

on an instantaneous basis, and an investor can discover, whether or not their broker has a criminal record, has been subjected to a regulatory action by the Securities and Exchange Commission, and whether or not their broker has had consumer complaints filed against them.

While the current system is a good idea, as I indicated, it has not kept pace with technology. Today investors can only access the information by placing a request through the NASD's toll-free phone number or Website, and then must wait for a response. This legislation will update the system by requiring the NASD to make this information available through a secure Website on the Internet so investors can search for this information instantaneously.

NASD statistics bear out the need to utilize the Internet for this purpose. Let me give just a few statistics. Over 4.4 million requests for information were submitted to the BrokerCheck program in 2004, and 99 percent of these were submitted on the Internet through e-mail. Only 1 percent were by telephone. Clearly investors have figured out that the Internet is the proper mechanism for submitting this kind of inquiry and checking out their broker-dealer before they invest. But by having it require now a response from the NASD, rather than having the check be instantaneous, we are exposing investors to that 10-minute to 2-day delay during which they cannot access this information.

By making information accessible online, as H.R. 1077 does, it will be easier for individuals to research their broker-dealer and provide themselves with the information they need before they make an investment decision. I hope my colleagues share my interest in encouraging individuals to become more informed investors, and I urge a yes vote by all of my colleagues on the Realtime Investor Protection Act.

I appreciate the comments of the gentleman on the other side in support of the legislation, the comments of the gentlewoman from New York (Mrs. KELLY), and the support of the Committee on Financial Services.

Mr. OXLEY. Mr. Speaker, I rise in support of the Real-time Investor Protection Act and would like to commend my good friend from Arizona, Mr. SHADEGG, for his excellent work on this important legislation.

Informed investors are critical to our Nation's markets. Ready access to complete information about securities firms and brokers is critical to informing investors and building investor confidence. NASD, the self-regulatory organization for broker-dealers, has been providing this information to the public since 1990 when Congress mandated that NASD make relevant portions of the information available to the public without charge through a toll-free telephone number.

At the time, the telephone was the easiest and most convenient solution. However, inves-

tors today have embraced the Internet as their preferred means of obtaining information. Therefore NASD seeks to use the Internet to disseminate this information. Investors want and need online access to disclosure of information to assist them in deciding whether to do business with a securities firm or broker.

When Congress mandated that NASD release this information, it accorded NASD immunity from liability for the release of such information to the public—recognizing that the disclosure of key information about securities firms and brokers is a critical part of NASD's regulatory and investor protection mission.

I would like to clarify that under prevailing Federal case law there is no private right of action against NASD for acts or omissions taken pursuant to its regulatory responsibilities under the Federal securities laws. I want to be clear that this legislation is not intended to change existing law pertaining to private rights of action under those laws. In addition, courts have historically granted NASD absolute immunity for its regulatory actions. This legislation is not intended to limit NASD's immunity for regulatory actions.

I urge all of my colleagues to support this bipartisan investor protection bill.

Mr. SCOTT of Georgia. Mr. Speaker, I yield back the balance of my time.

Mrs. KELLY. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from New York (Mrs. KELLY) that the House suspend the rules and pass the bill, H.R. 1077, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

INCREASED CAPITAL ACCESS FOR GROWING BUSINESS ACT

Mrs. KELLY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 436) to amend the Investment Company Act of 1940 to provide incentives for small business investment, and for other purposes.

The Clerk read as follows:

H.R. 436

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 "Increased Capital Access for Growing Business Act".

SEC. 2. AMENDMENTS TO THE INVESTMENT COMPANY ACT OF 1940.

(a) DEFINITION OF ELIGIBLE PORTFOLIO COMPANY.—Section 2(a)(46)(C) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(46)(C)) is amended—

(1) by striking clause (i) and inserting the following:

“(i) it does not have any class of equity securities listed for trading on a national securities exchange or traded through the facilities of a national securities association as described in Section 15A of the Securities Exchange Act of 1934;”;

(2) by striking “or” at the end of clause (iii);

(3) by redesignating clause (iv) as clause (v); and

(4) by inserting after clause (iii) the following new clause:

“(iv) the aggregate value of its outstanding publicly traded equity securities is not more than \$250,000,000, except that the Commission may adjust such amounts by rule, regulation, or order to reflect changes in one or more generally accepted indices or other indicators for small business, consistent with the public interest, the protection of investors, and the purposes fairly intended by the policy and provisions of this title; or”.

