II

118TH CONGRESS
2D SESSION

S. 3676

To except quotations of fixed-income securities from certain regulatory requirements, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 25, 2024

Mr. HAGERTY introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

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A BILL

To except quotations of fixed-income securities from certain regulatory requirements, and for other purposes.

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 "Protecting Private Job Creators Act".

SEC. 2. FINDINGS.

Congress finds the following:

(1) On September 16, 2020, the Securities and Exchange Commission (referred to in this section as the "Commission") adopted a final rule amending

section 240.15c2–11 of title 17, Code of Federal Regulations (referred to in this section as ''Rule 15c2–11''). Those amendments addressed disclosures in the marketplaces commonly referred to as ''over-the-counter markets'' (referred to in this section as ''OTC markets'') and imposed requirements on brokers and dealers that publish quotations in OTC markets.

(2) Rule 15c2–11 was originally promulgated in 1971 and, since that time, has generally been understood to apply to OTC markets.

(3) The amendments described in paragraph (1) were based on the economic analysis of OTC markets.

(4) Fixed-income markets are—

(A) different in structure and function than OTC markets; and

(B) critical to the ability of thousands of businesses' ability to raise capital.

(5) Section 230.144A of title 17, Code of Federal Regulations (referred to in this section as ''Rule 144A''), requires that, upon request, issuers make their financial and operational information available to qualified institutional buyers.

(6) Following no-action letters issued on September 24, 2021, and December 16, 2021, the Commission indicated that the Commission would apply Rule 15c2–11 to fixed-income markets in a manner that would make significant changes to long-standing regulatory requirements without a rulemaking process, without analysis of the costs and benefits of the action, and without regard for the input of the public. According to a subsequent no-action letter, which was issued on November 30, 2022, the Commission will apply Rule 15c2–11 to fixed-income securities sold pursuant to Rule 144A after no-action relief expires on January 4, 2025.

(7) On October 30, 2023, the Commission exempted fixed-income securities sold pursuant to Rule 144A from Rule 15c2–11 compliance, finding that doing so is ‘‘appropriate in the public interest, and consistent with the protection of investors’’.

SEC. 3. EXEMPTION RELATING TO QUOTATIONS OF FIXED-INCOME SECURITIES.

(a) DEFINITIONS.—In this section:

(1) EQUITY SECURITY; SECURITY.—The terms ‘‘equity security’’ and ‘‘security’’ have the meanings given those terms in section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)).

(2) FIXED-INCOME SECURITY.—The term "fixed-income security" means—

(A) any note, bond, debenture, certificate of deposit for a security, certificate of deposit, or asset-backed security or any other evidence of indebtedness; or

(B) any security described in subparagraph (A)—

(i) that is convertible, with or without consideration, into any equity security; or

(ii) carrying any warrant or right to subscribe to or purchase any equity security.

(b) EXEMPTION.—Section 240.15c2–11 of title 17, Code of Federal Regulations, or any successor regulation, shall not apply with respect to a quotation of a fixed-income security.

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