

CRS Report for Congress

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Mutual Fund Reform Bills in the 108th Congress: A Side-by-Side Comparison

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Mutual Fund Reform Bills: A Side-by-Side Comparison

Summary

The mutual fund was embroiled in scandal in September 2003, when New York Attorney General Eliot Spitzer brought charges against a few mutual funds, brokers, and hedge funds. Subsequently, the New York investigation widened, and the Securities and Exchange Commission (SEC) intensified its scrutiny of mutual funds. A number of illegal or unethical practices came under investigation: the common theme is that fund managers and insiders have permitted favored customers, including hedge funds, to engage in highly profitable short-term trading strategies that reduce the investment returns of millions of long-term investors. A number of firms have paid fines to settle civil charges. The SEC reported (in testimony before the Senate Governmental Affairs Committee on November 3, 2003) that preliminary investigations indicated that trading practices that appear to be abusive (but not in all cases illegal) were widespread in the industry.

The congressional response to the mutual fund investigations included several hearings and bills. Legislative proposals in the 108th Congress included H.R. 2420 (Representative Baker), which passed the House on November 19, 2003; S. 1822 (Senator Akaka), introduced November 5, 2003; S. 1958 (Senators Kerry and Kennedy), introduced November 25, 2003; S. 1971 (Senators Dodd and Corzine), also introduced on November 25, 2003; and S. 2059 (Senators Fitzgerald, Levin, and Collins), introduced on February 10, 2004.

All of these bills would have required mutual funds to provide more information to investors about the fees they charge and about the funds' financial relationships with stockbrokers and investment advisers. The bills also required that funds' governing boards contain majorities of independent directors with no financial or family ties to fund management. S. 1958 proposed the creation of a new mutual fund regulator to carry out registration, inspections, and disciplinary proceedings, and to make rules promoting mutual fund ethics and independence.

None of these bills was enacted by the 108th Congress. However, the SEC, using its existing statutory authority, has issued rules that incorporate some of the provisions of the legislative proposals. For instance, the SEC has mandated that mutual fund boards have an independent chairman and a majority of independent directors. Other regulations are under consideration and the SEC appears to have become more vigilant and aggressive in its oversight of the funds. Thus, unless new scandals appear, some may now see the need for reform legislation as less pressing.

This report compares the provisions of these legislative proposals. It serves as an historical record of legislative activity in the 108th Congress, and will not be updated.

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Mutual Fund Reform Bills: A Side-by-Side Comparison

The mutual fund scandal began in September 2003, when New York Attorney General Eliot Spitzer brought civil and criminal charges against a few mutual funds, brokers, and hedge funds. Since then, the New York investigation has widened, and the Securities and Exchange Commission (SEC) has intensified its scrutiny of mutual funds. Several illegal or unethical practices are under investigation: the common theme is that fund managers and insiders have permitted favored customers, including hedge funds, to engage in highly profitable short-term trading strategies that reduce the investment returns of millions of long-term investors. The number of firms and individuals charged to date is fairly small, but growing. The SEC reported (in testimony before the Senate Governmental Affairs Committee on November 3, 2003) that preliminary investigations indicate that trading practices that appear to be abusive (but not in all cases illegal) are fairly widespread in the industry.

Congressional response to the mutual fund investigations took the forms of hearings and proposed legislation. On November 19, 2003, the House passed a mutual fund reform bill, H.R. 2420, by a vote of 418-2. In the Senate, four bills were introduced — S. 1822, S. 1958, S. 1971, and S. 2059 — but none saw committee action.

All the bills would have required mutual funds to make more extensive disclosure of the fees and charges that investors pay. Financial relationships among mutual funds, brokers, and investment advisers would also have to be disclosed. Under three of the bills, brokers selling mutual funds would have had to disclose how their compensation was structured, including any incentives for selling particular funds.

