AMENDMENT TO RULES COMMITTEE PRINT 119–14

OFFERED BY MR. BAUMGARTNER OF WASHINGTON

Page 33, line 19, strike "Adoption of" and insert "Except as provided in subsection (b), adoption of".

Page 33, line 24, insert the following (and redesignate the succeeding subsection accordingly):

(b) EXCEPTION.—

(1) IN GENERAL.—An institution that enters into, maintains, or permits any disqualifying agreement with a private capital firm or a sovereign wealth fund may not benefit from the liability limitation provided under subsection (a).

(2) DEFINITIONS.—In this subsection:

(A) CONTROL RIGHTS.—The term "control rights" includes—

(i) consent, veto, or approval rights over budgets, hiring, scheduling, competition, branding, or strategic decisions; and

(ii) any other rights to assume or direct management or operations of an intercollegiate athletics program or athletics facility.

(B) DISQUALIFYING AGREEMENT.—The term "disqualifying agreement"—

(i) means, with respect to a private capital firm or a sovereign wealth fund, an agreement that—

(I) transfers, assigns, pledges, or otherwise conveys to such firm or fund any ownership, profit, net-revenue, or gross-revenue interest arising from the institution's intercollegiate athletics activities, including media, sponsorship, licensing, ticketing, premium seating, data, or other commercial rights;

(II) grants such firm or fund control rights over athletics decisions, institutional branding, scheduling, personnel, or student participation; or

(III) establishes a joint venture, new entity, or other agreement through which such firm or fund receives any share of, or any interest in, athletics-related revenues or rights, including licensing and merchandising rights, or athletics facilities or related real property including any leasehold, sublease, concession, easement, mortgage, deed of trust, lien, or similar property interest; and

(ii) does not include—

(I) fee-for-service contracts for discrete services;

(II) charitable contributions, gifts, or grants;

(III) tax-exempt bond financings or lease-purchase agreements with governmental units or §501(c)(3) conduit issuers that do not convey revenue interests or control rights to a private capital firm; or

(IV) sponsorships or advertising agreements that provide brand placement without revenue-sharing or control.

(C) PRIVATE CAPITAL FIRM.—The term "private capital firm" means—

(i) a hedge fund or private equity fund (as those terms are defined in section

13(h) of the Bank Holding Company Act of 1956 (12 U.S.C. 1851(h));

(ii) a private fund (as defined in section 202(a) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2(a))); or

(iii) any investment adviser (as defined in section 202(a) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2(a))) that advises a fund described in clause (i) or (ii).

(D) SOVEREIGN WEALTH FUND.—The term ''sovereign wealth fund'' means an investment fund owned or controlled by a foreign state, an agency or instrumentality of a foreign state (as defined in section 1603 of title 28, United States Code), or an agent of a foreign principal (as defined in the Foreign Agents Registration Act of 1938, as amended (22 U.S.C. 611 et seq.).