# Statement of the U.S. Chamber of Commerce

**ON: The JOBS Act at Five: Examining Its Impact and Ensuring the Competitiveness of the U.S. Capital Markets**

**TO: House Committee on Financial Services, Subcommittee on Capital Markets, Securities and Investment**

**BY: Thomas Quaadman, Executive Vice President, Center for Capital Markets Competitiveness, U.S. Chamber of Commerce**

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The U.S. Chamber of Commerce is the world's largest business federation, representing the interests of more than 3 million businesses of all sizes, sectors, and regions, as well as state and local chambers and industry associations. The Chamber is dedicated to promoting, protecting, and defending America's free enterprise system.

More than 96% of Chamber member companies have fewer than 100 employees, and many of the nation's largest companies are also active members. We are therefore cognizant not only of the challenges facing smaller businesses, but also those facing the business community at large.

Besides representing a cross-section of the American business community with respect to the number of employees, major classifications of American business—e.g., manufacturing, retailing, services, construction, wholesalers, and finance—are represented. The Chamber has membership in all 50 states.

The Chamber's international reach is substantial as well. We believe that global interdependence provides opportunities, not threats. In addition to the American Chambers of Commerce abroad, an increasing number of our members engage in the export and import of both goods and services and have ongoing investment activities. The Chamber favors strengthened international competitiveness and opposes artificial U.S. and foreign barriers to international business.

Chairman Huizenga, Ranking Member Maloney and members of the Subcommittee on Capital Markets, Securities, and Investment: My name is Tom Quaadman, executive vice president of the Center for Capital Markets Competitiveness ("CCMC") at the U.S. Chamber of Commerce ("Chamber"). The Chamber is the world's largest business federation, representing the interests of more than three million businesses and organizations of every size, sector, and region. I appreciate the invitation to testify today on behalf of the businesses that the Chamber represents.

This hearing, "The JOBS Act at Five: Examining Its Impact and Ensuring the Competitiveness of the U.S. Capital Markets" is the latest iteration of the good work done by this subcommittee and the full Financial Services Committee over the last six years to modernize securities regulation for the benefit of small and medium-sized businesses, investors, and the U.S. capital markets. The Chamber also commends the full committee for its markup of six bills last week, many of which will help open up funding channels for businesses that need capital, and create opportunities for low and middle-income American families to build wealth.

The 2012 Jumpstart our Businesses Startups ("JOBS") Act, as described in greater detail below, has provided significant capital-raising opportunities for both public and private enterprises. But beyond its specific policy impacts, the JOBS Act has also unleashed a new and positive way of thinking about the future of securities regulation. Indeed, since the law's passage in 2012, we have seen this committee move dozens of "JOBS Act 2.0" measures, and market participants ranging from "garage start-ups" to venture capital funds to secondary market makers have collaborated with members of Congress, securities attorneys, and others to develop ideas for how to get capital to the businesses in our country that most need it.

But the JOBS Act was just an initial step toward bringing our nation's securities laws into the 21st Century, and some of the provisions in the law (as well as subsequent freelancing by regulators) need to be revisited if it is going to achieve its full potential. Congress should also continue to examine the reasons for the dramatic decline in public companies over the last two decades, and the role that corporate governance laws and regulation have in capital formation and the incentives for companies to go public. The Chamber is eager to continue working with Congress on these issues and to ensure our capital markets continue to play their vital role in promoting American entrepreneurship.

## 1. Our Financial Regulatory Structure is in Need of Serious Reform

The 2008 financial crisis and the ad-hoc legislative and regulatory response that followed the crisis made clear that the financial regulatory system in the United States is badly out of date and in need of serious reform. Elements of our regulatory framework date as far back as the Civil War, and many agencies that were created in response to a particular historical event have struggled to meet the modern needs of an economy as dynamic as the United States. It is little wonder that instead of a strong rebound to the 2008-2009 financial crisis–which typically occurs after a severe financial downturn–our economy has meandered along between one and two percent growth over the last decade.

