the victims of these attacks and, in so doing, bravely risked their own lives and long-term health;

(5) expresses thanks and gratitude to the foreign leaders and citizens of all nations who have assisted and continue to stand in solidarity with the United States against terrorism in the aftermath of the attacks on September 11, 2001, and asks them to continue to stand with the United States against international terrorism;

(6) commends the military and intelligence personnel involved in the removal of Osama bin Laden;

(7) reasserts its commitment to opposing violent extremism arrayed against American interests and to providing the United States military, intelligence, and law enforcement communities with the resources and support to do so effectively and safely;

(8) vows that it will continue to identify, intercept, and disrupt terrorists and their activities;

(9) reaffirms that the American people will never forget the sacrifices made on September 11, 2001, and will never bow to terrorist demands; and

(10) declares that when Congress adjourns today, it stands adjourned out of respect to the victims of the terrorist attacks.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PERMISSION TO POSTPONE PROCEEDINGS ON MOTION TO RECOMMIT ON H.R. 5424, INVESTMENT ADVISERS MODERNIZATION ACT OF 2016

Mr. HURT of Virginia. Mr. Speaker, I ask unanimous consent that the question of adopting a motion to recommit on H.R. 5424 may be subject to postponement as though under clause 8 of rule XX.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

INVESTMENT ADVISERS MODERNIZATION ACT OF 2016

Mr. HURT of Virginia. Mr. Speaker, pursuant to House Resolution 844, I call up the bill (H.R. 5424) to amend the Investment Advisers Act of 1940 and to direct the Securities and Exchange Commission to amend its rules to modernize certain requirements relating to investment advisers, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 844, the amendment in the nature of a substitute recommended by the Committee on Financial Services, printed in the bill, is adopted, and the bill, as amended, is considered read.

The text of the bill, as amended, is as follows:

H.R. 5424

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Investment Advisers Modernization Act of 2016''.

SEC. 2. MODERNIZING CERTAIN REQUIREMENTS RELATING TO INVESTMENT ADVISERS.

(a) INVESTMENT ADVISORY CONTRACTS.—

(1) ASSIGNMENT.—

(A) ASSIGNMENT DEFINED.—Section 202(a)(1) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2(a)(1)) is amended by striking ''; but'' and all that follows and inserting ''; but no assignment of an investment advisory contract shall be deemed to result from the death or withdrawal, or the sale or transfer of the interests, of a minority of the members, partners, shareholders, or other equity owners of the investment adviser having only a minority interest in the business of the investment adviser, or from the admission to the investment adviser of one or more members, partners, shareholders, or other equity owners who, after such admission, shall be only a minority of the members, partners, shareholders, or other equity owners and shall have only a minority interest in the business.''.

(B) CONSENT TO ASSIGNMENT BY QUALIFIED CLIENTS.—Section 205(a)(2) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–5(a)(2)) is amended by inserting before the semicolon the following: '', except that if such other party is a qualified client (as defined in section 275.205–3 of title 17, Code of Federal Regulations, or any successor thereto), such other party may provide such consent at the time the parties enter into, extend, or renew such contract''.

(2) NOT REQUIRED TO PROVIDE FOR NOTIFICATION OF CHANGE IN MEMBERSHIP OF PARTNERSHIP.—Section 205 of the Investment Advisers Act of 1940 (15 U.S.C. 80b–5) is amended—

(A) in subsection (a)—

(i) in paragraph (1), by striking the semicolon and inserting ''; or'';

(ii) in paragraph (2), by striking ''; or'' and inserting a period; and

(iii) by striking paragraph (3); and

(B) in subsection (d), by striking ''paragraphs (2) and (3) of subsection (a)'' and inserting ''subsection (a)(2)''.

(b) ADVERTISING RULE.—

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Commission shall amend section 275.206(4)–1 of title 17, Code of Federal Regulations, to provide that paragraphs (a)(1) and (a)(2) of such section do not apply to an advertisement that an investment adviser publishes, circulates, or distributes solely to persons described in paragraph (2) of this subsection.

(2) PERSONS DESCRIBED.—A person is described in this paragraph if such person is, or the investment adviser reasonably believes such person is—

(A) a qualified client (as defined in section 275.205–3 of title 17, Code of Federal Regulations), determined as of the time of the publication, circulation, or distribution of the advertisement rather than immediately prior to or after entering into the investment advisory contract referred to in such section;

(B) a knowledgeable employee (as defined in section 270.3c–5 of title 17, Code of Federal Regulations) of any private fund to which the investment adviser acts as an investment adviser;

(C) a qualified purchaser (as defined in section 2(a) of the Investment Company Act of 1940 (15 U.S.C. 80a–2(a))); or

(D) an accredited investor (as defined in section 230.501 of title 17, Code of Federal Regulations), determined as if the investment adviser were the issuer of securities referred to in such section and the time of the publication, circulation, or distribution of the advertisement were the sale of such securities.

SEC. 3. REMOVING DUPLICATIVE BURDENS AND APPROPRIATELY TAILORING CERTAIN REQUIREMENTS.

(a) BROCHURE DELIVERY.—Not later than 90 days after the date of the enactment of this Act, the Commission shall amend section 275.204–3(c) of title 17, Code of Federal Regulations, to provide that an investment adviser is not required to deliver a brochure or brochure supplement to a client that is a limited partnership, limited liability company, or other pooled investment vehicle for which each limited partner, member, or other equity owner has received, before purchasing a security issued by the pooled investment vehicle, a prospectus, private placement memorandum, or other offering document containing (to the extent material to an understanding of the pooled investment vehicle, the business of the pooled investment vehicle, and the securities being offered by the pooled investment vehicle) substantially the same information as would be required by Part 2A or 2B of Form ADV at the time of delivery of the brochure or brochure supplement, as the case may be.

(b) FORM PF.—Not later than 90 days after the date of the enactment of this Act, the Commission shall amend section 275.204(b)–1 of title 17, Code of Federal Regulations, to provide that an investment adviser to a private fund is not required to report any information beyond that which is required by sections 1a and 1b of Form PF, unless such investment adviser is a large hedge fund adviser or a large liquidity fund adviser (as such terms are defined in such Form).

(c) CUSTODY RULE.—Not later than 90 days after the date of the enactment of this Act, the Commission shall amend section 275.206(4)–2 of title 17, Code of Federal Regulations, as follows:

(1) The Commission shall provide additional exceptions to the independent verification requirement of paragraph (a)(4) of such section for an investment adviser with respect to funds and securities of a limited partnership (or a limited liability company or other type of pooled investment vehicle), as follows:

(A) An exception that applies if the outstanding securities (other than short-term paper, as defined in section 2(a) of the Investment Company Act of 1940 (15 U.S.C. 80a–2(a))) of the pooled investment vehicle are beneficially owned exclusively by—

(i) the investment adviser;

(ii) affiliated persons of the investment adviser;

(iii) supervised persons of the investment adviser;

(iv) officers, directors, and employees of the affiliated persons of the investment adviser;

(v) family members and former family members (as such terms are defined in section 275.202(a)(11)(G)–1 of title 17, Code of Federal Regulations) of persons described in clause (iii) or (iv); or

(vi) officers, directors, employees, or affiliated persons of, or persons who provide, have provided, or have entered into a contract to provide services to—

(I) the investment adviser of the pooled investment vehicle;

(II) one or more clients of the investment adviser of the pooled investment vehicle; or

(III) issuers from which the pooled investment vehicle or any other client of the investment adviser of the pooled investment vehicle has acquired securities, such as the portfolio company of a private fund.

(B) An exception that applies if the pooled investment vehicle has been established to hold only the securities of a single issuer in which one or more pooled investment vehicles managed by the investment adviser have acquired a controlling interest.

(2) Consistent with, and expanding on, IM Guidance Update No. 2013–04, titled ''Privately Offered Securities under the Investment Advisers Act Custody Rule'', published by the Division of Investment Management of the Commission, the Commission shall, with respect to the exception for certain privately offered securities in paragraph (b)(2) of such section—

(A) remove the requirement of clause (i)(B) of such paragraph (relating to the uncertificated nature and recordation of ownership of the securities); and

(B) remove the requirement of clause (ii) of such paragraph (relating to audit and financial

statement distribution requirements with respect to securities of pooled investment vehicles).

