

JANUARY 26, 2016

RULES COMMITTEE PRINT 114-43
TEXT OF H.R. 1675, ENCOURAGING EMPLOYEE
OWNERSHIP ACT OF 2015

[Showing the texts of H.R. 1675, H.R. 686, H.R. 1965, H.R. 2354, and H.R. 2356 as ordered reported by the Committee on Financial Services; with conforming changes.]

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) **SHORT TITLE.**—This Act may be cited as the
3 “Capital Markets Improvement Act of 2016”.

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

Sec. 1. Short title; table of contents.

TITLE I—ENCOURAGING EMPLOYEE OWNERSHIP

Sec. 101. Increased threshold for disclosures relating to compensatory benefit plans.

TITLE II—FAIR ACCESS TO INVESTMENT RESEARCH

Sec. 201. Safe harbor for investment fund research.

**TITLE III—SMALL BUSINESS MERGERS, ACQUISITIONS, SALES,
AND BROKERAGE SIMPLIFICATION**

Sec. 301. Registration exemption for merger and acquisition brokers.

Sec. 302. Effective date.

TITLE IV—SMALL COMPANY DISCLOSURE SIMPLIFICATION

Sec. 401. Exemption from XBRL requirements for emerging growth companies and other smaller companies.

Sec. 402. Analysis by the SEC.

Sec. 403. Report to Congress.

Sec. 404. Definitions.

**TITLE V—STREAMLINING EXCESSIVE AND COSTLY REGULATIONS
REVIEW**

Sec. 501. Regulatory review.

1 **TITLE I—ENCOURAGING**
2 **EMPLOYEE OWNERSHIP**

3 **SEC. 101. INCREASED THRESHOLD FOR DISCLOSURES RE-**
4 **LATING TO COMPENSATORY BENEFIT PLANS.**

5 Not later than 60 days after the date of the enact-
6 ment of this Act, the Securities and Exchange Commission
7 shall revise section 230.701(e) of title 17, Code of Federal
8 Regulations, so as to increase from \$5,000,000 to
9 \$10,000,000 the aggregate sales price or amount of secu-
10 rities sold during any consecutive 12-month period in ex-
11 cess of which the issuer is required under such section to
12 deliver an additional disclosure to investors. The Commis-
13 sion shall index for inflation such aggregate sales price
14 or amount every 5 years to reflect the change in the Con-
15 sumer Price Index for All Urban Consumers published by
16 the Bureau of Labor Statistics, rounding to the nearest
17 \$1,000,000.

18 **TITLE II—FAIR ACCESS TO**
19 **INVESTMENT RESEARCH**

20 **SEC. 201. SAFE HARBOR FOR INVESTMENT FUND RE-**
21 **SEARCH.**

22 (a) **EXPANSION OF SAFE HARBOR.**—Not later than
23 the end of the 45-day period beginning on the date of en-
24 actment of this Act, the Securities and Exchange Commis-
25 sion shall propose, and not later than the end of the 120-

1 day period beginning on such date, the Commission shall
2 adopt, upon such terms, conditions, or requirements as the
3 Commission may determine necessary or appropriate in
4 the public interest, for the protection of investors, and for
5 the promotion of capital formation, revisions to section
6 230.139 of title 17, Code of Federal Regulations, to pro-
7 vide that a covered investment fund research report—

8 (1) shall be deemed, for purposes of sections
9 2(a)(10) and 5(c) of the Securities Act of 1933, not
10 to constitute an offer for sale or an offer to sell a
11 security that is the subject of an offering pursuant
12 to a registration statement that the issuer proposes
13 to file, or has filed, or that is effective, even if the
14 broker or dealer is participating or will participate
15 in the registered offering of the covered investment
16 fund's securities; and

17 (2) shall be deemed to satisfy the conditions of
18 subsection (a)(1) or (a)(2) of section 230.139 of title
19 17, Code of Federal Regulations, or any successor
20 provisions, for purposes of the Commission's rules
21 and regulations under the Federal securities laws
22 and the rules of any self-regulatory organization.

