

issuers to test the waters before going public.

This allows the issuer to gauge interest in their public offering by talking to certain institutional investors without first needing to file a registration statement.

Given the cost of going through the entire process, it only makes sense to allow companies to talk to institutional investors before they decide to go public and commit themselves to that large cost.

Overall, this makes it easier for companies to access our capital markets to get the capital they need to grow their businesses.

Mr. Speaker, this bill is one that should be adopted. The vote in committee was 39-1. I urge my colleagues to support it.

Mr. Speaker, I yield back the balance of my time.

Mrs. WAGNER. Mr. Speaker, I strongly urge my colleagues to support H.R. 2793, and I yield back the balance of my time.

Ms. JACKSON LEE. Mr. Speaker, I rise today in support of H.R. 2793, the Encouraging Public Offerings Act of 2023.

This bill provides statutory authority for all issuers of securities to use certain offering procedures that are available to emerging growth companies.

Specifically, the bill allows under statute issuers of securities to communicate with potential investors to ascertain interest in a contemplated securities offering, either before or after the filing of a registration statement (i.e., test the waters).

Additionally, issuers are allowed under statute to submit a confidential draft registration statement to the Securities and Exchange Commission for review prior to public filing or within one year after the initial public offering or registration.

This bill strikes “an emerging growth company or any person authorized to act on behalf of an emerging growth company” and inserts “an issuer or any person authorized to act on behalf of an issuer.”

This bill further adds the following additional requirements:

(A) In general—the Commission may promulgate regulations, subject to public notice and comment, to impose such other terms, conditions, or requirements on the engaging in oral or written communications described under paragraph (1) by an issuer other than an emerging growth company as the Commission determines appropriate.

(B) Report to Congress—Prior to any rulemaking described under subparagraph (A), the Commission shall submit to Congress a report containing a list of the findings supporting the basis of the rulemaking.

The Congressional Budget Office estimates that it would cost an insignificant amount for the agency to justify any further rulemakings to the Congress because the SEC already allows such practices under current policy.

The Congressional Budget Office expects that the net effect on discretionary spending over the 2023–2028 period would be negligible, assuming appropriation actions consistent with that authority, because the SEC is authorized to collect fees each year to offset its annual appropriation.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Missouri (Mrs. WAGNER) that the House suspend the rules and pass the bill, H.R. 2793, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mrs. WAGNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this motion will be postponed.

MIDDLE MARKET IPO COST ACT

Mrs. WAGNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2812) to require the Securities and Exchange Commission to carry out a study of the costs associated with small- and medium-sized companies to undertake initial public offerings, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 2812

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 “Middle Market IPO Cost Act”.

SEC. 2. STUDY ON IPO FEES.

(a) STUDY.—The Comptroller General of the United States, in consultation with the Securities and Exchange Commission, in consultation with the Financial Industry Regulatory Authority, shall carry out a study of the costs associated with small- and medium-sized companies to undertake initial public offerings (“IPOs”). In carrying out such study, the Comptroller General shall—

(1) consider the direct and indirect costs of an IPO, including—

(A) fees of accountants, underwriters, and any other outside advisors with respect to the IPO;

(B) compliance with Federal and State securities laws at the time of the IPO; and

(C) such other IPO-related costs as the Comptroller General may consider;

(2) compare and analyze the costs of an IPO with the costs of obtaining alternative sources of financing and of liquidity;

(3) consider the impact of such costs on capital formation;

(4) analyze the impact of these costs on the availability of public securities of small- and medium-sized companies to retail investors; and

(5) analyze trends in IPOs over a time period the Comptroller General determines is appropriate to analyze IPO pricing practices, considering—

(A) the number of IPOs;

(B) how costs for IPOs have evolved over time for underwriters, investment advisory firms, and other professions for services in connection with an IPO;

(C) the number of brokers and dealers active in underwriting IPOs;

(D) the different types of services that underwriters and related persons provide before and after a small- or medium-sized company IPO and the factors impacting IPOs costs;

(E) changes in the costs and availability of investment research for small- and medium-sized companies; and

(F) the impacts of litigation and its costs on being a public company.

(b) REPORT.—Not later than the end of the 360-day period beginning on the date of the enactment of this Act, the Comptroller General shall issue a report to the Congress containing all findings and determinations made in carrying out the study required under subsection (a) and any administrative or legislative recommendations the Comptroller General may have.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Missouri (Mrs. WAGNER) and the gentleman from California (Mr. SHERMAN) each will control 20 minutes.

