H. R. 117TH CONGRESS
1ST SESSION
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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Protecting Retirement Savers and Everyday Investors Act”.

SEC. 2. FINDINGS.

Congress finds the following:
(1) The United States capital markets are sophisticated, complex, diverse, and highly interconnected interstate marketplaces that effect and process millions of trades daily for the benefit of individual and institutional investors throughout the United States, including the retirement accounts of union members, pensioners, teachers, policemen, firemen, first responders, and other working Americans, as well as the endowments of colleges and universities and charitable organizations.

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

(3) Under the Federal securities laws, the Securities and Exchange Commission serves as the primary supervisor and regulator of the United States capital markets (with the assistance of other Federal regulators), while under State securities laws, State regulators serve a secondary function of helping to protect investors with respect to securities offered and sold within their States.

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

(5) Some States have proposed taxes and fees that are based on securities transactions and processing activity related thereto from investors from other States and would raise costs for all United States investors, even investors outside of the States levying the taxes and fees.

SEC. 3. LIMITATION ON TAXATION AND FEES ON TRANSACTIONS BY CERTAIN SECURITIES INDUSTRY PARTICIPANTS.

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

“TITLE XVII—LIMITATION ON TAXATION AND FEES ON TRANSACTIONS BY CERTAIN SECURITIES INDUSTRY PARTICIPANTS

“SEC. 1701. LIMITATION.

“(a) IN GENERAL.—No State or political subdivision thereof may impose a direct or indirect tax upon a securities industry participant where that tax is based upon—
“(1) the number or volume of securities transactions that the securities industry participant consummates or processes, in whole or in part, within that State or political subdivision or by utilizing personnel, resources, systems, facilities, vendors, technology, or infrastructure that are located in or that traverse that State or political subdivision; or

“(2) the value of such securities transactions.

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

“(c) EXCEPTION.—

“(1) IN GENERAL.—Individual States may impose taxes and collections of those taxes on covered persons for transactions, which may have occurred within the national market system, to buy or sell securities of their own accord.

“(2) COVERED PERSON DEFINED.—For purposes of paragraph (1) and with respect to a State, the term ‘covered person’ means—
“(A) an individual with primary residence
and domicile in that State; and

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

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

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

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

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

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

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

“(4) PROCESS.—The term ‘process’ shall in-
clude all activities involved directly or indirectly in
effectuating a securities transaction, including enter-
ing, transmitting, routing, matching, and executing
orders in securities, as well as clearing, settling, re-
porting, and consolidation and dissemination of data
and any other incidental activity relating to securities transactions, including to the maintenance and
operation of backup and disaster recovery facilities
and systems.

“(5) SECURITIES INDUSTRY PARTICIPANT.—
The term ‘securities industry participant’ means a federated regulated self-regulatory organization, national securities exchange, alternative trading system, securities information processor, commodities exchange, clearing agency, trade reporting facility, broker, dealer, or securities trading system or platform owned or operated by a broker or dealer.

“(6) SECURITIES TRANSACTION.—The term ‘securities transaction’ means the purchase or sale of a security.


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

“TITLE XVII—LIMITATION ON TAXATION AND FEES ON TRANSACTIONS BY CERTAIN SECURITIES INDUSTRY PARTICIPANTS.

“Sec. 1701. Limitation.”.