

PROTECTING INVESTORS' PERSONALLY IDENTIFIABLE
INFORMATION ACT

NOVEMBER 1, 2024.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

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

R E P O R T

together with

MINORITY VIEWS

[To accompany H.R. 4551]

[Including cost estimate of the Congressional Budget Office]

The Committee on Financial Services, to whom was referred the
bill (H.R. 4551) to prohibit the Securities and Exchange Commis-
sion from requiring that personally identifiable information be col-
lected under consolidated audit trail reporting requirements, and
for other purposes, having considered the same, reports favorably
thereon with an amendment and recommends that the bill as
amended do pass.

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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 “Protecting Investors’ Personally Identifiable Information Act”.

SEC. 2. PERSONALLY IDENTIFIABLE INFORMATION EXCLUDED FROM CONSOLIDATED AUDIT TRAIL REPORTING REQUIREMENTS.

(a) IN GENERAL.—The Securities and Exchange Commission may not require a national securities exchange, a national securities association, or a member of such an exchange or association to provide personally identifiable information with respect to a market participant to meet the requirements relating to an order or a reportable event under section 242.613(c)(7) of title 17, Code of Federal Regulations (or successor regulations).

(b) DEFINITION OF PERSONALLY IDENTIFIABLE INFORMATION.—In this section, the term “personally identifiable information”—

(1) means information that can be used to distinguish or trace an individual’s identity, either alone or when combined with other personal or identifying information that is linked or linkable to a specific individual, including an individual’s name, address, date or year of birth, Social Security number, telephone number, email, and IP-address; and

(2) does not include a CAT-Order-ID or CAT-Reporter-ID, as such terms are defined in section 242.613(j) of title 17, Code of Federal Regulations (or successor regulations).

PURPOSE AND SUMMARY

Introduced on July 11, 2023, by Representative Barry Loudermilk, H.R. 4551, the *Protecting Investors’ Personally Identifiable Information Act*, would prohibit the SEC from collecting personally identifiable information (PII) through the Consolidated Audit Trail (CAT).

BACKGROUND AND NEED FOR LEGISLATION

Established in 2012 as a result of the 2010 “Flash Crash” and from SEC Rule 613, the CAT system’s goal is to monitor National Market System (“NMS”) securities across U.S. markets. It is intended to gather comprehensive data covering the entire trade lifecycle from initial order receipt to order execution. The CAT is governed by the CAT Operating Committee, which is comprised of representatives of the various self-regulatory organizations (“SROs”) that own CAT NMS, LLC. The Operating Committee is responsible for overseeing CAT’s operations and modifications to reporting, with recent expansion to the scope of reportable data and events.

This extensive database, with troves of personal data, is accessible to thousands of employees at the SEC and the SROs, enabling real-time monitoring of investors’ activities. There are significant concerns about the CAT’s constitutionality, as well as its effects on privacy and civil liberties, which are the subject of litigation.¹ For example, there is a concern that CAT will be used as a sweeping surveillance database as it gathers and stores extensive trade and quote data from every broker account. The database’s sheer scale presents an ongoing risk of unauthorized access or misuse.

¹ See, e.g., *American Securities Association and Citadel Securities LLC v. United States Securities and Exchange Commission*, No. 23–13396.

Regardless of constitutional challenges, H.R. 4551 is necessary to prevent the SEC from needlessly collecting PII. This legislation takes an important step to preserve investor privacy and protect against government surveillance.

RELATED HEARING

Pursuant to clause 3(c)(6) of rule XIII, the following hearing was used to develop H.R. 4551: The Subcommittee on Capital Markets held a hearing on March 20, 2024, titled “SEC Overreach: Examining the Need for Reform.”

COMMITTEE CONSIDERATION

The Committee on Financial Services met in open session on May 16, 2014, and ordered H.R. 4551 as amended to be reported favorably to the House by a recorded vote of 27 ayes to 22 nays (Record vote no. FC–151), a quorum being present. Before the question was called to order the bill favorably reported, the Committee adopted an amendment in the nature of a substitute offered by Mr. Loudermilk 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 order to report legislation and amendments thereto. H.R. 4551 as amended was ordered reported favorably to the House by a recorded vote of 27 ayes to 22 nays (Record vote no. FC–151), a quorum being present.

