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HOUSE OF REPRESENTATIVES

REPORT
115–903

CONSUMER FINANCIAL CHOICE AND CAPITAL MARKETS PROTECTION ACT OF 2017

AUGUST 24, 2018.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. HENSARLING, from the Committee on Financial Services, submitted the following

R E P O R T

[To accompany H.R. 2319]

[Including cost estimate of the Congressional Budget Office]

The Committee on Financial Services, to whom was referred the bill (H.R. 2319) to protect the investment choices of investors in the United States, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Consumer Financial Choice and Capital Markets Protection Act of 2018".

SEC. 2. TREATMENT OF MONEY MARKET FUNDS UNDER THE INVESTMENT COMPANY ACT OF 1940.

The Investment Company Act of 1940 (15 U.S.C. 80a–1 et seq.) is amended by adding at the end the following:

"SEC. 66. MONEY MARKET FUNDS.

"(a) DEFINITIONS.—In this section—

"(1) the term 'covered Federal assistance' means Federal assistance used for the purpose of—

"(A) making any loan to, or purchasing any stock, equity interest, or debt obligation of, any money market fund;

"(B) guaranteeing any loan or debt issuance of any money market fund; or

"(C) entering into any assistance arrangement (including tax breaks), loss sharing, or profit sharing with any money market fund; and

"(2) the term 'Federal assistance' means—

"(A) insurance or guarantees by the Federal Deposit Insurance Corporation;

"(B) transactions involving the Secretary of the Treasury; or

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"(C) the use of any advances from any Federal Reserve credit facility or discount window, except to the extent any part of a program or facility with broad-based eligibility established in unusual or exigent circumstances might be made available.

"(b) ELECTION TO BE A STABLE VALUE MONEY MARKET FUND.—

"(1) IN GENERAL.—Notwithstanding any other provision of this title, any open-end investment company (or a separate series thereof) that is a money market fund that relies on section 270.2a–7 of title 17, Code of Federal Regulations, may, in the prospectus included in its registration statement filed under section 8, state that the company or series has elected to compute the current price per share, for purposes of distribution or redemption and repurchase, of any redeemable security issued by the company or series by using the amortized cost method of valuation, or the penny-rounding method of pricing, regardless of whether its shareholders are limited to natural persons, if—

"(A) the company or series has as its objective the generation of income and preservation of capital through investment in short-term, high-quality debt securities;

"(B) the board of directors of the company or series elects, on behalf of the company or series, to maintain a stable net asset value per share or stable price per share, by using the amortized cost valuation method, as defined in section 270.2a–7(a) of title 17, Code of Federal Regulations (or successor regulation), or the penny-rounding pricing method, as defined in section 270.2a–7(a) of title 17, Code of Federal Regulations (or successor regulation), and the board of directors of the company has determined, in good faith, that—

"(i) it is in the best interests of the company or series, and its shareholders, to do so; and

"(ii) the money market fund will continue to use such method or methods only as long as the board of directors believes that the resulting share price fairly reflects the market-based net asset value per share of the company or series; and

"(C) the company or series will comply with such quality, maturity, diversification, liquidity, and other requirements, including related procedural and recordkeeping requirements, as the Commission, by rule or regulation or order, may prescribe or has prescribed as necessary or appropriate in the public interest or for the protection of investors to the extent that such requirements and provisions are not inconsistent with this section.

"(2) EXEMPTION FROM DEFAULT LIQUIDITY FEE REQUIREMENTS.—

"(A) ELECTIONS UNDER PARAGRAPH (1).—Notwithstanding section 270.2a–7 of title 17, Code of Federal Regulations (or successor regulation), no company or series that makes the election under paragraph (1) shall be subject to the default liquidity fee requirements of section 270.2a–7(c)(2)(ii) of title 17, Code of Federal Regulations (or successor regulation) unless the board of directors of such company or series elects, in the prospectus included in the registration statement filed under section 8, to be subject to such requirements.

