[DISCUSSION DRAFT]

117TH CONGRESS 1ST SESSION  
H. R. 7732

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.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the [‘‘____ Act of 2021’’].

SEC. 2. OFFICE OF THE INVESTOR ADVOCATE.

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

(1) in paragraph (2)—
(A) in subparagraph (A)(ii), by striking “in securities and investor protection issues, from the perspective of investors” and inserting “, except that the individuals considered for appointment may not be limited to only those with professional or other qualifications relating to securities and investor protection issues”; and

(B) by adding at the end the following:

“(D) REMOVAL.—

“(i) IN GENERAL.—The Investor Advocate—

“(I) may only be removed—

“(aa) by the Chairman; and

“(bb) in accordance with applicable law; and

“(II) may not be removed for advocating for policies adverse to those of the Chairman or any Commissioner.

“(ii) COMMUNICATION OF REMOVAL.—In the case of a removal of the Investor Advocate, the Chairman shall, not later than 30 days before such removal, submit to Congress a notice of such re-
moval that includes the reasons for such removal.

“(iii) Rule of Construction.—Nothing in this subparagraph shall pro-
hibit any action otherwise authorized by law, other than the removal of the Investor Advocate.”;

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

(3) in paragraph (4)—

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

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

(C) by adding at the end the following:

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

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

(5) by inserting after paragraph (4) the fol-
lowing:
“(5) INVESTOR RESEARCH AND INVESTOR TESTING PROGRAMS.—

“(A) INDEPENDENCE.—Subject to subparagraph (B), the results of any investor research and investor testing program carried out under paragraph (4)(F) may be made publicly available at the discretion of the Investor Advocate without any prior review or comment from the Commission, any Commissioner, any other officer or employee of the Commission, or the Office of Management and Budget.

“(B) REDACTION OF PERSONALLY IDENTIFIABLE INFORMATION.—The Investor Advocate may not publish results described in subparagraph (A) that contain personally identifiable information.

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

(6) in paragraph (6), as so redesignated, by striking “as necessary” and inserting “as the Investor Advocate determines to be appropriate”;
(7) by inserting after paragraph (6) the following:

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

“(A) enter into contracts and other arrangements for audits, studies, analyses, and other services with public agencies and with private persons; and

“(B) make such payments as may be necessary to carry out the functions of the Office.”;

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

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

“(A) DISCRETIONARY REPORTS.—In the case of special or extraordinary circumstances, the Investor Advocate may make such reports to Congress as the Investor Advocate determines appropriate.”; and

(B) in subparagraph (B)(i), by inserting “and the objectives of the Investor Advocate for the following fiscal year” before the period at the end;
(9) in paragraph (9), as so redesignated—

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

“(A) by regulation’’; (B) by striking the period at the end and inserting ‘‘; and’’; and

(C) by adding at the end the following:

“(B) consult with the Investor Advocate with respect to the consideration of the adoption, revision, and rescissions of rules and regulations of general application.’’; and

(10) by inserting after paragraph (9) the following:

“(10) BUDGET.—

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

“(B) CONTENTS.—In transmitting a proposed budget to the President for approval, the Commission shall include—

“(i) an aggregate request for the Investor Advocate; and
“(ii) any comments of the Investor Advocate with respect to the proposal.

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

“(i) a separate statement of the budget estimate prepared in accordance with subparagraph (B);

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

“(iii) the views of the Investor Advocate with respect to the amount described in clause (ii), including whether in the opinion of the Investor Advocate such amount would substantially inhibit the Investor Advocate from performing the duties of the office.”.