Action is needed to promote policies that will spur economic growth. To put our economic potential into perspective, if our economy moved from 2% to 3% annual growth, that would mean doubling gross domestic product (GDP) per capita 12 years faster (23 years vs. 35 years); it would also reduce our annual deficit by over $3 trillion over the next decade. If our economy went from 2.5% growth to 3% growth, average annual incomes would rise by $4,200 and 1.2 million jobs would be created over the next decade. These are mere statistics, but underlying them is the opportunity for millions of Americans to create a better life for themselves and their families. The time to pursue pro-growth policies is now.

In September 2016, the Chamber released a reform plan entitled *Restarting the Growth Engine: A Plan to Reform America's Capital Markets*[1] *(Restarting the Growth Engine Plan),* which has over 100 recommendations for creating a regulatory system that embraces stability and growth. The Chamber was pleased to see that the Financial CHOICE Act approved by the Financial Services Committee during the 114th Congress included a number of the recommendations in the Restarting the Growth Engine Plan, including but not limited to:

- Structural and managerial reforms to the Securities and Exchange Commission (SEC), as well as streamlining SEC enforcement authorities to ensure fair treatment and due process during the course of investigations.

- Congressional oversight of the regulatory policy functions for all financial regulators through the appropriations process.

- Recognition that several provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act, including capital, liquidity, and other requirements,

[1] http://www.centerforcapitalmarkets.com/wp-content/uploads/2013/08/Restarting-the-Growth-Engine-A-Plan-to-Reform-Americas-Capital-Markets.pdf?x48633

are creating a severe drag on the economy and damaging the health of the capital markets.

- Structural and authority modifications to the Financial Stability Oversight Council (FSOC), in addition to greater transparency requirements for U.S. participants in Financial Stability Board (FSB) decisions and actions, as well as the actions of other international standard setters and regulators that report to the FSB.

- Repeal of the Volcker Rule, as it has created impediments for non-financial businesses to enter the debt and equity markets. The Volcker Rule has placed market participants operating in the U.S. at a global competitive disadvantage.

- Incorporation of several bills that passed this Committee or the full House of Representatives during the 114th Congress. These bills would help foster capital formation by expanding opportunities for investors and ensuring that regulators focus on the need of small and growing businesses.

The Chamber is especially supportive of Title X of the CHOICE Act, which would modernize securities regulation in a manner similar to the JOBS Act. We would also note that there were several recommendations in the Restarting the Growth Engine Plan that were not included in the previous version of the CHOICE Act. As the Financial Services Committee develops the latest version of the CHOICE Act for the 115th Congress, we look forward to collaborating with you on many of these important issues.

## 2. The Decline of Public Companies in the United States and Its Consequences

The Chamber remains very concerned about the long-term decline in the number of public companies in the United States, a development that has endured through varied market and political cycles. As a recent article pointed out, the United States is now home to roughly *half* the number of public companies as twenty years ago, and we have only slightly more public companies than existed in 1982.[2]

This is a tragic outcome for our economy, particularly given the body of evidence which shows that both job and revenue growth increase significantly once a

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[2] "America's Roster of Public Companies is Shrinking Before our Eyes." Wall Street Journal January 6, 2017 https://www.wsj.com/articles/americas-roster-of-public-companies-is-shrinking-before-our-eyes-1483545879

company goes public. For example, a 2012 study done by the Kaufmann Foundation found that from 1996-2010; the 2,766 companies that completed an initial public offering ("IPO") during that period cumulatively increased their employment by over 2.2 million jobs.[3] Other studies have similarly shown the importance of IPOs to employment as well as revenue growth. Whatever the exact economic consequences may be, it is indisputable that fewer public companies means less jobs, less growth, and less opportunity for American businesses and American workers.

Beyond the impacts on job creation and economic growth, there's also the issue of investor protection and investor choice. Less public companies means there are fewer opportunities for non-accredited investors to diversify their portfolios and invest in companies with varying business models. The public markets are the only means by which lower and moderate income households may invest in U.S. equities, so an environment that encourages companies to go public can also help produce downstream effects in terms of investor choice and wealth creation.

