



Consumer Federation of America

Vote YES on H.R. 1815, the SEC Disclosure Effectiveness Testing Act

Dear Representative:

We understand that H.R. 1815, the SEC Disclosure Effectiveness Testing Act, will soon be brought to the House floor for a vote. We are writing to urge you to vote yes on this pro-investor bill, which would help to ensure that the disclosures retail investors rely on convey as effectively as possible the key information needed to make an informed choice about decisions that are critical to their financial wellbeing.

The sad reality is that the disclosures investors receive when choosing investment professionals or evaluating investment options often do a poor job of conveying critically important information in a way that typical retail investors can understand.¹ This includes cost disclosures that don't clearly convey costs, risk disclosures that don't clearly convey risks, and conflict of interest disclosure that do not clearly convey the nature or impact of those conflicts. Evidence of this can be found, for example, in a 2018 SEC proposal to create a summary prospectus for variable products that, while sound in concept, is long, dense, poorly organized, and full of technical jargon.²

As a result, retail investors, and particularly the least sophisticated retail investors, are too often flying blind when making investment decisions that will affect their ability to afford a secure and independent retirement or fund other long-term financial goals. There are several reasons for this. One is the inherent difficulty of the Securities and Exchange Commission's task of developing clear disclosures of complex topics for a non-expert retail audience. But the other is the SEC's failure to adopt best practices widely used by industry and some other government agencies to develop more effective disclosures, including incorporating qualitative testing of disclosure effectiveness early in the development process.

This bill would help to correct the second of these two problems. It would do so, first, by requiring the SEC to incorporate qualitative disclosure effectiveness testing in the development of new disclosures designed for retail investors. Importantly findings of the testing would have to be made available for public comment. This would both hold the SEC accountable for addressing those findings in any rulemaking subject to the testing requirement and provide all stakeholders with an opportunity to weigh in.

¹ This was well-documented, for example, in the SEC's Dodd-Frank-mandated financial literacy study. See SEC Staff, Study Regarding Financial Literacy Among Investors, as required by Section 917 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, August 2012, <https://bit.ly/2C9d145>. See also Siegel + Gale, Investor Research Report, (submitted to the SEC July 26, 2012), <https://bit.ly/1MfBbss>.

² You can see the SEC's sample version here: <https://www.sec.gov/rules/proposed/2018/33-10569-appendix-a.pdf>. CFA's comment letter on the proposal is available here: <https://www.sec.gov/comments/s7-23-18/s72318-4987088-182627.pdf>.

Second, the bill would require the SEC, with input from the Office of Investor Advocate, to develop a plan for testing existing retail disclosures, without imposing a rigid timeframe for completing that review. Appropriately, disclosures primarily relied on by institutional investors, analysts, and other sophisticated market participants would not be subject to the testing requirement. This, along with the involvement of the Office of Investor Advocate in determining which existing disclosures are priorities for testing, would help to ensure resources are devoted to testing the disclosures most important for retail investors.

Disclosure is both an important investor protection tool and a regulatory requirement that imposes significant costs on industry. We, therefore, have an obligation to make those disclosures as effective as possible. H.R. 1815 would help to achieve that goal by updating the SEC's approach to disclosure development. Anyone who supports common sense, evidence-based regulation should support this legislation.

Respectfully submitted,



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Director of Investor Protection



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