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114TH CONGRESS
2d Session
HOUSE OF REPRESENTATIVES
REPORT
114–414

PROVIDING FOR CONSIDERATION OF THE BILL (H.R. 1675) TO DIRECT THE SECURITIES AND EXCHANGE COMMISSION TO REVISE ITS RULES SO AS TO INCREASE THE THRESHOLD AMOUNT FOR REQUIRING ISSUERS TO PROVIDE CERTAIN DISCLOSURES RELATING TO COMPENSATORY BENEFIT PLANS, AND PROVIDING FOR CONSIDERATION OF THE BILL (H.R. 766) TO PROVIDE REQUIREMENTS FOR THE APPROPRIATE FEDERAL BANKING AGENCIES WHEN REQUESTING OR ORDERING A DEPOSITORY INSTITUTION TO TERMINATE A SPECIFIC CUSTOMER ACCOUNT, TO PROVIDE FOR ADDITIONAL REQUIREMENTS RELATED TO SUBPOENAS ISSUED UNDER THE FINANCIAL INSTITUTIONS REFORM, RECOVERY, AND ENFORCEMENT ACT OF 1989, AND FOR OTHER PURPOSES

FEBRUARY 2, 2016.—Referred to the House Calendar and ordered to be printed

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Mr. STIVERS, from the Committee on Rules, submitted the following

REPORT

[To accompany H. Res. 595]

The Committee on Rules, having had under consideration House Resolution 595, by a record vote of 9 to 4, report the same to the House with the recommendation that the resolution be adopted.

SUMMARY OF PROVISIONS OF THE RESOLUTION

The resolution provides for consideration of H.R. 1675, the Encouraging Employee Ownership Act of 2015, under a structured rule. The resolution provides one hour of general debate equally divided and controlled by the chair and ranking minority member of the Committee on Financial Services. The resolution waives all points of order against consideration of the bill. The resolution makes in order as original text for the purpose of amendment an amendment in the nature of a substitute consisting of the text of Rules Committee Print 114–43 and provides that it shall be considered as read. The resolution waives all points of order against that amendment in the nature of a substitute. The resolution makes in order only those further amendments printed in part A of this report. Each such amendment may be offered only in the order printed in this report, may be offered only by a Member designated in this report, shall be considered as read, shall be debatable for the time specified in this report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question

in the House or in the Committee of the Whole. The resolution waives all points of order against the amendments printed in part A of this report. The resolution provides one motion to recommit with or without instructions.

Section 2 of the resolution provides for consideration of H.R. 766, the Financial Institution Customer Protection Act of 2015, under a structured rule. The resolution provides one hour of general debate equally divided and controlled by the chair and ranking minority member of the Committee on Financial Services. The resolution waives all points of order against consideration of the bill. The resolution makes in order as original text for the purpose of amendment an amendment in the nature of a substitute consisting of the text of Rules Committee Print 114–41 and provides that it shall be considered as read. The resolution waives all points of order against that amendment in the nature of a substitute. The resolution makes in order only those further amendments printed in part B of this report. Each such amendment may be offered only in the order printed in this report, may be offered only by a Member designated in this report, shall be considered as read, shall be debatable for the time specified in this report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. The resolution waives all points of order against the amendments printed in part B of this report. The resolution provides one motion to recommit with or without instructions.

EXPLANATION OF WAIVERS

Although the resolution waives all points of order against consideration of H.R. 1675, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

The waiver of all points of order against the amendment in the nature of a substitute to H.R. 1675 made in order as original text includes a waiver of clause 7 of rule XVI, which requires that no motion or proposition on a subject different from that under consideration shall be admitted under color of amendment.

Although the resolution waives all points of order against the amendments to H.R. 1675 printed in part A of this report, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

The waiver of all points of order against consideration of H.R. 766 includes a waiver of Clause 3(e)(1) of rule XIII ("Ramseyer"), requiring a committee report accompanying a bill amending or repealing statutes to show, by typographical device, parts of statute affected.

The waiver is provided because the submission provided by the Committee on Financial Services was insufficient to meet the standards established by the rule in its current form. The Committee on Rules continues to work with the House Office of Legislative Counsel and committees to determine the steps necessary to comply with the updated rule.

