

118TH CONGRESS
1ST SESSION

H. R. 2622

IN THE SENATE OF THE UNITED STATES

JULY 12, 2023

Received; read twice and referred to the Committee on Banking, Housing, and
Urban Affairs

AN ACT

To amend the Investment Advisers Act of 1940 to codify certain Securities and Exchange Commission no-action letters that exclude brokers and dealers compensated for certain research services from the definition of investment adviser, 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,*

1 **SECTION 1. EXTENSION OF NO-ACTION LETTER; STUDY.**

2 (a) FINDINGS.—Congress finds the following:

3 (1) The Securities and Exchange Commission
4 staff first granted temporary no-action relief in
5 2017, prior to the implementation of European rules
6 designed to protect European investors from exces-
7 sive costs and conflicts of interest.

8 (2) The Commission staff did not engage in any
9 meaningful cost-benefit analysis of the issues raised
10 by the no-action relief requested either prior to or
11 following the granting of no-action relief in 2017.

12 (3) The Commission staff revised and extended
13 the temporary no-action relief in 2019, again with-
14 out any meaningful cost-benefit analysis of the
15 issues raised by the no-action relief requested prior
16 to or following the granting of the relief.

17 (4) There are currently approximately 15,300
18 registered investment advisers, including affiliates
19 that provide the vast majority of investment re-
20 search.

21 (5) The Commission has received complaints
22 from investors and investor advocacy groups express-
23 ing concerns with the no-action relief, as it currently
24 exists.

1 (6) The Commission has received concerns from
2 broker-dealers related to the potential expiration of
3 the no-action relief.

4 (b) EXTENSION OF NO-ACTION LETTER.—The Com-
5 mission shall provide an additional 6-month extension of
6 the October 26, 2017, Securities Industry and Financial
7 Markets Association, SEC Staff No-Action Letter, set to
8 expire on July 3, 2023.

9 (c) STUDY REQUIRED.—After the announcement ex-
10 tending the expiration date of the no-action letter under
11 subsection (b), the Commission shall conduct, through no-
12 tice and comment, a study of the impact of allowing the
13 no-action letter’s expiration or maintenance of the no-ac-
14 tion letter, and give due regard to any comments received
15 in conducting the study. The Commission or delegated
16 staff shall report their findings and conclusions, including
17 findings related to the expiration of the no-action relief,
18 to the Committee on Financial Services of the House of
19 Representatives and the Committee on Banking, Housing,
20 and Urban Affairs of the Senate.

21 (d) CONTENTS OF STUDY.—The study required
22 under subsection (c) shall include potential impacts on the
23 research market for smaller issuers, including—

24 (1) the availability of such research, includ-
25 ing—

1 (A) the number and types of firms who
2 provide such research;

3 (B) the volume of such research over time;
4 and

5 (C) competition in the research market;

6 (2) any unique challenges faced by minority-
7 owned, women-owned, and veteran owned small
8 issuers in obtaining research coverage;

9 (3) the impact on the availability of research
10 coverage for small issuers due to Commission rules;

11 (4) a cost-benefit analysis of regulatory options
12 that will support research coverage of small entities
13 and increase transparency in the cost of research
14 provided by broker-dealers;

15 (5) the impact of the no-action relief on inves-
16 tors in registered investment companies and exempt
17 investment funds, pension funds, endowments, and
18 other asset owners, investment advisers, broker-deal-
19 ers that provide both investment research and trad-
20 ing services, independent investment advisers that do
21 not provide trading services, broker-dealers that do
22 not provide investment research, and other market
23 participants, including issuers of securities; and

24 (6) the potential impacts of the expiration of
25 the no-action relief on investors in registered invest-

Attest: KEVIN F. MCCUMBER,
Clerk.