

[FULL COMMITTEE PRINT]

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Union Calendar No. ____

115TH CONGRESS
2^D SESSION

H. R. ____

[Report No. __ - __]

Making appropriations for financial services and general government for the fiscal year ending September 30, 2019, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. Graves, from the Committee on Appropriations, reported the following bill; which was committed to the Committee of the Whole House on the State of the Union and ordered to be printed

A BILL

Making appropriations for financial services and general government for the fiscal year ending September 30, 2019, 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 That the following sums are appropriated, out
4 of any money in the Treasury not otherwise appropriated,
5 for the fiscal year ending September 30, 2019, and for
6 other purposes, namely:

7

1

TITLE IX

2

FINANCIAL REFORM

Subtitle A Helping Angels Lead Our Startups Act

- Sec. 901. Definition of angel investor group.
- Sec. 902. Clarification of general solicitation.

Subtitle B Credit Access and Inclusion Act

- Sec. 903. Positive credit reporting permitted.

Subtitle C Small Business Mergers, Acquisitions, Sales and Brokerage Simplification Act

- Sec. 904. Registration exemption for merger and acquisition brokers.**
- Sec. 905. Effective date.**

Subtitle D Mortgage Choice Act

- Sec. 906. Definition of points and fees.
- Sec. 907. Rulemaking.

Subtitle E Fair Investment Opportunities for Professional Experts Act

- Sec. 908. Definition of accredited investor.

Subtitle F Fostering Innovation Act

- Sec. 909. Temporary exemption for low-revenue issuers.

Subtitle G End Banking for Human Traffickers Act

- Sec. 910. Increasing the role of the financial industry in combating human trafficking.
- Sec. 911. Coordination of human trafficking issues by the Office of Terrorism and Financial Intelligence.
- Sec. 912. Additional reporting requirement under the Trafficking Victims Protection Act of 2000.
- Sec. 913. Minimum standards for the elimination of trafficking.

Subtitle H Investing in Main Street Act

- Sec. 914. Investment in small business investment companies.

Subtitle I Privacy Notification Technical Clarification Act

- Sec. 915. Exception to annual notice requirement.

Subtitle J Financial Institution Customer Protection Act

- Sec. 916. Requirements for deposit account termination requests and orders.

Subtitle K Encouraging Public Offerings Act

- Sec. 917. Expanding testing the waters and confidential submissions.

Subtitle L Risk-Based Credit Examination Act

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10 **Subtitle C Small Business Mergers, Acquisitions, Sales**
11 **and Brokerage Simplification Act**

12 **REGISTRATION EXEMPTION FOR MERGER AND**
13 **ACQUISITION BROKERS**

14 SEC. 904. Section 15(b) of the Securities Exchange
15 Act of 1934 (15 U.S.C. 78o(b)) is amended by adding at
16 the end the following:

17 (13) **REGISTRATION EXEMPTION FOR MERGER**
18 **AND ACQUISITION BROKERS.**

19 (A) **IN GENERAL.** Except as provided in
20 subparagraph (B), an M&A broker shall be ex-
21 empt from registration under this section.

22 (B) **EXCLUDED ACTIVITIES.** An M&A
23 broker is not exempt from registration under
24 this paragraph if such broker does any of the
25 following:

1 (i) Directly or indirectly, in connec-
2 tion with the transfer of ownership of an
3 eligible privately held company, receives,
4 holds, transmits, or has custody of the
5 funds or securities to be exchanged by the
6 parties to the transaction.

7 (ii) Engages on behalf of an issuer in
8 a public offering of any class of securities
9 that is registered, or is required to be reg-
10 istered, with the Commission under section
11 12 or with respect to which the issuer files,
12 or is required to file, periodic information,
13 documents, and reports under subsection
14 (d).

15 (iii) Engages on behalf of any party
16 in a transaction involving a shell company,
17 other than a business combination related
18 shell company.

