

[118H4645]

[DISCUSSION DRAFT]119TH CONGRESS
1ST SESSION**H. R. _____**

To amend the Investment Advisers Act of 1940 with respect to proxy voting
of passively managed funds, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. HUIZENGA introduced the following bill; which was referred to the
Committee on _____

A BILL

To amend the Investment Advisers Act of 1940 with respect
to proxy voting of passively managed funds, 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 “Empowering Share-
5 holders Act of 2025”.

1 **SEC. 2. PROXY VOTING OF PASSIVELY MANAGED FUNDS.**

2 (a) IN GENERAL.—The Investment Advisers Act of
3 1940 (15 U.S.C. 80b–1 et seq.) is amended by inserting
4 after section 208 (15 U.S.C. 80b–8) the following:

5 **“SEC. 208A. PROXY VOTING OF PASSIVELY MANAGED**
6 **FUNDS.**

7 “(a) INVESTMENT ADVISER PROXY VOTING.—

8 “(1) IN GENERAL.—An investment adviser that
9 holds authority to vote a proxy solicited by an issuer
10 pursuant to section 14 of the Securities Exchange
11 Act of 1934 (15 U.S.C. 78n) in connection with any
12 vote of covered securities held by a passively man-
13 aged fund shall—

14 “(A) vote in accordance with the instruc-
15 tions of the beneficial owner of such covered se-
16 curities;

17 “(B) vote in accordance with the voting in-
18 structions of such issuer; or

19 “(C) abstain from voting.

20 “(2) EXCEPTION.—Paragraph (1) shall not
21 apply with respect to a vote on a routine matter.

22 “(b) SAFE HARBOR.—With respect to a matter that
23 is not a routine matter, in the case of a vote described
24 in subsection (a)(1), an investment adviser shall not be
25 liable to any person under any law or regulation of the
26 United States, any constitution, law, or regulation of any

1 State or political subdivision thereof, or under any con-
2 tract or other legally enforceable agreement (including any
3 arbitration agreement), for any of the following:

4 “(1) Not soliciting voting instructing from any
5 person under subsection (a)(1) with respect to such
6 vote.

7 “(2) Voting in accordance with the voting in-
8 structions of an issuer pursuant to subparagraph
9 (B) of such subsection.

10 “(3) Abstaining from voting in accordance with
11 subparagraph (C) of such subsection.

12 “(c) DEFINITIONS.—In this section:

13 “(1) COVERED SECURITY.—The term ‘covered
14 security’—

15 “(A) means a voting security, as that term
16 is defined in section 2(a) of the Investment
17 Company Act of 1940 (15 U.S.C. 80a–2(a)), in
18 which a qualified fund is invested; and

19 “(B) does not include any voting security
20 (as defined in subparagraph (A)) of an issuer
21 registered with the Commission as an invest-
22 ment company under section 8 of the Invest-
23 ment Company Act of 1940 (15 U.S.C. 80a–8).

1 “(2) PASSIVELY MANAGED FUND.—The term
2 ‘passively managed fund’ means a qualified fund
3 that—

4 “(A) is designed to track, or is derived
5 from, an index of securities or a portion of such
6 an index;

7 “(B) discloses that the qualified fund is a
8 passive index fund; or

9 “(C) allocates not less than 40 percent of
10 the total assets of the qualified fund to an in-
11 vestment strategy that is designed to track, or
12 is derived from, an index of securities or a por-
13 tion of such an index fund.

14 “(3) QUALIFIED FUND.—The term ‘qualified
15 fund’ means—

16 “(A) an investment company, as that term
17 is defined in section 3 of the Investment Com-
18 pany Act of 1940 (15 U.S.C. 80a–3);

19 “(B) a private fund;

20 “(C) an eligible deferred compensation
21 plan, as that term is defined in section 457(b)
22 of the Internal Revenue Code of 1986;

23 “(D) a trust, plan, account, or other entity
24 described in section 3(c)(11) of the Investment

1 Company Act of 1940 (15 U.S.C. 80a–
2 3(e)(11));

3 “(E) a plan maintained by an employer de-
4 scribed in clause (i), (ii), or (iii) of section
5 403(b)(1)(A) of the Internal Revenue Code of
6 1986 to provide annuity contracts described in
7 section 403(b) of such Code;

8 “(F) a common trust fund, or similar
9 fund, maintained by a bank;

10 “(G) any fund established under section
11 8438(b)(1) of title 5, United States Code; or

12 “(H) any separate managed account of a
13 client of an investment adviser.

14 “(4) REGISTRANT.—The term ‘registrant’
15 means an issuer of covered securities.

16 “(5) ROUTINE MATTER.—The term ‘routine
17 matter’—

18 “(A) includes a proposal that relates to—

19 “(i) an election with respect to the
20 board of directors of the registrant;

21 “(ii) the compensation of management
22 or the board of directors of the registrant;

23 “(iii) the selection of auditors;

24 “(iv) material conflicts;

25 “(v) declassification; or

1 “(vi) transactions that would trans-
2 form the structure of the registrant, in-
3 cluding—

4 “(I) a merger or consolidation;
5 and

6 “(II) the sale, lease, or exchange
7 of all, or substantially all, of the prop-
8 erty and assets of a registrant; and

9 “(B) does not include—

10 “(i) a proposal that is not submitted
11 to a holder of covered securities by means
12 of a proxy statement comparable to that
13 described in section 240.14a–101 of title
14 17, Code of Federal Regulations, or any
15 successor regulation;

16 “(ii) a proposal that is—

17 “(I) the subject of a counter-so-
18 licitation; or

19 “(II) part of a proposal made by
20 a person other than the applicable
21 registrant; or

22 “(iii) any other matter determined by
23 the Commission or an exchange registered
24 under section 6 of the Securities Exchange

1 Act of 1934 (15 U.S.C. 78f) to be not rou-
2 tine.”.

3 (b) EFFECTIVE DATE.—The amendment made by
4 this section shall take effect on the first August 1 that
5 occurs after the date that is 2 years after the date of en-
6 actment of this Act.