

[117H294]



Anna Wagner  
(Original Signature of Member)

118TH CONGRESS  
1ST SESSION

H. R. \_\_\_\_\_

To amend the Securities Act of 1933 to expand the ability to use testing the waters and confidential draft registration submissions, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

Mrs. WAGNER introduced the following bill; which was referred to the Committee on \_\_\_\_\_

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**A BILL**

To amend the Securities Act of 1933 to expand the ability to use testing the waters and confidential draft registration submissions, and for other purposes.

1       *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

2       **SECTION 1. SHORT TITLE.**

3       This Act may be cited as the “Encouraging Public  
4       Offerings Act of 2023”.

1   **SEC. 2. EXPANDING TESTING THE WATERS AND CONFIDENTIAL**  
2           **SUBMISSIONS.**

3       The Securities Act of 1933 (15 U.S.C. 77a et seq.)  
4    is amended—

5           (1) in section 5(d) (15 U.S.C. 77e(d))—

6               (A) by striking “Notwithstanding” and inserting the following:

7               “(1) IN GENERAL.—Notwithstanding”;

8               (B) by striking “an emerging growth company or any person authorized to act on behalf of an emerging growth company” and inserting “an issuer or any person authorized to act on behalf of an issuer”; and

9               (C) by adding at the end the following:

10           “(2) ADDITIONAL REQUIREMENTS.—

11               “(A) IN GENERAL.—The Commission may promulgate regulations, subject to public notice and comment, to impose such other terms, conditions, or requirements on the engaging in oral or written communications described under paragraph (1) by an issuer other than an emerging growth company as the Commission determines appropriate.

12               “(B) REPORT TO CONGRESS.—Prior to any rulemaking described under subparagraph (A), the Commission shall submit to Congress a re-

1 port containing a list of the findings supporting  
2 the basis of the rulemaking.”; and

7 (B) by redesignating paragraph (2) as  
8 paragraph (4); and

9 (C) by striking paragraph (1) and insert-  
10 ing the following:

11                         “(1) PRIOR TO INITIAL PUBLIC OFFERING.—  
12                         Any issuer, prior to its initial public offering date,  
13                         may confidentially submit to the Commission a draft  
14                         registration statement, for confidential nonpublic re-  
15                         view by the staff of the Commission prior to public  
16                         filing, provided that the initial confidential submis-  
17                         sion and all amendments thereto shall be publicly  
18                         filed with the Commission not later than 15 days be-  
19                         fore the date on which the issuer conducts a road  
20                         show, as defined in section 230.433(h) of title 17,  
21                         Code of Federal Regulations, or, in the absence of  
22                         a road show, at least 15 days prior to the requested  
23                         effective date of the registration statement.

24                   “(2) WITHIN 1 YEAR AFTER INITIAL PUBLIC  
25                   OFFERING OR EXCHANGE REGISTRATION.—Any

1       issuer, within the 1-year period following its initial  
2       public offering or its registration of a security under  
3       section 12(b) of the Securities Exchange Act of  
4       1934 (15 U.S.C. 78l(b)), may confidentially submit  
5       to the Commission a draft registration statement,  
6       for confidential nonpublic review by the staff of the  
7       Commission prior to public filing, provided that the  
8       initial confidential submission and all amendments  
9       thereto shall be publicly filed with the Commission  
10      not later than 15 days before the date on which the  
11      issuer conducts a road show, as defined in section  
12      230.433(h) of title 17, Code of Federal Regulations,  
13      or, in the absence of a road show, at least 15 days  
14      prior to the requested effective date of the registration  
15      statement.

16      “(3) ADDITIONAL REQUIREMENTS.—

17          “(A) IN GENERAL.—The Commission may  
18          promulgate regulations, subject to public notice  
19          and comment, to impose such other terms, conditions,  
20          or requirements on the submission of  
21          draft registration statements described under  
22          this subsection by an issuer other than an  
23          emerging growth company as the Commission  
24          determines appropriate.

1                             “(B) REPORT TO CONGRESS.—Prior to any  
2                             rulemaking described under subparagraph (A),  
3                             the Commission shall submit to Congress a re-  
4                             port containing a list of the findings supporting  
5                             the basis of the rulemaking.”.