

[117H294]


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(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.

IN THE HOUSE OF REPRESENTATIVES

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

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 Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

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

1 **SEC. 2. EXPANDING TESTING THE WATERS AND CONFIDEN-**
2 **TIAL 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 in-
7 serting the following:

8 “(1) IN GENERAL.—Notwithstanding”;

9 (B) by striking “an emerging growth com-
10 pany or any person authorized to act on behalf
11 of an emerging growth company” and inserting
12 “an issuer or any person authorized to act on
13 behalf of an issuer”; and

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

15 “(2) ADDITIONAL REQUIREMENTS.—

16 “(A) IN GENERAL.—The Commission may
17 promulgate regulations, subject to public notice
18 and comment, to impose such other terms, con-
19 ditions, or requirements on the engaging in oral
20 or written communications described under
21 paragraph (1) by an issuer other than an
22 emerging growth company as the Commission
23 determines appropriate.

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

1 port containing a list of the findings supporting
2 the basis of the rulemaking.”; and
3 (2) in section 6(e) (15 U.S.C. 77f(e))—

4 (A) in the heading, by striking “EMERG-
5 ING GROWTH COMPANIES” and inserting
6 “DRAFT REGISTRATION STATEMENTS”;

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 registra-
15 tion 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, con-
20 ditions, 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.”.