H.R. 10 – Financial CHOICE Act (Rep. Hensarling, R-TX)

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FLOOR SCHEDULE:

Scheduled for consideration on Thursday, June 8, 2017 under a structured rule.

TOPLINE SUMMARY:

H.R. 10 would amend the Dodd-Frank Wall Street Reform and Consumer Protection Act to reduce government overreach in the financial services sector. The bill would repeal many of the most onerous provisions of Dodd-Frank, including the Volker Rule, as well as allow banks to be exempt from many of the law's requirements if they hold sufficiently high capital reserves. The bill would also end the concept of "too big to fail" and the permanent government bailout authority, replacing it with a new title in the Bankruptcy code to facilitate liquidation of failed firms in a way that is based in the rule of law. Finally, H.R. 10 would restructure the Consumer Financial Protection Bureau and other regulators to ensure they are best suited to serve their purpose and are accountable to Congress and the American people.

COST:

The Congressional Budget Office (CBO) and the Joint Committee on Taxation estimates "that changes in direct spending and revenues from enacting the manager's amendment would reduce budget deficits by $33.6 billion over the 2017-2027 period. That estimate of reduced deficits is $9.5 billion more than the estimated amount of deficit reduction under H.R. 10 as ordered reported by the House Committee on Financial Services on May 4, 2017. The amendment's savings are composed of a reduction in direct spending of $30.8 billion and an increase in revenues of $2.8 billion. Most of that budgetary savings would come from eliminating the Federal Deposit Insurance Corporation's authority to use the Orderly Liquidation Fund and changing how the Consumer Financial Protection Bureau and certain other financial regulators are funded. CBO estimates that implementing H.R. 10 also would cost $11.6 billion over the 2017-2027 period, subject to appropriation of the necessary amounts."

The previous estimate can be found here.

CONSERVATIVE CONCERNS:

Notably absent from the substitute amendment submitted to the Rules Committee is the repeal of the Durbin amendment. Conservatives have argued since Dodd-Frank's inception that government control over debit-card swipe fees amounts to federal price controls, which is an inappropriate use of federal power that should be eliminated.

- **Expand the Size and Scope of the Federal Government?** No. The bill makes significant reforms to

curtail overreach of the federal government into financial markets and services.

- **Encroach into State or Local Authority?** No.
- **Delegate Any Legislative Authority to the Executive Branch?** No.
- **Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** No.

DETAILED SUMMARY AND ANALYSIS:

Dodd-Frank was enacted in a misguided response to the 2008 financial crisis, and was based on the assumption that economic instability was the result of a lack of regulation of the financial system, rather than of observable and predictable responses to federal policy. Despite indications of a decline in underwriting standards and a housing price bubble that collapsed in 2008, Democrats, along with President Obama, clung to the concept that Wall Street was greedy and that once again, more regulation signified greater control. While a reasoned assessment would have shown that the asset bubble was a result of federal housing policies, many of which stemmed from the 1992 enactment of the Affordable Housing Goals, Dodd-Frank instead assumed the free operation of financial markets was too risky and aimed to increase stability through control and regulation, with impacts trickling all the way down from arbitrarily restricting the investments of major capital market trading firms to affecting whether community banks could issue loans and low-income access to free checking accounts.

A title-by-title analysis of the bill follows below:

H.R. 10 addresses the repeal of many of the provisions of Dodd-Frank through 12 titles:

Title I – Ending "Too Big to Fail" and Bank Bailouts

Subtitle A would completely repeal Title II of the Dodd-Frank Act, known as the "Orderly Liquidation Authority." This provision of Dodd-Frank provides for a way for the government to liquidate distressed financial companies by placing them in to federal receivership. Under federal receivership, the government would have significant discretion as to how to liquidate or restructure firms designated as systematically important. This creates the potential for bailouts for politically well-connected stakeholders, as well as generates significant uncertainty for all stakeholders and market participants.

Subtitle B would replace the orderly liquidation process with the addition of a new subchapter (Title II subchapter V) in the bankruptcy code to cover large financial institutions, imposing losses on shareholders and creditors rather than on taxpayers. This provision would exclude stock brokers and commodities brokers. Subchapter V would apply to financial institutions with assets in excess of $50 billion and with at least 85% of revenues derived from financial activities.

Under the provisions of the subtitle, pursuant to a petition for bankruptcy from a covered financial institution, the operations, assets, contracts and secured debt of the institution would be transferred to a bridge company, which would continue to operate. The unsecured debt and equity, as well as any contracts or property subject to a lien under an obligation that the bridge company is, in the opinion of the court, unlikely to be able to be fulfilled, would remain with the legacy estate to be resolved under standard bankruptcy proceedings.

This subtitle also provides for an automatic 48-hour stay against any legal action from creditors seeking to recover against the institution while assets are transferred to the bridge company. After 48 hours, the stay is lifted against the bridge company, but would remain in force covering the operating subsidiaries of the institution. Unlike a traditional automatic stay under Chapter 11, derivative contracts would be covered under the 48-hour stay, though it would be terminated in the event the bridge company failed to perform on the derivative contract.

The subtitle would also require the Chief Justice of the U.S. Supreme Court to designate at least 10 bankruptcy judges who are able to hear Subchapter V cases.

This subtitle is similar to H.R. 1667, the Financial Institution Bankruptcy Act of 2017, which passed the House by voice vote on April 5, 2017. The past legislative bulletin can be found here.

Subtitle C would repeal the provisions of Dodd-Frank that allow for government guarantees that permit the FDIC to give financial support to solvent insured depositories and holding companies in the face of economic distress. It would retroactively repeal the authority of the Financial Stability Oversight Council (FSOC) to designate banks and non-banks as systemically important financial institutions (SIFIs). It would restrict the use of the exchange stabilization fund, so that it could not be used to create guarantee programs for non-governmental entities. Eliminating these provisions of current law will prevent federal bailouts of financial firms from these sources.

Subtitle D would repeal Title VIII of Dodd-Frank. This title of Dodd-Frank gives FSOC the right to designate certain payments and clearing organizations as systemically important "financial market utilities" (FMUs), giving them easy access to the Federal Reserve lending. It would also retroactively repeal all previously indicated FMU designations.

Subtitle E would reform and repeal provisions of the Financial Stability Act of 2010. It would abolish the Office of Financial Research. It would repeal FSOC authority to designate non-banks as SIFIs. Doing so would restrict the Federal Reserve's authority over entities that had been designated as SIFIs and FMUs.

This subtitle would also repeal FSOC authority to require large bank holding companies and certain nonbanks to undertake "mitigatory actions," like limiting their ability to merge or consolidate with another company, restricting their ability to offer certain services or products, or imposing conditions on how the company conducts activities. It would also repeal FSOC authority to issue recommendations on heightened standards and safeguards for bank holding companies.

This subtitle would also limit Federal Reserve authority over nonbanks and bank holding companies previously designated as SIFIs, exempting nonbanks from Dodd-Frank's enhanced prudential standards (ending the practice of regulating non-banks as though they were banks). It would prohibit resolution plans from being required more often than every two years, and mandate timely feedback from the Federal Reserve on such plans.

It would provide needed relief to the stress test process, including requiring the Federal Reserve to detail methodologies for how stress tests are conducted and how results are evaluated. It would require the Federal Reserve to detail any considerations of a stress test model's effects on financial stability and credit

availability. It would also require the Federal Reserve to detail methodologies for Comprehensive Capital Analysis and Review (CCAR), performing CCAR tests not more than every two years. Companies would be permitted, in the event of a quantitative objection, or if they so desire, to file a new, mid-cycle plan, any time after a capital planning exercise has been completed, and before a subsequent exercise. Company-run stress tests would be performed annually, instead of semi-annually as required by Dodd-Frank.

Subtitle E would detail the composition of the FSOC. The FSOC would include the heads of all represented agencies. Agencies with multi-member boards would vote internally per their usual process and would then issue one collective vote as a member of the FSOC. House Financial Services members and Senate Banking Committee members would be permitted to attend FSOC meetings in order to facilitate Congressional oversight. It would require the Chairman of the FSOC to provide confidential briefings to the House Financial Services Committee and Senate Banking Committee at least annually.

Finally, Subtitle E would address operational risk capital requirements for banking organizations, limiting the ability of federal banking agencies to set additional operational risk capital requirements, unless the requirement is: (1) based on the risks posed by a banking organizations current activities and businesses; (2) is appropriately sensitive to the risks posed by the activities and businesses; (3) determined under a forward looking assessment of potential losses that could arise from the activities and businesses; and (4) permits adjustments based on qualifying operation risk mitigants.

Title II – Demanding Accountability from Wall Street

Subtitle A would address the modernization of Securities and Exchange Commission (SEC) penalties. It would increase money penalties in civil and administrative actions under the Securities Act of 1933 and the Investment Company Act of 1940, including more substantial increases for penalties involving fraud, deceit, manipulation, or deliberate or reckless disregard of regulations, if the loss is significant. It would allow the SEC to triple monetary fines in instances where profits are directly linked with illegal activities. It would also further increase penalties for individuals and firms considered as repeat offenders. This subtitle would include violations of injunctions and bars from participation under Securities Act of 1933 (15 U.S.C. 77t(d)), Investment Company Act, and the Investment Advisor's Act as punishable.

It would increase criminal fines for those that engage in, or are tied to, insider trading. It would increase penalties under certain provisions of the Foreign Corrupt Practices Act of 1977, and would increase the civil money penalties issued by the Public Company Oversight Board for violations of the Sarbanes-Oaxley Act of 2002. It would include a requirement that monetary sanctions be used to provide relief to victims as defined by the term "crime victim," found in section 3771(e) of Title 18 of the U.S. Code - specifically, a victim directly and proximately harmed.

This subtitle would require a GAO report on the use of civil money penalty authority by the SEC.

Subtitle B would address the modernization and increase in civil and criminal penalties under the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Home Owners' Loan Act, the Federal Deposit Insurance Act, the Federal Credit Union Act, Title LXII of the Revised Statutes of the United States, the Federal Reserve Act, the Bank Holding Company Act of 1956, and the Bank Holding Company Act Amendments of 1970.

Title II would also include a provision requiring the remittance of fines by the PCAOB and the Municipal Securities Rulemaking Board to the Treasury to pay down the deficit.

Title III – Demanding Accountability from Financial Regulators and Devolving Power Away From Washington

Subtitle A addresses cost-benefit analyses, requiring agencies to include in their notices of proposed rulemakings (NPRMs): (1) identification of the need for the regulation; (2) an explanation of why the private market or state, local, or tribal authorities cannot sufficiently address the market issue; (3) an analysis of adverse impacts; (4) a quantitative and qualitative assessment of direct and indirect costs and benefits associated with the regulation; (5) in the event of an unfavorable cost-benefit comparison, a justification for the regulation; (6) an identification and assessment of alternatives to the regulation; (7) if a behavior is specified, an explanation for why performance objectives were not specified instead; (8) an assessment of how the burden imposed will be distributed among market participants; (9) an assessment of the extent to which the regulation is inconsistent, incompatible, or duplicative with existing agency regulations or with other domestic or international regulatory authorities; (10) a description of any studies, surveys, or data relied upon; (11) an assessment of the degree to which key underlying assumptions are subject to uncertainty; and (12) an explanation of predicted changes in market structure and infrastructure and in market participant behavior.

Subtitle A also includes requirements for notices of final rulemakings. In order to issue a final rulemaking, and agency must have: (1) issued a NPRM; (2) conducted and includes an analysis detailing the provisions required for NPRMs; and, (3) included in the notice of final rulemaking, the regulatory impact metrics selected by the chief economist used in compiling their reports. It would require a notice-and-comment period and would prohibit the publishing of rules in the event quantified costs are greater than benefits. Congress would be permitted to waive this provision using a joint resolution.

In the event the agency is precluded from publishing a notice of final rulemaking, the agency would be required to publish their analysis online and in the federal register distribute the analysis to Congress.

Subtitle A would provide that any agency that has issued an advanced notice of proposed rulemaking, would not be required to comply with certain provisions of the Paperwork Reduction Act.

Subtitle A would require at or before the public comment period, the agency to publish data, methodologies, and assumptions made under section 312 regarding requirements for notices of proposed or final rulemakings, for public consumption. It would require the agency to comply with the publishing requirement in a manner that preserves the non-public nature of confidential information, including trade secrets. It would also require a regulatory impact analysis within 5 years following publication and would, within one year and every 5 years thereafter, require the agency to submit to Congress and publish a plan for streamlining and simplifying its regulatory program, including steps on implementation of the plan submitted within two years. Similar confidentiality principles would apply.

