

[DISCUSSION DRAFT]

117TH CONGRESS
1ST SESSION

H. R. _____

To amend the Securities Exchange Act of 1934 with respect to the Office of the Investor Advocate, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

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

A BILL

To amend the Securities Exchange Act of 1934 with respect to the Office of the Investor Advocate, 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 [“_____ Act of 2021”].

5 **SEC. 2. OFFICE OF THE INVESTOR ADVOCATE.**

6 Section 4(g) of the Securities Exchange Act of 1934
7 (15 U.S.C. 78d(g)) is amended—

8 (1) in paragraph (2)—

1 (A) in subparagraph (A)(ii), by striking
2 “in securities and investor protection issues,
3 from the perspective of investors” and inserting
4 “, except that the individuals considered for ap-
5 pointment may not be limited to only those with
6 professional or other qualifications relating to
7 securities and investor protection issues”; and

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

9 “(D) REMOVAL.—

10 “(i) IN GENERAL.—The Investor Ad-
11 vocate—

12 “(I) may only be removed—

13 “(aa) by the Chairman; and

14 “(bb) in accordance with ap-
15 plicable law; and

16 “(II) may not be removed for ad-
17 vocating for policies adverse to those
18 of the Chairman or any Commis-
19 sioner.

20 “(ii) COMMUNICATION OF RE-
21 MOVAL.—In the case of a removal of the
22 Investor Advocate, the Chairman shall, not
23 later than 30 days before such removal,
24 submit to Congress a notice of such re-

1 removal that includes the reasons for such
2 removal.

3 “(iii) RULE OF CONSTRUCTION.—
4 Nothing in this subparagraph shall pro-
5 hibit any action otherwise authorized by
6 law, other than the removal of the Investor
7 Advocate.”;

8 (2) in paragraph (3), by striking “, after con-
9 sultation with the Chairman of the Commission,”;

10 (3) in paragraph (4)—

11 (A) in subparagraph (D)(ii), by striking
12 “and” at the end;

13 (B) in subparagraph (E), by striking the
14 period at the end and inserting “; and”; and

15 (C) by adding at the end the following:

16 “(F) engage in such investor research and
17 investor testing programs that the Investor Ad-
18 vocate determines are in the public interest or
19 for the protection of investors.”;

20 (4) by redesignating paragraphs (5), (6), (7),
21 and (8) as paragraphs (6), (8), (9), and (11), re-
22 spectively;

23 (5) by inserting after paragraph (4) the fol-
24 lowing:

1 “(5) INVESTOR RESEARCH AND INVESTOR
2 TESTING PROGRAMS.—

3 “(A) INDEPENDENCE.—Subject to sub-
4 paragraph (B), the results of any investor re-
5 search and investor testing program carried out
6 under paragraph (4)(F) may be made publicly
7 available at the discretion of the Investor Adv-
8 cate without any prior review or comment from
9 the Commission, any Commissioner, any other
10 officer or employee of the Commission, or the
11 Office of Management and Budget.

12 “(B) REDACTION OF PERSONALLY IDENTIFI-
13 FIABLE INFORMATION.—The Investor Advocate
14 may not publish results described in subpara-
15 graph (A) that contain personally identifiable
16 information.

17 “(C) RULE OF CONSTRUCTION.—For pur-
18 poses of the Paperwork Reduction Act of 1980
19 (44 U.S.C. 3501 et seq.), any action carried out
20 under paragraph (4)(F) shall not be construed
21 to be a collection of information.”;

22 (6) in paragraph (6), as so redesignated, by
23 striking “as necessary” and inserting “as the Inves-
24 tor Advocate determines to be appropriate”;

1 (7) by inserting after paragraph (6) the fol-
2 lowing:

3 “(7) ACCESS TO SERVICES.—The Commission
4 shall ensure that the Investor Advocate is author-
5 ized, to the extent and in such amounts as may be
6 provided in advance of appropriations, to—

7 “(A) enter into contracts and other ar-
8 rangements for audits, studies, analyses, and
9 other services with public agencies and with pri-
10 vate persons; and

11 “(B) make such payments as may be nec-
12 essary to carry out the functions of the Of-
13 fice.”;

14 (8) in paragraph (8), as so redesignated—

15 (A) by amending subparagraph (A) to read
16 as follows:

17 “(A) DISCRETIONARY REPORTS.—In the
18 case of special or extraordinary circumstances,
19 the Investor Advocate may make such reports
20 to Congress as the Investor Advocate deter-
21 mines appropriate.”; and

22 (B) in subparagraph (B)(i), by inserting
23 “and the objectives of the Investor Advocate for
24 the following fiscal year” before the period at
25 the end;

1 (9) in paragraph (9), as so redesignated—

2 (A) by striking “shall, by regulation” and
3 inserting “shall—

4 “(A) by regulation”;

5 (B) by striking the period at the end and
6 inserting “; and”; and

7 (C) by adding at the end the following:

8 “(B) consult with the Investor Advocate
9 with respect to the consideration of the adop-
10 tion, revision, and rescissions of rules and regu-
11 lations of general application.”; and

12 (10) by inserting after paragraph (9) the fol-
13 lowing:

14 “(10) BUDGET.—

15 “(A) BUDGET ESTIMATE REQUIRED.—For
16 each fiscal year, the Investor Advocate shall
17 transmit a budget estimate and request to the
18 Commission that specifies the aggregate
19 amount of funds requested for such fiscal year
20 for the operations of the Office.

21 “(B) CONTENTS.—In transmitting a pro-
22 posed budget to the President for approval, the
23 Commission shall include—

24 “(i) an aggregate request for the In-
25 vestor Advocate; and

1 “(ii) any comments of the Investor
2 Advocate with respect to the proposal.

3 “(C) PRESIDENTIAL BUDGET.—The Presi-
4 dent shall include in the budget for each fiscal
5 year that is submitted by the President under
6 section 1105(a) of title 31, United States
7 Code—

8 “(i) a separate statement of the budg-
9 et estimate prepared in accordance with
10 subparagraph (B);

11 “(ii) the amount requested by the
12 President for the Investor Advocate; and

13 “(iii) the views of the Investor Advo-
14 cate with respect to the amount described
15 in clause (ii), including whether in the
16 opinion of the Investor Advocate such
17 amount would substantially inhibit the In-
18 vestor Advocate from performing the du-
19 ties of the office.”.