23 (b) IMPLEMENTATION OF SAFE HARBOR.—In imple-
24 menting the safe harbor pursuant to subsection (a), the
25 Commission shall—

1 (1) not, in the case of a covered investment
2 fund with a class of securities in substantially con-
3 tinuous distribution, condition the safe harbor on
4 whether the broker's or dealer's publication or dis-
5 tribution of a covered investment fund research re-
6 port constitutes such broker's or dealer's initiation
7 or reinitiation of research coverage on such covered
8 investment fund or its securities;

9 (2) not—

10 (A) require the covered investment fund to
11 have been registered as an investment company
12 under the Investment Company Act of 1940 or
13 subject to the reporting requirements of section
14 13 or 15(d) of the Securities Exchange Act of
15 1934 for any period exceeding twelve months;
16 or

17 (B) impose a minimum float provision ex-
18 ceeding that referenced in subsection
19 (a)(1)(i)(A)(1)(i) of section 230.139 of title 17,
20 Code of Federal Regulations;

21 (3) provide that a self-regulatory organization
22 may not maintain or enforce any rule that would—

23 (A) condition the ability of a member to
24 publish or distribute a covered investment fund
25 research report on whether the member is also

1 participating in a registered offering or other
2 distribution of any securities of such covered in-
3 vestment fund;

4 (B) condition the ability of a member to
5 participate in a registered offering or other dis-
6 tribution of securities of a covered investment
7 fund on whether the member has published or
8 distributed a covered investment fund research
9 report about such covered investment fund or
10 its securities; or

11 (C) require the filing of a covered invest-
12 ment fund research report with such self-regu-
13 latory organization; and

14 (4) provide that a covered investment fund re-
15 search report shall not be subject to sections 24(b)
16 or 34(b) of the Investment Company Act of 1940 or
17 the rules and regulations thereunder.

18 (c) RULES OF CONSTRUCTION.—Nothing in this sec-
19 tion shall be construed as in any way limiting—

20 (1) the applicability of the antifraud provisions
21 of the Federal securities laws; or

22 (2) the authority of any self-regulatory organi-
23 zation to examine or supervise a member's practices
24 in connection with such member's publication or dis-
25 tribution of a covered investment fund research re-

1 port for compliance with otherwise applicable provi-
2 sions of the Federal securities laws or self-regulatory
3 organization rules.

4 (d) INTERIM EFFECTIVENESS OF SAFE HARBOR.—
5 From and after the 120-day period beginning on the date
6 of enactment of this Act, if the Commission has not met
7 its obligations pursuant to subsection (a) to adopt revi-
8 sions to section 230.139 of title 17, Code of Federal Regu-
9 lations, and until such time as the Commission has done
10 so, a covered investment fund research report published
11 or distributed by a broker or dealer after such date shall
12 be deemed to meet the requirements of section 230.139
13 of title 17, Code of Federal Regulations, and to satisfy
14 the conditions of subsection (a)(1) or (a)(2) thereof for
15 purposes of the Commission’s rules and regulations under
16 the Federal securities laws and the rules of any self-regu-
17 latory organization, as if revised and implemented in ac-
18 cordance with subsections (a) and (b).

19 (e) DEFINITIONS.—For purposes of this section:

20 (1) COVERED INVESTMENT FUND RESEARCH
21 REPORT.—The term “covered investment fund re-
22 search report” means a research report published or
23 distributed by a broker or dealer about a covered in-
24 vestment fund or any of its securities.

1 (2) COVERED INVESTMENT FUND.—The term
2 “covered investment fund” means—

3 (A) an investment company registered
4 under, or that has filed an election to be treated
5 as a business development company under, the
6 Investment Company Act of 1940 and that has
7 filed a registration statement under the Securi-
8 ties Act of 1933 for the public offering of a
9 class of its securities, which registration state-
10 ment has been declared effective by the Com-
11 mission; and

12 (B) a trust or other person—

13 (i) that has a class of securities listed
14 for trading on a national securities ex-
15 change;

16 (ii) the assets of which consist pri-
17 marily of commodities, currencies, or deriv-
18 ative instruments that reference commod-
19 ities or currencies, or interests in the fore-
20 going; and

21 (iii) that allows its securities to be
22 purchased or redeemed, subject to condi-
23 tions or limitations, for a ratable share of
24 its assets.

1 (3) RESEARCH REPORT.—The term “research
2 report” has the meaning given to that term under
3 section 2(a)(3) of the Securities Act of 1933, except
4 that such term shall not include an oral communica-
5 tion.

