

[DISCUSSION DRAFT]

117TH CONGRESS
1ST SESSION

H. R. _____

To amend the Securities Exchange Act of 1934 to prohibit the consideration of convictions older than 5 years when making certain determinations under the securities laws, 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 to prohibit the consideration of convictions older than 5 years when making certain determinations under the securities laws, 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 “[To be added Act of
5 2021]”.

1 **SEC. 2. FINDING.**

2 The Congress finds that the following studies support
3 a 5-year look-back period when convictions are considered
4 by the Securities and Exchange Commission:

5 (1) Blumstein, Alfred & Nakamura, Kiminori.
6 (2009). Redemption in the Presence of Widespread
7 Criminal Background Checks. *Criminology*. (47. 327
8 - 359. 10.1111/j.1745-9125.2009.00155.x).

9 (2) Alfred Blumstein and Kiminori Nakamura,
10 “Extension of Current Estimates of Redemption
11 Times: Robustness Testing, Out-of-State Arrests,
12 and Racial Differences” (Washington: National
13 Criminal Justice Reference Service, 2012), available
14 at [https://www.ncjrs.gov/pdffiles1/nij/grants/
15 240100.pdf](https://www.ncjrs.gov/pdffiles1/nij/grants/240100.pdf).

16 (3) Kurlychek, M.C., Brame, R. And Bushway,
17 S.D. (2006), Scarlet Letters And Recidivism: Does
18 an Old Criminal Record Predict Future Offending?.
19 *Criminology & Public Policy*, 5: 483-504, available
20 at. [https://doi.org/10.1111/j.1745-
21 9133.2006.00397.x](https://doi.org/10.1111/j.1745-9133.2006.00397.x)

22 (4) Kurlychek, Megan & Brame, Robert &
23 Bushway, Shawn. (2007). Enduring Risk? Old
24 Criminal Records and Predictions of Future Crimi-
25 nal Involvement. *Crime & Delinquency*.

1 **SEC. 3. LIMITATION ON THE CONSIDERATION OF CONVIC-**
2 **TIONS.**

3 (a) IN GENERAL.—Section 23 of the Securities Ex-
4 change Act of 1934 (15 U.S.C. 78w) is amended by add-
5 ing at the end the following:

6 “(e) LIMITATION ON THE CONSIDERATION OF CON-
7 VICTIONS.—For purposes of any determination under the
8 securities laws of whether an individual is qualified to be
9 registered as a broker, dealer, or any other position requir-
10 ing registration or whether an individual may take advan-
11 tage of any exemption or other benefit conveyed under the
12 securities laws, the Commission (and any other person
13 making such a determination) may not—

14 “(1) take into account any conviction of such
15 individual for any offense, where such conviction oc-
16 curred more than 5 years prior to the date of such
17 determination;

18 “(2) request or accept information related to
19 such a conviction that occurred more than 5 years
20 prior to the date of such determination; or

21 “(3) take into account any conviction if the in-
22 dividual was pardoned with respect to such convic-
23 tion.”.

24 (b) CONFORMING AMENDMENTS.—

25 (1) BROKERS AND DEALERS.—Section
26 15(b)(4)(B) of the Securities Exchange Act of 1934

1 (15 U.S.C. 78o(b)(4)(B)) is amended by striking
2 “ten years” and inserting “5 years”.

3 (2) INVESTMENT ADVISERS.—Section 203(e) of
4 the Investment Advisers Act of 1940 (15 U.S.C.
5 80b–3(e)) is amended—

6 (A) in paragraph (2), by striking “ten
7 years” and inserting “5 years”; and

8 (B) in paragraph (3), by striking “10-
9 year” and inserting “5-year”.

10 (3) INVESTMENT ADVISER ASSOCIATED PER-
11 SONS.—Section 203(f) of the Investment Advisers
12 Act of 1940 (15 U.S.C. 80b–3(f)) is amended by
13 striking “ten years” and inserting “5 years”.

14 (4) INVESTMENT COMPANY AFFILIATED PER-
15 SONS.—Section 9 of the Investment Company Act of
16 1940 (15 U.S.C. 80a–9) is amended—

17 (A) in subsection (a)(1), by striking “10
18 years” and inserting “5 years”; and

19 (B) in subsection (b)(5), by striking “10
20 years” and inserting “5 years”.

21 (5) MUNICIPAL SECURITIES DEALERS AND AD-
22 VISORS.—Section 15B(c)(2) of the Securities Ex-
23 change Act of 1934 (15 U.S.C. 78o–4(c)(2)) is
24 amended by striking “ten years” and inserting “5
25 years”.

1 (6) NATIONALLY RECOGNIZED STATISTICAL
2 RATING ORGANIZATION ASSOCIATED PERSONS.—Sec-
3 tion 15E(d)(1) of the Securities Exchange Act of
4 1934 (15 U.S.C. 78o-7(d)(1)) is amended—

5 (A) in subparagraph (A), by striking “10-
6 year” and inserting “5-year”; and

7 (B) in subparagraph (B), by striking “10-
8 year” and inserting “5-year”.

9 (7) SELF-REGULATORY ORGANIZATION MEM-
10 BERS AND ASSOCIATED PERSONS.—Section
11 3(a)(39)(F) of the Securities Exchange Act of 1934
12 (15 U.S.C. 78c(a)(39)(F)) is amended by striking
13 “ten years” and inserting “5 years”.

14 (8) TRANSFER AGENTS.—Section 17A(c) of the
15 Securities Exchange Act of 1934 (15 U.S.C. 78q-
16 1(c)(3)(A)) is amended—

17 (A) in paragraph (3)(A), by striking “ten
18 years” and inserting “5 years”; and

19 (B) in paragraph (4)(C), by striking “ten
20 years” and inserting “5 years”.