(b) ASSETS OF BUSINESS DEVELOPMENT COMPANIES.—Section 55(a)(1) of the Investment Company Act of 1940 (15 U.S.C. 80a-55(a)(1)) is amended—

(1) in subparagraph (B), by striking “securities with respect to which a member of a national securities exchange, broker, or dealer may extend or maintain credit to or for a customer pursuant to rules or regulations adopted by the Board of Governors of the Federal Reserve System under Section 7 of the Securities Exchange Act of 1934” and inserting the following: “equity securities listed for trading on a national securities exchange or traded through the facilities of a national securities association as described in Section 15A of the Securities Exchange Act of 1934”; and

(2) by striking “or” at the end of subparagraph (A), by inserting “or” after the semicolon at the end of subparagraph (B), and by inserting after subparagraph (B) the following new subparagraph:

“(C) from the issuer of such securities, which issuer is described in section 2(a)(46)(A) and (B) but is not an eligible portfolio company because the aggregate value of its outstanding publicly traded equity securities is more than \$250,000,000 but not more than \$500,000,000, if such securities represent not more than 10 percent of the total assets of the business development company invested in securities described in paragraphs (1) through (6) of this section;”.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from New York (Mrs. KELLY) and the gentleman from Georgia (Mr. SCOTT) each will control 20 minutes.

The Chair recognizes the gentlewoman from New York (Mrs. KELLY).

GENERAL LEAVE

Mrs. KELLY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from New York?

There was no objection.

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

Mr. Speaker, I thank the Speaker very much for allowing me to bring this important legislation to the floor for consideration today. I also thank the gentlewoman from New York (Ms. VELAZQUEZ) for working with me on this important issue that will help small businesses.

Small businesses are the backbone of our economy, and the Congress must

ensure that they have every opportunity to succeed. It is crucial that small businesses have sufficient access to capital in order to create jobs and ensure a strong and growing economy.

Today the legislation before us, the Increased Capital Access For Growing Business Act, will ensure that small businesses have better access to capital by modernizing outdated security laws.

In 1980, Congress created business development companies to encourage investments in small, developing and financially troubled businesses known as "eligible portfolio companies." BDCs are publicly traded investment companies that invest in both public and private companies and generate an injection of capital for businesses. BDCs have provided significant benefits to the economy, including the opportunity for the public to invest in small, developing companies while also supplying much-needed financing.

The legislation we are considering today makes important changes to the securities laws that ensure the viability of BDCs and expands the businesses these entities are able to assist. In 1980, BDCs were able to invest in approximately 66 percent of the 12,000 publicly held operating companies. Since that time, however, the Federal Reserve has amended its margin rules on several occasions, resulting in a clear decrease in the number of eligible portfolio companies.

In order to correct these unintended consequences, this legislation amends the definition of an eligible portfolio company to enable the BDCs to have a greater flexibility in selecting appropriate investments. To accomplish this goal, the legislation permits BDCs to provide capital to a larger number of companies by increasing the size of companies that BDCs can invest in to reflect changes in the market since the creation of the act.

The legislation also includes specific authority for the Securities and Exchange Commission to modify dollar thresholds in the future. This would enable the SEC to review these thresholds on a regular basis and consider changes that are in the interest of the companies trying to access capital and shareholders of BDCs. Small and developing businesses should be able to devote their energies towards their customers growing their business, and not worrying about their access to capital.

As BDCs are able to provide financing to additional small and medium-sized businesses, the economy will experience greater growth and much more job creation.