The 2011 report of the IPO Task Force–which heavily influenced the provisions which ultimately made up Title I of the JOBS Act–noted that "the cumulative effect of a sequence of regulatory actions, rather than one single event, lies at the heart of the [IPO] crisis."[4] Then-Commissioner of the SEC Dan Gallagher said in a 2013 speech: *"With the benefit of hindsight, we see that many of the SEC's rules…have been the progeny of a one-size-fits-all approach unsuited to today's markets…their effect may have been to create barriers for small and emerging growth companies that want to enter the capital markets."* [5]

The Chamber could not agree more with these sentiments, as we have long warned that the regulatory environment faced by companies serves as a deterrent to going public. To emphasize this point, the IPO Task Force report included a survey in which 92% of public company CEOs reported that the "administrative burden of public reporting" was a significant challenge for their company becoming public.

Despite the clear evidence that regulation was negatively impacting the ability of companies to raise capital or undergo an IPO, the SEC for years took little action to address the problem. It was the SEC's neglect of their statutory mission to "facilitate capital formation" that led Congress to intervene and pass the JOBS Act in

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[3] Post-IPO Employment and Revenue Growth for U.S. IPOs June 1996-2010 http://innovation.ucdavis.edu/people/publications/kenney-m.-patton-d.-ritter-j.-2012.-post-ipo-employment-and-revenue-growth

[4] Report of IPO Task Force https://www.sec.gov/info/smallbus/acsec/rebuilding_the_ipo_on-ramp.pdf

[5] Commissioner Dan Gallagher Remarks at FIA Futures and Options Expo, November 6, 2013 https://www.sec.gov/News/Speech/Detail/Speech/1370540289361

2012. And while the "on-ramp" provisions included in Title I of the JOBS Act have helped increase the number of IPOs in the immediate years following passage, the market has since cooled and many long-term issues still remain.

The Chamber would urge Congress to consider whether further exemptions from regulations for emerging growth companies ("EGCs") are warranted. The SEC has estimated, for example, that the average initial regulatory cost associated with an IPO is $2.5 million, a significant amount for a company that may have modest revenues.[6] Congress should consider further simplifying disclosure obligations for EGCs in a manner that does not compromise transparency and investor protection.

### 3. Corporate Governance and the Incentive to Go or Stay Public: An Inextricable Link

To be sure, there are several factors that a company takes into consideration when deciding whether or not to go public. These include factors that cannot–and should not–be controlled by policymakers, such as market conditions, competitive pressures, and cost of capital. However, many of the hurdles to going public are self-inflicted and include the complexity of the SEC's disclosure regime, recent attempts by special interests to co-opt corporate disclosures in order to advance their agendas, and the outsized influence that proxy advisory firms have on corporate governance in the United States.

In 2014, CCMC released a report that included a number of recommendations which would modernize SEC disclosures for the benefit of both issuers and investors.[7] In addition to the average of $2.5 million in regulatory costs for undergoing an IPO, the SEC has estimated that annual compliance costs for public companies averages $1.5 million[8]–again, a not-insignificant amount of money for a company that is focused primarily on growth. Much of this cost stems from the SEC's overly complex and confusing disclosure regime, which even institutional investors have a difficult time understanding.[9] Under its Disclosure Effectiveness

[6] See SEC 2013 proposed rules on crowdfunding https://www.sec.gov/rules/proposed/2013/33-9470.pdf

[7] Corporate Disclosure Effectiveness: Ensuring a Balanced System that Informs and Protects Investors and Facilitates Capital Formation https://www.uschamber.com/sites/default/files/021053_ccmc_disclosure.pdf

[8] SEC 2013 proposed rules on crowdfunding https://www.sec.gov/rules/proposed/2013/33-9470.pdf

[9] A 2014 study by the Rock Center for Corporate Governance at Stanford University found that only 38% of institutional investors believe disclosures related to executive compensation are "clear and easy to understand" https://www.gsb.stanford.edu/faculty-research/publications/2015-investor-survey-deconstructing-proxy-statements-what-matters

Initiative and recent mandates from Congress, the SEC must work to modernize disclosures to fit the needs of today's businesses and investors.

