July 10, 2023

The Honorable Charles Schumer
Majority Leader
United States Senate
Washington, DC 20510

The Honorable Kevin McCarthy
Speaker
United State House of Representatives
Washington DC, 20515

The Honorable Mitch McConnell
Minority Leader
United States Senate
Washington, DC 20510

The Honorable Hakeem Jeffries
Minority Leader
United States House of Representatives
Washington DC, 20515

Dear Leader Schumer, Speaker McCarthy, Leaders McConnell and Jeffries,

Americans for Financial Reform (AFR) writes to express opposition to a series of legislative proposals that have recently been approved by House committees, and, in some cases, by the full House of Representatives, and that seek to amend the federal securities laws in ways that would be harmful to investors.[1] As discussed below, some of the House proposals directly weaken regulatory oversight and threaten investor protection, while others seek to alter policy in a more subtle or incremental fashion. Taken together, the cumulative effect of the House legislation would be to drastically expand the marketplace for unregistered or "private" securities offerings, to the detriment of public securities markets, market transparency, and ordinary investors.

Almost without exception, the legislation emerging from the House is deregulatory in nature. Moreover, every House proposal would, in one way or another, change policies in ways that benefit insiders: securities issuers, brokers, and marketplace intermediaries, in many cases at the expense of investors, especially everyday retail investors whose retirement security may be at risk. None of them place the interests of investors first. That alone is sufficient grounds for Congress to reject the legislation.

1. House Proposals to Expand the "Accredited Investor" Definition

The "Accredited Investor" definition is the central component of the most widely used exemptions from SEC registration, including Rules 506(b) and 506(c) of Regulation D.[2] These exemptions allow issuers to sell securities "to an unlimited number of accredited investors with no limit on the amount of money that can be raised from each investor or in total," and are

[1] Bills that have passed the House include: H.R. 835, H.R. 2797, H.R. 1579, H.R. 2793, H.R. 2610, H.R. 2608, H.R. 2812, H.R. 2593, H.R. 2795, H.R. 2796, H.R. 2792. Bills that have passed HFSC but not the House include: H.R. 2627, H.R. 1553, H.R. 1807, H.R. 2622, H.R. 1548, H.R. 3063, H.R. 2799.

[2] The "accredited investor" definition is set forth in Rule 501(a) of Regulation D. It is "intended to encompass those persons whose financial sophistication and ability to sustain the risk of loss of investment or ability to fend for themselves render the protections of the Securities Act's registration process unnecessary." (SEC Concept Release on the Exempt Offering Framework. 2019. https://www.sec.gov/rules/concept/2019/33-10649.pdf)

routinely used by hedge funds, private equity funds, and venture funds to raise capital.[3] Under SEC rules, accredited investors may purchase these risky investments because, in the view of the SEC, their "financial sophistication" and "ability to fend for themselves" render "the protections of the Securities Act's registration process unnecessary."

SEC rules have long held that individuals qualify as accredited investors if their income exceeds $200,000 in each of the two most recent years or their net worth exceeds $1 million, excluding the value of their primary residence. Since 2020, the SEC has also recognized "investment professionals in good standing holding the general securities representative license (Series 7), the investment adviser representative license (Series 65), or the private securities offerings representative license (Series 82)" as accredited investors.[4]

At present, the House Financial Services Committee has approved five bills during the 118th Congress that would expand the definition of accredited investor. Three of those bills have already been approved by the Full House, while the remaining two await consideration.[5]

Among the specific policy changes contemplated by these five bills are proposals to expand the definition of "accredited investor" to encompass: (1) individuals possessing certain education or job experience; (2) individuals having passed an examination established by the SEC; (3) individuals investing 10% or less of the greater of their net assets or income in a private offering; (4) individuals receiving individualized investment recommendations with respect to a private offering from a professional who qualifies as an accredited investor; and (5) individuals who self-certify that they understand the risks of investment in private issuers.[6]

Proponents of these and similar bills assert that ordinary investors are being deprived of investment opportunities reserved for the wealthy. However, such arguments fundamentally misunderstand the nature of the private securities marketplace – an arena where investors are expected to "fend for themselves" and protections afforded by the securities laws don't apply.

