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# H.R. 910 – Fair Access to Investment Research Act of 2017 (Rep. Hill, R-AR)

CONTACT: [Jennifer Weinhart](#), 202-226-0706

## FLOOR SCHEDULE:

Expected to be considered on May 1, 2017 under a suspension of the rules, which require a 2/3 majority for passage.

## TOPLINE SUMMARY:

[H.R. 910](#) 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.

## COST:

The Congressional Budget Office (CBO) [estimates](#) “that implementing H.R. 910 would cost \$2 million over the 2017-2022 period. However, under current law, the SEC is authorized to collect fees sufficient to offset its annual appropriation; therefore, CBO estimates that the net effect on discretionary spending would be negligible, assuming appropriation actions consistent with that authority.”

## CONSERVATIVE CONCERNS:

- **Expand the Size and Scope of the Federal Government?** No.
- **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:

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 legislation would, within 180 days following enactment, require the SEC to propose and, within 270 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, a broker or dealer would be required to distribute a research report in the regular course of business, which relates to an Exchange Traded Fund 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.”<sup>1</sup>

<sup>1</sup> <https://www.congress.gov/114/crpt/hrpt401/CRPT-114hrpt401.pdf>

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 section 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 270 days to implement the legislation, this section 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.

Similar legislation was included in the package, H.R. 1675, the Encouraging Employee Ownership Act of 2015, which passed on February 3, 2016, by [265-159](#). A past legislative bulletin can be found [here](#).

**COMMITTEE ACTION:**

H.R. 910 was introduced on February 7, 2017 and was referred the House Committee on Financial Services, which ordered the bill to be reported, 56-2, on March 9, 2017.

**ADMINISTRATION POSITION:**

A Statement of Administration Policy is not available.

**CONSTITUTIONAL AUTHORITY:**

According to the sponsor, Congress has the power to enact this legislation pursuant to the following: Article I, Section 8, Clause 3.

# H.R. 1312 – Small Business Capital Formation Enhancement Act (Rep. Poliquin, R-ME)

CONTACT: [Jennifer Weinhart](#), 202-226-0706

## FLOOR SCHEDULE:

Expected to be considered on May 1, 2017 under a suspension of the rules, which require a 2/3 majority for passage.

## TOPLINE SUMMARY:

[H.R. 1312](#) would require the Securities and Exchange Commission to respond to findings and recommendations made by the [Government-Business Forum on Small Business Capital Formation](#).

## COST:

The Congressional Budget Office (CBO) [estimates](#) "that implementing H.R. 1312 would cost less than \$500,000 to complete the review and assessment of recommendations."

## CONSERVATIVE CONCERNS:

- **Expand the Size and Scope of the Federal Government?** No.
- **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:

The Government-Business Forum on Small Business Capital Formation is an annual Securities and Exchange Commission (SEC) forum that looks at the capital formation concerns of small businesses, mandated by the [Small Business Investment Incentive Act of 1980](#). The forum develops recommendations for government and private action to improve capital formation for small businesses. This legislation would require the SEC to review the findings and the recommendations from the forum, assess the findings and recommendations, 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.

## COMMITTEE ACTION:

H.R. 1312 was introduced on March 2, 2017 and was referred the House Committee on Financial Services, which ordered the bill to be reported, 58-0, on March 9, 2017.

## ADMINISTRATION POSITION:

A Statement of Administration Policy is not available.

## CONSTITUTIONAL AUTHORITY:

According to the sponsor, Congress has the power to enact this legislation pursuant to the following: The constitutional authority on which this bill rests is the power of Congress "To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes:" as enumerated in Article 1, Section 8 of the United States Constitution.

# H.R. 1366 – U.S. Territories Investor Protection Act of 2017 (Rep. Velazquez, D-NY)

CONTACT: [Jennifer Weinhart](#), 202-226-0706

## FLOOR SCHEDULE:

Expected to be considered on May 1, 2017 under a suspension of the rules, which require a 2/3 majority for passage.

## TOPLINE SUMMARY:

[H.R. 1366](#) would amend the Investment Company Act of 1940 to end an exemption for investment companies located in the U.S. territories.

## COST:

The Congressional Budget Office (CBO) [estimates](#) “that implementing H.R. 1366 would have no significant effect on the agency’s costs or operations to extend current regulations to include those companies. Moreover, the SEC is authorized to collect fees sufficient to offset its annual appropriation; therefore, CBO estimates that the net effect on discretionary spending would be negligible, assuming appropriation actions consistent with that authority.”