The Chair recognizes the gentlewoman from Missouri.

GENERAL LEAVE

Mrs. WAGNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on this bill.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Missouri?

There was no objection.

Mrs. WAGNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2812, the Middle Market IPO Underwriting Cost Act. I thank my colleagues from both sides of the aisle, Representatives Himes and Lawler, for working on this important piece of bipartisan legislation that will help ensure that our IPO market remains competitive and attractive, especially for small- and medium-sized companies.

I thank Mr. HIMES for his willingness to work with the majority, and specifically Congressman FRENCH HILL of Arkansas, to reach an agreement on this legislation.

Staff have been working on this since the bill was marked up in April, and I am happy to see that the study will now be carried out by the GAO in consultation with the SEC and FINRA.

Companies have two ways of accessing capital in the securities markets to fund their operations: an initial public offering, IPO, where they sell securities publicly through a registered offering with the SEC, or a private offering under an exemption from registration.

Accessing capital through an IPO is a significant step for a company because there are considerable up-front costs, as well as ongoing, increased costs associated with the company's reporting requirements as a public company.

Before an IPO, companies often spend tens of millions of dollars gathering and compiling mandatory information to submit to the SEC and make available to the public for the sale of its securities.

The SEC itself has estimated that the average cost of just achieving regulatory compliance for going public is \$2.5 million, which may not include additional costs of hiring professionals to help undertake the IPO.

However, additional data is required to achieve a better understanding of the costs of the added regulatory and

professional services associated with undertaking an IPO and becoming a public company.

As a result, the study required under this bill will help Congress and the market better understand the costs associated with small- and medium-sized companies to undertake initial public offerings, IPOs, and become public companies.

Mr. Speaker, H.R. 2812 is a balanced and thoughtful bill that will give us the information to better understand those costs with going public so that Congress can continue the work to make our public markets the most attractive and competitive in the world.

Mr. Speaker, for this reason, I urge my colleagues to support H.R. 2812, and I reserve the balance of my time.

Mr. SHERMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2812, the middle market IPO underwriting study act, sponsored by the gentleman from Connecticut (Mr. HIMES), and I commend him for his work in bringing this bill to the floor and authoring it.

This bill passed our committee by a voice vote. I don't think there was a dissenting voice in the room.

As the gentlewoman from Missouri points out, the process of going public and filing a registration statement is expensive. Due to that expense, companies may choose not to go public and not raise the money they need to expand their businesses and provide additional employment to aid our economy. Therefore, it is in all of our interests to see whether that cost can be reduced.

Companies in this process usually engage an underwriter or broker-dealer to help them sell the shares to prospective investors. Underwriters are typically compensated for their services through fees such as underwriting spreads and underwriting fees.

The underwriting spread is the difference between the price at which the underwriter buys the security from the issuer and the price at which those securities are sold to the public in the public offering.

□ 1730

The underwriting fee, which often constitutes the largest share of the cost of doing an IPO, or initial public offering, is typically a percentage of the gross proceeds of the sale of the securities. The exact amount varies and can be negotiated between the issuer and the underwriter. Large companies have, in recent years, been able to negotiate lower percentages for this process, which reduces their overall fee. At the same time, smaller companies have continued to pay the same historic percentage for this service, which is often 7 percent of the transaction.

Higher underwriting fees essentially increase the cost of raising capital, allowing middlemen to pocket profits that would otherwise be available to grow the company.

Despite technological advancements, such as digital platforms which now allow for a quicker and wider distribution of securities, underwriting costs

for small- and medium-sized companies have remained stagnant and uncompetitive.

The gentleman from Connecticut (Mr. HIMES) has brought forward a bill to direct a study of this problem and offer concrete solutions. It will focus on the underwriting fee. It will also look at the auditing fee, as well.

I support this bill, which will shed light on how much small- and medium-sized companies are paying chiefly for underwriting services when they go public. I hope this will get the SEC to address this behavior on Wall Street.

Mr. Speaker, I urge my colleagues to support the bill, and I reserve the balance of my time.

Mrs. WAGNER. Mr. Speaker, I reserve the balance of my time.

Mr. SHERMAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Connecticut (Mr. HIMES), the author of this bill.

Mr. HIMES. Mr. Speaker, I thank the gentleman from California and my friend from Missouri, and I rise in support of this bill, H.R. 2812, the middle market IPO underwriting cost act.