(d) PROXY VOTING RULE.—Not later than 90 days after the date of the enactment of this Act, the Commission shall amend section 275.206(4)–6 of title 17, Code of Federal Regulations, to provide that such section does not apply to any voting authority with respect to client securities that are not public securities.

SEC. 4. FACILITATING ROBUST CAPITAL FORMATION BY PREVENTING REGULATORY MISMATCH.

The Commission may not—

(1) amend section 230.156 of title 17, Code of Federal Regulations, to extend the provisions of such section to offerings of securities issued by private funds; or

(2) adopt rules applicable to offerings of securities issued by private funds that are substantially the same as the provisions of such section.

SEC. 5. EXCLUSION OF ADVISORY SERVICES TO REGISTERED INVESTMENT COMPANIES.

This Act shall not apply with respect to advisory services provided, or proposed to be provided, to an investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a–1 et seq.).

SEC. 6. REFERENCES TO REGULATIONS.

In this Act, any reference to a regulation shall be construed to refer to such regulation or any successor thereto.

SEC. 7. DEFINITIONS.

In this Act:

(1) PUBLIC SECURITY.—The term ''public security'' means a security issued by an issuer that—

(A) is required to submit reports under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a); 78o(d)); or

(B) has a security that is listed or traded on any exchange or organized market operating in a foreign jurisdiction.

(2) TERMS DEFINED IN INVESTMENT ADVISERS ACT OF 1940.—The terms defined in section 202(a) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2(a)) have the meanings given such terms in such section.

The SPEAKER pro tempore. The bill, as amended, shall be debatable for 1 hour equally divided and controlled by the chair and ranking minority member of the Committee on Financial Services.

After 1 hour of debate on the bill, as amended, it shall be in order to consider the further amendment printed in part B of House Report 114–725, if offered by the Member designated in the report, shall be considered read, shall be separately debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, and shall not be subject to a demand for a division of the question.

The gentleman from Virginia (Mr. HURT) and the gentlewoman from California (Ms. MAXINE WATERS) each will control 30 minutes.

The Chair recognizes the gentleman from Virginia.

GENERAL LEAVE

Mr. HURT of Virginia. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and submit extraneous materials on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. HURT of Virginia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5424, the Investment Advisers Modernization Act of 2016.

I represent a rural district in Virginia, Virginia's Fifth District, which stretches from Fauquier County to the North Carolina border.

As I traveled through my district during August, much as I have done throughout my time in Congress, I continued to hear hardworking Americans express concern about the current state of our economy and the economic uncertainty facing their children and grandchildren. I think every Member of this body can agree that, with millions of Americans out of work, our top focus in Congress should be on enacting policies to help spur job creation throughout our country.

Today, we are discussing several legislative efforts that, if enacted, will encourage economic growth and job creation by reducing unnecessary regulatory burdens. One of these measures is a bipartisan piece of legislation that I have been working on with Representatives FOSTER, VARGAS, STIVERS, HULTGREN, SINEMA, and others. In fact, during a June markup in the Financial Services Committee, H.R. 5424 garnered broad bipartisan support, passing by 47–12.

This measure, the Investment Advisers Modernization Act, is an effort to modernize a 76-year-old law to reflect current industry needs and standards. The legislation directs the SEC to update rules that clarify provisions within the Investment Advisers Act.

Specifically, the legislation modernizes the outdated portions of the Investment Advisers Act, such as ''assignment'' definition; it removes duplicative requirements, such as the notification to clients for any change in membership of a partnership; and it tailors current reporting metrics so that advisers are not required to provide burdensome and unnecessary information on their portfolio companies, among other things. Most importantly, it streamlines the regulatory scheme, while giving the SEC sufficient discretion to craft these rules to ensure investor protection. To be clear, this bill would in no way compromise investor protection, nor would it hinder the SEC's ability to pursue enforcement actions.

In our district, the investment of private capital is responsible for thousands of jobs. These critical investments allow our small businesses to innovate, expand their operations, and create jobs that our communities need.

Over the past three Congresses, there has been growing concern about the burden that Dodd-Frank unnecessarily placed on advisers to private equity, while at the same time exempting advisers to similar investment funds.

Over recent years, many of us have worked together in a bipartisan effort to eliminate the registration required by Dodd-Frank, but this bill does not do that and would not change the registration requirement that Dodd-Frank mandated. It simply updates the Investment Advisers Act. Instead, this legislation is a pragmatic and bipartisan approach to addressing some of the concerns with the Investment Advisers Act.

No matter your views on Dodd-Frank, the Investment Advisers Modernization Act represents the view that Congress should continuously look for bipartisan, commonsense solutions to update and streamline its laws in order to encourage economic growth and job creation.

I ask my colleagues on both sides of the aisle to support H.R. 5424, the Investment Advisers Modernization Act.

Mr. Speaker, I reserve the balance of my time.

Ms. MAXINE WATERS of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we stand here today after an extraordinarily long recess, and Republicans' first order of businesses is to protect Wall Street profits instead of dealing with a host of critical issues facing the American public.

I recently visited Baton Rouge, Louisiana, where thousands of residents are still without homes and communities are struggling to recover in the wake of last month's historic devastating flooding.

There is so much that we need to do as Members of Congress to help our constituents in the short amount of time we have left in session, whether it is helping the people of Baton Rouge, ending the crisis of homelessness in America, or preventing senseless gun violence. However, rather than working together to pass sensible legislation to address these issues, we are debating H.R. 5424, a bad bill that would put Americans' savings and investments at risk by opening the door to further abuses in the private equity industry.

This is an industry that touches all of us because it is not just private businesses looking to these funds to raise capital. One-quarter of the investments held by private equity firms come from our public pension funds that are holding our teachers' and firefighters' retirement savings. And it is not just our public pensions that are on the line. It is also our emergency services and mortgages and consumer lending markets where private equity funds are increasing their presence.

That is why it is so important to have adequate oversight of this industry. We must ensure that Wall Street does not turn a profit at the expense of investors, consumers, and retirees.

Unfortunately, H.R. 5424 would roll back Dodd-Frank's much-needed oversight and transparency measures for the shadow banking industry. Dodd-Frank required advisers to private equity funds and hedge funds with more than $150 million in assets under management to register with the SEC and

comply with important reporting and audit requirements. In addition, it required newly registered advisers to file systemic risk reports with the Financial Stability Oversight Council, because we had sufficient information on the risks that private funds could pose to our economy as a whole.

Thanks to this new oversight, the Securities and Exchange Commission has been able to examine and, where appropriate, bring enforcement actions against private fund advisers. In fact, the SEC has brought numerous enforcement actions against private fund advisers for a variety of transgressions in the past few years.

In 2013, the SEC identified violations or weaknesses in more than 50 percent of cases where it had examined how fees and expenses are handled by advisers. Recently, the SEC Director of Enforcement urged greater transparency in this area and said the Commission ''will continue to aggressively bring impactful cases in this space.''

All of this comes on top of recent news reports showing how private equity firms are investing in our fire departments, ambulance services, and mortgage and consumer lending markets. Their profit-driven tactics have resulted in slower reaction times in our emergency services, exorbitant interest rates, and the same sort of foreclosure abuses that we witnessed before and during the financial crisis.

So, when it comes to private equity funds and hedge funds, it is clear that more regulation is needed, not less. Yet this bill takes us in the wrong direction. For example, advisers would no longer have to notify clients of a change in ownership or provide them with information on their procedures for handling conflicts of interest in voting proxies. Additionally, they would not have to disclose information on large funds to the FSOC, making it harder to monitor and detect systemic risk.

Also troubling is that the bill would create a Bernie Madoff loophole by providing a broad exception from an annual audit requirement for funds whose investors may have a relationship with the adviser and for funds invested in private securities that are not represented by a paper certificate.