Private markets stack the deck against ordinary "mom and pop" investors. They have a well-earned reputation for being opaque, risky, illiquid, and inefficient – but most significantly, perhaps, they are a quintessentially "insider's game," where issuers "permissibly discriminate between investors, providing some investors with no information and others with information that is both more timely and more reliable."[7] In the private markets, it is wealthy investor with something to offer or promise issuers that get access to the best deals. They also get the most

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[3] Ibid, SEC Concept Release on the Exempt Offering Framework. P. 32

[4] See: "SEC Final Rule Amending the Definition of Accredited Investor." August 26, 2020. Accessible at https://www.sec.gov/rules/final/2020/33-10824.pdf

[5] As of June 28, 2023, the Full House has voted to approve three bills to expand the accredited investor definition. These bills are H.R. 835, The Fair Investment Opportunities for Professional Experts Act; H.R. 1579, the Accredited Investor Definition Review Act; and H.R. 2797, The Equal Opportunity for All Investors Act of 2023. Two additional bills – The Investment Opportunity Expansion Act (H.R. 2652) and The Expanding Access to Capital Act (H.R. 2799) – have been approved by the HFSC and await consideration by the Full House.

[6] https://docs.house.gov/meetings/BA/BA16/20230208/115288/HHRG-118-BA16-20230208-SD002-U1.pdf

[7] *See* Written Testimony of Professor Gina-Gail S. Fletcher Before the House Committee on Financial Services, Subcommittee on Capital Markets. February 8, 2023. (P.4) Accessible at https://docs.house.gov/meetings/BA/BA16/20230208/115288/HHRG-118-BA16-Wstate-FletcherG-20230208.pdf

favorable terms, best pricing, best rights, and best information. And while Congress *could* take steps to address some of these dynamics, none of the five House bills attempt to do so.

Moreover, as a matter of policy and principle, AFR questions why Congress should promote further expansion of a marketplace that strips investors of basic information and protections, including protections against fraud.[8] As such, AFR opposes all five House bills.

2. Other House Proposals Related to Private Offerings

Not all of the House proposals related to the expansion of the private offering marketplace relate to the Accredited Investor definition. Indeed, the HFSC has recently advanced several additional measures that would achieve similar ends through different means. AFR opposes these proposals, too, and we address them in turn below.

- ***The Increasing Investor Opportunities Act (H.R. 2627)***

Long-standing SEC policies prohibit closed-end funds sold to non-accredited investors from investing more than 15% of their net assets in private securities. The SEC Staff considers this restriction necessary for investor protection.[9] One of the bills recently approved by the HFSC, the Increasing Investors Opportunities Act, would amend the Investment Company Act to override this SEC requirement and prohibit the SEC from imposing any limitations on closed-end companies' investments in private funds. If adopted, H.R, 2627 would enable closed-end funds sold to retail investors to invest up to their entire portfolio in private offerings.

AFR is not aware of any valid basis for allowing closed-end funds sold to retail investors to invest their entire portfolio in risky and illiquid private offerings.

- ***The Unlocking Capital for Small Businesses Act (H.R. 2590)***

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[8] As state securities regulators observe in a recent evaluation of private markets: *"The growing dominance of the private markets has systemic implications. Specific disclosures are not mandated [and] voluntary disclosures are often tainted with inaccuracies or overly optimistic projections that lead to mispricing of the securities. Even the most sophisticated investors often lack the information needed to make informed investment decisions, and this can lead to market-wide bubbles that cause widespread harm when they burst. Additionally, founder-friendly terms that are common in private offerings can lead to weak corporate governance and internal controls, making fraud or other misconduct more likely. Other stakeholders, such as companies in the issuer's supply chain, also suffer from the lack of public disclosure because it is more difficult to assess the risk of their commercial partners. In turn, the supplier's own disclosures may become inaccurate or misleading…regulators lack a line of sight into these markets, so their rulemaking, examination, enforcement, and education work suffers.* "NASAA REPORT AND RECOMMENDATIONS FOR REINVIGORATING OUR CAPITAL MARKETS." (P.10.) February 7, 2023. Accessible at https://www.nasaa.org/wp-content/uploads/2023/02/NASAA-Report-and-Recommendations-on-Reinvigorating-Our-Capital-Markets-2.7.23-Final.pdf

