

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 2799
OFFERED BY MR. MCHENRY OF NORTH
CAROLINA**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

2 (a) SHORT TITLE.—This Act may be cited as the
3 “Expanding Access to Capital Act of 2023”.

4 (b) TABLE OF CONTENTS.—The table of contents for
5 this Act is as follows:

Sec. 1. Short title; table of contents.

DIVISION A—STRENGTHENING PUBLIC MARKETS

TITLE I—REMOVE ABERRATIONS IN THE MARKET CAP TEST FOR
TARGET COMPANY FINANCIAL STATEMENTS

Sec. 1101. Avoiding aberrational results in requirements for acquisition and disposition financial statements.

TITLE II—HELPING STARTUPS CONTINUE TO GROW

Sec. 1201. Short title.

Sec. 1202. Emerging growth company criteria.

TITLE III—SEC AND PCAOB AUDITOR REQUIREMENTS FOR
NEWLY PUBLIC COMPANIES

Sec. 1301. Auditor independence for certain past audits occurring before an issuer is a public company.

TITLE IV—EXPAND THE PROTECTION FOR RESEARCH REPORTS
TO COVER ALL SECURITIES OF ALL ISSUERS

Sec. 1401. Provision of research.

TITLE V—EXCLUDE QIBS AND IAAS FROM THE RECORD HOLDER
COUNT FOR MANDATORY REGISTRATION

Sec. 1501. Exclusions from mandatory registration threshold.

TITLE VI—EXPAND WKSI ELIGIBILITY

Sec. 1601. Definition of well-known seasoned issuer.

TITLE VII—SMALLER REPORTING COMPANY, ACCELERATED
FILER, AND LARGE ACCELERATED FILER THRESHOLDS

Sec. 1701. Smaller reporting company, accelerated filer, and large accelerated
filer thresholds.

DIVISION B—HELPING SMALL BUSINESSES AND
ENTREPRENEURS

TITLE I—UNLOCKING CAPITAL FOR SMALL BUSINESSES

Sec. 2101. Short title.

Sec. 2102. Safe harbors for private placement brokers and finders.

Sec. 2103. Limitations on State law.

TITLE II—SMALL BUSINESS INVESTOR CAPITAL ACCESS

Sec. 2201. Short title.

Sec. 2202. Inflation adjustment for the exemption threshold for certain invest-
ment advisers of private funds.

TITLE III—IMPROVING CAPITAL ALLOCATION FOR NEWCOMERS

Sec. 2301. Short title.

Sec. 2302. Qualifying venture capital funds.

TITLE IV—SMALL ENTREPRENEURS' EMPOWERMENT AND
DEVELOPMENT

Sec. 2401. Short title.

Sec. 2402. Micro-offering exemption.

TITLE V—REGULATION A+ IMPROVEMENT

Sec. 2501. Short title.

Sec. 2502. JOBS Act-related exemption.

TITLE VI—DEVELOPING AND EMPOWERING OUR ASPIRING
LEADERS

Sec. 2601. Short title.

Sec. 2602. Definitions.

Sec. 2603. Reports.

TITLE VII—IMPROVING CROWDFUNDING OPPORTUNITIES

Sec. 2701. Short title.

Sec. 2702. Crowdfunding revisions.

TITLE VIII—RESTORING THE SECONDARY TRADING MARKET

Sec. 2801. Short title.

Sec. 2802. Exemption from State regulation.

DIVISION C—INCREASING ACCESS TO PRIVATE MARKETS

TITLE I—GIG WORKER EQUITY COMPENSATION

- Sec. 3101. Short title.
- Sec. 3102. Extension of Rule 701.
- Sec. 3103. Preemption of certain provisions of State law.
- Sec. 3104. GAO study.

TITLE II—INVESTMENT OPPORTUNITY EXPANSION

- Sec. 3201. Short title.
- Sec. 3202. Investment thresholds to qualify as an accredited investor.

TITLE III—RISK DISCLOSURE AND INVESTOR ATTESTATION

- Sec. 3301. Short title.
- Sec. 3302. Investor attestation.

TITLE IV—ACCREDITED INVESTORS INCLUDE INDIVIDUALS
RECEIVING ADVICE FROM CERTAIN PROFESSIONALS

- Sec. 3401. Accredited investors include individuals receiving advice from certain professionals.

1 **DIVISION A—STRENGTHENING**
2 **PUBLIC MARKETS**
3 **TITLE I—REMOVE ABERRATIONS**
4 **IN THE MARKET CAP TEST**
5 **FOR TARGET COMPANY FI-**
6 **NANCIAL STATEMENTS**

7 **SEC. 1101. AVOIDING ABERRATIONAL RESULTS IN RE-**
8 **QUIREMENTS FOR ACQUISITION AND DIS-**
9 **POSITION FINANCIAL STATEMENTS.**

10 The Securities and Exchange Commission shall revise
11 section 210.1–02(w)(1)(i)(A) of title 17, Code of Federal
12 Regulations, to permit a registrant, in determining the
13 significance of an acquisition or disposition described in
14 such section 210.1–02(w)(1)(i)(A), to calculate the reg-
15 istrant’s aggregate worldwide market value based on the

1 applicable trading value, conversion value, or exchange
2 value of all of the registrant’s outstanding classes of stock
3 (including preferred stock and non-traded common shares
4 that are convertible into or exchangeable for traded com-
5 mon shares) and not just the voting and non-voting com-
6 mon equity of the registrant.

