CHAMBER OF COMMERCE
OF THE
UNITED STATES OF AMERICA

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The Honorable Jeb Hensarling
Chairman
Committee on Financial Services
U.S. House of Representatives
Washington, DC 20515

The Honorable Maxine Waters
Ranking Member
Committee on Financial Services
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Hensarling and Ranking Member Waters:

The U.S. Chamber of Commerce, the world's largest business federation representing the interests of more than three million businesses of all sizes, sectors, and regions, as well as state and local chambers and industry associations and dedicated to promoting, protecting and defending America's free enterprise system, supports thirteen bills that would help promote small business capital formation the Committee is expected to mark up on May 20, 2015. The Chamber has testified before this Committee in support of these bills.

The Chamber supports each of these innovative provisions and appreciates the Committee's interest in exploring more ways for Emerging Growth Companies (EGCs) to access the capital markets. As multiple studies have shown, job creation expands significantly once a company goes public. Last year saw the largest number of IPO's since 2000 and the first rise in the number of public companies following 14 consecutive years of decline. This positive trend has been driven by the Jumpstart Our Business Startups Act (JOBS Act) and the Chamber urges Congress to continue focusing on efforts to make the public markets more attractive for growing companies.

H.R. 432, the "SBIC Advisors Relief Act of 2015," would correct an unintended consequence of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) that triggers registration under the Investment Advisers Act of 1940 (Advisers Act) for advisers to small business investment companies (SBICs) and venture capital funds. Congress has explicitly provided an exemption under the Advisers Act for individuals for advice either as an SBIC or a venture capital fund. H.R. 432 would codify congressional intent and allow SBICs and venture capital funds to continue to play their important role in our economy.

H.R. 686, the "Small Business Mergers, Acquisitions, Sales and Brokerage Simplification Act of 2015," would simplify registration requirements for mergers and acquisitions (M&A) brokers and includes a number of important safeguards for investor and markets. H.R. 686 would require disclosure of relevant information to clients and to the owner of an eligible privately held company who is offered a stock-for-stock transfer, and would not exempt M&A brokers from the existing prohibitions designed to block securities law violators from entering the business.

H.R. 1334, the "Holding Company Registration Threshold Equalization Act of 2015," would fix an oversight regarding Title VI of the JOBS Act, which included a provision to update the 12(g) shareholder thresholds requiring companies to go public once they hit a certain number of shareholders. For banks, the new registration requirement would be set at 2,000 shareholders, while they would be allowed to "de-register" if they cross below 1,200 shareholders. Despite the clear intent of Congress, the Securities and Exchange Commission (SEC) did not interpret the law to allow savings and loan holding companies to take advantage of the new thresholds. Savings and loans perform nearly identical functions as banks and under the Dodd-Frank Act are overseen by the same regulators—there is essentially no difference between the operations or regulatory oversight of the two.

H.R. 1525, the "Disclosure Modernization and Simplification Act of 2015," would address the expansion and increased complexity of disclosure, which has contributed to the phenomenon of "disclosure overload," whereby investors are so inundated with information it becomes difficult for them to determine the most salient factors they need to make informed voting and investment decisions. This impacts institutional investors,[1] but retail investors are particularly vulnerable, as they typically do not have an army of analysts or lawyers to pore through SEC filings of the companies they invest in. H.R. 1525 would address this issue by requiring SEC to eliminate any outdated, duplicative, or unnecessary disclosures and to further scale disclosure requirements for EGCs and other small issuers. The SEC would also modernize corporate disclosures which are currently based on a 1930's model and does not meet the existing needs of investors.

H.R. 1675, the "Encouraging Employee Ownership Act of 2015," would raise the threshold from $5 million to $10 million under SEC Rule 701, which gives private companies the opportunity to sell securities to employees under certain compensatory benefit or compensation plans without having to incur the costs of SEC registration. This bill would allow the JOBS Act 12(g) provisions to reach their full potential. Importantly, H.R. 1675 also includes a provision that would index Rule 701 for inflation once the new threshold is enacted. Modernizing Rule 701 would produce benefits for American private businesses as well as workers who would have increased opportunity to build wealth by investing in the companies that they work for.

H.R. 1723, the "Small Company Simple Registration Act of 2015," would allow smaller reporting companies to incorporate by reference on their S-1 registration statement any filings that are made after the date in which the S-1 becomes "effective." This would help reduce duplicative and unnecessary filing requirements on small issuers, while still maintaining important investor protection and disclosure requirements.

