Silicon Valley Bank

A Member of SVB Financial Group

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"H.R. 3606, The Reopening American Capital Markets to

Emerging Growth Companies Act of 2011"

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Chairman Garrett, Ranking Member Waters, and members of the Subcommittee: My name is Mike Selfridge, and I am the head of regional banking at Silicon Valley Bank. I appreciate the opportunity to testify today on H.R. 3606, a bill that will help companies obtain the capital they need to grow while also protecting investors.

Silicon Valley Bank is a unique institution. For nearly thirty years, we have focused our efforts on helping entrepreneurs succeed. We work almost exclusively with high growth technology and life science companies and with the investors who finance them.

At our core, we are a commercial bank, dedicated to serving clients in the technology, life science, clean tech, venture capital, and private equity sectors. We provide a comprehensive suite of financing solutions and other financial services to our clients worldwide. Silicon Valley Bank serves nearly half of the high growth technology companies across the United States, working through 26 U.S. offices and seven offices in innovation centers outside of the United States.

We often begin working with our clients when they are first formed, and we are one of the only banks that will lend to start-ups before they are profitable – in many instances, even before they are generating revenues. We work hard to be creative, to take the longer term view, and to retain a consistent approach to lending, even when events are challenging for our clients. For nearly thirty years, we have proven we can take this approach and also lend safely and soundly on behalf of our depositors and shareholders. We have also seen how critical our approach to lending is for innovative startups and for the American technology and venture capital ecosystems.

Many technology clients innovate in the United States but sell their products in countries around the world. To assist our clients in pursuing these global growth opportunities, we provide various forms of export financing. We are one of the leading lenders under the U.S. Export-Import Bank's working capital guarantee program. Just last year, for example, Silicon Valley Bank helped make Ex-Im guaranteed working capital loans to over 65 small businesses. This helped our clients generate approximately $1.4 billion in export sales and supported 6,400 existing and new American jobs.

But we do much more than lend money. Through our exclusive focus on the innovation sector and our extensive knowledge of the clients we serve, SVB provides a level of service and partnership that measurably impacts our clients' success. For example, we hold "Showcase" events, which help our start-up clients gain access to potential investors. Another example is our "CEO Accelerator" events, which bring start-up CEOs and entrepreneurs together to allow them to engage with peers, learn from one another, and develop networks and connections that are critical to building a young, emerging growth company.

There is one thing, however, that Silicon Valley Bank *doesn't* do. We don't make money by helping companies go public. As a result, H. R. 3606 won't help SVB … but it *will* help our clients. I am here, in effect, to speak for our clients and to help you understand the positive effect H.R. 3606 can have on these companies, on their employees, and on the broader U.S. economy.

I have spent nearly eighteen years at SVB. I have worked with hundreds of entrepreneurs and venture capital investors during my career. I have seen first-hand the optimism and energy with which these individuals approach the world, and change it for the better. I have watched them take ideas and transform them into companies – companies that create hundreds and thousands of jobs for this country. I have had the good fortune to work alongside a host of wonderful people as they have turned small companies into large, global corporations.

Almost every day I hear about a new company that may help the world communicate more freely, or diagnose and cure diseases more effectively, or more securely protect cyber-space for our government and corporations, or help solve the world's energy and resource challenges.

With all the bleak news about the broader economy, I feel very fortunate to be able to spend most of my time talking to people who are building and growing companies. While many sectors still struggle due to the financial downturn, I can say that the innovation economy is vibrant, full of new ideas, and led by passionate and committee visionaries.

Sometimes people equate Silicon Valley with a region. But that is not the case. It is a mindset, and that mindset exists throughout the United States. I saw this firsthand during the six years I spent leading our technology team here in the Washington D.C. region, and also during the four years I spent working with innovative companies throughout the East Coast. Today, I am responsible for our technology and life science clients across the United States. This gives me the privilege and honor to meet many entrepreneurs, and also to witness first-hand the changing face of the innovation sector in America. For example, in the last few years I have seen strong growth in areas such as New York, Chicago, Utah, and of course the Silicon Valley. As I travel across the country working with companies and entrepreneurs, one thing strikes me again and again: the more we help these innovative companies grow, the more we will help our entire economy thrive.

But while I am justifiably optimistic about the innovation sector's capacity to generate ideas and create new companies, this Subcommittee today addresses a very real problem. Companies need capital to grow. Such capital helps companies develop new products, hire new employees, and expand globally.

