



(Original Signature of Member)

116TH CONGRESS
2D SESSION

H. R.

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

IN THE HOUSE OF REPRESENTATIVES

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

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:

1 (1) The United States capital markets are so-
2 phisticated, complex, diverse, and highly inter-
3 connected interstate marketplaces that effect and
4 process millions of trades daily for the benefit of in-
5 dividual and institutional investors throughout the
6 United States, including the retirement accounts of
7 union members, pensioners, teachers, policemen,
8 firemen, first responders, and other working Ameri-
9 cans, as well as the endowments of colleges and uni-
10 versities and charitable organizations.

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

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

23 (4) Also pursuant to the Federal securities
24 laws, Congress directs the Securities and Exchange
25 Commission to assess transaction fees upon the

1 United States capital markets that are designed to
2 recover the Commission’s costs of supervising and
3 regulating the United States capital markets.

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

10 **SEC. 3. LIMITATION ON TAXATION AND FEES ON TRANS-**
11 **ACTIONS BY CERTAIN SECURITIES INDUSTRY**
12 **PARTICIPANTS.**

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

16 **“TITLE XVII—LIMITATION ON**
17 **TAXATION AND FEES ON**
18 **TRANSACTIONS BY CERTAIN**
19 **SECURITIES INDUSTRY PAR-**
20 **TICIPANTS**

21 **“SEC. 1701. LIMITATION.**

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

1 “(1) the number or volume of securities trans-
2 actions that the securities industry participant con-
3 summates or processes, in whole or in part, within
4 that State or political subdivision or by utilizing per-
5 sonnel, resources, systems, facilities, vendors, tech-
6 nology, or infrastructure that are located in or that
7 traverse that State or political subdivision; or

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

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

17 “(c) EXCEPTION.—

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

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

1 “(A) an individual with primary residence
2 and domicile in that State; and

3 “(B) businesses, corporations, and other
4 entities that—

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

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

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

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

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

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

21 “(4) PROCESS.—The term ‘process’ shall in-
22 clude all activities involved directly or indirectly in
23 effectuating a securities transaction, including enter-
24 ing, transmitting, routing, matching, and executing
25 orders in securities, as well as clearing, settling, re-

1 reporting, and consolidation and dissemination of data
2 and any other incidental activity relating to securi-
3 ties transactions, including to the maintenance and
4 operation of backup and disaster recovery facilities
5 and systems.

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

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

17 “(7) OTHER SECURITIES DEFINITIONS.—The
18 terms ‘broker’, ‘clearing agency’, ‘dealer’, ‘exchange’,
19 ‘securities information processor’, ‘security’, and
20 ‘self-regulatory organization’ shall have the mean-
21 ings given those terms, respectively, under section
22 3(a) of the Securities Exchange Act of 1934 (15
23 U.S.C. 78c(a)).”.

24 (b) CLERICAL AMENDMENT.—The table of contents
25 under section 1(b) of the Dodd-Frank Wall Street Reform

1 and Consumer Protection Act is amended by adding at
2 the end the following:

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

“Sec. 1701. Limitation.”.