



**NASAA**

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**NORTH AMERICAN SECURITIES ADMINISTRATORS ASSOCIATION, INC.**

750 First Street N.E., Suite 1140

Washington, D.C. 20002

202-737-0900

Fax: 202-783-3571

www.nasaa.org

December 11, 2017

The Honorable Jeb Hensarling  
Chairman  
House Financial Services Committee  
2129 Rayburn House Office Building  
Washington, DC 20515

The Honorable Maxine Waters  
Ranking Member  
House Financial Services Committee  
4340 O'Neil Federal Office Building  
Washington, DC 20024

Re: H.R. 4546, the “National Securities Exchange Regulatory Parity Act of 2017”

Dear Chairman Hensarling and Ranking Member Waters:

On behalf of the North American Securities Administrators Association (NASAA),<sup>1</sup> I write to express concern regarding H.R. 4546, the “National Securities Exchange Regulatory Parity Act,” which is scheduled to be considered by the House Financial Services Committee this week. This legislation would eliminate standards designed to protect investors purchasing securities on national exchanges and fundamentally alter core tenets of modern securities market regulation.

H.R. 4546 amends Section 18 of the Securities Act of 1933 to allow the SEC to recognize a national securities exchange with any minimum listing standard as a “covered” security under Section 12(b)(1) of the Securities Act, thereby preempting currently applicable state laws.<sup>2</sup> Under existing law, as established by the National Securities Markets Improvement Act of 1996 (NSMIA), the benchmark for preemption of state law for securities listed on a national exchange is that an exchange must have rigorous listing standards “substantially similar” to those of the major national stock exchanges, such as the New York Stock Exchange (NYSE) and NASDAQ. The rationale for this requirement is that investors purchasing securities listed on an exchange that has sufficiently rigorous listing standards do not require the added protection afforded by Blue Sky registration and review.<sup>3</sup> This bill would upend the balance struck in NSMIA and remove investor protections afforded by state securities laws.

NASAA appreciates that H.R. 4546 incorporates improvements relative to similar legislation approved by the House earlier this year.<sup>4</sup> Specifically, the bill provides that a security listed on a National Securities Exchange may only be considered a “federal covered” security only if it is listed on a national exchange that is a member of the National Market System. Nevertheless, the significant fact for Congress remains that H.R. 4546 removes all references to listing standards from Section 18(b) of the Securities Act.

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<sup>1</sup> The oldest international organization devoted to investor protection, the North American Securities Administrators, Inc. was organized in 1919. Its membership consists of the securities administrators in the 50 states, the District of Columbia, Canada, Mexico, Puerto Rico and the U.S. Virgin Islands. NASAA is the voice of securities agencies responsible for grass-roots investor protection and efficient capital formation.

<sup>2</sup> See: Section 18(b)(1)(A)-(B)) of the Securities Act of 1933 and Rule 146.

<sup>3</sup> Exchanges with less stringent listing standards do not provide “covered” status (e.g., the Miami International Securities Exchange).

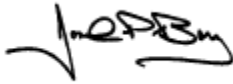
<sup>4</sup> See: Section 496 of the Financial CHOICE Act of 2017 (H.R. 10).

NASAA believes that the appropriate balance regarding the level of rigorousness in listing standards that would afford such “covered security” status and preemption of state law was reached in 1996, with the enactment of NSMIA. Further, current law also allows the creation of exchanges with varied listing requirements, including alternative marketplaces. However, unless such exchanges have rigorous listing standards akin to the major national exchanges, they are not exempt from state-level review.

Fair and rigorous listing standards are essential. Such listing standards give investors a voice when it comes to important decisions, ensure independent directors are in place to watch out for investors, provide oversight of conflicts of interest to ensure investors have a chance at earning a return. By removing the statutory references to the listing standards of “named” National Securities Exchanges in 18(b) of the Securities Act, H.R. 4546 threatens to undercut the distinction between different types of exchanges with potentially different types of listing standards to the detriment of investors. For these reasons, NASAA opposes the bill and urges the Committee to reject it in its present form.

Thank you for your consideration of NASAA’s views. If I may be of further assistance, please don’t hesitate to contact me or Michael Canning, NASAA’s Director of Policy and Government Affairs, at (202) 683-2307.

Sincerely,

A handwritten signature in black ink, appearing to read "JP Borg", with a stylized flourish at the end.

Joseph P. Borg  
NASAA President and Alabama Securities Director