Subtitle A would allow affected individuals to seek judicial review in the U.S. Court for the D.C. Circuit, within one year of the rule's final publication. The court could choose to stay the entirety or provisions of the effective rule, or could vacate the regulation.

This subtitle would also address the composition and activities of the Chief Economists Council, requiring the council to submit a report to Congress annually on regulations and those tasked with preparing the cost-benefit analyses.

Subtitle B would include the text of the Regulations from the Executive in Need of Scrutiny (REINS) Act, which passed the House on January 5, 2017. A past legislative bulletin can be found here.

This subtitle would amend the Congressional Review Act of 1996 (CRA) to require a joint resolution of approval signed into law within 70 days before an executive branch agency's major rule can take effect.

Under current law, Congress can repeal, using expedited voting procedures in the Senate, a federal agency's final rule by passing a joint resolution of disapproval within 60 days of publication of the rule in the Federal

Register, or the date the agency submits the rule to Congress and the Government Accountability Office (GAO). The president must then sign the joint resolution for it to possess the force of law and negate the federal agency rule.

This subtitle would maintain the current CRA procedure for disapproving non-major rules, while establishing a congressional procedure requiring affirmative approval for major rules created by federal agencies. Major rules include those that result in, or are likely to result in: (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, industries, federal, state, or local government agencies, or geographic regions; or, (3) significant adverse effects on competition, employment, productivity, investment, innovation, or the ability of U.S. based enterprises to compete with foreign based enterprises in domestic and export markets.

Sec. 337. This section would allow for an amendment to section 257(b)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985, that would stipulate that rules that undergo the congressional approval process under section 332 of the Financial CHOICE Act that affect budget authority, outlays or receipts, would be effective unless they are not in accordance with section 332.

Sec. 338. This section would provide that subtitle B does not apply to any rules regarding monetary policy that are proposed or implemented by the Federal Open Market Committee or the Federal Reserve System.

Subtitle C would address judicial review of agency actions. This subtitle is similar to the Separation of Powers Restoration Act (SOPRA), which passed the House in January as part of the Regulatory Accountability Act. It would alter the scope of judicial review of agency actions to allow courts reviewing those actions to decide *de novo* (without reference to previous legal conclusions or assumptions) any relevant questions of law, including those pertaining to the interpretation of constitutional and statutory provisions and rules. This subtitle would also indicate that any ambiguities found during judicial review would not be permitted to be construed as the delegation of rule-making authority. Moreover, reviewing courts would not be permitted to use ambiguities as grounds to expansively interpret an agencies authority.

A previous legislative bulletin on SOPRA can be found here.

Subtitle D would address the leadership composition of financial regulators.

The Federal Deposit Insurance Corporation (FDIC) would be comprised of 5 bipartisan members, appointed by the president. Vacancies would be filled in the same manner as appointments. The CFPB and the Office of Comptroller of the Currency would no longer have participatory roles.

The Federal Housing Finance Agency (FHFA) head would now be removable at the will of the president. Previously, the head of the agency could only be removed for cause.

Subtitle E would address the Congressional oversight of appropriations, requiring the FDIC, the FHFA, the National Credit Union Administration (NCUA), the OCC, and the non-monetary policy related function of the Board of Governors of the Federal Reserve System, to be included in the appropriations process. An exemption would be provided for the National Credit Union Share Insurance Fund.

Subtitle F would address international processes regarding the Federal Reserve Board of Governors. It would require the board to, at least 30 days in advance of participating in a process setting financial standards as part of a foreign or multi-national entity, issue a notice of process to Congress, make the notice publicly available, and solicit public comment and consult with Congress on the notice. The board would be required to issue a public report on topics discussed. The bill would also require, at least 90 days in advance, the board to issue a notice of agreement, with similar requirements to the notice of process.

Similar standards would be required of the Board of Directors of the FDIC, the Treasury Department, the OCC, the SEC, and the Commodity Futures Trading Commission (CFTC).

Subtitle G would address unfunded mandates reform. This subtitle is similar to the Unfunded Mandates Information and Transparency Act, which passed the House in the 114th Congress and has been reintroduced as H.R. 50 in the 115th Congress.

This subtitle would require federal agencies to prepare a written statement for proposed or final rulemakings prior to promulgating any general notice of proposed rulemaking that could have an annual effect on state, local, or tribal governments, or the private sector totaling $100,000,000 or more in one year. The statement must include: (1) the text of the draft of the proposed rulemaking or final rule, as well as the information required in section 312 of the Financial CHOICE Act; (2) estimates by the agency regarding compliance costs and disproportionate budgetary effects on parts of the nation; (3) a description of the agencies prior consultation with the private sector and state, local, or tribal governments; and, (4) a summary of how the agency complied with the section 312 regulatory principles.

Prior to establishing regulatory requirements that disproportionately affect small state and local governments, agencies should develop plans that provide notice of requirements, guidance, and ask for input from the small governments. This subtitle would require agencies to develop an effective process to allow elected state, local, and tribal officers to provide input in the development of regulatory proposals that include significant federal mandates.

Agencies would be required to consider, when promulgating any rule requiring a written statement, to identify and consider a reasonable number of the least costly, most cost-effective, or least burdensome alternatives to rules.

The Administrator of the Office of Information and Regulatory Affairs of the OMB would be required to collect unfunded mandate statements and periodically forward them to the Director of the Congressional Budget Office. The Administrator would also be required to provide meaningful guidance and oversight to agencies on unfunded mandate statements.

Finally, this subtitle also provides guidance on judicial review.

A past legislative bulletin on the Unfunded Mandates Information and Transparency Act can be found here.

Subtitle H addresses enforcement coordination. Specifically, it requires each covered agency to, within 90 days following enactment, implement policies and procedure to minimize duplication of efforts with other state and federal authorities when bringing a judicial or administrative action against a person or agency. It also requires agencies to implement policies on establishing joint investigations or actions. Policies would not be permitted to preempt state law or mandate coordination by a state authority.

Subtitle I addresses penalties for unauthorized disclosures or personally identifiable information. Officers or employees found guilty of this unlawful disclosure would be found guilty of a misdemeanor and subject to a $5,000 fine. Officers or employees that knowingly and willingly obtain records under false pretenses would be subject to similar penalties.

Subtitle J includes similar text to the Stop Settlement Slush Funds Act, which passed the House in September, 2016. This subtitle would prevent government officials from entering into settlement agreements to resolve civil actions on behalf of the United States, or from enforcing any such agreement, if the agreement requires a donation from a party other than the United States to be made to a person. This subtitle would apply to payments made in restitution as required by the settlement agreement. In addition to prohibiting donations to third parties as part of settlement agreements, this subtitle would allow for the

removal from office and forfeiture of owed funds to any government official or agent that violated the prohibition.

According to a past committee report, a year-long investigation revealed the Department of Justice has been encouraging, and at times requiring, defendants to make donations to non-victim third parties as part of settlement agreements. Amounts are often small in relation to the entirety of the settlement amount, but frequently give the donating party double-credit toward their payment obligation. Benefitting groups have lobbied the Justice Department for these provisions, and have received upwards of $880 million within the past two years. These payments are not subject to any Congressional appropriations or oversight, and have in certain instances, provided funding in areas where Congress has made cuts. Because these donated funds are portions of settlements that would instead go to the Treasury, the Justice Department is essentially appropriating money to other causes, bypassing a constitutional separation of powers.

The practice of skirting Congress's power of the purse is part of a long history on the part of the Executive and Judicial Branches. Though any official receiving money for the government is required to deposit any such funds with the Treasury, the Department of Justice has been able to use its power to set settlement terms to affect Congress's appropriations power. The Executive Branch has also structured transactions as "adjustments of penalty," meaning, a reduction in what the government is owed in an amount paid to a community service endeavor.

To help ameliorate instances of abuse, in 2008, Deputy Attorney General Mark Filip released a memo to the U.S. Attorney's Manual calling non-victim third party donations a restricted activity that could create conflicts of interest and ethical problems. According to the committee report, an exception was later made for environmental crimes at the urging of guidance issued by the Environment and Natural Resources Division. In addition to the environmental loophole, the 2008 guidance also provides little protection as it only applies to criminal matters and not civil cases, and it also provides a window for payments that are made in redress of any harm.

In 2014, the House Judiciary and Financial Services Committees through an investigation into Justice Department settlements involving major banks, like Bank of America, found that donations to non-victim third party non-profit and community programs afforded the banks double credit to their settlement obligations. In the case of Bank of America, their settlement plainly required such charitable contributions. The Justice Department remained largely uncooperative during the course of the investigation.

A previous legislative bulletin for the Stop Settlement Slush Funds Act can be found here.

Title IV – Unleashing Opportunities for Small Businesses, Innovators, and Job Creators by Facilitating Capital Formation

This title includes the text similar to several previously passed House bills.

Subtitle A includes similar text to Small Business Mergers, Acquisitions, Sales, and Brokerage Simplification Act, which previously passed the House in February 2016 as part of the Capital Markets Improvement Act of 2016.

This subtitle would amend the Securities Exchange Act of 1934 to exempt certain merger and acquisition brokers who advise small businesses in their sales from registration requirements.

Because mergers and acquisitions (M&A) brokers provide essential services to small businesses wanting to sell or merge with other businesses to grow, this subtitle would help to eliminate complicated and counterproductive regulations that require registration of certain M&A brokers. This subtitle would exempt M&A brokers from registration requirements under the Securities and Exchange Act of 1934, so

long as brokers do not undertake an excluded activity. Brokers not eligible for exemption would include those who: (1) receive, hold, transmit or have custody of securities or funds that will be exchanged by parties to an ownership transfer of an eligible privately held company; or (2) who engage on behalf of an issuer in a public offering of security that require mandatory registration, or if the issuer must file information, documents, and reports. This subtitle would be required to take effect within 90 days after enactment.

A previous legislative bulletin for the Small Business Mergers, Acquisitions, Sales, and Brokerage Simplification Act can be found here.

Subtitle B includes text similar to the Encouraging Employee Ownership Act, which passed the House in April 2017.

This subtitle would amend the Securities and Exchange Commission Rule 701, to increase securities sales threshold for certain disclosure requirements. Specifically, the subtitle would increase from $5 million to $20 million the amount of sales before an issuer needs to disclose additional information like risk factors, certain financial statements, and the plans under which offerings are made.

Under current law, an issuer is required to provide further disclosures to investors, like risk factors, if an issuer sells more than $5 million of securities, in aggregate, over a consecutive 12-month period. This legislation would increase the disclosure level to $20 million of aggregate sales over a consecutive 12-month period. The SEC would be required to index the aggregate sales price for inflation every five years, so that it reflects the change in the Consumer Price Index for All Urban Consumers.

Rule 701 was issued by the SEC in order to allow private companies to sell securities to employees as part of their compensation packages. In 1999, the SEC introduced the disclosure requirements for sales in excess of $5 million. According to the committee report, this rule "restricts the aggregate offering price of securities subject to outstanding offers and the amount sold in the preceding 12 months to no more than $5 million dollars." By amending the disclosure trigger amount, the legislation would let employees of private businesses take advantage of the registration exemptions and shareholder provisions issued in the Jumpstart Our Business Startups Act.

A committee report for the House passed bill can be found here. A past legislative bulletin can be found here.

Subtitle C includes text similar to the Small Company Disclosure Simplification Act which previously passed the House in February 2016 as part of the Capital Markets Improvement Act of 2016.

This subtitle would exempt certain emerging-growth companies and issuers with annual gross revenues of less than $250 million from requirements to use the Extensible Business Reporting Language (XBRL) for financial statements and other mandatory reporting requirements with the Securities and Exchange Commission. These companies would be allowed to use XBRL if they chose to do so.

According to a past Committee Report, the final report of the SEC's Government-Business Forum on Small Business Capital Formation recommends the elimination of the reporting requirements for small companies to submit financial information in XBRL format for SEC filings, as the requirements impose additional burdens on small businesses that don't yield benefit to investors. XBRL is a specific data format in which each data item is tagged uniquely to be easily manipulated by users.

Section 411 would exempt small companies with less than $250 million in revenues and emerging growth companies from XBRL requirements for financial statements and other periodic reports to the SEC. This exemption would run for five years following enactment, unless the SEC determines the benefits of XBRL

reporting outweigh the costs. If this determination is made, the exemption would run for two years following the determination.

Section 412 would require the SEC to conduct a cost benefit analysis of smaller companies using XBRL.

Section 413 would require the SEC to submit a report to Congress within 1 year of enactment on the implementation and use of XBRL reporting and the results of the Section 3 analysis.

Subtitle D includes text similar to the Securities and Exchange Commission Overpayment Act.