7 **TITLE II—HELPING STARTUPS** 8 **CONTINUE TO GROW**

9 **SEC. 1201. SHORT TITLE.**

10 This title may be cited as the “Helping Startups Con-
11 tinue To Grow Act”.

12 **SEC. 1202. EMERGING GROWTH COMPANY CRITERIA.**

13 (a) SECURITIES ACT OF 1933.—Section 2(a)(19) of
14 the Securities Act of 1933 (15 U.S.C. 77b(a)(19)) is
15 amended—

16 (1) by striking “\$1,000,000,000” each place
17 such term appears and inserting “\$1,500,000,000”;

18 (2) in subparagraph (B)—

19 (A) by striking “fifth” and inserting “7-
20 year”; and

21 (B) by adding “or” at the end;

22 (3) in subparagraph (C), by striking “; or” and
23 inserting a period; and

24 (4) by striking subparagraph (D).

1 (b) SECURITIES EXCHANGE ACT OF 1934.—Section
2 3(a) of the Securities Exchange Act of 1934 (15 U.S.C.
3 78c(a)) is amended, in the first paragraph (80) (related
4 to emerging growth companies)—

5 (1) by striking “\$1,000,000,000” each place
6 such term appears and inserting “\$1,500,000,000”;

7 (2) in subparagraph (B)—

8 (A) by striking “fifth” and inserting “7-
9 year”; and

10 (B) by adding “or” at the end;

11 (3) in subparagraph (C), by striking “; or” and
12 inserting a period; and

13 (4) by striking subparagraph (D).

14 **TITLE III—SEC AND PCAOB**
15 **AUDITOR REQUIREMENTS**
16 **FOR NEWLY PUBLIC COMPA-**
17 **NIES**

18 **SEC. 1301. AUDITOR INDEPENDENCE FOR CERTAIN PAST**
19 **AUDITS OCCURRING BEFORE AN ISSUER IS A**
20 **PUBLIC COMPANY.**

21 (a) AUDITOR INDEPENDENCE STANDARDS OF THE
22 PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD.—
23 Section 103 of the Sarbanes-Oxley Act of 2002 (15 U.S.C.
24 7213) is amended by adding at the end the following:

1 “(e) AUDITOR INDEPENDENCE FOR CERTAIN PAST
2 AUDITS OCCURRING BEFORE AN ISSUER IS A PUBLIC
3 COMPANY.—With respect to an issuer that is a public
4 company or an issuer that has filed a registration state-
5 ment to become a public company, the auditor independ-
6 ence rules established by the Board with respect to audits
7 occurring before the last fiscal year of the issuer completed
8 before the issuer filed a registration statement to become
9 a public company shall treat an auditor as independent
10 if—

11 “(1) the auditor is independent under standards
12 established by the American Institute of Certified
13 Public Accountants applicable to certified public ac-
14 countants in United States; or

15 “(2) with respect to a foreign issuer, the audi-
16 tor is independent under comparable standards ap-
17 plicable to certified public accountants in the issuer’s
18 home country.”.

19 (b) AUDITOR INDEPENDENCE STANDARDS OF THE
20 SECURITIES AND EXCHANGE COMMISSION.—Section 10A
21 of the Securities Exchange Act of 1934 (15 U.S.C. 78j–
22 1) is amended by adding at the end the following:

23 “(n) AUDITOR INDEPENDENCE FOR CERTAIN PAST
24 AUDITS OCCURRING BEFORE AN ISSUER IS A PUBLIC
25 COMPANY.—With respect to an issuer that is a public

1 company or an issuer that has filed a registration state-
2 ment to become a public company, the auditor independ-
3 ence rules established by the Commission under the securi-
4 ties laws with respect to audits occurring before the last
5 fiscal year of the issuer completed before the issuer filed
6 a registration statement to become a public company shall
7 treat an auditor as independent if—

8 “(1) the auditor is independent under standards
9 established by the American Institute of Certified
10 Public Accountants applicable to certified public ac-
11 countants in United States; or

12 “(2) with respect to a foreign issuer, the audi-
13 tor is independent under comparable standards ap-
14 plicable to certified public accountants in the issuer’s
15 home country.”.

16 **TITLE IV—EXPAND THE PROTEC-**
17 **TION FOR RESEARCH RE-**
18 **PORTS TO COVER ALL SECU-**
19 **RITIES OF ALL ISSUERS**

20 **SEC. 1401. PROVISION OF RESEARCH.**

21 Section 2(a)(3) of the Securities Act of 1933 (15
22 U.S.C. 77b(a)(3)) is amended—

23 (a) by striking “an emerging growth company” and
24 inserting “an issuer”;

1 (b) by striking “the common equity” and inserting
2 “any”; and

3 (c) by striking “such emerging growth company” and
4 inserting “such issuer”.

5 **TITLE V—EXCLUDE QIBS AND**
6 **IAAS FROM THE RECORD**
7 **HOLDER COUNT FOR MANDA-**
8 **TORY REGISTRATION**

9 **SEC. 1501. EXCLUSIONS FROM MANDATORY REGISTRATION**
10 **THRESHOLD.**

11 (a) IN GENERAL.—Section 12(g)(1) of the Securities
12 Exchange Act of 1934 (15 U.S.C. 78l(g)(1)) is amended—

13 (1) in subparagraph (A)(i), by inserting after
14 “persons” the following: “(that are not a qualified
15 institutional buyer or an institutional accredited in-
16 vestor)”; and

17 (2) in subparagraph (B), by inserting after
18 “persons” the following: “(that are not a qualified
19 institutional buyer or an institutional accredited in-
20 vestor)”.

21 (b) NONAPPLICABILITY OF GENERAL EXEMPTIVE
22 AUTHORITY.—Section 36 of the Securities Exchange Act
23 of 1934 (15 U.S.C. 78mm) shall not apply to the matter
24 inserted by the amendments made by subsection (a).