I must note that, despite efforts by my colleagues to amend this bill and remove some of its harmful provisions, there are still too many problematic provisions in this bill that would put investors, retirees, and consumers at risk. That is why it is opposed by consumer and investor advocates, State security regulators, institutional investors, and labor unions representing workers whose pensions could be affected.

Moreover, the White House has threatened to veto the bill, saying it ''would enable private fund advisers to slip back into the shadows'' and ''unnecessarily put working and middle class families at risk, while benefiting Wall Street and other narrow special interests.''

I, therefore, strongly urge my colleagues to oppose H.R. 5424.

I reserve the balance of my time.

□ 0930

Mr. HURT of Virginia. Mr. Speaker, I yield 3 minutes to the gentleman from Missouri (Mr. LUETKEMEYER), who is the chairman of our Housing and Insurance Subcommittee.

Mr. LUETKEMEYER. Mr. Speaker, I first would like to thank the gentleman from Virginia (Mr. HURT) for his hard work on H.R. 5424. Since joining this body, Mr. HURT has been a tireless advocate for small business creation, capital formation, and working with families across Virginia and throughout the United States. He is to be commended for his efforts.

Today, Mr. Speaker, we will consider his legislation, H.R. 5424, the Investment Advisers Modernization Act. This bill makes long-awaited and sensible changes to the 76-year-old Investment Advisers Act. H.R. 5424 also streamlines requirements for private equity funds and sophisticated investors in private equity funds.

As I said on the floor yesterday, there should be no room for regulation that serves only to appease bureaucratic demands. Capital should be used to create jobs and further growth, not fulfill meaningless and unproductive regulatory requirements.

Private equity plays a vital role in our economy. I have seen it firsthand in my district and across Missouri, and hope my colleagues recognize that private equity is responsible for saving and creating jobs in each of their congressional districts. Capital is the lifeblood of businesses.

At a time when investment returns are down and options are limited, when investment advice is more expensive and may soon be out of reach for many Americans, and when our economy continues to stagnate, we need to take measured steps to streamline regulations and free equity. That is the way you fuel an economic recovery.

This bill came to us from constituents who we have been listening to during all of the different times that we go home and talk to them. They said these are the rules and regulations that are strangling their ability to do business.

The ranking member just talked about a shadow banking system. I would argue that we have a shadow regulatory system that is producing rules and regulations at a furious clip, and without understanding the consequences of those rules and regulations.

H.R. 5424 will make modest but meaningful changes to existing law. This is a bipartisan bill that received support from the majority of the minority during the Financial Services Committee markup. It is legislation that merits support from all my colleagues, and that is because H.R. 5424 is about modernization, capital formation and, ultimately, American jobs.

I ask my colleagues to join me in supporting this legislation. I thank the gentleman from Virginia for his leadership on these issues and Chairman HENSARLING for bringing this bill to the floor.

Ms. MAXINE WATERS of California. Mr. Speaker, I yield 3½ minutes to the gentlewoman from New York (Mrs. CAROLYN B. MALONEY), the ranking member of our Subcommittee on Capital Markets and Government Sponsored Enterprises.

Mrs. CAROLYN B. MALONEY of New York. I thank the gentlewoman for yielding.

Mr. Speaker, I rise today in opposition to H.R. 5424.

While my good friend from Illinois, Mr. FOSTER, is going to offer an amendment that would remove two of the most problematic provisions, I, unfortunately, still have serious concerns with the remaining provisions in the bill, which makes changes to core aspects of a regulatory regime that has been very successful for decades.

For one thing, this entire bill applies to more than just private equity funds. It applies to private equity funds, hedge funds, and commodity pools. So, as a threshold matter, this is not narrow or targeted relief.

I also have a problem with the provision exempting private equity advisers from the Proxy Voting Rule for private securities. The Proxy Voting Rule simply requires advisers to have a policy—just a policy—in place to deal with conflicts of interest when the adviser is voting on shareholder proposals on their clients' behalf.

Proxy voting is not limited to public companies, and conflicts of interest exist whether a company is public or private. So there is really no reason why private securities should get an exemption here.

In fact, private equity advisers are even more likely to have a conflict of interest when they are voting on shareholder proposals on a client's behalf because the entire business model of a private equity funds is premised on the funds having a significant amount of influence, if not outright control; and, in some cases, they even manage the company.

So a private equity adviser that is voting on a client's behalf would have a conflict of interest virtually every time it is faced with a proposal that is good for management, but bad for shareholders.

Requiring a private equity adviser to have policies in place to manage these conflicts of interest is really not too much to ask. We are just asking for policies to be in place.

While I think there are some very good things in this bill that are reasonable, I think too many of the provisions go too far, so I urge my colleagues to oppose this bill.

Mr. HURT of Virginia. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. HULTGREN).

Mr. HULTGREN. Mr. Speaker, I rise today in support of H.R. 5424, the Investment Advisers Modernization Act.

I am proud to be a cosponsor of this legislation, which was introduced by Congressman HURT. I would especially like to thank Speaker RYAN and Chairman HENSARLING for their work in bringing this up for a vote today.

Private equity has a long history of making a positive difference for Illinois companies, their employees, and our communities. Over the last 10 years, private equity firms have invested hundreds of billions of dollars in Illinois-based companies. In fact, Illinois ranked number one nationally in attracting private equity investment in 2015, according to the American Investment Council.

It comes as no surprise that these companies, backed by strong financing and experienced management, with innovative products and services, support hundreds of thousands of workers and their families.

In addition to the economic growth driven by private equity, we also shouldn't overlook its importance to investors. For example, the State Universities Retirement System of Illinois and its 200,000 members depend on investments in private equity-backed companies.

So why shouldn't we, as legislators, seize an opportunity to make private equity investment easier?

This bill would make relatively modest updates to a 76-year-old Investment Advisers Act.

Our securities laws are meant to reflect the sophistication of the investors. We should not apply cumbersome regulations intended for less-sophisticated retail investors to professionals with deep knowledge and expertise of investment advising.

The majority of private equity funds in Illinois are middle market and do not have large administrative staffs. Generally, the staff is just one or two finance professionals. The proliferation of rules, reporting, and regulation at both the Federal and State level has severely taxed these firms and taken valuable resources away from the important job of identifying, investing in and growing companies and, thus, growing our economy.

The Investment Advisers Modernization Act will reduce administrative costs, making it easier to invest in our communities, and improve the rate of return, whether they are saving for retirement or for a university's endowment.

In closing, I would like to thank Chairman HENSARLING again and Mr. HURT for their leadership on this legislation.

It is no surprise that such a commonsense bill already has a strong bipartisan record. I urge all of my colleagues to support the Investment Advisers Modernization Act.

Ms. MAXINE WATERS of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, after general debate, my colleague from Illinois will offer an amendment to eliminate two toxic provisions of this bill. While I am supportive of his effort, I am concerned that his amendment does not go far enough.

I am going to describe the six provisions Mr. FOSTER's amendment leaves intact but that are still harmful to investors and threatens the ability of the SEC to oversee private equity funds and hedge funds. As such, even if the amendment is adopted, I urge all Members to oppose final passage of H.R. 5424.

The first reason to vote against final passage is that H.R. 5424 would still remove systemic risk reporting requirements for private equity funds. Congress created the Financial Stability Oversight Council when it passed the Dodd-Frank Act to look for risks across the entire financial system, including those within shadow banks like private equity funds.

Democrats understood that one of the most important lessons of the crisis was the value of sunshine into all of the dark corners of our markets. We do not want another AIG to make enough risky financial bets to take down the entire economy without anyone knowing until it is too late.

H.R. 5424, however, would repeal the requirement that large private equity firms provide certain information about their portfolio companies and their leverage.

The second reason to vote ''no'' on an amended H.R. 5424 is that the bill still would prohibit the SEC from applying the antifraud guidance related to advertising materials of mutual funds to private equity funds and hedge funds. This is a basic investor protection.

