

114TH CONGRESS  
1ST SESSION

# H. R. 1216

To require the Securities and Exchange Commission to carry out a pilot program to examine maker-taker pricing, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 3, 2015

Mr. LYNCH (for himself, Mr. CAPUANO, Mr. ELLISON, and Mr. HINOJOSA) introduced the following bill; which was referred to the Committee on Financial Services

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## A BILL

To require the Securities and Exchange Commission to carry out a pilot program to examine maker-taker pricing, 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 “Maker-Taker Conflict  
5 of Interest Reform Act of 2015”.

6 **SEC. 2. PILOT PROGRAM TO EXAMINE MAKER-TAKER PRIC-**  
7 **ING.**

8 (a) IN GENERAL.—Not later than 90 days after the  
9 date of the enactment of this Act, the Securities and Ex-

1 change Commission shall begin a 6-month pilot program  
2 to examine of maker-taker pricing, under which the Com-  
3 mission shall—

4 (1) identify a random sample of 50 issuers (the  
5 “sample group”) out of the 100 issuers with the  
6 most frequently-traded securities;

7 (2) during such 6-month period, prohibit the  
8 payment of rebates (or comparable inducements) on  
9 any trade of securities of the issuers in the sample  
10 group; and

11 (3) compare the effects of such prohibition on  
12 the issuers in the sample group compared to the 50  
13 issuers not so chosen (the “control group”).

14 (b) REPORT.—

15 (1) IN GENERAL.—Not later than 6 months  
16 after the end of the program required under sub-  
17 section (a), the Commission shall issue a report to  
18 the Congress containing all of the findings and de-  
19 terminations made in carrying out such program,  
20 along with any legislative or regulatory recommenda-  
21 tions the Commission may have.

22 (2) FACTORS TO CONSIDER.—In preparing the  
23 report required under paragraph (1), the Commis-  
24 sion shall consider factors relevant to the impact of

1 rebates (or comparable inducements) on equity mar-  
2 kets, including—

3 (A) whether maker-taker pricing creates a  
4 potential conflict of interest between brokers  
5 and their clients by incentivizing brokers to use  
6 routing that may be cost-effective for them, but  
7 which may not be the best method of execution  
8 for their clients;

9 (B) whether maker-taker pricing reduces,  
10 or potentially reduces, market transparency and  
11 distorts price discovery insofar as rebates and  
12 fees are not disclosed in displayed quotes, there-  
13 by causing displayed spreads to be narrower or  
14 wider than actual spreads; and

15 (C) whether maker-taker pricing com-  
16 promises, or potentially compromises, efficiency  
17 and liquidity by—

18 (i) contributing to increased length in  
19 exchange queues;

20 (ii) causing passive market partici-  
21 pants to trade more aggressively to access  
22 liquidity;

23 (iii) contributing to a reduction in li-  
24 quidity in times of market stress, particu-  
25 larly for less liquid securities;

1 (iv) incentivizing a proliferation of  
2 order types, rebates, and fees, thereby re-  
3 sulting in increased fragmentation of order  
4 flow; and

5 (v) fostering excessive intermediation  
6 by certain market participants that trade  
7 in part or in whole to capture rebates (or  
8 comparable inducements) or avoid fees.

9 (c) COMMISSION AUTHORITY.—The Commission may  
10 make such adjustments to the pilot program under this  
11 section as the Commission considers necessary or appro-  
12 priate to ensure that such program can provide statis-  
13 tically meaningful or reliable results.

14 (d) DEFINITIONS.—For purposes of this section:

15 (1) MAKER-TAKER PRICING.—The term  
16 “maker-taker pricing” means any pricing model by  
17 any trading venue that provides rebates (or com-  
18 parable inducements) or fees to market participants  
19 to either provide liquidity to, or to take liquidity  
20 from, that trading venue.

21 (2) REBATES.—The term “rebates” means  
22 funds provided by a trading venue to certain partici-  
23 pants in a transaction on that venue.

24 (3) COMPARABLE INDUCEMENTS.—The term  
25 “comparable inducements” means items or services

1 of value (other than rebates) provided by a trading  
2 venue to certain participants in a transaction on  
3 that venue, including free or reduced-cost market  
4 data, connectivity ports, co-location space, and tech-  
5 nology services.

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