Record vote no. FC- 151

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. McHenry	X	—	—	Ms. Waters	—	X	—
Mr. Hill	X	—	—	Mrs. Velázquez	—	X	—
Mr. Lucas	X	—	—	Mr. Sherman	—	X	—
Mr. Sessions	X	—	—	Mr. Meeks	—	X	—
Mr. Posey	X	—	—	Mr. Scott	—	X	—
Mr. Luetkemeyer	X	—	—	Mr. Lynch	—	X	—
Mr. Huizenga	X	—	—	Mr. Green	—	X	—
Mrs. Wagner	X	—	—	Mr. Cleaver	—	—	—
Mr. Barr	X	—	—	Mr. Himes	—	X	—
Mr. Williams (TX)	X	—	—	Mr. Foster	—	X	—
Mr. Emmer	—	—	—	Mrs. Beatty	—	X	—
Mr. Loudermilk	X	—	—	Mr. Vargas	—	X	—
Mr. Mooney	X	—	—	Mr. Gottheimer	—	X	—
Mr. Davidson	X	—	—	Mr. Gonzalez	—	X	—
Mr. Rose	X	—	—	Mr. Casten	—	X	—
Mr. Steil	X	—	—	Ms. Pressley	—	X	—
Mr. Timmons	X	—	—	Mr. Horsford	—	X	—
Mr. Norman	X	—	—	Ms. Tlaib	—	X	—
Mr. Meuser	X	—	—	Mr. Torres	—	X	—
Mr. Fitzgerald	X	—	—	Ms. Garcia	—	X	—
Mr. Garbarino	X	—	—	Ms. Williams (GA)	—	X	—
Mrs. Kim	X	—	—	Mr. Nickel	—	X	—
Mr. Donalds	—	—	—	Ms. Pettersen	—	X	—
Mr. Flood	X	—	—				
Mr. Lawler	X	—	—				
Mr. Num	X	—	—				
Ms. De La Cruz	X	—	—				
Mrs. Houchin	X	—	—				
Mr. Ogles	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

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the goal of H.R. 4551 is to prevent the Securities and Exchange Commission (or “SEC”) from requiring a national securities exchange, association, or a member of either to provide a market participant’s personally identifiable information to satisfy the reporting requirements of the CAT.

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:

H.R. 4551, Protecting Investors’ Personally Identifiable Information Act			
As ordered reported by the House Committee on Financial Services on May 16, 2024			
By Fiscal Year, Millions of Dollars	2024	2024-2029	2024-2034
Direct Spending (Outlays)	0	0	0
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	0	0	0
Spending Subject to Appropriation (Outlays)	*	*	not estimated
Increases <i>net direct spending</i> in any of the four consecutive 10-year periods beginning in 2035?	No	Statutory pay-as-you-go procedures apply? No	
Increases <i>on-budget deficits</i> in any of the four consecutive 10-year periods beginning in 2035?	No	Mandate Effects	
		Contains intergovernmental mandate?	No
		Contains private-sector mandate?	Yes, Under Threshold
* = between zero and \$500,000.			

H.R. 4551 would prohibit the Securities and Exchange Commission (SEC) from requiring that a national securities exchange, a national securities association, or a member of such an exchange or association provide personally identifiable information to meet the reporting requirements for tracking orders in U.S. markets.

Based on the cost of similar provisions, CBO estimates it would cost the SEC less than \$500,000 over the 2024–2029 period to update their requirements. However, because the SEC is authorized to collect fees each year to offset its annual appropriation, CBO expects the net effect on discretionary spending over the 2024–2029 period would be negligible, assuming appropriation actions consistent with that authority.

If the SEC increases annual fees to offset the costs of implementing the bill, H.R. 4551 would increase the cost of an existing private-sector mandate on entities required to pay those fees. CBO

estimates that the incremental cost of the mandate would be small and fall well below the annual threshold established in the Unfunded Mandates Reform Act (UMRA) for private-sector mandates (\$200 million in 2024, adjusted annually for inflation).

The bill contains no intergovernmental mandates as defined in UMRA.

The CBO staff contacts for this estimate are Margot Berman (for the Securities and Exchange Commission) and Rachel Austin (for mandates). The estimate was reviewed by H. Samuel Papenfuss, Deputy Director of Budget Analysis.

PHILLIP L. SWAGEL,
Director, Congressional Budget Office.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY,
AND TAX EXPENDITURES

Pursuant to 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 1973.

FEDERAL MANDATES STATEMENT

Pursuant to section 423 of the Unfunded Mandates Reform Act, the Committee adopts as its own the estimate of the Federal mandates prepared by the Director of the Congressional Budget Office.