[9] The SEC Staff has taken the formal position that closed-end funds offered to non-accredited investors may not hold more than 15% of their assets in private funds. If a closed-end fund has more than 15% of net assets in private funds, it must sell that fund only to accredited investors. The stated rationale for the staff position is investor protection concerns. *See:* PLI Investment Management Institute by Dalia Blass, Director of the SEC's Division of Investment Management (Jul. 28, 2020), available at https://www.sec.gov/news/speech/blass-speech-pli-investment-management-institute.

The Unlocking Capital for Small Businesses Act would amend Section 15 of the Securities Exchange Act of 1934 to exempt "private placement brokers" from the registration requirements applicable to broker-dealer representatives under existing federal securities laws. The bill would also establish a regulatory "safe harbor" for so-called "finders."

As an initial matter, the definitions of private placement brokers and finders in H.R. 2590 are overly broad and fail to impose meaningful limitations on the scope of their exemption from registration. If enacted in the form in which it was approved by the HFSC, the bill would create a de-facto safe harbor for securities brokers to act in a host of new capacities that go far beyond the services traditionally performed by finders[10]. Further, there is a well-documented relationship between private offerings sold by brokers and an elevated risk of fraud. Indeed, an alarming proportion of the individuals who act as finders or brokers of private offering have "red flags" on their record.[11] Obviously, the presence of such overwhelming evidence that violations are widespread among individuals engaged in the sale of private placement offerings is directly opposite the bill's premise that actors in these markets should be subject to less oversight.

Congress would be ill-advised to pass H.R. 2590, or any other legislation that would undermine oversight of persons acting as private placement brokers or finders. Similarly, Congress would be profoundly mistaken to enact legislation that would limit the authority of states to conduct oversight of these or other persons operating as securities brokers within their jurisdiction.

- ***The Helping Angels Lead Our Startups (HALOS) Act (H.R. 1553)***

The HALOS Act would require the SEC to amend Rule 506 of Regulation D to specify that SEC prohibitions on "general solicitation" and general advertising in Rule 506(b) do not apply to sales events (also called "demo days," or "pitch days") sponsored by a governmental entity, a college or university, a nonprofit organization, an angel investor group, a trade association, a venture forum, or a venture capital association.

One or another variation of the HALOS Act has been introduced consecutively since the 113th Congress, yet all have failed to become law.[12] Among the likely reasons the bill has failed to advance are that it would be extremely challenging to implement, owing to both its complexity and the limited oversight of Reg. D, Rule 506 offerings, and that it is largely redundant with Title II of the JOBS Act, which lifted the ban on general solicitation in private offerings.

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[10] *See:* NASAA letter to House Financial Services Committee Chairman and Ranking Member regarding H.R. 6127, the "Unlocking Capital for Small Businesses Act of 2018." November 19, 2018. Accessible at https://www.nasaa.org/letters-to-congress/nasaa-letter-to-house-financial-services-committee-leadership-regarding-h-r-6127-the-unlocking-capital-for-small-businesses-act-of-2018

[11] For example, based on a 2018 analysis performed by the Wall Street Journal, one in eight brokers marketing private placements in the past decade had three or more red flags on their records, such as an investor complaint, regulatory action, criminal charge, or firing, compared to one in 50 for active brokers. Furthermore, brokers selling private placements are six times more likely as the average broker to have at least one reported regulatory action against them. See: Jean Eaglesham and Coulter Jones, A Private- Market Deal Gone Bad: Sketchy Brokers, Bilked Seniors and a Cosmetologist, *The Wall Street Journa*l (May 7, 2018)

[12] *See*: S. 2498, The HALOS Act of 2014 (113th Congress)