Although the resolution waives all points of order against the amendment in the nature of a substitute to H.R. 766 made in order as original text, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

Although the resolution waives all points of order against the amendments to H.R. 766 printed in part B of this report, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

COMMITTEE VOTES

The results of each record vote on an amendment or motion to report, together with the names of those voting for and against, are printed below:

Rules Committee record vote No. 142

Motion by Mr. Polis make in order and provide the appropriate waivers for amendment #2 to H.R. 766, offered by Rep. Perlmutter (CO) and Rep. Heck (WA), which provides a safe harbor for banks and credit unions to provide financial services to legal and licensed marijuana businesses. Regulators would not be able to threaten or limit a bank's deposit insurance, take any action against or force a depository institution to halt providing banking services to a marijuana-related legitimate business. Defeated: 3–9

Majority Members	Vote	Minority Members	Vote
Ms. Foxx	Nay	Ms. Slaughter	Yea
Mr. Cole	Nay	Mr. McGovern	Yea
Mr. Woodall	Nay	Mr. Hastings of Florida	
Mr. Burgess	Nay	Mr. Polis	Yea
Mr. Stivers	Nay		
Mr. Collins	Nay		
Mr. Byrne	Nay		
Mr. Newhouse	Nay		
Mr. Sessions, Chairman	Nay		

Rules Committee record vote No. 143

Motion by Ms. Foxx to report the rule. Adopted: 9–4

Majority Members	Vote	Minority Members	Vote
Ms. Foxx	Yea	Ms. Slaughter	Nay
Mr. Cole	Yea	Mr. McGovern	Nay
Mr. Woodall	Yea	Mr. Hastings of Florida	Nay
Mr. Burgess	Yea	Mr. Polis	Nay
Mr. Stivers	Yea		
Mr. Collins	Yea		
Mr. Byrne	Yea		
Mr. Newhouse	Yea		
Mr. Sessions, Chairman	Yea		

SUMMARY OF THE AMENDMENTS TO H.R. 1675 IN PART A MADE IN ORDER

1. DeSaulnier (CA): Directs the SEC to study and report to Congress the prevalence of employee ownership plans within companies that include a flexible or social benefit component in their articles of incorporation, as allowed under relevant state laws. (10 minutes)

2. Huizenga (MI): Clarifies the disqualification from the exemption of any broker or associated person who is subject to suspension or revocation of registration, and the in-applicability of the exemption to any M&A transaction where one party or more is a shell company. (10 minutes)

3. Sherman (CA): Provides exclusions for when a mergers and acquisitions broker is not exempt from registration with the SEC. (10 minutes)

4. Ellison (MN), Polis (CO): Narrows the exemption to emerging growth companies and only for a period of three years. Nullifies that exemption if the Securities and Exchange Commission permits corporations to file their information using Inline XBRL formatting. (10 minutes)

5. Issa (CA), Polis (CO): Leaves intact the exemption from XBRL reporting for Emerging Growth Companies (EGCs,) while decreasing the exemption for other small companies with total annual gross revenues of less than $250,000,000 from five years to two years and allowing the Securities and Exchange Commission to cancel the exemption within 180 days, instead of two years, if a cost-benefit analysis shows the benefits of XBRL reporting as outweighing the costs. (10 minutes)

6. Issa (CA), Polis (CO): Limits all exemptions granted therein only to companies obligated to begin submitting financial disclosures to the Securities and Exchange Commission after the date of enactment. (10 minutes)

7. Ellison (MN), Maloney, Carolyn (NY), Quigley (IL), Polis (CO): Repeals the Small Company Disclosure Act (H.R. 1965) in its entirety from the bill thus preserving the S.E.C. requirement that public companies report their information related to corporate financial performance as searchable data. (10 minutes)

SUMMARY OF THE AMENDMENTS TO H.R. 766 IN PART B MADE IN ORDER

1. Sherman (CA): Clarifies that H.R. 766 does not prevent federal banking regulators from requesting or requiring a financial institution to terminate a relationship with a customer because (1) the customer poses a threat to national security, (2) is engaged in terrorist financing, (3) is doing business with Iran, North Korea, Syria, or another State Sponsor of Terrorism, or (4) is doing business with an entity in any of those countries. (10 minutes)

2. Gosar (AZ): Requires notice to banking customers if a customer account is terminated at the direction of federal banking regulators. (10 minutes)

PART A—TEXT OF AMENDMENTS TO H.R. 1675 MADE IN ORDER

1. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE DESAULNIER OF CALIFORNIA OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 2, after line 17, insert the following:

SEC. 102. STUDY AND REPORT.

