117TH CONGRESS
1ST SESSION

H. R. ______

To amend the Securities Exchange Act of 1934 to prohibit trading ahead by market makers, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. Green of Texas introduced the following bill; which was referred to the Committee on ____________________

A BILL

To amend the Securities Exchange Act of 1934 to prohibit trading ahead by market makers, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PROHIBITION ON TRADING AHEAD BY MARKET MAKERS.

(a) In general.—Section 15 of the Securities Exchange Act of 1934 (15 U.S.C. 78o) is amended by adding at the end the following:

“(p) Prohibition on Trading Ahead by Market Makers.—
“(1) IN GENERAL.—With respect to a person acting in the capacity of a market maker, if the person accepts an order with respect to a security from a customer, including a broker or dealer—

“(A) the market maker has a duty of trust and loyalty to the customer arising from the receipt of such order; and

“(B) the information in such order is material, non-public information that may be used only in furtherance of executing such customer’s order.

“(2) ANNUAL CEO CERTIFICATION.—The Chief Executive Officer of each person that acts in the capacity of a market maker shall issue an annual certification to the Commission, in such form and manner as the Commission may prescribe by rule, that certifies that—

“(A) the person has performed reasonable due diligence during the reporting period to ensure that the person has not violated the duty of trust and loyalty described under paragraph (1)(A) or used the information described under paragraph (1)(B) in a prohibited fashion; and

“(B) the person has not violated the duty of trust and loyalty described under paragraph...
(1)(A) or used the information described under paragraph (1)(B) in a prohibited fashion during the reporting period.

“(3) PERSONAL LIABILITY.—

“(A) FINE FOR INDIVIDUAL VIOLATIONS.—Any associated person of a market maker who knowingly and willfully causes the market maker to violate paragraph (1) (or who directs another agent or associated person of the market maker to commit such a violation or engage in such acts that result in the associated person being personally unjustly enriched) shall be fined in an amount equal to the greater of—

“(i) two times the amount of profit realized by reason of such violation; or

“(ii) $50,000.

“(B) COURSE OF CONDUCT.—Any associated person of a market maker who knowingly and willfully causes the market maker to engage in a course of conduct of knowingly and willfully violating paragraph (1) (or who directs another agent or associated person of the market maker to commit such a violation or engage in such acts that result in the associated person being personally unjustly enriched) shall be—
“(i) fined in an amount not to exceed 200 percent of the compensation (including stock options awarded as compensation) received by such associated person from the market maker—

“(I) during the time period in which the violations occurred; or

“(II) in the one to three year time period preceding the date on which the violations were discovered; and

“(ii) imprisoned for not more than 5 years.

“(C) ASSOCIATED PERSON DEFINED.—The term ‘associated person’ means an associated person of a broker or dealer.

“(4) RULEMAKING.—Not later than the end of the 90-day period beginning on the date of enactment of this subsection, the Commission—

“(A) shall issue rules to carry out this subsection; and

“(B) may provide exemptions from the requirements of this subsection, by rule, if the Commission determines that such exemptions would promote market integrity and are nec-
essary or appropriate in the public interest or for the protection of investors.”.

(b) Sense of Congress.—It is the sense of the Congress that the prohibitions added by this section should complement, and not replace, existing rules of self-regulatory organizations applicable to their members, including brokers and dealers.

(c) Effective Date.—Section 15(p) of the Securities Exchange Act of 1934, as added by subsection (a), shall take effect after the end of the 180-day period beginning on the date of enactment of this Act.