

115TH CONGRESS
2D SESSION

H. R. 4738

To amend the Investment Company Act of 1940 to provide complaint and burden of proof requirements for certain actions for breach of fiduciary duty.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 8, 2018

Mr. EMMER introduced the following bill; which was referred to the Committee on Financial Services, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Investment Company Act of 1940 to provide complaint and burden of proof requirements for certain actions for breach of fiduciary duty.

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 “Mutual Fund Litiga-
5 tion Reform Act”.

1 **SEC. 2. COMPLAINT AND BURDEN OF PROOF REQUIRE-**
2 **MENTS FOR CERTAIN ACTIONS FOR BREACH**
3 **OF FIDUCIARY DUTY.**

4 Section 36(b) of the Investment Company Act of
5 1940 (15 U.S.C. 80a-35(b)) is amended by adding at the
6 end the following:

7 “(7) In any such action brought by a security
8 holder of a registered investment company on behalf
9 of such company—

10 “(A) the complaint shall state with par-
11 ticularity all facts establishing a breach of fidu-
12 ciary duty, and, if an allegation of any such
13 facts is based on information and belief, the
14 complaint shall state with particularity all facts
15 on which that belief is formed; and

16 “(B) such security holder shall have the
17 burden of proving a breach of fiduciary duty by
18 clear and convincing evidence.”.

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