

[DISCUSSION DRAFT]

117TH CONGRESS
1ST SESSION

H. R. _____

To amend the Securities Exchange Act of 1934 to prohibit trading ahead
by market makers, 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
trading ahead by market makers, 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. PROHIBITION ON TRADING AHEAD BY MARKET**
4 **MAKERS.**

5 Section 15 of the Securities Exchange Act of 1934
6 (15 U.S.C. 78o) is amended by adding at the end the fol-
7 lowing:

8 “(p) **PROHIBITION ON TRADING AHEAD BY MARKET**
9 **MAKERS.—**

1 “(1) IN GENERAL.—With respect to a person
2 acting in the capacity of market maker, if the person
3 accepts and holds an order in an equity security
4 from a customer of such person or a customer of an-
5 other broker without immediately executing the
6 order, it shall be unlawful for such person to trade
7 that security on the same side of the market for the
8 person’s own account at a price that would satisfy
9 the customer order, unless the person immediately
10 thereafter executes the customer order up to the size
11 and at the same or better price at which the person
12 traded for the person’s own account.

13 “(2) ANNUAL CEO CERTIFICATION.—The Chief
14 Executive Officer of each person that acts in the ca-
15 pacity of a market maker shall issue an annual cer-
16 tification to the Commission, in such form and man-
17 ner as the Commission may prescribe by rule, that
18 certifies that—

19 “(A) the person has performed reasonable
20 due diligence during the reporting period to en-
21 sure that the person is not violating paragraph
22 (1); and

23 “(B) the person has not violated para-
24 graph (1) during the reporting period.

25 “(3) PERSONAL LIABILITY.—

1 “(A) FINE FOR INDIVIDUAL VIOLA-
2 TIONS.—Any associated person of a market
3 maker who knowingly and willfully causes the
4 market maker to violate paragraph (1) (or who
5 directs another agent or associated person of
6 the market maker to commit such a violation or
7 engage in such acts that result in the associated
8 person being personally unjustly enriched) shall
9 be fined in an amount equal to the greater of—

10 “(i) the amount of profit realized by
11 reason of such violation; and

12 “(ii) \$50,000.

13 “(B) COURSE OF CONDUCT.—Any associ-
14 ated person of a market maker who knowingly
15 and willfully causes the market maker to en-
16 gage in a course of conduct of knowingly and
17 willfully violating paragraph (1) (or who directs
18 another agent or associated person of the mar-
19 ket maker to commit such a violation or engage
20 in such acts that result in the associated person
21 being personally unjustly enriched) shall be—

22 “(i) fined in an amount not to exceed
23 100 percent of the compensation (including
24 stock options awarded as compensation)

1 received by such associated person from
2 the market maker—

3 “(I) during the time period in
4 which the violations occurred; or

5 “(II) in the one to three year
6 time period preceding the date on
7 which the violations were discovered;
8 and

9 “(ii) imprisoned for not more than 5
10 years.

11 “(C) ASSOCIATED PERSON DEFINED.—The
12 term ‘associated person’ means an associated
13 person of a broker or dealer.”.