1 **TITLE VI—EXPAND WKSI**
2 **ELIGIBILITY**

3 **SEC. 1601. DEFINITION OF WELL-KNOWN SEASONED**
4 **ISSUER.**

5 For purposes of the Federal securities laws, and reg-
6 ulations issued thereunder, an issuer shall be a “well-
7 known seasoned issuer” if—

8 (1) the aggregate market value of the voting
9 and non-voting common equity held by non-affiliates
10 of the issuer is \$250,000,000 or more (as deter-
11 mined under Form S-3 general instruction I.B.1. as
12 in effect on the date of enactment of this Act); and

13 (2) the issuer otherwise satisfies the require-
14 ments of the definition of “well-known seasoned
15 issuer” contained in section 230.405 of title 17,
16 Code of Federal Regulations without reference to
17 any requirement in such definition relating to min-
18 imum worldwide market value of outstanding voting
19 and non-voting common equity held by non-affiliates.

1 **TITLE VII—SMALLER REPORT-**
2 **ING COMPANY, ACCELER-**
3 **ATED FILER, AND LARGE AC-**
4 **CELERATED FILER THRESH-**
5 **OLDS**

6 **SEC. 1701. SMALLER REPORTING COMPANY, ACCELERATED**
7 **FILER, AND LARGE ACCELERATED FILER**
8 **THRESHOLDS.**

9 (a) SMALLER REPORTING COMPANIES.—

10 (1) IN GENERAL.—The Securities and Ex-
11 change Commission shall revise the definition of a
12 “smaller reporting company” under section
13 229.10(f)(1) of title 17, Code of Federal Regula-
14 tions—

15 (A) in paragraph (i), by adjusting the pub-
16 lic float threshold from \$250,000,000 to
17 \$500,000,000; and

18 (B) in paragraph (ii)—

19 (i) by adjusting the annual revenue
20 threshold from \$100,000,000 to
21 \$250,000,000; and

22 (ii) in paragraph (B), by adjusting the
23 public float threshold from \$700,000,000
24 to \$900,000,000.

1 (2) USE OF THREE-YEAR ROLLING AVERAGE
2 ANNUAL REVENUES.—The Securities and Exchange
3 Commission shall revise paragraphs (1)(ii) and
4 (2)(iii)(B) under the definition of “smaller reporting
5 company” under section 229.10(f)(1) of title 17,
6 Code of Federal Regulations, by substituting “three-
7 year rolling average annual revenues” for “annual
8 revenues”.

9 (3) CONFORMING CHANGES.—The Securities
10 and Exchange Commission shall revise the definition
11 of a “smaller reporting company” under sections
12 230.405 and 240.12b–2 of title 17, Code of Federal
13 Regulations, and any other rule of the Commission
14 in the same manner as such definition is revised
15 under paragraphs (1) and (2).

16 (b) ACCELERATED FILERS AND LARGE ACCELER-
17 ATED FILERS.—

18 (1) LARGE ACCELERATED FILER.—The Securi-
19 ties and Exchange Commission shall revise the defi-
20 nition of a “large accelerated filer” under section
21 240.12b–2(2) of title 17, Code of Federal Regula-
22 tions, to increase the threshold amount (for the ag-
23 gregate worldwide market value of the voting and
24 non-voting common equity held by non-affiliates of
25 an issuer) from \$700,000,000 to \$750,000,000.

1 (2) THRESHOLD TO EXIT ACCELERATED FILER
2 STATUS.—The Securities and Exchange Commission
3 shall revise section 240.12b–2(3)(ii) of title 17, Code
4 of Federal Regulations, to increase the threshold
5 amount (for the aggregate worldwide market value
6 of the voting and non-voting common equity held by
7 non-affiliates of an issuer) at which an issuer is no
8 longer an accelerated filer from \$60,000,000 to
9 \$75,000,000.

10 (3) THRESHOLD TO EXIT LARGE ACCELERATED
11 FILER STATUS.—The Securities and Exchange Com-
12 mission shall revise section 240.12b–2(3)(iii) of title
13 17, Code of Federal Regulations, to increase the
14 threshold amount (for the aggregate worldwide mar-
15 ket value of the voting and non-voting common eq-
16 uity held by non-affiliates of an issuer) at which an
17 issuer is no longer a large accelerated filer from
18 \$560,000,000 to \$750,000,000.

19 (4) EXCLUSION OF SMALLER REPORTING COM-
20 PANIES.—The Securities and Exchange Commission
21 shall revise the definitions of an “accelerated filer”
22 and a “large accelerated filer” under paragraphs (1)
23 and (2) of section 240.12b–2 of title 17, Code of
24 Federal Regulations, respectively, to exclude any
25 issuer that is a smaller reporting company, as de-

1 fined under section 229.10(f)(1) of title 17, Code of
2 Federal Regulations.

3 **DIVISION B—HELPING SMALL**
4 **BUSINESSES AND ENTRE-**
5 **PRENEURS**

6 **TITLE I—UNLOCKING CAPITAL**
7 **FOR SMALL BUSINESSES**

8 **SEC. 2101. SHORT TITLE.**

9 This title may be cited as the “Unlocking Capital for
10 Small Businesses Act of 2023”.

11 **SEC. 2102. SAFE HARBORS FOR PRIVATE PLACEMENT BRO-**
12 **KERS AND FINDERS.**

13 (a) IN GENERAL.—Section 15 of the Securities Ex-
14 change Act of 1934 (15 U.S.C. 78o) is amended by adding
15 at the end the following:

16 “(p) PRIVATE PLACEMENT BROKER SAFE HAR-
17 BOR.—

18 “(1) REGISTRATION REQUIREMENTS.—Not
19 later than 180 days after the date of the enactment
20 of this subsection the Commission shall promulgate
21 regulations with respect to private placement brokers
22 that are no more stringent than those imposed on
23 funding portals.

24 “(2) NATIONAL SECURITIES ASSOCIATIONS.—
25 Not later than 180 days after the date of the enact-

1 ment of this subsection the Commission shall pro-
2 mulgate regulations that require the rules of any na-
3 tional securities association to allow a private place-
4 ment broker to become a member of such national
5 securities association subject to reduced membership
6 requirements consistent with this subsection.