"(B) OTHER FUNDS.—Notwithstanding section 270.2a–7 of title 17, Code of Federal Regulations (or successor regulation), a company or series that does not make an election under paragraph (1) shall not be subject to the default liquidity fee requirements of section 270.2a–7(c)(2)(ii) of title 17, Code of Federal Regulations (or successor regulation), if it states in the prospectus included in the registration statement filed under section 8, that the company or series satisfies the provisions of subparagraphs (A) and (C) of paragraph (1) and that the board of directors of such company or series has elected for the company or series to not be subject to the default liquidity fee requirements.

"(c) PROHIBITION AGAINST FEDERAL GOVERNMENT BAILOUTS OF MONEY MARKET FUNDS.—Notwithstanding any other provision of law (including regulations), covered Federal assistance may not be provided directly to any money market fund.

"(d) DISCLOSURE OF THE PROHIBITION AGAINST FEDERAL GOVERNMENT BAILOUTS OF MONEY MARKET FUNDS.—

"(1) IN GENERAL.—No principal underwriter of a redeemable security issued by a money market fund nor any dealer shall offer or sell any such security to any person unless the prospectus of the money market fund and any advertising or sales literature for such fund prominently discloses, on the first page of such prospectus or literature, the prohibition against direct covered Federal assistance as described in subsection (c).

"(2) RULES, REGULATIONS, AND ORDERS.—The Commission may, after consultation with and taking into account the views of the Board of Governors of the

Federal Reserve System, the Federal Deposit Insurance Corporation, and the Department of the Treasury, adopt rules and regulations and issue orders consistent with the protection of investors, prescribing the manner in which the disclosure under this subsection shall be provided.

"(e) CONTINUING OBLIGATION TO MEET REQUIREMENTS OF THIS TITLE.—A company or series that makes an election under subsection (b)(1) shall remain subject to the provisions of this title and the rules and regulations of the Commission thereunder that would otherwise apply if those provisions do not conflict with the provisions of this section.".

PURPOSE AND SUMMARY

On May 3, 2017, Representative Keith Rothfus introduced H.R. 2319, the "Consumer Financial Choice and Capital Markets Protection Act". As modified by an amendment in the nature of a substitute, H.R. 2319 reverses portions of the U.S. Securities and Exchange Commission's (SEC or Commission) 2014 rule on money market funds (MMFs). The legislation would allow MMFs, regardless of whether their investors are retail or institutional, to elect to use the stable Net Asset Value (NAV) approach instead of a floating NAV to calculate the price per share. Additionally, MMFs, either by making the election to use a stable NAV or through its board of directors, can choose not to be subject to the mandatory liquidity fee provision of the SEC's 2014 rule. The bill does not, however, address the discretion afforded to boards of MMFs under the SEC rule that allows MMFs to implement gates to limit redemptions in times of stress. Additionally, the bill contains certain prohibitions against the use of taxpayer dollars to bail-out MMFs and requires disclosure of the bail-out prohibition provisions, but the bill does not restrict the Federal Reserve's authority to implement a program or facility with broad-based eligibility established in unusual or exigent circumstances that may benefit MMFs.

BACKGROUND AND NEED FOR LEGISLATION

The goal of H.R. 2319 is to address certain concerns raised by municipalities following the implementation of the 2014 SEC's MMF rule, namely that certain municipalities might face increased funding costs through MMFs as a result of the rule and that prime and tax-exempt MMFs saw outflows of over $1 trillion into government MMFs after the rule's adoption.

MMFs were established first in the 1970s as a solution to the Federal Reserve's Regulation Q, which prohibited bank demand deposits from paying interest and capped the interest rate on other types of bank accounts at 5.25 percent. Since then, investors have used MMFs as a type of mutual fund that offers higher yields than cash held in a bank deposit account while still allowing investors to quickly withdraw their funds. By law, MMFs are required to maintain generally low-risk investments, such as government securities, certificates of deposit, commercial paper, or other highly liquid and low-risk securities. MMFs are typically categorized by those that invest primarily in government securities, tax-exempt municipal securities, or corporate debt securities (known as prime funds), with some funds intended for retail investors and others intended for institutional investors. Money markets are securities. The FDIC does not federally insure these products, so they do not have to adhere to reserve requirements imposed on federally insured depository institutions, which allows MMFs to pay investors higher yields. But the absence of deposit insurance can make MMFs vulnerable to panics and runs.