More troublingly, there has been an increased push over the last decade–led by well-funded special interests–to use the disclosure regime in order to advance a political or social agenda. These efforts have included provisions in the Dodd-Frank Act mandating immaterial disclosures such as pay ratio and conflict minerals, as well as continued efforts to mandate political spending disclosures. To help counter this alarming trend, the CCMC issued a report last month emphasizing the need for policymakers to adhere to the Supreme Court-articulated materiality standard, which has effectively governed corporate disclosure for decades.[10]

Congress should outright reject any further attempts to turn the SEC into an arbiter of political or social causes, no matter their merit. American entrepreneurs don't want to spend years building a business and completing their dream of going public–only to find a cottage industry of activists waiting for them once they do, looking for ways to embarrass the company or to have it adopt their idiosyncratic agendas. The potential long-term damage that will be done to America's capital markets if the SEC's independence is compromised cannot be overstated.

One area that has been particularly prone to abuse by special interests is the shareholder proposal rules under Rule 14a-8 of the Securities Exchange Act. These rules were originally intended to facilitate communication and collaboration between management and shareholders to help solve matters of importance related to the company. Instead, the outdated rules under Rule 14a-8 have devolved into a vehicle for activists to push pet issues which are often wholly unrelated to enhancing the underlying value of a company's stock. This has been a tremendously detrimental development for corporate governance in the United States, and only serves as another deterrent for companies to go public.

The SEC has exacerbated the problem in recent years by creating a high level of uncertainty in the "no-action" process that companies rely on to exclude shareholder proposals from their proxy. The sudden decision by then-SEC Chair Mary Jo White in January 2015 to reverse a staff decision regarding a proxy access proposal at Whole Foods was a consequential and unfortunate moment in the long history of Rule 14a-8.[11] A first step towards reform would be for the SEC to

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[10] Essential Information: Modernizing Our Corporate Disclosure System http://www.centerforcapitalmarkets.com/wp-content/uploads/2013/08/U.S.-Chamber-Essential-Information_Materiality-Report-W_FINAL-1.pdf?x48633

[11] Corporate Governance Coalition for Investor Value Letter to Chair White regarding Whole Foods Decision http://www.centerforcapitalmarkets.com/wp-content/uploads/2015/02/2015-2-23-Coalition-letter-to-SEC-re-whole-foods-decision.pdf?x48633

withdraw Staff Legal Bulletin 14H (CF) which has created a great deal of uncertainty for the market.[12] The SEC could also revive a 1997 proposed rulemaking to raise the "resubmission thresholds" under Rule 14a-8, so that activists cannot force shareholders to pay for the dissemination of the same proposal in multiple years, even if that proposal gains meager support.[13]

The Chamber has long called for reform of the shareholder proposal rules under Rule 14a-8 so that they can be restored to their original intent, and shareholders are not forced to pay so that a vocal minority may have their day in the spotlight. The hearing held by this subcommittee in September 2016 highlighted a number of the problems with Rule 14a-8, and helped educate Congress and the public about the vital need for reform.[14] The Chamber welcomes any opportunity to work with this committee during the 115th Congress in order to modernize these rules.

Another pressing issue is the outsized influence that proxy advisory firms have on corporate governance in the United States. The proxy advisory industry has been dominated by two companies–Institutional Shareholder Services ("ISS") and Glass Lewis & Co. ("Glass Lewis"), which collectively control 97% of the proxy advice market.[15] It has been estimated that ISS and Glass Lewis effectively "control" 38% of the shareholder vote because if the two firms make the same proxy voting recommendation, it moves that percentage of the vote absent a vocal campaign against their position.[16]

ISS and Glass Lewis also continue to operate with an alarming lack of transparency and accountability, which has the effect of undermining confidence in the system of proxy voting in the United States. These two firms have yet to take steps to ensure that their voting recommendations are developed on clear, objective, and empirically-based corporate governance standards to help management and investors evaluate and improve governance as a means of increasing shareholder value. They are also riddled with conflicts of interest and internal processes that have not kept up with other changes in the proxy system.

