

**Suspend the Rules and Pass the Bill, H.R. 3973, With an Amendment**

**(The amendment strikes all after the enacting clause and inserts a new text)**

115<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 3973

To amend the Securities Exchange Act of 1934 to require certain entities to develop internal risk control mechanisms to safeguard and govern the storage of market data.

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IN THE HOUSE OF REPRESENTATIVES

OCTOBER 5, 2017

Mr. DAVIDSON (for himself and Mr. SHERMAN) introduced the following bill; which was referred to the Committee on Financial Services

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## A BILL

To amend the Securities Exchange Act of 1934 to require certain entities to develop internal risk control mechanisms to safeguard and govern the storage of market data.

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 “Market Data Protec-  
5 tion Act of 2017”.

1 **SEC. 2. INTERNAL RISK CONTROLS.**

2 The Securities Exchange Act of 1934 (15 U.S.C. 78a  
3 et seq.) is amended—

4 (1) by inserting after section 4E the following:

5 **“SEC. 4F. INTERNAL RISK CONTROLS.**

6 “(a) IN GENERAL.—Each of the following entities, in  
7 consultation with the Chief Economist, shall develop com-  
8 prehensive internal risk control mechanisms to safeguard  
9 and govern the security of market data reported to, stored  
10 by, or used by such entity, subject to the limitations in  
11 subsection (b):

12 “(1) The Commission.

13 “(2) Each self-regulatory organization that is a  
14 participant to the national market system plan gov-  
15 erning the consolidated audit trail submitted and ap-  
16 proved pursuant to section 242.613 and section  
17 242.608 of title 17, Code of Federal Regulations (or  
18 any successor regulation).

19 “(3) The plan processor of the consolidated  
20 audit trail created by a national market system plan  
21 approved pursuant to section 242.613 and section  
22 242.608 of title 17, Code of Federal Regulations (or  
23 any successor regulation).

24 “(b) LIMITATIONS.—

25 “(1) For any entity described in paragraph (2)  
26 of subsection (a), the comprehensive internal risk

1 control mechanisms that must be developed by such  
2 entity in consultation with the Chief Economist to  
3 safeguard and govern the security of market data  
4 shall be limited to mechanisms to safeguard and  
5 govern—

6 “(A) the reporting of any data to the con-  
7 solidated audit trail by such entity that the en-  
8 tity reports pursuant to the national market  
9 system plan governing the consolidated audit  
10 trail submitted and approved pursuant to sec-  
11 tion 242.613 and section 242.608 of title 17,  
12 Code of Federal Regulations (or any successor  
13 regulation); and

14 “(B) the storage by and use by such entity  
15 of any data that the entity accesses from the  
16 consolidated audit trail.

17 “(2) For any entity described in paragraph (3)  
18 of subsection (a), the comprehensive internal risk  
19 control mechanisms that shall be developed by such  
20 entity in consultation with the Chief Economist to  
21 safeguard and govern the security of market data  
22 shall be limited to mechanisms to safeguard and  
23 govern the entity’s receipt of, storage of, and use of  
24 any data reported to the consolidated audit trail  
25 pursuant to the national market system plan gov-

1           erning the consolidated audit trail submitted and ap-  
2           proved pursuant to section 242.613 and section  
3           242.608 of title 17, Code of Federal Regulations (or  
4           any successor regulation).

5           “(c) CONSOLIDATED AUDIT TRAIL PLAN PROCESSOR  
6 PROHIBITED FROM ACCEPTING MARKET DATA UNTIL  
7 MECHANISMS DEVELOPED.—The plan processor de-  
8 scribed subsection (a) may not accept market data sub-  
9 mitted for the consolidated audit trail (or shall cease ac-  
10 cepting market data submitted for the consolidated audit  
11 trail) until the plan processor has developed, and the Chief  
12 Economist has certified, the mechanisms required by such  
13 subsection. Any requirement for a person to provide mar-  
14 ket data for the consolidated audit trail to the plan pro-  
15 cessor shall not apply during any time when the plan pro-  
16 cessor is prohibited by this subsection from accepting such  
17 data.

18           “(d) PARTICIPANTS OF THE NATIONAL SYSTEM  
19 PLAN GOVERNING THE CONSOLIDATED AUDIT TRAIL  
20 PROHIBITED FROM ACCESSING MARKET DATA UNTIL  
21 MECHANISMS DEVELOPED.—Any entity described in  
22 paragraph (2) of subsection (a) that has permission to ac-  
23 cess market data submitted to the consolidated audit trail  
24 may not access market data from the consolidated audit  
25 trail system (or shall cease accessing market data from

1 the consolidated audit trail system) until the entity has  
2 developed, and the Chief Economist has certified, the  
3 mechanisms required by such subsection.

4 “(e) TREATMENT OF PREVIOUSLY DEVELOPED  
5 MECHANISMS.—The development of comprehensive inter-  
6 nal risk control mechanisms required by subsection (a)  
7 may occur, in whole or in part, before the date of the en-  
8 actment of this section, if such development and such  
9 mechanisms meet the requirements of such subsection (in-  
10 cluding consultation, and certification by, with the Chief  
11 Economist).

12 “(f) DEADLINE.—

13 “(1) COMPLIANCE REPORT.—By the later of 90  
14 days after the date of enactment of this section, or  
15 45 days before the entities described in paragraph  
16 (2) of subsection (a) begin submitting data to the  
17 consolidated audit trail, an entity described in para-  
18 graphs (2) or (3) of subsection (a) shall submit to  
19 the Commission a report detailing compliance with  
20 this section.

21 “(2) ADDITIONAL REPORT.—Within 30 days of  
22 receipt of a report described in paragraph (1), the  
23 Chief Economist shall provide the entity with—

24 “(A) a written certification of the entity’s  
25 compliance with this section; or

1           “(B) a report detailing the basis for the  
2           Commission’s determination that the entity is  
3           not in compliance with this section, and pro-  
4           viding an opportunity and details through which  
5           such entity may bring itself into compliance.”;  
6           and

7           (2) in section 3(a)—

8           (A) by redesignating the second paragraph  
9           (80) (relating to funding portals) as paragraph  
10          (81); and

11          (B) by adding at the end the following:

12          “(82) CHIEF ECONOMIST.—The term ‘Chief  
13          Economist’ means the Director of the Division of  
14          Economic and Risk Analysis, or an employee of the  
15          Commission with comparable authority, as deter-  
16          mined by the Commission.

17          “(83) COMPREHENSIVE INTERNAL RISK CON-  
18          TROL MECHANISMS.—The term ‘comprehensive in-  
19          ternal risk control mechanism’ means the policies  
20          and procedures of an entity subject to section 4F  
21          that are reasonably designed to ensure the security  
22          of all market data stored by such entity. In deter-  
23          mining whether such policies and procedures are  
24          reasonably designed, compliance with industry  
25          standards published by the Commission in connec-

1       tion with Regulation Systems Compliance and Integ-  
2       rity (Section 242.1000 et seq. of title 17, Code 19  
3       of Federal Regulations) shall be taken into account.  
4       Compliance with such standards, however, shall not  
5       be the exclusive means to demonstrate the reason-  
6       ableness of the policies and procedures required by  
7       Section 4F of this title.”.