U.S. Chamber of Commerce

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February 8, 2023

The Honorable Patrick McHenry
Chair
Committee on Financial Services
U.S. House of Representatives
Washington, DC 20515

The Honorable Maxine Waters
Ranking Member
Committee on Financial Services
U.S. House of Representatives
Washington, DC 20515

Dear Chair McHenry and Ranking Member Waters:

The U.S. Chamber of Commerce appreciates the Committee holding the hearing scheduled for February 8, 2023. We support swift action in the 118th Congress to advance legislation to catalyze economic growth. We write to support several bills that will be considered in today's hearing that could make up components of a larger capital formation legislative package.

The Chamber supports:

<u>H.R. XXXX, "Increasing Investor Opportunities Act"</u>

The "Increasing Investor Opportunities Act" would provide new investment opportunities for everyday investors by allowing publicly offered closed-end funds (CEFs) to invest up to all of its assets in private securities.

<u>H.R. XXXX, "Gig Worker Equity Compensation Act"</u>

The "Gig Worker Equity Compensation Act" would expand the pool of workers who can receive equity compensation under the SEC's Rule 701 to include independent contractors and "gig" economy workers.

Rule 701 exempts certain sales of securities made to compensate employees, consultants and advisors. On November 24, 2020, the SEC proposed temporary rules that would permit an issuer to provide equity compensation in certain "platform workers" who provide services available through the issuer's technology-based platform or system. This proposed rule was a step in the right direction, given it recognized the challenges for the gig economy, but was never finalized.

<u>H.R. XXXX, "Fair Investment Opportunities for Professional Experts Act"</u>

The Fair Investment Opportunities for Professional Experts Act would provide an innovative way to expand accredited investor definitions in a limited manner to bring more sophisticated investors into the market. Traditionally, the accredited investor threshold has been determined through asset and income tests, which has resulted in both an under and overinclusive definition which leaves out sophisticated and savvy investors who may not meet financial thresholds while including a wealthy person with no experience in financial markets.

We supported an August 2020 rule from the SEC that allows an individual who has met the educational and licensing requirements to sell securities and investments to be deemed an accredited investor. However, the SEC should consider further ways, through notice and comment rulemaking, to expand the accredited investor definition. This process would help balance investor protection concerns with the need to facilitate capital formation.

<u>H.R. XXXX, "Equal Opportunity for All Investors Act"</u>

An accredited investor is an individual who is permitted to trade securities that may not be registered with the SEC. Securities in early-stage, non-public companies, have a significant potential for growth, but are also considered to be higher-risk. The accredited investor definition is intended to limit investors from participating in this market. Traditionally, the accredited investor threshold has been determined through asset and income tests, which have resulted in both an under- and overinclusive outcomes. The definition leaves out sophisticated and savvy investors who may not meet financial thresholds while including a wealthy person with no experience in financial markets.

The August 2020 SEC rule expanded the definition of "accredited investor" to include more individual investors, such as those with professional qualifications in the financial industry. This legislation would further expand the definition of accredited by allowing an individual to become accredited regardless of income status based upon an examination and test of financial sophistication administered by the SEC or a self-regulatory organization such as FINRA.

<u>H.R. XXXX, "Accredited Investor Definition Review Act"</u>

This legislation would expand upon the SEC's August 2020 rulemaking by requiring the SEC to consider additional professional certifications that could make an individual eligible for accredited investor status. These certifications – some of which did not exist when the accredited investor rules were first adopted – more effectively demonstrate an individual's financial sophistication than arbitrary income or net worth thresholds. We believe the SEC should further review the types of certifications or licenses that currently equate to accredited investor status, and expand this universe as appropriate. Importantly, under this bill the SEC would be required to continuously review professional certifications every five years so that accredited investor criteria does not become outdated.

<u>H.R. XXXX, "Accredited Investor Self-Certification Act"</u>

This bill would further ease that burdens that private issuers face when having to verify that investors in a certain offering are accredited. Individuals often have to gather and turn over sensitive information – including tax returns and bank statements – to demonstrate the level of their income or net worth, and private businesses are obligated to verify the accuracy of that information and determine that someone is accredited. In November 2020, the SEC adopted rules that contained modest improvements to this process, including allowing issuers involved in general solicitation offerings to rely on previous certifications when raising additional capital. The “Accredited Investor Self-Certification Act” would further simplify this process by allowing individuals to confirm – in writing- their accredited investor status without being forced to turn over sensitive tax or financial information.

H.R. XXXX, “Investment Opportunity Expansion Act”

This bill would establish an additional path for individuals to earn accredited status by allowing someone to invest in an offering if they have invested less than 10% of their overall portfolio in private offerings. As then-Commissioner Mike Piwowar pointed out in a 2016 speech, having a mix of private and public companies in a portfolio can actually *reduce* overall risk to an investor and increase their opportunity for greater return.[1] This bill would open up another pathway for investors to create an investment portfolio that can deliver long-term, sustainable returns.

Sincerely,

Tom Quaadman
Executive Vice President
Center for Capital Markets Competitiveness
U.S. Chamber of Commerce

cc: Members of the House Committee on Financial Services

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[1] https://www.sec.gov/news/statement/piwowar-opening-remarks-acsec-051816