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Union Calendar No. 91

116TH CONGRESS
1ST SESSION

H. R. 1815

[Report No. 116–123]

To require the Securities and Exchange Commission, when developing rules and regulations about disclosures to retail investors, to conduct investor testing, including a survey and interviews of retail investors, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 18, 2019

Mr. CASTEN of Illinois introduced the following bill; which was referred to the Committee on Financial Services

JUNE 20, 2019

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

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

[For text of introduced bill, see copy of bill as introduced on March 18, 2019]

A BILL

To require the Securities and Exchange Commission, when developing rules and regulations about disclosures to retail investors, to conduct investor testing, including a survey and interviews of retail investors, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "SEC Disclosure Effectiveness Testing Act".

SEC. 2. DISCLOSURE TESTING.

(a) IN GENERAL.—Section 23(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78w(a)) is amended by adding at the end the following:

"(4) INVESTOR TESTING.—

"(A) IN GENERAL.—The Commission shall engage in investor testing prior to issuing any rule or regulation which designates documents or information to be disclosed under the securities laws, if such documents or information—

"(i) are primarily used by retail investors, as determined by the Commission; and

"(ii) are intended to be used by retail investors to make informed investment decisions or to understand the investments held by the retail investor.

"(B) CONTENTS.—Investor testing conducted pursuant to subparagraph (A) shall include the following:

"(i) Qualitative testing in the form of one-on-one cognitive interviews of retail investors about documents or information, or samples of such documents or information, to be provided.

"(ii) A nationwide survey of retail investors, designed to complement the interviews under clause (i), on—

"(I) the usefulness of such documents or information, or samples of such documents or information;

"(II) the proposed format of such documents or information, or samples of such documents or information; and

"(III) delivery preferences of such documents or information, or samples of such documents or information.

"(iii) Analysis and publication in the Federal Register of the results of the survey and interviews.

"(iv) An opportunity for the public to comment on such results published in the Federal Register.

"(C) SUBSTANTIVE CHANGES.—If the Commission, in the period between engaging in investor testing and publishing a final rule, makes substantive

changes to such rule that the Commission determines would have a significant impact on retail investors, the Commission shall again engage in investor testing.

"(D) PUBLIC AVAILABILITY OF RETAIL TESTING RESULTS.—The Commission shall make the data and results of any investor testing performed pursuant to this paragraph available to the public.".

(b) PARTICIPATION OF INVESTOR ADVOCATE.—Section 4(g) of the Securities Exchange Act of 1934 (15 U.S.C. 78d(g)) is amended—

(1) in paragraph (4)—

(A) in subparagraph (D)(ii), by striking "and" at the end;

(B) by redesignating subparagraph (E) as subparagraph (F); and

(C) by inserting after subparagraph (D) the following:

"(E) engage in investor testing—

"(i) as necessary to carry out the functions of the Office; and

"(ii) under section 23(a)(4), if the Commission determines it appropriate; and"; and

(2) by adding at the end the following:

"(9) PUBLICATION OF DATA AND RESULTS OF INVESTOR TESTING.—With respect to any investor testing carried out by the Investor Advocate pursuant to paragraph (4)(E), the Investor Advocate may make the data and results of such investor testing available to the public, and without further review or editing by the Commission.".

(c) PRIOR RULES.—

(1) IN GENERAL.—For any final rule or regulation issued by the Securities and Exchange Commission (in this subsection referred to as the "Commission") before the date of the enactment of this Act that would be subject to investor testing under section 23(a)(4) of the Securities Exchange Act of 1934, had such rule been issued on or after the date of enactment of this Act, the Commission shall perform investor testing with respect to such rule or regulation that includes the contents described in such section 23(a)(4).

(2) SCHEDULE.—The Commission shall, not later than 6 months after the date of the enactment of this Act, establish a schedule for completing any investor testing required under paragraph (1) that prioritizes testing of any final rules and regulations that designate documents or information central to retail investor decision making.

(3) REPORT.—The Commission shall issue a report to Congress each year containing the following:

(A) The status of any investor testing required under paragraph (1).

(B) The results of any investor testing completed under paragraph (1).

(C) Any priorities the Commission has, based on results of investor testing required by paragraph (1), for—

(i) revising or eliminating any final rule or regulation designating documents or information to be provided to retail investors; and

(ii) revising any other final rule or regulation to supplement revised or eliminated rules designating documents or information to be provided to retail investors.

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