

# Union Calendar No. 168

113TH CONGRESS  
1ST SESSION

# H. R. 2374

**[Report No. 113-228, Part I]**

To amend the Securities Exchange Act of 1934 to provide protections for retail customers, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 14, 2013

Mrs. WAGNER introduced the following bill; which was referred to the Committee on Financial Services, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

SEPTEMBER 25, 2013

Additional sponsor: Mr. MURPHY of Florida

SEPTEMBER 25, 2013

Reported from the Committee on Financial Services with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

SEPTEMBER 25, 2013

The Committee on Education and the Workforce discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

# **A BILL**

To amend the Securities Exchange Act of 1934 to provide protections for retail customers, 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 “Retail Investor Protec-

5 tion Act”.

6 **SEC. 2. STAY ON RULES DEFINING CERTAIN FIDUCIARIES.**

7       After the date of enactment of this Act, the Secretary

8 of Labor shall not prescribe any regulation under the Em-

9 ployee Retirement Income Security Act of 1974 (~~29~~

10 ~~U.S.C. 1001 et seq.~~) defining the circumstances under

11 which an individual is considered a fiduciary until the date

12 that is 60 days after the Securities and Exchange Com-

13 mission issues a final rule relating to standards of conduct

14 for brokers and dealers pursuant to the second subsection

15 (~~k~~) of section ~~15~~ of the Securities Exchange Act of 1934

16 (~~15 U.S.C. 78o(k)~~).

17 **SEC. 3. AMENDMENTS TO THE SECURITIES EXCHANGE ACT**

18                               **OF 1934.**

19       The second subsection (~~k~~) of section ~~15~~ of the Securi-

20 ties Exchange Act of 1934 (~~15 U.S.C. 78o(k)~~), as added

21 by section ~~913(g)(1)~~ of the Dodd-Frank Wall Street Re-

22 form and Consumer Protection Act (~~12 U.S.C. 5301 et~~

23 ~~seq.~~), is amended by adding at the end the following:

1           ~~“(3) REQUIREMENTS PRIOR TO RULEMAKING.—~~

2           The Commission shall not promulgate a rule pursu-  
3           ant to paragraph ~~(1)~~ before—

4                   ~~“(A) identifying if retail customers (and~~  
5                   ~~such other customers as the Commission may~~  
6                   ~~by rule provide) are being systematically~~  
7                   ~~harmed or disadvantaged due to brokers or~~  
8                   ~~dealers operating under different standards of~~  
9                   ~~conduct than those standards that apply to in-~~  
10                  ~~vestment advisors under section 211 of the In-~~  
11                  ~~vestment Advisers Act of 1940 (15 U.S.C. 80b-~~  
12                  ~~11);~~

13                   ~~“(B) identifying whether the adoption of a~~  
14                   ~~uniform fiduciary standard of care for brokers~~  
15                   ~~or dealers and investment advisors would ad-~~  
16                   ~~versely impact retail investor access to personal-~~  
17                   ~~ized investment advice; recommendations about~~  
18                   ~~securities; or the availability of such advice and~~  
19                   ~~recommendations;~~

20                   ~~“(C) conducting an assessment by the~~  
21                   ~~chief economist of the Commission that assesses~~  
22                   ~~the qualitative and quantitative costs and bene-~~  
23                   ~~fits of the rule; and~~

24                   ~~“(D) the Commission, based on the assess-~~  
25                   ~~ment described in subparagraph (B)—~~

1           “(i) determines that the benefits of  
2           the rule justify its costs;

3           “(ii) identifies and assesses available  
4           alternatives to the rule that were consid-  
5           ered, including modification of an existing  
6           regulation, simplification of disclosures re-  
7           garding standards of care that apply to  
8           brokers or dealers and those that apply to  
9           investment advisors, together with an ex-  
10          planation of why the rule meets the regu-  
11          latory objectives more effectively than the  
12          alternatives; and

13          “(iii) ensures that the rule is acces-  
14          sible, consistent, written in plain language,  
15          and easy to understand; and that the rule  
16          shall measure and seek to improve the ac-  
17          tual results of regulatory requirements.

