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(Original Signature of Member)

114TH CONGRESS  
1ST SESSION

**H. R.**

To amend the Securities Exchange Act of 1934 to establish an Office of the Advocate for Small Business Capital Formation and a Small Business Capital Formation Advisory Committee, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

Mr. CARNEY (for himself, Mr. DUFFY, Mr. QUIGLEY, and Mr. CRENSHAW) introduced the following bill; which was referred to the Committee on

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**A BILL**

To amend the Securities Exchange Act of 1934 to establish an Office of the Advocate for Small Business Capital Formation and a Small Business Capital Formation Advisory Committee, 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 “SEC Small Business  
5 Advocate Act of 2015”.

1 **SEC. 2. ESTABLISHMENT OF OFFICE OF THE ADVOCATE**  
2 **FOR SMALL BUSINESS CAPITAL FORMATION**  
3 **AND SMALL BUSINESS CAPITAL FORMATION**  
4 **ADVISORY COMMITTEE.**

5 (a) OFFICE OF THE ADVOCATE FOR SMALL BUSI-  
6 NESS CAPITAL FORMATION.—Section 4 of the Securities  
7 Exchange Act of 1934 (15 U.S.C. 78d) is amended by  
8 adding at the end the following:

9 “(j) OFFICE OF THE ADVOCATE FOR SMALL BUSI-  
10 NESS CAPITAL FORMATION.—

11 “(1) OFFICE ESTABLISHED.—There is estab-  
12 lished within the Commission the Office of the Advo-  
13 cate for Small Business Capital Formation (here-  
14 after in this subsection referred to as the ‘Office’).

15 “(2) ADVOCATE FOR SMALL BUSINESS CAPITAL  
16 FORMATION.—

17 “(A) IN GENERAL.—The head of the Of-  
18 fice shall be the Advocate for Small Business  
19 Capital Formation, who shall—

20 “(i) report directly to the Commission;

21 and

22 “(ii) be appointed by the Commission,  
23 from among individuals having experience  
24 in advocating for the interests of small  
25 businesses and encouraging small business  
26 capital formation.

1           “(B) COMPENSATION.—The annual rate of  
2           pay for the Advocate for Small Business Cap-  
3           ital Formation shall be equal to the highest rate  
4           of annual pay for other senior executives who  
5           report directly to the Commission.

6           “(C) NO CURRENT EMPLOYEE OF THE  
7           COMMISSION.—An individual may not be ap-  
8           pointed as the Advocate for Small Business  
9           Capital Formation if the individual is currently  
10          employed by the Commission.

11          “(3) STAFF OF OFFICE.—The Advocate for  
12          Small Business Capital Formation, after consulta-  
13          tion with the Commission, may retain or employ  
14          independent counsel, research staff, and service  
15          staff, as the Advocate for Small Business Capital  
16          Formation determines to be necessary to carry out  
17          the functions of the Office.

18          “(4) FUNCTIONS OF THE ADVOCATE FOR  
19          SMALL BUSINESS CAPITAL FORMATION.—The Advo-  
20          cate for Small Business Capital Formation shall—

21                 “(A) assist small businesses and small  
22                 business investors in resolving significant prob-  
23                 lems such businesses and investors may have  
24                 with the Commission or with self-regulatory or-  
25                 ganizations;

1           “(B) identify areas in which small busi-  
2           nesses and small business investors would ben-  
3           efit from changes in the regulations of the  
4           Commission or the rules of self-regulatory orga-  
5           nizations;

6           “(C) identify problems that small busi-  
7           nesses have with securing access to capital;

8           “(D) analyze the potential impact on small  
9           businesses and small business investors of—

10           “(i) proposed regulations of the Com-  
11           mission that are likely to have a significant  
12           economic impact on small businesses and  
13           small business capital formation; and

14           “(ii) proposed rules that are likely to  
15           have a significant economic impact on  
16           small businesses and small business capital  
17           formation of self-regulatory organizations  
18           registered under this title;

19           “(E) conduct outreach to small businesses  
20           and small business investors, including through  
21           regional roundtables, in order to solicit views on  
22           relevant capital formation issues;

23           “(F) to the extent practicable, propose to  
24           the Commission changes in the regulations or  
25           orders of the Commission and to Congress any

1 legislative, administrative, or personnel changes  
2 that may be appropriate to mitigate problems  
3 identified under this paragraph and to promote  
4 the interests of small businesses and small busi-  
5 ness investors;

6 “(G) consult with the Investor Advocate on  
7 proposed recommendations made under sub-  
8 paragraph (F); and

9 “(H) advise the Investor Advocate on  
10 issues related to small businesses and small  
11 business investors.