7 “(3) DISCLOSURES REQUIRED.—Before effect-
8 ing a transaction, a private placement broker shall
9 disclose clearly and conspicuously, in writing, to all
10 parties to the transaction as a result of the broker’s
11 activities—

12 “(A) that the broker is acting as a private
13 placement broker;

14 “(B) the amount of any payment or antici-
15 pated payment for services rendered as a pri-
16 vate placement broker in connection with such
17 transaction;

18 “(C) the person to whom any such pay-
19 ment is made;

20 “(D) any beneficial interest in the issuer,
21 direct or indirect, of the private placement
22 broker, of a member of the immediate family of
23 the private placement broker, of an associated
24 person of the private placement broker, or of a

1 member of the immediate family of such associ-
2 ated person.

3 “(4) PRIVATE PLACEMENT BROKER DE-
4 FINED.—In this subsection, the term ‘private place-
5 ment broker’ means a person that—

6 “(A) receives transaction-based compensa-
7 tion—

8 “(i) for effecting a transaction by—

9 “(I) introducing an issuer of se-
10 curities and a buyer of such securities
11 in connection with the sale of a busi-
12 ness effected as the sale of securities;
13 or

14 “(II) introducing an issuer of se-
15 curities and a buyer of such securities
16 in connection with the placement of
17 securities in transactions that are ex-
18 empt from registration requirements
19 under the Securities Act of 1933; and

20 “(ii) that is not with respect to—

21 “(I) a class of publicly traded se-
22 curities;

23 “(II) the securities of an invest-
24 ment company (as defined in section 3

1 of the Investment Company Act of
2 1940); or

3 “(III) a variable or equity-in-
4 dexed annuity or other variable or eq-
5 uity-indexed life insurance product;

6 “(B) with respect to a transaction for
7 which such transaction-based compensation is
8 received—

9 “(i) does not handle or take posses-
10 sion of the funds or securities; and

11 “(ii) does not engage in an activity
12 that requires registration as an investment
13 adviser under State or Federal law; and

14 “(C) is not a finder as defined under sub-
15 section (q).

16 “(q) FINDER SAFE HARBOR.—

17 “(1) NONREGISTRATION.—A finder is exempt
18 from the registration requirements of this Act.

19 “(2) NATIONAL SECURITIES ASSOCIATIONS.—A
20 finder shall not be required to become a member of
21 any national securities association.

22 “(3) FINDER DEFINED.—In this subsection, the
23 term ‘finder’ means a person described in para-
24 graphs (A) and (B) of subsection (p)(4) that—

1 “(A) receives transaction-based compensa-
2 tion of equal to or less than \$500,000 in any
3 calendar year;

4 “(B) receives transaction-based compensa-
5 tion in connection with transactions that result
6 in a single issuer selling securities valued at
7 equal to or less than \$15 million in any cal-
8 endar year;

9 “(C) receives transaction-based compensa-
10 tion in connection with transactions that result
11 in any combination of issuers selling securities
12 valued at equal to or less than \$30 million in
13 any calendar year; or

14 “(D) receives transaction-based compensa-
15 tion in connection with fewer than 16 trans-
16 actions that are not part of the same offering
17 or are otherwise unrelated in any calendar
18 year.”.

19 (b) VALIDITY OF CONTRACTS WITH REGISTERED
20 PRIVATE PLACEMENT BROKERS AND FINDERS.—Section
21 29 of the Securities Exchange Act of 1934 (15 U.S.C.
22 78cc) is amended by adding at the end the following:

23 “(d) Subsection (b) shall not apply to a contract
24 made for a transaction if—

1 “(1) the transaction is one in which the issuer
2 engaged the services of a broker or dealer that is not
3 registered under this Act with respect to such trans-
4 action;

5 “(2) such issuer received a self-certification
6 from such broker or dealer certifying that such
7 broker or dealer is a registered private placement
8 broker under section 15(p) or a finder under section
9 15(q); and

10 “(3) the issuer either did not know that such
11 self-certification was false or did not have a reason-
12 able basis to believe that such self-certification was
13 false.”.

14 (c) REMOVAL OF PRIVATE PLACEMENT BROKERS
15 FROM DEFINITIONS OF BROKER.—

16 (1) RECORDS AND REPORTS ON MONETARY IN-
17 STRUMENTS TRANSACTIONS.—Section 5312 of title
18 31, United States Code, is amended in subsection
19 (a)(2)(G) by inserting “with the exception of a pri-
20 vate placement broker as defined in section 15(p)(4)
21 of the Securities Exchange Act of 1934 (15 U.S.C.
22 78o(p)(4))” before the semicolon at the end.

23 (2) SECURITIES EXCHANGE ACT OF 1934.—Sec-
24 tion 3(a)(4) of the Securities Exchange Act of 1934

1 (15 U.S.C. 78c(a)(4)) is amended by adding at the
2 end the following:

3 “(G) PRIVATE PLACEMENT BROKERS.—A
4 private placement broker as defined in section
5 15(p)(4) is not a broker for the purposes of this
6 Act.”.

7 **SEC. 2103. LIMITATIONS ON STATE LAW.**

8 Section 15(i) of the Securities Exchange Act of 1934
9 (15 U.S.C. 78o(i)) is amended—

10 (1) by redesignating paragraphs (3) and (4) as
11 paragraphs (4) and (5), respectively;

12 (2) by inserting after paragraph (2) the fol-
13 lowing:

14 “(3) PRIVATE PLACEMENT BROKERS AND FIND-
15 ERS.—

16 “(A) IN GENERAL.—No State or political
17 subdivision thereof may enforce any law, rule,
18 regulation, or other administrative action that
19 imposes greater registration, audit, financial
20 recordkeeping, or reporting requirements on a
21 private placement broker or finder than those
22 that are required under subsections (p) and (q),
23 respectively.