The proposals would all have required mutual funds' boards of directors to contain majorities of independent directors — those not affiliated with the funds or its advisers. The bills also included various provisions to enhance the oversight role of the board, in matters such as auditing, nomination of directors, and supervision of ethical and legal compliance.

S.1958 proposed an independent regulator for mutual funds, to operate under the oversight of the SEC. S. 2059 would repeal SEC Rule 12b-1, which permits funds to charge investors for certain marketing, advertising, and distribution costs.

Finally, the proposals called for a number of reports or studies on subjects including the creation of an independent regulator for mutual funds, the SEC's enforcement record, "soft dollar" arrangements (financial links among brokers, advisers, and funds), transaction costs, arbitration in mutual fund disputes, fund advertising, and the financial literacy of mutual fund investors.

Side-by-Side Comparison of Mutual Fund Reform Legislation in the 108th Congress

Provision	H.R. 2420 (Rep. Baker)	S. 1822 (Sen. Akaka)	S. 1958 (Sen. Kerry & Kennedy)	S. 1971 (Sens. Dodd & Corzine)	S. 2059 (Sen. Fitzgerald, et al.)
Short Title	Mutual Funds Integrity and Fee Transparency Act of 2003	Mutual Fund Transparency Act of 2003	Mutual Fund Investor Protection Act of 2003	Mutual Fund Investor Confidence Restoration Act of 2003	Mutual Fund Reform Act of 2004
New Regulatory Structure.					
New mutual fund regulator	No provision.	SEC shall study and report to Congress on the creation of an entity with inspection and enforcement authority over mutual fund boards of directors, funded by assessments on mutual funds, and appointed by the SEC. (Sec. 3(e))	Establishes a Mutual Fund Oversight Board to register mutual funds and establish ethical, quality control, internal auditing, independence, and other standards. The Board will conduct inspections and investigations of mutual funds, and may impose a range of sanctions, including civil fines. The Board will have five members, appointed by the SEC to five year terms. The SEC will have oversight authority, including the right of prior approval (or modification) of all the Board's rules. The Board's budget (to be subject to SEC approval) will be funded by an annual assessment upon registered mutual funds. (Title II)	GAO is directed to study the feasibility and benefits (if any) to shareholders of establishing a Mutual Fund Oversight Board with inspection, examination, and enforcement authority over mutual fund boards of directors. (Sec. 401)	Directs GAO to study the efficacy of the SEC's current organizational structure as it affects the regulation of mutual funds. (Sec. 412)

