative solution is therefore necessary to resolve this outdated provision.

In short, H.R. 4546 is a technical fix that corrects unintended preferential treatment that has resulted by specifically naming the exchanges that existed in 1996 while providing a statutory framework that both preserves the goal of the exemptive structure set forth under Section 18 and ensures that the statutory text can be applied as new national securities exchanges emerge.

HEARINGS

The Committee on Financial Services held a hearing examining matters relating to H.R. 4546 on April 26, 2017 and April 28, 2017.

COMMITTEE CONSIDERATION

The Committee on Financial Services met in open session on December 12, 2017 and December 13, 2017, and ordered H.R. 4546 to be reported favorably to the House without amendment by a recorded vote of 46 yeas to 14 nays (Record vote no. FC-122), a quorum being present.

COMMITTEE VOTES

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 recorded vote was on a motion by Chairman Hensarling to report the bill favorably to the House without amendment. The motion was agreed to by a recorded vote of 46 yeas to 14 nays (Record vote no. FC-122), a quorum being present.

Record vote no. FC-122

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Hensarling	X			Ms. Maxine Waters (CA)		X	
Mr. McHenry	X			Mrs. Carolyn B. Maloney (NY) ..	X		
Mr. King	X			Ms. Velázquez		X	
Mr. Royce (CA)	X			Mr. Sherman	X		
Mr. Lucas	X			Mr. Meeks	X		
Mr. Pearce	X			Mr. Capuano		X	
Mr. Posey	X			Mr. Clay		X	
Mr. Luetkemeyer	X			Mr. Lynch		X	
Mr. Huizenga	X			Mr. David Scott (GA)	X		
Mr. Duffy	X			Mr. Al Green (TX)		X	
Mr. Stivers	X			Mr. Cleaver		X	
Mr. Hultgren	X			Ms. Moore		X	
Mr. Ross	X			Mr. Ellison		X	
Mr. Pittenger	X			Mr. Perlmutter		X	
Mrs. Wagner	X			Mr. Himes	X		
Mr. Barr	X			Mr. Foster	X		
Mr. Rothfus	X			Mr. Kildee		X	
Mr. Messer	X			Mr. Delaney	X		
Mr. Tipton	X			Ms. Sinema	X		
Mr. Williams	X			Mrs. Beatty		X	
Mr. Poliquin	X			Mr. Heck	X		
Mrs. Love	X			Mr. Vargas	X		
Mr. Hill	X			Mr. Gottheimer	X		
Mr. Emmer	X			Mr. Gonzalez (TX)		X	
Mr. Zeldin	X			Mr. Crist		X	
Mr. Trott	X			Mr. Kihuen	X		
Mr. Loudermilk	X						
Mr. Mooney (WV)	X						
Mr. MacArthur	X						
Mr. Davidson	X						
Mr. Budd	X						
Mr. Kustoff (TN)	X						
Ms. Tenney	X						
Mr. Hollingsworth	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. 4546 levels the playing field for identically regulated securities exchanges and eliminates additional burdens and costs for companies by ensuring the availability of blue sky exemptions for any security listed on a “national securities exchange” registered with the SEC.

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.

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, January 18, 2018.

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. 4546, the National Securities Exchange Regulatory Parity Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Stephen Rabent.

Sincerely,

KEITH HALL,
Director.

Enclosure.

H.R. 4546—National Securities Exchange Regulatory Parity Act

Under current law, certain securities listed on national exchanges are exempt from state securities regulations. H.R. 4546 would allow any security listed on a national exchange that is registered with the Securities and Exchange Commission (SEC) to be exempted from such state regulations.

Using information from the SEC, CBO estimates that implementing H.R. 4546 would have an insignificant effect on that agency's costs. Under the bill, the SEC would have to review any future changes to the rules of national exchanges and update its own rules. CBO estimates that the cost of that work would be insignificant. Moreover, the SEC is authorized to collect fees sufficient to offset its annual appropriation; therefore, CBO estimates that the net effect on discretionary spending would be negligible, assuming appropriation actions consistent with that authority.

Enacting H.R. 4546 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

CBO estimates that enacting H.R. 4546 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

H.R. 4546 would preempt state laws that govern the state-level registration of securities. Preemptions are mandates as defined in the Unfunded Mandates Reform Act (UMRA) because they limit the authority of states to apply their own laws. However, CBO estimates that the preemption would not affect the budgets of state, local, or tribal governments because it would impose no duty on states that would result in additional spending or loss of revenues.

