

114TH CONGRESS
1ST SESSION

H. R. 1090

IN THE SENATE OF THE UNITED STATES

OCTOBER 28, 2015

Received; read twice and referred to the Committee on Banking, Housing, and
Urban Affairs

AN ACT

To amend the Securities Exchange Act of 1934 to provide
protections for retail customers, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Retail Investor Protec-
3 tion Act”.

4 **SEC. 2. STAY ON RULES DEFINING CERTAIN FIDUCIARIES.**

5 After the date of enactment of this Act, the Secretary
6 of Labor shall not prescribe any regulation under the Em-
7 ployee Retirement Income Security Act of 1974 (29
8 U.S.C. 1001 et seq.) defining the circumstances under
9 which an individual is considered a fiduciary until the date
10 that is 60 days after the Securities and Exchange Com-
11 mission issues a final rule relating to standards of conduct
12 for brokers and dealers pursuant to the second subsection
13 (k) of section 15 of the Securities Exchange Act of 1934
14 (15 U.S.C. 78o(k)).

15 **SEC. 3. AMENDMENTS TO THE SECURITIES EXCHANGE ACT**
16 **OF 1934.**

17 The second subsection (k) of section 15 of the Securi-
18 ties Exchange Act of 1934 (15 U.S.C. 78o(k)), as added
19 by section 913(g)(1) of the Dodd-Frank Wall Street Re-
20 form and Consumer Protection Act (12 U.S.C. 5301 et
21 seq.), is amended by adding at the end the following:

22 “(3) REQUIREMENTS PRIOR TO RULEMAKING.—

23 The Commission shall not promulgate a rule pursu-
24 ant to paragraph (1) before—

25 “(A) providing a report to the Committee
26 on Financial Services of the House of Rep-

1 representatives and the Committee on Banking,
2 Housing, and Urban Affairs of the Senate de-
3 scribing whether—

4 “(i) retail investors (and such other
5 customers as the Commission may provide)
6 are being harmed due to brokers or dealers
7 operating under different standards of con-
8 duct than those that apply to investment
9 advisors under section 211 of the Invest-
10 ment Advisers Act of 1940 (15 U.S.C.
11 80b–11);

12 “(ii) alternative remedies will reduce
13 any confusion or harm to retail investors
14 due to brokers or dealers operating under
15 different standards of conduct than those
16 standards that apply to investment advi-
17 sors under section 211 of the Investment
18 Advisers Act of 1940 (15 U.S.C. 80b–11),
19 including—

20 “(I) simplifying the titles used by
21 brokers, dealers, and investment ad-
22 visers; and

23 “(II) enhancing disclosure sur-
24 rounding the different standards of

1 conduct currently applicable to bro-
2 kers, dealers, and investment advisers;

3 “(iii) the adoption of a uniform fidu-
4 ciary standard of conduct for brokers,
5 dealers, and investment advisors would ad-
6 versely impact the commissions of brokers
7 and dealers, the availability of proprietary
8 products offered by brokers and dealers,
9 and the ability of brokers and dealers to
10 engage in principal transactions with cus-
11 tomers; and

12 “(iv) the adoption of a uniform fidu-
13 ciary standard of conduct for brokers or
14 dealers and investment advisors would ad-
15 versely impact retail investor access to per-
16 sonalized and cost-effective investment ad-
17 vice, recommendations about securities, or
18 the availability of such advice and rec-
19 ommendations.

20 “(4) ECONOMIC ANALYSIS.—The Commission’s
21 conclusions contained in the report described in
22 paragraph (3) shall be supported by economic anal-
23 ysis.

24 “(5) REQUIREMENTS FOR PROMULGATING A
25 RULE.—The Commission shall publish in the Fed-

1 eral Register alongside the rule promulgated pursu-
2 ant to paragraph (1) formal findings that such rule
3 would reduce confusion or harm to retail customers
4 (and such other customers as the Commission may
5 by rule provide) due to different standards of con-
6 duct applicable to brokers, dealers, and investment
7 advisors.

8 “(6) REQUIREMENTS UNDER INVESTMENT AD-
9 VISERS ACT OF 1940.—In proposing rules under
10 paragraph (1) for brokers or dealers, the Commis-
11 sion shall consider the differences in the registration,
12 supervision, and examination requirements applica-
13 ble to brokers, dealers, and investment advisors.”.

Passed the House of Representatives October 27,
2015.

Attest:

KAREN L. HAAS,
Clerk.