Historically, MMFs attempted to keep their respective NAV at a constant $1.00 per share by utilizing the "amortized cost" method to value a portfolio of securities. Amortized cost is the book price of a security—i.e., the price a fund pays for a security, as adjusted over time for accounting changes in any discount or premium. In practice, maintaining a stable $1.00 NAV by utilizing this method can be difficult if a fund's investments perform poorly, in which case the NAV per share may fall below $1.00—the occurrence of which is known as "breaking the buck."

In September 2008, the oldest MMF in the United States—the Reserve Primary Fund—"broke the buck" due in large part to holding large amounts of Lehman Brothers' commercial paper and was forced to suspend investor redemptions following Lehman Brothers' bankruptcy filing. When this happened, investors in other MMFs became concerned about the safety of their investments and began to withdraw money from these funds, causing the other fund managers to liquidate assets to meet these redemption requests. No other MMFs "broke the buck" but some holding companies or "parents" of MMFs provided their funds with assistance to meet redemptions. To stem this run on MMFs, the U.S. Treasury Department announced that it would "guarantee the share price of any publicly offered eligible money market mutual fund." Using the Exchange Stabilization Fund—an emergency reserve fund normally used for foreign exchange intervention—the Treasury provided an explicit government backstop to the $3 trillion MMF industry.

In the aftermath of the crisis, the SEC adopted broad reforms in January 2010 to promote both the resilience and stability of MMFs in the SEC's words "by tightening the maturity and credit quality standards and imposing new liquidity requirements". The 2010 rules:

- required MMFs to have a minimum percentage of their assets in highly liquid securities so that those assets can be readily converted to cash to pay redeeming shareholders;
- placed new limits on a money market fund's ability to acquire lower quality (Second Tier) securities;
- shortened the average maturity limits for money market funds, which helps to limit the exposure of funds to certain risks such as sudden interest rate movements;
- required funds to hold sufficiently liquid securities to meet foreseeable redemptions;
- required fund managers to examine the fund's ability to maintain a stable net asset value per share in the event of shocks—such as interest rate changes, higher redemptions, and changes in credit quality of the portfolio;
- limited a money market fund's investment in rated securities to those securities rated in the top two rating categories (or unrated securities of comparable quality);
- required money market funds to perform an independent credit analysis of every security purchased. As such, the credit rating serves as a screen on credit quality, but can never be the sole factor in determining whether a security is appropriate for a money market fund;

- required money market funds each month to post on their Web sites their portfolio holdings;
- required money market funds each month to report to the Commission detailed portfolio schedules in a format that can be used to create an interactive database through which the Commission can better oversee the activities of money market funds;
- require money market funds and their administrators to be able to process purchases and redemptions electronically at a price other than $1.00 per share. This requirement facilitates share redemptions if a fund were to break the buck;
- permit a money market fund's board of directors to suspend redemptions if the fund is about to break the buck and decides to liquidate the fund; and
- expanded the ability of affiliates of money market funds to purchase distressed assets from funds in order to protect a fund from losses.

In addition, the 2010 rules improved the way that funds evaluate securities ratings provided by the Nationally Recognized Statistical Rating Organizations (NRSROs or credit rating agencies):

- required funds to designate each year at least four NRSROs whose ratings the fund's board considers to be reliable;
- eliminated the current requirement that funds invest only in those asset backed securities that have been rated by an NRSRO; and
- strengthened the requirements for allowing a money market fund to "look through" the repurchase issuer to the underlying collateral securities for diversification purposes.

The Treasury Department proposed in its Financial Regulatory Reform: A New Foundation (2009), that the President's Working Group on Financial Markets (PWG) prepare a report on fundamental changes needed to address systemic risk and to reduce the susceptibility of MMFs to runs. In October 2010, the President's Working Group on Financial Markets issued a report on MMF reform in light of the Reserve Primary Fund's collapse and its effect on the financial system. The President's Working Group presented several policy options for further reforming MMFs, which included requiring MMFs to float their NAV. At the time, the former SEC Chairman noted that the 2010 rules were a "first step" to strengthen MMFs. On November 13, 2012, the Financial Stability Oversight Council (FSOC) voted unanimously to advance proposed recommendations for reform for public comment. Using its authority under Section 120 of the Dodd-Frank Act, the FSOC proposed several alternatives for structural reforms to address the risks posed by MMFs. The FSOC sought comment on the proposed recommendations for structural reforms of MMFs "that reduce the risk of runs and significant problems spreading through the financial system stemming from the practices and activities associated with MMFs."