Private equity funds should not be able to selectively use performance data to dupe investors into buying their funds. It works for mutual funds and it will work for other funds similarly.

Reason number three to oppose H.R. 5424 is that the amended bill would remove the bright-line test for fraudulent and misleading advertising materials, thereby allowing private equity advisers to use testimonials and past recommendations to create a false perception of the adviser's performance. This provision will enable private equity funds to more easily sell key securities to unsuspecting investors.

Reason number four to vote ''no'' is the bill would still remove the requirement that fund advisers notify investors of ownership changes. This would allow an adviser to sell its business or the fund it manages to anyone, raising the concern that an unacceptable party would suddenly be managing a pension's invested money without their consent. The public pension plans have a right to know if the star manager has been replaced with an underachiever.

An amended H.R. 5424 also would repeal disclosures of proxy voting procedures for handling conflicts of interest. Namely, the bill eliminates a requirement that advisers to private equity funds and hedge funds have policies and procedures in place to dictate how and when the adviser will vote a proxy and how it will mitigate any conflicts of interest.

Because these policies and procedures inform investors and the SEC to whether an adviser is meeting some of its fiduciary responsibilities, I find it hard to understand how Democrats who stood up to protect the fiduciary obligations of everyday Americans can now support weakening it for the funds investing on behalf of those Americans.

Finally, even though the Foster amendment preserves the audit requirement for certificated securities, the bill would remove the audit requirement under the SEC's custody rules for private, uncertificated securities for which advisers would not have to keep any record. Although such securities may not be common in the private space, this distinction between two types of securities has all the trappings of a loophole in the making and would create a terrible incentive.

So I would urge all Members to oppose H.R. 5424 even if the Foster amendment is adopted.

I reserve the balance of my time.

Mr. HURT of Virginia. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. FOSTER).

□ 0945

Mr. FOSTER. Mr. Speaker, I thank the gentleman for yielding.

I cosponsored this bill because private equity makes considerable investment in Illinois and, specifically, in my district. Nationwide, many businesses are backed by private equity and are a key driving force behind our economy, making critical national and local economic contributions. These businesses support 11 million jobs nationwide.

This bill is about applying the provisions of the Investment Advisers Modernization Act that make sense for the private equity business model. That business model involves making long-term investments in companies that a fund intends to turn around or grow over a period of years.

This bill, from the very beginning, was an effort to apply those requirements in a way that makes sense, and it is the culmination of a great deal of bipartisan work.

Working across the aisle, I have worked with Congressman HURT of Virginia to remove the provisions that my colleagues on my side of the aisle have indicated are the most troubling to them. Together, we worked on two amendments. The amendment passed in committee resulted in more than half of the Democrats on the committee supporting the bill.

Today I will be offering an amendment that will address two concerns that have been most prominently expressed by Democrats and advocates through the amendment I will be proposing and answers their main objections.

First, the amendment will address concerns over transparency into the

fund's policies. It will continue current law that the adviser is required to deliver a brochure to the client with information about fees and brokerage services and, in turn, deliver that information to the SEC.

Second, we are addressing concerns over investor confidence that funds hold the assets that they say they do. The provision that we are removing would have provided a narrow exemption to the annual audit and surprise inspection requirements for some funds, so they will continue to be subject to these after my amendment is, hopefully, adopted.

My amendment will ensure that funds continue to receive a third-party look to ensure that the fund has the assets it has represented to clients that it has, including that the asset is held in the name of the client.

I know that there are other concerns, but after careful consideration, I believe they can be addressed. Opponents say that advisers will no longer keep records of the private securities that are held in custody, but this is actually not accurate. The adviser does need to keep records. These securities are illiquid and require issuer consent to sell, and these securities will be subject to annual audit and surprise inspection.

Opponents also say that the clients might find that they have a new adviser without their consent, but current law allows for minority stakes in an adviser organized as a partnership to be done without consent. So this provision just treats an LLC and corporate structures identically.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. HURT of Virginia. Mr. Speaker, I yield the gentleman an additional 1 minute.

Mr. FOSTER. Mr. Speaker, this bill would remove the requirement for private equity funds to submit certain information on Form PF to the FSOC; but that information is intended to capture funds that have built up leveraged and risky positions that pose a systemic risk through counterparty exposure. This is very different from the business model of private equity firms.

I know that for those Members who supported H.R. 1105 in the last Congress, this should actually be easier because it provides a very narrow, targeted relief. I voted against H.R. 1105, but I support this bill after thinking carefully about it and the changes.

The bill received the support of more than half the Democrats on the Financial Services Committee, and I hope that many more Democrats will support this bill on the floor after my amendment has been adopted.

Mr. Speaker, I urge my colleagues to support this bipartisan bill that will support businesses and economic growth around the country.

Ms. MAXINE WATERS of California. Mr. Speaker, investors, consumer advocates, public pension funds, and others have spoken on H.R. 5424, and they have deemed it to be harmful.

Let me read for you a few excerpts from opposition letters received by the House of Representatives. First of all, let me tell you who they are: Americans for Financial Reform; the American Federation of State, County, and Municipal Employees; the American Federation of Teachers; the Consumer Federation of America; Communications Workers of America; and U.S. PIRG.

''Far from modernizing the regulation of investment advisers, this legislation would roll back the clock to the years before private fund advisers were subject to elementary oversight measures, measures that numerous documented abuses have shown to be necessary for investor protection. The laundry list of regulatory exemptions in this bill would enable the exploitation of investors, possibly including outright fraud. It would also reduce the information available to regulators to address systemic risk.''

North American Securities Administrators Association, Incorporated, these are our State securities regulators, the cops on the beat policing Main Street from financial crime, let me give you their quote:

''Although the bill purports to be an updating of the framework for the regulation of investment advisers, it is in fact little more than an effort to shield advisers to private funds from the scrutiny of SEC registration and examination oversight.''

Let's hear what CalPERS has to say: ''We believe that H.R. 5424 would erode the Dodd-Frank provisions that established greater transparency into private equity funds, protected investors against fraud by fund advisers, and enhanced the ability of regulators to effectively monitor systemic risk in the private fund industry.''

CalSTRS: ''This current legislation amends the Investment Advisers Act of 1940 to purportedly 'modernize' certain requirements related to private equity advisers. In actuality, this proposed legislation would roll back important investor protections provided to funds, in terms of transparency and oversight by the Securities and Exchange Commission.''

Let's hear from the Institutional Limited Partners Association: ''The ILPA believes that the changes to mandatory disclosures and other requirements as proposed in H.R. 5424 would be counterproductive to providing institutional limited partners with the transparency they need to ensure alignment of interest in their private equity fund investments, and to carry out their duty to protect the interests of millions of beneficiaries of these investments—retirees, policyholders, nonprofit and educational institutions.''

Let's hear from the Council Institutional Investors:

''H.R. 5424 rolls back important transparency and reporting requirements that we and many of our members believe are critical to investor protection. For example, section 3(b) of H.R. 5424 would provide exceptions for private equity and hedge funds from existing disclosure requirements on Form PF, a confidential form used by the U.S. Securities and Exchange Commission and other regulators to track risks in the financial system.''

Let's hear from Public Citizen: ''This bill allows investment advisers to escape current safeguards designed to reduce inflated sales pitches or obfuscation of investment risks. Specifically, investment advisers need to make sure that potential private equity investors have basic sales documents such as the company prospectus before consummating a sale. Investors in private funds should be accorded ample information. The bill also frustrates efforts by investors to gain access to company records in so-called books-and-records requests.''

Unite Here: ''H.R. 5424 is an invitation for private equity managers to make false and misleading statements to the public. At a time when the nearly $4 trillion private equity industry should become more transparent, H.R. 5424 would enable it to become more opaque, putting workers, retirees, and the general public at risk.''

Mr. Speaker, I reserve the balance of my time.

Mr. HURT of Virginia. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. HENSARLING). Chairman HENSARLING has done so much to promote pro-growth policies in the Financial Services Committee.