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[12] https://www.sec.gov/interps/legal/cfslb14h.htm

[13] https://www.sec.gov/rules/proposed/34-39093.htm

[14] "Corporate Governance: Fostering a System that Promotes Capital Formation and Maximizes Shareholder Value" Capital Markets and GSE Subcommittee, September 21, 2016 http://financialservices.house.gov/calendar/eventsingle.aspx?EventID=401019

[15] There are other firms such as Egan Jones which provides a full array of proxy advisory services and Manifest which provides only research. However, these firms are negligible in their market impact.

[16] ISS 24.7% Glass Lewis 12.9% Source: Ertimur, Yonca, Ferri, Fabrizio and Oesch, David, Shareholder Votes and Proxy Advisors: Evidence from Say on Pay (February 25, 2013). 7th Annual Conference on Empirical Legal Studies Paper.

For these reasons, the Chamber strongly supported H.R. 5311, the "Corporate Governance Reform and Transparency Act of 2016" during the 114th Congress. This legislation would require proxy advisory firms to register with the SEC and become subject to a robust and entirely appropriate oversight regime. We commend Congressman Duffy for his work on this issue, and look forward to working with him on the legislation during this Congress.

The Chamber raises these corporate governance concerns in the context of the JOBS Act because we strongly believe they must also be viewed as "capital formation" issues and be addressed if we are truly going to arrest the long-term decline of public companies in the United States. The fact of the matter is that the public company regulatory regime remains inhospitable for many businesses, but we welcome the opportunity to work with Congress and the SEC to change that reality.

## 4. The JOBS Act in Practice

### Title I–IPO "On-Ramp"

To date, the most impactful provisions of the JOBS Act have been those included in Title I, which established the EGC as a new class of issuer. Title I helped turn around what had been a moribund IPO market in the years leading up to passage of the JOBS Act. The number of IPOs jumped to 133 in 2012 (up from 101 in 2011). In 2013, the first full year that the JOBS Act was in place, IPO listings increased to 226, then to 291 in 2014.[17] The majority of these companies filed as EGCs and took advantage of the provisions that Title I had to offer. While the IPO market has cooled since 2014, there is no doubt that conducting an IPO is an easier process now than it was before the JOBS Act.

The success of Title I also holds an important lesson for Congress as it considers additional capital formation-related legislation. Unlike many of the other provisions in the JOBS Act, Title I became effective the minute that President Obama signed the legislation into law. This "self-effectuating" mechanism helped avoid some of the regulatory discretion that has gummed up other parts of the JOBS Act (described in more detail below). As it takes steps to further modernize securities regulations, Congress should make every effort to assert its Article I powers under the U.S. Constitution and leave as little discretion to the SEC or other regulators as possible.

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[17] "Why are more companies staying private?" Ernst & Young report at meeting of SEC Advisory Committee on Small and Emerging Companies https://www.sec.gov/info/smallbus/acsec/giovannetti-presentation-acsec-021517.pdf

**Title II–General Solicitation for Offerings under Regulation D**

The private offering market under Regulation D has long been an attractive vehicle for businesses to raise capital. In fact, the Reg. D market has grown to well over $1 trillion as issuers find it a more cost-effective alternative than undergoing an IPO, and are not subject to the arbitrary caps that exist with other exemptions, such as Regulation A.

The concept of Title II was simple: Allow private businesses to solicit investments in their company to the general public, with the stipulation that those who ultimately purchase the securities be deemed "accredited investors." This would allow businesses to expand their investor base outside of their geographic area and lead to a significant increase in private investment. In July 2013, the SEC issued rules to implement Title II and created a new "Rule 506(c)" class of offerings that allow for general solicitation.