19 (iv) Directly, or indirectly through
20 any of its affiliates, provides financing re-
21 lated to the transfer of ownership of an eli-
22 gible privately held company.

23 (v) Assists any party to obtain fi-
24 nancing from an unaffiliated third party
25 without

1 (I) complying with all other ap-
2 plicable laws in connection with such
3 assistance, including, if applicable,
4 Regulation T (12 C.F.R. 220 et seq.);
5 and

6 (II) disclosing any compensation
7 in writing to the party.

8 (vi) Represents both the buyer and
9 the seller in the same transaction without
10 providing clear written disclosure as to the
11 parties the broker represents and obtaining
12 written consent from both parties to the
13 joint representation.

14 (vii) Facilitates a transaction with a
15 group of buyers formed with the assistance
16 of the M&A broker to acquire the eligible
17 privately held company.

18 (viii) Engages in a transaction in-
19 volving the transfer of ownership of an eli-
20 gible privately held company to a passive
21 buyer or group of passive buyers. For pur-
22 poses of the preceding sentence, a buyer
23 that is actively involved in managing the
24 acquired company is not a passive buyer,

1 regardless of whether such buyer is itself
2 owned by passive beneficial owners.

3 (ix) Binds a party to a transfer of
4 ownership of an eligible privately held com-
5 pany.

6 (C) DISQUALIFICATIONS. An M&A
7 broker is not exempt from registration under
8 this paragraph if such broker is subject to

9 (i) suspension or revocation of reg-
10 istration under paragraph (4);

11 (ii) a statutory disqualification de-
12 scribed in section 3(a)(39);

13 (iii) a disqualification under the
14 rules adopted by the Commission under
15 section 926 of the Investor Protection and
16 Securities Reform Act of 2010 (15 U.S.C.
17 77d note); or

18 (iv) a final order described in para-
19 graph (4)(H).

20 (D) RULE OF CONSTRUCTION. Nothing
21 in this paragraph shall be construed to limit
22 any other authority of the Commission to ex-
23 empt any person, or any class of persons, from
24 any provision of this title, or from any provision
25 of any rule or regulation thereunder.

1 (E) DEFINITIONS. In this paragraph:

2 (i) BUSINESS COMBINATION RE-
3 LATED SHELL COMPANY. The term busi-
4 ness combination related shell company
5 means a shell company that is formed by
6 an entity that is not a shell company

7 (I) solely for the purpose of
8 changing the corporate domicile of
9 that entity solely within the United
10 States; or

11 (II) solely for the purpose of
12 completing a business combination
13 transaction (as defined under section
14 230.165(f) of title 17, Code of Fed-
15 eral Regulations) among one or more
16 entities other than the company itself,
17 none of which is a shell company.

18 (ii) CONTROL. The term control
19 means the power, directly or indirectly, to
20 direct the management or policies of a
21 company, whether through ownership of
22 securities, by contract, or otherwise. There
23 is a presumption of control for any person
24 who

1 (I) is a director, general part-
2 ner, member or manager of a limited
3 liability company, or corporate officer
4 of a corporation or limited liability
5 company, and exercises executive re-
6 sponsibility (or has similar status or
7 functions);

8 (II) has the right to vote 25
9 percent or more of a class of voting
10 securities or the power to sell or direct
11 the sale of 25 percent or more of a
12 class of voting securities; or

13 (III) in the case of a partner-
14 ship or limited liability company, has
15 the right to receive upon dissolution,
16 or has contributed, 25 percent or
17 more of the capital.

18 (iii) ELIGIBLE PRIVATELY HELD
19 COMPANY. The term eligible privately
20 held company means a privately held com-
21 pany that meets both of the following con-
22 ditions:

23 (I) The company does not have
24 any class of securities registered, or
25 required to be registered, with the

1 Commission under section 12 or with
2 respect to which the company files, or
3 is required to file, periodic informa-
4 tion, documents, and reports under
5 subsection (d).