Section 31 of the Securities Exchange Act requires each self-regulatory organization to pay twice annual fees to the SEC that are based on the aggregate amount of covered sales. This subtitle would amend the Securities Exchange Act of 1934 to require the Securities and Exchange Commission (SEC) to offset future fees and assessments from a national securities exchange or association if the SEC is informed within 10 years that the entity has overpaid its fees and assessments. This requirement would apply to any fees or assessments paid before, on, or after the enactment of this legislation.

Subtitle E includes similar text to the Fair Access to Investment Research Act, which passed the House in May 2017.

This subtitle would direct the SEC to revise a regulation to create a safe harbor for research reports on exchange traded funds (ETFs) so that the reports are not considered offers under the Securities Act of 1933.

Under current law, the SEC prohibits an issuer from offering securities for sale unless a registration statement is filed with the agency. Exchange traded funds (ETFs) are investment vehicles, similar to mutual funds, whose shares are traded intraday on exchanges with market-determined prices. Though investor interest in ETFs has grown exponentially, there are anomalies in the SEC's safe-harbor rules that have served to discourage broker-dealers from publishing research reports on ETFs.

This subtitle would, within 45 days following enactment, require the SEC to propose and, within 120 days, adopt revisions to section 230.139 of title 17 of the Code of Federal Regulations regarding safe harbor, to provide that a covered investment research fund report does not constitute an offer for sale or an offer to sell. This would not be conditioned upon whether, in the case of covered investment funds with a class of securities in substantially continuous distribution, the broker or dealer's publication is an initiation or re-initiation of research coverage on a covered investment fund or its securities.

To qualify for safe harbor, according to the committee report, a broker or dealer would be required to distribute a research report in the regular course of business, which relates to an ETF issue "that: (1) has a class of securities listed on a national securities exchange for at least 12 months prior to the publishing or distribution of the report, (2) has an aggregate market value of at least $75 million; and, (3) is either a unit investment or an open-ended company or a trust whose assets consist primarily of interests in commodities, currencies, or derivative instruments referring commodities or currencies."

In implementing safe harbor, the SEC would not be able to require the covered investment fund to have been registered as an investment company under the Investment Company Act of 1940 or be subject to reporting requirements under the Securities Exchange Act of 1934, nor would they be able to impose a minimum threshold for the number of traded share in excess of that in title 17 of the Code of Federal Regulations.

This subtitle would provide that a self-regulatory organization may not enforce any rule that would condition a member's ability to publish a research report on whether they are also participating in a registered offering or distribution of any securities or condition the ability of a member to participate in a

registered offering or securities distribution on whether they have published a research report on such a covered investment report of its securities. A covered research report would not be subject to sections 24(b) or 34(b) of the Investment Company Act.

If the SEC does not revise the rule within 120 days to implement the legislation, this subtitle would provide an interim safe harbor. Until the commission has adopted revisions, and the Financial Industry Regulatory Association (FINRA) has revised rule 2210, a covered investment fund would be deemed to be a security that is listed on a national exchange, and is therefore not subject to certain requirements under the Investment Company Act. Any communications that concern only covered investment funds that fall within 15 U.S.C. 80a-24(b) would not be required to be filed with FINRA, unless the purpose of the communications is not to provide research and analysis of covered investment funds.

A past legislative bulletin on the Fair Access to Investment Research Act can be found here.

Subtitle F includes text similar to the Accelerating Access to Capital Act, which passed the House in September, 2016.

This subtitle would amend the Securities and Exchange Commission's (SEC) Form S-3 registration statement for small reporting companies that have a class of common equity securities registered and listed on a national exchange. The Form S-3 registration statement is a simplified form for certain companies that have met prior reporting requirements.

The SEC would be required to expand the availability of Form S-3 to allow smaller companies to benefit. Under an S-3 registration, also known as a shelf registration, firms are allowed to make "off the shelf" offerings of stock with similar rights to the firm's already publicly traded equity. The expansion would allow small companies to register their primary securities offerings in excess of 1/3 of the aggregate market value of common equity held by the registrant's non-affiliates. It would also allow small reporting companies that do not hold common equity securities on any national securities exchange to register up to 1/3 of their public float in primary securities. Because the cost of registering securities typically affects smaller companies disproportionately, overregulation has led to the decline of smaller enterprises.

A past Committee Report can be found here. A past legislative bulletin on the Accelerating Access to Capital Act can be found here.

Subtitle G includes language similar to the Enhancing the RAISE Act, which passed the House under suspension in October, 2015. A past legislative bulletin can be found here.

This subtitle would amend the Securities Act of 1933 to exempt certain securities from statutory obligations requiring they be registered with the Securities and Exchange Commission (SEC) prior to being offered for sale. In order to be eligible for exemption from the registration requirement, these securities may only be offered in private sale to accredited investors who have received certain information about the issuer of the security and about the security itself. The exemption provided would not be available for a transaction if the seller is: (1) an issuer, its subsidiaries or parent; (2) an underwriter acting on behalf of the issuer, its subsidiaries, or parent and will receive compensation from the issuer resulting from the sale; or, (3) a dealer.

Subtitle H would address Small Business Credit Availability, and would include similar language to the Business Development Company Modernization Act, and would amend the Investment Company Act of 1940 to allow business development companies to invest in: (1) a registered investment adviser or investment adviser to an investment company, or (2) an eligible portfolio company (generally, a small- or middle-market financial service company).

Section 437 is similar to Section 3 of the Small Business Credit Availability Act, which would reduce asset coverage requirements of business development companies (BDCs) from 200% to 150% if they make certain disclosures on their website, and their general partners approve of the modifications.

For BDCs that issue equity securities not registered on a national securities exchange, they must disclose to shareholders the amount of indebtedness and asset coverage ratio of the company and the principle risk factors associated with the indebtedness.

This section must be approved by the required majority of the directors or general partners of the company. The BDC must extend to shareholders an offer to repurchase the shareholder's equity securities, with 25% to be repurchased in each of the subsequent four quarters. Alternatively, the non-traded BDC must obtain at a meeting of shareholders, where a quorum is present, the approval of over 50% of the votes cast.

BDCs can issue more than one class of senior securities that are stocks, if they are issued and held by qualified buyers.

Section 438 includes text similar to Section 4 of the Small Business Credit Availability Act, which would revise rules and form mandated under the Securities Act of 1933, so BDCs can use security offering rules that are available to other issuers that must file security issuance reports under the Securities and Exchange Act of 1934. If the SEC does not complete revisions expediently, the BDC can treat them as completed per the listed timetable until they are completed.

Subtitle I would address innovation, including text similar to Rep. Sinema's Fostering Innovation Act. This subtitle would extend the exemption for emerging-growth companies from Section 404(b) of the Sarbanes-Oxley (SOX) Act that would otherwise lose their exempt status at the end of the five-year emerging-growth company (EGC) period under current law.

The Sarbanes-Oxley Act (SOX) requires those that manage public companies to assess the effectiveness of the internal control of securities issuers for the purposes of financial reporting. SOX 404(b) requires that the auditors of a publicly-held company attest to, and report on, the assessment of internal controls. SOX 404(b) compliance costs disproportionately encumber small businesses and startups that do not have the revenue stream to support such activities.

Under current law, EGCs are exempt from the 404(b) requirements for five years from when they first issue securities to the public. This subtitle would extend the SOX 404(b) exemption for audit reports prepared for an issuer until the earlier of: ten years following the company going public; the end of the fiscal year during which the EGC achieves average gross revenues of more than $50 million; or when the EGC becomes a large accelerated filer, with at least $700 million public float (the value of securities available for public trading).

Similar legislation passed the House on May 23, 2016 by voice vote. A past legislative bulletin can be found here.

Subtitle J would address small business capital formation, including language similar to Rep. Polliquin's Small Business Capital Formation Enhancement Act. This subtitle would require the Securities and Exchange Commission to respond to findings and recommendations made by the Government-Business Forum on Small Business Capital Formation.

The Government-Business Forum on Small Business Capital Formation is an annual SEC forum mandated by the Small Business Investment Incentive Act of 1980 that considers the capital formation concerns of small businesses. The forum develops recommendations for government and private action to improve capital formation for small businesses. This subtitle would require the SEC to review and assess the

findings and the recommendations from the forum, and disclose any actions the SEC intends to take stemming from the findings and recommendations. The SEC would not be required to act upon any finding or recommendation issued by the forum beyond review and assessment.

The Small Business Capital Formation Act passed the House on May 1, 2017, by a vote of 406-0. A past legislative bulletin can be found here.

Subtitle K would address angel investors and startup funding, including text similar to Rep. Chabot's Helping Angels Lead our Startups Act (HALOS). This subtitle would promote small business access to investment capital to ensure they can connect with angel investors. It would define angel investor for federal securities laws and would clarify the definition of general solicitation in the Securities Act of 1933, so that startups can discuss their products at "demo days."

While Title II of the JOBS Act made it easier for startups to market their securities to a larger pool of investors, the final rule classified discussions with angel investors as general solicitations. Under current law, if a firm is offering a general solicitation of unregistered (non-exchange traded) securities, it is required to verify the accredited investor status of any purchasers based on wealth or specialization of knowledge. This process is often burdensome and can make events like "demo days," where startups can connect with angel investors, difficult. Angel investors are usually wealthy individuals that are typically involved in the startups to which they provide financing, though they usually are not professional investors or venture capitalists. They often serve as the largest funding source for startup enterprises.

This subtitle would remove the uncertainty of the SEC's implementation of Title II of the JOBS Act by defining an "angel investor group" as any group that: (1) is comprised of accredited investors; (2) holds regular meetings with decision-making procedures; and, (3) is not affiliated with brokers, dealers, or investment advisers.

This subtitle would require the SEC to revise Rule 506 of Regulation D, which covers the registration and sale of securities, with respect to presentations and communications. Specifically, the revision would ensure that the Securities Act's general solicitation limitations do not apply to presentations, communications, or events that are conducted on behalf of an issuer that are: (1) sponsored by certain organizations; (2) where the advertising for such an event does not reference specifically securities offered by the issuer; or, (3) at such an event where no specific information relating to securities is disseminated by or on behalf of the issuer. It would also limit the ability of the SEC to amend Regulation D's requirements as they pertain to presentations and communications, and not purchases or sales.

HALOS Act passed the House on January 10, 2017 by a vote of 344-73. A past legislative bulletin can be found here.

Subtitle L includes text similar to Rep. Garrett's Main Street Growth Act from the 114th Congress, to allow for the creation and registration of venture exchanges with the SEC.

Venture exchanges are helpful for companies that are in search of a dedicated, liquid secondary market to trade securities, helping companies that are smaller in size gain access to capital in an easier fashion.

This subtitle would amend section 6 of the Securities and Exchange Act of 1934, requiring the SEC to approve or deny venture exchanges within 6 months of an application. Failure to do so would result in the application being deemed approved. It would also exempt venture exchanges from SEC regulations including the National Market System and the Alternative Trading System. It would also exempt them from decimalization requirements and would prohibit venture exchanges from extending unlisted trading privileges to venture securities.

According to the committee report, to qualify as a venture security eligible to trade on venture exchanges, "a security must either be an exempted transaction under Regulation A or A+ from an ''early-stage, growth company'' or a security offered by an Emerging Growth Company as defined by the JOBS Act." Early stage growth companies would include issuers with a market capitalization of $1 billion or less, that has not made an initial public offering of securities. These companies would remain early stage growth companies until the end of 24 consecutive months, during which period of time the market capitalization exceeds $2 billion, indexed for inflation. In the event a company ceases to continue to be an early stage growth company, the issuer may be exempt from the 24 month requirement. The exemption may be extended for an additional year.

Venture Exchanges, as covered securities under the National Market Improvement Act, would be exempt from state registration requirements.

This subtitle would include the sense of Congress that the SEC should create an Office of Venture Exchanges, if necessary. It would also not limit the applicability of antifraud provisions.

Subtitle M would address micro-offering safe harbor and would include text similar to Rep. Emmer's Micro Offering Safe Harbor Act. This subtitle would amend the Securities Act of 1933 to exempt certain transactions involving micro-offerings from registration requirements.

This subtitle would provide a technical change to the Securities Act to define a non-public offering exemption. It would enable small businesses and startups to grow, without the threat of onerous regulations and legal red tape. This subtitle would amend the Securities Act of 1933 to provide safe harbor for small businesses meeting certain requirements, providing them with exemptions from registration requirements when making non-public securities offerings. Each qualifying small business must meet requirements including: (1) each purchaser must have a substantive, pre-existing relationship with an officer of the issuer, director of the issuer, or shareholder of the issuer that has 10% or more of the issuer's shares; (2) there must not be, or the issuer must reasonably believe that, more than 35 securities purchasers are sold securities in reliance on the exemption within a 12-month period prior to the transaction; and, (3) the total combined amount of the securities sold by the issuer must be a small amount, not to exceed $500,000 within a 12-month period. This subtitle would also prevent bad actors from being involved in micro-offerings.

