



Legislative Bulletin.....December 4, 2013

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H.R. 1105 – Small Business Capital Access and Job Preservation Act

H.R. 1105 – Small Business Capital Access and Job Preservation Act (Hurt, R-VA)

Order of Business: This legislation is scheduled to be considered on Wednesday, December 4, 2013, subject to a structured rule. The rule can be viewed [here](#).

Summary: [H.R. 1105](#) exempts advisors to private equity funds from the registration requirements under the Dodd-Frank Wall Street Reform and Consumer Protection Act (the Dodd-Frank Act) under certain conditions. Advisors to private equity funds that are not leveraged at a 2-to-1 ratio at the fund level will be exempt under this act. In addition, this legislation requires the Securities and Exchange Commission to issue final rules that define “private equity fund” as it applies to this Act and to factor in a fund’s size, risk, and investment strategy when determining what records must be maintained.

Additional Background: The legislation amends provisions enacted by Title IV of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the Dodd-Frank Act). Dodd-Frank required private investment funds, and advisors to private equity funds, to register with U.S. Securities and Exchange Commission (SEC). It is estimated that the cost of registering with the SEC is \$500,000 per firm, per year. Additional information can be found in the Committee Report [here](#).

Committee Action: H.R. 1105 was introduced on March 13, 2013, and referred to the Committee on Financial Services. The Committee favorably reported the bill on June 19, 2013, by a [vote](#) of 38-18.

Administration Position: The Executive Office of the President issued Statement of Administration Policy with a [veto threat](#).

Cost to Taxpayers: According to the Congressional Budget Office [cost estimate](#) “implementing the bill would not have significant effect on spending that is subject to appropriation.”

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No.

Does the Bill Contain Any Federal Encroachment into State or Local Authority in Potential Violation of the 10th Amendment?: No.

Does the Bill Delegate Any Legislative Authority to the Executive Branch?: No.

Does the Bill Contain Any Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: No.

Constitutional Authority: According to the bill sponsor, “Congress has the power to enact this legislation pursuant to the following: Article I, Section 8, Clause 3.” Congressman Hurt’s statement in the Congressional Record can be viewed [here](#).

Outside Organizations in Support of the Legislation: The U.S. Chamber of Commerce is “key voting” a vote in support of the bill. Other groups in support:

- Private Equity Growth Capital
- Association for Corporate Growth
- Small Business & Entrepreneurship Council
- Small Business Investor Alliance

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Amendment Analysis:

1. *Maloney (NY)*: This [amendment](#) requires the Securities and Exchange Commission (SEC) to issue rules for a “simplified procedure for registration and disclosure” for advisors of private equity funds that have between \$150,000,000 and \$1,000,000,000 under management. The amendment also requires the SEC to issue rules that that define “private equity fund” for purposes of the subsection within six months after enactment.

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