I thank Chairman MCHENRY and Ranking Member WATERS for considering these bills on the floor today, and this bill in particular, which we have been working on for a very long time.

This bill, H.R. 2812, grows out of the work that the Financial Services Committee has been doing for a long time around the JOBS Act, which did good work to reduce the cost and friction associated with a young company going public. At the time, the JOBS Act was estimated to save companies between \$1 million and \$2 million a year when and after they go public, but the actual cost of going public, except for the very largest companies, as the gentleman from California noted, has not changed at all in many, many years.

Over those years, middle-market companies, which arguably have less negotiating power than some of the very large companies that have been able to force down fees, have experienced a perfectly consistent gross spread of 7 percent. Think about that. The price of going public has never varied from 7 percent. That means that a young company raising a typical \$200 million in capital, with a 7 percent gross spread, hands over \$14 million to the underwriters. That is a lot of money for a young company.

From 2001 to 2022, 95 percent of U.S. IPOs that raised between \$30 million and \$130 million had a gross spread of 7 percent. From 1992 to 2017, more than 80 percent of middle-market IPOs had gross spreads of exactly 7 percent.

The cost of the technologies used during the underwriting process have come down dramatically over the decades, but the gross spread has not, so I strongly believe that this remarkably stable 7 percent gross spread is fair subject for scrutiny.

H.R. 2812 very simply asks the GAO, in consultation with the Securities and Exchange Commission, to examine the gross spread and other costs associated with going public to see if we can understand that remarkable stability,

what drives it, and what might be done to try to make the market more competitive and, therefore, reduce costs for companies trying to access our capital markets.

Mr. Speaker, I again thank Chairman MCHENRY and Ranking Member WATERS for bringing this bill to the floor today.

Finally, Mr. Speaker, I thank my good friend from Arkansas, Representative FRENCH HILL, for all of his thoughtful feedback and suggestions on this bill over the last few weeks.

Mr. Speaker, I urge my colleagues to support H.R. 2812, and I again thank the gentlewoman from Missouri (Mrs. WAGNER) and the gentleman from California (Mr. SHERMAN).

Mrs. WAGNER. Mr. Speaker, I reserve the balance of my time.

Mr. SHERMAN. Mr. Speaker, I think the gentleman from Connecticut said it well: Costs should be coming down because technology is available, yet they seem exactly stuck at a noncompetitive 7 percent. Our investors in companies need more robust competition and fairer underwriting practices. This bill would shed light on these practices and help us strengthen competition in underwriting services for our smaller and medium-sized companies.

Mr. Speaker, I urge my colleagues to support this bill, which passed, I believe, on a voice vote in our committee. I know of no opposition.

Mr. Speaker, I yield back the balance of my time.

Mrs. WAGNER. Mr. Speaker, I strongly urge my colleagues to support H.R. 2812, and I yield back the balance of my time.

Ms. JACKSON LEE. Mr. Speaker, I rise today in support of H.R. 2812, the Middle Market IPO Cost Act.

H.R. 2812 would require the Securities and Exchange Commission to study and report on the costs encountered by small- and medium-sized companies when undertaking initial public offerings and certain offerings exempt from securities registration requirements.

The report commissioned through this bill will provide information to facilitate cost reduction for small and medium-size businesses when they conduct an initial public offering and "go public."

This bill constitutes an important step toward protecting small and mid-size businesses from the penalties they currently face under historic fee structures and restrictions on IPO funding.

The Houston area leads the Nation in small business development and is one of the top emerging ecosystems for startups globally.

In 2021, over 150,000 new-business applications were filed in the Houston area.

This bill will boost these Houston businesses by making it easier for them to grow and create jobs.

By going public, businesses in Houston and beyond will be able to give American families the opportunity to invest directly in their businesses and build wealth for the future.

Mr. Speaker, I stand for American families. I stand for economic growth and small businesses. This bill will equip Congress to better

understand and address the burdens and costs of conducting an initial public offering.

I urge my colleagues to join me in supporting this bill and in working to ensure accessible economic opportunities for all.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Missouri (Mrs. WAGNER) that the House suspend the rules and pass the bill, H.R. 2812, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the yeas have it.

Mrs. WAGNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this motion will be postponed.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until approximately 6:30 p.m. today.

Accordingly (at 5 o'clock and 36 minutes p.m.), the House stood in recess.

□ 1830

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. MOLINARO) at 6 o'clock and 30 minutes p.m.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Proceedings will resume on questions previously postponed.