24 “(B) DEFINITION OF STATE.—For pur-
25 poses of this paragraph, the term ‘State’ in-

1 cludes the District of Columbia and each terri-
2 tory of the United States.”; and

3 (3) in paragraph (4), as so redesignated, by
4 striking “paragraph (3)” and inserting “paragraph
5 (5)”.

6 **TITLE II—SMALL BUSINESS**
7 **INVESTOR CAPITAL ACCESS**

8 **SEC. 2201. SHORT TITLE.**

9 This title may be cited as the “Small Business Inves-
10 tor Capital Access Act”.

11 **SEC. 2202. INFLATION ADJUSTMENT FOR THE EXEMPTION**
12 **THRESHOLD FOR CERTAIN INVESTMENT AD-**
13 **VISERS OF PRIVATE FUNDS.**

14 Section 203(m) of the Investment Advisers Act of
15 1940 (15 U.S.C. 80b–3(m)) is amended by adding at the
16 end the following:

17 “(5) INFLATION ADJUSTMENT.—The Commis-
18 sion shall adjust the dollar amount described under
19 paragraph (1)—

20 “(A) upon enactment of this paragraph, to
21 reflect the change in the Consumer Price Index
22 for All Urban Consumers published by the Bu-
23 reau of Labor Statistics of the Department of
24 Labor between the date of enactment of the
25 Private Fund Investment Advisers Registration

1 Act of 2010 and the date of enactment of this
2 paragraph; and

3 “(B) annually thereafter, to reflect the
4 change in the Consumer Price Index for All
5 Urban Consumers published by the Bureau of
6 Labor Statistics of the Department of Labor.”.

7 **TITLE III—IMPROVING CAPITAL**
8 **ALLOCATION FOR NEWCOMERS**

9 **SEC. 2301. SHORT TITLE.**

10 This title may be cited as the “Improving Capital Al-
11 location for Newcomers Act of 2023”.

12 **SEC. 2302. QUALIFYING VENTURE CAPITAL FUNDS.**

13 Section 3(c)(1) of the Investment Company Act of
14 1940 (15 U.S.C. 80a–3(c)(1)) is amended—

15 (1) in the matter preceding subparagraph (A),
16 by striking “250 persons” and inserting “600 per-
17 sons”; and

18 (2) in subparagraph (C)(i), by striking
19 “\$10,000,000” and inserting “\$150,000,000”.

1 **TITLE IV—SMALL ENTRE-**
2 **PRENEURS’ EMPOWERMENT**
3 **AND DEVELOPMENT**

4 **SEC. 2401. SHORT TITLE.**

5 This title may be cited as the “Small Entrepreneurs’
6 Empowerment and Development Act of 2023” or the
7 “SEED Act of 2023”.

8 **SEC. 2402. MICRO-OFFERING EXEMPTION.**

9 (a) IN GENERAL.—Section 4 of the Securities Act of
10 1933 (15 U.S.C. 77d) is amended—

11 (1) in subsection (a), by adding at the end the
12 following:

13 “(8) transactions meeting the requirements of
14 subsection (f).”; and

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

16 “(f) MICRO-OFFERINGS.—The transactions referred
17 to in subsection (a)(8) are transactions involving the sale
18 of securities by an issuer (including all entities controlled
19 by or under common control with the issuer) where the
20 aggregate amount of all securities sold by the issuer, in-
21 cluding any amount sold in reliance on the exemption pro-
22 vided under subsection (a)(8), during the 12-month period
23 preceding such transaction, does not exceed \$250,000.”.

24 (b) DISQUALIFICATION.—

1 (1) IN GENERAL.—Not later than 270 days
2 after the date of enactment of this Act, the Securi-
3 ties and Exchange Commission shall, by rule, estab-
4 lish disqualification provisions under which an issuer
5 shall not be eligible to offer securities pursuant to
6 section 4(a)(8) of the Securities Act of 1933, as
7 added by this section.

8 (2) INCLUSIONS.—Disqualification provisions
9 required by this subsection shall—

10 (A) be substantially similar to the provi-
11 sions of section 230.506(d) of title 17, Code of
12 Federal Regulations (or any successor thereto);
13 and

14 (B) disqualify any offering or sale of secu-
15 rities by a person that—

16 (i) is subject to a final order of a cov-
17 ered regulator that—

18 (I) bars the person from—

19 (aa) association with an en-
20 tity regulated by the covered reg-
21 ulator;

22 (bb) engaging in the busi-
23 ness of securities, insurance, or
24 banking; or

1 (cc) engaging in savings as-
2 sociation or credit union activi-
3 ties; or

4 (II) constitutes a final order
5 based on a violation of any law or reg-
6 ulation that prohibits fraudulent, ma-
7 nipulative, or deceptive conduct, if
8 such final order was issued within the
9 previous 10-year period; or

10 (ii) has been convicted of any felony
11 or misdemeanor in connection with the
12 purchase or sale of any security or involv-
13 ing the making of any false filing with the
14 Commission.

15 (3) COVERED REGULATOR DEFINED.—In this
16 subsection, the term “covered regulator” means—

17 (A) a State securities commission (or an
18 agency or officer of a State performing like
19 functions);

20 (B) a State authority that supervises or
21 examines banks, savings associations, or credit
22 unions;

23 (C) a State insurance commission (or an
24 agency or officer of a State performing like
25 functions);

1 (D) a Federal banking agency (as defined
2 under section 3 of the Federal Deposit Insur-
3 ance Act); and

4 (E) the National Credit Union Administra-
5 tion.

6 (c) EXEMPTION UNDER STATE REGULATIONS.—Sec-
7 tion 18(b)(4) of the Securities Act of 1933 (15 U.S.C.
8 77r(b)(4)) is amended—

9 (1) in subparagraph (F), by striking “or” at
10 the end;

11 (2) in subparagraph (G), by striking the period
12 and inserting “; or”; and

13 (3) by adding at the end the following:

14 “(H) section 4(a)(8).”.

