

□ 1514

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. DUNCAN of Tennessee) at 3 o'clock and 14 minutes p.m.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Brian Pate, one of his secretaries.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote incurs objection under clause 6 of rule XX.

Record votes on postponed questions will be taken later.

FAIR INVESTMENT OPPORTUNITIES FOR PROFESSIONAL EXPERTS ACT

Mr. GARRETT. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2187) to direct the Securities and Exchange Commission to revise its regulations regarding the qualifications of natural persons as accredited investors, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 2187

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fair Investment Opportunities for Professional Experts Act".

SEC. 2. DEFINITION OF ACCREDITED INVESTOR.

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

(1) by redesignating clauses (i) and (ii) as subparagraphs (A) and (F), respectively;

(2) in subparagraph (A) (as so redesignated), by striking "; or" and inserting a semicolon, and inserting after such subparagraph the following:

"(B) any natural person whose individual net worth, or joint net worth with that person's spouse, exceeds \$1,000,000 (which amount, along with the amounts set forth in subparagraph (C), shall be adjusted for inflation by the Commission every five years to the nearest \$10,000 to reflect the change in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics) where, for purposes of calculating net worth under this subparagraph—

"(i) the person's primary residence shall not be included as an asset;

"(ii) indebtedness that is secured by the person's primary residence, up to the estimated fair market value of the primary residence at the time of the sale of securities, shall not be included as a liability (except that if the amount of such indebtedness outstanding at the time of sale of securities exceeds the amount outstanding 60 days before such time, other than as a result of the acquisition of the primary residence, the amount of such excess shall be included as a liability); and

"(iii) indebtedness that is secured by the person's primary residence in excess of the estimated fair market value of the primary residence at the time of the sale of securities shall be included as a liability;

"(C) any natural person who had an individual income in excess of \$200,000 in each of the two most recent years or joint income with that person's spouse in excess of \$300,000 in each of those years and has a reasonable expectation of reaching the same income level in the current year;

"(D) any natural person who is currently licensed or registered as a broker or investment adviser by the Commission, the Financial Industry Regulatory Authority, or an equivalent self-regulatory organization (as defined in section 3(a)(26) of the Securities Exchange Act of 1934), or the securities division of a State or the equivalent State division responsible for licensing or registration of individuals in connection with securities activities;

"(E) any natural person the Commission determines, by regulation, to have demonstrable education or job experience to qualify such person as having professional knowledge of a subject related to a particular investment, and whose education or job experience is verified by the Financial Industry Regulatory Authority or an equivalent self-regulatory organization (as defined in section 3(a)(26) of the Securities Exchange Act of 1934); or".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey (Mr. GARRETT) and the gentleman from Delaware (Mr. CARNEY) each will control 20 minutes.

The Chair recognizes the gentleman from New Jersey.

GENERAL LEAVE

Mr. GARRETT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and to include any extraneous materials on this bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. GARRETT. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, I rise in support of H.R. 2187, the Fair Investment Opportunities for Professional Experts Act.

I would like to thank Mr. SCHWEIKERT from Arizona for his diligent work on this bill and members on both sides of the aisle who approved this bill in the Financial Services Committee by an overwhelming vote of 54–2.

Mr. Speaker, small and emerging companies play a significant role as drivers of the U.S. economic activity, innovation, and job creation. In fact, the majority of net jobs created in the U.S. are from companies less than 5 years old. Most of these companies are privately held companies, and their ability to raise capital in the private market is critical to the economic well-being of the U.S. and millions of American families.

But in order for small companies to raise capital in the private market, under SEC regulations they must sell securities only to what are known as "accredited investors." And what exactly determines whether an investor is accredited? Well, the SEC has for

years determined that an individual investor's financial status should be the sole proxy for determining whether or not they are able to understand the risks and rewards.

In other words, the SEC has taken the position that only very wealthy individuals should be allowed to invest in such offerings. That really makes very little sense.