Rather than allow the FSOC to dictate capital market standards, on July 23, 2014, the SEC approved a second package of rules governing money market funds. The 2014 rule requires institutional prime and institutional municipal MMFs to adopt market-based pricing by floating their NAV. Meanwhile, government and retail

MMFs are permitted to continue using the amortized cost method of seeking to maintain a stable share price. The SEC's 2014 final rule also authorized the boards of MMFs to impose liquidity fees and redemption gates during periods of stress, and under certain circumstances, requires liquidity fees to be imposed. The SEC's rule became effective on October 14, 2016. At the time of adoption, Robert Pozen, a senior fellow at the Brookings Institution, noted that "the new rules are likely to reduce the chances of runs on money market funds in times of financial crisis. But it remains to be seen whether these tougher requirements will diminish the appeal of the funds relative to bank deposits for short-term investors."

Not everyone who was involved with the SEC's final rule agreed that it would reduce the likelihood of runs on money market funds. Former Commissioner Michael Piwowar, when dissenting from the SEC rule, said: "While the floating NAV will not stop runs, it will impose costs on money market funds that will ultimately be borne by its shareholders in the form of higher fees and expenses, and lower returns."

However, then-SEC Commissioner Dan Gallagher supported the final rule and observed that the SEC cannot bail out any firm or product and that oversight of products should be focused on market-based valuations and capital standards. Former Commissioner Gallagher also said:

> [The floating NAV] eliminates the first-mover 'put' advantage that favors sophisticated institutional investors at the expense of retail investors, leaving the latter holding the proverbial bag. Just as importantly, in my view, today's floating NAV reforms clarify for the investors the risks associated with investing in money market mutual funds while making it clear to the markets and to policymakers that these financial instruments are not bank products to be overseen by prudential regulators, but rather investment products properly regulated by the SEC.

By setting October 14, 2016, as the date these new regulations would go into effect, the SEC provided MMFs two years to modify their business models and comply with the new rule. According to October 2017 statistics from the SEC's Division of Investment Management, leading up to implementation of these reforms, prime and tax-exempt MMFs did experience a decrease in assets of $1 trillion, with government MMFs seeing an increase in assets of $968 billion during the same period. According to the SEC, during this period, some short-term rates increased, though these rate increases have since dissipated. The SEC anticipated this reallocation of assets from prime to government MMFs and potential effects on yields in the short-run in the rule's 2014 adopting release but determined that the goals of the rulemaking justified the reforms, despite the costs. According to the SEC, since the MMF reforms were implemented, investor fund reallocations have not significantly changed, with assets in both government and prime MMFs largely stabilizing. The time period since the compliance date of the reforms has also coincided with a rising interest rate environment, with the Federal Reserve raising short-term interest rates several times over the last year, which has resulted in yield increases for MMFs.

On September 14, 2017, Capital Markets, Securities, and Investment Subcommittee Chairman Huizenga (R–MI) and Ranking Member Maloney (D–NY) sent a letter to SEC Chairman Jay Clayton asking for the SEC's analysis of the impact of the 2014 money market reforms since they went into effect in October 2016, as well as the effects that would occur if the SEC were to reverse the rule requiring prime and municipal MMFs to float their NAVs. On October 5, 2017, Chairman Clayton responded that "[i]t is difficult at this time to predict what the impact on prime and municipal funds would be if the Commission were to permit them again to use a stable $1.00 NAV" and expressed concern "that making major changes at this time could be disruptive to the short-term funding markets." Chairman Clayton also noted that "the Commission and its staff are monitoring the short-term funding markets and MMFs' activities generally, and will remain focused on the role MMFs play for investors and the short-term markets." At a hearing before the House Financial Services Committee on October 4, 2017, Rep. David Scott (D–GA) asked Chairman Clayton about his thoughts on the implemented MMF reforms, Chairman Clayton offered a similar response, saying: "Our Department of Economic Research is looking at it. And so I think—I think it's too early to say we're wrong." In the U.S. Treasury Department's Core Principles Report on asset management and insurance released on October 26, 2017, Treasury included a section that explained the SEC's 2014 MMF reforms but the report did not make any policy recommendations.

