

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 2265
OFFERED BY MRS. WAGNER OF MISSOURI**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Financial Exploitation
3 Prevention Act of 2021”.

**4 SEC. 2. REDEMPTION OF CERTAIN SECURITIES POST-
5 PONENT.**

6 (a) IN GENERAL.—Section 22 of the Investment
7 Company Act of 1940 (15 U.S.C. 80a–22) is amended by
8 adding at the end the following:

9 “(h) REQUIREMENTS WITH RESPECT TO NON-INSTITI-
10 TUTIONAL DIRECT AT-FUND ACCOUNTS.—In the case of
11 a customer who is a holder of a non-institutional account
12 held directly with a registered open-end investment com-
13 pany and serviced by a transfer agent (a ‘direct-at-fund
14 account’), the company and transfer agent shall—

15 “(1) request from such customer the name and
16 contact information of at least one individual who—

17 “(A) is at the time of such request an
18 adult; and

1 “(B) may be contacted with respect to
2 such account;

3 “(2) document and retain the information re-
4 ceived pursuant to paragraph (1); and

5 “(3) disclose to such customer in writing (in-
6 cluding through electronic delivery) that such com-
7 pany or transfer agent may contact an individual
8 specified pursuant to paragraph (1) with respect to
9 the account of such customer to—

10 “(A) address possible financial exploitation
11 of such customer;

12 “(B) confirm the contact information or
13 health status of the customer; or

14 “(C) identify any legal guardian, executor,
15 trustee, or holder of a power of attorney of the
16 customer.

17 “(i) REDEMPTION OF CERTAIN SECURITIES POST-
18 PONED.—

19 “(1) IN GENERAL.—Notwithstanding subsection
20 (e), a registered open-end investment company or a
21 transfer agent acting on behalf of such company
22 may postpone the date of payment or satisfaction
23 upon redemption of any redeemable security in ac-
24 cordance with its terms for more than seven days
25 after the tender of such security to such company or

1 its agent designated for that purpose for redemption
2 if such company or agent reasonably believes that—

3 “(A) the redemption is requested by a se-
4 curity holder who is a specified adult; and

5 “(B) financial exploitation has occurred, is
6 occurring, or has been attempted with respect
7 to such redemption.

8 “(2) DURATION.—

9 “(A) IN GENERAL.—Except as provided in
10 subparagraphs (B) and (C), a registered open-
11 end investment company or a transfer agent
12 acting on behalf of such company may postpone
13 the date of payment or satisfaction upon re-
14 demption of a redeemable security under para-
15 graph (1) for a period of not more than 15
16 business days.

17 “(B) EXTENSION UPON DETERMINATION
18 OF EXPLOITATION.—The period described in
19 subparagraph (A) may be extended by an addi-
20 tional 10 business days if the registered open-
21 end investment company or a transfer agent
22 acting on behalf of such company—

23 “(i) reasonably believes that—

1 “(I) the redemption is requested
2 by a security holder who is a specified
3 adult; and

4 “(II) financial exploitation has
5 occurred, is occurring, or has been at-
6 tempted with respect to such redemp-
7 tion;

8 “(ii) subject to subparagraph (D), not
9 later than 2 days after making a deter-
10 mination under clause (i), notifies the indi-
11 viduals specified by such security holder
12 under subsection (h)(1) in writing (includ-
13 ing through electronic delivery) of the ex-
14 tension of the period described in subpara-
15 graph (A) under this subparagraph and
16 the reason for such extension;

17 “(iii) initiates an internal review of
18 the facts and circumstances relating to the
19 determination under clause (i);

20 “(iv) holds amounts related to the de-
21 layed payment or satisfaction upon re-
22 demption of the redeemable security in a
23 demand deposit account; and

24 “(v) documents and retains records
25 related to carrying out clause (iv) and in-

1 cludes such records in the first required
2 account statement of the security holder
3 provided after the date on which the deter-
4 mination is made under clause (i).

5 “(C) EXTENSION BY GOVERNMENT.—A
6 State regulator, administrative agency of com-
7 petent jurisdiction, or court of competent juris-
8 diction may extend the period described in sub-
9 paragraph (A).

10 “(D) NOTIFICATION.—

11 “(i) EXCEPTION.—Subparagraph
12 (B)(ii) shall not apply if a registered open-
13 end investment company or transfer agent
14 acting on behalf of such company reason-
15 ably believes that an individual required to
16 be notified under such subparagraph is,
17 has been, or will subject the security holder
18 who identified such individual under sub-
19 section (h)(1) to financial exploitation.