Similar legislation passed the House as part of the Accelerating Access to Capital Act on September 8, 2016, by a vote of 236-178. A past legislative bulletin can be found here.

Subtitle N would include text similar to former Rep. Garrett's Private Place Improvement Act from the 114th Congress.

This subtitle would amend the filing requirements of Regulation D, providing exemptions from securities regulations requirements.

Subtitle N would revise Regulation D as it pertains to rules for exemption from securities registration requirements for certain securities sales. Historically under Rule 506, firms are able to sell their securities without registration so long as they do not do so through advertising or general solicitation. In the JOBS Act, Congress intended to extend this exemption to sales conducted through general solicitations by small firms, so long as the sales were to accredited investors. However, Rule 506 contains several regulatory burdens that impede small businesses in establishing themselves and raising capital. Subtitle N would specifically: (1) eliminate the need to file a Form D, which is a notice including information on the company, the size of offering, and date of sale, as a prerequisite to safe harbor under Rule 506, which provides the safe harbor protection for a private offering of exemption in the Securities Act; (2) require the SEC to make the information contained in the Form Ds available to state securities commissions; (3) prevent the SEC from placing conditions on the availability of exemptions under Rule 506 because of their filing of a Form D

or a similar report; (4) prohibit the SEC from requiring issuers conducting offerings under Rule 506(c) to file general solicitation materials; (5) exempt private funds from Rule 156 requirements regarding information in sales literature; and (6) revise the definition of "accredited investor" under Rule 501(c) to include knowledgeable employees of private funds.

Similar legislation passed the House as part of the Accelerating Access to Capital Act on September 8, 2016, by a vote of 236-178. A past legislative bulletin can be found here.

Subtitle O would include text similar to Rep McHenry's Supporting America's Innovators Act. This subtitle would amend the Investment Company Act of 1940 to provide an increase to the investor limitation from 100 to 500 persons for qualifying venture capital funds. Currently, the act limits the number of investors for qualifying venture capital funds to 100 persons in order to be exempt from SEC registration.

To qualify for the increase in the investor limitation, the venture capital fund would not be permitted to purchase more than $50 million in equity from any single issuer. According to a committee report, benefits of this legislation would include permitting angel funds to obtain funds from a larger number of investors, giving more investment opportunities to potential investors while providing needed capital to startups.

Similar legislation passed on April 6, 2017 by a vote of 417-3. The legislative bulletin for that bill can be found here. Similar legislation was also included in the package legislation, H.R. 6427, which passed under suspension on December 5, 2016.

Subtitle P would include text similar to Rep. McHenry's Fix Crowdfunding Act.

This subtitle would eliminate section (4)(a)(6) of the Securities Act, eliminating dollar limit conditions, requirements that issuers be a U.S. company, and investor limitations, creating an entirely new exemption from the Securities Act. Requirements to qualify for the crowdfunding exemption include provisions pertaining to certain small transactions. If a person is acting as an intermediary, they would be required to comply with section 4(a)(6) if the intermediary: (1) warns investors of the speculative nature generally applicable to investments in startups; (2) warns investors that they are subject to the restriction on sales requirement; (3) takes reasonable measure to reduce fraud risk as it pertains to such transactions; (4) registers with the SEC and the Financial Industry Regulatory Authority; (5) provides the Commission with continuous investor-level access to the intermediary's website; (6) requires potential investors to answer certain questions pertaining to risk levels; (7) carries out background checks on issuer's principals; (8) provides the Commission and potential investors with notice of the offering not less than 10 days prior to such offering, not later than the first day securities are offered to potential investors; (9) outsources cash-management duties to a third-party custodian; (10) makes methods of communication available on the intermediary's website; and (11) provides the Commission with a notice upon completion of the offering.

Issuers that offer or sell securities without an intermediary are subject to the subsection if the issuer: (1) warns investors of the speculative nature generally applicable to investments in startups; (2) warns investors that they are subject to the restriction on sales requirement; (3) takes reasonable measure to reduce fraud risk as it pertains to such transactions; (4) provides the SEC with the issuers information, including address and names of principles and employees; (5) provides the Commission with continuous investor-level access to the intermediary's website; (6) requires potential investors to answer certain questions pertaining to risk levels; (7) provides the Commission and potential investors with notice of the offering not less than 10 days prior to such offering, not later than the first day securities are offered to potential investors; (8) outsources cash-management duties to a third-party custodian; (9) makes methods of communication available on the intermediary's website; (10) does not provide personalized investment advice; and (11) provides the Commission with a notice upon completion of the offering.

Purchasers would not be permitted to transfer relevant securities during the 1-year period beginning on date of purchase, unless they are sold to the issuer of the securities or an accredited investor.

Intermediaries in this instance would not be required to register as brokers. Within 180 days, the SEC must issue or revise rules necessary to carry out the above provision.

Securities held by those that purchase securities under the amended section 4(a)(6) would be excluded from the shareholder cap.

It would give small businesses access to the benefits of Title III of the JOBS Act, allowing equity crowd funding and would also provide relief from registration requirements mandated under Section 12(g) of the Securities Exchange Act of 1934. Funding portals would not be included in the definition of financial institution.

Similar legislation passed the House on July 5, 2016. A legislative bulletin can be found here.

Subtitle Q would include text similar to Rep. Duffy's Corporate Governance Reform and Transparency Act.

This subtitle would amend the Securities Exchange Act of 1934 to require proxy advisory firms to register with the SEC and would prohibit unregistered proxy advisory firms from using interstate commerce to facilitate proxy-voting research or recommendations for clients. Proxy advisory firms provide research on shareholder proposals. At annual shareholder meetings, public companies must provide proxy statements on all relevant information to be voted on. Firms would be required to disclose potential conflicts of interest, and any codes of ethics. The bill would create protocol for registration and termination of registration for proxy advisory firms, would require firms to employ an ombudsman, file certain documents with the SEC, and designate a compliance officer. Firms would be required to certify they have the financial resources necessary to provide proxy advice and would be required to disclose methodologies used in determining recommendations. It would also include a prohibition on coercion. Registration applications would be reported annually on the SEC's website.

Subtitle R would include similar text to Rep. Sinema's Senior Safe Act. It would prevent certain employees of covered financial institutions that receive training on how to recognize and report the suspected exploitation of senior citizens from being held liable from disclosing the possible exploitation to the covered financial institution, so long as the disclosure was made in good faith and with reasonable care.

Seniors are a particularly vulnerable target for investment fraud. An estimated one-fifth of investors over the age of 65 are exploited. This subtitle will enable covered financial institutions to provide protection to America's seniors and would promote training for employees in identifying suspected exploitation. Additionally, it would provide a safe harbor for covered financial institutions from liability resulting from their employee's disclosures of suspected exploitation, so long as the institution trained its employee on how to discern the exploitation of seniors and how to report a suspected exploitation.

Similar legislation passed the House by voice vote on July 5, 2016. A legislative bulletin can be found here.

Subtitle S would include language similar to Rep. Royce's National Securities Exchange Regulatory Parity Act of 2016. This subtitle would amend the Securities Act of 1933 to amend the "blue sky" exemption for securities traded on the New York Stock Exchange, the American Stock Exchange, and NASDAQ. Instead, it would extend the "blue sky" exemption to any security listed on a national securities exchange that is registered with the SEC and has listing standards that have been approved by the SEC.

The federal "blue sky" exemption preempts state-level anti-fraud statutes that typically require the registration of securities offerings, brokers, and brokerage firms. These laws on the state-level regulate the offer and sale of securities, and allow states to bring actions against those that violate state securities laws. Under current law, states are preempted from restricting the sale of securities listed on the major exchanges, including the New York Stock Exchange, the American Stock Exchange, and NASDAQ, in addition

to any national security exchange that the SEC determines is substantially similar to the three listed exchanges.

Similar legislation passed the House on July 12, 2016, by voice vote. A past legislative bulletin can be found here.

Subtitle T would address private company flexibility and growth by amending the Securities Exchange Act of 1934 to amend the thresholds for total assets and for classes of equity security held on record that trigger the requirement that securities issuers register with the SEC. The total asset threshold would increase to $10,000,000 and a class of equity security held of record by at least 2,000 persons. These amounts would be indexed for inflation every 5 years.

The registration of a class of security would be terminated if the number of holders of record of the class of security falls below 1200 persons. This language is similar to the text of S. 1824, introduced in the 112th Congress.

Subtitle U would address small company capital formation enhancements. It would amend the Securities Act of 1933 to require the SEC to exempt from regulation, classes of securities with an aggregate offering that does not exceed $75 million within the prior 12-month period in reliance on the exemption, adjusted for inflation every 2 years.

Subtitle V would address the encouragement of public offerings. It would allow issuers, prior to its public offering date, to submit a draft registration statement to the SEC for confidential non-public review, so long as the initial confidential submissions are publicly filed with the SEC no later than 15 days prior to a road show, where an issuer presents to potential buyers.

Title V – Regulatory Relief for Main Street and Community Financial Institutions

Subtitle A includes text similar to Rep. Barr's Preserving Access to Manufactured Housing Act. Specifically, it would amend the Truth in Lending Act (TILA) to clarify the definitions of "mortgage originator" and a "high-cost mortgage" as the definitions relate to manufactured housing.

The Home Ownership and Equity Protection Act (HOEPA) was enacted in 1994 as an amendment to the Truth in Lending Act (TILA) to address abusive practices in mortgage refinances and closed-end home equity loans with high interest rates or high fees. HOEPA subjects certain refinances and home equity loans to special disclosure requirements and restrictions if certain tests are triggered. These triggers focus on loan rates and fees.

The Consumer Financial Protection Bureau (CFPB) implemented a Dodd-Frank-mandated rule to expand the scope of HOEPA requirements to include money mortgage loans and home equity lines of credit. In addition, Dodd-Frank mandated that the CFPB amend the test for determining whether a loan is "high cost" under HOEPA. CFPB issued a rule to lower the threshold for "high cost" loans, under which, HOEPA is triggered if the Annual Percentage Rate (APR) applicable to the transaction exceeds the average prime rate offer for a comparable transaction by more than 6.5 percent for a first-lien mortgage, or by more than 8.5 percent for a first-lien mortgage if the transaction is less than $50,000. The CFPB rule also sets HOEPA trigger levels for the fees and points associated with the mortgage transaction. This subtitle would reset the trigger to 10 percent for transactions less than $75,000.

Some are concerned that the CFPB's expanded definition under HOEPA would reduce access to credit for consumers of manufactured housing in rural areas and harm existing homeowners who are trying to sell their home. Under CFPB's rule, small-balance manufactured home loans would often fall under HOEPA's "high cost" definition, restricting access to low and moderate income homebuyers.

This subtitle would amend the definition of a "high cost" mortgage as the definition relates to small-balance mortgages. This bill would also amend the definition of "mortgage originator" under TILA to clarify that manufactured home retailers and their employees are not considered "loan originators" under CFPB rules.

Similar text passed the House on April 15, 2015, by a vote of 263-162. A past legislative bulletin can be found here.

Subtitle B includes text similar to Rep. Huizenga's Mortgage Choice Act. Specifically, it would amend the Truth in Lending Act by modifying the definition of "points and fees" to exclude insurance held in escrow, and certain fees paid to companies affiliated with the creditor for "Qualified Mortgage" (QM) determinations.

Under recent CFPB rules, mortgages that fulfill certain criteria can be considered "Qualified Mortgages" (QM) and not "higher priced." Under the CFPB definition, a QM cannot have total points and fees exceeding three percent of the total loan amount, and the definition specifies the types of mortgage costs and charges that are included under the three-percent cap. The current definition includes "charges paid to a third party, such appraisals for title insurance" if the third party is affiliated with the lender but not if the third-party is unaffiliated with the lender.

As such, many loans made using affiliated companies would not qualify as QMs, since those appraisal charges would count toward the three-percent fee cap. Some are concerned that without a definitional change, loans involving affiliated companies would not qualify as QMs, and this could reduce the availability of credit for low to moderate income borrowers, as well as first-time homebuyers.

This subtitle would clarify which points and fees are included in determining the three-percent cap, allow more loans to qualify as QM, and encourage the use of affiliated companies in the mortgage process. Specifically, the bill would amend TILA to exclude certain affiliated title insurance charges and escrowed homeowners' insurance premiums from the three-percent fee and point cap calculation.

