



June 21, 2018

Dear Representative,

On behalf of Americans for Financial Reform (AFR), we are writing to urge you to vote against H.R. 5970 and H.R. 6130, two of the bills under consideration in today's Financial Services Committee markup.<sup>1</sup> H.R. 5970 would eliminate the traditional quarterly disclosures of detailed financial information by public companies, information that investors need to evaluate the financial position of companies in which they have invested. H.R. 6130 would grant certain former "emerging growth companies" an additional five years of reduced disclosure and registration requirements.

These two bills should be rejected in order to protect transparency and disclosure that are important to promote robust capital markets and to ensure that timely information is available to investors to make informed decisions.

**H.R. 5970**, the so-called "Simplifying Disclosures for Investors Act," would require the Securities and Exchange Commission (SEC) to amend its quarterly financial disclosure requirements to allow publicly traded companies to elect not to disclose information through Form 10-Q.

Under current rules, public companies are required to file Form 10-Q with the SEC for each of the first three quarters of the firm's fiscal year. Three times a year, the information in Form 10-Q offers investors a snapshot of the company's performance. This information includes detailed financial statements and discussions about market and liquidity risks. These periodic reports provide investors with an ongoing comprehensive view of the firm throughout the year, helping them evaluate firms and better decide in which companies to invest.

Based on the greatly reduced statutory requirements in H.R. 5970, these disclosures could shrink to a press release in which only "a quarterly income statement, a balance sheet as of the last day of the quarter, and a statement of operations" would be required.<sup>2</sup> This would unjustifiably eliminate a broad range of relevant information about a particular firm currently provided in Form 10-Q. It would also make it far more difficult, perhaps impossible, for investors and regulators to make cross-company comparisons. Additionally, H.R. 5970 would allow companies to submit their reports in non-standardized formats that might not be suitable to be automatically uploaded and analyzed by a computer. H.R. 5970 is opposed by CalPERS and the Council of Institutional Investors, and should be rejected.

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<sup>1</sup> Americans for Financial Reform is an unprecedented coalition of more than 200 national, state and local groups who have come together to reform the financial industry. Members of our coalition include consumer, civil rights, investor, retiree, community, labor, faith based and business groups. A list of coalition members is available at <http://ourfinancialsecurity.org/about/our-coalition/>

<sup>2</sup> H.R. 5970—115<sup>th</sup> Congress: "Simplifying Disclosures for Investors Act," available at: <https://www.congress.gov/bill/115th-congress/house-bill/5970/text>.

We understand it is possible that a substitute amendment to HR 5970 may be advanced which mandates a study on the costs and benefits of 10-Q disclosures. Such an amendment would only be appropriate if it does not direct the SEC to weaken or eliminate quarterly disclosures, and the study instructions clearly direct the SEC to assess the benefits of detailed quarterly financial disclosures to investors and the markets.

**H.R. 6130**, the “Helping Startups Continue to Grow Act,” would extend for an additional five years the exemption from important registration and disclosure requirements for so-called “emerging growth companies” (EGC). Currently, among other disqualifying thresholds concerning revenues and debt issued, public companies can only maintain the EGC status for up to five years after the initial public offering (IPO). H.R. 6130 would grant an additional five year exemption to the subset of companies that ceased to be EGCs within the last five years because they exhausted the current five year limit. The bill would thus create a ten-year registration and disclosure exemption for current, future, and many former EGCs.

There is no evidence supporting the claim that exemptions and reduced compliance for EGCs has or will significantly increase the number of public offerings.<sup>3</sup> Instead, this bill would just give EGCs and recent EGCs ten years of reduced compliance with key provisions in core financial regulations. These include exemptions from Dodd-Frank Act executive compensation disclosure requirements like the pay ratio disclosure rule, which shows the ratio of CEO compensation to the median compensation of the employees, and the pay versus performance disclosure, which allows investors to understand how executive compensation relates to the financial performance of the company. H.R. 6130 would also grant a ten-year exemption from the Sarbanes-Oxley Act requirement that companies include in their annual financial reports a management and auditor certification of internal controls over financial reporting.

In the five years after the enactment of the JOBS Act in 2012, EGCs accounted for 85 percent of all IPOs.<sup>4</sup> In the first quarter of 2018, 87 percent of IPOs registered as EGCs.<sup>5</sup> This means that the exemption in H.R. 6130 would extend to the vast majority of all companies that went public in the last five years.

H.R. 5970 and H.R. 6130 assume that reducing registration and financial disclosure requirements are the only means to revive the public offering market. However, as Tyler Gellasch, Executive Director of the Healthy Markets Association, stated in a Committee hearing, “these proposals also largely ignore the other side of the markets: the investors. Investors are of course an essential party in capital formation ... if a company, its executives, or its early investors want to

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<sup>3</sup> See: Steven Davidoff Solomon, “A Dearth of I.P.O.s, but It’s Not the Fault of Red Tape,” *The New York Times*, March 28, 2017, available at <https://nyti.ms/2nhPeK0>.

<sup>4</sup> Lia Der Marderosian, Brian Johnson, Erika Robinson, and David Westenberg, “2017 IPO Report,” Harvard Law School Forum on Corporate Governance and Financial Regulation, May 25, 2017, available at: <https://bit.ly/2JWtHSn>.

<sup>5</sup> Jessica Hotham, “Q1 2018 IPOs: Auditor Market Share and Stats,” Audit Analytics Blog, April 25, 2018, available at: <https://bit.ly/2yunzeM>.

sell their securities, they need investors who will purchase their securities. Without investors, there is no capital formation.”<sup>6</sup> Instead of promoting healthy capital markets, these two bills would leave Main Street investors in the dark about their investments and potential investments for significant periods of time—until comprehensive reports are published at the end of the year and until the 10-year handout for recent ECG expires. These bills should be rejected.

Thank you for your attention to this matter. For more information please contact AFR’s Policy Director, Marcus Stanley, at [marcus@ourfinancialsecurity.org](mailto:marcus@ourfinancialsecurity.org) or 202-466-3672.

Sincerely,  
Americans for Financial Reform

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<sup>6</sup> Testimony of Tyler Gellasch at the Hearing on Legislative Proposals to Help Fuel Capital and Growth on Main Street Before the House Financial Services Committee, Subcommittee on Capital Markets, Securities and Investment, May 23, 2018, available at: <https://bit.ly/2MIb6e>.