

## Union Calendar No. 91

116<sup>TH</sup> CONGRESS  
1<sup>ST</sup> 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.

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### 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 italics]

[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.

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 “SEC Disclosure Effec-*  
5 *tiveness Testing Act”.*

6 **SEC. 2. DISCLOSURE TESTING.**

7        *(a) IN GENERAL.—Section 23(a) of the Securities Ex-*  
8 *change Act of 1934 (15 U.S.C. 78w(a)) is amended by add-*  
9 *ing at the end the following:*

10        *“(4) INVESTOR TESTING.—*

11            *“(A) IN GENERAL.—The Commission shall en-*  
12 *gage in investor testing prior to issuing any rule or*  
13 *regulation which designates documents or information*  
14 *to be disclosed under the securities laws, if such docu-*  
15 *ments or information—*

16            *“(i) are primarily used by retail investors,*  
17 *as determined by the Commission; and*

18            *“(ii) are intended to be used by retail inves-*  
19 *tors to make informed investment decisions or to*  
20 *understand the investments held by the retail in-*  
21 *vestor.*

22            *“(B) CONTENTS.—Investor testing conducted*  
23 *pursuant to subparagraph (A) shall include the fol-*  
24 *lowing:*

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

5           “(ii) A nationwide survey of retail inves-  
6           tors, designed to complement the interviews  
7           under clause (i), on—

8                   “(I) the usefulness of such documents  
9                   or information, or samples of such docu-  
10                  ments or information;

11                   “(II) the proposed format of such docu-  
12                   ments or information, or samples of such  
13                  documents or information; and

14                   “(III) delivery preferences of such docu-  
15                   ments or information, or samples of such  
16                  documents or information.

17           “(iii) Analysis and publication in the Fed-  
18           eral Register of the results of the survey and  
19           interviews.

20           “(iv) An opportunity for the public to com-  
21           ment on such results published in the Federal  
22           Register.

23           “(C) *STANTIVE CHANGES.*—If the Commis-  
24           sion, in the period between engaging in investor test-  
25           ing and publishing a final rule, makes substantive

1 *changes to such rule that the Commission determines*  
2 *would have a significant impact on retail investors,*  
3 *the Commission shall again engage in investor test-*  
4 *ing.*

5 *“(D) PUBLIC AVAILABILITY OF RETAIL TESTING*  
6 *RESULTS.—The Commission shall make the data and*  
7 *results of any investor testing performed pursuant to*  
8 *this paragraph available to the public.”.*

9 *(b) PARTICIPATION OF INVESTOR ADVOCATE.—Section*  
10 *4(g) of the Securities Exchange Act of 1934 (15 U.S.C.*  
11 *78d(g)) is amended—*

12 *(1) in paragraph (4)—*

13 *(A) in subparagraph (D)(ii), by striking*  
14 *“and” at the end;*

15 *(B) by redesignating subparagraph (E) as*  
16 *subparagraph (F); and*

17 *(C) by inserting after subparagraph (D) the*  
18 *following:*

19 *“(E) engage in investor testing—*

20 *“(i) as necessary to carry out the func-*  
21 *tions of the Office; and*

22 *“(ii) under section 23(a)(4), if the*  
23 *Commission determines it appropriate;*  
24 *and”;* and

25 *(2) by adding at the end the following:*

1           “(9) *PUBLICATION OF DATA AND RESULTS OF IN-*  
2           *VESTOR TESTING.*—*With respect to any investor test-*  
3           *ing carried out by the Investor Advocate pursuant to*  
4           *paragraph (4)(E), the Investor Advocate may make*  
5           *the data and results of such investor testing available*  
6           *to the public, and without further review or editing*  
7           *by the Commission.”.*

8           *(c) PRIOR RULES.*—

9           (1) *IN GENERAL.*—*For any final rule or regula-*  
10          *tion issued by the Securities and Exchange Commis-*  
11          *sion (in this subsection referred to as the “Commis-*  
12          *sion”) before the date of the enactment of this Act that*  
13          *would be subject to investor testing under section*  
14          *23(a)(4) of the Securities Exchange Act of 1934, had*  
15          *such rule been issued on or after the date of enactment*  
16          *of this Act, the Commission shall perform investor*  
17          *testing with respect to such rule or regulation that in-*  
18          *cludes the contents described in such section 23(a)(4).*

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

1           (3) *REPORT.*—*The Commission shall issue a re-*  
2           *port to Congress each year containing the following:*

3                   (A) *The status of any investor testing re-*  
4                   *quired under paragraph (1).*

5                   (B) *The results of any investor testing com-*  
6                   *pleted under paragraph (1).*

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

10                           (i) *revising or eliminating any final*  
11                           *rule or regulation designating documents or*  
12                           *information to be provided to retail inves-*  
13                           *tors; and*

14                           (ii) *revising any other final rule or*  
15                           *regulation to supplement revised or elimi-*  
16                           *nated rules designating documents or infor-*  
17                           *mation to be provided to retail investors.*

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