15 **TITLE V—REGULATION A+** 16 **IMPROVEMENT**

17 **SEC. 2501. SHORT TITLE.**

18 This title may be cited as the “Regulation A+ Im-
19 provement Act of 2023”.

20 **SEC. 2502. JOBS ACT-RELATED EXEMPTION.**

21 Section 3(b) of the Securities Act of 1933 (15 U.S.C.
22 77c(b)) is amended—

23 (1) in paragraph (2)(A), by striking
24 “\$50,000,000” and inserting “\$150,000,000, ad-
25 justed for inflation by the Commission every 2 years

1 to the nearest \$10,000 to reflect the change in the
2 Consumer Price Index for All Urban Consumers
3 published by the Bureau of Labor Statistics”; and

4 (2) in paragraph (5)—

5 (A) by striking “such amount as” and in-
6 serting: “such amount, in addition to the ad-
7 justment for inflation provided for under such
8 paragraph (2)(A), as”; and

9 (B) by striking “such amount, it” and in-
10 serting “such amount, in addition to the adjust-
11 ment for inflation provided for under such
12 paragraph (2)(A), it”.

13 **TITLE VI—DEVELOPING AND EM-**
14 **POWERING OUR ASPIRING**
15 **LEADERS**

16 **SEC. 2601. SHORT TITLE.**

17 This title may be cited as the “Developing and Em-
18 powering our Aspiring Leaders Act of 2023” or the
19 “DEAL Act of 2023”.

20 **SEC. 2602. DEFINITIONS.**

21 Not later than the end of the 180-day period begin-
22 ning on the date of the enactment of this Act, the Securi-
23 ties and Exchange Commission shall, to the extent such
24 revisions facilitate capital formation without compro-
25 mising investor protection—

1 (1) revise the definition of a qualifying invest-
2 ment under paragraph (c) of section 275.203(l)-1 of
3 title 17, Code of Federal Regulations—

4 (A) to include an equity security issued by
5 a qualifying portfolio company, whether ac-
6 quired directly from the company or in a sec-
7 ondary acquisition; and

8 (B) to specify that an investment in an-
9 other venture capital fund is a qualifying in-
10 vestment under such definition; and

11 (2) revise paragraph (a) of such section to re-
12 quire, as a condition of a private fund qualifying as
13 a venture capital fund under such paragraph, that
14 the qualifying investments of the private fund are ei-
15 ther—

16 (A) predominantly qualifying investments
17 that were acquired directly from a qualifying
18 portfolio company; or

19 (B) predominantly qualifying investments
20 in another venture capital fund or other venture
21 capital funds.

22 **SEC. 2603. REPORTS.**

23 (a) GAO REPORT.—The Comptroller General of the
24 United States shall issue a report to Congress on the risks
25 and impacts of concentrated sectoral counterparty risk in

1 the banking sector, in light of the failure of Silicon Valley
2 Bank.

3 (b) ADVOCATE FOR SMALL BUSINESS CAPITAL FOR-
4 MATION REPORT.—The Advocate for Small Business Cap-
5 ital Formation shall issue a report to Congress and the
6 Securities and Exchange Commission—

7 (1) examining the access to banking services for
8 venture funds and companies funded by venture cap-
9 ital, in light of the failure of Silicon Valley Bank, es-
10 pecially those funds and companies located outside
11 of the established technology and venture capital
12 hubs of California, Massachusetts, and New York;
13 and

14 (2) containing any policy recommendations of
15 the Advocate.

16 **TITLE VII—IMPROVING**
17 **CROWDFUNDING OPPORTUNI-**
18 **TIES**

19 **SEC. 2701. SHORT TITLE.**

20 This title may be cited as the “Improving
21 Crowdfunding Opportunities Act”.

22 **SEC. 2702. CROWDFUNDING REVISIONS.**

23 (a) EXEMPTION FROM STATE REGULATION.—Sec-
24 tion 18(b)(4)(A) of the Securities Act of 1933 (15 U.S.C.
25 77r(b)(4)(A)) is amended by striking “pursuant to sec-

1 tion” and all that follows through the semicolon at the
2 end and inserting the following: “pursuant to—

3 “(i) section 13 or 15(d) of the Securi-
4 ties Exchange Act of 1934 (15 U.S.C.
5 78m, 78o(d)); or

6 “(ii) section 4A(b) or any regulation
7 issued under that section;”.

8 (b) LIABILITY FOR MATERIAL MISSTATEMENTS AND
9 OMISSIONS.—Section 4A(c) of the Securities Act of 1933
10 (15 U.S.C. 77d–1(c)) is amended—

11 (1) by redesignating paragraph (3) as para-
12 graph (4); and

13 (2) by inserting after paragraph (2) the fol-
14 lowing:

15 “(3) LIABILITY OF FUNDING PORTALS.—For
16 the purposes of this subsection, a funding portal, as
17 that term is defined in section 3(a) of the Securities
18 Exchange Act of 1934 (15 U.S.C. 78e(a)), shall not
19 be considered to be an issuer unless, in connection
20 with the offer or sale of a security, the funding por-
21 tal knowingly—

22 “(A) makes any untrue statement of a ma-
23 terial fact or omits to state a material fact in
24 order to make the statements made, in light of

1 the circumstances under which they are made,
2 not misleading; or

3 “(B) engages in any act, practice, or
4 course of business which operates or would op-
5 erate as a fraud or deceit upon any person.”.

6 (c) APPLICABILITY OF BANK SECRECY ACT RE-
7 QUIREMENTS.—

8 (1) SECURITIES ACT OF 1933.—Section 4A(a) of
9 the Securities Act of 1933 (15 U.S.C. 77d–1(a)) is
10 amended—

11 (A) in paragraph (11), by striking “and”
12 at the end;

13 (B) in paragraph (12), by striking the pe-
14 riod at the end and inserting “; and”; and

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

16 “(13) not be subject to the recordkeeping and
17 reporting requirements relating to monetary instru-
18 ments under subchapter II of chapter 53 of title 31,
19 United States Code.”.