20 “(ii) REASONABLE EFFORTS.—An
21 open-end investment company or transfer
22 agent acting on behalf of such company
23 shall be considered in compliance with sub-
24 paragraph (B)(ii) if such company or
25 transfer agent makes a reasonable effort to

1 contact the individuals specified by a secu-
2 rity holder under subsection (h)(1).

3 “(E) INTERNAL PROCEDURES.—An open-
4 end investment company or transfer agent act-
5 ing on behalf of such company shall establish
6 procedures to carry out the requirements under
7 this subsection, including procedures—

8 “(i) related to the identification and
9 reporting of matters related to the finan-
10 cial exploitation of specified adults;

11 “(ii) to determine whether to release
12 or reinvest delayed redemption proceeds,
13 taking into account the facts and cir-
14 cumstances of each case, should the inter-
15 nal review under subparagraph (B)(iii)
16 support the reasonable belief described in
17 subparagraph (B)(i);

18 “(iii) identifying each employee of the
19 company or transfer agent with authority
20 to establish, extend, or terminate a period
21 described in paragraph (1) or subpara-
22 graph (A);

23 “(iv) in the case of a transfer agent,
24 that are reasonably designed to ensure that

1 the employees of such transfer agent com-
2 ply with this subsection; and

3 “(v) in the case of an open-end invest-
4 ment company, establishing periodic re-
5 porting requirements under which a trans-
6 fer agent acting on behalf of such company
7 shall notify such company of—

8 “(I) each extension under sub-
9 paragraph (B) authorized by such
10 transfer agent;

11 “(II) each finding by the transfer
12 agent under subparagraph (B)(i);

13 “(III) each notification under
14 subparagraph (B)(ii) carried out by
15 such transfer agent; and

16 “(IV) the results of each internal
17 review initiated by the transfer agent
18 under subparagraph (B)(iii).

19 “(F) INFORMATION INCLUDED IN CERTAIN
20 STATEMENTS.—An open-end investment com-
21 pany shall include in each prospectus and state-
22 ment of additional information a notification
23 that the company or transfer agent acting on
24 behalf of such company may postpone redemp-
25 tion of certain securities under this subsection.

1 “(G) RECORD RETENTION.—An open-end
2 investment company or transfer agent acting on
3 behalf of such company shall—

4 “(i) document and retain records of—

5 “(I) each postponement of re-
6 demption under subparagraph (A),
7 (B), and (C);

8 “(II) each finding under subpara-
9 graph (B)(i);

10 “(III) the name and position of
11 each employee described in subpara-
12 graph (E)(iii);

13 “(IV) each notification carried
14 out under subparagraph (B)(ii); and

15 “(V) the results of each internal
16 review initiated under subparagraph
17 (B)(iii); and

18 “(ii) make such records available to
19 the Commission at the request of the Com-
20 mission.

21 “(3) SPECIFIED ADULT DEFINED.—In this sub-
22 section, the term ‘specified adult’ means—

23 “(A) an individual age 65 or older; or

24 “(B) an individual age 18 or older who a
25 registered open-end investment company or a

1 transfer agent acting on behalf of such com-
2 pany reasonably believes has a mental or phys-
3 ical impairment that renders the individual un-
4 able to protect the individual's own interests.”.

5 (b) RECOMMENDATIONS.—

6 (1) IN GENERAL.—Not later than 1 year after
7 the date of the enactment of this section, the Securi-
8 ties and Exchange Commission, in consultation with
9 the entities specified in paragraph (2), shall submit
10 to Congress a report that includes recommendations
11 regarding the regulatory and legislative changes nec-
12 essary to address the financial exploitation of secu-
13 rity holders who are specified adults (as defined in
14 subsection (h)(3) of section 22 of the Investment
15 Company Act of 1940 (15 U.S.C. 80a–22), as added
16 by this section).

17 (2) CONSULTATION.—The entities specified in
18 this paragraph are as follows:

19 (A) The Commodity Futures Trading
20 Commission.

21 (B) The Director of the Bureau of Con-
22 sumer Financial Protection.

23 (C) The Financial Industry Regulatory Au-
24 thority.

1 (D) The North American Securities Ad-
2 ministrators Association.

3 (E) The Board of Governors of the Fed-
4 eral Reserve System.

5 (F) The Comptroller of the Currency.

6 (G) The Federal Deposit Insurance Cor-
7 poration.