12 “(5) ACCESS TO DOCUMENTS.—The Commis-  
13 sion shall ensure that the Advocate for Small Busi-  
14 ness Capital Formation has full access to the docu-  
15 ments and information of the Commission and any  
16 self-regulatory organization, as necessary to carry  
17 out the functions of the Office.

18 “(6) ANNUAL REPORT ON ACTIVITIES.—

19 “(A) IN GENERAL.—Not later than De-  
20 cember 31 of each year after 2015, the Advo-  
21 cate for Small Business Capital Formation shall  
22 submit to the Committee on Banking, Housing,  
23 and Urban Affairs of the Senate and the Com-  
24 mittee on Financial Services of the House of  
25 Representatives a report on the activities of the

1 Advocate for Small Business Capital Formation  
2 during the immediately preceding fiscal year.

3 “(B) CONTENTS.—Each report required  
4 under subparagraph (A) shall include—

5 “(i) appropriate statistical information  
6 and full and substantive analysis;

7 “(ii) information on steps that the  
8 Advocate for Small Business Capital For-  
9 mation has taken during the reporting pe-  
10 riod to improve small business services and  
11 the responsiveness of the Commission and  
12 self-regulatory organizations to small busi-  
13 ness and small business investor concerns;

14 “(iii) a summary of the most serious  
15 issues encountered by small businesses and  
16 small business investors during the report-  
17 ing period;

18 “(iv) an inventory of the items sum-  
19 marized under clause (iii) (including items  
20 summarized under such clause for any  
21 prior reporting period on which no action  
22 has been taken or that have not been re-  
23 solved to the satisfaction of the Advocate  
24 for Small Business Capital Formation as

1 of the beginning of the reporting period  
2 covered by the report) that includes—

3 “(I) identification of any action  
4 taken by the Commission or the self-  
5 regulatory organization and the result  
6 of such action;

7 “(II) the length of time that each  
8 item has remained on such inventory;  
9 and

10 “(III) for items on which no ac-  
11 tion has been taken, the reasons for  
12 inaction, and an identification of any  
13 official who is responsible for such ac-  
14 tion;

15 “(v) recommendations for such  
16 changes to the regulations, guidance and  
17 orders of the Commission and such legisla-  
18 tive actions as may be appropriate to re-  
19 solve problems with the Commission and  
20 self-regulatory organizations encountered  
21 by small businesses and small business in-  
22 vestors and to encourage small business  
23 capital formation; and

1           “(vi) any other information, as deter-  
2           mined appropriate by the Advocate for  
3           Small Business Capital Formation.

4           “(C) CONFIDENTIALITY.—No report re-  
5           quired by subparagraph (A) may contain con-  
6           fidential information.

7           “(D) INDEPENDENCE.—Each report re-  
8           quired under subparagraph (A) shall be pro-  
9           vided directly to the committees of Congress  
10          listed in such subparagraph without any prior  
11          review or comment from the Commission, any  
12          commissioner, any other officer or employee of  
13          the Commission, or the Office of Management  
14          and Budget.

15          “(7) REGULATIONS.—The Commission shall es-  
16          tablish procedures requiring a formal response to all  
17          recommendations submitted to the Commission by  
18          the Advocate for Small Business Capital Formation,  
19          not later than 3 months after the date of such sub-  
20          mission.