Similar text passed the House on April 15, 2015, by a vote of 286-140. A past legislative bulletin can be found here.

Subtitle C would include text similar to Rep. Luetkemeyer's Financial Institution Consumer Protection Act. It would address Operation Chokepoint and other similar initiatives, to prohibit any federal banking agency from suggesting, requesting, or ordering a depository institution to terminate a customer account or group of accounts, or prohibiting an institution from maintaining a banking relationship with specific customer, unless the agency has a material reason to do so, and that reason is not solely based on risk to reputation.

Operation Chokepoint was a law enforcement initiative launched by the Department of Justice to combat consumer fraud by "choking off" businesses that have supposedly committed consumer fraud from access to the financial system. In lieu of investigating purported fraud, the Justice Department issues subpoenas to financial institutions that provide services to the merchants in question, and institutions often subsequently terminate the account. This serves to cut off relationships between certain businesses and their financial institutions. This operation has, in practice, equated legitimate businesses like firearms dealers with illegal activities.

This subtitle would prevent federal banking regulators from requiring or encouraging depository institutions to terminate customer accounts or banking relationships with a specific customer unless the agency has material reason to do so, and that reason is not solely based on risk to reputation. This subtitle would require banking regulators to put any formal or informal request to terminate a relationship in writing. Written requests are required to be shared with financial institutions, but the institution is not obligated to share the request with the customer. The institution could be prohibited from sharing the

request with the customer if a federal agency believes the customer poses a threat to national security. This subtitle would also require banking regulators to issue an annual report to Congress on the number of termination suggestions and orders given, and the legal authority for such requests.

The subtitle would strike the word "affecting" from the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA), and replace the language with "by" or "against," in order to ensure that any broad interpretations of FIRREA are limited, and that they maintain the intent of the statute—to penalize fraud by or against financial institutions.

This subtitle would also require the Department of Justice (DOJ) to take a FIRREA subpoena to a court of competent jurisdiction or to secure the Attorney General or Deputy Attorney General's sign-off, to ensure DOJ oversight.

Similar legislation passed the House on February 2, 2016 by a vote of 250-169. A past legislative bulletin can be found here.

Subtitle D includes text similar to the Portfolio Lending and Mortgage Access Act. Specifically, it would amend the Truth in Lending Act to relax the Qualified Mortgage Rule to provide creditors protection from legal action for failure to comply with federally mandated mortgage terms if the creditor holds the mortgage in its own portfolio, rather than selling it or securitizing it.

Under Dodd-Frank, substantial changes have been made to the mortgage lending marketplace, requiring lenders to determine whether a borrower has the ability to repay at the time of lending. This could result in lawsuits and a lender paying damages to a borrower for failure to follow the ability to repay rule. To mitigate risk of frivolous lawsuits for lenders, Dodd-Frank provided a legal safe harbor to "Qualified Mortgages," providing the lender with a presumption of compliance with the ability to repay rule.

This subtitle would extend the legal safe harbor to creditors with residential loans held in the portfolio of the original creditor. If a loan is later moved out of the portfolio or is securitized, it loses this access to safe harbor. This would protect lenders who maintain full exposure to the risk of default from meeting arbitrary federal mandates for the terms of the loan and instead leave those terms to be decided by the lender and the borrower.

Specifically, depository institutions would have a safe harbor from lawsuit for failure to comply with certain sections of the Truth in Lending Act, including: Section 129 subsection (a), the ability to repay requirements, subsection; (c)(1), the "qualified mortgage rule," which excludes certain residential mortgage loans that have an adjustable rate or has an annual percentage rate that is in excess of the average prime rate offer for a comparable transaction; subsection (f)(2), which requires first-time borrowers to produce proof of homeownership counseling; or section 129H which creates special appraisal requirements for higher risk mortgages. To qualify for safe harbor, the depository institutions must be the loan originator and all prepayment penalties with respect to the loan must comply with the limitations on qualified mortgages outlined in the Truth in Lending Act.

This subtitle would create an exception in the case of depository institutions that transfer a loan held in portfolio to another institution because of bankruptcy or the purchase of the originating depository institution. Loans originating under this exception are also eligible for safe harbor under this act.

This subtitle would also create a safe harbor from suit for mortgage originators for steering consumers to residential mortgage loans, if those loans qualify for the new safe harbor provision. In this case, the creditor must be a depository institution and must inform the mortgage originator it intends to hold the loan on the creditor's balance sheet for the entirety of the loan, and have informed the consumer of this intention.

This subtitle would not prevent a balloon loan from qualifying for safe harbor under TILA if the balloon loan meets TILA's requirements, regardless of whether or not it meets the requirements of this legislation.

Similar legislation passed the House on November 18, 2016 by a vote of 255-174. A past legislative bulletin can be found here.

Subtitle E includes text similar to Rep. Radewagen's Application of the Expedited Funds Availability Act. Specifically, it would amend the Expedited Funds Availability Act (EFAA) to apply provisions of the EFAA to American Samoa and the Commonwealth of the Northern Mariana Islands. It would specify that current law bank check clearing and funds availability time requirements that apply to Hawaii, Alaska, Puerto Rico and the Virgin Islands must also apply to banks located in American Samoa and the Commonwealth of the Northern Marina Islands. This subtitle would take effect on January 1, 2017.

Similar legislation passed the House by voice vote on April 13, 2015. A past legislative bulletin can be found here.

Subtitle F includes text similar to Rep. Love's Small Bank Holding Company Policy Statement Act. Specifically, it would require the Federal Reserve Board to apply its Small Bank Holding Company Policy Statement to banks and savings and loan holding companies with pro forma consolidated assets of less than $10 billion, within 6 months of enactment of the legislation. This would increase the threshold for qualifying holding companies from $1 billion in assets to $10 billion. Newly qualified institutions would be able to use acquisition debt when transferring small banks to small bank holding companies. This bill would also exempt these financial institutions from the leverage and risk-based capital requirements imposed by Dodd-Frank.

Because bank holding companies can serve as a point of strength for their insured depository institutions, they are subjected to risk-based and leverage capital adequacy guidelines by the Federal Reserve Board. These guidelines discourage the use of debt to finance the acquisition of other banks or companies. Because the board recognizes, however, that when small banks are transferred to small bank holding companies (SBHCs), acquisition debt is often used, the board exempted qualifying SBHCs from the Bank Holding Company capital guidelines in its Small Bank Holding Company Policy Statement. Under the Policy Statement, SBHCs set the qualifying asset threshold at $150 million, which was later raised to $500 million in 2015, and was again raised via a final rule to $1 billion. Additionally, to qualify as an SBHC, a bank holding company must not: (1) be engaged in major nonbanking activities; (2) conduct significant off-balance sheet activities; or, (3) have a material amount of debt or equity securities outstanding that are regulated by the SEC. Those covered are also exempt from parts of Section 171 of Dodd-Frank, which requires BHCs to ''operate under capital standards at least as stringent as those applying to [insured] banks.''

Similar legislation passed the House on April 14, 2016 by a vote of 247-171. A past legislative bulletin can be found here.

Subtitle G includes text similar to Rep. Sherman's Community Institution Mortgage Relief Act, introduced in the 114th Congress.

This legislation would create a safe harbor from escrow or impound account requirements, for those community financial institutions with for mortgage loans made by creditors with $10 billion or less in assets that hold the loans on its portfolio for at least 3 years. This subtitle would provide an exemption from requirements of the Real Estate Settlement Procedures Act of 1974 for small firms that service 20,000 or fewer mortgage loans.

Subtitle H includes text similar to Rep. Rothfus' Financial Institutions Examination Fairness and Reform Act from the 114th Congress. Specifically, this subtitle would create deadlines by which regulatory agencies

must hold exit interviews and issue final examination reports to financial institutions. It would amend the Federal Financial Institutions Examination Council Act so that regulatory agencies would have 60 days after either the exit interview or the provision of additional information by the institution that pertains to the examination to make the final examination report. It would also prescribe examination standards for financial institution that include requirements pertaining to the treatment of certain commercial loans. It would prevent a federal financial institution regulatory agency from forcing a financial institution that is sufficiently capitalized from raising additional capital instead of certain actions that are prohibited as they pertain to certain loans.

This subtitle would create an Office of Independent Examination Review within the Federal Financial Institutions Examination Council. Financial institutions would be permitted to appeal material supervisory determinations contained in the final report. Regulatory agencies would be prohibited from retaliating against a financial institution. This subtitle would amend the Riegle Community Development Regulatory Improvement Act, requiring the Consumer Financial Protection Bureau to establish an independent intra-agency appellate process, with certain safeguards.

Subtitle I includes language similar to former Rep. Mulvaney's National Credit Union Administration Budget Transparency Act from the 114th Congress, which would require the National Credit Union Administration to hold annual public hearings regarding its budget. It would also require the NCUA to make its budget publicly available.

Subtitle J includes Rep. Tipton's Taking Account of Institutions with Low Operation Risk Act from the 114th Congress which would direct federal financial institutions regulatory agencies to tailor rulemakings with consideration of the risk profiles and business models of the financial institutions to which they would apply. It would encourage the minimization of the burden of regulatory compliance. It would also require the agencies to consider the effect the regulatory actions have on the financial institutions' ability to serve diverse customer needs. It would require agencies to disclose rulemakings. It would require both the agencies and the Financial Institutions Examination Council to report to Congress.

Subtitle K includes text similar to Rep. Rothfus' Federal Savings Association Charter Flexibility Act. Specifically, it would amend the Home Owners' Loan Act to allow federal savings associations to choose to operate under the supervision of the Comptroller of Currency, having the rights and duties of a national bank. This choice would be approved within 60 days following notice, unless the comptroller notifies the federal savings association of otherwise. The comptroller would be required to issue a rulemaking to carry out the procedures for electing to have the rights and duties of a national bank.

Subtitle L includes text similar to Rep. Stivers' SAFE Transitional Licensing Act from the 114th Congress. Specifically, it would amend the SAFE Mortgage Licensing Act to give temporary loan origination authority for registered loan originators that are either moving from a financial institution to a state-licensed non-bank originator, or are moving interstate to a state-licensed originator from another state. Both the mortgage loan originator and its employer would be subject to state laws and requirements of this title. It would also include a provision to ensure civil liability protections apply when state regulators use the National Mortgage Licensing System and Registry for licensing purposes for other financial services providers.

Subtitle M includes text similar to Rep. Pittenger's Right to Lend Act from the 114th Congress, which would repeal the small business loan data requirements that force financial institutions to inquire whether businesses applying for credit are female or minority-owner and to submit an annual publicly available report to the CFPB on the record of responses to the inquiry. These provisions are found in section 1071 of Dodd-Frank.

Subtitle N includes text similar to Rep. Hultgren's Community Bank Reporting Relief Act from the 114th Congress, which would direct federal banking agencies to issue regulations to allow highly rated, well

capitalized depository institutions to file a short form call report in the first and third quarters of each year, thereby eliminating reporting burdens on community banks. It would also require a yearly report to Congress on the progress made in issuing such regulations.

Subtitle O includes text similar to Rep. Hultgren's Homeowner Information Privacy Protection Act from the 114th Congress. Specifically, it would require a GAO study to assess the possible exposure of consumers to identity theft, the loss of sensitive information, the marketing of deceptive products, personal financial loss, or potential legal liability, could be caused from the additional mortgage data to be collected and reported by the CFPB. It would also prevent depository institutions from being required to disclose any data not required to be published pursuant to the Home Mortgage Disclosure Act. A similar prohibition on disclosure would apply to the Consumer Law Enforcement Agency and the Financial Institutions Examination Council.

Subtitle A includes text similar to Rep. Emmer's Home Mortgage Disclosure Adjustment Act from the 114th Congress. Specifically, it would exempt small depository institutions that have, within the preceding two calendar years, fewer than 100 closed-end mortgage loans and fewer than 200 open-end lines of credit, from the reporting and disclosure requirements of the Home Mortgage Disclosure Act.

Subtitle B includes text similar to Rep. McHenry's Protecting Consumers' Access to Credit Act from the 114th Congress. Specifically, it would amend the Revised Statutes, the Federal Deposit Insurance Act, the Federal Credit Union Act and the Home Owners' Loan Act so that when valid bank loans are made as to their maximum rate of interest, they remain valid with respect to that rate if the bank is sold or the loan is assigned to a third party.

Subtitle C would require the Board of the National Credit Union Administration to submit a report with the administration's budget on: how the expenses of the administration are assigned between prudential activities and insurance related-activities, and how they are paid from collected fees; and the board's rationale for the proposed uses of amounts in the fund contained in its budget. This information would be required to be made publicly available on the board's website.

