

CAPUANO/ GARRETT (ANALYSIS)

AMENDMENT TO H.R. _____

OFFERED BY Mr. Capuano / Garrett

[amendment to IPA discussion draft of October 1, 2009]

At the end of title IV of the bill insert the following:

1 **SECTION 414. ANALYSIS OF RULE REGARDING SMALLER**
2 **REPORTING COMPANIES.**

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

4 (1) Many small businesses in cutting-edge tech-
5 nology sectors require significant capital investment
6 to develop new technologies related to clean energy,
7 drug treatments for terminal diseases and food pro-
8 duction in hunger-stricken areas of the World.

9 (2) Many technology companies conducting re-
10 search do not meet the definition of “smaller report-
11 ing company” under the Securities and Exchange
12 Commission’s Rule 12b-2 due to unusually high pub-
13 lic floats despite low or zero revenue.

14 (3) The Final Report of the Advisory Com-
15 mittee on Smaller Public Companies to the Securi-
16 ties and Exchange Commission recommended that a
17 company with a market capitalization of less than
18 about \$787,000,000 be considered a smallcap com-
19 pany and that the Commission provide exemptions

1 from section 404(b) of the Sarbanes-Oxley Act to
2 companies with less than \$250,000,000 in annual
3 revenues.

4 (b) STUDY OF USING REVENUE AS CRITERIA TO DE-
5 FINE SMALLER REPORTING COMPANY.—The Securities
6 and Exchange Commission shall conduct a study of the
7 inclusion of revenue as a criteria used in defining smaller
8 reporting company as defined under the Commission's
9 Rule 12b-2 to account for smaller public companies with
10 public floats less than \$700,000,000 and revenues less
11 than \$250,000,000. Not later than 180 days after the date
12 of enactment of this Act, the Commission shall provide
13 the Committee on Financial Services of the House of Rep-
14 resentatives and the Committee on Banking, Housing and
15 Urban Affairs of the Senate a report of the findings of
16 the study.