Not later than 1 year after the date of the enactment of this Act, the Securities and Exchange Commission shall complete a study and submit to Congress a report on the prevalence of employee ownership plans within companies that have a flexible or social benefit component in the articles of incorporation or similar governing documents of such companies, as permitted under applicable State law.

2. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE HUIZENGA OF MICHIGAN OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 9, after line 16, insert the following:

"(iii) Engages on behalf of any party in a transaction involving a public shell company.

"(C) DISQUALIFICATIONS.—An M&A broker is not exempt from registration under this paragraph if such broker is subject to—

"(i) suspension or revocation of registration under paragraph (4);

"(ii) a statutory disqualification described in section 3(a)(39);

"(iii) a disqualification under the rules adopted by the Commission under section 926 of the Investor Protection and Securities Reform Act of 2010 (15 U.S.C. 77d note); or

"(iv) a final order described in paragraph (4)(H).".

Page 9, line 17, strike "(C)" and insert "(D)".

Page 9, line 23, strike "(D)" and insert "(E)".

Page 10, line 23, insert "privately held" after "means a".

Page 13, beginning on line 6, strike "year-end balance sheet" and all that follows through "report of the independent auditor" and insert "fiscal year-end financial statements of the issuer of the securities as customarily prepared by the management of the issuer in the normal course of operations and, if the financial statements of the issuer are audited, reviewed, or compiled, any related statement by the independent accountant".

Page 13, after line 20, insert the following:

"(iv) PUBLIC SHELL COMPANY.—The term 'public shell company' is a company that at the time of a transaction with an eligible privately held company—

"(I) has any class of securities registered, or required to be registered, with the Commission under section 12 or that is required to file reports pursuant to subsection (d);

"(II) has no or nominal operations; and

"(III) has—

"(aa) no or nominal assets;

"(bb) assets consisting solely of cash and cash equivalents; or

"(cc) assets consisting of any amount of cash and cash equivalents and nominal other assets.".

Page 13, line 21, strike "(E)" and insert "(F)".

Page 14, beginning on line 2, strike "subparagraph (D)(ii)(II)" and insert "subparagraph (E)(ii)(II)".

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3. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE SHERMAN OF CALIFORNIA OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 9, after line 16, insert the following:

"(C) DISQUALIFICATION FOR CERTAIN CONDUCT.—An M&A broker may not make use of the exemption under this paragraph if the broker—

"(i) has been barred from association with a broker or dealer by the Commission, any State, or any self-regulatory organization; or

"(ii) is suspended from association with a broker or dealer.

"(D) TRANSACTIONS INVOLVING SHELL COMPANIES PROHIBITED.—

"(i) IN GENERAL.—An M&A broker making use of the exemption under this paragraph may not engage in a transaction involving a shell company, other than a business combination related shell company.

"(ii) SHELL COMPANY DEFINED.—In this subparagraph, the term 'shell company' means a company that—

"(I) has no or nominal operations; and

"(II) has—

"(aa) no or nominal assets;

"(bb) assets consisting solely of cash and cash equivalents; or

"(cc) assets consisting of any amount of cash and cash equivalents and nominal other assets.

"(iii) BUSINESS COMBINATION RELATED SHELL COMPANY DEFINED.—In this subparagraph, the term 'business combination related shell company' means a shell company that is formed by an entity that is not a shell company solely for the purpose of—

"(I) changing the corporate domicile of such entity solely within the United States; or

"(II) completing a business combination transaction (as defined in section 230.165(f) of title 17, Code of Federal Regulations) among one or more entities other than the shell company, none of which is a shell company.

"(E) FINANCING BY M&A BROKERS PROHIBITED.—An M&A broker may not provide financing, either directly or indirectly, related to the transfer of ownership of an eligible privately held company.

"(F) DISCLOSURE AND CONSENT.—To the extent an M&A broker represents both buyers and sellers of an eligible privately held company, the broker shall provide clear written disclosure as to the parties the broker represents and obtain written consent from all parties to the joint representation.

"(G) PASSIVE BUYERS PROHIBITED.—An M&A broker may not engage in a transaction involving the transfer of ownership of an eligible privately held company to a passive buyer or group of passive buyers.

"(H) NO AUTHORITY TO BIND PARTY TO TRANSFER.—The M&A broker may not bind a party to a transfer of ownership of an eligible privately held company.