H.R. 1847, the "Swaps Data Repository and Clearinghouse Indemnification Correction Act of 2015," would harmonize swaps data and reporting rules across jurisdictions by removing an unworkable requirement from the Commodity Exchange Act (CEA), which requires foreign regulators seeking access to U.S. swap data repositories to indemnify swap data

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[1] A recent study by Stanford University Professor David Larcker found that 55% of institutional investors surveyed felt the proxy was too long and 48% believe the proxy is too difficult to read and understand. The investors surveyed had a total of $17 trillion under management. The study can be found at: http://www.gsb.stanford.edu/faculty-research/publications/2015-investor-survey-deconstructing-proxy-statements-what-matters

repositories, the Commodity Futures Trading Commission (CFTC), and SEC for expenses that arise from litigation relating to the information from the U.S. swap data repositories. This creates a significant barrier to global data harmonization, as foreign jurisdictions are unwilling to agree to the indemnification or have laws or regulations that would prevent them from agreeing to such an indemnification. Accordingly, H.R. 1847 is crucial for global regulatory coordination, information sharing reduce complexity, lower costs for U.S. companies and still require that regulators meet specified confidentiality requirements.

H.R. 1965, the "Small Company Disclosure Simplification Act," would provide a temporary and optional exemption for small issuers from the eXtensible Business Reporting Language (XBRL) requirements administered by SEC. While XBRL was created in order to move away from a paper-based system of financial disclosures, it remains a work in progress and has experienced a number of growing pains. H.R. 1965 would allow SEC to fix some of the deficiencies associated with XBRL. The optional exemption for EGCs and small issuers would allow boards and their shareholders the authority to decide whether if using XBRL is in the best interest of the company.

H.R. 1975, the "Securities and Exchange Commission Overpayment Credit Act," would address overpayments under Section 31 Securities Exchange Act of 1934, which require self-regulatory organizations (SROs) and national securities exchanges to pay transaction-based fees to SEC in order to defray the costs to the agency for overseeing and examining these bodies. If entities underpay the required amount, they are subject to enforcement action by SEC—if they overpay the amount there is no way to be refunded or credited against future payments. H.R. 1975 would provide a degree of certainty for SROs and exchanges by allowing such overpayments to be credited against future Section 31 responsibilities. Since these payments are often passed on to the investing public, allowing for such credits would ultimately benefit investors who trade in the public markets.

H.R. 2064, the "Improving Access to Capital for Emerging Growth Companies Act," would build upon the success of the JOBS Act by providing EGCs with expanded opportunities to raise capital. This bill would facilitate follow-on offerings made by EGCs and also allow business to maintain their EGC status for a period of time following their initial registration with SEC. It would also reduce the number of days that a business must wait until after its registration to commence a "road show," which would increase the likelihood of a successful IPO launch.

H.R. 2354, the "Streamlining Excessive and Costly Regulations Review Act," would require SEC to conduct a periodic retrospective review of existing regulations to determine if regulations needed to be amended to meet changing market conditions, are outdated, or unnecessary. Such a review is based upon Executive Order 13563, issued by President Barack Obama, which had ordered executive agencies to conduct a retrospective review of existing regulations to determine how such regulations can be improved. While Executive Order 13579 states that independent regulatory agencies should abide by the heightened regulatory standards of Executive Order 13563, SEC is not required to and has not done so. The major issues in the JOBS Act were within SEC's power to update independently and a regulatory review process could have addressed them. H.R. 2354 would ensure that SEC adapt to ever changing dynamic markets and that its regulatory structure is periodically updated to meet its goals of investor protection and promotion of competition and capital formation.

H.R. 2356, the "Fair Access to Investment Research Act of 2015," would remove existing impediments that prevent investors from obtaining decision useful information regarding Exchange Traded Funds (ETFs) or for these investment vehicles to achieve their potential. Under the Exchange Acts, broker-dealers currently have safe harbors to publish research on equity offerings. However, ETFs and open-ended funds do not have similar specific safe harbors, thereby causing enough legal vagueness to restrict information and research that may be helpful to investors. This bill would extend this safe harbor to ETFs and open-ended funds providing investors with more information and improving the efficiency of the overall capital markets.

H.R. 2357, the "Accelerating Access to Capital Act of 2015," would revise form S-3 and liberalize the offering of securities to accelerate the ability of a business to become a public company. This bill would also modernize the use of Form S-3 and allow smaller issuers to take advantage of the simplified registration statement.

Collectively, these bills would build upon the success of the JOBS Act and give American businesses greater opportunity to grow and create jobs. The Chamber urges the Committee to report these bills to the full House of Representatives as expeditiously as possible.

Sincerely,

R. Bruce Josten

cc: Members of the Committee on Financial Services