Beyond the questionable value of the policy changes contemplated by H.R. 1553, the version of the bill advanced by the HFSC includes problematic provisions that explicitly prevent the SEC from taking steps to protect investors should the need for additional protections become apparent. Even if the policy choices contemplated by H.R. 1553 were sound – and we believe that by-and-large they are not – the presence of egregious statutory restrictions on the SEC's authority to act for the benefit of investors are grounds to oppose it.[13]

3. Further Lowering the Bar for Emerging Growth Companies

The JOBS Act of 2012 created a "streamlined" alternative to the traditional IPO process for comparatively smaller companies that meet the criteria to be deemed an Emerging Growth Company (EGC). Companies with total annual gross revenues of less than $1.235 billion during its most recent fiscal year qualify as EGCs and may elect to be treated as such.[14]

EGCs enjoy regulatory advantages relative to traditional reporting companies. For example, they have fewer disclosure requirements; they are exempt from auditor attestation requirements under Sarbanes-Oxley; they must provide two years of audited financial statements as opposed to the standard three. They are also exempt from various of Dodd-Frank provisions.[15]

- ***The Helping Startups Continue to Grow Act (H.R. 2624)***

Currently, Emerging Growth Companies (EGCs) can maintain their status as an EGC for up to five years after they become a public company. H.R. 2624 proposes to enact a 2-year extension, such that EGCs that are currently public would be allowed enjoy the relaxed regulatory treatment afforded to EGCs for an additional 2 years.

AFR opposes H.R. 2624. We do not believe it is necessary or appropriate to give EGCs, which may have revenues approaching $1.5 billion, an additional two years (or seven years total, from the date of IPO) of regulatory coddling. Such a policy stands to further incentivize issuers to elect to be treated as EGCs, and potentially lower the regulatory bar for all issuers. The bill does nothing to benefit investors in EGCs.

- ***A bill to amend the Securities Exchange Act of 1934 to specify certain registration statement contents for emerging growth companies, to permit issuers to file draft statements with the Securities and Exchange Commission for confidential review, and for other purposes (H.R. 2610)***

H.R. 2610 would revise requirements related to registration statements submitted to the SEC. First, the bill requires EGCs to submit profit and loss statements from the previous 2 years, rather

[13] These restrictions were not included in prior versions of the HALOS Act.
[14] https://www.sec.gov/education/smallbusiness/goingpublic/EGC
[15] Dodd-Frank Act requirements from which EGCs are exempted include "Say-on-Pay," disclosures relating to the relationship between executive compensation and financial performance of the issuer, disclosure as to the ratio between the compensation of the CEO and the median compensation of all employees of the company.

than the previous 3 years as under current law. In addition, the bill would codify an SEC policy that has been in effect since 2017 that allows *all* issuers of securities to submit a draft registration statement to the SEC for confidential review prior to a public filing.

The SEC's decision to extend confidential filing privileges to all issuers in 2017, and Congress's consideration of legislation to codify this decision, illustrates why AFR considers policies that accord special treatment to certain market participants so problematic. When policymakers make exceptions for one group or subset of market participants, other market participants inevitably take notice and seek similar treatment. Often, the end result is a lowering of the bar for all market participants. That is precisely what H.R, 2610 seeks to achieve, and why AFR urges Congress to reject the legislation.

- ***A bill to amend the Federal securities laws to specify the periods for which financial statements are required to be provided by an emerging growth company, and for other purposes (H.R. 2608)***

H.R. 2608 would implement even more regulatory forbearance for EGCs by "updating the EGC financial statement accommodation to clarify that an EGC need not provide financial statements for a period earlier than the two years of audited financial statements required in its IPO registration statement."[16] According to its sponsors, H.R. 2608 is necessary to "clarify misconceptions [that] have occurred relating to the JOBS Act of 2012's accommodation allowing an EGC to provide only two years of audited financial statements in its IPO registration statement… Absent this clarification, in some scenarios EGC issuers have needed to provide audited financial statements for financial periods preceding the earliest period in their IPO registration statements."[17]

AFR does not agree that such clarifications are necessary or support the underlying policies that the bill claims to clarify. Accordingly, we oppose H.R. 2608.

