

[DISCUSSION DRAFT]

118TH CONGRESS
2^D SESSION

H. R. _____

To amend the securities laws to codify certain disqualification waiver processes, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

M____ introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the securities laws to codify certain disqualification waiver processes, 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 “[To be added Act of
5 2024]”.

6 **SEC. 2. DISQUALIFICATION WAIVER PROCESS.**

7 (a) **REGULATION D DISQUALIFICATION WAIVERS.**—

8 Section 926 of the Investor Protection and Securities Re-
9 form Act of 2010 (15 U.S.C. 77d note) is amended—

1 (1) by striking “Not later than” and inserting
2 the following:

3 “(a) IN GENERAL.—Not later than”; and

4 (2) by adding at the end the following:

5 “(b) WAIVER.—With respect to a disqualification de-
6 scribed under the rules issued by the Commission to carry
7 out subsection (a), the Commission shall provide a person
8 with a waiver from the application of such rules upon—

9 “(1) a showing of good cause and without prej-
10 udice to any other action by the Commission; or

11 “(2) written notice to the Commission by the
12 entity that took the action giving rise to the dis-
13 qualification that the disqualification should not
14 apply.”.

15 (b) WELL-KNOWN SEASONED ISSUER DISQUALIFICA-
16 TION WAIVERS.—

17 (1) IN GENERAL.—The Investor Protection and
18 Securities Reform Act of 2010 is amended by insert-
19 ing after section 926 the following:

20 **“SEC. 926A. SECURITIES AND EXCHANGE COMMISSION DIS-**
21 **QUALIFICATION WAIVERS.**

22 “(a) IN GENERAL.—The Commission shall provide a
23 person with a waiver from the application of a covered
24 bad actor rule upon—

1 “(1) a showing of good cause and without prej-
2 udice to any other action by the Commission; or

3 “(2) in the case of an entity that made a final
4 order or conviction to which a covered bad actor rule
5 would apply, written notice by the entity that such
6 covered bad actor rule should not apply with respect
7 to such order or conviction.

8 “(b) COVERED BAD ACTOR RULE DEFINED.—In this
9 section, the term ‘covered bad actor rule’ means the fol-
10 lowing:

11 “(1) REGULATION D.—The disqualification
12 rules issued pursuant to section 926.

13 “(2) WELL-KNOWN SEASONED ISSUER.—The
14 disqualification of an issuer from being a well-known
15 seasoned issuer under section 230.405 of title 17,
16 Code of Federal Regulations, by reason of being an
17 ineligible issuer under such section 230.405.”.

18 (2) CLERICAL AMENDMENT.—The table of con-
19 tents in section 1(b) of the Dodd-Frank Wall Street
20 Reform and Consumer Protection Act is amended by
21 inserting after the item related to section 926 the
22 following:

“926A. Securities and Exchange Commission disqualification waivers.”.

23 (c) DISQUALIFICATION WAIVERS RELATED TO IN-
24 VESTMENT COMPANIES.—Section 9(c) of the Investment

1 Company Act of 1940 (15 U.S.C. 80a–9(e)) is amended
2 to read as follows:

3 “(c) The Commission shall provide a person with a
4 waiver from the application of subsection (a) upon a show-
5 ing of good cause and without prejudice to any other ac-
6 tion by the Commission or, in the case of an order de-
7 scribed in subsection (a), a written notice by the entity
8 that issued such order that subsection (a) should not apply
9 with respect to such order.”.

10 (d) DISQUALIFICATION WAIVERS RELATED TO STAT-
11 UTORY DISQUALIFICATIONS UNDER THE SECURITIES EX-
12 CHANGE ACT OF 1934.—Section 3 of the Securities Ex-
13 change Act of 1934 (15 U.S.C. 78c) is amended—

14 (1) in subsection (a)(39), by striking “A per-
15 son” and inserting “Subject to subsection (i), a per-
16 son”; and

17 (2) by adding at the end the following:

18 “(i) WAIVERS REGARDING CERTAIN STATUTORY
19 DISQUALIFICATIONS.—The Commission shall provide a
20 person with a waiver from the application of a statutory
21 disqualification described under subsection (a)(39)(F)
22 upon—

23 “(1) in the case of a statutory disqualification
24 involving a final order or finding by an entity other
25 than the Commission, written notice to the Commis-

1 sion by the entity that the statutory disqualification
2 should not apply;

3 “(2) in the case of a statutory disqualification
4 involving a conviction or enjoinder by a court, writ-
5 ten notice to the Commission by the court that the
6 statutory disqualification should not apply; and

7 “(3) in the case of a statutory disqualification
8 not described under paragraph (1) or (2), a showing
9 of good cause and without prejudice to any other ac-
10 tion by the Commission.”.

11 (e) SENSE OF CONGRESS.—It is the sense of Con-
12 gress that the Securities and Exchange Commission
13 should, when carrying out enforcement actions that do not
14 seek to restrict or disqualify a person pursuant to section
15 926 of the Investor Protection and Securities Reform Act
16 of 2010, a covered bad actor rule (as defined in section
17 926A of such Act, as added by this Act), section 9(a) of
18 the Investment Company Act of 1940 (15 U.S.C. 80a-
19 9(c)), or section 3 of the Securities Exchange Act of 1934
20 (15 U.S.C. 78c), issue a waiver with respect to the applica-
21 tion of such sections and rules, as applicable.

1 **SEC. 3. CONTEMPORANEOUS SETTLEMENT OFFERS AND**
2 **WAIVER REQUESTS.**

3 Section 21 of the Securities Exchange Act of 1934
4 (15 U.S.C. 78u) is amended by adding at the end the fol-
5 lowing:

6 “(j) CONTEMPORANEOUS SETTLEMENT OFFERS AND
7 WAIVER REQUESTS.—In the case of an alleged violation
8 of the securities laws, the Commission may make or con-
9 sider, as a single recommendation from the staff of the
10 Commission or disposition proposal by a potential re-
11 spondent or defendant, an offer of settlement regarding
12 such violation that includes, as a condition, the successful
13 negotiation of a disqualification waiver request with all rel-
14 evant divisions of the Commission.”.