Historically, public equity markets have been an important source of that capital. But in the past decade or so, a variety of factors have created roadblocks to accessing capital. Increasingly, companies need to be much bigger, and have far greater resources, to contemplate an initial public offering, or IPO. As a result, many entrepreneurs need to spend the better part of a decade building their companies before they can realistically contemplate an IPO.

This reality has a number of implications. First, it is daunting to start a company – which may be driving entrepreneurs and investors to focus on sectors that can grow faster and do not require as much capital. That has serious implications for our continued ability to create innovative solutions in fields such as health care and energy – two critically important areas for our country's future. Second, many growing companies are finding it is harder to raise the capital they need to grow. In turn, this means they grow more slowly or, in the worst case, fail to survive. Third, companies are more likely to let themselves be acquired by a larger corporate that can finance their growth, rather than attempting to go public.

My experience in the innovation sector confirms what the IPO Task Force found empirically. Back in the 1990s, the vast majority of startups grew by "going public." Today, the vast majority "grow" by being acquired. That can be a great outcome for the company and its investors. However, I believe it has negative implications for our economy and society, since the most significant job creation occurs after companies go public.

As an example, I worked with a company doing cutting edge work in regenerative medicine – medicine that repairs damaged human tissue and enables the body to heal itself. As you can imagine, companies in the biopharmaceutical field need large amounts of capital to develop treatments and prove they are safe and effective, in order to obtain the necessary FDA approvals. All of this has to happen *before* the company can start generating revenues and profits. In the case of the company I'm thinking of, I know they debated a great deal about how to raise the capital needed to fund future growth. They seriously considered an IPO. Yet in the end, the executive team and their shareholders opted to sell the company to a larger, non-U.S. biopharmaceutical company. I am glad they succeeded in a very successful "exit"… but I also wish the IPO path had been a more viable option for this company. Had that been the case, it could have meant U.S. shareholders, rather than a foreign company, would now be the owners of what I think is an amazing company, with so much potential for growth. I also do not know where the next phase of job growth will occur for this company, though I surmise it will be outside of the United States.

That is why I commend the work of this Committee. Legislation like the bill you are considering will help unleash the promise that exists in growing, innovating companies throughout the country. It will allow these companies to achieve their full potential, and it will give investors across the country the chance to participate in that growth.

There are no silver bullets here. But there are smart policies that lay the foundation for a better future. In my view, H.R. 3606 is exactly that. By providing an "on-ramp" to public markets, H.R. 3606 will meaningfully improve growing companies' ability to obtain the capital necessary to fund continued growth. By selecting the regulations covered by the on-ramp, the bill strikes a wise and sensible balance between investor protection and more open, effective capital markets. And by sunsetting the on-ramp when companies reach critical mass or have been publicly traded for five years, this bill retains more robust investor protections for larger, more complex companies who are better able to absorb the financial burdens of those stricter regulations.

The IPO Task Force and the others members of this panel have done an excellent job describing why "small cap" IPOs have more or less disappeared from the capital markets landscape. They have also effectively described, at a macro level, what that means for our country and, in particular, what it means for job creation. They have summarized the key provisions of H.R. 3606, and how this legislation will help reinvigorate the "small cap" IPO market. Rather than repeat what they have said so articulately, I would like to put a human face on the problem.

For the CEO of a growing company, one has to deal with a very fundamental reality: there are only so many hours in a day, and only so much money in the bank. Time to market is critical for the companies I serve, who face immense talent wars and fierce completion from global competitors, many of whom have far more financial resources available to them. So if it will cost $2.5 million, or more, to get a company ready to go public, and then another $1.5 million for a company to be a public company, then how can these emerging companies afford to go public? If executives end entrepreneurs need to divert energy away from leading a successful business in order to spend months drafting and reviewing disclosures, and implementing processes that are as complex as those required of the largest publicly traded companies, then is it wise to go public? Should entrepreneurs instead focus on serving the company's clients, developing new products, and hiring new people – and push an IPO down the road? Based on my experience, it does not surprise me that the nine out of ten of the public company CEOs surveyed by the IPO Task Force said a major challenge of going public was that it forced them to reallocate their time away from building the company and toward reporting and compliance issues.