4. Other House Securities Legislation Opposed by AFR

- ***The Retirement Fairness for Charities and Educational Institutions Act (H.R. 3036)***

Currently, the federal securities laws require mutual funds and variable annuities that are sold to 403(b) plans to register with the SEC. Such registration requirements serve to ensure the disclosure of essential information about the products, including their key features, risks, and costs. SEC staff review these disclosures to ensure that they provide full and fair disclosures and comply with rules relating to the proper form and content of registration statements.

The Retirement Fairness for Charities and Educational Institutions Act would amend the federal securities laws to authorize the use of collective investment trusts (CITs) and unregistered insurance company separate accounts within 403(b) retirement savings plans. As a practical matter, the amendments envisioned by the bill would create a new loophole that would facilitate

[16] House Report 118-88
[17] Ibid.

the sale of unregistered securities - namely mutual funds and variable annuities - by unregistered brokers, to both ERISA and non-ERISA 403(b) plans and plan participants.

AFR is deeply concerned about H.R. 3063. Despite the bill's being characterized by proponents as an innocuous technical fix to bring about parity with respect to the ability of 401(k)'s and 403(b)'s to invest in collective investment trusts (CITs), as approved by the HFSC, the bill's primary effect would be to encourage the sale of products that have detrimental features, by financial professionals who have no obligation to comply with rules and regulations designed to ensure basic investor protections.[18] For example, under H.R. 3036, brokers of the unregistered products in question would not be obligated to provide any disclosures to investors to enable informed decision making. They would also not be subject to SEC Regulation Best Interest ("Reg BI"), FINRA and SEC advertising rules, recordkeeping requirements, or supervisory responsibilities, or examination and oversight by the SEC, FINRA, or state securities regulators.

- ***A bill to amend the Investment Advisers Act of 1940 to codify certain Securities and Exchange Commission no-action letters that exclude brokers and dealers compensated for certain research services from the definition of investment adviser, and for other purposes (H.R. 2622)***

H.R. 2622 proposes to temporarily codify an SEC "no-action" letter that allows certain broker-dealers to "bundle," for sales purposes, of two otherwise distinct services: investment research and trade execution.[19] The policy in question was put into place by the SEC on a "temporary" basis in 2017 and extended in 2019 – again on a "temporary" basis.[20] To accomplish its goal, the bill creates a new registration exemption under the Investment Advisers Act of 1940.[21]

While H.R. 2622 initially sought to permanently extend the relief afforded by the 2017 no-action letter, it was amended during its consideration by the House Financial Services Committee in May. As amended, H.R. 2622 would extend the no-action relief only through the end of 2023.

Broker's bundling of trade execution and research for sales purposes inhibits competition in both the research and trade execution businesses.[22] The SEC has stated that it intends to allow the no-

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[18] As Consumer Federation of America explained in a recent letter addressed to the HFSC, "Since non-ERISA 403(b)s are commonly offered to public school teachers, the practical effect of this bill would be to remove any meaningful safeguards for teachers saving for retirement. The bill would allow and encourage the sale of unregistered products that have detrimental features, by unregistered financial professionals who have no obligation to comply with broker-dealer consumer protections, to public school teachers. As a result, this bill would dangerously foist inordinate risk upon public school teachers, who are often among the most vulnerable retirement savers." *See:* CFA letter Re: May 24th Markup of House Financial Services Committee Bills. May 17, 2023.

[19] Broker Dealers have historically bundled order execution services with research in exchange for higher execution commissions, or "soft commissions." Research bundling has also been shown to reduce transparency in pricing for different services, and because it has the potential to lead to conflicts of interest between investment managers and end investors.

[20] "SEC Announces Extension of Temporary Measure to Facilitate Cross-Border Implementation of the European Union's MiFID II's Research Provisions." Press Release. November 19, 2019. Accessible at https://www.sec.gov/news/press-release/2019-229

[21] The scope of the registration exemption established by H.R. 2622 is significantly broader than the scope of the SEC no-action letter it claims to codify.