Mr. HENSARLING. Mr. Speaker, I rise in strong support of H.R. 5424. I want to thank the gentleman from Virginia for his leadership and the gentleman from Illinois as well.

This is a strong, bipartisan bill out of the House Financial Services Committee having passed on a vote of 47–12, which means 80 percent of the members of the House Financial Services Committee, including over half of the Democrats, support this commonsense, pro-growth, pro-jobs legislation.

Mr. Speaker, as children—including my own—all across this Nation go back to school, we would be negligent if we didn't acknowledge the latest report card that Americans received on our economy less than 2 weeks ago. The report card shows our economy growing at a measly 1.1 percent, roughly one-third of its normal growth. In other words, it has received a failing grade, Mr. Speaker. One economics writer has said the report suggests ''the economy could be on the brink of recession.''

Americans deserve better. Hard-working Americans do deserve better. Again, economic growth has been far stronger in our country. The economy grew on an average of 3.7 percent during every other recovery in the postwar era. But growth has averaged nearly 2 percent in the last 7 years, and even worse, about 1 percent so far this year. It is just more evidence that the economy is not working for working Americans. They have seen their paycheck

shrink, and they have seen their wages stagnate. Seven years after recession ended, nearly 14 million Americans are unemployed or underemployed.

I am confident that all of us—Republicans and Democrats alike—want this to change. We want to help Americans who are struggling, who are underemployed and unemployed. We have to lift the nearly 7 million additional Americans who have been thrown into poverty during these last 7 years. We must help them. We know—or should know—that nothing helps the poor, the unemployed, and the underemployed like economic growth. Growth means more jobs, more growth means higher average wages, more growth means less government borrowing, and growth enables Americans to achieve the dream of financial independence.

But if we want to ignite growth and revive our struggling economy, the answer is not more debt, more spending, or more onerous regulations from Washington. Instead, we need more entrepreneurs, more innovation, and more small business expansion on Main Street. So at this time, when record levels of debt and Federal regulation hinder growth and slow our economy, it is critical for us to find bipartisan solutions—not always easy to come by—that will accelerate growth and get our economy back on track.

Mr. Speaker, we have exactly that kind of bill before us today. Again, it is a bipartisan bill supported and sponsored by the gentleman from Virginia (Mr. HURT), Mr. VARGAS of California from the Democratic side of the aisle, Mr. STIVERS of Ohio from the Republican side of the aisle, and Mr. FOSTER of Illinois from the Democratic side of the aisle. I have the honor of serving with all four of these gentlemen on the House Financial Services Committee, and I thank them for their bipartisan work on this bill.

Again, this passed in our committee 47–12. Over half the Democrats on the committee support the bill—80 percent of the committee. There is no reason why every Member of the House shouldn't approve this bipartisan Investment Advisers Modernization Act because, Mr. Speaker, again, it is bipartisan, it is pragmatic, and it is commonsense. It simply updates portions of a 76-year-old law by updating regulations that have made it harder for the job growth engine of America—our small businesses—to access the capital they need to create jobs on Main Street.

□ 1000

We know, again, that small businesses across the country are struggling to find investment and financing options that enable them to open their doors, hire workers, and succeed. They are struggling, again, because of a growing regulatory burden imposed by Washington, by a Washington-knows-best mentality.

Witnesses have testified before our committee, Mr. Speaker, that there has been a serious decline in loans from banks to small businesses over the past few years, and our Nation has gone a decade—a decade—with no growth in the value of small business loans.

It is not surprising that, during the second quarter of this year, one of every three small-business owners said they had to transfer personal assets to keep their businesses running, according to a recent report from Pepperdine University. This same report found that 50 percent of small-business owners said their growth opportunities are restricted by the current business financing environment.

As a small-business owner, my hometown of Dallas wrote me recently: ''We have seen wave after wave of Federal regulations affecting our ability to grow.'' Another small business owner from the town of Chandler, in the Fifth District I have the privilege of representing, summed up the economic harm caused by Washington's regulatory burden this way: ''No one can keep up.''

In order for the economy to grow for small businesses to create jobs that Americans need, we have to remove unnecessary regulations that tie up private capital and cause economic uncertainty. We must put in their place policies that encourage investment, innovation, and entrepreneurial spirit that makes America a beacon of opportunity for all.

Again, Mr. Speaker, we have a bipartisan bill before us having passed 47–12, 80 percent of our committee having approved. It is a modest, but important, step in the right direction. But as one witness told us: It will go a long way towards facilitating capital formation while maintaining our commitment to investor protection.

I urge all of my colleagues to support the bipartisan bill. By doing so, they will remove unnecessary burdens on our small businesses, and we will help grow not only the American economy but the Main Street economy as well.

I thank Members on both sides of the aisle for their bipartisan work on this very, very strong bill. And I thank the gentleman from Virginia for his leadership and for yielding the time.

Ms. MAXINE WATERS of California. Mr. Speaker, I yield myself such time as I may consume.

I think I heard my colleague on the opposite side of the aisle reference Main Street, but I did not hear him describe who his Main Street is, and we don't know who he is talking about.

Let me just remind the Members one more time who is opposing this bill—this is truly representative of Main Street—AFL–CIO; American Federation of Teachers; American Federation of State, County and Municipal Employees; Americans for Financial Reform; Communications Workers of America; Consumer Federation of America; Council of Institutional Investors; CalPERS; CalSTRS; Institutional Limited Partners Association; North American Securities Administrators Association; Public Citizen; UNITE HERE; United Automobile, Aerospace and Agricultural Implement Workers of America, UAW; and U.S. Public Interest Research Group.

We have opposition from working people, from the real people of Main Street, on this legislation. I think, as Members begin to read and look at this bill, they will understand how dangerous it is and how we would be rolling back the clock, jeopardizing the reforms that we have made with Dodd-Frank, and also taking us back to undermining the SEC in extraordinary ways.

Recently, Mr. Speaker, there was an investigative series initiated by The New York Times looking into the operations of private equity firms. I would like to read for you a few key excerpts from the articles which I think might highlight the need for further regulation of private equity and not the rollbacks we see today in H.R. 5424.

This is from a June 25, 2016, article titled: ''When You Dial 911 and Wall Street Answers.''

''Since the 2008 financial crisis, private equity firms, the 'corporate raiders' of an earlier era, have increasingly taken over a wide array of civic and financial services that are central to American life.

''Unlike other for-profit companies, which often have years of experience making a product or offering a service, private equity is primarily skilled in making money. And in many of these businesses, The Times found, private equity firms applied a sophisticated moneymaking playbook: a mix of cost cuts, price increases, lobbying and litigation.

''In emergency care and firefighting, this approach creates a fundamental tension: the push to turn a profit while caring for people in their most vulnerable moments.''

This article then goes on to describe how response times slowed and lives were put in danger—and I am talking about the response time of fire departments that are now controlled by equity funds—when these profit-hungry Wall Street firms took over essential public health services, like ensuring ambulances arrived to victims on time.

From an article titled, ''How Housing's New Players Spiraled into Banks' Old Mistakes,'' dated June 26, 2016: ''When the housing crisis sent the American economy to the brink of disaster in 2008, millions of people lost their homes. The banking system had failed homeowners and their families.

''New investors soon swept in—mainly private equity firms—promising to do better.

''But some of these new investors are repeating the mistakes that banks committed throughout the housing crisis, an investigation by The New York Times has found. They are quickly foreclosing on homeowners. They are losing families' mortgage paperwork, much as the banks did. And many of these practices were enabled by the

federal government, which sold tens of thousands of discounted mortgages to private equity investors, while making few demands on how they treated struggling homeowners.

''The rising importance of private equity in the housing market is one of the most consequential transformations of the post-crisis American financial landscape. A home, after all, is the single largest investment most families will ever make.

''Private equity firms, and the mortgage companies they own, face less oversight than the banks. And yet they are the cleanup crew for the worst housing crisis since the Great Depression.''

The article then goes on to describe how private equity firms can squeeze fees out of homeowners during every stage of the foreclosure process, often through conflicts of interest that make foreclosure more profitable than providing sustainable loan modifications.