In practice, however, the general solicitation provisions have become needlessly complex and uncertain, effectively putting a lid on the Reg. D market. This is due in no small part to some of the liberties taken by the SEC with their Title II mandates, many of which would add burdens on investors and issuers that are simply unnecessary. For example, when the SEC finalized its general solicitation rules, it concurrently issued proposed rules–uncalled for by the JOBS Act–that would impose further restrictions on Reg. D offerings, and would impose harsh penalties on issuers that make even minor mistakes when completing SEC forms. Although these proposals have not been implemented, their mere existence has caused many issuers to think twice about undergoing a 506(c) offering. Indeed, post-implementation data shows that the 506(c) market pales in comparison to the entire Reg. D market.[18]

For these reasons, the Chamber last Congress fully supported H.R. 4852, the "Private Placement Improvement Act", which would prohibit the SEC from acting upon some of these ill-advised proposals. We urge the committee to take up this legislation during this Congress, or at the very least seek assurances from the SEC that the agency has no intention of moving forward to implement the proposals.

The Chamber also supports updating the definition of an accredited investor so that more Americans have an opportunity to invest in private offerings. The current definition allows only those with $1 million in net worth or $200,000 in annual income (or $300,000 in joint income with a spouse) to be deemed accredited. In

[18] https://www.sec.gov/dera/staff-papers/white-papers/unregistered-offering10-2015.pdf

other words, only very wealthy people are afforded the opportunity to invest in private offerings. These arbitrary thresholds have the effect of being both under-inclusive and over-inclusive at the same time: They allow someone who inherited a fortune–but has no concept of financial markets–to invest in private offerings, but they won't allow someone with a Ph.D. in economics or finance to invest if their net worth and income happen to be below the thresholds.

This makes little sense, and has the effect of contributing to disparities in income and wealth across our country. And as Acting SEC Chair Michael Piwowar recently pointed out, allowing retail investors to invest in both public and private companies can actually have the effect of *reducing* risk in their overall portfolio.[19]

The Chamber supports efforts to include more qualitative criteria for determining who is an accredited investor. We support the "Fair Investment Opportunities for Professional Experts Act," which passed the House by a vote of 347-8 during the 114th Congress, and urge the committee to take the legislation up again this year.

**Title III: Crowdfunding**

While companies or individuals have "crowdfunded" monetary contributions from a large number of people for years, the JOBS Act provided–for the first time–the legal framework for equity crowdfunding under the federal securities laws. But much like general solicitation, what began as a simple and promising concept looked completely different once it had gone through the legislative process.

Ever since the passage of the JOBS Act, the Chamber has been concerned that the final provisions of Title III would limit the potential of crowdfunding in the United States. Indeed, recent data from the SEC indicate that since the crowdfunding rules went "live" in May of 2016, 163 crowdfunding deals have been initiated, and only $10 million of funding has actually been raised.[20]

It is very possible some of what is contributing to these muted statistics are the growing pains related to new rules as issuers struggle to understand–or even be informed–about what the rules are and how they can use crowdfunding in practice. However, the paternalistic view of American investors portrayed by Title III (and

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[19] "Remembering the Forgotten Investor" Speech by Acting Chairman Michael S. Piwowar February 24, 2017 https://www.sec.gov/news/speech/piwowar-remembering-the-forgotten-investor.html

[20] "U.S. securities-based crowdfunding under Title III of the JOBS Act" SEC Division of Economic Risk and Analysis https://www.sec.gov/dera/staff-papers/white-papers/RegCF_WhitePaper.pdf

subsequent SEC rules)–with arbitrary limitations on how much be raised and the amount an individual can invest–has no doubt dampened the utility of undergoing a crowdfunding offering. The legal landmines that exist for issuers and crowdfunding portals also present serious challenges.

In order to "fix" Title III and make these rules workable for businesses and their investors, the Chamber is fully supportive of Congressman McHenry's aptly named "Fix Crowdfunding Act" (H.R. 4855 in the 114th Congress) and urges the committee to take up similar legislation this Congress. We are also fully supportive of Congressman Emmer's "Micro Offering Safe Harbor Act" (H.R. 4850, 114th Congress) which would provide a safe harbor for small businesses that are looking to raise very small amounts of capital.