[22] See: Joint letter from Healthy Markets Association, CFA Institute, and Council of Institutional Investors to U.S. Securities and Exchange Commission re "Research Payment Practices and Expiration of SIFMA No-Action Letter

action letter at issue to expire on July 1, 2023 which is consistent with encouraging market competition, and Congress should permit such expiration rather than preventing it

- ***The Improving Disclosure for Investors Act (H.R. 1807)***

The Improving Disclosure for Investors Act would allow broker-dealers to default retail investors into receiving electronic delivery (e-delivery) of important regulatory documents required by our securities laws, including investment disclosures and account statements. While AFR appreciates that e-delivery may make sense for many Americans, there is no evidence that investors who prefer to receive statements and disclosures electronically face any difficulties in exercising that choice.

Further, it continues to be the case that for some Americans, e-delivery is not even a practical option. According to AARP, more than one in four people age 65 and older do not routinely use the internet, and roughly 39 million Americans over 50 are lacking home internet service. In addition, at least 20 percent of people living in rural areas of the United States still do not have access to broadband.[23]

We also note that, recognizing the importance of investor account statements and disclosure documents, on March 2, 2023, the SEC's Investor Advisory Committee recommended that paper delivery continue as the delivery default for disclosure mandated by the federal securities laws.[24]

As presently constituted, the improving Disclosure for Investors Act appears to be more of an effort to coerce investors into receiving the statements and disclosures to which they are entitled electronically than an actual attempt to improve disclosure. As such, AFR opposes the legislation.

- ***The Regulation A+ Improvement Act (H.R. 2651)***

The Regulation A+ Improvement Act of 2023 would raise the maximum annual offering limit on securities exempt from public registration pursuant to "Tier 2" of SEC Regulation A from its current $75 million to $150 million. The bill would also require the SEC to increase the new $150 million cap on a biannual basis to account for inflation.

AFR and others have repeatedly expressed significant concern regarding the viability and necessity of a marketplace for quasi-private securities offerings, especially on the scale envisioned by Regulation A+. The marketplace for these offerings is difficult to police and potentially a magnet for fraud.[25] Moreover, by furnishing means for non-accredited investors to invest in early-stage companies that would otherwise be considered too risky for offer to the public, Reg. A+ puts retail investors into a position of essentially competing with sophisticated

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re MiFID II Implementation." March 23, 2023. Accessible at https://healthymarkets.org/wp-content/uploads/2023/03/HMA-CFAI-CII-Ltr-to-SEC-3-23-23.pdf

[23] AARP letter to HFSC Chair McHenry and Ranking Member Water regarding H.R. 1807, The Improving Disclosure for Investors Act of 2023. (April 26, 2023).

[24] SEC Investor Advisory Committee. "Recommendation of the SEC Investor Advisory Committee's Disclosure Subcommittee to Improve Customer Account Statements to Better Inform Investors." Approved March 2, 2023. Accessible at https://www.sec.gov/files/20230221-recommendation-account-statements.pdf

[25] "Traditional Exchanges Pull Back From Reg A+ IPOs Due to Fraud Concerns." June 11, 2019. Accessible at https://cointelegraph.com/news/traditional-exchanges-pull-back-from-reg-a-ipos-due-to-fraud-concerns

investors for access to investment opportunities in attractive pre-IPO companies. Not surprisingly, retail investors are at a steep structural disadvantage, and oftentimes end up assuming significant risk without gaining access to most attractive deals, or to more favorable terms and prices available to venture funds and "accredited investors" under Regulation D.[26]

The Regulation A+ framework has been in place for nearly a decade, and the offerings made under that framework have consistently proven to be quite poor. The House legislation's proposed doubling of the amount that issues can raise under Reg. A+ without making any reforms to the underlying exemption is almost certain to exacerbate the problem.

- ***The Developing and Empowering Our Aspiring Leaders Act (H.R. 2579)***

The Developing and Empowering Our Aspiring Leaders ("DEAL") Act would direct the SEC to revise its regulations to allow investments acquired through secondary transactions or investments in other venture capital funds to be considered as qualifying investments for venture capital funds.

Under existing SEC rules, venture capital funds (VCs) are exempt from certain regulations applicable to other investment firms, including those related to filings, audits, and restricted communications with investors. The exempt status of VCs, however, is contingent upon their limiting their purchases of so-called "non-qualifying investments"—which include secondary transactions and investments in other venture capital funds— to no more than 20% of the fund. If a VC's portfolio exceeds the 20 percent threshold, it must register with the SEC.