Mr. Speaker, this investigated series by The New York Times exposes practices that I think no credible Member of Congress would want to be associated with. This is horrible that we could even think that we are allowing our citizens to be placed at risk and their lives jeopardized because we have a private equity firm that is brought up and is now in control of critical services to our citizens, and they have to do it and make a profit. The way they make that profit is they cut back on personnel, equipment, machinery, or whatever it takes to turn that dollar.

I am absolutely amazed that any Member of Congress would dare to think about supporting this kind of legislation that would allow these practices not only to continue in ways that I have described, and let me just remind you, I don't know how we can soon forget the crisis that this country experienced in 2008 when we had this subprime meltdown and we had so many foreclosures, so many families that were literally put on the streets because they lost their home because of practices that were not regulated by this government.

This is amazing. This is absolutely amazing, and it is outrageous. I believe when the Members who come to vote today take a look at the fine print that they will understand what is happening here today. I think even if some Members thought they could, or should, support this bill, I think they are going to change their minds. And while it is being touted as a bipartisan effort, I don't think so.

I reserve the balance of my time.

Mr. HURT of Virginia. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. KNIGHT).

Mr. KNIGHT. Mr. Speaker, it is an honor to be here today to talk about what is very essential in America, and that is getting people to work and creating opportunities.

Small businesses are essential to America's economic competitiveness. Not only do they employ half the Nation's private sector, but they also create two-thirds of the net jobs in our country.

Unfortunately, in recent years, small businesses have been slow to recover from a recession and credit crisis that has hit them especially hard. Unlike large enterprises that can obtain funds from commercial debt and equity markets, small businesses must often rely on their own personal assets, retained earnings, community banks, and credit unions for needed capital.

Last month, in the great city of Santa Clarita, I hosted my annual small business conference and expo. The conference was designed to hear from constituents exactly what was happening and their problems in small businesses. After listening to small-business owners and employees talk about the challenges they face, it was very evident that overregulation and lack of access to capital were the biggest issues.

That is why I applaud and support Mr. HURT's work on H.R. 5424, the Investment Advisers Modernization Act of 2016. The Investment Advisers Act has proven to be a duplicative burden that not only drives up costs but also blocks an efficient allocation of capital.

We need to modernize these laws so that we can remove existing barriers and tailor our policy to help facilitate capital formation. H.R. 5424 would do exactly that. The legislation takes into consideration the business model of today's private equity and not one from 70 years ago.

I look forward to continuing my work with Mr. HURT, and with all of my colleagues here in the House, on commonsense measures like the Investment Advisers Modernization Act of 2016, so that we can ensure our small businesses can grow and employ more of our neighbors.

Again, Mr. Speaker, I support H.R. 5424, and ask my colleagues to vote in favor of this bill because access to capital is not a partisan issue, it is something that we need and will help our small businesses.

Ms. MAXINE WATERS of California. Mr. Speaker, I yield myself as such time as I may consume.

I will remind the Members that NANCY PELOSI, our leader, has weighed in on this pretty heavily. She doesn't weigh in on a lot of things, but she has put out an advisory here today titled: H.R. 5424, a House GOP giveaway to the shadow banking industry.

We have from the administration that a Presidential veto will take place on this legislation should it get to his desk.

This morning's debate illustrates Republican's misguided priorities. When we are here in Washington, the American public expects us to address the pressing needs of our Nation and not waste our time with Wall Street giveaways that the financial crisis taught us is neither prudent nor without devastating consequences.

Why is it that the interest of Wall Street takes high priority when we return from our break?

□ 1015

Why aren't we talking about homelessness? Why aren't we talking about Flint? Why aren't we talking about Zika? Why aren't we talking about Baton Rouge?

I will tell you that there are those who think, perhaps, they have to take care of Wall Street, that it comes first, but I do not think so. I ask for a ''no'' vote on this bill.

I yield back the balance of my time.

Mr. HURT of Virginia. Mr. Speaker, I yield myself such time as I may consume.

In closing, I urge all of the Members of this body to support this good bill.

Let's remember where we started with this registration requirement for private equity. In the Dodd-Frank Act, in the aftermath of the financial crisis, private equity was swept into the Dodd-Frank Act in an effort, ostensibly, to try to stop future systemic crises in the United States' markets. As a consequence, over the last couple of years, we have introduced legislation to repeal that registration requirement. This bill does not do that. Those efforts were bipartisan in nature. They were designed to promote more investment in jobs across this country, but that was met with resistance. Registration is now a fact of life. There are Members on the other side who did not support our previous efforts, Mr. FOSTER being one of them.

As has been said, we have more than half of the Democrats on the Financial Services Committee supporting this legislation because it is not a repeal of the registration requirement. What it is, in fact, is a streamlining of a 76-year-old law that has made it more difficult for investment funds to be able to be successful.

This bill is not about rolling back investor protection. In fact, investor protection will still be strong. The SEC has the power to bring enforcement actions. Nothing has been done, again, to repeal the registration requirement. These firms will still continue to have to be registered. This is not about investor protection. All of the antifraud provisions that are currently in Federal securities law will continue to apply.

This is about teachers. It is about firefighters. This is about the pension funds in these investment funds that have had success over the last 10 years. These have been the places where these pension funds have, in fact, invested because they have been solid-performing funds. That is good for teachers and firefighters and their retirements. That is what this bill is about. It is about making it easier for these funds to be successful so that they can bring back those returns for the retirements of our teachers and our firefighters.

At the end of the day, probably as important as anything to me are the

jobs that are created all across this country because of the investments of these funds—places like Main Street in Martinsville, Virginia, where we have seen, over the last 15 years, unemployment as high as 25 percent. There have been investments in places like Southside, Virginia, that have created jobs, that have grown companies.

That is what this bill is about. It is about those jobs in Martinsville, Virginia. It is about those families in Martinsville, Virginia, or in Rocky Mount, or in Charlottesville, in Virginia's Fifth District. That is what this bill is about. That is why it has garnered strong bipartisan support on our committee, and I hope it will garner strong bipartisan support today on this floor. I urge my colleagues to support this measure.

Mr. Speaker, I yield back the balance of my time.

Mr. LYNCH. Mr. Speaker, I rise in opposition to H.R. 5424, the so-called ''Investment Advisers Modernization Act of 2016.'' Regrettably, instead of modernizing the regulation of investment advisors, as the bill's title suggests, the legislation under consideration today would take us back to a time when there was minimal transparency and reporting requirements for private firms such as private equity and hedge funds.

Over the past few months, I have been following the New York Times investigative series that exposed abuses by the private equity industry that impact our daily lives. I am concerned that private equity firms are now overtaking our fire departments, our ambulance services, our public water services, and our mortgage market. The influence of these private firms in services that traditionally have been provided by our government is resulting in slower reaction times for emergency services, aggressive collection practices, and the type of foreclosure abuse that we saw before the 2008 financial crisis. Given the increased influence of these firms in our daily lives, it is critical that we do not roll back crucial oversight and transparency requirements through this legislation.

I served on the Financial Services Committee during the 2008 financial crisis. I witnessed the harmful impact that the lack of regulation had on hard-working families around our nation. I had the honor of helping to reform our financial system through the enactment of the Dodd-Frank Wall Street Reform and Consumer Protection Act (The Dodd-Frank Act). The Dodd-Frank Act increased the transparency of private funds by requiring increased reporting and compliance requirements.

Unfortunately, this legislation would destroy much of the hard work we did through the Dodd-Frank Act. According to Americans for Financial Reform, the regulatory exemptions included in this bill would enable the exploitation of investors and would reduce the information available to regulators to address systemic risk. Specifically, this harmful legislation removes certain requirements made applicable by the Dodd-Frank Act to investment advisers to private equity funds and hedge funds, so that they do not have to notify their investors of ownership changes, report certain information on large private equity funds in their systemic risk reports to the Financial Stability Oversight Council, or annually deliver plain-text disclosures to clients. It also exempts these private funds from the annual independent audit requirement, which was strengthened by the Securities and Exchange Commission following the Bernie Madoff scandal.