H.R. 4546 contains no private-sector mandates as defined in UMRA.

The CBO staff contacts for this estimate are Stephen Rabent (for federal costs) and Rachel Austin (for mandates). The estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

FEDERAL MANDATES STATEMENT

This information is provided in accordance with section 423 of the Unfunded Mandates Reform Act of 1995.

The Committee has determined that the bill does not contain Federal mandates on the private sector. The Committee has determined that the bill does not impose a Federal intergovernmental mandate on State, local, or tribal governments.

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

With respect to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee has carefully reviewed the provisions of the bill and states that the provisions of the bill do not contain any congressional earmarks, limited tax benefits, or limited tariff benefits within the meaning of the rule.

DUPLICATION OF FEDERAL PROGRAMS

In compliance with clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, the Committee states that no provision of the bill establishes or reauthorizes: (1) a program of the Federal Government known to be duplicative of another Federal program; (2) a program included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139; or (3) a program related to a program identified in the most recent Catalog of Federal Domestic Assistance, published pursuant to the Federal Program Information Act (Pub. L. No. 95–220, as amended by Pub. L. No. 98–169).

DISCLOSURE OF DIRECTED RULEMAKING

Pursuant to section 3(i) of H. Res. 5, (115th Congress), the following statement is made concerning directed rule makings: The Committee estimates that the bill requires no directed rule makings within the meaning of such section.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

This section cites H.R. 4546 as the “National Securities Exchange Regulatory Parity Act”.

Section 2. Nationally traded securities exemption

This section amends Section 18 of the Securities Act of 1933 to extend the blue sky exemption for any security listed on a national securities exchange registered with the SEC and whose listing standards were approved by the SEC.

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):

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

TITLE I—

* * * * *

SEC. 18. EXEMPTION FROM STATE REGULATION OF SECURITIES OFFERINGS.

(a) **SCOPE OF EXEMPTION.**—Except as otherwise provided in this section, no law, rule, regulation, or order, or other administrative action of any State or any political subdivision thereof—

(1) requiring, or with respect to, registration or qualification of securities, or registration or qualification of securities transactions, shall directly or indirectly apply to a security that—

(A) is a covered security; or

(B) will be a covered security upon completion of the transaction;

(2) shall directly or indirectly prohibit, limit, or impose any conditions upon the use of—

(A) with respect to a covered security described in subsection (b), any offering document that is prepared by or on behalf of the issuer; or

(B) any proxy statement, report to shareholders, or other disclosure document relating to a covered security or the issuer thereof that is required to be and is filed with the Commission or any national securities organization registered under section 15A of the Securities Exchange Act of 1934, except that this subparagraph does not apply to the laws, rules, regulations, or orders, or other administrative actions of the State of incorporation of the issuer; or

(3) shall directly or indirectly prohibit, limit, or impose conditions, based on the merits of such offering or issuer, upon the offer or sale of any security described in paragraph (1).

(b) **COVERED SECURITIES.**—For purposes of this section, the following are covered securities:

(1) **EXCLUSIVE FEDERAL REGISTRATION OF NATIONALLY TRADED SECURITIES.**—A security is a covered security if such security is—

[(A) listed, or authorized for listing, on the New York Stock Exchange or the American Stock Exchange, or listed, or authorized for listing, on the National Market System of the Nasdaq Stock Market (or any successor to such entities);]

[(B)] *(A) a security designated as qualified for trading in the national market system pursuant to section 11A(a)(2) of the Securities Exchange Act of 1934 that is listed, or authorized for listing, on a national securities exchange (or tier or segment thereof) [that has listing standards that the Commission determines by rule (on its own initiative or on the basis of a petition) are substantially similar to the listing standards applicable to securities described in subparagraph (A)];* or

[(C)] *(B) a security of the same issuer that is equal in seniority or that is a senior security to a security described in subparagraph (A) [or (B)].*

(2) **EXCLUSIVE FEDERAL REGISTRATION OF INVESTMENT COMPANIES.**—A security is a covered security if such security is a security issued by an investment company that is registered, or that has filed a registration statement, under the Investment Company Act of 1940.

