

118TH CONGRESS  
1ST SESSION

# H. R. 5340

To amend the Employee Retirement Income Security Act of 1974 to ensure that pension plans provide notice to participants and beneficiaries on risks associated with certain investments, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 5, 2023

Mr. BANKS introduced the following bill; which was referred to the Committee on Education and the Workforce

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## A BILL

To amend the Employee Retirement Income Security Act of 1974 to ensure that pension plans provide notice to participants and beneficiaries on risks associated with certain investments, 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 “Providing Complete  
5 Information to Retirement Investors Act”.

6 **SEC. 2. BROKERAGE WINDOW DISCLOSURES.**

7 (a) IN GENERAL.—Section 404(c) of the Employee  
8 Retirement Income Security Act of 1974 (29 U.S.C.

1 1104(c)) is amended by adding at the end the following  
2 new paragraph:

3           “(7) NOTICE REQUIREMENTS FOR BROKERAGE  
4           WINDOWS.—

5           “(A) IN GENERAL.—In the case of a pen-  
6           sion plan which provides for individual accounts  
7           and which provides a participant or beneficiary  
8           the opportunity to choose from designated in-  
9           vestment alternatives, a participant or bene-  
10          ficiary shall not be treated as exercising control  
11          over assets in the account of the participant or  
12          beneficiary unless, with respect to any invest-  
13          ment arrangement that is not a designated in-  
14          vestment alternative, each time before such a  
15          participant or beneficiary directs an investment  
16          into, out of, or within such investment arrange-  
17          ment, such participant is notified of, and ac-  
18          knowledges, each element of the notice de-  
19          scribed under paragraph (B).

20          “(B) NOTICE.—The notice described under  
21          this paragraph is a four part information that  
22          is substantially similar to the following informa-  
23          tion:

- “1. Your retirement plan offers designated investment alternatives prudently selected and monitored by fiduciaries for the purpose of enabling you to construct an appropriate retirement savings portfolio. In selecting and monitoring designated investment alternatives, your plan’s fiduciary considers the risk of loss and the opportunity for gain (or other return) compared with reasonably available investment alternatives.
2. The investments available through this investment arrangement are not designated investment alternatives, and have not been prudently selected and are not monitored by a plan fiduciary.
3. Depending on the investments you select through this investment arrangement, you may experience diminished returns, higher fees, and higher risk than if you select from the plan’s designated investment alternatives.
4. The following is a hypothetical illustration of the impact of return at 4 percent, 6 percent, and 8 percent on your retirement balance projected to age 67.

1                   “(C) ILLUSTRATION.—The notice de-  
 2                   scribed under paragraph (B) shall also include  
 3                   a graph displaying the projected retirement bal-  
 4                   ances of such participant or beneficiary at age  
 5                   67 if the account of such individual were to  
 6                   achieve an annual return equal to each of the  
 7                   following:

8                               “(i) 4 percent.

9                               “(ii) 6 percent.

10                              “(iii) 8 percent.”.

11           (b) DESIGNATED INVESTMENT ALTERNATIVE DE-  
 12 FINED.—Section 3 of such Act (29 U.S.C. 1002) is  
 13 amended by adding at the end the following new para-  
 14 graph:

15                   “(46) DESIGNATED INVESTMENT ALTER-  
 16                   NATIVE.—

17                              “(A) IN GENERAL.—The term ‘designated  
 18                   investment alternative’ means any investment

1 alternative designated by a responsible fiduciary  
2 of an individual account plan described in sub-  
3 section 404(c) into which participants and bene-  
4 ficiaries may direct the investment of assets  
5 held in, or contributed to, their individual ac-  
6 counts.

7 “(B) EXCEPTION.—The term ‘designated  
8 investment alternative’ does not include broker-  
9 age windows, self-directed brokerage accounts,  
10 or similar plan arrangements that enable par-  
11 ticipants and beneficiaries to select investments  
12 beyond those designated by a responsible plan  
13 fiduciary.”.

14 (c) EFFECTIVE DATE.—The amendment made by  
15 subsection (a) shall take effect on January 1, 2025.

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