## CONSERVATIVE CONCERNS:

- **Expand the Size and Scope of the Federal Government?** The bill would expand the reach of the Investment Company Act to apply to pure intra-territorial transactions between territorial residents.
- **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:

Presently, investment companies located in U.S. territories are exempt from the Investment Company Act’s mutual fund regulations if they sell their shares only to residents of the territories in which they are located. This allows some companies to underwrite bonds with less stringent regulatory requirements so long as the bonds are to be sold only to investors in the territories. This is true even when such bonds are repackaged into mutual funds, so long as the fund is sold only to eligible residents.

This bill ends that exemption. This bill would also allow for a three-year safe harbor for companies currently enjoying the exemption. It would also allow the Securities and Exchange Commission to delay the effective date for at most three years following the termination of the safe harbor.

Similar legislation passed last Congress by voice vote, on July 11, 2016. A previous legislative bulletin can be found [here](#).

## COMMITTEE ACTION:

H.R. 1366 was introduced on March 6, 2017 and was referred the House Committee on Financial Services, which ordered the bill to be reported, 58-0, on March 9, 2017.

## ADMINISTRATION POSITION:

A Statement of Administration Policy is not available.

## CONSTITUTIONAL AUTHORITY:

According to the sponsor, Congress has the power to enact this legislation pursuant to the following: Article I, Section 8, Clause 3, The Congress shall have Power . . . to regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes.

# H.R. 657 — Follow the Rules Act (Rep. Duffy, R-WI)

CONTACT: [Noelani Bonifacio](#), 202-226-9719

## FLOOR SCHEDULE:

Scheduled for consideration on May 1, under suspension of the rules, which requires 2/3 vote for passage.

### TOPLINE SUMMARY:

**H.R. 657** would extend the prohibition on adverse personnel actions against any employee or applicant for employment for refusing to obey an order that would require the individual to violate a law to include personnel actions against such an individual for refusing to obey an order that would violate a rule or regulation.

### COST:

The Congressional Budget Office (CBO) [expects](#) that implementing H.R. 657 would not result in a substantial number of new claims. However, even if there was a 20 percent increase in new claims, which CBO believes is unlikely, the annual processing cost of these claims would be under \$500,000.

Pay-as-you-go procedures would apply since enacting H.R. 657 could affect direct spending of an agency that is not funded by annual appropriations. CBO estimates, though, a negligible net increase in spending by those agencies. This bill would not affect revenues and would not increase on-budget deficits or net direct spending in the four consecutive 10 year periods beginning in 2028

### CONSERVATIVE CONCERNS:

- **Expand the Size and Scope of the Federal Government?** No.
- **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:

H.R. 657 would extend the prohibition on adverse personnel actions against any employee or applicant for employment for refusing to obey an order that would require the individual to violate a law to include personnel actions against such an individual for refusing to obey an order that would violate a rule or regulation.

This bill also would ensure this extension applies to all personnel actions defined by [5 U.S.C. 2302\(a\)\(2\)\(A\)](#) occurring after enactment. The defined personnel actions include appointments, promotions, disciplinary actions, reassignments and transfers, reinstatements, restorations, reemployments, performance evaluations and other significant changes in duties and working conditions.

H.R. 657 contains similar language to [H.R. 6186](#), which passed the House in the 114th Congress by voice vote on November 30, 2016. The RSC's legislative bulletin for H.R. 6186 can be found [here](#).

## COMMITTEE ACTION:

H.R. 657 was introduced on January 24, 2017. It was referred to the Committee on Oversight and Government Reform where a mark-up session was held on and it was reported by voice vote.

## ADMINISTRATION POSITION:

A Statement of Administration Policy is not available.

## 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 18".



# H.R. 1242 — 400 Years of African-American History Commission Act, as amended (Rep. Scott, D-VA)

CONTACT: [Noelani Bonifacio](#), 202-226-9719

## FLOOR SCHEDULE:

Scheduled for consideration on May 1, under suspension of the rules, which requires 2/3 vote for passage.

### TOPLINE SUMMARY:

[H.R. 1242](#) would establish the 400 Years of African-American History Commission to commemorate the anniversary of the arrival of Africans in the English colonies.