21          “(8) GOVERNMENT-BUSINESS FORUM ON SMALL  
22          BUSINESS CAPITAL FORMATION.—The Advocate for  
23          Small Business Capital Formation shall be respon-  
24          sible for planning, organizing, and executing the an-  
25          nual Government-Business Forum on Small Busi-



1       ness Capital Formation described in section 503 of  
2       the Small Business Investment Incentive Act of  
3       1980 (15 U.S.C. 80c-1).

4               “(9) RULE OF CONSTRUCTION.—Nothing in  
5       this subsection may be construed as replacing or re-  
6       ducing the responsibilities of the Investor Advocate  
7       with respect to small business investors.”.

8       (b) SMALL BUSINESS CAPITAL FORMATION ADVI-  
9       SORY COMMITTEE.—Title I of the Securities Exchange  
10      Act of 1934 (15 U.S.C. 78a et seq.) is amended by adding  
11      at the end the following:

12     **“SEC. 40. SMALL BUSINESS CAPITAL FORMATION ADVISORY**  
13               **COMMITTEE.**

14               “(a) ESTABLISHMENT AND PURPOSE.—

15                       “(1) ESTABLISHMENT.—There is established  
16       within the Commission the Small Business Capital  
17       Formation Advisory Committee (hereafter in this  
18       section referred to as the ‘Committee’).

19                       “(2) FUNCTIONS.—

20                               “(A) IN GENERAL.—The Committee shall  
21       provide the Commission with advice on the  
22       Commission’s rules, regulations, and policies  
23       with regard to the Commission’s mission of pro-  
24       tecting investors, maintaining fair, orderly, and  
25       efficient markets, and facilitating capital forma-

1           tion, as such rules, regulations, and policies re-  
2           late to—

3                   “(i) capital raising by emerging, pri-  
4                   vately-held small businesses (‘emerging  
5                   companies’) and publicly traded companies  
6                   with less than \$250,000,000 in public mar-  
7                   ket capitalization (‘smaller public compa-  
8                   nies’) through securities offerings, includ-  
9                   ing private and limited offerings and initial  
10                  and other public offerings;

11                  “(ii) trading in the securities of  
12                  emerging companies and smaller public  
13                  companies; and

14                  “(iii) public reporting and corporate  
15                  governance requirements of emerging com-  
16                  panies and smaller public companies.

17                  “(B) LIMITATION.—The Committee shall  
18                  not provide any advice with respect to any poli-  
19                  cies, practices, actions, or decisions concerning  
20                  the Commission’s enforcement program.

21                  “(b) MEMBERSHIP.—

22                   “(1) IN GENERAL.—The members of the Com-  
23                  mittee shall be—

24                   “(A) the Advocate for Small Business Cap-  
25                  ital Formation;

1                   “(B) not fewer than 10, and not more than  
2                   20, members appointed by the Commission,  
3                   from among individuals—

4                   “(i) who represent—

5                   “(I) emerging companies engag-  
6                   ing in private and limited securities  
7                   offerings or considering initial public  
8                   offerings (‘IPO’) (including the com-  
9                   panies’ officers and directors);

10                  “(II) the professional advisors of  
11                  such companies (including attorneys,  
12                  accountants, investment bankers, and  
13                  financial advisors); and

14                  “(III) the investors in such com-  
15                  panies (including angel investors, ven-  
16                  ture capital funds, and family offices);

17                  “(ii) who represent—

18                  “(I) smaller public companies  
19                  (including the companies’ officers and  
20                  directors);

21                  “(II) the professional advisors of  
22                  such companies (including attorneys,  
23                  auditors, underwriters, and financial  
24                  advisors); and

1                   “(III) the pre-IPO and post-IPO  
2                   investors in such companies (both in-  
3                   stitutional, such as venture capital  
4                   funds, and individual, such as angel  
5                   investors); and

6                   “(iii) who represent participants in  
7                   the marketplace for the securities of  
8                   emerging companies and smaller public  
9                   companies, such as securities exchanges,  
10                  alternative trading systems, analysts, infor-  
11                  mation processors, and transfer agents;  
12                  and

13                  “(C) 3 non-voting members—

14                   “(i) 1 of whom shall be appointed by  
15                   the Investor Advocate;

16                   “(ii) 1 of whom shall be appointed by  
17                   the North American Securities Administra-  
18                   tors Association; and

19                   “(iii) 1 of whom shall be appointed by  
20                   the Administrator of the Small Business  
21                   Administration.

