

BenefitsLink.com editor's note (6/21/2013): We have struck through the lines of the bill that were struck by the committee-approved amendment (offered by Rep. Patrick Murphy of Florida).

Sources:

<http://financialservices.house.gov/calendar/eventsingle.aspx?EventID=339118>

<http://financialservices.house.gov/uploadedfiles/bills-113-hr2374-m001191-amdt-003.pdf>

(Original Signature of Member)

113TH CONGRESS
1ST SESSION

H. R. _____

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

IN THE HOUSE OF REPRESENTATIVES

Mrs. WAGNER introduced the following bill; which was referred to the Committee on _____

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

1 U.S.C. 1001 et seq.) defining the circumstances under
2 which an individual is considered a fiduciary until the date
3 that is 60 days after the Securities and Exchange Com-
4 mission issues a final rule relating to standards of conduct
5 for brokers and dealers pursuant to the second subsection
6 (k) of section 15 of the Securities Exchange Act of 1934
7 (15 U.S.C. 78o(k)).

8 **SEC. 3. AMENDMENTS TO THE SECURITIES EXCHANGE ACT**
9 **OF 1934.**

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

15 “(3) REQUIREMENTS PRIOR TO RULEMAKING.—

16 The Commission shall not promulgate a rule pursu-
17 ant to paragraph (1) before—

18 “(A) identifying if retail customers (and
19 such other customers as the Commission may
20 by rule provide) are being systematically
21 harmed or disadvantaged due to brokers or
22 dealers operating under different standards of
23 conduct than those standards that apply to in-
24 vestment advisors under section 211 of the In-

1 vestment Advisers Act of 1940 (15 U.S.C. 80b-
2 11);

3 “(B) identifying whether the adoption of a
4 uniform fiduciary standard of care for brokers
5 or dealers and investment advisors would ad-
6 versely impact retail investor access to personal-
7 ized investment advice, recommendations about
8 securities, or the availability of such advice and
9 recommendations;

10 ~~“(C) conducting an assessment by the~~
11 ~~chief economist of the Commission that assesses~~
12 ~~the qualitative and quantitative costs and bene-~~
13 ~~fits of the rule; and~~

14 ~~“(D) the Commission, based on the assess-~~
15 ~~ment described in subparagraph (B)---~~

16 ~~“(i) determines that the benefits of~~
17 ~~the rule justify its costs;~~

18 ~~“(ii) identifies and assesses available~~
19 ~~alternatives to the rule that were consid-~~
20 ~~ered, including modification of an existing~~
21 ~~regulation, simplification of disclosures re-~~
22 ~~garding standards of care that apply to~~
23 ~~brokers or dealers and those that apply to~~
24 ~~investment advisors, together with an ex-~~
25 ~~planation of why the rule meets the regu-~~

1 ~~latory objectives more effectively than the~~
2 ~~alternatives; and~~
3 ~~“(iii) ensures that the rule is acces-~~
4 ~~sible, consistent, written in plain language,~~
5 ~~and easy to understand, and that the rule~~
6 ~~shall measure and seek to improve the ac-~~
7 ~~tual results of regulatory requirements.~~

8 “(4) REQUIREMENTS FOR PROMULGATING A
9 RULE.—The Commission shall publish in the Fed-
10 eral Register alongside the rule promulgated pursu-
11 ant to paragraph (1) formal findings that such rule
12 would reduce the confusion of a retail customer (and
13 such other customers as the Commission may by
14 rule provide) about standards of conduct applicable
15 to brokers, dealers, and investment advisors.

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