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 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

Pursuant to 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 a program of the Federal Government known to be duplicative of another Federal program, including any program that was included in a report to Congress pursuant to section 21 of the Public Law 111–139 or the most recent Catalog of Federal Domestic Assistance.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1: Short title

This section cites H.R. 4551 as the “Protecting Investors’ Personally Identifiable Information Act”.

Section 2: Personally identifiable information excluded from Consolidated Audit Trail reporting requirements

This section defines “personally identifiable information” to include information that can be used to distinguish or trace an individual’s identity. It also prevents the SEC from requiring a national securities exchange, association, or a member of either to provide a market participant’s personally identifiable information to satisfy the reporting requirements of the CAT.

MINORITY VIEWS

H.R. 4551 allows securities exchanges and members of exchanges (like broker-dealers, which purchase securities on behalf of clients or for their own accounts) to no longer provide personally-identifiable data (“PII”) when it comes to complying with the Consolidated Audit Trail (“CAT”). The CAT was established by the SEC to track securities orders throughout their lifecycle, identify the broker-dealers handling them, and allow regulators to efficiently track activity in securities throughout the U.S. markets. This bill, however, would severely curtail the ability of the SEC to monitor our markets for illicit activity, harming investors.

The CAT was borne partially out of the 2010 “Flash Crash” when markets plunged almost 10% and then recovered inside the space of an hour, due primarily to aggressive selling orders executed by high-frequency trading algorithms that triggered a massive decline in market prices.¹ Although the market indices managed to partially rebound in the same day, the flash crash erased almost \$1 trillion in market value.² Nearly five years later, in 2015, a London-based trader was arrested following allegations of market manipulation that resulted in the Flash Crash.³ In the aftermath of this crash, the Commission adopted Rule 613 to create the CAT so that regulators would have a means to efficiently and accurately track activity throughout U.S. securities markets, and to ensure that regulators would be able to quickly access data they need to analyze market activity in response to major market events.⁴

The CAT helps SEC staff to better understand the variables that lead to market volatility and investor harm, and the use of personally identifiable information (“PII”) helps it to more quickly ascertain any wrongdoing that may have contributed. PII also helps the agency to identify bad actors that the agency can then levy civil and administrative actions against, which in turn can reimburse investors for their losses. By restricting the CAT’s use of PII, this bill reduces the overall effectiveness of the CAT and therefore the agency’s ability to protect investors from future harm and more quickly address market volatility and individual malfeasance.

Additionally, this bill would destroy the utility of the CAT, affirmatively making US markets less policed than they were decades ago. It is difficult to identify misconduct unless you know who is doing the trading, and who to investigate. The CAT is the primary (and, at times, only) mechanism for investigating market manipulation and other trading activities. At its root, manipulative activity is often unidentifiable and might otherwise appear to be noise if customer information is not available. For example, one

¹ Corporate Finance Institute, 2010 Flash Crash (accessed May 14, 2024).

² *Id.*

³ Corporate Finance Institute, 2010 Flash Crash (accessed May 14, 2024).

⁴ *Id.*

trader may enter 50 orders in 50 different ways to appear as though there is market demand, when there is no such demand. This type of “spoofing” and market manipulation has led to catastrophic market events (including the 2010 Flash Crash by the aforementioned trader) as well as many investor abuses and losses. CAT can identify and help regulators stop that, but if this bill passed, regulators would be unable to engage in even basic policing of the markets in ways that have been done for decades.

Finally, this bill is attempting to assert an artificial and new “right to privacy” for trading in public markets, where none has ever existed, with no exception for abusive or illegal trading. Regulators don’t currently have access to PII information directly today, but rather a masked identifier. The actual human PII is only available upon further investigation. Additionally, broker dealers have access to this PII as well, but this bill does not address those concerns. It is important to note that the CAT has steps to ensure PII is not improperly accessed, but, as discussed above, this bill isn’t really about PII.

This bill is opposed by the investor advocate organization, Americans for Financial Reform.

For these reasons, we oppose H.R. 4551.

Sincerely,

MAXINE WATERS,
Ranking Member.
 NYDIA M. VELÁZQUEZ,
 STEPHEN F. LYNCH,
 EMANUEL CLEAVER II,
 BRAD SHERMAN,
 AL GREEN,
Ranking Member, Sub-
committee on Oversight
and Investigations.
 BILL FOSTER,
 JOYCE BEATTY,
 AYANNA PRESSLEY,
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 JUAN VARGAS,
 RASHIDA TLAIB,
 NIKEMA WILLIAMS,
Members of Congress.

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