In addition, if a company is serious about going public, it needs to confront a daunting reality. The executive team needs to be confident that it will be able to attract and retain shareholders that will hold stock for the longer term, and not end up with short term investors who will buy and sell stock in a way that creates unnecessary volatility, which in turn can de-motivate employees as well as shareholders. That is why research is so important for these smaller companies. If there are no intermediaries in the market educating potential shareholders about a particular company, then in effect that company can become "invisible" to the market. And that is not a formula for continued growth.

Now I would like to tell you about three companies, which I think illustrate the problem this legislation, H.R. 3606, will help.

The first company, Broadsoft, is one of the relatively few companies that successfully completed an IPO in the last few years. Broadsoft is headquartered here in the D.C. region; specifically in Gaithersburg, Maryland. The company was founded about 12 years ago, and went public in 2010. Broadsoft is a leading, global innovator of residential and business Voice over IP (also known as VoIP) applications. It serves 16 of the 25 largest telecommunications carriers in 65 countries, and has employees in 21 countries.

The money Broadsoft raised from its IPO has been critical in allowing it to grow operations globally, while also allowing the company to make strategic acquisitions and compete even more effectively in its market. Since the IPO, Broadsoft has continued to demonstrate it is a great American entrepreneurial success story. When it released its earnings at the end of last quarter, for example, Broadsoft announced it had increased revenues 60% year-over-year. Broadsoft has also continued to add jobs, growing from 372 employees at the end of 2010 to 424 as of the end of September.

Broadsoft had a successful IPO. But prior to the IPO, the regulatory burden of Sarbanes-Oxley and other public compliance costs nevertheless forced it to seriously consider whether to pursue an IPO or not. As a company executive at Broadsoft said to me, “knowing that the company is out of pocket by at least $2 million for lawyers and accountants before we even know the company can get public” gives real pause to accessing the public markets, particularly for companies of its size. To pursue an IPO, a company must re-allocate a great deal of capital that it would otherwise spend on hiring new engineers, new sales people, or developing product to instead generate complex governance policies and disclosure documents. And it must do so knowing it is adopting a “roll the dice” strategy, trying to make it through an IPO window that may, or may not, be receptive when it is ready to proceed with its offering. The executive also told me that the compliance costs ”hurt” from a business model and profitability perspective. For companies such as Broadsoft, there is an expectation that the cost of going public, and the ongoing expenses of staying a public company, adds $2 million or more per year. That cost burden can erase a meaningful amount of profits at the time of an IPO, which companies like Broadsoft have worked so hard to achieve.

Another company I want to discuss is SAY Media, based in San Francisco, CA. Matt Sanchez co-founded SAY Media, formerly known as VideoEgg, in 2005. SAY Media is a modern media company designed for consumers of online content in an increasingly social environment typified by, among other things, the “Facebook” experience. SAY Media enables advertisers to reach passionate consumers of independent content by means of a scalable technology platform that delivers premium brand messages for Fortune 100 companies to a U.S. online audience of over 150 million users. SAY Media’s growth has been extraordinary in a very competitive industry. Over six years, SAY Media has grown from the founding trio to a company of over 400 employees, and the company has gained widespread acceptance in all English language media markets. For companies such as SAY Media, capital is critical to assist with rapid hiring plans, global expansion, research, and development. Accessing the public markets for capital will make a significant difference in the growth trajectory for SAY Media. However, the time period in which a company such as SAY Media can access the public markets will most likely be a longer path versus an equivalent company in the pre-Sarbanes Oxley era. SAY Media, and many other companies like it, would benefit from the successful passing of H.R. 3606.

The third company I want to highlight is one co-founded by a gentleman named Paige Craig.

Mr. Craig attended West Point, served in the Marine Corps and worked in the defense, intelligence and counter-terrorism communities. He founded his first company in 2003, when he drove into Iraq alone, with almost no money in his pocket, and then spent the next five years as a contractor in Iraq, Afghanistan, Asia and Africa. In 2008 he returned to the United States and became an angel investor, directly helping to fund 45 technology startups.

Paige is an American entrepreneur, and is today the co-founder of a BetterWorks, Inc. which is based in Santa Monica, CA. BetterWorks provides a platform designed to enable small and medium-sized businesses to engage, retain, and reward employees. The company passionately believes that great companies are built by great teams and ultimately by happy, engaged, and more productive employees. Each week since the release of its product, BetterWorks has been signing hundreds of new customers across the United States. Today, one year after its founding, BetterWorks is assisting over 350 companies, and thousands of employees, who are using its technology to foster a better workplace, and ultimately building better companies in America. Today, BetterWorks has over 60 employees, and it continues to grow.