22                  “(2) TERM.—Each member of the Committee  
23                  appointed under subparagraph (B), (C)(ii), or  
24                  (C)(iii) of paragraph (1) shall serve for a term of 4  
25                  years.

1           “(3) MEMBERS NOT COMMISSION EMPLOY-  
2           EES.—Members appointed under subparagraph (B),  
3           (C)(ii), or (C)(iii) of paragraph (1) shall not be  
4           treated as employees or agents of the Commission  
5           solely because of membership on the Committee.

6           “(c) CHAIRMAN; VICE CHAIRMAN; SECRETARY; AS-  
7           SISTANT SECRETARY.—

8           “(1) IN GENERAL.—The members of the Com-  
9           mittee shall elect, from among the members of the  
10          Committee—

11                   “(A) a chairman;

12                   “(B) a vice chairman;

13                   “(C) a secretary; and

14                   “(D) an assistant secretary.

15          “(2) TERM.—Each member elected under para-  
16          graph (1) shall serve for a term of 3 years in the  
17          capacity for which the member was elected under  
18          paragraph (1).

19          “(d) MEETINGS.—

20                   “(1) FREQUENCY OF MEETINGS.—The Com-  
21          mittee shall meet—

22                           “(A) not less frequently than four times  
23                           annually, at the call of the chairman of the  
24                           Committee; and

1                   “(B) from time to time, at the call of the  
2                   Commission.

3                   “(2) NOTICE.—The chairman of the Committee  
4                   shall give the members of the Committee written no-  
5                   tice of each meeting, not later than 2 weeks before  
6                   the date of the meeting.

7                   “(e) COMPENSATION AND TRAVEL EXPENSES.—  
8                   Each member of the Committee who is not a full-time em-  
9                   ployee of the United States shall—

10                   “(1) be entitled to receive compensation at a  
11                   rate not to exceed the daily equivalent of the annual  
12                   rate of basic pay in effect for a position at level V  
13                   of the Executive Schedule under section 5316 of title  
14                   5, United States Code, for each day during which  
15                   the member is engaged in the actual performance of  
16                   the duties of the Committee; and

17                   “(2) while away from the home or regular place  
18                   of business of the member in the performance of  
19                   services for the Committee, be allowed travel ex-  
20                   penses, including per diem in lieu of subsistence, in  
21                   the same manner as persons employed intermittently  
22                   in the Government service are allowed expenses  
23                   under section 5703 of title 5, United States Code.

1       “(f) STAFF.—The Commission shall make available  
2 to the Committee such staff as the chairman of the Com-  
3 mittee determines are necessary to carry out this section.

4       “(g) REVIEW BY COMMISSION.—The Commission  
5 shall—

6               “(1) review the findings and recommendations  
7 of the Committee; and

8               “(2) each time the Committee submits a finding  
9 or recommendation to the Commission, promptly  
10 issue a public statement—

11                       “(A) assessing the finding or recommenda-  
12 tion of the Committee; and

13                       “(B) disclosing the action, if any, the Com-  
14 mission intends to take with respect to the find-  
15 ing or recommendation.

16       “(h) FEDERAL ADVISORY COMMITTEE ACT.—The  
17 Federal Advisory Committee Act (5 U.S.C. App.) shall not  
18 apply with respect to the Committee and its activities.”.

19       “(c) ANNUAL GOVERNMENT-BUSINESS FORUM ON  
20 SMALL BUSINESS CAPITAL FORMATION.—Section 503(a)  
21 of the Small Business Investment Incentive Act of 1980  
22 (15 U.S.C. 80c–1(a)) is amended by inserting “(acting  
23 through the Office of the Advocate for Small Business  
24 Capital Formation and in consultation with the Small

- 1 Business Capital Formation Advisory Committee)” after
- 2 “Securities and Exchange Commission”.