

115TH CONGRESS
1ST SESSION

H. R. 3903

IN THE SENATE OF THE UNITED STATES

NOVEMBER 2, 2017

Received; read twice and referred to the Committee on Banking, Housing, and
Urban Affairs

AN ACT

To amend the Securities Act of 1933 to expand the ability
to use testing the waters and confidential draft registra-
tion submissions, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Encouraging Public
3 Offerings Act of 2017”.

4 **SEC. 2. EXPANDING TESTING THE WATERS AND CONFIDEN-**
5 **TIAL SUBMISSIONS.**

6 The Securities Act of 1933 (15 U.S.C. 77a et seq.)
7 is amended—

8 (1) in section 5(d)—

9 (A) by striking “Notwithstanding” and in-
10 serting the following:

11 “(1) IN GENERAL.—Notwithstanding”;

12 (B) by striking “an emerging growth com-
13 pany or any person authorized to act on behalf
14 of an emerging growth company” and inserting
15 “an issuer or any person authorized to act on
16 behalf of an issuer”; and

17 (C) by adding at the end the following:

18 “(2) ADDITIONAL REQUIREMENTS.—

19 “(A) IN GENERAL.—The Commission may
20 issue regulations, subject to public notice and
21 comment, to impose such other terms, condi-
22 tions, or requirements on the engaging in oral
23 or written communications described under
24 paragraph (1) by an issuer other than an
25 emerging growth company as the Commission
26 determines appropriate.

“(B) REPORT TO CONGRESS.—Prior to any rulemaking described under subparagraph (A), the Commission shall issue a report to the Congress containing a list of the findings supporting the basis of such rulemaking.”; and (2) in section 6(e)—

(A) in the heading, by striking “EMERGING GROWTH COMPANIES” and inserting “DRAFT REGISTRATION STATEMENTS”;

(B) by redesignating paragraph (2) as paragraph (4); and

(C) by striking paragraph (1) and inserting the following:

“(1) PRIOR TO INITIAL PUBLIC OFFERING.—

Any issuer, 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 15 days before the date on which the issuer conducts a road show (as defined under section 230.433(h)(4) of title 17, Code of Federal Regulations) or, in the absence

1 of a road show, at least 15 days prior to the re-
2 requested effective date of the registration statement.

3 “(2) WITHIN 1 YEAR AFTER INITIAL PUBLIC
4 OFFERING OR EXCHANGE REGISTRATION.—Any
5 issuer, within the 1-year period following its initial
6 public offering or its registration of a security under
7 section 12(b) of the Securities Exchange Act of
8 1934, may confidentially submit to the Commission
9 a draft registration statement, for confidential non-
10 public review by the staff of the Commission prior
11 to public filing, provided that the initial confidential
12 submission and all amendments thereto shall be pub-
13 licly filed with the Commission not later than 15
14 days before the date on which the issuer conducts a
15 road show (as defined under section 230.433(h)(4)
16 of title 17, Code of Federal Regulations) or, in the
17 absence of a road show, at least 15 days prior to the
18 requested effective date of the registration state-
19 ment.

20 “(3) ADDITIONAL REQUIREMENTS.—

21 “(A) IN GENERAL.—The Commission may
22 issue regulations, subject to public notice and
23 comment, to impose such other terms, condi-
24 tions, or requirements on the submission of
25 draft registration statements described under

1 this subsection by an issuer other than an
2 emerging growth company as the Commission
3 determines appropriate.

4 “(B) REPORT TO CONGRESS.—Prior to any
5 rulemaking described under subparagraph (A),
6 the Commission shall issue a report to the Con-
7 gress containing a list of the findings sup-
8 porting the basis of such rulemaking.”.

 Passed the House of Representatives November 1,
2017.

Attest:

KAREN L. HAAS,
Clerk.