

[DISCUSSION DRAFT]

119TH CONGRESS
1ST SESSION

H. R. _____

To amend the Securities Exchange Act of 1934 to prohibit certain acts
by proxy advisory firms, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

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

A BILL

To amend the Securities Exchange Act of 1934 to prohibit
certain acts by proxy advisory firms, 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 “Stopping Proxy Advi-
5 sor Racketeering Act”.

6 **SEC. 2. CONDUCT OF PROXY ADVISORY FIRMS.**

7 The Securities Exchange Act of 1934 (15 U.S.C. 78a
8 et seq.) is amended by inserting after section 14B the fol-
9 lowing:

1 **“SEC. 14C. CONDUCT OF PROXY ADVISORY FIRMS.**

2 “(a) PROHIBITED CONDUCT.—It shall be unlawful
3 for a proxy advisory firm to provide proxy voting advice
4 if the proxy advisory firm possesses an actual or potential
5 conflict of interest, direct or indirect, that could reason-
6 ably be expected to affect the objectivity or reliability of
7 such proxy voting advice, including by—

8 “(1) providing consulting services offered di-
9 rectly or indirectly to an issuer for a fee;

10 “(2) modifying a voting recommendation or oth-
11 erwise departing from the adopted systematic proce-
12 dures and methodologies of the proxy advisory firm
13 or affiliate for the provision of proxy voting advice
14 based on whether an issuer, or affiliate of the issuer,
15 subscribes or will subscribe to the services or prod-
16 ucts of the proxy advisory firm or any affiliate of the
17 proxy advisory firm;

18 “(3) providing proxy voting advice during any
19 period of time when the proxy advisory firm or affil-
20 iate has any business relationship with the issuer,
21 another soliciting person, shareholder proponent, or
22 affiliate of any of the foregoing related to the matter
23 covered by the proxy voting advice; or

24 “(4) being a member of any organization that
25 actively supports a shareholder-sponsored proposal

1 that is, or is substantially similar to, the subject of
2 the proxy voting advice.

3 “(b) ADMINISTRATIVE CIVIL PENALTIES AVAIL-
4 ABLE.—If the Commission finds, after notice and oppor-
5 tunity for hearing in a proceeding instituted pursuant to
6 section 21C, that a proxy advisory firm violated subsection
7 (a), the Commission may, in addition to entering an order
8 under section 21C, impose a civil penalty against the
9 proxy advisory firm and any other person that the Com-
10 mission finds was a cause of such violation. The deter-
11 mination to impose such a civil penalty and the amount
12 of the penalty shall be governed by the standards set forth
13 in section 21B.

14 “(c) DEFINITIONS.—In this section:

15 “(1) CONSULTING SERVICES.—With respect to
16 a proxy advisory firm or an affiliate of a proxy advi-
17 sory firm, the term ‘consulting services’ means—

18 “(A) providing any non-public information
19 with respect to a proxy advisory firm’s polices
20 or ratings methodologies;

21 “(B) any services designed to provide guid-
22 ance or advice regarding any corporate govern-
23 ance, compensation, corporate social responsi-
24 bility, environmental, social, political, or other

1 policies, disclosures, or actions adopted by an
2 issuer with respect to—

3 “(i) any matter—

4 “(I) for which security holder
5 vote or consent is or will be solicited;
6 and

7 “(II) as to which the proxy advi-
8 sory firm makes or will make a rec-
9 ommendation as to a security holder’s
10 vote or consent; or

11 “(ii) matters included in or covered by
12 any written report or rating furnished by
13 the proxy advisory firm; and

14 “(C) such other services as the Commis-
15 sion may determine.

16 “(2) PROXY ADVISORY FIRM.—The term ‘proxy
17 advisory firm’ means any person who is engaged in
18 providing and selling proxy voting advice.

19 “(3) PROXY VOTING ADVICE.—The term ‘proxy
20 voting advice’ means any advice that makes a rec-
21 ommendation to a security holder as to the vote,
22 consent, or authorization of the security holder on a
23 specific matter for which the approval of the security
24 holder is solicited.”.