A quarter of the investments in private equity funds comes from public pensions, which invest the retirement savings of our nation's teachers and firefighters. We cannot repeal these important protections for our nation's public servants.

In closing, this harmful bill would provide regulatory relief for an industry that needs more regulation. It is a dangerous step in the wrong direction. This is why I urge my colleagues to vote ''no'' on this bill.

The SPEAKER pro tempore (Mr. CARTER of Georgia). All time for debate on the bill has expired.

AMENDMENT PRINTED IN PART B OF HOUSE REPORT 114–725 OFFERED BY MR. FOSTER

Mr. FOSTER. Mr. Speaker, I have an amendment at the desk.

The SPEAKER pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 6, strike line 14 and all that follows through page 7, line 5.

Page 7, strike line 18 and all that follows through ''Consistent with'' on page 9, line 16, and insert ''Regulations, consistent with''.

Page 9, beginning on line 20, strike ''the Commission shall,''.

Page 9, line 23, insert '', so as to'' after ''such section''.

The SPEAKER pro tempore. Pursuant to House Resolution 844, the gentleman from Illinois (Mr. FOSTER) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Illinois.

Mr. FOSTER. Mr. Speaker, I thank my friend from Virginia (Mr. HURT) for working with me on this bill.

Mr. Speaker, the amendment that I am proposing addresses two of the concerns that have been most prominently expressed by Democrats and advocates, including the two major objections that the administration's statement, which opposed this bill before the amendment, highlighted. I hope this will lead most of the Caucus to join me in voting for this bipartisan bill after my amendment addresses the chief concerns voiced by my colleagues.

First, the amendment will address concerns over transparency into the fund's policies. It will continue current law that the adviser is required to deliver a brochure to the client with information about fees and brokerage services and, in turn, deliver that information to the SEC.

Second, my amendment will address concerns over investor confidence that the funds hold the assets that they say they do. It removes a provision that would have provided a narrow exemption from the annual audit or surprise inspection requirements for some funds; so they will now, with this amendment, continue to be fully subject to annual audits and surprise inspections. My amendment will ensure that the funds continue to receive a third-party look to confirm the assets it has represented to clients, including that the asset is actually held in the name of the client.

These are the two concerns most prominently expressed, but I know there are others.

After careful consideration, I do not believe that they are problematic or should prevent Members from supporting this bill. The adviser does need to keep records on the securities in its custody. The securities eligible to be held in its custody are illiquid and will be subject to the annual audit or surprise inspection. Funds that have built up leveraged and risky positions that could pose a systemic risk through counterparty exposure and other mechanisms will still be required to submit the additional information on Form PF to the FSOC.

My amendment will remove the provisions that had been the main features for the opposition during this process, so I urge my colleagues to support this bipartisan bill.

Mr. Speaker, I reserve the balance of my time.

Mr. HURT of Virginia. Mr. Speaker, I ask unanimous consent to claim the time in opposition.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

The SPEAKER pro tempore. The gentleman is recognized for 5 minutes.

Mr. HURT of Virginia. Mr. Speaker, I commend Representative FOSTER and his staff for working with us on this measure and for making it a truly bipartisan effort, for which I am grateful.

This amendment is simple; yet, much like the amendment that was offered by Representative FOSTER during the July markup of this bill, it helps alleviate some outstanding concerns, and it helps ensure that the legislation continues to gain bipartisan support.

This amendment would remove two sections:

First, it would remove the brochure delivery changes that were made a part of this bill. While I believe the private fund sponsors already disclose substantial information in their private placement memoranda, which are included in the books and records requirements that advisers are required to maintain, there was concern that removing the requirement that advisers complete and deliver a brochure and a brochure supplement to a client that is a limited partnership or otherwise would make it more difficult for the SEC to conduct examinations and compile information.

The second change would remove the first part of the custody rule changes

that were made in the bill. The legislation would, as reported, require the SEC to provide additional exemptions to the custody rule, which will generally require an adviser of a pooled investment vehicle to have an independent accountant conduct surprise or scheduled audits every year of its clients' funds and securities. While I believe that the proposed exemption is carefully tailored to limit its scope to persons with whom the fund sponsor has a close relationship, there were concerns about the level of connectedness and how far current SEC staff guidance could be extended. This is an issue that should continue to be evaluated as, I believe, the current SEC guidance is too narrow, and the cost of the audit is often greater than the investor protection it provides.

While I think there are serious policy merits to the legislation as reported, I do think that these two changes that have been proposed by Mr. FOSTER alleviate some concerns and help make the bill even more bipartisan than it was when it received the strong vote that it did in the Financial Services Committee. I support this amendment, and I thank the gentleman from Illinois (Mr. FOSTER) for offering this amendment.

Mr. Speaker, I reserve the balance of my time.

Mr. FOSTER. Mr. Speaker, how much time do I have remaining?

The SPEAKER pro tempore. The gentleman from Illinois has 2½ minutes remaining.

Mr. FOSTER. Mr. Speaker, I yield 2½ minutes to the gentlewoman from Arizona (Ms. SINEMA).

Ms. SINEMA. Thank you to Chairman HENSARLING, Ranking Member WATERS, and Congressmen HURT, FOSTER, VARGAS, and STIVERS for all of their work on this bipartisan legislation to streamline the antiquated regulatory framework for private equity fund advisers while maintaining appropriate industry oversight and investor protections.

Private equity investors across the country provide billions of dollars each year to Main Street businesses, and over 11 million Americans work for private equity-backed businesses. Last year alone, private equity firms invested an estimated $18 billion in more than 60 Arizona-based companies. Together, these companies support over 130,000 workers and their families.

GoDaddy is the world's largest domain name register with more than 12 million customers, and like thousands of large and small American businesses, GoDaddy is a private equity-backed company. Last month, I visited their Tempe, Arizona, facility in my district. It is a state-of-the-art complex that promotes collaboration and innovation, and it employs over 1,000 Arizonans, including engineers, developers, and small business consultants. With the help and investment of private equity, GoDaddy will create hundreds of quality technology jobs for years to come.

By providing narrowly targeted regulatory relief to private equity fund advisers, this legislation improves the flow of capital to businesses in every community and in every district in the United States. This bill passed out of the House Financial Services Committee on a bipartisan vote. Following the committee vote, we worked together on a bipartisan fix to address two specific concerns.

First, the amendment strikes the bill's narrow exemption from the annual audit or surprise inspection requirements for some funds, ensuring that investors are able to verify that funds actually contain particular investments as claimed. Second, the amendment ensures that advisers will continue to deliver a plain language narrative brochure annually to both clients and the SEC.

All currently registered investment advisers remain subject to SEC registration and examination and the antifraud provisions of the Investment Advisers Act. This legislation does not reduce the SEC's authority to examine or to bring enforcement actions against private fund managers or eliminate any of the tools that the SEC has to pursue such actions. Further, private equity funds invest in companies for several years and, therefore, do not present systemic risks.

Private equity-backed businesses are a key driving force behind our economy, making critical national and local economic contributions. We must work together to create an environment that enables these companies to grow and succeed and expand opportunities for hardworking Americans.

Thank you again to my colleagues on both sides of the aisle for their work on this important legislation.

Mr. HURT of Virginia. Mr. Speaker, I yield 2 minutes to the gentlewoman from New York (Mrs. CAROLYN B. MALONEY).

Mrs. CAROLYN B. MALONEY of New York. I thank the gentleman for yielding.

Mr. Speaker, I support the Foster amendment that has been offered by my good friend and colleague from Illinois, and I thank him for his hard work in responding to concerns that the Democrats raised. I thank Chairman HENSARLING for accepting the amendment and Congressman HURT for accepting the amendment.

This amendment removes a provision in the bill that would exempt certain funds from the annual audit requirement of the custody rule. The custody rule is a longstanding investor protection that guards against outright theft of clients' funds, so I think that is a very huge burden of proof if you want to even think about rolling it back.