(3) SALES TO QUALIFIED PURCHASERS.—A security is a covered security with respect to the offer or sale of the security to qualified purchasers, as defined by the Commission by rule. In prescribing such rule, the Commission may define the term “qualified purchaser” differently with respect to different categories of securities, consistent with the public interest and the protection of investors.

(4) EXEMPTION IN CONNECTION WITH CERTAIN EXEMPT OFFERINGS.—A security is a covered security with respect to a transaction that is exempt from registration under this title pursuant to—

(A) paragraph (1) or (3) of section 4, and the issuer of such security files reports with the Commission pursuant to section 13 or 15(d) of the Securities Exchange Act of 1934;

(B) section 4(4);

(C) section 4(6);

(D) a rule or regulation adopted pursuant to section 3(b)(2) and such security is—

(i) offered or sold on a national securities exchange;

or

(ii) offered or sold to a qualified purchaser, as defined by the Commission pursuant to paragraph (3) with respect to that purchase or sale;

(E) section 3(a), other than the offer or sale of a security that is exempt from such registration pursuant to paragraph (4), (10), or (11) of such section, except that a municipal security that is exempt from such registration pursuant to paragraph (2) of such section is not a covered security with respect to the offer or sale of such security in the State in which the issuer of such security is located;

(F) Commission rules or regulations issued under section 4(2), except that this subparagraph does not prohibit a State from imposing notice filing requirements that are substantially similar to those required by rule or regulation under section 4(2) that are in effect on September 1, 1996; or

(G) section 4(a)(7).

(c) PRESERVATION OF AUTHORITY.—

(1) FRAUD AUTHORITY.—Consistent with this section, the securities commission (or any agency or office performing like functions) of any State shall retain jurisdiction under the laws of such State to investigate and bring enforcement actions, in connection with securities or securities transactions

(A) with respect to—

(i) fraud or deceit; or

(ii) unlawful conduct by a broker or dealer; and

(B) in connection to a transaction described under section 4(6), with respect to—

(i) fraud or deceit; or

(ii) unlawful conduct by a broker, dealer, funding portal, or issuer.

(2) PRESERVATION OF FILING REQUIREMENTS.—

(A) NOTICE FILINGS PERMITTED.—Nothing in this section prohibits the securities commission (or any agency

or office performing like functions) of any State from requiring the filing of any document filed with the Commission pursuant to this title, together with annual or periodic reports of the value of securities sold or offered to be sold to persons located in the State (if such sales data is not included in documents filed with the Commission), solely for notice purposes and the assessment of any fee, together with a consent to service of process and any required fee.

(B) PRESERVATION OF FEES.—

(i) IN GENERAL.—Until otherwise provided by law, rule, regulation, or order, or other administrative action of any State or any political subdivision thereof, adopted after the date of enactment of the National Securities Markets Improvement Act of 1996, filing or registration fees with respect to securities or securities transactions shall continue to be collected in amounts determined pursuant to State law as in effect on the day before such date.

(ii) SCHEDULE.—The fees required by this subparagraph shall be paid, and all necessary supporting data on sales or offers for sales required under subparagraph (A), shall be reported on the same schedule as would have been applicable had the issuer not relied on the exemption provided in subsection (a).

(C) AVAILABILITY OF PREEMPTION CONTINGENT ON PAYMENT OF FEES.—

(i) IN GENERAL.—During the period beginning on the date of enactment of the National Securities Markets Improvement Act of 1996 and ending 3 years after that date of enactment, the securities commission (or any agency or office performing like functions) of any State may require the registration of securities issued by any issuer who refuses to pay the fees required by subparagraph (B).

(ii) DELAYS.—For purposes of this subparagraph, delays in payment of fees or underpayments of fees that are promptly remedied shall not constitute a refusal to pay fees.

(D) FEES NOT PERMITTED ON LISTED SECURITIES.—Notwithstanding subparagraphs (A), (B), and (C), no filing or fee may be required with respect to any security that is a covered security pursuant to subsection (b)(1), or will be such a covered security upon completion of the transaction, or is a security of the same issuer that is equal in seniority or that is a senior security to a security that is a covered security pursuant to subsection (b)(1).

