

## Union Calendar No. 91

112<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 1082

[Report No. 112-143]

To amend the Investment Advisers Act of 1940 to provide a registration exemption for private equity fund advisers, and for other purposes.

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### IN THE HOUSE OF REPRESENTATIVES

MARCH 15, 2011

Mr. HURT (for himself and Mr. COOPER) introduced the following bill; which was referred to the Committee on Financial Services

JULY 12, 2011

Additional sponsors: Mrs. BIGGERT, Mr. STIVERS, Mr. BACHUS, Mr. COFFMAN of Colorado, Mr. LATOURETTE, Mr. GARRETT, Mr. MANZULLO, Mr. NUNNELEE, and Mr. ROSS of Arkansas

JULY 12, 2011

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

# **A BILL**

To amend the Investment Advisers Act of 1940 to provide a registration exemption for private equity fund advisers, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Small Business Capital  
 5 Access and Job Preservation Act”.

6 **SEC. 2. REGISTRATION AND REPORTING EXEMPTIONS RE-**  
 7 **LATING TO PRIVATE EQUITY FUNDS ADVI-**  
 8 **SORS.**

9 Section ~~203~~ of the Investment Advisers Act of 1940  
 10 (~~15 U.S.C. 80b-3~~) is amended by adding at the end the  
 11 following:

12 “(o) **EXEMPTION OF AND REPORTING REQUIRE-**  
 13 **MENTS BY PRIVATE EQUITY FUNDS ADVISORS.—**

14 “(1) **IN GENERAL.—**Except as provided in this  
 15 subsection, no investment adviser shall be subject to  
 16 the registration or reporting requirements of this  
 17 title with respect to the provision of investment ad-  
 18 vice relating to a private equity fund or funds.

19 “(2) **MAINTENANCE OF RECORDS AND ACCESS**  
 20 **BY COMMISSION.—**Not later than 6 months after the  
 21 date of enactment of this subsection, the Commis-  
 22 sion shall issue final rules—

23 “(A) to require investment advisers de-  
 24 scribed in paragraph (1) to maintain such  
 25 records and provide to the Commission such an-

1            annual or other reports as the Commission taking  
 2            into account fund size, governance, investment  
 3            strategy, risk, and other factors, as the Com-  
 4            mission determines necessary and appropriate  
 5            in the public interest and for the protection of  
 6            investors; and

7            “(B) to define the term ‘private equity  
 8            fund’ for purposes of this subsection.”.

9    **SECTION 1. SHORT TITLE.**

10            *This Act may be cited as the “Small Business Capital*  
 11            *Access and Job Preservation Act”.*

12    **SEC. 2. REGISTRATION AND REPORTING EXEMPTIONS RE-**  
 13            **LATING TO PRIVATE EQUITY FUNDS ADVI-**  
 14            **SORS.**

15            *Section 203 of the Investment Advisers Act of 1940 (15*  
 16            *U.S.C. 80b-3) is amended by adding at the end the fol-*  
 17            *lowing:*

18            *“(o) EXEMPTION OF AND REPORTING REQUIREMENTS*  
 19            *BY PRIVATE EQUITY FUNDS ADVISORS.—*

20            *“(1) IN GENERAL.—Except as provided in this*  
 21            *subsection, no investment adviser shall be subject to*  
 22            *the registration or reporting requirements of this title*  
 23            *with respect to the provision of investment advice re-*  
 24            *lating to a private equity fund or funds, provided*  
 25            *that each such fund has not borrowed and does not*

1       *have outstanding a principal amount in excess of*  
2       *twice its invested capital commitments.*

3               “(2) *MAINTENANCE OF RECORDS AND ACCESS BY*  
4       *COMMISSION.—Not later than 6 months after the date*  
5       *of enactment of this subsection, the Commission shall*  
6       *issue final rules—*

7                       “(A) *to require investment advisers de-*  
8                       *scribed in paragraph (1) to maintain such*  
9                       *records and provide to the Commission such an-*  
10                      *nual or other reports as the Commission taking*  
11                      *into account fund size, governance, investment*  
12                      *strategy, risk, and other factors, as the Commis-*  
13                      *sion determines necessary and appropriate in the*  
14                      *public interest and for the protection of inves-*  
15                      *tors; and*

16                      “(B) *to define the term ‘private equity fund’*  
17                      *for purposes of this subsection.’.*

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112<sup>TH</sup> CONGRESS  
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