Votes will be taken in the following order:

Motions to suspend the rules and pass:

H.R. 2793; and

H.R. 2812.

The first electronic vote will be conducted as a 15-minute vote. Pursuant to clause 9 of rule XX, the remaining electronic vote will be conducted as a 5-minute vote.

ENCOURAGING PUBLIC OFFERINGS ACT OF 2023

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the unfinished business is the vote on the motion to suspend the rules and pass the bill (H.R. 2793) to amend the Securities Act of 1933 to expand the ability to use testing the waters and confidential draft registration submissions, and for other purposes, as amended, on which the yeas and nays were ordered.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Missouri (Mrs. WAGNER) that the House suspend the rules and pass the bill, as amended.

The vote was taken by electronic device, and there were—yeas 384, nays 13, not voting 36, as follows:

[Roll No. 245]

YEAS—384

| | | |
|-----------------|----------------|-----------------|
| Adams | DeSaulnier | Kaptur |
| Aderholt | DesJarlais | Kean (NJ) |
| Aguiar | Diaz-Balart | Keating |
| Alford | Dingell | Kelly (IL) |
| Allen | Doggett | Kelly (MS) |
| Allred | Donalds | Kelly (PA) |
| Amodei | Duncan | Khanna |
| Armstrong | Dunn (FL) | Kildee |
| Auchincloss | Edwards | Kiley |
| Babin | Ellzey | Kilmer |
| Bacon | Emmer | Kim (CA) |
| Baird | Escobar | Kim (NJ) |
| Balderson | Eshoo | Krishnamoorthi |
| Balint | Espallat | Kuster |
| Banks | Estes | Kustoff |
| Barragán | Evans | LaHood |
| Bean (FL) | Ezell | LaLota |
| Beatty | Fallon | LaMalfa |
| Bera | Feenstra | Lamborn |
| Bice | Ferguson | Landsman |
| Biggs | Finstad | Langworthy |
| Bilirakis | Fischbach | Larson (CT) |
| Bishop (GA) | Fitzpatrick | Latta |
| Blumenauer | Fleischmann | LaTurner |
| Blunt Rochester | Fletcher | Lawler |
| Boebert | Flood | Lee (CA) |
| Bonamici | Poster | Lee (FL) |
| Bost | Fox | Lee (NV) |
| Boyle (PA) | Frankel, Lois | Leger Fernandez |
| Brecheen | Franklin, C. | Lesko |
| Brown | Scott | Letlow |
| Brownley | Fry | Levin |
| Buck | Fulcher | Lieu |
| Bucshon | Gaetz | Lofgren |
| Budzinski | Gallagher | Loudermilk |
| Burchett | Galleo | Lucas |
| Burgess | Garcia (IL) | Luetkemeyer |
| Burlison | Garcia (TX) | Luna |
| Calvert | Garcia, Mike | Luttrell |
| Cammack | Gimenez | Lynch |
| Caraveo | Golden (ME) | Mace |
| Carbajal | Goldman (NY) | Malliotakis |
| Cárdenas | Gonzales, Tony | Mann |
| Carey | Gonzalez, | Manning |
| Carl | Vicente | Masie |
| Carson | Good (VA) | Mast |
| Carter (GA) | Gooden (TX) | Matsui |
| Carter (LA) | Gosar | McBath |
| Carter (TX) | Gottheimer | McCaul |
| Cartwright | Granger | McClain |
| Case | Graves (LA) | McClellan |
| Casten | Graves (MO) | McClintock |
| Castor (FL) | Green (TN) | McCollum |
| Castro (TX) | Green, Al (TX) | McCormick |
| Chavez-DeRemer | Griffith | McGarvey |
| Cherfilus- | Grothman | McGovern |
| McCormick | Guest | McHenry |
| Chu | Guthrie | Meeks |
| Ciscomani | Hageman | Menendez |
| Clark (MA) | Harder (CA) | Meuser |
| Clarke (NY) | Harris | Mfume |
| Cleaver | Harshbarger | Miller (IL) |
| Cline | Hayes | Miller (OH) |
| Cloud | Hern | Miller-Meeks |
| Clyburn | Higgins (LA) | Mills |
| Clyde | Higgins (NY) | Molinaro |
| Cohen | Hill | Moolenaar |
| Cole | Himes | Moore (AL) |
| Collins | Hinson | Moore (UT) |
| Comer | Horsford | Moore (WI) |
| Connolly | Houchin | Moran |
| Correa | Houlahan | Morelle |
| Costa | Hoyle (OR) | Moskowitz |
| Courtney | Huffman | Moulton |
| Crane | Huizenga | Mrvan |
| Crawford | Hunt | Mullin |
| Crenshaw | Issa | Murphy |
| Crockett | Ivey | Napolitano |
| Crow | Jackson (IL) | Neal |
| Cuellar | Jackson (NC) | Neguse |
| Curtis | Jackson (TX) | Nehls |
| D'Esposito | Jackson Lee | Newhouse |
| Davids (KS) | Jacobs | Nickel |
| Davidson | James | Norman |
| Davis (IL) | Jeffries | Nunn (IA) |
| Davis (NC) | Johnson (GA) | Oberholte |
| De La Cruz | Johnson (LA) | Ogles |
| Dean (PA) | Johnson (OH) | Owens |
| DeGette | Johnson (SD) | Pallone |
| DeLauro | Jordan | Palmer |
| DeBene | Joyce (PA) | Panetta |
| Deluzio | Kamlager-Dove | Pappas |

