

114TH CONGRESS
2D SESSION

S. 2497

To amend the Securities Exchange Act of 1934 to provide protections for retail customers, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 4, 2016

Mr. BLUNT (for himself, Mr. CRAPO, Mr. DAINES, Mr. KIRK, Mr. ISAKSON, and Mrs. CAPITO) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Retail Investor Protec-
5 tion Act of 2016”.

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

7 During the period beginning on the date of enactment
8 of this Act and ending on the date that is 60 days after
9 the date on which the Securities and Exchange Commis-
10 sion issues a final rule relating to standards of conduct

1 for brokers and dealers under section 15(m) of the Securi-
2 ties Exchange Act of 1934 (15 U.S.C. 78o(m)), as redesign-
3 nated by section 3 of this Act, the Secretary of Labor may
4 not issue any proposed or final regulation under the Em-
5 ployee Retirement Income Security Act of 1974 (29
6 U.S.C. 1001 et seq.) defining the circumstances under
7 which an individual is considered a fiduciary with respect
8 to standards of conduct for brokers and dealers.

9 **SEC. 3. AMENDMENTS TO THE SECURITIES EXCHANGE ACT**
10 **OF 1934.**

11 Section 15 of the Securities Exchange Act of 1934
12 (15 U.S.C. 78o) is amended—

13 (1) by redesignating the second subsection (k)
14 (relating to standard of conduct) through subsection
15 (o) as subsections (m) through (q), respectively; and

16 (2) in subsection (m), as so redesignated, by
17 adding at the end the following:

18 “(3) REQUIREMENTS BEFORE RULEMAKING.—

19 The Commission may not promulgate a rule under
20 paragraph (1) before providing a report to the Com-
21 mittee on Financial Services of the House of Rep-
22 resentatives and the Committee on Banking, Hous-
23 ing, and Urban Affairs of the Senate describing
24 whether—

1 “(A) retail investors (and other customers
2 that the Commission may provide) are being
3 harmed by brokers or dealers operating under
4 different standards of conduct than the stand-
5 ards that apply to investment advisers under
6 section 211 of the Investment Advisers Act of
7 1940 (15 U.S.C. 80b–11);

8 “(B) alternative remedies will reduce any
9 confusion or harm to retail investors due to
10 brokers or dealers operating under different
11 standards of conduct than the standards that
12 apply to investment advisers under section 211
13 of the Investment Advisers Act of 1940 (15
14 U.S.C. 80b–11), including—

15 “(i) simplifying the titles used by bro-
16 kers, dealers, and investment advisers; and

17 “(ii) enhancing disclosure surrounding
18 the different standards of conduct applica-
19 ble to brokers, dealers, and investment ad-
20 visers;

21 “(C) the adoption of a uniform fiduciary
22 standard of conduct for brokers, dealers, and
23 investment advisers would adversely impact
24 the—

1 “(i) commissions of brokers and deal-
2 ers;

3 “(ii) availability of proprietary prod-
4 ucts offered by brokers and dealers; and

5 “(iii) ability of brokers and dealers to
6 engage in principal transactions with cus-
7 tomers; and

8 “(D) the adoption of a uniform fiduciary
9 standard of conduct for brokers or dealers and
10 investment advisers would adversely impact re-
11 tail investor access to—

12 “(i) personalized and cost-effective in-
13 vestment advice;

14 “(ii) recommendations about securi-
15 ties; or

16 “(iii) the availability of the advice and
17 recommendations described in clauses (i)
18 and (ii).

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

23 “(5) REQUIREMENTS FOR PROMULGATING A
24 RULE.—The Commission shall publish in the Fed-
25 eral Register, with the rule promulgated under para-

1 graph (1), formal findings that the rule would re-
2 duce confusion or harm to retail customers (and
3 other customers that the Commission may by rule
4 provide) due to different standards of conduct appli-
5 cable to brokers, dealers, and investment advisers.

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

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