6 (4) SELF-REGULATORY ORGANIZATION.—The
7 term “self-regulatory organization” has the meaning
8 given to that term under section 3(a)(26) of the Se-
9 curities Exchange Act of 1934.

10 **TITLE III—SMALL BUSINESS**
11 **MERGERS, ACQUISITIONS,**
12 **SALES, AND BROKERAGE SIM-**
13 **PLIFICATION**

14 **SEC. 301. REGISTRATION EXEMPTION FOR MERGER AND**
15 **ACQUISITION BROKERS.**

16 Section 15(b) of the Securities Exchange Act of 1934
17 (15 U.S.C. 78o(b)) is amended by adding at the end the
18 following:

19 “(13) REGISTRATION EXEMPTION FOR MERGER
20 AND ACQUISITION BROKERS.—

21 “(A) IN GENERAL.—Except as provided in
22 subparagraph (B), an M&A broker shall be ex-
23 empt from registration under this section.

24 “(B) EXCLUDED ACTIVITIES.—An M&A
25 broker is not exempt from registration under

1 this paragraph if such broker does any of the
2 following:

3 “(i) Directly or indirectly, in connec-
4 tion with the transfer of ownership of an
5 eligible privately held company, receives,
6 holds, transmits, or has custody of the
7 funds or securities to be exchanged by the
8 parties to the transaction.

9 “(ii) Engages on behalf of an issuer in
10 a public offering of any class of securities
11 that is registered, or is required to be reg-
12 istered, with the Commission under section
13 12 or with respect to which the issuer files,
14 or is required to file, periodic information,
15 documents, and reports under subsection
16 (d).

17 “(C) RULE OF CONSTRUCTION.—Nothing
18 in this paragraph shall be construed to limit
19 any other authority of the Commission to ex-
20 empt any person, or any class of persons, from
21 any provision of this title, or from any provision
22 of any rule or regulation thereunder.

23 “(D) DEFINITIONS.—In this paragraph:

24 “(i) CONTROL.—The term ‘control’
25 means the power, directly or indirectly, to

1 direct the management or policies of a
2 company, whether through ownership of
3 securities, by contract, or otherwise. There
4 is a presumption of control for any person
5 who—

6 “(I) is a director, general part-
7 ner, member or manager of a limited
8 liability company, or officer exercising
9 executive responsibility (or has similar
10 status or functions);

11 “(II) has the right to vote 20
12 percent or more of a class of voting
13 securities or the power to sell or direct
14 the sale of 20 percent or more of a
15 class of voting securities; or

16 “(III) in the case of a partner-
17 ship or limited liability company, has
18 the right to receive upon dissolution,
19 or has contributed, 20 percent or
20 more of the capital.

21 “(ii) ELIGIBLE PRIVATELY HELD
22 COMPANY.—The term ‘eligible privately
23 held company’ means a company that
24 meets both of the following conditions:

1 “(I) The company does not have
2 any class of securities registered, or
3 required to be registered, with the
4 Commission under section 12 or with
5 respect to which the company files, or
6 is required to file, periodic informa-
7 tion, documents, and reports under
8 subsection (d).

9 “(II) In the fiscal year ending
10 immediately before the fiscal year in
11 which the services of the M&A broker
12 are initially engaged with respect to
13 the securities transaction, the com-
14 pany meets either or both of the fol-
15 lowing conditions (determined in ac-
16 cordance with the historical financial
17 accounting records of the company):

18 “(aa) The earnings of the
19 company before interest, taxes,
20 depreciation, and amortization
21 are less than \$25,000,000.

22 “(bb) The gross revenues of
23 the company are less than
24 \$250,000,000.

1 “(iii) M&A BROKER.—The term ‘M&A
2 broker’ means a broker, and any person
3 associated with a broker, engaged in the
4 business of effecting securities transactions
5 solely in connection with the transfer of
6 ownership of an eligible privately held com-
7 pany, regardless of whether the broker acts
8 on behalf of a seller or buyer, through the
9 purchase, sale, exchange, issuance, repur-
10 chase, or redemption of, or a business com-
11 bination involving, securities or assets of
12 the eligible privately held company, if the
13 broker reasonably believes that—

14 “(I) upon consummation of the
15 transaction, any person acquiring se-
16 curities or assets of the eligible pri-
17 vately held company, acting alone or
18 in concert, will control and, directly or
19 indirectly, will be active in the man-
20 agement of the eligible privately held
21 company or the business conducted
22 with the assets of the eligible privately
23 held company; and