Subtitle D would address fee appraisers and the donation of their services. If a fee appraiser voluntarily donates their services, the voluntary donation would be deemed customary and reasonable.

Title VI – Regulatory Relief for Strongly Capitalized, Well-Managed Banking Institutions

This title provides an off-ramp from Dodd Frank's supervisory apparatus and from the Basel III capital and liquidity standards for banking organizations that choose to be highly capitalized.

A banking organization would be permitted to be treated as a Qualified Banking Organization (QBO) if its holding company similarly elects to be treated as a QBO and if it maintains an average leverage ratio of 10%. The leverage ratio is calculated by dividing the amount of capital a bank holds by the total value of the bank's assets.

For holding companies to choose to be QBOs, their insured depository institution subsidiaries must also qualify and similarly make the election. In order to elect to be a QBO, a banking organization must also submit notice, their annual leverage ratio, and their quarterly leverage ratio for the most recently completed four quarters. If a banking organization elects to be treated as a QBO, but then fails to maintain the prescribed ratio within a 1-year remediation period, they subsequently would lose their regulatory relief. Agencies must notify banking organizations of failure to meet the requirements. If a quarterly leverage ratio falls below 6%, the banking organization's election to be treated as a QBO would be terminated.

Newly chartered banking organizations can elect to be QBOs if the election was indicated in the application filed with the appropriate agency and, as of the date of organization, the banking organization's tangible equity divided by the organizations leverage exposure, is at least 10%.

Because they hold higher levels of capital against potential losses, Qualifying Banking Organizations would be exempt from several laws and requirements of prudential regulation, including from federal policies aimed at dictating bank behavior to protect solvency and limiting risks to the U.S. financial system from major institution failures. Instead, it would be assumed that the higher capital levels provide adequate safety protections against such negative outcomes. Specifically, QBO's would be exempt from:

(1) Capital liquidity requirements or standards'
(2) Laws that permit federal banking agencies to object to a capital distribution;
(3) Any consideration of federal banking agencies of: (1) any risk the QBO may pose to the stability of the U.S. financial system under 5(c)(2) of the Bank Holding Company Act; (2) the extent to which a proposed merger, acquisition, or consolidation would result in increased risk to the American financial system under 3(c)(7) of the Bank Holding Company Act; (3) whether the performance of an activity of a QBO could pose a risk to the stability of the American financial system under 4(j)(2)(A) of the Bank Holding Company Act; (4) whether the acquisition of control of shares of a company engaged in certain activities under the Bank Holding Company Act could pose a risk to the stability of the American financial system under 4(j)(2)(A) of the Bank Holding Company Act; (5) whether a merger under section 18(c)(5) of the Federal Deposit Insurance Act could pose a risk to the stability of the American financial system; and (6) any risk the qualifying the banking organization may pose to the stability of the American Financial System made under section 10(b)(4) of the Home Owners' Loan Act;
(4) Subsections (i)(8) and (k)(6)(B)(ii) of section 4 and section 14 of the Bank Holding Company Act of 1956.
(5) Section 18(c)(13) of the Federal Deposit Insurance Act.
(6) Section 163 of the Financial Stability Act of 2010.
(7) Section 10(e)(2)(E) of the Home Owners' 4 Loan Act.
(8) Any Federal law, rule, or regulation implementing standards of the type found in subsections (b), (c), (d), (e), (g), (h), (i), and (j) of section 165 of the Financial Stability Act of 2010.
(9) Any federal law, rule, or regulation providing limitations on mergers, consolidations, or acquisitions of assets or control, as they relate to capital and liquidity standards or concentrations of deposits or assets, so long as the banking organization, following the merger, maintain the requisite quarterly average leverage ratio of at least 10 percent.

QBOs would be treated as well-capitalized as pertains to section 216 of the Federal Credit Union Act and sections 29, 38, 44, and 46 of the Federal Deposit Insurance Act. These sections pertain to things like interstate bank mergers and partnership and cooperative agreements.

This title would require the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency to each carry out a study on how to design a requirement that banking organizations issue contingent capital that includes market-based conversion triggers. They would be required to hold public hearings and issue a report to Congress.

It would also require the GAO to perform a study on the prompt corrective action rules, to assess the benefits and possibility of replacing Basel-based capital ratios with the nonperforming asset coverage ratio as the trigger for certain required supervisory intervention. The Comptroller General would be required to submit a report to Congress. Basel III instituted a non-risk-based minimum leverage ratio that amounts to a bank's tier 1 capital divided by the sum of the exposures of all of their assets and of items not included on their balance sheet.

Title VII – Empowering Americans to Achieve Financial Independence

Title VII would address changes to the structure of the CFPB and the extent of its authority.

Subtitle A – Separation of Powers and Liberty Enhancements.

This subtitle would change the name of the CFPB to the Consumer Law Enforcement Agency, restructuring the agency as falling under the Executive branch, with a single director, who would serve a 5-year term, removable by the president at will. It would also bring the agency into the regular appropriations process and would authorize the appropriation to the agency for FY17 and FY18 an amount equal to the total amount of funds transferred by the Board of Governors to the CFPB in 2015. Under current law, the CFPB derives its funding directly from the board without appropriation or oversight by Congress.

Subtitle A would install in independent inspector general, replacing the Federal Reserve's inspector general-authority it previously exerted over the agency. The inspector general would be required to testify semi-annually before Congress. The inspector general for the Federal Reserve would continue to act in the position until an independent inspector general is appointed for the agency.

Any private parties subject to administrative proceedings by the agency would be authorized to terminate administrative proceedings. The agency would then be required to bring a civil action in court. Anyone subject to a civil investigative demand by the agency would be permitted to file in a judicial district to modify or set aside the demand.

This subtitle would establish a dual mandate for the agency. In addition to enforcing laws pertaining to consumer market access to financial services, the newly defined agency would also be required to implement and enforce federal consumer financial law for the purpose of strengthening participation in markets by covered persons, without government interference or subsidies, and to increase consumer choice and competition. It would also establish an Office of Economic Analysis within 60 days of the enactment of this subtitle, to review and assess the impact of rules and regulations, and publish a report on their assessment. It would also require the office to conduct a cost-benefit analysis related to any proposed administrative enforcement action, and assess the impact of such a complaint. In identifying problems particular rules are meant to solve, the agency would be required to specify the metrics it will use in measuring the rule's success. Prior to initiating administrative enforcement orders or lawsuits, the Director would be required to consider its cost-benefit analysis and avoid any duplicative analyses.

Finally, this subtitle would eliminate the deference to the CFPB's interpretation of consumer finance law therefore, courts would no longer be required to defer to CFPB interpretation as dispositive.

Subtitle B – Administrative Enhancements

Subtitle B would address administrative enhancements by requiring the CFPB to create a procedure and any necessary rules, for providing written advisory opinions in response to specific inquiries about the conformance or specific conduct in federal consumer financial law. The director would be required to consult relevant departments and agencies in drafting the procedure. Responses to requests for opinions would be made within 90 days, with a denial or an actual opinion. A single extension of up to 90 days would be permissible. Opinions rendered would be required to be placed in public record. A report to Congress would also be issued. The agency would be required to assist small businesses, to the extent permissible, in preparing inquiries.

This subtitle would include reforms of the civil penalty fund, requiring the agency to establish and separately maintain an account within the civil penalty fund, for each instance the agency obtains a civil penalty against a person in an action.

Payments to victims identified within a class would be made within two years of the identification of the class. Any leftover or undeliverable funds would be deposited into the general fund of the Treasury.

This subtitle would also require the rates of basic pay for all CFPB employees to be set and adjusted by the director in accordance with a general schedule to eliminate arbitrary pay difference among employees.

Subtitle B would repeal the CFPB's market monitoring functions and the CFPB's mandatory consumer advisory board. It would also reform mandatory functional offices. The agency would no longer be required to establish these offices, though it would be permissible for it to do so.

This subtitle would eliminate the CFPB's supervisory and examination authority. Currently, the CFPB has supervisory authority over banks, thrifts, and credit unions with assets over $10 billion. They also have authority over the affiliates of these institutions and over non-bank mortgage originators and servicers, payday lenders, and student lenders. A current list of institutions over which the CFPB has supervisory authority can be found here. The agency will have primary authority in enforcing federal consumer financial law with respect to depository or credit institutions with assets of $10 billion or more. Any agency with enforcement power may recommend that the CFPB, instead, exercise enforcement power.

This subtitle would require the former OTS building to be transferred from the authority of the OCC to the GSA. Finally, subtitle B would limit agency authority over employee benefit and compensation plans, persons regulated by the State Securities Commission, and persons regulated by the CFTC.

Subtitle C – Policy Enhancements

Subtitle C would address policy enhancements and the consumers right to financial privacy, requiring the agency to clearly and conspicuously disclose to the consumer what personal, nonpublic information will be requested, obtained, disclosed, etc. The consumer would also have to give permission to the agency prior to the collecting of information. This requirement would also apply to agency contractors.

It would repeal the Dodd-Frank-instituted FSOC authority to repeal final CFPB rules by a 2/3 vote. Instead, agency rules would be subject to a safety and soundness check. It would also repeal agency authority to restrict mandatory pre-dispute arbitration clauses found in section 1028 of the Dodd-Frank Act. It would further nullify Bulletin 2013-02 regarding auto lending guidance, and require any proposal or issuance of guidance pertaining to indirect auto financing to include a notice and comment period, with all studies and methodologies made available to the public and would remove CFPB authority to regulate small-dollar credit, including payday loans and vehicle title loans. It would also require a study on the impacts of any guidance on small, woman-owned, minority-owned, or veteran-owned businesses.

This subtitle would eliminate agency authority over unfair, deceptive, or abusive acts and practices. It would also strike all other Dodd-Frank provisions referring to the practices. It would, however, preserve Federal Trade Commission Act authority for bank regulators over unfair or deceptive acts or practices (UDAP). In order to prevent UDAP on the part of depository institutions, banking regulators must prescribe regulations to carry out this provision. In the event the FTC promulgates a rule for non-banks, banking regulators must promulgate substantially similar rules, unless doing so is unnecessary because the depository institution's acts are not unfair or deceptive, or if doing so conflicts with essential monetary or payment systems policies. Compliance will be enforced under the Federal Deposit Insurance Act and the Federal Credit Union Act. Federal banking regulators would be required to submit a report to Congress.

Title VIII – Capital Markets Improvements

Subtitle A – SEC Reform, Restructuring, and Accountability

This subtitle would authorize appropriations for the SEC as follows:
(1) for fiscal year 2017, $1,605,000,000;
(2) for fiscal year 2018, $1,655,000,000;
(3) for fiscal year 2019, $1,705,000,000;
(4) for fiscal year 2020, $1,755,000,000;
(5) for fiscal year 2021, $1,805,000,000; and,
(6) for fiscal year 2022, $1,855,000,000.'

The SEC received appropriations of $1.605 billion in FY16 and $1.603 billion in FY17.

This subtitle would require the SEC to report to Congress on any funds that remain unobligated at the end of a fiscal year and make the amounts of any unobligated funds available on the SEC's website and would abolish the SEC reserve fund. It would require the commission to collect transaction fees and assessments in order to offset appropriations. The SEC would be prohibited from obligating any funds for the purposes of the federal construction of a new headquarters.

This subtitle would require within six months of enactment, the SEC to complete an implementation of the recommendations made in the independent consultant report furnished on March 10, 2011. The SEC shall also submit a report to Congress regarding any requests for legislation in order to complete implementation.

It would require the Office of Credit Ratings and the Office of Municipal Securities to report to the Division of Trading and Markets. It would further require the Chairman of the SEC to appoint an independent ombudsman.

Subtitle A would make improvements to the Investor Advisory Committee, requiring consultation with the Small Business Capital Formation Advisory Committee. The committee would include a member of the Small Business Capital Formation Advisory Committee. This member would not be permitted to vote. Term length for appointed members of the advisory committee would be 4 years, without the possibility for serving more than one term, except for the Investor Advocate, a representative of state securities commissions, and the member of the Small Business Capital Formation Advisory Committee. Elected members would serve single terms of 3 years.

This subtitle also outlines the duties of the Investor Advocate, including, prohibiting the investor advocate from taking a position on pending legislation before Congress, and requiring the consultation with the Small Business Capital Formation advocate.

Subtitle A would strike the exemption of the Small Business Capital Formation Advisory Committee from the Federal Advisory Committee Act. It would also require the SEC to develop internal risk control mechanisms to safeguard and govern the storage of sensitive market data.