### COST:

The Congressional Budget Office (CBO) [estimates](#) that implementing H.R. 1242 as reported by the committee would cost a total of \$2 million a year and \$6 million over the 2018-2021 period. Direct spending would be affected and pay-as-you-go procedures would apply because this bill allows the commission to spend and accept monetary gifts, however the net effect on direct spending would be negligible. Revenues would not be affected. On-budget deficits and net direct spending would not increase in the 4 consecutive 10 year periods beginning in 2028. The bill would not impose state or local government costs and contains no private-sector or intergovernmental mandates.

The suspension print of the bill would require all expenditures of the commission to be made solely from donated funds. The federal government would still be responsible for any costs incurred as a result of the service of federal employees on any non-reimbursable basis.

### CONSERVATIVE CONCERNS:

Some conservatives may be concerned that the bill authorizes the use of federal funds to pay salaries of federal employees detailed to the commission.

- **Expand the Size and Scope of the Federal Government?** The bill would create a new federal commission and authorize the use of federal resources, in the form of federal employees who may serve on a non-reimbursable basis.
- **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:

This bill would establish the 400 Years of African-American History Commission to commemorate the anniversary of the arrival of Africans in the English colonies. The commission would be composed of fifteen members who would serve for the life of the commission. The commission could solicit and accept gifts for aiding or facilitating their work. Grants up to \$20,000 could be provided by the commission to nonprofit organizations to develop programs to assist the commemoration. Members of the commission would serve without compensation; however, the commission could appoint an executive director who could be compensated and members could be reimbursed for travel expenses, including the receipt of per diem payments.

The commission would be tasked with planning, developing, and carrying out activities throughout the United States to recognize and highlight the resilience and contributions of Africa-Americans since 1619, and to acknowledge the impact that slavery and laws that enforced racial discrimination had on the United

States. The commission would encourage civic, patriotic, and historical organizations to participate in anniversary activities.

No later than July 1, 2020, the commission would be required to submit a report to Congress that contains a summary of activities, a final accounting of funds, and findings of the commission.

Finally, H.R. 1242 requires that expenditures of the commission be funded with donated funds; however, the bill does not prohibit the obligation of federal funds to carry out the functions of the commission.

H.R. 1242 contains language similar to [H.R. 4539](#) which passed the House in the 114th Congress by voice-vote on July 5, 2016. The RSC's legislative bulletin for H.R. 4539 can be found [here](#).

**COMMITTEE ACTION:**

H.R. 1242 was introduced on February 28, 2017. It was referred to the Committee on Oversight and Government Reform where a mark-up session was held and the bill was reported by voice vote.

**ADMINISTRATION POSITION:**

A Statement of Administration Policy is not available.

**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 of the United States Constitution."

# H. R. 1644 – Korean Interdiction and Modernization of Sanctions Act, as amended (Royce, R-CA)

CONTACT: [Brittan Specht](#), 202-226-9143

## FLOOR SCHEDULE:

Expected to be May 1, 2017 under suspension of the rules, which requires a 2/3 majority for passage.

### TOPLINE SUMMARY:

[H.R. 1644](#) would expand sanctions against North Korea and individuals and entities involved in commerce with that country. The bill would expand sanctions related to weapons activities and human rights abuses.

### COST:

The Congressional Budget Office (CBO) [estimates](#) implementing H.R. 1644 would cost \$10 million over the 2017-2022 period, assuming appropriation of the estimated amounts. In addition, enacting the bill would increase revenues by \$8 million and have insignificant effects on direct spending over the 2017-2027 period. Pay-as-you-go procedures apply because enacting the legislation would affect direct spending and revenues.

CBO estimates that enacting the legislation would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

### CONSERVATIVE CONCERNS:

- **Expand the Size and Scope of the Federal Government?** No.
- **Encroach into State or Local Authority?** No.
- **Delegate Any Legislative Authority to the Executive Branch?** The bill would grant the president significant discretion in the designation of individuals who are subject to sanctions, as well as in the application of sanctions. Further, the bill would relate determinations of prohibited activity to components of United Nations Security Council resolutions.
- **Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** No.

## DETAILED SUMMARY AND ANALYSIS:

### *Expanded Sanctions*

H.R. 1644 would require the president to designate certain persons as subject to U.S. sanctions, including prohibiting access to travel to the United States, freezing of U.S. assets, prohibiting business dealings with U.S. agencies, and other measures. Covered individuals would include individuals knowingly and willfully involved in trade with North Korea in certain minerals (including gold, titanium, copper, silver, zinc, nickel, or rare earth minerals), those involved in trade of rocket or jet fuel (other than for fueling passenger planes en route to North Korea), or individuals supporting, insuring, or reinsuring North Korean flagged vessels.