24 “(II) if any person is offered se-
25 curities in exchange for securities or

1 assets of the eligible privately held
2 company, such person will, prior to
3 becoming legally bound to consum-
4 mate the transaction, receive or have
5 reasonable access to the most recent
6 year-end balance sheet, income state-
7 ment, statement of changes in finan-
8 cial position, and statement of owner’s
9 equity of the issuer of the securities
10 offered in exchange, and, if the finan-
11 cial statements of the issuer are au-
12 dited, the related report of the inde-
13 pendent auditor, a balance sheet
14 dated not more than 120 days before
15 the date of the offer, and information
16 pertaining to the management, busi-
17 ness, results of operations for the pe-
18 riod covered by the foregoing financial
19 statements, and material loss contin-
20 gencies of the issuer.

21 “(E) INFLATION ADJUSTMENT.—

22 “(i) IN GENERAL.—On the date that
23 is 5 years after the date of the enactment
24 of the Small Business Mergers, Acquisi-
25 tions, Sales, and Brokerage Simplification

1 Act of 2015, and every 5 years thereafter,
2 each dollar amount in subparagraph
3 (D)(ii)(II) shall be adjusted by—

4 “(I) dividing the annual value of
5 the Employment Cost Index For
6 Wages and Salaries, Private Industry
7 Workers (or any successor index), as
8 published by the Bureau of Labor
9 Statistics, for the calendar year pre-
10 ceding the calendar year in which the
11 adjustment is being made by the an-
12 nual value of such index (or suc-
13 cessor) for the calendar year ending
14 December 31, 2012; and

15 “(II) multiplying such dollar
16 amount by the quotient obtained
17 under subclause (I).

18 “(ii) ROUNDING.—Each dollar
19 amount determined under clause (i) shall
20 be rounded to the nearest multiple of
21 \$100,000.”.

22 **SEC. 302. EFFECTIVE DATE.**

23 This title and any amendment made by this title shall
24 take effect on the date that is 90 days after the date of
25 the enactment of this Act.

1 **TITLE IV—SMALL COMPANY**
2 **DISCLOSURE SIMPLIFICATION**

3 **SEC. 401. EXEMPTION FROM XBRL REQUIREMENTS FOR**
4 **EMERGING GROWTH COMPANIES AND OTHER**
5 **SMALLER COMPANIES.**

6 (a) EXEMPTION FOR EMERGING GROWTH COMPA-
7 NIES.—Emerging growth companies are exempted from
8 the requirements to use Extensible Business Reporting
9 Language (XBRL) for financial statements and other
10 periodic reporting required to be filed with the Commis-
11 sion under the securities laws. Such companies may elect
12 to use XBRL for such reporting.

13 (b) EXEMPTION FOR OTHER SMALLER COMPA-
14 NIES.—Issuers with total annual gross revenues of less
15 than \$250,000,000 are exempt from the requirements to
16 use XBRL for financial statements and other periodic re-
17 porting required to be filed with the Commission under
18 the securities laws. Such issuers may elect to use XBRL
19 for such reporting. An exemption under this subsection
20 shall continue in effect until—

21 (1) the date that is five years after the date of
22 enactment of this Act; or

23 (2) the date that is two years after a deter-
24 mination by the Commission, by order after con-
25 ducting the analysis required by section 402, that

1 the benefits of such requirements to such issuers
2 outweigh the costs, but no earlier than three years
3 after enactment of this Act.

4 (c) MODIFICATIONS TO REGULATIONS.—Not later
5 than 60 days after the date of enactment of this Act, the
6 Commission shall revise its regulations under parts 229,
7 230, 232, 239, 240, and 249 of title 17, Code of Federal
8 Regulations, to reflect the exemptions set forth in sub-
9 sections (a) and (b).