6 (II) In the fiscal year ending
7 immediately before the fiscal year in
8 which the services of the M&A broker
9 are initially engaged with respect to
10 the securities transaction, the com-
11 pany meets either or both of the fol-
12 lowing conditions (determined in ac-
13 cordance with the historical financial
14 accounting records of the company):

15 (aa) The earnings of the
16 company before interest, taxes,
17 depreciation, and amortization
18 are less than \$25,000,000.

19 (bb) The gross revenues of
20 the company are less than
21 \$250,000,000.

22 For purposes of this subclause, the
23 Commission may by rule modify the
24 dollar figures if the Commission deter-
25 mines that such a modification is nec-

1 essary or appropriate in the public in-
2 terest or for the protection of inves-
3 tors.

4 (iv) M&A BROKER. The term M&A
5 broker means a broker, and any person
6 associated with a broker, engaged in the
7 business of effecting securities transactions
8 solely in connection with the transfer of
9 ownership of an eligible privately held com-
10 pany, regardless of whether the broker acts
11 on behalf of a seller or buyer, through the
12 purchase, sale, exchange, issuance, repur-
13 chase, or redemption of, or a business com-
14 bination involving, securities or assets of
15 the eligible privately held company, if the
16 broker reasonably believes that

17 (I) upon consummation of the
18 transaction, any person acquiring se-
19 curities or assets of the eligible pri-
20 vately held company, acting alone or
21 in concert, will control and, directly or
22 indirectly, will be active in the man-
23 agement of the eligible privately held
24 company or the business conducted

1 with the assets of the eligible privately
2 held company; and
3 (II) if any person is offered se-
4 curities in exchange for securities or
5 assets of the eligible privately held
6 company, such person will, prior to
7 becoming legally bound to consum-
8 mate the transaction, receive or have
9 reasonable access to the most recent
10 fiscal year-end financial statements of
11 the issuer of the securities as custom-
12 arily prepared by the management of
13 the issuer in the normal course of op-
14 erations and, if the financial state-
15 ments of the issuer are audited, re-
16 viewed, or compiled, any related state-
17 ment by the independent accountant,
18 a balance sheet dated not more than
19 120 days before the date of the offer,
20 and information pertaining to the
21 management, business, results of op-
22 erations for the period covered by the
23 foregoing financial statements, and
24 material loss contingencies of the
25 issuer.

1 (v) SHELL COMPANY. The term
2 shell company means a company that at
3 the time of a transaction with an eligible
4 privately held company

5 (I) has no or nominal oper-
6 ations; and

7 (II) has

8 (aa) no or nominal assets;

9 (bb) assets consisting solely
10 of cash and cash equivalents; or

11 (cc) assets consisting of
12 any amount of cash and cash
13 equivalents and nominal other as-
14 sets.

15 (F) INFLATION ADJUSTMENT.

16 (i) IN GENERAL. On the date that
17 is 5 years after the date of the enactment
18 of the Small Business Mergers, Acquisi-
19 tions, Sales, and Brokerage Simplification
20 Act of 2018, and every 5 years thereafter,
21 each dollar amount in subparagraph
22 (E)(ii)(II) shall be adjusted by

23 (I) dividing the annual value of
24 the Employment Cost Index For
25 Wages and Salaries, Private Industry

1 Workers (or any successor index), as
2 published by the Bureau of Labor
3 Statistics, for the calendar year pre-
4 ceding the calendar year in which the
5 adjustment is being made by the an-
6 nual value of such index (or suc-
7 cessor) for the calendar year ending
8 December 31, 2012; and

9 (II) multiplying such dollar
10 amount by the quotient obtained
11 under subclause (I).

12 (ii) ROUNDING. Each dollar
13 amount determined under clause (i) shall
14 be rounded to the nearest multiple of
15 \$100,000. .

16 EFFECTIVE DATE

17 SEC. 905. This subtitle and any amendment made by
18 this subtitle shall take effect on the date that is 90 days
19 after the date of the enactment of this Act.

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