

[DISCUSSION DRAFT]

118TH CONGRESS  
1ST SESSION

**H. R.** \_\_\_\_\_

To amend the Securities Exchange Act of 1934 to provide for duties of certain investment advisors, asset managers, and pension funds with respect to voting on shareholder proposals, and for other purposes.

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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 provide for duties of certain investment advisors, asset managers, and pension funds with respect to voting on shareholder proposals, and for other purposes.

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. DUTIES OF INVESTMENT ADVISORS, ASSET**  
4 **MANAGERS, AND PENSION FUNDS.**

5 (a) IN GENERAL.—Section 13(f) of the Securities Ex-  
6 change Act of 1934 (15 U.S.C. 78m(f)) is amended by  
7 adding at the end the following:

1           “(7) DISCLOSURES BY INSTITUTIONAL INVEST-  
2           MENT MANAGERS IN CONNECTION WITH PROXY AD-  
3           VISORY FIRMS.—

4           “(A) IN GENERAL.—Every institutional in-  
5           vestment manager which uses the mails, or any  
6           means or instrumentality of interstate com-  
7           merce in the course of its business as an insti-  
8           tutional investment manager, which engages a  
9           proxy advisory firm, and which exercises voting  
10          power with respect to accounts holding equity  
11          securities of a class described in subsection  
12          (d)(1) or otherwise becomes or is deemed to be-  
13          come a beneficial owner of any security of a  
14          class described in subsection (d)(1) upon the  
15          purchase or sale of a security-based swap that  
16          the Commission may define by rule, shall file an  
17          annual report with the Commission con-  
18          taining—

19                   “(i) an explanation of how the institu-  
20                   tional investment manager voted with re-  
21                   spect to each shareholder proposal;

22                   “(ii) the percentage of votes cast on  
23                   shareholder proposals that were consistent  
24                   with proxy advisory firm recommendations,

1 for each proxy advisory firm retained by  
2 the institutional investment manager;

3 “(iii) an explanation of—

4 “(I) how the institutional invest-  
5 ment manager took into consideration  
6 proxy advisory firm recommendations  
7 in making voting decisions, including  
8 the degree to which the institutional  
9 investment manager used those rec-  
10 ommendations in making voting deci-  
11 sions;

12 “(II) how often the institutional  
13 investment manager voted consistent  
14 with a recommendation made by a  
15 proxy advisory firm, expressed as a  
16 percentage;

17 “(III) how such votes are rec-  
18 onciled with the fiduciary duty of the  
19 institutional investment manager to  
20 vote in the best economic interests of  
21 shareholders;

22 “(IV) how frequently votes were  
23 changed when an error occurred or  
24 due to new information from issuers;  
25 and

1                   “(V) the degree to which invest-  
2                   ment professionals of the institutional  
3                   investment manager were involved in  
4                   proxy voting decisions; and

5                   “(iv) a certification that the voting de-  
6                   cisions of the institutional investment man-  
7                   ager were based solely on the best eco-  
8                   nomic interest of the shareholders on be-  
9                   half of whom the institutional investment  
10                  manager holds shares.

11                  “(B) REQUIREMENTS FOR LARGER INSTI-  
12                  TUTIONAL INVESTMENT MANAGERS.—Every in-  
13                  stitutional investment manager described in  
14                  subparagraph (A) that has an aggregate fair  
15                  market value on the last trading day in any of  
16                  the preceding twelve months of at least  
17                  \$100,000,000,000 shall—

18                  “(i) in any materials provided to cus-  
19                  tomers and related to customers voting  
20                  their shares, clarify that shareholders are  
21                  not required to vote on every proposal;

22                  “(ii) with respect to each shareholder  
23                  proposal for which the institutional invest-  
24                  ment manager votes (other than votes con-  
25                  sistent with the recommendation of a

1 board of directors composed of a majority  
2 of independent directors) perform an eco-  
3 nomic analysis before making such vote, to  
4 determine that the vote is in the best eco-  
5 nomic interest of the shareholders on be-  
6 half of whom the institutional investment  
7 manager holds shares; and

8 “(iii) include each economic analysis  
9 required under clause (ii) in the annual re-  
10 port required under subparagraph (A).

11 “(C) CERTIFICATION REQUIREMENT.—  
12 Each report required under this paragraph  
13 shall be certified by the chief executive officer  
14 and chief financial officer of the institutional  
15 investment manager.

16 “(D) BEST ECONOMIC INTEREST DE-  
17 FINED.—In this paragraph, the term ‘best eco-  
18 nomic interest’ means decisions that seek to  
19 maximize investment returns over a time hori-  
20 zon consistent with the investment objectives  
21 and risk management profile of the fund in  
22 which shareholders are invested.”.

23 (b) PROXY ADVISORY FIRM DEFINED.—Section 3(a)  
24 of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a))  
25 is amended by adding at the end the following:

1           “(82) PROXY ADVISORY FIRM.—The term  
2           ‘proxy advisory firm’—

3           “(A) means any person who is primarily  
4           engaged in the business of providing proxy vot-  
5           ing advice, research, analysis, ratings, or rec-  
6           ommendations to clients, which conduct con-  
7           stitutes a solicitation within the meaning of sec-  
8           tion 14; and

9           “(B) does not include any person that is  
10          exempt under law or regulation from the re-  
11          quirements otherwise applicable to persons en-  
12          gaged in such a solicitation.”.