Under the SEC's logic, a random winner of the Powerball lottery would be automatically deemed a sophisticated investor. But an individual who holds advanced degrees and works in finance or a related field, but who happens to make slightly below what the SEC's threshold is, that person would be barred from investing in private offerings.

You see, despite the paternalistic view taken by Washington regulators, there are plenty—plenty—of hardworking and smart Americans who are plenty capable of understanding investments in private businesses.

Congress must, therefore, amend the definition of "accredited investor" in order to expand the pool of potential investors in a private placement market.

H.R. 2187 will do just that by codifying the current accredited investor income and net worth thresholds, adjusted for inflation going forward. Additionally, it will extend accredited investor status to persons who the SEC determines have a demonstrable education or job experience to qualify as having professional subject matter knowledge related to that investment.

In other words, the expansion of the accredited definition will enhance small companies' ability to raise capital and to grow by increasing the pool of potential investors, while at the same time increase investment opportunities for more Americans. In fact, allowing more individuals to invest in both public and private companies could ultimately have the effect of decreasing the risk in these portfolios themselves.

Finally, as SEC Commissioner Mike Piowar pointed out in a speech last year:

"By holding a diversified portfolio of assets, investors reap the benefits of diversification, that is, the risk of the portfolio as a whole is lower than the risk of any individual asset . . . if the correlations are low enough, the overall portfolio risk could actually decrease."

Mr. Speaker, what that means is H.R. 2187 has a double benefit of affording American businesses more opportunities to raise capital, while actually providing hardworking Americans a greater opportunity to create wealth for themselves and their families. I ask my colleagues on both sides of the aisle to join me in supporting H.R. 2187.

I reserve the balance of my time.

Mr. CARNEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me first thank the gentleman from Arizona (Mr.

SCHWEIKERT) and the gentlewoman from Arizona (Ms. SINEMA) for their hard work on this bill. As was pointed out by Chairman GARRETT, all the votes in the committee were in support of the bill, except for two.

This legislation expands the definition of a “accredited investor,” a status reserved for investors who possess the sophistication and financial means necessary to invest in private, unregistered securities offerings.

Many of these thresholds have not been updated, Mr. Speaker, since 1982, and the committee determined it was past time to do so.

It is important to note that the SEC Investor Advisory Committee as well issued bipartisan recommendations, which acknowledge that the current income and net worth tests “don’t begin to measure the type or level of financial sophistication needed to evaluate the potential risks and benefits of private offerings.”

We can all agree, and a vast majority of the members of the Financial Services Committee did agree, that an updated definition is long overdue. The authors of this legislation and the sponsors, Mr. SCHWEIKERT and Ms. SINEMA, have worked to consider the risks of private offerings to ensure that investors in those offerings can understand and bear those risks.

With those comments, Mr. Speaker, I reserve the balance of my time.

Mr. GARRETT. Mr. Speaker, I yield such time as he may consume to the gentleman from Arizona (Mr. SCHWEIKERT), the sponsor of the underlying legislation, and the gentleman who has put all the time and hard work on this great bipartisan piece of legislation.

Mr. SCHWEIKERT. Mr. Speaker, I thank the chairman, and I also thank my friend, Mr. CARNEY.

This is one of those occasions where we actually get to show up here and have something that is bipartisan that we agree upon. But partially because being my piece of legislation, and something we have been working on for a while, I would like to tell a quick story of where this sort of came from conceptually.

About 4 years ago, we were doing a little townhall at that time before redistricting in Tempe, Arizona, and most of the discussion in this townhall was a discussion about the haves and have nots, and why do some people seem to be making wealth and others are not. We sort of tried to actually address it intellectually with some analysis of what are the barriers out there. You are a middle income, hardworking family, and you have some talents; what is your optionality to be able to grow into that next tier of assets, of wealth? This actually became part of that discussion, that we actually have had this barrier now for decades that say we are going to judge you on your income and your wealth and that income and wealth is your threshold that says you get to invest in something over here, not your knowledge.