I also would like to commend the chairman of the Committee on Financial Services, the gentleman from Ohio (Mr. OXLEY), and the ranking member, the gentleman from Massachusetts (Mr. FRANK), for recognizing the importance and urgency of this legislation and agreeing to move it quickly.

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This is a no-cost commonsense piece of legislation that will help small businesses and increase capital formation. That is a good, healthy economic structure for all. I urge my colleagues to join me in support of this important legislation for investors and small businesses.

Mr. Speaker, I reserve the balance of my time.

Mr. SCOTT of Georgia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 436, the Increased Capital Access For Growing Businesses Act. I want to commend the gentlewoman from New York (Ms. VELÁZQUEZ) and the gentlewoman from New York (Mrs. KELLY) for bringing this matter to the committee's attention, as well as the gentleman from Ohio (Mr. OXLEY) and the gentleman from Massachusetts (Mr. FRANK) for their support in expediting the consideration of this measure. With this legislation, we have an excellent opportunity to help more small businesses access capital so that they can expand and grow their businesses.

Business development companies, or BDCs, are unique investment companies authorized by the 1980 amendments to the Investment Company Act. They are publicly traded companies that invest primarily in smaller companies. Since 1980, BDCs have proven to be a valuable and effective source of funding for small companies, allowing growing companies access to both capital and managerial expertise.

In 1980 when BDCs were first authorized by Congress, about two-thirds of all publicly held companies were eligible for BDC investment. While the securities and financial services industries evolved during the 1990s, neither Congress nor the SEC acted to keep the BDC statute current. As a result, the number of public companies in which BDCs could invest has been reduced drastically, effectively eliminating the option of BDC investment for many small public companies.

It is important to understand that just because a firm has gone public does not mean that it can access the financing necessary for growing and expanding. Many small companies that went public in the late 1990s, for instance, found themselves unable to access the public markets for additional capital after the market bubble burst. These smaller, illiquid company stocks could benefit greatly from financing offered by BDCs. Instead, an out-of-date regulatory structure severely restricts such investments by BDCs.

The current standard for eligibility, whether or not a company has outstanding marginable securities, has proven unworkable as it is tied to a standard that is no longer relevant. H.R. 3170 creates a more workable standard to enable BDCs to provide fi-

nancing to companies as originally intended by the 1980 amendments. The legislation provides an objective standard, based on a market capitalization test, to modernize the definition of eligible portfolio companies.

H.R. 3170 modernizes United States security laws to reflect changes in the marketplace. Small and growing companies are often widely regarded as engines of economic growth and job creation. Allowing BDCs to invest in more companies in need of capital will provide more opportunities, more jobs, and contribute to the economic expansion. I urge my colleagues to support this legislation critical for small businesses and the entire United States economy. Mr. Speaker, I urge support of H.R. 436.

Mr. OXLEY. Mr. Speaker, I rise in support of H.R. 436, the Increased Capital Access for Growing Business Act. This bill creates an improved regulatory environment for small business, the undisputed engine of our economy.

A quarter of a century ago, Congress created business development companies to encourage investments in small businesses. Unrelated rules promulgated by regulators since that time have had the unintended consequence of limiting the investment opportunities of business development companies.

This bill will restore the true intent of Congress by modernizing the securities laws governing these companies. Small businesses will once again have the important capital access provided by business development companies. This is crucial as small businesses must have efficient access to capital to create jobs and promote economic growth.

I would like to commend my good friend and subcommittee chair, Mrs. KELLY of New York, for her fine work in crafting this bill. I urge my colleagues to join me in support of this important bipartisan legislation for investors and small businesses.

Mr. SCOTT of Georgia. Mr. Speaker, I yield back the balance of my time.

Mrs. KELLY. Mr. Speaker, I thank my colleague, the gentleman from Georgia (Mr. SCOTT) for his kind words about this bill.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BOOZMAN). The question is on the motion offered by the gentlewoman from New York (Mrs. KELLY) that the House suspend the rules and pass the bill, H.R. 436.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

MORTGAGE SERVICING CLARIFICATION ACT

Mr. ROYCE. Mr. Speaker, I move to suspend the rules and pass the bill