Nonetheless, proponents of the legislation believe that further delays to reverse portions of the 2014 MMF rules will continue to unduly impose costs on municipalities and will further affect the ability for prime funds to operate more efficiently for investors. At a November 3, 2017 Capital Markets subcommittee hearing, Patrick McCoy, President of the Government Finance Officers Association, testified that "[s]tate and local governments access the capital markets and issue short term debt for a variety of reasons. This important legislation would allow governments to continue this access without increasing costs for taxpayers." Additionally, proponents assert that with other reforms the SEC has already implemented, investors can more accurately evaluate the risks that were overlooked leading up to the financial crisis of investing in MMFs.

HEARINGS

The Committee on Financial Services held a hearing examining matters relating to H.R. 2319 on November 3, 2017.

COMMITTEE CONSIDERATION

The Committee on Financial Services met in open session on January 17, 2018, and January 18, 2018, and ordered H.R. 2319 to be reported favorably to the House as amended by a recorded vote of 34 yeas to 21 nays (recorded vote no. FC–145), a quorum being present. Before the motion to report was offered, the Committee adopted an amendment in the nature of a substitute offered by Mr. Rothfus by voice vote.

Committee Votes

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. The sole recorded vote was on a motion by Chairman Hensarling to report the bill favorably to the House as amended. The motion was agreed to by a recorded vote of 34 yeas to 21 nays (Record vote no. FC–145), a quorum being present.

Record vote no. FC-145

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Hensarling	X			Ms. Maxine Waters (CA)		X	
Mr. McHenry				Mrs. Carolyn B. Maloney (NY)		X	
Mr. King				Ms. Velázquez		X	
Mr. Royce (CA)		X		Mr. Sherman		X	
Mr. Lucas		X		Mr. Meeks	X		
Mr. Pearce	X			Mr. Capuano		X	
Mr. Posey	X			Mr. Clay			
Mr. Luetkemeyer	X			Mr. Lynch		X	
Mr. Huizenga		X		Mr. David Scott (GA)	X		
Mr. Duffy		X		Mr. Al Green (TX)		X	
Mr. Stivers				Mr. Cleaver	X		
Mr. Hultgren	X			Ms. Moore	X		
Mr. Ross	X			Mr. Ellison		X	
Mr. Pittenger	X			Mr. Perlmutter		X	
Mrs. Wagner	X			Mr. Himes		X	
Mr. Barr	X			Mr. Foster		X	
Mr. Rothfus	X			Mr. Kildee	X		
Mr. Messer				Mr. Delaney		X	
Mr. Tipton	X			Ms. Sinema	X		
Mr. Williams	X			Mrs. Beatty	X		
Mr. Poliquin	X			Mr. Heck		X	
Mrs. Love	X			Mr. Vargas		X	
Mr. Hill	X			Mr. Gottheimer	X		
Mr. Emmer	X			Mr. Gonzalez (TX)	X		
Mr. Zeldin	X			Mr. Crist		X	
Mr. Trott	X			Mr. Kihuen		X	
Mr. Loudermilk	X						
Mr. Mooney (WV)	X						
Mr. MacArthur	X						
Mr. Davidson	X						
Mr. Budd	X						
Mr. Kustoff (TN)	X						
Ms. Tenney	X						
Mr. Hollingsworth		X					

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the findings and recommendations of the Committee based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

PERFORMANCE GOALS AND OBJECTIVES

With respect to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee advises that the bill contains no measure that authorizes funding, so no statement of general performance goals and objectives for which any measure authorizes funding is required.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE ESTIMATES

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 8, 2018.

Hon. JEB HENSARLING,
Chairman, Committee on Financial Services,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2319, the Consumer Financial Choice and Capital Markets Protection Act of 2017.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Stephen Rabent.

Sincerely,

MARK P. HADLEY
(For Keith Hall, Director)

Enclosure.