This subtitle would make the notice and comment requirements found in the Administrative Procedure Act applicable to any SEC statements or guidance that has the effect of interpreting or prescribing law or policy that is voted on by the SEC. It would provide for a sunset for pilot programs authorized by the SEC for self-regulatory organizations within 5 years, unless the SEC issues a permanent charter for the pilot programs. The sunset period could be extended by 3 years.

Subtitle A also details SEC procedures for obtaining certain intellectual property, including source data from registered entities. The commission would not be able to compel the furnishing of data, rather, the SEC would be required to first obtain a subpoena.

Moreover, the SEC would be required to develop a process for closing investigations in a timely manner within 180 days following enactment. The SEC would also be required to identify an enforcement

ombudsman to act as a liaison between the SEC and anyone subject to an investigation by the SEC, or subject to a judicial or administrative action. The enforcement ombudsman would be required to submit a report to Congress.

This subtitle would require the SEC to furnish adequate notice to all involved persons prior to commencing an enforcement action. Further, it would require the SEC to, within six months, establish an advisory committee on the SEC's enforcement policies and practices, to make analyses and recommendations. The committee would be comprised of between three and seven members, appointed by the Chairman. The Chairperson of the committee would be designated by the members. The committee would terminate on the date the report is required. The SEC would be required to consider and adopt any recommendations made as appropriate.

The SEC would be required to develop a process under which instances in which SEC staff provides written Wells notification to an individual where the SEC recommends a judicial or administrative action, the individual has the right to make an in person presentation before SEC staff.

The SEC would be required to approve and publish an updated manual of policies and practices the commission will follow when enforcing securities laws. It would also require a report to Congress.

Subtitle A would authorize private parties to compel the SEC to terminate administrative proceedings and to seek sanctions by filing civil actions.

It would address the findings required to approve civil money penalties against issuers, prohibiting the SEC from seeking against or imposing on an issuer, civil money penalties for securities law violations, unless the available text approving the penalty determines whether: ''(1) the alleged violation resulted in direct economic benefit to the issuer; and (2) the penalty will harm the shareholders of the issuer''.

This subtitle would repeal the SEC's authority to prohibit persons from serving as officers or directors. It would address subpoena durations and renewals, prohibiting orders of investigation from continuing indefinitely. They may only be renewed by SEC action.

Subtitle A would eliminate automatic disqualifications of non-natural persons from using an exemption or registration provision, engaging in an activity, or qualifying for similar treatment, because they have been convicted or a felony or misdemeanor, or have been made the subject of a judicial or administrative order. It would also prohibit their automatic disqualification from membership in or association with a national securities exchange or a registered national or affiliated securities association, unless the commission, by order after notice and comment, makes the determination such a person should be disqualified.

This subtitle would address whistleblower awards, requiring the denial of financial award to any whistleblower who is also complicit in, or responsible for, the violation of securities law for which the whistleblower provides information.

Subtitle A would clarify the authority of the SEC to impose sanctions on persons associated with broker dealers. It also institutes complaint and burden of proof requirements for certain actions pertaining to the breach of fiduciary duty, requiring a complaint to state all relative facts. It would also require the security holder to have the burden of proving a breach occurred.

This subtitle would allow Congressional access to the information held by the Public Company Accounting Oversight Board.

Subtitle A abolishes the Investor Advisory Group and repeals the requirement for the Public Company Accounting Oversight Board to use certain funds for a merit scholarship program. Finally, it would also

allow for the reallocation of fines for violations of rules of the Municipal Securities Rulemaking Board, requiring fines to be deposited as general revenue of the Treasury.

Subtitle B – Eliminating Excessive Intrusion in the Capital Markets

Subtitle B would provide for the repeal the Department of Labor's Fiduciary Rule, which expanded the definition of "investment advice fiduciary," making it difficult for everyday Americans to obtain retirement investment advice. The Secretary of Labor has already suggested that the fiduciary rule would be repealed or revised. This subtitle would also include a stay, prohibiting the DOL from issuing a similar rule until 60 days after the SEC does so. It would also require reports to Congress prior to any similar rulemaking and include several requirements before the SEC would be permitted to promulgate a similar rule.

This subtitle includes an exemption from risk retention requirements for nonresidential mortgages. It would define asset based securities as only referring to those comprised of wholly residential mortgages, exempting them from risk retention requirements.

This subtitle provides for shareholder approval of executive compensation in each year where there has been a material change, rather than requiring approval at least every 3 years.

It would also amend the resubmission thresholds for shareholder proposals. It would require the SEC to revise holding requirements for shareholders to be eligible to submit shareholder proposals to issuers.

It would prohibit the SEC from requiring proxy solicitations in order to use a single ballot for director elections. Subtitle B would also prohibit issuers of municipal securities from being required to retain a municipal advisor prior to issuing the securities.

Subtitle B would amend the Sarbanes Oxley Act to provide further relief for audit reports for small issuers from required internal control evaluations. A small issuer would include an issuer that has total market capitalization of less than $500 million, or depository institutions with assets of less than $1 billion.

It would address the streamlining of applications for exemptions under the Investment Company Act of 1940. Applications must be filed with all relevant information. Within 5 days, the commission must publish the application, or reject the application with information pertaining to its rejection. Within 45 days of publication, the commission must approve the application, indicate any further necessary documentation required, or deny the application. Denied application must include written explanations for denial and an opportunity for a hearing. Applications shall be deemed approved, if the commission fails to undertake its duties or if the applicant does not obtain their hearing.

Subtitle B would address restrictions on erroneously awarded compensation. It would also allow for the SEC to conditionally or unconditionally exempt any person form any provisions from this title or rule, if the SEC determines that the rule or requirement signifies a barrier to the entry into the market for nationally recognized statistical rating organizations, or impedes competition among such organizations. An exemption would also be permitted if it is in the public interest.

This subtitle would require risk-based, rather than annual, examinations of nationally recognized statistical rating organizations as appropriate.

Subtitle B would require transparency of credit rating methodologies.

This subtitle would repeal certain attestation requirements found in the Securities Exchange Act as they pertain to credit ratings.

Look-back reviews would be amended, eliminating the requirement that the head of the NRSRO annually confirm the "effectiveness of internal controls and conflict management policies and procedures." It would also apply lookback review to only the lead underwriter.

Subtitle B would allow the Chief Credit Officer to approve credit rating procedures and methodologies.

This subtitle would provide an exception for providing certain material information relating to credit ratings. A person who participates in sales or marketing of a service of a nationally recognized statistical rating organization may not be prohibited from providing material information, or information in good faith believed to be material, to the issuance of a credit rating to a person who determines or monitors credit ratings.

Subtitle B repeals various provisions found in Title IX of Dodd-Frank including: restrictions on securities arbitration; pay ratio disclosures; corporate governance mandates that are imposed on all public companies; the ability of regulator to restrict incentive-based compensation creating a government board that assigns credit rating agencies the ability to rate structured financial products; subsidies for funding the governmental accounting standards board; and, various reports and studies. Other repeals provided by the section-by-section include:

> "In Subtitle A (Increasing Investor Protection), repeals the section granting the SEC the authority to engage in investor testing; repeals the sections mandating studies on investment adviser examinations, financial literacy among investors, mutual fund advertising, conflicts of interest, access to information on investment advisers and broker-dealers, and on financial planners and the use of financial designations.
>
> In Subtitle B (Increasing Regulatory Enforcement and Remedies), repeals the section granting the SEC the authority to restrict mandatory pre-dispute arbitration; providing for equal treatment of self-regulatory organization rules; providing for short sale reforms; and the section mandating studies on extraterritorial private rights of action and securities litigation.
>
> In Subtitle C (Improvements to the Regulation of Credit Rating Agencies), repeals the sections on Congress's findings on credit ratings and NRSROs, the pleading requirements for state of mind in private actions against NRSROs, timing of regulations, the elimination of the exemption of NRSROs from the fair disclosure rule, and repeals the sections mandating studies on credit rating agency independence, alternative business models, and the creation of an independent professional analyst organization; repeals the section mandating a study and rulemaking on assigned credit ratings; repeals the section rescinding the exemption from expert liability afforded to credit rating agencies under SEC Rule 436(g); repeals the section setting forth the sense of Congress regarding the SEC's rulemaking authority over NRSROs.
>
> In Subtitle D (Improvements to the Asset-Backed Securitization Process), repeals the section mandating a study on the macroeconomic effects of risk retention requirements.
>
> In Subtitle E (Accountability and Executive Compensation), repeals the subsection requiring issuers to disclose the ratio of the median annual compensation of all employees and the compensation of the chief executive officer; repeals the sections mandating disclosure by issuers regarding employee and director hedging, enhanced disclosure by financial institutions of compensation arrangements for executives, and prohibiting certain compensation arrangements.

In Subtitle F (Improvements to the Management of the Securities and Exchange Commission), repeals the sections mandating studies on the oversight of national securities associations and former SEC employees subsequently employed by financial institutions regulated by the SEC; repeals the section directing the SEC's Division of Trading and Markets and its Division of Investment Management to maintain a staff of compliance examiners.

In Subtitle G (Strengthening Corporate Governance), repeals sections permitting the SEC to issue rules regarding proxy access and directing the SEC to issue rules requiring issuers to explain their chairman and chief executive officer structures.

In Subtitle H (Municipal Securities), repeals sections mandating studies of increased disclosure to investors in municipal securities and on municipal securities markets; repeals the section permitting the SEC to require national securities associations to fund the Governmental Accounting Standards Board.

In Subtitle I (Public Company Accounting Oversight Board, Portfolio Margining, and Other Matters), repealing sections directing the SEC to issue regulations regarding the disclosure of securities lending; creating a program for making grants to states for the purpose of investigating and prosecuting persons selling financial products to senior citizens who are not specifically credentialed as having special training in advising senior citizens; and directing federal financial regulatory agencies to address deficiencies identified by their respective inspector general. Also repeals sections mandating studies on proprietary trading, person-to-person lending, the exemption for small issuers from Section 404(b) of the Sarbanes-Oxley Act, and the subsection mandating a study on compliance burdens from Section 404(b) of the Sarbanes-Oxley Act on companies with a market capitalization between $75 million and $250 million."

Subtitle B would exempt investment advisers from the registration and reporting requirements with respect to the provision of investment advice relating to a private equity fund. The SEC would be required to issue a rule pertaining to the maintenance of records and annual reporting requirements taking into account various factors including fund size and governance. It would also eliminate references to FSOC and systemic risk from consideration for requiring investment advisors to keep and maintain records and reports.

This subtitle would expand the definition for accredited investor. It would include text similar to Rep. Schweikert's Fair Investment Opportunities for Professional Experts Act, which passed the House on February 1, 2016 by a vote of 347-8. This subtitle would expand the definition of an accredited investor to include individuals licensed as brokers or investment advisors, or those with professional knowledge pertaining to a particular investment as verified by certain regulatory authorities.

Under current law, there are a number of exemptions from the requirement that securities be registered with the Securities and Exchange Commission before being sold to the public. Securities offered only to accredited investors – individuals with adequate financial knowledge and the ability to sustain the risk of loss – do not require registration. Currently, these investors can participate in investment opportunities that non-accredited investors cannot.

This subtitle would codify the current income threshold definition of an accredited investor, and index it for inflation. It would also create two new categories of individuals eligible to operate as accredited investors, eligible through professional experience.

Under the expanded definition, a person would be considered "accredited" if they: (1) have a net worth of $1 million, indexed for inflation; (2) have a yearly income of $200 thousand individually, or $300 thousand

jointly, indexed for inflation; (3) hold a current recognized securities-related license, either state or federal; or (4) any natural person by reason of their net worth or income is an accredited investor; (6) have provable professional experience in the offered security, as administered by Financial Industry Regulatory Authority (FINRA).

A past legislative bulletin on the Fair Investment Opportunities for Professional Experts Act can be found here.

This subtitle would repeal section 413 of Dodd-Frank, which details the accredited investor standard.

Subtitle B would also repeal sections 412, 415, 416, and 417 of Dodd-Frank, which required various reports to Congress and would repeal sections 1502, 1503, 1504, 1505, and 1506 found in title XV of Dodd-Frank, which direct the SEC to promulgate rules on conflict minerals from the Congo, disclosures on mine and coal safety, disclosures on payments to foreign governments by resources extraction issuers (resource extraction rule), and studies pertaining to inspector general effectiveness, core deposits, and brokered deposits.

Subtitle C – Harmonization of Derivatives Rules

Subtitle C would require the SEC and the CFTC to review all rules, orders, and guidance pertaining to derivatives rules. In any area in which the SEC finds inconsistencies in such rules, orders, or guidance, the SEC and CFTC would be required to jointly issue rules, orders, or guidance to resolve the inconsistencies.