| | | |
|---------------|---------------|----------------|
| Pascrell | Schrier | Timmons |
| Payne | Schweikert | Titus |
| Pelosi | Scott (VA) | Tokuda |
| Peltola | Scott, Austin | Tonko |
| Perez | Scott, David | Torres (CA) |
| Perry | Self | Torres (NY) |
| Peters | Sessions | Trahan |
| Pettersen | Sewell | Trone |
| Pfluger | Sherman | Turner |
| Phillips | Sherrill | Underwood |
| Pingree | Simpson | Van Drew |
| Pocan | Slotkin | Van Duyn |
| Quigley | Smith (MO) | Vasquez |
| Raskin | Smith (NE) | Veasey |
| Reschenthaler | Smith (WA) | Velázquez |
| Rodgers (WA) | Smucker | Wagner |
| Rogers (AL) | Sorensen | Walberg |
| Rogers (KY) | Soto | Waltz |
| Rose | Spanberger | Wasserman |
| Rosendale | Stansbury | Schultz |
| Ross | Stanton | Waters |
| Rouzer | Stauber | Watson Coleman |
| Roy | Steel | Weber (TX) |
| Ruiz | Stefanik | Webster (FL) |
| Ruppersberger | Steil | Wenstrup |
| Rutherford | Steube | Westerman |
| Ryan | Stevens | Wexton |
| Salazar | Stewart | Wild |
| Salinas | Strickland | Williams (GA) |
| Sánchez | Swalwell | Williams (NY) |
| Santos | Sykes | Williams (TX) |
| Sarbanes | Takano | Wilson (SC) |
| Scalise | Tenney | Wittman |
| Scanlon | Thandadar | Womack |
| Schakowsky | Thompson (CA) | Yakym |
| Schiff | Thompson (MS) | Zinke |
| Schneider | Thompson (PA) | |
| Scholten | Tiffany | |

NAYS—13

| | | |
|----------------|---------------|----------|
| Bowman | Gomez | Porter |
| Bush | Jayapal | Pressley |
| Casar | Lee (PA) | Tlaib |
| Frost | Ocasio-Cortez | |
| Garcia, Robert | Omar | |

NOT VOTING—36

| | | |
|-------------|--------------|-------------|
| Arrington | Garbarino | Nadler |
| Barr | Greene (GA) | Norcross |
| Bentz | Grijalva | Pence |
| Bergman | Hoyer | Posey |
| Beyer | Hudson | Ramirez |
| Bishop (NC) | Joyce (OH) | Smith (NJ) |
| Buchanan | Kiggans (VA) | Spartz |
| Craig | Larsen (WA) | Strong |
| Duarte | Magaziner | Valadao |
| Fitzgerald | Meng | Van Orden |
| Foushee | Miller (WV) | Vargas |
| Garamendi | Mooney | Wilson (FL) |

□ 1854

Mr. GOMEZ changed his vote from "yea" to "nay."

Mr. MCHENRY changed his vote from "nay" to "yea."

So (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MIDDLE MARKET IPO COST ACT

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the unfinished business is the vote on the motion to suspend the rules and pass the bill (H.R. 2812) to require the Securities and Exchange Commission to carry out a study of the costs associated with small- and medium-sized companies to undertake initial public offerings, as amended, on which the yeas and nays were ordered.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Missouri (Mrs. WAGNER) that the House suspend the rules and pass the bill, as amended.