**Title IV: Modernization of Regulation A**

Regulation A is an exemption that has long existed in securities regulation for issuers that may be seeking public financing, but are not prepared to undergo the full costs of an IPO. However, prior to the JOBS Act, the eligibility criteria under Regulation A had not been updated since 1992, rendering the exemption useless for the vast majority of companies that would otherwise be interested in using it. A 2012 GAO report found that the low offering threshold ($5 million and under), as well as a conflicting maze of state "blue sky" laws contributed to the unpopularity of Regulation A.[21]

Title IV sought to address this by raising the offering threshold from $5 million to $50 million, and directing the SEC to implement rules that would ultimately address some of the blue sky issues. The SEC's final rules–which became effective in June 2015–establish two tiers for new "Regulation A+" offerings. Tier I offerings may not exceed $20 million and are required to meet state registrations requirements; Tier II offerings may not exceed $50 million, are exempt from blue sky requirements, but are still subject to both auditing and ongoing reporting requirements.

As of October 31, 2016, approximately 81 offerings–seeking up to $1.5 billion in financing–had been deemed "qualified" by the SEC. Approximately $190 million had actually been raised using the new rules, with Tier 2 offerings being more common than Tier 1. Notably, the vast majority of Reg. A+ offerings were direct

[21] "Factors That May Affect Trends in Regulation A Offerings" Government Accountability Office July 3, 2012 http://www.gao.gov/assets/600/592113.pdf

offerings made by the issuers to the public, with only 18% of offerings involving an underwriter.[22]

While Regulation A has become exponentially more popular than it has been in the past, Congress should monitor its progress and examine whether furthers steps are necessary to ensure that Title IV reaches its full potential.

Congress and the SEC should also consider whether the secondary trading environment for Reg. A+ companies is appropriate given the characteristics of the companies that use Reg. A+ and their differences with large, established public companies. One concept worth further exploring is the idea of "venture exchanges", which could be specifically tailored to support the secondary market trading of Reg. A+ issuers, EGCs, and even possibly companies that are currently listed on a national securities exchange.

The Financial Services Committee passed H.R. 4868, the "Main Street Growth Act" last year, an innovative and positive bill which we believe could provide healthy competition with existing systems, such as the Over the Counter ("OTC") markets and Alternative Trading Systems ("ATS"). The overall goal should be to increase liquidity, research coverage, and efficiency in the secondary market for small public companies, and we welcome opportunities to work with Members particular ideas moving forward.

## 5. Exploring Further Ways to Facilitate Capital Formation

In addition to necessary fixes to the JOBS Act, 2017 presents a great opportunity for both Congress and the SEC to advance bold capital formation agenda. As mentioned previously, the Chamber fully supports many of the capital formation-related provisions included in Title X of the Financial CHOICE Act, including:

- Allowing mergers and acquisitions brokers to electronically register with the SEC and not be subject to the full requirements for registration imposed upon a full-service broker, provided that such M&A brokers limit their activities to transactions involving an "eligibly privately held company";

- Exempting small issuers and EGCs from the requirement that they file their financial information in XBRL format;

[22] "Regulation A+: What Do We Know So Far?" SEC Division of Economic and Risk Analysis https://www.sec.gov/dera/staff-papers/white-papers/Knyazeva_RegulationA-.pdf

- Expanded eligibility for use of Form S-3 so that more companies can take advantage of "short-form" registration;

- Modernizing the regulatory environment for business development companies (BDCs) which have become an even more important source of capital for small and medium-sized businesses in the wake of the Dodd-Frank Act;

- Clarifying the definition of an angel investor group for purposes of general solicitation under Title II of the JOBS Act.

The newly created Office of the Advocate for Small Business Capital Formation at the SEC also presents an opportunity for the SEC to re-focus on its statutory mandate to "facilitate capital formation," a mandate that the SEC has all too often neglected. The Office will help provide a permanent voice for small business at the SEC, and will serve as an important conduit between companies looking to raise capital and the Chair of the SEC who sets the agenda.

## 6. Conclusion

The Chamber views the continued efforts of this subcommittee as an important factor in providing the diverse capital structure our free enterprise system needs and to allow for the dynamic changes that make our economy and our capital markets the envy of the world. We believe that the next few years present Congress, the SEC, and the private sector with a golden opportunity to achieve great victories for American businesses and investors, and we stand ready to assist in any way we can.