There are so many ways to comply with the custody rule, but this bill without the Foster amendment would allow certain advisers to be exempt from having an annual audit, from having an annual surprise exam, and the requirement to hold a client's securities at an independent qualified custodian. In other words, it would exempt certain advisers from all of the protections of the custody rule. I think that is a bridge too far, and I am so pleased that Mr. FOSTER's amendment would remove this provision. It makes it a much better bill.

I still have concerns about the remaining provisions of the bill, but I think that this amendment is a huge step in the right direction, and I urge my colleagues to support the Foster amendment.

Mr. FOSTER. Mr. Speaker, I yield back the balance of my time.

Mr. HURT of Virginia. Mr. Speaker, I close simply by saying that I have certainly appreciated being able to work with Mr. FOSTER on this over the last several months. I appreciate his leadership on the issue, and I hope this body will approve this amendment.

I yield back the balance of my time.

The SPEAKER pro tempore. Pursuant to the rule, the previous question is ordered on the bill, as amended, and on the amendment offered by the gentleman from Illinois (Mr. FOSTER).

The question is on the amendment offered by the gentleman from Illinois (Mr. FOSTER).

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

□ 1030

MOTION TO RECOMMIT

Mrs. TORRES. Mr. Speaker, I have a motion to recommit at the desk.

The SPEAKER pro tempore. Is the gentlewoman opposed to the bill?

Mrs. TORRES. I am opposed in its current form.

Mr. HENSARLING. Mr. Speaker, I reserve a point of order.

The SPEAKER pro tempore. A point of order is reserved.

The Clerk will report the motion to recommit.

The Clerk read as follows:

Mrs. Torres moves to recommit the bill H.R. 5424 to the Committee on Financial Services with instructions to report the same back to the House forthwith with the following amendment:

Add at the end the following:

SEC. 8. REPORT ON EMERGENCY VEHICLE RESPONSE TIMES OF COMPANIES OWNED BY PRIVATE FUNDS.

(a) IN GENERAL.—Section 204(b) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–4(b)) is amended by adding at the end the following:

''(12) REPORT ON EMERGENCY VEHICLE RESPONSE TIMES OF COMPANIES OWNED BY PRIVATE FUNDS.—

''(A) IN GENERAL.—Each investment adviser required to file annual or other reports under this section and who advises a private fund that owns a controlling interest in an emergency services company shall, not less often than annually, disclose to the Commission—

''(i) the change in the average response time of emergency vehicles since the private fund acquired a controlling interest in the emergency services company, disaggregated

by the response times of emergency vehicles deployed to—

''(I) rural areas; and

''(II) urban areas;

''(ii) if a required response time is established by a contract for emergency services between the emergency services company and a unit of local government or by an ordinance of a unit of local government, the percentage of response times of emergency vehicles deployed by the emergency services company to that unit of local government that do not meet such requirement; and

''(iii) if the response times failed to meet the required response time described under clause (ii), a description of the impact of such failure on the value of the emergency services company to the private fund.

''(B) DEFINITIONS.—For purposes of this paragraph:

''(i) EMERGENCY SERVICES COMPANY.—The term 'emergency services company' means a company that provides ambulance, firefighter, or other emergency services in response to 9–1–1 calls.

''(ii) EMERGENCY VEHICLE.—The term 'emergency vehicle' means an ambulance, fire engine, or other vehicle deployed in response to a 9–1–1 call.''.

(b) RULEMAKING.—Not later than 270 days after the date of the enactment of this section, the Commission shall issue regulations to carry out paragraph (12) of section 204(b) of the Investment Advisers Act of 1940, as added by subsection (a).

Mrs. TORRES (during the reading). Mr. Speaker, I ask unanimous consent to dispense with the reading.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

The SPEAKER pro tempore. The gentlewoman from California is recognized for 5 minutes.

Mrs. TORRES. Mr. Speaker, this is a final amendment to the bill, which will not kill the bill or send it back to committee. If adopted, the bill will immediately proceed to final passage, as amended.

Mr. Speaker, a June 26 New York Times article revealed some of the troubling consequences of private equity firms taking over local emergency services.

According to the article, since the 2008 financial crisis, private equity firms are investing in growing numbers in emergency services companies, sometimes with disastrous results. The piece found cases where emergency response times were so slow, personnel even had time for a cigarette break before arriving to the scene.

Some emergency services companies also reported mismanagement, specifically, that their parent companies are not able to pay their salaries or restock ambulances with critical medical supplies.

My amendment will make sure that there is accountability and transparency when private equity firms invest in emergency services. My amendment will not prohibit private equity funds from investing in these services or place any restrictions on how they choose to invest, nor will it deny the fact that private equity has and can play an important role in investing in companies in communities across our country. It would simply provide reassurance to our constituents that when they call 911, their lives won't be put at risk because their local fire or ambulance service wants to turn a profit.

This motion to recommit would require private equity firms to report the change in response time of emergency vehicles since the private fund acquired a controlling interest in the emergency services company. Additionally, the report will require data on the percent of emergency response times that violate contracts entered into by local governments and emergency services companies and include an explanation as to why response times did not meet requirements set out in such contracts.

At a time when local jurisdictions are struggling to make ends meet and the demands on emergency services are only growing, there is certainly a role for private equity firms to play in making sure our constituents have the services they need and expect. But if a private equity firm decides to invest in an emergency service company, they also take on the responsibility to provide those services to the best of their capacity.

As a former 911 dispatcher, I know that when it comes to getting emergency personnel to those in need, every second matters. There is no margin of error, and under absolutely no circumstances should profit come before saving lives.

I urge my colleagues to support this motion.

I yield back the balance of my time.

Mr. HENSARLING. Mr. Speaker, I withdraw my reservation of a point of order.

The SPEAKER pro tempore. The reservation of a point of order is withdrawn.

Mr. HENSARLING. Mr. Speaker, I claim the time in opposition.

The SPEAKER pro tempore. The gentleman from Texas is recognized for 5 minutes.

Mr. HENSARLING. Mr. Speaker, I am just curious where this amendment was during the bipartisan process to bring H.R. 5424 to the floor. I am curious where it was in our committee deliberations. I am curious why it was never presented to the Rules Committee and we are just seeing it now.

Again, H.R. 5424, the Investment Advisers Modernization Act, is a bipartisan piece of legislation to make sure our small businesses, entrepreneurs, and innovators can access capital. It passed the committee 49–12. More than half of the Democrats supported it.

Now we have a motion to recommit that moves it in the complete opposite direction—one more disclosure, disclaimer, more job-killing regulations to be put upon those who are trying to fund our small businesses, to try to help the working poor better themselves, to try to help improve the paychecks and the well-being of middle-income America.

It is time to reject the motion to recommit. Let's work on a bipartisan basis. Let's pass H.R. 5424. Vote down the motion to recommit. Vote for the bipartisan bill.

I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mrs. TORRES. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the order of the House of today, further proceedings on this question will be postponed.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 10 o'clock and 36 minutes a.m.), the House stood in recess.

□ 1105

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. CARTER of Georgia) at 11 o'clock and 5 minutes a.m.

JUSTICE AGAINST SPONSORS OF TERRORISM ACT

Mr. GOODLATTE. Mr. Speaker, I move to suspend the rules and pass the bill (S. 2040) to deter terrorism, provide justice for victims, and for other purposes.

The Clerk read the title of the bill.

The text of the bill is as follows:

S. 2040

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Justice Against Sponsors of Terrorism Act''.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds the following:

(1) International terrorism is a serious and deadly problem that threatens the vital interests of the United States.

(2) International terrorism affects the interstate and foreign commerce of the United States by harming international trade and market stability, and limiting international travel by United States citizens as well as foreign visitors to the United States.

(3) Some foreign terrorist organizations, acting through affiliated groups or individuals, raise significant funds outside of the United States for conduct directed and targeted at the United States.

(4) It is necessary to recognize the substantive causes of action for aiding and abetting and conspiracy liability under chapter 113B of title 18, United States Code.