18          “(4) REQUIREMENTS FOR PROMULGATING A  
19          RULE.—The Commission shall publish in the Fed-  
20          eral Register alongside the rule promulgated pursu-  
21          ant to paragraph (1) formal findings that such rule  
22          would reduce the confusion of a retail customer (and  
23          such other customers as the Commission may by  
24          rule provide) about standards of conduct applicable  
25          to brokers, dealers, and investment advisors.

1           “~~(5)~~ REQUIREMENTS UNDER INVESTMENT AD-  
2 VISERS ACT OF 1940.—In proposing rules under  
3 paragraph ~~(1)~~ for brokers or dealers, the Commis-  
4 sion shall consider the differences in the registration,  
5 supervision, and examination requirements applica-  
6 ble to brokers, dealers, and investment advisors.”.

7 **SECTION 1. SHORT TITLE.**

8           *This Act may be cited as the “Retail Investor Protec-*  
9 *tion Act”.*

10 **SEC. 2. STAY ON RULES DEFINING CERTAIN FIDUCIARIES.**

11           *After the date of enactment of this Act, the Secretary*  
12 *of Labor shall not prescribe any regulation under the Em-*  
13 *ployee Retirement Income Security Act of 1974 (29 U.S.C.*  
14 *1001 et seq.) defining the circumstances under which an*  
15 *individual is considered a fiduciary until the date that is*  
16 *60 days after the Securities and Exchange Commission*  
17 *issues a final rule relating to standards of conduct for bro-*  
18 *kers and dealers pursuant to the second subsection (k) of*  
19 *section 15 of the Securities Exchange Act of 1934 (15 U.S.C.*  
20 *78o(k)).*

21 **SEC. 3. AMENDMENTS TO THE SECURITIES EXCHANGE ACT**  
22 **OF 1934.**

23           *The second subsection (k) of section 15 of the Securities*  
24 *Exchange Act of 1934 (15 U.S.C. 78o(k)), as added by sec-*  
25 *tion 913(g)(1) of the Dodd-Frank Wall Street Reform and*

1 *Consumer Protection Act (12 U.S.C. 5301 et seq.), is*  
2 *amended by adding at the end the following:*

3 “(3) *REQUIREMENTS PRIOR TO RULEMAKING.—*

4 *The Commission shall not promulgate a rule pursu-*  
5 *ant to paragraph (1) before—*

6 “(A) *identifying if retail customers (and*  
7 *such other customers as the Commission may by*  
8 *rule provide) are being systematically harmed or*  
9 *disadvantaged due to brokers or dealers oper-*  
10 *ating under different standards of conduct than*  
11 *those standards that apply to investment advi-*  
12 *sors under section 211 of the Investment Advisers*  
13 *Act of 1940 (15 U.S.C. 80b-11); and*

14 “(B) *identifying whether the adoption of a*  
15 *uniform fiduciary standard of care for brokers or*  
16 *dealers and investment advisors would adversely*  
17 *impact retail investor access to personalized in-*  
18 *vestment advice, recommendations about securi-*  
19 *ties, or the availability of such advice and rec-*  
20 *ommendations.*

21 “(4) *REQUIREMENTS FOR PROMULGATING A*  
22 *RULE.—The Commission shall publish in the Federal*  
23 *Register alongside the rule promulgated pursuant to*  
24 *paragraph (1) formal findings that such rule would*  
25 *reduce the confusion of a retail customer (and such*

1        *other customers as the Commission may by rule pro-*  
2        *vide) about standards of conduct applicable to bro-*  
3        *kers, dealers, and investment advisors.*

4                *“(5) REQUIREMENTS UNDER INVESTMENT ADVIS-*  
5        *ERS ACT OF 1940.—In proposing rules under para-*  
6        *graph (1) for brokers or dealers, the Commission shall*  
7        *consider the differences in the registration, super-*  
8        *vision, and examination requirements applicable to*  
9        *brokers, dealers, and investment advisors.”.*



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