

# Union Calendar No. 230

114TH CONGRESS  
1ST SESSION

# H. R. 1090

**[Report No. 114–304, 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

FEBRUARY 25, 2015

Mrs. WAGNER (for herself and Mr. GARRETT) 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

OCTOBER 22, 2015

Additional sponsors: Mr. ROYCE, Mr. HUIZENGA of Michigan, Mr. HULTGREN, Mr. POLIQUIN, Mr. LUCAS, Mr. STIVERS, Mr. HILL, Mr. LUETKEMEYER, Mr. MULVANEY, Mr. MESSER, Mr. GUINTA, Mr. ROSS, Mr. KING of New York, Mr. DOLD, Mr. BARR, Mr. FINCHER, Mr. WILLIAMS, Mr. POSEY, Mr. TIPTON, Mr. EMMER of Minnesota, Mr. SMITH of Texas, Mr. BROOKS of Alabama, Mr. HECK of Nevada, Mr. ABRAHAM, Mrs. BLACK, Mrs. MIMI WALTERS of California, Mr. HUDSON, Mr. FLORES, Mr. JOLLY, Mr. FRELINGHUYSEN, Mrs. HARTZLER, Mr. PITTENGER, and Mr. DUFFY

OCTOBER 22, 2015

Reported from the Committee on Financial Services

OCTOBER 22, 2015

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) providing a report to the Committee  
5 on Financial Services of the House of Rep-  
6 resentatives and the Committee on Banking,  
7 Housing, and Urban Affairs of the Senate de-  
8 scribing whether—

9 “(i) retail investors (and such other  
10 customers as the Commission may provide)  
11 are being harmed due to brokers or dealers  
12 operating under different standards of con-  
13 duct than those that apply to investment  
14 advisors under section 211 of the Invest-  
15 ment Advisers Act of 1940 (15 U.S.C.  
16 80b–11);

17 “(ii) alternative remedies will reduce  
18 any confusion or harm to retail investors  
19 due to brokers or dealers operating under  
20 different standards of conduct than those  
21 standards that apply to investment advi-  
22 sors under section 211 of the Investment  
23 Advisers Act of 1940 (15 U.S.C. 80b–11),  
24 including—

1 “(I) simplifying the titles used by  
2 brokers, dealers, and investment ad-  
3 visers; and

4 “(II) enhancing disclosure sur-  
5 rounding the different standards of  
6 conduct currently applicable to bro-  
7 kers, dealers, and investment advisers;

8 “(iii) the adoption of a uniform fidu-  
9 ciary standard of conduct for brokers,  
10 dealers, and investment advisors would ad-  
11 versely impact the commissions of brokers  
12 and dealers, the availability of proprietary  
13 products offered by brokers and dealers,  
14 and the ability of brokers and dealers to  
15 engage in principal transactions with cus-  
16 tomers; and

17 “(iv) the adoption of a uniform fidu-  
18 ciary standard of conduct for brokers or  
19 dealers and investment advisors would ad-  
20 versely impact retail investor access to per-  
21 sonalized and cost-effective investment ad-  
22 vice, recommendations about securities, or  
23 the availability of such advice and rec-  
24 ommendations.

1           “(4) ECONOMIC ANALYSIS.—The Commission’s  
2           conclusions contained in the report described in  
3           paragraph (3) shall be supported by economic anal-  
4           ysis.

5           “(5) REQUIREMENTS FOR PROMULGATING A  
6           RULE.—The Commission shall publish in the Fed-  
7           eral Register alongside the rule promulgated pursu-  
8           ant to paragraph (1) formal findings that such rule  
9           would reduce confusion or harm to retail customers  
10          (and such other customers as the Commission may  
11          by rule provide) due to different standards of con-  
12          duct applicable to brokers, dealers, and investment  
13          advisors.

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



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1<sup>ST</sup> Session

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