There was a gentleman in the audience who stood up and said: I have got a story for you. I have a Ph.D. in electrical engineering. I work at the Intel plant in Chandler. I have some friends that started a business a year or two ago. I am an expert. I have a Ph.D. in electrical engineering and I worked with these guys for years. They started a business, and I am not allowed to invest in it because I don’t meet the income and assets threshold.

That is partially what we have accomplished here. The neat thing that has gone back and forth in discussion with my Democrat friends and many of my friends on our side working the bill—it is not everything I wanted—but conceptually it is a terrific idea that income, your wealth is not the only prerequisite for your right to invest in something, that it also can be your knowledge and your talent. If we really care about everyone getting a fair chance at that American Dream, we need to do more like this where you get judged by what you know, your expertise, and not just the fact that you already have made it.

Mr. CARNEY. Mr. Speaker, I have no further requests for time.

I yield back the balance of my time.

Mr. GARRETT. Mr. Speaker, how much time do I have remaining?

The SPEAKER pro tempore. The gentleman from New Jersey has 14½ minutes remaining.

Mr. GARRETT. Mr. Speaker, I yield such time as he may consume to the gentleman from Arkansas (Mr. HILL).

Mr. HILL. Mr. Speaker, I thank the chairman, and Mr. CARNEY, my colleague on the distinguished minority, for this bill. I also want to thank Mr. SCHWEIKERT for his work on developing H.R. 2187, Fair Investment Opportunities for Professional Experts Act, which makes reg D offerings and private placements more effective by broadening the definition of an accredited investor to account for educational or professional expertise.

Because of significant costs and barriers to raising capital in the U.S. public markets, many of our small companies raise start-up funds or expansion funds in the private market, and many of those private market transactions are through accredited investors.

The current definition focuses only on financial status of the investor, and as a result, only wealthy individuals typically can participate in reg D offerings.

H.R. 2187 expands the accredited investor definition, recognizing that the ability to participate is not based on an asset test, but on their sophistication and knowledge.

I have been in this business before I was in Congress on and off for three decades, and I know that many of our Nation’s accountants, stock brokers, venture capitalists, and engineers have money management experience or have a series 7 FINRA license, they work in money management, they work in specific kinds of industries, but they are

not able to invest in private placements due to the fact that they don’t meet this income or asset test.

Mr. SCHWEIKERT’s bill revises these rules so that investment and finance professionals who have this kind of level of professional sophistication are now treated as accredited investors, irrespective of whether they meet an arbitrary test.

It is a matter, Mr. Speaker, of basic fairness. The government should not limit investing options to only investors they deem worthy.

Expanding the accredited investor definition will not only increase investment opportunities for more Americans, but will help us grow thousands of small and emerging markets that struggle to raise capital.

I thank the gentleman from Arizona for all of his work on this commonsense legislation. I enjoyed working with him on it.

I am proud to support this bill, and I urge my colleagues to do so.

Mr. GARRETT. Mr. Speaker, I yield myself 10 seconds to again thank Mr. CARNEY, and especially the gentleman from Arizona (Mr. SCHWEIKERT) for his work on this.

I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. GARRETT) that the House suspend the rules and pass the bill, H.R. 2187, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the yeas have it.

Mr. SCHWEIKERT. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this motion will be postponed.

SEC SMALL BUSINESS ADVOCATE ACT OF 2016

Mr. GARRETT. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3784) to amend the Securities Exchange Act of 1934 to establish an Office of the Advocate for Small Business Capital Formation and a Small Business Capital Formation Advisory Committee, and for other purposes, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 3784

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “SEC Small Business Advocate Act of 2016”.

SEC. 2. ESTABLISHMENT OF OFFICE OF THE ADVOCATE FOR SMALL BUSINESS CAPITAL FORMATION AND SMALL BUSINESS CAPITAL FORMATION ADVISORY COMMITTEE.

(a) OFFICE OF THE ADVOCATE FOR SMALL BUSINESS CAPITAL FORMATION.—Section 4 of the Securities Exchange Act of 1934 (15