AFR opposes the DEAL Act on the grounds that it would expand the already broad registration exemption afforded VCs. The effect of such a broadening would be provision of less information to investors, with little if any corresponding benefit to companies, workers, or their investors.

- ***The Restoring the Secondary Trading Market Act (H.R. 2506)***

The Restoring the Secondary Trading Market Act would amend the Securities Act of 1933 to exempt off-exchange secondary trading from State regulation where such trading is with respect to securities of an issuer that makes publicly available certain current information.

AFR opposes the Restoring the Secondary Trading Market Act as the bill inexplicably limits state securities regulators from exercising oversight with respect to secondary trading of "off exchange secondary trading" of securities where information is publicly available. As the regulators closest to their communities and the investing public, state securities regulators have historically played a vital role in policing the offering and sale of securities that are traded "over the counter," as opposed to on a securities exchange or other centralized venue and changing this would leave investors more vulnerable to harm. While SEC rules require broker-dealers to review basic issuer information before initiating or resuming quotations for the issuer's security

[26] Ibid, Pieciak. (P. 11)

in the OTC market, this requirement is no substitute for regulatory oversight: broker dealers do not have the same tools, capacity, or responsibility to prevent wrongdoing.[27]

H.R. 2506 is a misguided bill that would take state cops off the local beat at a time when investment scams involving digital assets and other unlisted products are rapidly accelerating.[28]

- ***The Improving Capital Allocation for Newcomers Act (H.R. 2790)***

H.R. 2790 proposes to amend Qualifying Venture Capital Fund Exemption under Section 3(c)(1) of the Investment Company Act of 1940 by increasing the cap from $10 million to $150 million and increasing the allowable number of investors from 250 to 600. Such a policy shift would significantly and unnecessarily expand the existing registration exemption provided to VCs in a manner that help VCs raise additional capital, while doing nothing to encourage transparency, or help VCs evaluate investments. AFR opposes H.R. 2790.

- ***The Gig Worker Equity Compensation Act (H.R. 2612)***

The Gig Worker Equity Compensation Act would expand the exemption for securities offered as part of employee compensation individuals providing goods for sale, labor, or services for remuneration, and preempt certain provisions of State law with respect to wage rates and benefits, and for other purposes. In other words, the bill would make it easier for companies to compensate certain employees in equity rather than cash.

In our view, so-called "Gig workers" should, like all Americans, have the ability to invest their savings in various securities or investments. But they should not be put into a situation where they are compelled – explicitly or implicitly - to accept alternative forms of payment, including highly illiquid, difficult to value securities with limited secondary trading in lieu of direct monetary payment. For those reasons AFR opposes H.R. 2612

Thank you for your attention to AFR's views. Please do not hesitate to contact Andrew Park at andrew@ourfinancialsecurity.org with any additional questions or concerns.

Sincerely,

Americans for Financial Reform

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[27] "Securities that trade on the OTC market are primarily owned by retail investors. Because broker-dealers play an integral role in facilitating access to OTC securities and serve an important gatekeeper function, Rule 15c2-11 requires broker-dealers to review key, basic issuer information before initiating or resuming quotations for the issuer's security in the OTC market." (*See:* "SEC Adopts Amendments to Enhance Retail Investor Protections and Modernize the Rule Governing Quotations for Over-the-Counter Securities." Press Release. Sept. 16, 2020.) Accessible at https://www.sec.gov/news/press-release/2020-212"

[28] According to the latest FTC Consumer Protection Data Spotlight, since the start of 2021, more than 46,000 people have reported losing over $1 billion in crypto to scams. That's about one out of every four dollars reportedly lost to fraud during that period. (https://www.ftc.gov/business-guidance/blog/2022/06/reported-crypto-scam-losses-2021-top-1-billion-says-ftc-data-spotlight). June 7, 2022.

CC: The Honorable Sherrod Brown
The Honorable Tim Scott
The Honorable Patrick McHenry
The Honorable Maxine Waters