



## Consumer Federation of America

November 7, 2017

**Re: Vote NO on H.R. 3911, the “Risk-Based Credit Examination Act”  
Vote NO on H.R. 2201, the “Micro Offering Safe Harbor Act”**

Dear Representative,

We understand that the House is scheduled to vote this week on H.R. 3911, the “Risk-Based Credit Examination Act,” and H.R. 2201, the “Micro Offering Safe Harbor Act.” We are writing on behalf of the Consumer Federation of America<sup>1</sup> to urge you to vote no on both of these misguided bills.

- **Vote No on H.R. 3911, the “Risk-Based Credit Examination Act”**

Recognizing that credit rating agency failures were a root cause of the 2008 financial crisis, Congress strengthened regulatory oversight of the ratings agencies, requiring annual inspections focused on key factors that undermine ratings reliability. For example, motivated by a desire to produce the inflated ratings needed to win ratings business, credit rating agencies often ignored their ratings policies and procedures, methodologies, and criteria and failed to properly apply their quantitative models. In response, Dodd Frank required the SEC to examine rating agencies on a yearly basis to ensure that they are not engaging in these same types of practices going forward. By adding just the two words, “as appropriate,” to the requirement that SEC inspections focus on these key risk factors, this legislation would significantly increase the likelihood that credit rating agencies would be able to engage in the same practices that were central to causing the financial crisis without any accountability. This is particularly troubling in light of the fact that SEC inspections have continued to find fundamental failures in rating agency practices, but the SEC has done little if anything to hold ratings agencies accountable. Instead of holding the SEC’s and rating agencies’ feet to the fire, this legislation would provide SEC staff with seemingly complete discretion over what practices to examine and when. Moreover, as we have seen in other contexts, credit rating agencies could be able exploit the “as appropriate” language to require the SEC to provide economic analysis showing the need for and appropriateness of examinations, and challenge that analysis in court, further undermining the SEC’s oversight program. Because it could embolden rating agencies to return to practices that were so detrimental on our financial system and broader economy, we urge you to vote no on this bill.

- **Vote No on H.R. 2201, the “Micro Offering Safe Harbor Act”**

This legislation would create yet another unnecessary and unwarranted exemption from the Securities Act of 1933 to enable the sale of micro-cap offerings (those involving sales of

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<sup>1</sup> The Consumer Federation of America is a non-profit association of nearly 300 consumer groups that was established in 1968 to advance the consumer interest through research, advocacy, and education.

securities valued at \$500,000 or less in a single year) without appropriate regulatory protections. While the legislation would limit the total number of investors in such offerings, it includes no requirement that those investors have the financial sophistication to understand the potential risks of the offering or the financial wherewithal to withstand any losses. Instead, it requires only that they have a “pre-existing relationship” with an officer, director or major shareholder of the issuer, a condition that provides no meaningful protections. The bill: doesn’t require issuers to notify regulators of the offering; doesn’t require them to provide even the minimal disclosures required under Reg D; doesn’t impose any limits on the amount individuals can invest, and doesn’t include any restrictions on secondary sales. In addition, the bill preempts state authority over what are likely to be predominantly local offerings, raising the very real concern that there will be no meaningful regulatory oversight of these offerings. Certainly, the SEC doesn’t have the resources to provide that oversight for offerings of this type. Because this exemption would quickly and predictably become an avenue enabling questionable offerings to avoid regulatory scrutiny, causing countless retail investors to suffer devastating losses, we urge you to vote no.

For these reasons, we urge you to oppose these bills.

Respectfully submitted,



Barbara Roper  
Director of Investor Protection



Micah Hauptman  
Financial Services Counsel