"(I) RESTRICTED SECURITIES.—Any securities purchased or received by the buyer or M&A broker in connection with the transfer of ownership of an eligible privately held com-

pany are restricted securities (as defined in section 230.144(a)(3) of title 17, Code of Federal Regulations).

Page 10, line 8, insert ", and" after "officer".

Page 10, beginning on line 11, strike "20 percent" and insert "25 percent".

Page 10, line 14, strike "20 percent" and insert "25 percent".

Page 10, line 19, strike "20 percent" and insert "25 percent".

Page 12, beginning on line 19, strike "will be active in the management of" and insert "will actively operate".

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4. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE ELLISON OF MINNESOTA OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 15, beginning on line 4, strike "**AND OTHER SMALLER COMPANIES**".

Page 15, beginning on line 6, strike "EXEMPTION" and all that follows through "Emerging" on line 7 and insert "IN GENERAL.—Emerging".

Page 15, line 12, insert after the period the following: "An exemption under this subsection shall continue in effect until the date that is three years after the date of enactment of this Act.".

Beginning on page 15, strike line 13 and all that follows through page 16, line 3.

Page 16, beginning on line 8, strike "the exemptions set forth in subsections (a) and (b)" and insert "the exemption set forth in subsection (a)".

Strike section 402 and insert the following:

SEC. 402. NULLIFICATION OF EXEMPTION IF SEC ADOPTS DISCLOSURE FORMAT.

(a) NULLIFICATION OF EXEMPTION.—Notwithstanding any other provision of this title, the exemption provided by section 401 shall have no force or effect if the Commission, by rule, adopts the inline XBRL format (or a similar format) for corporate financial information for which the Commission was using the XBRL format as of the date of enactment of this Act, and permits a filing in the inline XBRL format rather than collecting each financial statement once as a document and again as an XBRL file. For purposes of this section, an inline XBRL format is a filing format that allows filers to embed XBRL data directly in a required financial statement.

(b) CHARACTERISTICS.—If the Commission adopts the inline XBRL format (or similar format) as described in subsection (a), that format adopted shall be a non-proprietary data standard, both human-readable and machine-readable, that is consistent with and implements applicable accounting principles, and permits registrants to file financial statements with embedded electronic tags.

Page 18, strike lines 6 and 7.

Page 18, line 14, strike "'issuer',".

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5. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE ISSA OF CALIFORNIA OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 15, line 20, insert "the earlier of" after "until".

Page 15, line 21, strike "five years" and insert "two years".

Page 15, line 23, strike "two years" and insert "180 days".

Page 16, beginning on line 2, strike ", but no earlier than three years after enactment of this Act".

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6. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE ISSA OF CALIFORNIA OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 16, after line 9, insert the following:

(d) LIMITATION TO NEW FILERS.—The exemptions set forth in subsections (a) and (b) shall apply only with respect to issuers that are first required to file financial statements and other periodic reporting with the Commission under the securities laws after the date of the enactment of this Act.

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7. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE ELLISON OF MINNESOTA OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Strike title IV.

PART B—TEXT OF AMENDMENTS TO H.R 766 MADE IN ORDER

1. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE SHERMAN OF CALIFORNIA OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 2, line 6, strike "poses" and all that follows through "such belief" and insert the following: "is, or is acting as a conduit for, an entity which—

(A) poses a threat to national security;

(B) is involved in terrorist financing;

(C) is an agency of the government of Iran, North Korea, Syria, or any country listed from time to time on the State Sponsors of Terrorism list;

(D) is located in, or is subject to the jurisdiction of, any country specified in subparagraph (C); or

(E) does business with any entity described in subparagraph (C) or (D), unless the appropriate Federal banking agency determines that the customer or group of customers has used due diligence to avoid doing business with any entity described in subparagraph (C) or (D),

such belief

Page 2, line 9, strike "materiality requirement under paragraph (1)(A)" and insert "requirement under paragraph (1)".

Page 3, line 16, after "security" insert the following: ", or are otherwise described under subsection (a)(2)".

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2. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE GOSAR OF ARIZONA OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 3, strike lines 4 through 9 and insert the following:

(1) NOTICE REQUIRED.—Except as provided under paragraph (2), if an appropriate Federal banking agency orders a depository institution to terminate a specific customer account or a group of customer accounts, the depository institution shall in-

form the customer or customers of the justification for the customer's account termination described under subsection (b).

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