

116TH CONGRESS
2D SESSION

H. R. 8695

To impose a limitation on taxation and fees on transactions by certain securities industry participants, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 27, 2020

Mr. MCHENRY (for himself and Mr. HUIZENGA) introduced the following bill;
which was referred to the Committee on the Judiciary

A BILL

To impose a limitation on taxation and fees on transactions by certain securities industry participants, 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 “Protecting Retirement
5 Savers and Everyday Investors Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) The United States capital markets are so-
9 phisticated, complex, diverse, and highly inter-
10 connected interstate marketplaces that effect and

1 process millions of trades daily for the benefit of in-
2 dividual and institutional investors throughout the
3 United States, including the retirement accounts of
4 union members, pensioners, teachers, policemen,
5 firemen, first responders, and other working Ameri-
6 cans, as well as the endowments of colleges and uni-
7 versities and charitable organizations.

8 (2) The United States capital markets are the
9 deepest, most liquid markets in the world in large
10 measure because of the low transaction costs that in-
11 vestors pay to trade securities.

12 (3) Under the Federal securities laws, the Secu-
13 rities and Exchange Commission serves as the pri-
14 mary supervisor and regulator of the United States
15 capital markets (with the assistance of other Federal
16 regulators), while under State securities laws, State
17 regulators serve a secondary function of helping to
18 protect investors with respect to securities offered
19 and sold within their States.

20 (4) Also pursuant to the Federal securities
21 laws, Congress directs the Securities and Exchange
22 Commission to assess transaction fees upon the
23 United States capital markets that are designed to
24 recover the Commission's costs of supervising and
25 regulating the United States capital markets.

1 (5) Some States have proposed taxes and fees
 2 that are based on securities transactions and proc-
 3 essing activity related thereto from investors from
 4 other States and would raise costs for all United
 5 States investors, even investors outside of the States
 6 levying the taxes and fees.

7 **SEC. 3. LIMITATION ON TAXATION AND FEES ON TRANS-**
 8 **ACTIONS BY CERTAIN SECURITIES INDUSTRY**
 9 **PARTICIPANTS.**

10 (a) IN GENERAL.—The Dodd-Frank Wall Street Re-
 11 form and Consumer Protection Act is amended by adding
 12 at the end the following new title:

13 **“TITLE XVII—LIMITATION ON**
 14 **TAXATION AND FEES ON**
 15 **TRANSACTIONS BY CERTAIN**
 16 **SECURITIES INDUSTRY PAR-**
 17 **TICIPANTS**

18 **“SEC. 1701. LIMITATION.**

19 “(a) IN GENERAL.—No State or political subdivision
 20 thereof may impose a direct or indirect tax upon a securi-
 21 ties industry participant where that tax is based upon—

22 “(1) the number or volume of securities trans-
 23 actions that the securities industry participant con-
 24 summates or processes, in whole or in part, within
 25 that State or political subdivision or by utilizing per-

1 sonnel, resources, systems, facilities, vendors, tech-
2 nology, or infrastructure that are located in or that
3 traverse that State or political subdivision; or

4 “(2) the value of such securities transactions.

5 “(b) PRESERVATION OF STATE AND LOCAL TAXING
6 AUTHORITY.—Except as provided in this section, nothing
7 in this title shall be construed to modify, impair, or super-
8 sede, or authorize the modification, impairment, or super-
9 seding of, any State or local law pertaining to taxation
10 that is otherwise permissible by or under the Constitution
11 of the United States or other Federal law and in effect
12 on the date of enactment of this Act.

13 “(c) EXCEPTION.—

14 “(1) IN GENERAL.—Individual States may im-
15 pose taxes and collections of those taxes on covered
16 persons for transactions, which may have occurred
17 within the national market system, to buy or sell se-
18 curities of their own accord.

19 “(2) COVERED PERSON DEFINED.—For pur-
20 poses of paragraph (1) and with respect to a State,
21 the term ‘covered person’ means—

22 “(A) an individual with primary residence
23 and domicile in that State; and

24 “(B) businesses, corporations, and other
25 entities that—

1 “(i) are not part of the national mar-
2 ket system; and

3 “(ii) are domiciled in and subject to
4 that State’s legal requirements.

5 “(d) DEFINITIONS.—For purposes of this section:

6 “(1) ALTERNATIVE TRADING SYSTEM.—The
7 term ‘alternative trading system’ shall have the
8 meaning set forth in section 242.300 of title 17,
9 Code of Federal Regulations.

10 “(2) COMMODITY.—The term ‘commodity’ shall
11 have the meaning set forth in section 1a of the Com-
12modity Exchange Act (7 U.S.C. 1a(9)).

13 “(3) NATIONAL SECURITIES EXCHANGE.—The
14 term ‘national securities exchange’ shall have the
15 meaning given such term under section 6 of the Se-
16curities Exchange Act of 1934 (15 U.S.C. 78f(a)).

17 “(4) PROCESS.—The term ‘process’ shall in-
18clude all activities involved directly or indirectly in
19effectuating a securities transaction, including enter-
20ing, transmitting, routing, matching, and executing
21orders in securities, as well as clearing, settling, re-
22porting, and consolidation and dissemination of data
23and any other incidental activity relating to securi-
24ties transactions, including to the maintenance and

1 operation of backup and disaster recovery facilities
2 and systems.

3 “(5) SECURITIES INDUSTRY PARTICIPANT.—

4 The term ‘securities industry participant’ means a
5 federally regulated self-regulatory organization, na-
6 tional securities exchange, alternative trading sys-
7 tem, securities information processor, commodities
8 exchange, clearing agency, trade reporting facility,
9 broker, dealer, or securities trading system or plat-
10 form owned or operated by a broker or dealer.

11 “(6) SECURITIES TRANSACTION.—The term ‘se-
12 curities transaction’ means the purchase or sale of
13 a security.

14 “(7) OTHER SECURITIES DEFINITIONS.—The
15 terms ‘broker’, ‘clearing agency’, ‘dealer’, ‘exchange’,
16 ‘securities information processor’, ‘security’, and
17 ‘self-regulatory organization’ shall have the mean-
18 ings given those terms, respectively, under section
19 3(a) of the Securities Exchange Act of 1934 (15
20 U.S.C. 78c(a)).”.

21 (b) CLERICAL AMENDMENT.—The table of contents
22 under section 1(b) of the Dodd-Frank Wall Street Reform
23 and Consumer Protection Act is amended by adding at
24 the end the following:

“TITLE XVII—LIMITATION ON TAXATION AND FEES ON TRANS-
ACTIONS BY CERTAIN SECURITIES INDUSTRY PAR-
TICIPANTS.

“Sec. 1701. Limitation.”.

