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[H.R. 432, SBIC Advisers Relief Act](#)

FLOOR SITUATION

On Tuesday, July 14, 2015, the House will consider [H.R. 432](#), *the SBIC Advisers Relief Act*, under suspension of the rules. H.R. 432 was introduced on January 21, 2015, by Rep. Blaine Luetkemeyer (R-MO) and was referred to the Committee on Financial Services, which ordered the bill reported by a vote of 53 to 0 on May 20, 2015.

SUMMARY

H.R. 432 amends the Investment Advisers Act of 1940 to reduce regulatory costs and eliminate duplicative regulation of advisers to Small Business Investment Companies (SBICs). The bill preempts any state registration requirements of those advisers solely advising SBIC funds; allows advisers to venture capital funds to continue to be “exempt reporting advisers” if they also advise an SBIC fund; and prevents the inclusion of the assets of an SBIC fund in the SEC registration calculation of “assets under management” (AUM) for advisers that advise private funds in addition to SBIC funds.

BACKGROUND

The Small Business Administration's (SBA's) Small Business Investment Company (SBIC) program is designed to enhance small business access to venture capital by stimulating and supplementing "the flow of private equity capital and long-term loan funds which small-business concerns need for the sound financing of their business operations and for their growth, expansion, and modernization, and which are not available in adequate supply."¹

The Dodd-Frank Wall Street Reform and Consumer Protection Act created a new regulatory regime for advisers of private equity funds. The law requires that advisers to private funds register as investment advisers with the SEC, but provided several exemptions to these registration requirements. Specifically, the law exempts certain advisers from SEC registration who solely advise SBICs and for advisers that solely advise venture capital funds. However, the law does not specify

¹ See CRS Report, [“SBA Small Business Investment Company Program.”](#) June 22, 2015.

whether advisers to both venture capital funds and SBICs are exempted, which could potentially result in new regulatory costs for some advisers.

According to the Committee, by eliminating duplicative regulation, “[the bill] will allow the private equity fund money that currently goes to pay for regulatory compliance and fees to flow directly to job-creating small businesses. These changes, while largely technical, remove duplicative regulation and allow fund managers to focus more on growing small businesses and less on fitting into a regulatory regime that is not designed for small business investing.”²

According to the bill sponsor, “we must continue to invest in our nation’s small businesses which mean reducing regulatory red tape for advisers so long-term investments can be made in businesses in our communities. My legislation contains a common-sense technical correction. Under current law, an adviser to Small Business Investment Companies, or SBICs, is exempt from SEC registration. An adviser to venture funds has the same exemption, but an adviser who advises only SBICs and venture funds is not exempt from SEC registration. That simply does not make sense. Since the passage of Dodd-Frank, small businesses have felt the effects the most and my legislation would relieve some of those burdens.”³

H.R.432 is similar to [H.R. 4200](#), which passed the House by [voice vote](#) on December 2, 2014. The Senate did not act on the House-passed bill in the 113th Congress.

COST

The Congressional Budget Office (CBO) [estimates](#) that implementing H.R. 432 would not significantly affect discretionary spending. Further, under current law, the SEC is authorized to collect fees sufficient to offset its appropriation each year; therefore, CBO estimates that the net cost to the SEC would not be significant, assuming appropriation action consistent with that authority. Enacting H.R. 432 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

STAFF CONTACT

For questions or further information please contact [John Huston](#) with the House Republican Policy Committee by email or at 6-5539.

² See [House Report 113-641](#) at 2.

³ See Rep. Luetkemeyer press release, [“House Financial Services Committee Passes Luetkemeyer Bill to Help Invest in Small Businesses,”](#) May 20, 2015.