

**AMENDMENT TO H.R. 5485, AS REPORTED
OFFERED BY MRS. WAGNER OF MISSOURI**

At the end of title VI insert the following:

1 **SECTION ____ . RETAIL INVESTOR PROTECTION.**

2 (a) REPEAL OF EXISTING RULE.—The final rule of
3 the Department of Labor titled “Definition of the Term
4 ‘Fiduciary’; Conflict of Interest Rule—Retirement Invest-
5 ment Advice”, published April 8, 2016 (81 Fed. Reg.
6 20945) shall have no force or effect.

7 (b) STAY ON RULES DEFINING CERTAIN FIDU-
8 CIARIES.—After the date of enactment of this Act, the
9 Secretary of Labor shall not prescribe any regulation
10 under the Employee Retirement Income Security Act of
11 1974 (29 U.S.C. 1001 et seq.) defining the circumstances
12 under which an individual is considered a fiduciary until
13 the date that is 60 days after the Securities and Exchange
14 Commission issues a final rule relating to standards of
15 conduct for brokers and dealers pursuant to the second
16 subsection (k) of section 15 of the Securities Exchange
17 Act of 1934 (15 U.S.C. 78o(k)).

18 (c) AMENDMENTS TO THE SECURITIES EXCHANGE
19 ACT OF 1934.—The second subsection (k) of section 15
20 of the Securities Exchange Act of 1934 (15 U.S.C.

1 78o(k)), as added by section 913(g)(1) of the Dodd-Frank
2 Wall Street Reform and Consumer Protection Act (12
3 U.S.C. 5301 et seq.), is amended by adding at the end
4 the following:

5 “(3) REQUIREMENTS PRIOR TO RULEMAKING.—

6 The Commission shall not promulgate a rule pursu-
7 ant to paragraph (1) before—

8 “(A) providing a report to the Committee
9 on Financial Services of the House of Rep-
10 resentatives and the Committee on Banking,
11 Housing, and Urban Affairs of the Senate de-
12 scribing whether—

13 “(i) retail investors (and such other
14 customers as the Commission may provide)
15 are being harmed due to brokers or dealers
16 operating under different standards of con-
17 duct than those that apply to investment
18 advisors under section 211 of the Invest-
19 ment Advisers Act of 1940 (15 U.S.C.
20 80b–11);

21 “(ii) alternative remedies will reduce
22 any confusion or harm to retail investors
23 due to brokers or dealers operating under
24 different standards of conduct than those
25 standards that apply to investment advi-

1 sors under section 211 of the Investment
2 Advisers Act of 1940 (15 U.S.C. 80b–11),
3 including—

4 “(I) simplifying the titles used by
5 brokers, dealers, and investment ad-
6 visers; and

7 “(II) enhancing disclosure sur-
8 rounding the different standards of
9 conduct currently applicable to bro-
10 kers, dealers, and investment advisers;

11 “(iii) the adoption of a uniform fidu-
12 ciary standard of conduct for brokers,
13 dealers, and investment advisors would ad-
14 versely impact the commissions of brokers
15 and dealers, the availability of proprietary
16 products offered by brokers and dealers,
17 and the ability of brokers and dealers to
18 engage in principal transactions with cus-
19 tomers; and

20 “(iv) the adoption of a uniform fidu-
21 ciary standard of conduct for brokers or
22 dealers and investment advisors would ad-
23 versely impact retail investor access to per-
24 sonalized and cost-effective investment ad-
25 vice, recommendations about securities, or

1 the availability of such advice and rec-
2 ommendations.

3 “(4) ECONOMIC ANALYSIS.—The Commission’s
4 conclusions contained in the report described in
5 paragraph (3) shall be supported by economic anal-
6 ysis.

7 “(5) REQUIREMENTS FOR PROMULGATING A
8 RULE.—The Commission shall publish in the Fed-
9 eral Register alongside the rule promulgated pursu-
10 ant to paragraph (1) formal findings that such rule
11 would reduce confusion or harm to retail customers
12 (and such other customers as the Commission may
13 by rule provide) due to different standards of con-
14 duct applicable to brokers, dealers, and investment
15 advisors.

16 “(6) REQUIREMENTS UNDER INVESTMENT AD-
17 VISERS ACT OF 1940.—In proposing rules under
18 paragraph (1) for brokers or dealers, the Commis-
19 sion shall consider the differences in the registration,
20 supervision, and examination requirements applica-
21 ble to brokers, dealers, and investment advisors.”.