This subtitle would also exempt all inter-affiliate transactions from being regulated as swaps under Dodd-Frank related portions of either the CEA or CFTC regulations. This subtitle is similar to Rep. Lucas' amendment to the Commodity End-User Relief Act, which passed the House in January.

Title IX – Repeal of the Volcker Rule and Other Provisions

This title would fully repeal the Volcker Rule. Additionally, it would repeal provisions pertaining to the imposition of a moratorium on deposit insurance provision by the FDIC to banks owned or controlled by a commercial firm, provisions pertaining to granting supervisory authority over securities holding companies to the Federal Reserve, a mandatory study on bank investment activities, the prohibition on banking entities from participating in proprietary trading and from having hedge fund relationship, and the prohibition on underwriters, placements agents, and initial purchasers of asset-backed securities from engaging in potential conflict-of-interest transactions for one year.

The Volcker Rule, found in title XI of Dodd-Frank, restricts American banks from engaging in proprietary trading, limiting the amount of capital in the market, reducing the depth, liquidity, and stability of the market. Proponents of the Volcker Rule believed this was a way to stop risky or speculative trading with customer deposits. Some naively believed this, rather than the collapse of the housing market, led to the 2008 financial crisis.

Title X – Fed Oversight Reform and Modernization

This title provides language similar to Rep. Huizenga's FORM Act, which passed the House on November 19, 2015 by a vote of 241-185. A past legislative bulletin can be found here.

The Federal Reserve has consistently operated in an opaque and overly technical manner with less transparency than some members believe is appropriate. It is in the interest of both consumers, producers, and financial market participants to have a sound monetary system that ensures the real value of goods

and services are accurately conveyed through market prices and that money functions as a stable store of value across time.

This title would make changes to the Federal Reserve system, requiring it to adopt a monetary policy rule for setting at least one of several key interest rates, and communicate its monetary and regulatory policy decisions in a more immediately transparent manner. The measure would also alter the Congressional and GAO oversight structure for the Federal Reserve and create a commission to evaluate the current mandate of the bank and the appropriateness of maintaining such mandate.

This title would require the Federal Reserve to generate and submit to Congress and the Comptroller General a monetary policy rule of its own choosing and compare that rule to the Taylor rule, explaining any differences. It would also require the Government Accountability Office to conduct an audit of the rule to ensure compliance with the statute.

The monetary policy rule required would be an equation that stipulates a specific, precise interest rate for the federal funds rate, the rate paid on deposits of excess reserves held at the Fed, or the lending rate charged to banks by the Fed. Each of these interest rates is currently used by the Fed to transmit monetary policy decisions into the economy. A rule-based approach to these rates would provide the public the ability to predict how the Federal Reserve might change course in the future with respect to economic changes. The Taylor Rule specifically gives precise interest rate recommendations based on deviations in inflation and GDP from historical trends and targets.

Should the monetary policy rule that the Federal Reserve adopts not meet the requirements for a valid rule under this legislation, Congress can direct the GAO to conduct an audit of the Fed's monetary policy decisions and require the Federal Reserve Chairman to testify before Congress regarding the failure to meet the requirements.

This title would codify the Federal Open Market Committee (FOMC) blackout period, which prohibits Federal Reserve Governors and officials from publicly speaking for a week prior to and one day immediately after an FOMC meeting, beginning immediately after midnight on the day exactly one week before the meeting and ends at midnight the day after the meeting. It would also clarify that the blackout period does not prohibit technical questions that pertain specifically to data releases or to testimony about the Federal Reserve's supervisory or prudential functions. This title would provide an exemption for the Chairman of the Board of Governors.

Title X would require public transcripts of all FOMC meetings to be made public. It would also alter the membership of the Federal Open Market Committee. This legislation would require that it be composed of the 7 members of the Board of Governors and 6 of the 12 District Federal Reserve Bank Presidents who will rotate as voting members the committee every other year. Currently, the voting membership of the FOMC is constituted by the 7 Governors, 5 rotating District Presidents and a permanent voting seat for the New York District President.

Title X would require the Chairman of the Federal Reserve to testify before Congress on a quarterly basis. Current law requires testimony on a semi-annual basis. It would also require the Vice Chairman for Supervision of the Federal Reserve to provide a report to Congress on proposed or anticipated rulemakings during his semi-annual testimony to Congress. This title would also require that in the event of a vacancy for Vice Chairman of Supervision, the Vice Chairman of the Board of Governors would perform the requirements for semi-annual testimony.

This title would require the Federal Reserve to publicly post on a website the annual salaries, including benefits, of any employee whose salary exceeds the GS-15 level for a federal employee. It would allow for a minimum of two staff positions to advise the members of the Board of Governors, who would provide advice independent of the Chairman's influence. This title would also require Federal Reserve employees to

be subject to the same ethical standards as Securities and Exchange Commission Employees, including disclosing any discretionary market positions and investments. More details on these standards may be found here and here.

Title X would amend the Section 13(3) of Federal Reserve Act (12 U.S.C. 343(3)) to permit the Federal Reserve to use its emergency lending powers if "unusual and exigent circumstances exist that pose a threat to financial stability of the United States." The current standard only requires "unusual and exigent circumstances."

It would also require that in order to approve a 13(3) facility, 5 of 7 members of the Board of Governors and 9 of 13 of the District Federal Reserve Bank Presidents must approve. This title would limit recipients of 13(3) assistance to financial institutions that derive 85% or more of their revenue from financial activities.

Title X would also discourage discretionary lending by requiring the Federal Reserve to adopt a rule detailing the method it will use to determine sufficiency of collateral in securing 13(3) lending. The Federal Reserve would be prohibited from accepting equity securities from the recipient of 13(3) assistance as collateral. It would also require an entity regulated by the Office Comptroller of Currency, SEC, Commodity Futures Trading Commission, or FDIC to certify that it is not insolvent prior to being eligible to receive 13(3) assistance. Lastly, it would require the Federal Reserve to adopt a rule within six months of enactment of this legislation that would establish a minimum interest rate for the principle amount of any section 13(3) loan or assistance. The applicable minimum interest rate would be calculated as the sum of: (1) the average of the all of the Federal Reserve banks' discount rates over 90 days; and (2) the average of the difference between the corporate bond yield index over 90 days and a bond yield index of debt issued by the United States over the most recent 90 days.

Title X would amend the Federal Reserve Act to require the FOMC to be responsible for setting the interest rate paid on excessive reserves. The Financial Services Regulatory Relief Act of 2006 allowed Federal Reserve Banks to pay the interest on excess balances of depository institutions at reserve banks. This interest rate was determined by the Board of Governors. Because this rate may be used as a tool in setting monetary policy, this title would shift authority over this rate from the Board of Governors to the FOMC.

This title would require the GAO to perform an audit within 12 months of enactment of this legislation, and to deliver a report to Congress within 90 days following the audit. The audit would include a findings section and GAO recommendations for legislative and administrative action. It would lift restrictions on the GAO's ability to audit the Federal Reserve and would eliminate redundant text pertaining to the GAO's ability to audit the Federal Reserve contained in Dodd-Frank. This audit would be a policy review and is not the same as a financial audit, the substance of which would cover the financial details of the accounts and transactions of the Fed. The bank already regularly publishes financial information of this nature.

Title X would include the text of the "Centennial Monetary Commission Act of 2015," sponsored by Rep. Kevin Brady, (R-TX). It would establish the Centennial Monetary Commission to produce a report on how the United States monetary policy has affected the U.S. economy, including output, employment, prices and financial stability. It would evaluate different operational regimes under the Board of Governors and the FOMC and how they can conduct monetary policy to achieve maximum sustainable level of output and employment and long term price stability. This could include: (1) discretion in determining monetary policy without an operational regime; (2) price level targeting; (3) inflation rate targeting; (4) nominal gross GDP targeting; (5) use of monetary policy rules; and, (6) the gold standard. This title would also direct the commission to evaluate macro-prudential supervision and regulations and the lender-of-last-resort function of the Board of Governors. The commission would also be required to recommend a course of U.S. monetary policy going forward and submit a report to Congress containing the commission's findings.

The commission would contain 12 voting members, with 6 appointed by the Speaker of the House, 4 from the majority party and 2 from the minority. 6 members would be appointed by the President Pro Tempore of the Senate, 4 from the majority and 2 from the minority. The Speaker and President Pro Tempore will designate a chair. The commission would also contain 2 non-voting members, one appointed by the Secretary of Treasury and one who is a president of a District Federal Reserve Bank, appointed by the Chair of the Board of Governors. The commission would have the authority to hold hearings, take testimony, receive evidence, and administer oaths, as well as to request and obtain official data. The commission would terminate 6 months after the report is submitted.

Title XI – Improving Insurance Coordination through an Independent Advocate

Title XI would repeal the Federal Insurance Office. It would in turn create the Office of the Independent Insurance Advocate. This office would advocate for U.S. policyholders on insurance matters and would have the authority to coordinate federal efforts on international insurance matters. It would be permitted consult with states on insurance issues, assist in the administration of the Terrorism Reinsurance Program, identify any issues that could lead to systemic crises in the insurance industry, and would consult with the Board of Governors of the Federal Reserve on any systemic risk issues to the U.S. financial system. The Independent Insurance Advocate would be a non-voting member of the FSOC. The advocate would be appointed for 6 year terms by the president, with Senate confirmation. Upon leaving the position as advocate, the advocate would be required to furnish a report to Congress.

Finally, this title would require the USTR and the Treasury Secretary to publish and make publicly available for comment, proposed text of bilateral or multilateral agreements that pertain to international insurance or reinsurance standards, prior to the agreement becoming effective.

Title XII – Technical Corrections

This title includes various technical corrections to Dodd-Frank.

A section by section can be found here. Committee reports can be found here and here. A summary of modifications made by the substitute amendment can be found here. Other documents furnished by the committee may be found here.

AMENDMENTS:

1. Rep. Smucker (R-PA) – This amendment would express a sense of Congress that consumer reporting agencies and their subsidiaries need stronger, multi-factor authentication process in providing sensitive information to address the possibility of identity theft.
2. Rep. Buck (R-CO) – This amendment would require the General Services Administration to study the Consumer Law Enforcement Agency's office real estate leasing needs, as this legislation changes the structure of the agency. It would also authorize the GSA to sell CLEA's current building if their needs have changed, and no other government department could make use of the building.
3. Rep. Hollingsworth (R-IN) – This amendment would allow closed-end funds listed on national securities exchanges, meeting certain requirements, to be known as well-known seasoned issuers (WKSI). A WKSI is an "issuer that is eligible to use Form S-3 [a shelf registration]for registration of a primary offering of securities and has a worldwide public float of at least $700 million or has sold at least $1 billion in aggregate principal amount of registered debt (or other nonconvertible securities) in primary offerings for cash."
4. Rep. Faso (R-NY) – This amendment would allow mutual holding companies to waive the receipt of dividends.
5. Rep. McSally (R-AZ) – This amendment would require the Department of Treasury to submit a report to Congress on its efforts to work with federal bank regulators, financial institutions, and

money service businesses with the purpose of ensuring that legitimate transactions across the southern border move freely and globally.

6. Rep. Hensarling (R-TX) – This amendment would amend provisions that subject certain FDIC and NCUA functions that pertain to appointments of positions and providing congressional access to non-public FSOC information to congressional appropriations, for the FDIC and NCUA to, as provided by the appropriations acts, cover certain costs incurred in carrying out the CHOICE Act. It would also address fees, requiring the FDIC to reduce insurance premiums charged by the corporation by an amount equal to any additional fees charged by the corporation under this amendment.

GROUPS IN SUPPORT:

Heritage Action (Key Vote)
FreedomWorks (Key Vote)
Independent Community Bankers of America
Americans for Tax Reform
American Bankers Association
National Taxpayers Union
Other groups in support can be found here.

COMMITTEE ACTION:

H.R. 10 was introduced on April 26, 2017 and was referred to the House Committee on Financial Services. It was reported, amended, on May 25, 2017. The committees on Agriculture, Ways and Means, the Judiciary, Oversight and Government Reform, Transportation, Rules, the Budget, and Education and Workforce discharged H.R. 10 on May 25, 2017.

ADMINISTRATION POSITION:

A Statement of Administration Policy can be found here.

CONSTITUTIONAL AUTHORITY:

According to the bill's sponsor: Congress has the power to enact this legislation pursuant to the following: Article I, Section 8, Clause 3 (``To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes''); Article I, Section 8, Clause 5 (``To coin Money, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and Measures''); Article I, Section 8, Clause 6 (``To provide for the Punishment of counterfeiting the Securities and current Coin of the United States''); and Article I, Section 8, Clause 18 (``To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States or in any Department or Officer thereof.'').