The bill would also allow the president to further designate additional individuals for sanctions who are involved in the trade of iron ore, coal, or petroleum fuels in excess of amounts authorized by the United Nations Security Council. Sanctions could also apply to individuals involved in trade of telecommunications technology, textiles, fishing rights, or are involved in various North Korean industries, as well as other individuals at the president's discretion. The bill would further allow the president to choose to apply asset blocking sanctions to individuals designated at his discretion.

The bill would require the president to report to Congress within 180 days whether to designate, and if not, what the reasoning for not so designating, the following entities for sanctions: the Korea Shipowner's Protections and Indemnity Association; Chinpo Shipping Company; the Central Bank of the Democratic People's Republic of Korea (DRPK); Kumgang Economic Development Corporation; the Chamber of Commerce of the DRPK.

The bill would also expand sanctions to cover any individual who facilitates the transfer of hard currency to North Korea.

### ***Financial Institutions***

The bill would require U.S. financial institutions to prevent any correspondent account the institution knows that the account is being used to facilitate circumventing sanctions from being used for such purposes. The bill would further require the president to provide a briefing to Congress on each person or foreign government that the president determines has provided financial messaging services to North Korea.

### ***Foreign Assistance***

The bill would allow the president to withhold foreign assistance from any nation that provides defense articles to or receives such articles from North Korea.

### ***Enhanced Inspections***

The bill would require the president to report to Congress annually for five years on countries that do not sufficiently inspect or seize contraband cargo of North Korean ships or aircraft at seaports and airports. Such inspections and seizures are required pursuant to U.N. sanctions. The report would be required to identify foreign port operators that fail to inspect or seize cargo, describe the extent to which foreign port operators take appropriate action to de-register North Korean-owned vessels, describe compliance with requirements by Iran, identify vessels owned or operated by North Korean intelligence, and describe the diplomatic and enforcement efforts by the president to secure compliance with U.N. Security Council resolutions.

### ***Report on Iran***

The bill would require the president to submit an annual report to Congress for five years describing cooperation between North Korea and Iran regarding nuclear, chemical, and biological, as well as ballistic missile and conventional weapons systems. The report would include a determination as to whether such activities violate U.N. Security Council resolutions.

### ***Human Rights Sanctions***

H.R. 1644 would impose sanctions on individuals involved in forced labor in North Korea, including by prohibiting goods produced with forced labor from entering the United States and sanctioning individuals who employ North Koreans who face inhumane conditions or are denied wages. The bill would provide for the rebuttable presumption that all goods manufactured with North Korean labor are prohibited. Individuals subject to sanction would be blocked from conducting financial transactions in the U.S., as well as from traveling to or through the U.S. The president would be allowed to waive designation of an individual if he certifies to Congress that the employment of North Korean labor does not result in the transfer of currency or other items of value to the North Korean government, and that the wages of laborers are held in local accounts in local currency.

### ***Miscellaneous Provisions***

The bill would also provide for the president to be able to waive sanctions and designations of individuals for humanitarian purposes.

The bill would provide for rewards for individuals who serve as whistleblower informants who report non-compliance with sanctions.

The bill would require the Secretary of State to submit to Congress a determination as to whether North Korea meets the criteria for designation as a state sponsor of terrorism,

**COMMITTEE ACTION:**

H.R. 1644 was introduced on March 21 and referred to the Committee on Foreign Affairs, as well as the Committees on Ways and Means, the Financial Services, Transportation and Infrastructure, Oversight and Government Reform, and Judiciary. The Committee on Foreign Affairs held a mark-up on March 29 and ordered the bill to be reported, as amended, by voice vote.

Read the report from the Committee on Foreign Affairs [here](#).

**ADMINISTRATION POSITION:**

A Statement of Administration Policy is not yet available.

**CONSTITUTIONAL AUTHORITY:**

According to the sponsor, Congress has the power to enact this legislation pursuant to the following: Article 1, Section 8 of the Constitution of the United States. No enumerating clause was included.

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**NOTE:** *RSC Legislative Bulletins are for informational purposes only and should not be taken as statements of support or opposition from the Republican Study Committee.*