

[DISCUSSION DRAFT]

115TH CONGRESS
1ST SESSION

H. R. _____

To amend the Securities Exchange Act of 1934 to require certain entities to develop internal risk control mechanisms to safeguard and govern the security of information reported to, stored by, or accessed from the consolidated audit trail.

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 to require certain entities to develop internal risk control mechanisms to safeguard and govern the security of information reported to, stored by, or accessed from the consolidated audit trail.

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 “American Customer
5 and Market Information Protection Act”.

1 **SEC. 2. INTERNAL RISK CONTROLS.**

2 The Securities Exchange Act of 1934 (15 U.S.C. 78a
3 et seq.) is amended by inserting after section 4E the fol-
4 lowing

5 **“SEC. 4F. INTERNAL RISK CONTROLS FOR THE CONSOLI-
6 DATED AUDIT TRAIL.**

7 “(a) IN GENERAL.—Each of the following entities, in
8 consultation with the Commission’s designee, shall develop
9 comprehensive internal risk control mechanisms to safe-
10 guard and govern the security of all information reported
11 to, stored by, or accessed from the consolidated audit trail:

12 “(1) The Commission.

13 “(2) Each self-regulatory organization that is a
14 participant of the national market system plan.

15 “(3) The plan processor.

16 “(b) TAILORING OF MECHANISMS.—Mechanisms de-
17 veloped pursuant to subsection (a) shall be tailored, as ap-
18 propriate, to the sensitivity of the information at issue.

19 “(c) PLAN PROCESSOR PROHIBITED FROM ACCEPT-
20 ING INFORMATION UNTIL MECHANISMS DEVELOPED.—

21 “(1) INFORMATION ACCEPTED BY THE PLAN
22 PROCESSOR.—

23 “(A) IN GENERAL.—The plan processor
24 may not accept information submitted for the
25 consolidated audit trail until the plan processor
26 has developed, and the Commission has cer-

1 tified, the mechanisms required by subsection
2 (a).

3 “(B) REQUIREMENT TO PROVIDE INFOR-
4 MATION.— Any requirement for a person to
5 provide information for the consolidated audit
6 trail to the plan processor shall not apply dur-
7 ing any time when the plan processor is prohib-
8 ited by this subsection from accepting such in-
9 formation.

10 “(2) PERSONALLY IDENTIFYING INFORMA-
11 TION.—

12 “(A) IN GENERAL.—The plan processor
13 may not accept personally identifying informa-
14 tion submitted for the consolidated audit trail
15 until the Commission—

16 “(i) has performed a cost-benefit anal-
17 ysis for the use of such information in con-
18 nection with the consolidated audit trail;
19 and

20 “(ii) has reported to Congress on the
21 need for such information, the cyber risk
22 to investors represented by the submission
23 of any such information required to be
24 submitted to the consolidated audit trail,
25 and alternatives to including personally

1 identifying information that were consid-
2 ered.

3 “(B) PERSONALLY IDENTIFYING INFORMA-
4 TION.—The type of personally identifying infor-
5 mation the Commission shall consider in its
6 analysis under subparagraph (A) shall in-
7 clude—

8 “(i) social security numbers;

9 “(ii) individual taxpayer identification
10 numbers;

11 “(iii) other customer identifying infor-
12 mation sufficient to identify an individual,
13 such as names, addresses, dates of birth,
14 account numbers; and

15 “(iv) any other information the Com-
16 mission determines could be defined as
17 personally identifying information.

18 “(C) REQUIREMENT TO PROVIDE INFOR-
19 MATION.—Any requirement for a person to pro-
20 vide personally identifying information for the
21 consolidated audit trail to the plan processor
22 shall not apply during any time when the plan
23 processor is prohibited by this subsection from
24 accepting such information.

1 “(d) PARTICIPANTS OF THE NATIONAL SYSTEM
2 PLAN GOVERNING THE CONSOLIDATED AUDIT TRAIL
3 PROHIBITED FROM ACCESSING INFORMATION UNTIL
4 MECHANISMS DEVELOPED.—Any self-regulatory organi-
5 zation described under subsection (a)(2) that has permis-
6 sion to access information submitted to the consolidated
7 audit trail may not access such information until the orga-
8 nization has developed, and the Commission has certified,
9 the mechanisms required by subsection (a).

10 “(e) TREATMENT OF PREVIOUSLY DEVELOPED
11 MECHANISMS.—The development of comprehensive inter-
12 nal risk control mechanisms required by subsection (a)
13 may occur, in whole or in part, before the date of the en-
14 actment of this section, if such development and such
15 mechanisms meet the requirements of subsection (a) (in-
16 cluding consultation with the Commission’s designee and
17 certification by the Commission).

18 “(f) DEADLINE FOR COMPLIANCE; REPORT.—Each
19 person described under paragraph (2) or (3) of subsection
20 (a) shall develop the mechanisms required by subsection
21 (a), and submit a report to the Commission describing
22 such person’s compliance with this section, before the later
23 of—

24 “(1) the date that is 90 days after the date of
25 enactment of this section; or

1 “(2) the date that is—

2 “(A) with respect to a self-regulatory orga-
3 nization, 45 days before the self-regulatory or-
4 ganization is required to begin submitting infor-
5 mation to the consolidated audit trail; and

6 “(B) with respect to a plan processor, 45
7 days before any self-regulatory organization is
8 required to begin submitting information to the
9 consolidated audit trail.

10 “(g) CERTIFICATION OF COMPLIANCE.—

11 “(1) IN GENERAL.—Within 30 days of receipt
12 of a report described under paragraph (1), the Com-
13 mission shall provide the person submitting such re-
14 port with—

15 “(A) a written certification of the person’s
16 compliance with this section; or

17 “(B) a report detailing the basis for the
18 Commission’s determination that the person is
19 not in compliance with this section and details
20 through which such person may bring themselves
21 into compliance with this section.

22 “(2) BASIS FOR CERTIFICATION.—In making a
23 determination under paragraph (1) with respect to a
24 person, the Commission shall determine whether the
25 mechanisms developed by the person comply with

1 the industry standards published by the Commission
2 in connection with Regulation Systems Compliance
3 and Integrity (17 C.F.R. 242.1000 et seq.), but
4 shall not require compliance with such standards as
5 the exclusive means to demonstrate that the mecha-
6 nisms developed by the person comply with the re-
7 quirements of this section.

8 “(h) DEFINITIONS.—For purposes of this section:

9 “(1) CONSOLIDATED AUDIT TRAIL.—The term
10 ‘consolidated audit trail’ means the consolidated
11 audit trail created by the national market system
12 plan.

13 “(2) NATIONAL MARKET SYSTEM PLAN.—The
14 term ‘national market system plan’ means the na-
15 tional market system plan approved pursuant to sec-
16 tion 242.613 and section 242.608 of title 17, Code
17 of Federal Regulations (or any successor regulation).

18 “(3) PLAN PROCESSOR.—The term ‘plan proc-
19 essor’ means the plan processor of the consolidated
20 audit trail.”.