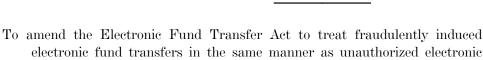
[DISCUSSION DRAFT]

117th CONGRESS 2D Session



H.R.

fund transfer, 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 Electronic Fund Transfer Act to treat fraudulently induced electronic fund transfers in the same manner as unauthorized electronic fund transfer, 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. SHORT TITLE.

- 4 This Act may be cited as the "Protecting Consumers"
- 5 From Payment Scams Act".

1 SEC. 2. TREATMENT OF FRAUDULENTLY INDUCED ELEC-2 TRONIC FUND TRANSFERS. 3 (a) DEFINITIONS.—Section 903 of the Electronic 4 Fund Transfer Act (15 U.S.C. 1693a) is amended— 5 (1) in paragraph (7)— 6 (A) by striking subparagraphs (B) and 7 (E); 8 (B) by redesignating subparagraphs (C) 9 and (D) as subparagraphs (B) and (C), respec-10 tively; 11 (C) in subparagraph (B), as so redesig-12 nated, by adding "or" at the end; and 13 (D) in subparagraph (C), as so redesignated, by striking "or" at the end; and 14 (2) by amending paragraph (12) to read as fol-15 16 lows: 17 "(12) the term 'unauthorized or fraudulently 18 induced electronic fund transfer'— 19 "(A) means an electronic fund transfer 20 from a consumer's account initiated by— "(i) a person other than the consumer 21 22 without actual authority to initiate such 23 transfer; or 24 "(ii) the consumer, if the consumer's 25 authorization or initiation of the electronic

1	fund transfer was fraudulently induced;
2	and
3	"(B) does not include any electronic fund
4	transfer—
5	"(i) initiated by a natural person
6	other than the consumer who was fur-
7	nished with the card, code, or other means
8	of access to such consumer's account by
9	such consumer, unless—
10	"(I) the consumer has notified
11	the financial institution involved that
12	transfers by such other person are no
13	longer authorized; or
14	"(II) the consumer was fraudu-
15	lently or coercively induced to furnish
16	the card, code, or other means of ac-
17	cess;
18	"(ii) initiated by a consumer who has
19	fraudulent intent, or anyone acting in con-
20	cert with such a consumer; or
21	"(iii) which constitutes an error com-
22	mitted by a financial institution.".
23	(b) DEFINITION OF ERROR.—Section 908(f) of the
24	Electronic Fund Transfer Act (15 U.S.C. 1693f(f)) is
25	amended—

1	(1) in paragraph (2) , by inserting ", including
2	an error made by a consumer' before the semicolon;
3	(2) by redesignating paragraphs (6) and (7) as
4	paragraphs (7) and (8), respectively; and
5	(3) by inserting after paragraph (5) the fol-
6	lowing:
7	"(6) the consumer's inability to access funds in
8	a frozen, closed, or otherwise inaccessible account,
9	except as required by a court order or law enforce-
10	ment or unless the consumer obtained the funds
11	through unlawful or fraudulent means;".
12	(c) Consumer Liability for Unauthorized
13	TRANSFERS.—Section 909 of the Electronic Fund Trans-
14	fer Act (15 U.S.C. 1693g) is amended—
15	(1) in the heading, by striking " unauthor -
16	ized transfers" and inserting "unauthorized
17	or fraudulently induced electronic fund
18	transfer'';
19	(2) in subsection (a)—
20	(A) by striking "unauthorized transfer"
21	and inserting "unauthorized or fraudulently in-
22	duced electronic fund transfer"; and
23	(B) by inserting "fraudulently induced
24	transfer or" before "loss or theft" each place
25	such term appears;

1	(3) in subsection (b)—
2	(A) by striking "financial institution to
3	show that" and inserting "financial institu-
4	tion—
5	"(1) to show that";
6	(B) by striking "was authorized or, if the
7	electronic fund transfer was unauthorized, then
8	the burden of proof is upon the financial insti-
9	tution" and inserting "was authorized or was
10	not fraudulently induced, as applicable; or
11	"(2) if the showing under paragraph (1) is not
12	made,"; and
13	(C) by striking ", if the transfer was initi-
14	ated after the effective date of section 905,";
15	(4) by striking "unauthorized electronic fund
16	transfer" each place such term appears and insert-
17	ing "unauthorized or fraudulently induced electronic
18	fund transfer";
19	(5) by striking "unauthorized electronic fund
20	transfers" each place such term appears and insert-
21	ing "unauthorized or fraudulently induced electronic
22	fund transfers"; and
23	(6) by adding at the end the following:
24	"(f) LIABILITY OF INSTITUTION THAT RECEIVES A
25	FRAUDULENTLY INDUCED ELECTRONIC FUND TRANS-

FER.—If a consumer's financial institution credits the
consumer's account for an electronic fund transfer that
was initiated by the consumer but was fraudulently in duced, the financial institution that received the transfer
shall be liable to the consumer's financial institution for
the amount of the credit.".