

109TH CONGRESS
1ST SESSION

H. R. 436

To amend the Investment Company Act of 1940 to provide incentives for small business investment, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 1, 2005

Mrs. KELLY (for herself, Ms. VELÁZQUEZ, Mr. OXLEY, and Mr. BAKER) introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To amend the Investment Company Act of 1940 to provide incentives for small business investment, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Increased Capital Ac-
5 cess for Growing Business Act”.

1 **SEC. 2. AMENDMENTS TO THE INVESTMENT COMPANY ACT**
2 **OF 1940.**

3 (a) DEFINITION OF ELIGIBLE PORTFOLIO COM-
4 PANY.—Section 2(a)(46)(C) of the Investment Company
5 Act of 1940 (15 U.S.C. 80a-2(a)(46)(C)) is amended—

6 (1) by striking clause (i) and inserting the fol-
7 lowing:

8 “(i) it does not have any class of eq-
9 uity securities listed for trading on a na-
10 tional securities exchange or traded
11 through the facilities of a national securi-
12 ties association as described in Section
13 15A of the Securities Exchange Act of
14 1934;”;

15 (2) by striking “or” at the end of clause (iii);

16 (3) by redesignating clause (iv) as clause (v);

17 and

18 (4) by inserting after clause (iii) the following
19 new clause:

20 “(iv) the aggregate value of its out-
21 standing publicly traded equity securities is
22 not more than \$250,000,000, except that
23 the Commission may adjust such amounts
24 by rule, regulation, or order to reflect
25 changes in one or more generally accepted
26 indices or other indicators for small busi-

1 ness, consistent with the public interest,
2 the protection of investors, and the pur-
3 poses fairly intended by the policy and pro-
4 visions of this title; or”.

5 (b) ASSETS OF BUSINESS DEVELOPMENT COMPA-
6 NIES.—Section 55(a)(1) of the Investment Company Act
7 of 1940 (15 U.S.C. 80a–55(a)(1)) is amended—

8 (1) in subparagraph (B), by striking “securities
9 with respect to which a member of a national securi-
10 ties exchange, broker, or dealer may extend or main-
11 tain credit to or for a customer pursuant to rules or
12 regulations adopted by the Board of Governors of
13 the Federal Reserve System under Section 7 of the
14 Securities Exchange Act of 1934” and inserting the
15 following: “equity securities listed for trading on a
16 national securities exchange or traded through the
17 facilities of a national securities association as de-
18 scribed in Section 15A of the Securities Exchange
19 Act of 1934”; and

20 (2) by striking “or” at the end of subparagraph
21 (A), by inserting “or” after the semicolon at the end
22 of subparagraph (B), and by inserting after sub-
23 paragraph (B) the following new subparagraph:

24 “(C) from the issuer of such securities,
25 which issuer is described in section 2(a)(46)(A)

1 and (B) but is not an eligible portfolio company
2 because the aggregate value of its outstanding
3 publicly traded equity securities is more than
4 \$250,000,000 but not more than \$500,000,000,
5 if such securities represent not more than 10
6 percent of the total assets of the business devel-
7 opment company invested in securities de-
8 scribed in paragraphs (1) through (6) of this
9 section;”.

○