(F) FEES NOT PERMITTED ON CROWDFUNDED SECURITIES.—Notwithstanding subparagraphs (A), (B), and (C), no filing or fee may be required with respect to any security that is a covered security pursuant to subsection (b)(4)(B), or will be such a covered security upon completion of the transaction, except for the securities commission (or any agency or office performing like functions) of the State of the principal place of business of the issuer, or any State in which purchasers of 50 percent or greater

of the aggregate amount of the issue are residents, provided that for purposes of this subparagraph, the term “State” includes the District of Columbia and the territories of the United States.

(3) ENFORCEMENT OF REQUIREMENTS.—Nothing in this section shall prohibit the securities commission (or any agency or office performing like functions) of any State from suspending the offer or sale of securities within such State as a result of the failure to submit any filing or fee required under law and permitted under this section.

(d) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) OFFERING DOCUMENT.—The term “offering document”—

(A) has the meaning given the term “prospectus” in section 2(a)(10), but without regard to the provisions of subparagraphs (a) and (b) of that section; and

(B) includes a communication that is not deemed to offer a security pursuant to a rule of the Commission.

(2) PREPARED BY OR ON BEHALF OF THE ISSUER.—Not later than 6 months after the date of enactment of the National Securities Markets Improvement Act of 1996, the Commission shall, by rule, define the term “prepared by or on behalf of the issuer” for purposes of this section.

(3) STATE.—The term “State” has the same meaning as in section 3 of the Securities Exchange Act of 1934.

(4) SENIOR SECURITY.—The term “senior security” means any bond, debenture, note, or similar obligation or instrument constituting a security and evidencing indebtedness, and any stock of a class having priority over any other class as to distribution of assets or payment of dividends.

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MINORITY VIEWS

H.R. 4546 would allow the Securities and Exchange Commission to preempt state oversight of securities listed on a national securities exchange without having to first find that an exchange's listing standards are "substantially similar" to the listing standards of the New York Stock Exchange (NYSE), the American Stock Exchange (now NYSE AMEX), or Nasdaq. This bill completely removes any separate analysis for state preemption, which, if anything, should be improved to ensure fair and rigorous listing standards.

H.R. 4546 is intended to address a provision in the National Securities Markets Improvement Act of 1996, which explicitly granted state preemption to the three existing exchanges, NYSE, the American Stock Exchange, and Nasdaq. The law requires any other exchange seeking state preemption to prove to the SEC that its standards for listing securities are just as robust as the three named exchanges.

More than twenty years later, there are now twenty-one securities exchanges and the American Stock Exchange has been acquired by NYSE. While we acknowledge that it may not make sense to judge exchange listing standards based on the three exchanges named in the 1996 law, H.R. 4546 does nothing to guide the SEC in how it should otherwise determine whether an exchange's listing standards are sufficient to warrant state preemption. Instead, the bill would completely remove the baseline analysis and with it, the quantitative thresholds the SEC has developed to evaluate proposed listing standards.

However imperfect the current framework is for evaluating exchange listing standards for state preemption, it does not make sense to simply remove it and replace it with nothing. Doing so would, at best, create confusion and, at worst, result in a race-to-the-bottom as exchanges try to compete for business by lowering their listing standards.

The bill also rolls back a bipartisan compromise that was unanimously approved on the Floor last Congress to require the SEC to issue rules establishing minimum core quantitative listing standards to determine whether an exchange's proposed listing standards are sufficiently robust to warrant state preemption.

H.R. 4546 is opposed by consumer advocates like Americans for Financial Reform, Consumer Federation of America, and Public Citizen. Unsurprisingly, the bill is also opposed by the North American Securities Administrators Association (NASAA), who represents our state securities regulators. According to NASAA:

Fair and rigorous listing standards are essential. Such listing standards give investors a voice when it comes to important decisions, ensure independent directors are in place to watch out for investors, provide oversight of conflicts of interest to ensure investors have a chance at earn-

ing a return. . . . H.R. 4546 threatens to undercut the distinction between different types of exchanges with potentially different types of listing standards to the detriment of investors.

We agree and oppose H.R. 4546.

MAXINE WATERS.
VICENTE GONZALEZ.
EMANUEL CLEAVER.
AL GREEN.
STEPHEN F. LYNCH.
KEITH ELLISON.
JOYCE BEATTY.
MICHAEL E. CAPUANO.
WM. LACY CLAY.
NYDIA M. VELÁZQUEZ.
GWEN MOORE.
DANIEL T. KILDEE.

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