20 (2) TITLE 31, UNITED STATES CODE.—Section
21 5312 of title 31, United States Code, is amended by
22 striking subsection (c) and inserting the following:

23 “(c) ADDITIONAL CLARIFICATION.—The term ‘finan-
24 cial institution’ (as defined in subsection (a))—

1 “(1) includes any futures commission merchant,
2 commodity trading advisor, or commodity pool oper-
3 ator registered, or required to register, under the
4 Commodity Exchange Act (7 U.S.C. 1 et seq.); and

5 “(2) does not include a funding portal, as that
6 term is defined in section 3(a) of the Securities Ex-
7 change Act of 1934 (15 U.S.C. 78c(a)).”.

8 (d) PROVISION OF IMPERSONAL INVESTMENT AD-
9 VICE AND RECOMMENDATIONS.—Section 3(a) of the Secu-
10 rities Exchange Act of 1934 (15 U.S.C. 78c(a)) is amend-
11 ed—

12 (1) by redesignating the second paragraph (80)
13 (relating to funding portals) as paragraph (81); and

14 (2) in paragraph (81)(A), as so redesignated,
15 by inserting after “recommendations” the following:
16 “(other than by providing impersonal investment ad-
17 vice by means of written material, or an oral state-
18 ment, that does not purport to meet the objectives
19 or needs of a specific individual or account)”.

20 (e) TARGET AMOUNTS OF CERTAIN EXEMPTED OF-
21 FERINGS.—The Securities and Exchange Commission
22 shall amend paragraph (t)(1) of section 227.201 of title
23 17, Code of Federal Regulations so that such paragraph
24 applies with respect to an issuer offering or selling securi-

1 ties in reliance on section 4(a)(6) of the Securities Act
2 of 1933 (15 U.S.C. 77d(a)(6)) if—

3 (1) the offerings of such issuer, together with
4 all other amounts sold under such section 4(a)(6)
5 within the preceding 12-month period, have, in the
6 aggregate, a target amount of more than \$124,000
7 but not more than \$250,000;

8 (2) the financial statements of such issuer that
9 have either been reviewed or audited by a public ac-
10 countant that is independent of the issuer are un-
11 available at the time of filing; and

12 (3) such issuer provides a statement that finan-
13 cial information certified by the principal executive
14 officer of the issuer has been provided instead of fi-
15 nancial statements reviewed by a public accountant
16 that is independent of the issuer.

17 (f) EXEMPTION AVAILABLE TO INVESTMENT COMPA-
18 NIES.—Section 4A(f) of the Securities Act of 1933 (15
19 U.S.C. 77d–1(f)) is amended—

20 (1) in paragraph (2), by inserting “or” after
21 the semicolon;

22 (2) by striking paragraph (3); and

23 (3) by redesignating paragraph (4) as para-
24 graph (3).

1 (g) NON-ACCREDITED INVESTOR REQUIREMENTS.—
2 Section 4(a)(6) of the Securities Act of 1933 (15 U.S.C.
3 77d(a)(6))) is amended—

4 (1) in subparagraph (A), by striking
5 “\$1,000,000” and inserting “\$10,000,000”; and

6 (2) in subparagraph (B), by striking “does not
7 exceed” and all that follows through “more than
8 \$100,000” and inserting “does not exceed 10 per-
9 cent of the annual income or net worth of such in-
10 vestor”.

11 (h) TECHNICAL CORRECTION.—The Securities Act of
12 1933 (15 U.S.C. 77a et seq.) is amended—

13 (1) by striking the term “section 4(6)” each
14 place such term appears and inserting “section
15 4(a)(6)”; and

16 (2) by striking the term “section 4(6)(B)” each
17 place such term appears and inserting “section
18 4(a)(6)(B)”.

19 **TITLE VIII—RESTORING THE** 20 **SECONDARY TRADING MARKET**

21 **SEC. 2801. SHORT TITLE.**

22 This title may be cited as the “Restoring the Sec-
23 ondary Trading Market Act”.

1 **SEC. 2802. EXEMPTION FROM STATE REGULATION.**

2 Section 18(a) of the Securities Act of 1933 (15
3 U.S.C. 77r(b)(4)) is amended—

4 (1) in paragraph (2), by striking “or” at the
5 end;

6 (2) in paragraph (3), by striking the period at
7 the end and inserting “; or”; and

8 (3) by adding at the end the following:

9 “(4) shall directly or indirectly prohibit, limit,
10 or impose any conditions upon the off-exchange sec-
11 ondary trading (as such term is defined by the Com-
12 mission) in securities of an issuer that makes cur-
13 rent information publicly available, including—

14 “(A) the information required in the peri-
15 odic and current reports described under para-
16 graph (b) of section 230.257 of title 17, Code
17 of Federal Regulations; or

18 “(B) the documents and information re-
19 quired with respect to Tier 2 offerings, as de-
20 fined in section 230.251(a) of title 17, Code of
21 Federal Regulations.”.

1 **DIVISION C—INCREASING**
2 **ACCESS TO PRIVATE MARKETS**
3 **TITLE I—GIG WORKER EQUITY**
4 **COMPENSATION**

5 **SEC. 3101. SHORT TITLE.**

6 This title may be cited as the “Gig Worker Equity
7 Compensation Act”.

8 **SEC. 3102. EXTENSION OF RULE 701.**

9 (a) **IN GENERAL.**—The exemption provided under
10 section 230.701 of title 17, Code of Federal Regulations,
11 shall apply to individuals (other than employees) providing
12 goods for sale, labor, or services for remuneration to either
13 an issuer or to customers of an issuer to the same extent
14 as such exemptions apply to employees of the issuer. For
15 purposes of the previous sentence, the term “customers”
16 may, at the election of an issuer, include users of the
17 issuer’s platform.