H.R. 2319—Consumer Financial Choice and Capital Markets Protection Act of 2017

Under current law, money market mutual funds are generally required to show the floating net asset value for their shares, that is, the share price must fluctuate with changes in the market value of the fund's assets. Those funds also are required to round their share prices to the fourth decimal place and to impose liquidity fees or suspend redemptions temporarily if the fund's liquid assets falls below 10 percent of its total assets.

H.R. 2319 would allow money market mutual funds to use alternate methods of valuation for their shares and to round those prices to the second decimal place. The bill also would remove the requirement for money market funds to impose liquidity fees.

Using information from the Securities Exchange Commission (SEC), CBO estimates that implementing H.R. 2319 would cost $1 million over the 2019–2023 period for the agency to update its rules and to monitor money market funds that use alternate valuation methods. However, the SEC is authorized to collect fees sufficient to offset its annual appropriation; therefore, assuming appropriation actions consistent with that authority, CBO estimates that the net effect on discretionary spending would be negligible.

Enacting H.R. 2319 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

CBO estimates that enacting H.R. 2319 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2029.

H.R. 2319 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA).

The bill would impose a private-sector mandate on principal underwriters and dealers of securities issued by money market funds by requiring those entities to disclose that there is a prohibition against direct federal assistance for those money market funds. The disclosure would need to be included in the prospectus or literature of the security being sold. Using information from the SEC about the costs of complying with current disclosure requirements, CBO estimates that the incremental costs of the mandate would be small and would fall well below the annual threshold for private-sector mandates established in UMRA ($156 million in 2017, adjusted annually for inflation).

The CBO staff contact for this estimate is Stephen Rabent. The estimate was reviewed by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

FEDERAL MANDATES STATEMENT

This information is provided in accordance with section 423 of the Unfunded Mandates Reform Act of 1995.

The Committee has determined that the bill does not contain Federal mandates on the private sector. The Committee has determined that the bill does not impose a Federal intergovernmental mandate on State, local, or tribal governments.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of the section 102(b)(3) of the Congressional Accountability Act.

Earmark Identification

With respect to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee has carefully reviewed the provisions of the bill and states that the provisions of the bill do not contain any congressional earmarks, limited tax benefits, or limited tariff benefits within the meaning of the rule.

Duplication of Federal Programs

In compliance with clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, the Committee states that no provision of the bill establishes or reauthorizes: (1) a program of the Federal Government known to be duplicative of another Federal program; (2) a program included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139; or (3) a program related to a program identified in the most recent Catalog of Federal Domestic Assistance, published pursuant to the Federal Program Information Act (Pub. L. No. 95–220, as amended by Pub. L. No. 98–169).

Disclosure of Directed Rulemaking

Pursuant to section 3(i) of H. Res. 5, (115th Congress), the following statement is made concerning directed rule makings: The Committee estimates that the bill requires no directed rule makings within the meaning of such section.

Section-by-Section Analysis of the Legislation

Section 1. Short title

This Section cites H.R. 2319 as the "Consumer Financial Choice and Capital Markets Protection Act"

Section 2. Treatment of money market funds under the Investment Company Act of 1940

This section amends the Investment Company Act of 1940 to allow MMFs to elect to use the stable NAV approach to calculate price per share. Additionally those MMFs that do elect to use the stable NAV approach are exempted from the mandatory liquidity fee provision of the 2014 SEC rule so long as they comply with certain requirements. This section also provides certain prohibitions against the use of taxpayer funds to bail out MMFs.

Changes in Existing Law Made by the Bill, as Reported

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

Changes in Existing Law Made by the Bill, as Reported

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italic):

INVESTMENT COMPANY ACT OF 1940

* * * * * * *

SEC. 66. MONEY MARKET FUNDS.

(a) DEFINITIONS.—In this section—

(1) the term "covered Federal assistance" means Federal assistance used for the purpose of—

(A) making any loan to, or purchasing any stock, equity interest, or debt obligation of, any money market fund;

(B) guaranteeing any loan or debt issuance of any money market fund; or

(C) entering into any assistance arrangement (including tax breaks), loss sharing, or profit sharing with any money market fund; and

(2) the term "Federal assistance" means—

(A) insurance or guarantees by the Federal Deposit Insurance Corporation;

(B) transactions involving the Secretary of the Treasury; or

(C) the use of any advances from any Federal Reserve credit facility or discount window, except to the extent any part of a program or facility with broad-based eligibility established in unusual or exigent circumstances might be made available.

