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.

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.
Be it enacted by the Senate and House of Representa-
tives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Retail Investor Protec-
tion Act".

SEC. 2. STAY ON RULES DEFINING CERTAIN FIDUCIARIES.

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

SEC. 3. AMENDMENTS TO THE SECURITIES EXCHANGE ACT
OF 1934.

The second subsection (k) of section 15 of the Securi-
ties Exchange Act of 1934 (15 U.S.C. 78o(k)), as added
by section 913(g)(1) of the Dodd-Frank Wall Street Re-
form and Consumer Protection Act (12 U.S.C. 5301 et
seq.), is amended by adding at the end the following:
(2) Requirements prior to rulemaking.—

The Commission shall not promulgate a rule pursuant to paragraph (1) before—

(A) identifying if retail customers (and such other customers as the Commission may by rule provide) are being systematically harmed or disadvantaged due to brokers or dealers operating under different standards of conduct than those standards that apply to investment advisors under section 211 of the Investment Advisers Act of 1940 (15 U.S.C. 80b–11);

(B) identifying whether the adoption of a uniform fiduciary standard of care for brokers or dealers and investment advisors would adversely impact retail investor access to personalized investment advice, recommendations about securities, or the availability of such advice and recommendations;

(C) conducting an assessment by the chief economist of the Commission that assesses the qualitative and quantitative costs and benefits of the rule; and

(D) the Commission, based on the assessment described in subparagraph (B)—
\( (i) \) determines that the benefits of the rule justify its costs;

\( (ii) \) identifies and assesses available alternatives to the rule that were considered, including modification of an existing regulation, simplification of disclosures regarding standards of care that apply to brokers or dealers and those that apply to investment advisors, together with an explanation of why the rule meets the regulatory objectives more effectively than the alternatives; and

\( (iii) \) ensures that the rule is accessible, consistent, written in plain language, and easy to understand, and that the rule shall measure and seek to improve the actual results of regulatory requirements.

\( (4) \) REQUIREMENTS FOR PROMULGATING A RULE.—The Commission shall publish in the Federal Register alongside the rule promulgated pursuant to paragraph (1) formal findings that such rule would reduce the confusion of a retail customer (and such other customers as the Commission may by rule provide) about standards of conduct applicable to brokers, dealers, and investment advisors.
“(5) Requirements under investment advisers act of 1940.—In proposing rules under paragraph (1) for brokers or dealers, the Commission shall consider the differences in the registration, supervision, and examination requirements applicable to brokers, dealers, and investment advisors.”.

SECTION 1. SHORT TITLE.

This Act may be cited as the “Retail Investor Protection Act”.

SEC. 2. STAY ON RULES DEFINING CERTAIN FIDUCIARIES.

After the date of enactment of this Act, the Secretary of Labor shall not prescribe any regulation under the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.) defining the circumstances under which an individual is considered a fiduciary until the date that is 60 days after the Securities and Exchange Commission issues a final rule relating to standards of conduct for brokers and dealers pursuant to the second subsection (k) of section 15 of the Securities Exchange Act of 1934 (15 U.S.C. 78o(k)).

SEC. 3. AMENDMENTS TO THE SECURITIES EXCHANGE ACT OF 1934.

The second subsection (k) of section 15 of the Securities Exchange Act of 1934 (15 U.S.C. 78o(k)), as added by section 913(g)(1) of the Dodd-Frank Wall Street Reform and
Consumer Protection Act (12 U.S.C. 5301 et seq.), is amended by adding at the end the following:

“(3) REQUIREMENTS PRIOR TO RULEMAKING.—

The Commission shall not promulgate a rule pursuant to paragraph (1) before—

“(A) identifying if retail customers (and such other customers as the Commission may by rule provide) are being systematically harmed or disadvantaged due to brokers or dealers operating under different standards of conduct than those standards that apply to investment advisors under section 211 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-11); and

“(B) identifying whether the adoption of a uniform fiduciary standard of care for brokers or dealers and investment advisors would adversely impact retail investor access to personalized investment advice, recommendations about securities, or the availability of such advice and recommendations.

“(4) REQUIREMENTS FOR PROMULGATING A RULE.—The Commission shall publish in the Federal Register alongside the rule promulgated pursuant to paragraph (1) formal findings that such rule would reduce the confusion of a retail customer (and such
other customers as the Commission may by rule provide) about standards of conduct applicable to brokers, dealers, and investment advisors.

“(5) REQUIREMENTS UNDER INVESTMENT ADVISERS ACT OF 1940.—In proposing rules under paragraph (1) for brokers or dealers, the Commission shall consider the differences in the registration, supervision, and examination requirements applicable to brokers, dealers, and investment advisors.”.
A BILL

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

SEPTEMBER 25, 2013

Reported from the Committee on Financial Services with an amendment

The Committee on Education and the Workforce discharged, September 25, 2013.

September 25, 2013

Reported from the Committee on Financial Services with an amendment

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