18 (b) **ADJUSTMENT FOR INFLATION.**—The Securities
19 and Exchange Commission shall annually adjust the dollar
20 figure under section 230.701(e) of title 17, Code of Fed-
21 eral Regulations, to reflect the percentage change in the
22 Consumer Price Index for All Urban Consumers published
23 by the Bureau of Labor Statistics of the Department of
24 Labor.

1 (c) RULEMAKING.—The Securities and Exchange
2 Commission—

3 (1) shall revise section 230.701 of title 17,
4 Code of Federal Regulations, to reflect the require-
5 ments of this section; and

6 (2) may not revise such section 230.701 in any
7 manner that would have the effect of restricting ac-
8 cess to equity compensation for employees or individ-
9 uals described under subsection (a).

10 **SEC. 3103. PREEMPTION OF CERTAIN PROVISIONS OF**
11 **STATE LAW.**

12 Any provision of a State law with respect to wage
13 rates or benefits that creates a presumption that an indi-
14 vidual providing goods for sale, labor, or services for remu-
15 nation for a person is an employee of such person under
16 such law is preempted.

17 **SEC. 3104. GAO STUDY.**

18 Not later than the end of the 3-year period beginning
19 on the date of enactment of this Act, the Comptroller Gen-
20 eral of the United States shall carry out a study on the
21 effects of this title and submit a report on such study to
22 the Congress.

1 **TITLE II—INVESTMENT**
2 **OPPORTUNITY EXPANSION**

3 **SEC. 3201. SHORT TITLE.**

4 This title may be cited as the “Investment Oppor-
5 tunity Expansion Act”.

6 **SEC. 3202. INVESTMENT THRESHOLDS TO QUALIFY AS AN**
7 **ACCREDITED INVESTOR.**

8 Section 2(a)(15) of the Securities Act of 1933 (15
9 U.S.C. 77b(a)(15)) is amended—

10 (1) by striking “(15) The term ‘accredited in-
11 vestor’ shall mean—” and inserting the following:

12 “(15) ACCREDITED INVESTOR.—

13 “(A) IN GENERAL.—The term ‘accredited
14 investor’ means—”;

15 (2) in clause (i), by striking “or” at the end;

16 and

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

18 “(iii) with respect to a proposed trans-
19 action, any individual whose aggregate invest-
20 ment, at the completion of such transaction, in
21 securities with respect to which there has not
22 been a public offering is not more than 10 per-
23 cent of the greater of—

24 “(I) the net assets of the individual;

25 or

1 “(II) the annual income of the indi-
2 vidual;”.

3 **TITLE III—RISK DISCLOSURE**
4 **AND INVESTOR ATTESTATION**

5 **SEC. 3301. SHORT TITLE.**

6 This title may be cited as the “Risk Disclosure and
7 Investor Attestation Act”.

8 **SEC. 3302. INVESTOR ATTESTATION.**

9 (a) IN GENERAL.—Section 2(a)(15) of the Securities
10 Act of 1933 (15 U.S.C. 77b(a)(15)), as amended by sec-
11 tion 3202, is further amended by adding at the end the
12 following:

13 “(iv) with respect to an issuer, any in-
14 dividual that has attested to the issuer
15 that the individual understands the risks of
16 investment in private issuers, using such
17 form as the Commission shall establish, by
18 rule, but which form may not be longer
19 than 2 pages in length; or”.

20 (b) RULEMAKING.—Not later than the end of the 1-
21 year period beginning on the date of enactment of this
22 Act, the Securities and Exchange Commission shall issue
23 rules to carry out the amendments made by subsection (a),
24 including establishing the form required under such
25 amendments.

1 **TITLE IV—ACCREDITED INVES-**
2 **TORS INCLUDE INDIVIDUALS**
3 **RECEIVING ADVICE FROM**
4 **CERTAIN PROFESSIONALS**

5 **SEC. 3401. ACCREDITED INVESTORS INCLUDE INDIVIDUALS**
6 **RECEIVING ADVICE FROM CERTAIN PROFES-**
7 **SIONALS.**

8 (a) SECURITIES ACT OF 1933.—Section 2(a)(15) of
9 the Securities Act of 1933 (15 U.S.C. 77b(a)(15)), as
10 amended by sections 3202 and 3302, is further amended
11 by adding at the end the following:

12 “(v) any individual receiving individ-
13 ualized investment advice or individualized
14 investment recommendations with respect
15 to the applicable transaction from an indi-
16 vidual described under section
17 203.501(a)(10) of title 17, Code of Federal
18 Regulations.

19 “(B) DEFINITIONS.—In subparagraph
20 (A)(v):

21 “(i) INVESTMENT ADVICE.—The term
22 ‘investment advice’ shall be interpreted
23 consistently with the interpretation of the
24 phrase ‘engages in the business of advising
25 others, either directly or through publica-

1 tions or writings, as to the value of securi-
2 ties or as to the advisability of investing in,
3 purchasing, or selling securities’ under sec-
4 tion 202(a)(11) of the Investment Advisers
5 Act of 1940 (15 U.S.C. 80b-2(a)(11)).

6 “(ii) INVESTMENT RECOMMENDA-
7 TION.—The term ‘investment recommenda-
8 tion’ shall be interpreted consistently with
9 the interpretation of the term ‘rec-
10 ommendation’ under section 240.15l-1 of
11 title 17, Code of Federal Regulations.”.

12 (b) CONFORMING CHANGES TO REGULATIONS.—The
13 Securities and Exchange Commission shall revise section
14 203.501(a) of title 17, Code of Federal Regulations, and
15 any other definition of “accredited investor” in a rule of
16 the Commission in the same manner as such definition
17 is revised under subsection (a).