(b) ELECTION TO BE A STABLE VALUE MONEY MARKET FUND.—

(1) IN GENERAL.—Notwithstanding any other provision of this title, any open-end investment company (or a separate series thereof) that is a money market fund that relies on section 270.2a–7 of title 17, Code of Federal Regulations, may, in the prospectus included in its registration statement filed under section 8, state that the company or series has elected to compute the current price per share, for purposes of distribution or redemption and repurchase, of any redeemable security issued by the company or series by using the amortized cost method of valuation, or the penny-rounding method of pricing, regardless of whether its shareholders are limited to natural persons, if—

(A) the company or series has as its objective the generation of income and preservation of capital through investment in short-term, high-quality debt securities;

(B) the board of directors of the company or series elects, on behalf of the company or series, to maintain a stable net asset value per share or stable price per share, by using the amortized cost valuation method, as defined in section 270.2a–7(a) of title 17, Code of Federal Regulations (or successor regulation), or the penny-rounding pricing method, as defined in section 270.2a–7(a) of title 17, Code of Federal Regulations (or successor regulation), and the board of directors of the company has determined, in good faith, that—

(i) it is in the best interests of the company or series, and its shareholders, to do so; and

(ii) the money market fund will continue to use such method or methods only as long as the board of directors believes that the resulting share price fairly re-

flects the market-based net asset value per share of the company or series; and

(C) the company or series will comply with such quality, maturity, diversification, liquidity, and other requirements, including related procedural and recordkeeping requirements, as the Commission, by rule or regulation or order, may prescribe or has prescribed as necessary or appropriate in the public interest or for the protection of investors to the extent that such requirements and provisions are not inconsistent with this section.

(2) EXEMPTION FROM DEFAULT LIQUIDITY FEE REQUIREMENTS.—

(A) ELECTIONS UNDER PARAGRAPH (1).—Notwithstanding section 270.2a–7 of title 17, Code of Federal Regulations (or successor regulation), no company or series that makes the election under paragraph (1) shall be subject to the default liquidity fee requirements of section 270.2a–7(c)(2)(ii) of title 17, Code of Federal Regulations (or successor regulation) unless the board of directors of such company or series elects, in the prospectus included in the registration statement filed under section 8, to be subject to such requirements.

(B) OTHER FUNDS.—Notwithstanding section 270.2a–7 of title 17, Code of Federal Regulations (or successor regulation), a company or series that does not make an election under paragraph (1) shall not be subject to the default liquidity fee requirements of section 270.2a–7(c)(2)(ii) of title 17, Code of Federal Regulations (or successor regulation), if it states in the prospectus included in the registration statement filed under section 8, that the company or series satisfies the provisions of subparagraphs (A) and (C) of paragraph (1) and that the board of directors of such company or series has elected for the company or series to not be subject to the default liquidity fee requirements.

(c) PROHIBITION AGAINST FEDERAL GOVERNMENT BAILOUTS OF MONEY MARKET FUNDS.—Notwithstanding any other provision of law (including regulations), covered Federal assistance may not be provided directly to any money market fund.

(d) DISCLOSURE OF THE PROHIBITION AGAINST FEDERAL GOVERNMENT BAILOUTS OF MONEY MARKET FUNDS.—

(1) IN GENERAL.—No principal underwriter of a redeemable security issued by a money market fund nor any dealer shall offer or sell any such security to any person unless the prospectus of the money market fund and any advertising or sales literature for such fund prominently discloses, on the first page of such prospectus or literature, the prohibition against direct covered Federal assistance as described in subsection (c).

(2) RULES, REGULATIONS, AND ORDERS.—The Commission may, after consultation with and taking into account the views of the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Department of the Treasury, adopt rules and regulations and issue orders consistent with the protection of investors, prescribing the manner in which the disclosure under this subsection shall be provided.

(e) CONTINUING OBLIGATION TO MEET REQUIREMENTS OF THIS TITLE.—A company or series that makes an election under subsection (b)(1) shall remain subject to the provisions of this title and the rules and regulations of the Commission thereunder that would otherwise apply if those provisions do not conflict with the provisions of this section.

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