

NASAA Urges Congress to Halt Expansion of Private Securities Markets

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The North American Securities Administrators Association (NASAA) has urged Congress to take no further action to expand the nation's private securities markets until a more careful study of the impact on public markets and investor protection can be conducted.

"NASAA is concerned that our current regulatory regime has gone too far in favoring private capital raising over public markets," testified Michael Pieciak, immediate past president of NASAA and Vermont's commissioner of financial regulation.

Pieciak's testimony came during a hearing called to assess the impact the growth in private markets has had on public markets and retail investors conducted by the House Subcommittee on Capital Markets, Securities, and Investment.



“We are deeply concerned over the lack of information about private markets that now dwarf the public markets in size, leaving policymakers without the data necessary to facilitate informed policymaking,” Pieciak testified. “We urge Congress to go no further in expanding or adding new exemptions until a more careful study of the impact on public markets and investor protection can be undertaken.”

Pieciak noted that public markets have historically been a significant source of capital and liquidity for growing companies and their shareholders, but the distinctions between public and private markets have been gradually diminishing.

“While Congress has previously enacted and continues to propose legislation with the intent of helping small businesses access capital by lowering barriers in several areas of the securities laws, the unintended effect is that it has incentivized companies to stay private,” he said. “Now is the time for Congress to reverse these effects by removing incentives for companies to stay private for long periods of time.”

Pieciak told the subcommittee that NASAA strongly supports measures that would provide that necessary data, including two bills subject to yesterday’s hearing.

Specifically, Pieciak said NASAA strongly supports the “Private Securities Transparency and Reform Act,” which would establish additional requirements for issuers offering securities in reliance on Regulation D.

The bill would mandate filing of Form D before the date of the first sale in an offering conducted under SEC Rule 506(b), and filing before the earlier of the date of the first sale or the date of the first use of general solicitation, for an offering being conducted under SEC Rule 506(c).

“Requiring a Form D to be pre-filed with the SEC would provide regulators more information and help investors make more informed decisions,” Pieciak testified.

He also said NASAA supports untitled draft legislation that would require the SEC to submit a report to Congress about securities exempted from registration under the Securities Act before finalizing reforms that would create new registration exemptions or expand current exemptions.

This bill would ensure that key information – such as investor types, expected offering sizes, and impacts on regulatory efforts and the public market – is collected so that the federal agency charged with policing the market can understand, prior to any rule adoption, how the creation of or changes to an exempt offering will impact other exempt offerings and the private and public marketplace overall.

“This is important considering that the SEC currently lacks key information on its existing private offering framework,” Pieciak said. “Congress and the SEC should not continue to expand it blindly.”

Formed in 1919, NASAA is the non-profit association of state, provincial, and territorial securities regulators in the United States, Canada and Mexico. NASAA has 67 members, including the securities regulators in all 50 states, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands.



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