

OCTOBER 21, 2015

RULES COMMITTEE PRINT 114-31
TEXT OF H.R. 1090, RETAIL INVESTOR
PROTECTION ACT

**[Showing the text of the bill as ordered reported by the
Committee on Financial Services.]**

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

1 by section 913(g)(1) of the Dodd-Frank Wall Street Re-
2 form and Consumer Protection Act (12 U.S.C. 5301 et
3 seq.), is amended by adding at the end the following:

4 “(3) REQUIREMENTS PRIOR TO RULEMAKING.—
5 The Commission shall not promulgate a rule pursu-
6 ant to paragraph (1) before—

7 “(A) providing a report to the Committee
8 on Financial Services of the House of Rep-
9 resentatives and the Committee on Banking,
10 Housing, and Urban Affairs of the Senate de-
11 scribing whether—

12 “(i) retail investors (and such other
13 customers as the Commission may provide)
14 are being harmed due to brokers or dealers
15 operating under different standards of con-
16 duct than those that apply to investment
17 advisors under section 211 of the Invest-
18 ment Advisers Act of 1940 (15 U.S.C.
19 80b–11);

20 “(ii) alternative remedies will reduce
21 any confusion or harm to retail investors
22 due to brokers or dealers operating under
23 different standards of conduct than those
24 standards that apply to investment advi-
25 sors under section 211 of the Investment

1 Advisers Act of 1940 (15 U.S.C. 80b–11),
2 including—

3 “(I) simplifying the titles used by
4 brokers, dealers, and investment ad-
5 visers; and

6 “(II) enhancing disclosure sur-
7 rounding the different standards of
8 conduct currently applicable to bro-
9 kers, dealers, and investment advisers;

10 “(iii) the adoption of a uniform fidu-
11 ciary standard of conduct for brokers,
12 dealers, and investment advisors would ad-
13 versely impact the commissions of brokers
14 and dealers, the availability of proprietary
15 products offered by brokers and dealers,
16 and the ability of brokers and dealers to
17 engage in principal transactions with cus-
18 tomers; and

19 “(iv) the adoption of a uniform fidu-
20 ciary standard of conduct for brokers or
21 dealers and investment advisors would ad-
22 versely impact retail investor access to per-
23 sonalized and cost-effective investment ad-
24 vice, recommendations about securities, or

1 the availability of such advice and rec-
2 ommendations.

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

7 “(5) REQUIREMENTS FOR PROMULGATING A
8 RULE.—The Commission shall publish in the Fed-
9 eral Register alongside the rule promulgated pursu-
10 ant to paragraph (1) formal findings that such rule
11 would reduce confusion or harm to retail customers
12 (and such other customers as the Commission may
13 by rule provide) due to different standards of con-
14 duct applicable to brokers, dealers, and investment
15 advisors.

16 “(6) REQUIREMENTS UNDER INVESTMENT AD-
17 VISERS ACT OF 1940.—In proposing rules under
18 paragraph (1) for brokers or dealers, the Commis-
19 sion shall consider the differences in the registration,
20 supervision, and examination requirements applica-
21 ble to brokers, dealers, and investment advisors.”.