BetterWorks also has an incredible opportunity to build a global enterprise. Yet, for all the speed and agility that this company enjoys today, Paige knows that its future growth, and ability to access public capital markets, will take him longer due to the current laws and regulations. At some point, Paige and his team will face the difficult choice of selling this business or raising money in the public markets. I know Paige remains focused on building an enduring enterprise, and he would most likely prefer to take his company public. But in his words, “even with that conviction, we know that selling early can be far easier, and attractive, given the cost and distraction of going public for a smaller, emerging company like ours.”

And as I mentioned earlier in my testimony, many companies are foregoing the IPO path altogether and being sold to a larger company. H.R. 3606 will improve this situation in a tangible way. It retains core regulations that will help ensure that public companies are well run and provide relevant, accurate financial and other information to their shareholders. But it will allow companies to scale themselves into the broader, deeper disclosure obligations imposed today on public companies. For example, it will reduce the number of years of audited financials a company must provide at the time of its IPO, and eliminate the requirement for newly public, emerging growth companies to pay an outside audit firm to attest to internal controls and procedures pursuant to Sarbanes Oxley section 404(b). That will save real money and, even more importantly, allow the CEO, CFO, other Board members and teams to spend more of their valuable time and energy managing and building the company. It will also help by letting CEOs “test the water” before proceeding with an IPO, and improve their ability to communicate more directly and more effectively with potential shareholders. This will be better for companies, and better for shareholders.

For decades, the United States has been the envy of the world. We have demonstrated a unique and enormously powerful capacity to create companies, to grow good companies into great companies, and to transform our economy by inventing new technologies and entirely new industries.

But when you are out in front, maintaining that position is difficult. I have seen how aggressively other countries are working to displace the United States as the dominant player in the innovation ecosystem. In order to continue leading the world, we need to adapt to changing times. We need to build on our strengths, and aggressively confront and eliminate unnecessary impediments that may hinder our success.

The legal and regulatory environment is an important piece of that puzzle. In a survey Silicon Valley Bank conducted earlier this year, CEOs of start-up companies listed the regulatory and political environment as their third greatest challenge – a bigger challenge than competition, a bigger challenge than recruiting employees and managing talent, and a bigger problem than obtaining the credit they need to expand into new markets.

This legislation will help address one part of the equation, by removing legal and regulatory impediments that are a barrier for a growing companies' ability to access public equity markets. Legislation such as H.R. 2940, which the House passed recently on a broad, bipartisan basis, will help address another part of the equation by updating the general solicitation rules under our securities laws. By systematically removing impediments that are outdated or misplaced, this Subcommittee and this Congress can help pave the way for our continued success.

I commend you for the work you have done, and support you in the work has yet to be done. Looking forward, for example, I hope this Committee will help ensure that section 619 of the Dodd-Frank Act, often referred to as the Volcker Rule, does not artificially restrict the amount of capital flowing into start-ups by subjecting bank investments in venture capital funds to the same rigid, "one-size fits all" requirements imposed on bank investments in hedge funds and private equity funds.

Every day in my job, I see the enormous potential of the entrepreneurs and emerging growth companies of America. This legislation, and other legislation like it, can help unleash that potential for the benefit of entrepreneurs, investors, individuals and communities across this great country. I congratulate this Committee for working to strengthen the vitality of an essential and exciting part of our economy.

Thank you for your time.

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Clause 2(g) of rule XI of the Rules of the House of Representatives and the Rules of the Committee on Financial Services require the disclosure of the following information. A copy of this form should be attached to your written testimony.

1. Name: Michael T. Lempres	**2. Organization or organizations you are representing:** SVB Financial Group
3. Business Address and telephone number: [redacted]	
4. Have you received any Federal grants or contracts (including any subgrants and subcontracts) since October 1, 2006, related to the subject on which you have been invited to testify? ☐ Yes ☒ No	**5. Have any of the organizations you are representing received any Federal grants or contracts (including any subgrants and subcontracts) since October 1, 2006, related to the subject on which you have been invited to testify?** ☐ Yes ☒ No
6. If you answered "yes" to either item 4 or 5, please list the source and amount of each grant or contract, and indicate whether the recipient of such grant was you or the organization(s) you are representing. You may list additional grants or contracts on additional sheets.	
7. Signature: Michael T. Lempres	

Please attach a copy of this form to your written testimony.