10 **SEC. 402. ANALYSIS BY THE SEC.**

11 The Commission shall conduct an analysis of the
12 costs and benefits to issuers described in section 401(b)
13 of the requirements to use XBRL for financial statements
14 and other periodic reporting required to be filed with the
15 Commission under the securities laws. Such analysis shall
16 include an assessment of—

17 (1) how such costs and benefits may differ from
18 the costs and benefits identified by the Commission
19 in the order relating to interactive data to improve
20 financial reporting (dated January 30, 2009; 74
21 Fed. Reg. 6776) because of the size of such issuers;

22 (2) the effects on efficiency, competition, capital
23 formation, and financing and on analyst coverage of
24 such issuers (including any such effects resulting
25 from use of XBRL by investors);

1 (3) the costs to such issuers of—

2 (A) submitting data to the Commission in
3 XBRL;

4 (B) posting data on the website of the
5 issuer in XBRL;

6 (C) software necessary to prepare, submit,
7 or post data in XBRL; and

8 (D) any additional consulting services or
9 filing agent services;

10 (4) the benefits to the Commission in terms of
11 improved ability to monitor securities markets, as-
12 sess the potential outcomes of regulatory alter-
13 natives, and enhance investor participation in cor-
14 porate governance and promote capital formation;
15 and

16 (5) the effectiveness of standards in the United
17 States for interactive filing data relative to the
18 standards of international counterparts.

19 **SEC. 403. REPORT TO CONGRESS.**

20 Not later than one year after the date of enactment
21 of this Act, the Commission shall provide the Committee
22 on Financial Services of the House of Representatives and
23 the Committee on Banking, Housing, and Urban Affairs
24 of the Senate a report regarding—

1 (1) the progress in implementing XBRL report-
2 ing within the Commission;

3 (2) the use of XBRL data by Commission offi-
4 cials;

5 (3) the use of XBRL data by investors;

6 (4) the results of the analysis required by sec-
7 tion 402; and

8 (5) any additional information the Commission
9 considers relevant for increasing transparency, de-
10 creasing costs, and increasing efficiency of regu-
11 latory filings with the Commission.

12 **SEC. 404. DEFINITIONS.**

13 As used in this title, the terms “Commission”,
14 “emerging growth company”, “issuer”, and “securities
15 laws” have the meanings given such terms in section 3
16 of the Securities Exchange Act of 1934 (15 U.S.C. 78c).

17 **TITLE V—STREAMLINING EXCES-**
18 **SIVE AND COSTLY REGULA-**
19 **TIONS REVIEW**

20 **SEC. 501. REGULATORY REVIEW.**

21 (a) REVIEW AND ACTION.—Not later than 5 years
22 after the date of enactment of this Act, and at least once
23 within each 10-year period thereafter, the Securities and
24 Exchange Commission shall—

1 (1) review each significant regulation issued by
2 the Commission;

3 (2) determine by Commission vote whether each
4 such regulation—

5 (A) is outmoded, ineffective, insufficient,
6 or excessively burdensome; or

7 (B) is no longer necessary in the public in-
8 terest or consistent with the Commission’s man-
9 date to protect investors, maintain fair, orderly,
10 and efficient markets, and facilitate capital for-
11 mation;

12 (3) provide notice and solicit public comment as
13 to whether a regulation described in subparagraph
14 (A) or (B) of paragraph (2) (as determined by Com-
15 mission vote pursuant to such paragraph) should be
16 amended to improve or modernize such regulation so
17 that such regulation is in the public interest, or
18 whether such regulation should be repealed; and

19 (4) amend or repeal any regulation described in
20 subparagraph (A) or (B) of paragraph (2), as deter-
21 mined by Commission vote pursuant to such para-
22 graph.

23 (b) DEFINITION.—As used in this section and for
24 purposes of the review required by subsection (a) the term
25 “significant regulation” has the meaning given the term

1 “major rule” in section 804(2) of title 5, United States
2 Code.

3 (c) REPORT TO CONGRESS.—Not later than 45 days
4 after any final Commission vote described in subsection
5 (a)(2), the Commission shall transmit a report to the
6 Committee on Financial Services of the House of Rep-
7 resentatives and the Committee on Banking, Housing, and
8 Urban Affairs of the Senate describing the Commission’s
9 review under subsection (a), its vote or votes, and the ac-
10 tions taken pursuant to paragraph (3) of such subsection.
11 If the Commission determines that legislation is necessary
12 to amend or repeal any regulation described in subpara-
13 graph (A) or (B) of subsection (a)(2), the Commission
14 shall include in the report recommendations for such legis-
15 lation.

16 (d) NOT SUBJECT TO JUDICIAL REVIEW.—Any vote
17 by the Commission made pursuant to subsection (a)(2)
18 shall be final and not subject to judicial review.

