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House Passes Act Facilitating Resales of Restricted Securities

On October 6, 2015, the U.S. House of Representatives passed H.R. 1839, the Reforming Access for Investments in Startup Enterprises Act of 2015, or RAISE Act. The RAISE Act would amend the Securities Act of 1933 to add a new Section 4(a)(7) codifying the “Section 4(a)(1½)” legal framework for resales of restricted securities by persons other than the issuer. The Section 4(a)(1½) resale exemption—based on case law, and not formally established by any written SEC rule or regulation—has been interpreted to permit, in certain circumstances, the resale by persons other than the issuer of restricted securities in a private placement.

Resales pursuant to proposed Section 4(a)(7) would be subject to a number of requirements, including:

- **Accredited investors only.** Purchasers of the restricted securities would be required to be accredited investors.
- **Prohibition on general solicitation or advertising.** Neither the seller, nor any person acting on the seller’s behalf, would be permitted to offer or sell securities by any form of general solicitation or general advertising.
- **Information requirement.** In the case of a transaction involving the securities of an issuer that is neither subject to section 13 or 15(d) of the Securities Exchange Act of 1934 nor exempt from reporting pursuant to Rule 12g3-2(b) thereunder, the seller would be required to make available certain information to a prospective purchaser, including the issuer’s most recent balance sheet and income statement.
- **Issuer disqualification.** The exemption would not be available for the sale of a security where the seller is an issuer or a subsidiary, either directly or indirectly, of the issuer.
- **Bad actor prohibition.** Neither the seller, nor any person paid remuneration for their participation in the offer or sale of the securities, could be subject to an event that would disqualify an issuer under Rule 506(d)(1) of Regulation D or be subject to a statutory disqualification described under Section 3(a)(39) of the Exchange Act.

The bill was subsequently introduced in the Senate and has been referred to the Committee on Banking, Housing and Urban Affairs for consideration. The text of the bill is available [here](#).

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This memorandum is not intended to provide legal advice, and no legal or business decision should be based on its content. Questions concerning issues addressed in this memorandum should be directed to:

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