Provision	H.R. 2420 (Rep. Baker)	S. 1822 (Sen. Akaka)	S. 1958 (Sen. Kerry & Kennedy)	S. 1971 (Sens. Dodd & Corzine)	S. 2059 (Sen. Fitzgerald, et al.)
Disclosure and Regulation of Mutual Fund Fees and Costs.					
Improved disclosure of mutual fund fees and costs	Directs the SEC to require periodic disclosure of: (1) the estimated amount, in dollars per \$1000 invested, of operating expenses borne by shareholders; (2) how the fund pays investment advisers, and those advisers' investments in the fund; (3) the rate at which the fund turns over its portfolio; (4) how the fund pays commissions to brokers who provide investment advice or research or who facilitate the sale of the fund's shares; (5) payments to any other person who facilitates the sale of the fund's shares; and (6) information on fee discounts for which investors may be eligible, including the minimum purchase amounts (breakpoints) required to qualify for discounts. (Sec. 101)	Brokers selling mutual funds would be required to disclose to their customers the amount of compensation to be received by the broker. Such disclosure must be made before the sale is final. (Sec. 2(a)) Funds would be required to include the cost of brokerage commissions in any disclosure of fees and expenses that may be payable by shareholders. (Sec. 2(b)) SEC shall by rule require funds to disclose how they compensate portfolio managers, and the ownership of fund shares by such investment advisers and their employees. (Sec. 4)	Directs the SEC to revise its regulations to require disclosure of: (1) the estimated dollar amount of the fund's operating expenses borne by each shareholder (and the amount per \$1000 invested); (2) how the fund pays investment advisers, and those advisers' holdings in the fund; (3) the rate at which the fund turns over its portfolio; (4) commission payments to brokers who provide investment advice or research or who facilitate the sale of the fund's shares; (5) payments to any other persons who facilitate the sale of the fund's shares; and (6) information on discounts in front-end fees for which investors may be eligible, including the minimum required purchase amounts ("breakpoints"). (Sec. 101)	Directs SEC to require disclosure of: (1) the actual dollar amount borne by each shareholder of the fund's expenses; (2) the structure and total amount of compensation paid to investment advisers, and advisers' investments in the fund; (3) the dollar amounts of all payments made by the fund, set out so as to permit comparison among funds; (4) how the fund pays commissions to brokers who provide investment advice or research or who facilitate the sale of the fund's shares; (5) payments to any other person who facilitates the sale of the fund's shares; and (6) information on discounts in front-end fees for which investors may be eligible, including the minimum required purchase amounts (breakpoints). (Sec. 101)	Directs the SEC to make rules setting forth standardized forms of disclosure of as many operating and transaction costs that are borne by shareholders as is practicable. The SEC shall also require funds to disclose annually the dollar amount of such costs charged to each customer's account, based on the value of customers' holdings. The SEC would define which expenses and costs could be charged to shareholders. (Sec. 210) Would require funds to disclose the amount and structure of compensation paid to the fund's portfolio management team, as well as the value of their holdings of the fund's shares. (Sec. 211) Reports filed with the SEC would include information on "breakpoints," or volume discounts for which investors may be eligible. (Sec. 213) Funds would be required to disclose and explain their portfolio turnover ratio. (Sec. 214)

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Provision	H.R. 2420 (Rep. Baker)	S. 1822 (Sen. Akaka)	S. 1958 (Sen. Kerry & Kennedy)	S. 1971 (Sens. Dodd & Corzine)	S. 2059 (Sen. Fitzgerald, et al.)
Mandatory inclusions in fee disclosures	SEC shall require that quarterly statements disclose that investors have been charged fees, and where additional information on fees may be found. (Sec. 101)	No provision.	Fee disclosure must be included in each statement of account, and fee information must be displayed in close proximity to the value of the investor's shares. (Sec 101)	No provision.	Disclosures about operating costs and transaction cost ratios must be displayed prominently, and all fees, charges, and expenses must be clearly defined. (Sec. 210)
Disclosure of fees and compensation in mutual fund sales	SEC shall by rule require disclosure by brokers of the amount and source of sales fees and charges, incentives, commissions, any other expenses incurred in the sale of mutual funds or municipal securities, as well as related conflicts of interest between the broker and the customer. (Sec. 110)	Brokers selling mutual funds would be required to disclose to their customers the amount of compensation to be received by the broker. (Sec. 2(a))	No provision.	Brokers would be required to disclose in writing to their customers the amount and nature of compensation they receive for selling mutual funds, and any conflicts of interest that arise from such compensation. (Sec. 104)	Brokers would be required to disclose in writing the amount and source of compensation they receive for selling the fund. Such disclosure must be made before the sale is concluded, and may not be made exclusively in a registration statement or prospectus. (Sec. 212)
SEC approval of new fees and expenses	No provision.	No provision.	No provision.	No provision.	SEC directed to define by rule all specific types of fees and expenses that may be borne by fund shareholders. No new fee may be imposed on shareholders unless the SEC determines that the fee fairly reflects services provided, or that the fee is in the shareholders' best interests. (Sec. 210(e))

