

CQ NEWS

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Legislative Preview: Capital formation

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Overview

For more than a decade, congressional Republicans have pursued legislation to increase investment in startup companies and expand the pool of investors who can participate in offerings by private companies.

The House **passed**, 302-123, the latest legislative effort (**HR 3383**) to address those capital formation goals on Dec. 11. The measure would build on a law (**PL 112-106**) enacted in 2012 that made it easier for “emerging growth companies” to raise capital and go public.

The legislation is a combination of **22 individual bills** that would help startup firms acquire, allow more people to purchase private investments and reduce reporting requirements for companies seeking to go public.



“We make it easier to be a public company in America,” Financial Services Chairman **French Hill**, R-Ark., said on the floor. “We make it easier if you have a great idea to crowd source that idea, raise money from friends and family, and we make it easier, if you’re an individual investor, to have other opportunities in which to invest.”

The House had already passed 16 of the bills in the package under suspension of the rules, a procedure designed for legislation with broad bipartisan backing, as it requires the support of two-thirds of lawmakers present and voting. The other six bills received a floor vote for the first time.

Although the legislation was spurred by Republicans, a number of Democrats — 87 — also voted for the capital formation package. But that group did not include Financial Services ranking member **Maxine Waters**, D-Calif.

Waters said she supported 19 of the 22 bills in the package. She strongly opposed three of them:

- A bill (**HR 3383**) — also the vehicle that carried the package — to allow closed-end funds, or pools of diversified assets with a fixed number of shares that trade like individual stocks, to park more of their investments in private funds, which are often illiquid and riskier.
- A bill (**HR 1013**) to increase investment options for 403(b) retirement plans to include collective investment trusts and unregistered insurance contracts.
- A bill (**HR 2441**) to allow electronic delivery to be the default for investors to receive certain required documents, such as prospectuses and account statements.

“Unfortunately, Republicans could not resist the demands of their Wall Street [supporters] and they threw in three poison pills at the last

minute that make Wall Street richer and retirement more unaffordable,” Waters said on the House floor.

Status

The Senate Banking, Housing and Urban Affairs Committee hasn't acted on capital formation legislation. Ranking member **Elizabeth Warren**, D-Mass., released a statement saying she opposed the House bill before the chamber voted.

House Financial Services decided to combine the bills into one package to give the Senate some options on how to proceed.

“I would hope that we could use it as a pitch to have the Senate consider it as a group if we got a good vote across the House floor,” Hill told reporters in a briefing prior to the House vote.

Outlook

The Senate has companion legislation for some of the House capital formation bills, including a bill (**S 424**) sponsored by Sen. **Katie Britt**, R-Ala., that would expand 403(b) investment menus and an e-delivery measure (**S 1877**) sponsored by Sen. **Thom Tillis**, R-N.C.

The bipartisan co-sponsorship for the Britt and Tillis bills gives them bright prospects to be included in a Senate package, said Paul Richman, chief government and political affairs officer at the Insured Retirement Institute, which backs both bills.

Richman also is confident that a Senate capital formation bill would overcome a filibuster.

“I believe we could get seven Democrats in a final vote and I don't see any Republicans opposed to these two bills,” Richman said.

The Institute for Portfolio Alternatives, a group that represents sponsors and distributors of alternative investments, is pushing for a Senate vote on the full House package.

“The House’s bipartisan approval of the INVEST Act is a significant step forward in modernizing the capital markets,” IPA CEO Anya Coverman said in a statement, referring to the title of the bill, the Incentivizing New Ventures and Economic Strength Through Capital Formation Act. “In the New Year, we urge the Senate to advance similar pro-growth, pro-investor legislation.”

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Issues

Financial Services

Business

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Regulatory Policy

Bills

HR2441

A bill to provide for the electronic delivery of certain regulatory document required under the securities laws.

HR3383

A bill to amend the Investment Company Act of 1940 with respect to the authority of closed-end companies to invest in private funds.

S424

A bill to amend the Federal securities laws to enhance 403(b) plans, and for other purposes.

S1877

A bill to direct the Securities and Exchange Commission to promulgate rules with respect to the electronic delivery of certain required disclosures, and for other purposes.

HR1013