

U.S. Senators Propose Bill to Promote Capital Formation and Investment in Emerging Growth Companies

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A group of United States senators, including the Ranking Member of the Senate Committee on Banking, Housing, and Urban Affairs (the Senate Banking Committee), has introduced the [Empowering Main Street in America Act of 2024](#). The bill, which largely addresses issues surrounding emerging growth companies, is divided into four parts, each focusing on a specific goal to: promote capital formation, expand investment opportunities for retail investors, enhance investor confidence, and increase oversight over regulatory bodies.

TITLE I – PROMOTING GREATER CAPITAL FORMATION IN U.S. PUBLIC AND PRIVATE MARKETS

One of the key objectives of the bill is to promote greater capital formation in both public and private markets. It proposes extending the definition of “emerging growth company” under the Jumpstart Our Business Startups Act to companies with annual gross revenues of \$2 billion or less and lengthening the qualifying period from five to ten years. Moreover, it introduces a new micro-offering exemption from Securities and Exchange Commission (SEC) registration requirements, allowing companies to raise up to \$500,000 in a 12-month period without requiring potentially extensive filings. The bill also aims to increase qualified venture capital fund dollar and investor limits, revise thresholds for smaller reporting companies, and ease regulations for crowdfunding and venture capital funds. In addition, it creates a safe harbor for finders and private placement brokers from SEC and national securities associations broker-dealer registration requirements, and directs the SEC to study rural small businesses and update the definition of a “small entity” (as defined in 5 U.S.C. § 601) for regulatory purposes.

TITLE II – RESPONSIBLY EXPANDING INVESTMENT OPPORTUNITIES FOR RETAIL INVESTORS

The bill also aims to broaden investment opportunities for retail investors. It proposes expanding the definition of “accredited investor” to include individuals who pass a qualitative examination, allowing for self-certification of accredited status, and enabling any individual to invest up to 10% of their income in private, unregistered securities. The bill requires the SEC, in consultation with the Secretary of Labor, to study the effects of prohibiting retail investors and retirement plans from investing in private placements. Furthermore, it directs the Department of the Treasury’s Financial Literacy and Education Commission, in coordination with the SEC’s Office of Investor Education and Advocacy and the Office of the Investor Advocate, to explore ways to enhance financial literacy, inclusion, and

confidence among retail investors. The bill also permits closed-end companies to increase their investments in private funds and allows Section 403(b) retirement savings plans to invest in collective investment trusts.

TITLE III – FOSTERING INVESTOR CONFIDENCE IN MARKET INTEGRITY, FAIRNESS, AND TRANSPARENCY

To enhance investor confidence in the integrity, fairness, and transparency of the market, the bill mandates that the SEC examine the readability of financial statements for retail investors and find ways to improve investor disclosures. The bill also expands the SEC Ombudsman program to assist small businesses and intermediaries subject to Regulation Crowdfunding. In addition, it requires the SEC’s Division of Economic and Risk Analysis to publish annual data on the economic performance of capital markets and directs the SEC to study and report on costs associated with initial public offerings for small and medium-sized companies. The bill also clarifies that public companies can exclude shareholder proposals that interfere with their ordinary business operations, even if the proposal addresses a significant social policy issue.

TITLE IV – HOLDING REGULATORS ACCOUNTABLE THROUGH INCREASED OVERSIGHT

The bill also seeks to hold regulators accountable through enhanced oversight measures. It requires the Chair of the SEC to testify before the Senate Banking Committee and the House Financial Services Committee semiannually and to submit a semiannual report detailing the SEC’s activities, agenda, and enforcement actions, economic data, and challenges faced by small businesses. Moreover, the bill mandates that the SEC conduct a cost-benefit analysis of its rulemaking activities and stipulates that the SEC’s Inspector General must be confirmed by the Senate.

Next Steps

Supporters of the Empowering Main Street in America Act of 2024 reason that it will provide small businesses, entrepreneurs, and retail investors with greater access to capital and opportunities to participate in capital markets, and enhance investor protection and market transparency. However, the bill’s future in the current Congress remains uncertain, as it may encounter resistance from advocates for stricter regulation of capital markets. The bill is currently under review by the Senate Banking Committee.

Winston’s Capital Markets and Securities Law Watch will continue to monitor development of the proposed bill and will post additional updates as they become available.

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