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Provision	H.R. 2420 (Rep. Baker)	S. 1822 (Sen. Akaka)	S. 1958 (Sen. Kerry & Kennedy)	S. 1971 (Sens. Dodd & Corzine)	S. 2059 (Sen. Fitzgerald, et al.)
Repeal of Rule 12b-1	No provision.	No provision.	No provision.	No provision.	Repeals SEC Rule 12b-1, which allows funds to charge marketing and distribution expenses to the shareholders. Such expenses would instead be paid out of the management fee received by the investment adviser. The adviser's expenditures related to sale of fund shares must be disclosed to the fund's board of directors and accounted for in the fund's published expense ratio. The board may prohibit the adviser from incurring distribution expenses that are not in the shareholders' interest. (Sec. 310)
Prohibition of asset-based distribution fees	No provision.	No provision.	No provision.	No provision.	Asset-based distribution fees (to be defined by the SEC) are prohibited. (Sec. 310)
Reduction of disclosure burden on small funds	SEC shall consider ways of reducing costs associated with disclosure to small funds, consistent with public interest. (Sec. 101)	No provision.	SEC shall consider ways of reducing costs associated with disclosure to small funds, consistent with public interest. (Sec. 101)	No provision.	No provision.
Definition of no-load fund	SEC directed to make rules defining "no-load" mutual funds and requiring disclosure to prevent investors from being misled by the use of such terminology. (Sec. 106)	No provision.	No provision.	SEC directed to make rules defining "no-load" mutual funds and requiring disclosure to prevent investors from being misled by the use of such terminology. (Sec. 103)	No provision.

Provision	H.R. 2420 (Rep. Baker)	S. 1822 (Sen. Akaka)	S. 1958 (Sen. Kerry & Kennedy)	S. 1971 (Sens. Dodd & Corzine)	S. 2059 (Sen. Fitzgerald, et al.)
Soft Dollar, Revenue Sharing, and Directed Brokerage Arrangements.					
Disclosure of, or restrictions upon, soft dollar, revenue sharing, and directed brokerage arrangements	Investment advisers to mutual funds must report annually to the fund's board on (1) payments made to promote sale of the fund's shares ("revenue sharing"), (2) services or payments to the fund by a broker in exchange for brokerage business ("directed brokerage"), and (3) research services obtained by the adviser from a broker in exchange for securities transactions ("soft dollar arrangements"). A summary of this annual report must be included in the annual report to shareholders. (Sec. 102)	Soft dollar payments would be included in the aggregate brokerage commission disclosure required by Sec. 2(b).	Certain soft dollar payments would be included in the aggregate operating expenses disclosures mandated by Sec. 101.	Investment advisers to registered mutual funds would be required to report annually to the fund's board regarding all payments received and services provided (including research). A summary of these reports would be included in the fund's annual report to shareholders. (Sec. 102)	Amends statute to prohibit soft dollar, revenue sharing, and directed brokerage arrangements, as defined. The SEC is authorized to refine the statutory definition of these terms by rule, or otherwise tailor the proscriptions in this section, if it is in the interest of fund shareholders, or if such modifications reduce conflicts of interest or increase transparency and competition in trade executions. (Sec. 311)
Fiduciary duty of mutual fund directors regarding soft dollar, revenue sharing, and directed brokerage arrangements	Directors shall have a fiduciary duty to review such arrangements to ensure that they comply with law and regulation and are in the best interests of fund shareholders. (Sec. 102)	No provision.	SEC shall issue regulations establishing a fiduciary duty for directors to demonstrate that all management, marketing, and investment advisory fees paid by the fund are reasonable and in the best interests of fund shareholders. (Sec. 101(g))	No provision.	No provision: such arrangements would be prohibited by Sec. 311.

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Provision	H.R. 2420 (Rep. Baker)	S. 1822 (Sen. Akaka)	S. 1958 (Sen. Kerry & Kennedy)	S. 1971 (Sens. Dodd & Corzine)	S. 2059 (Sen. Fitzgerald, et al.)
Record keeping requirements regarding soft dollar, revenue sharing, and directed brokerage arrangements	SEC shall by rule require that all such arrangements involving research service be documented by written contracts that describe the nature and value of services provided. (Sec. 102)	No provision.	No provision.	No provision.	No provision: such arrangements would be prohibited (see above).
Mutual Fund Governance.					
Independent directors and chairmen	At least 2/3 of a mutual fund's directors must be independent (versus 40% under current law). (Sec. 103(a))	At least 75% of a mutual fund's directors must be independent, including the chairman of the board. Interested persons who serve as board members must be approved by shareholder vote at least every five years. (Sec. 3(a))	At least 75% of a mutual fund's directors must be independent. The chairman of the board must be independent. (Sec. 101(e))	At least 75% of a mutual fund's directors must be independent. The chairman of the board must be independent. (Sec. 201)	At least 75% of a mutual fund's directors must be independent, including the chairman of the board. Interested persons who serve as board members must be approved by shareholder vote at least every five years. (Sec. 110)
Prohibition on actions requiring the vote of non-independent directors	No provision.	No action taken by the board may require the vote of a non-independent director. (Sec. 3(b))	No provision.	No provision.	No provision.
Termination of investment adviser	No provision.	No provision.	No provision.	No provision.	SEC is directed to make a rule facilitating the termination of an investment adviser by a fund's independent directors, without undue exposure to financial or litigation risk. (Sec. 114)

Provision	H.R. 2420 (Rep. Baker)	S. 1822 (Sen. Akaka)	S. 1958 (Sen. Kerry & Kennedy)	S. 1971 (Sens. Dodd & Corzine)	S. 2059 (Sen. Fitzgerald, et al.)
Nomination of directors	No provision.	A committee made up entirely of independent directors shall select persons to be nominated to the board and adopt qualification standards for directors. (Sec. 3)	No provision.	A committee made up entirely of independent directors shall select persons to be nominated to the board and adopt qualification standards for directors. (Sec. 201)	A committee made up entirely of independent directors shall select persons to be nominated to the board, adopt qualification standards, and set compensation for directors. (Sec. 110)
Definition of “interested person” (i.e., not independent)	A member of a class of persons whom the SEC by rule deems to be unlikely to exercise an appropriate degree of independence because of a business, professional, or family relationship with fund management or investment advisers. (Sec. 103(b))	Includes any person with a material business or family relationship with, or who was employed by a fund’s investment adviser, underwriter, or who served as an officer or director of a “significant service provider” (to be defined by the SEC) within the last 10 years. (If one was merely employed by the significant service provider, the term of restriction is five years.) (Sec. 3)	A member of a class of persons whom the SEC by rule deems to be unlikely to exercise an appropriate degree of independence because of a business, professional, or family relationship with fund management or investment advisers. (Sec. 101(f))	Includes any person with a material business or family relationship with, or who was employed by a fund’s investment adviser, underwriter, or who served as an officer or director of a “significant service provider” (to be defined by the SEC) within the last 10 years. (If one was merely employed by the significant service provider, the term of restriction is five years.) (Sec. 201)	Includes any person with a material business or family relationship with, or who was employed by a fund’s investment adviser, principal underwriter, or who served as an officer or director of a “significant service provider” (to be defined by the SEC) within the last 10 years. (Sec. 110)

Provision	H.R. 2420 (Rep. Baker)	S. 1822 (Sen. Akaka)	S. 1958 (Sen. Kerry & Kennedy)	S. 1971 (Sens. Dodd & Corzine)	S. 2059 (Sen. Fitzgerald, et al.)
Fiduciary duties of independent directors and investment advisers	No provision.	No provision.	Directs the SEC to make rules specifying that the board of directors shall have a fiduciary duty to demonstrate that all negotiated fees are reasonable and in the shareholders' interest, and to disclose any business or professional links between directors and providers of advisory, investment, or other services to the fund. (Sec. 101)	Board of directors shall have a fiduciary duty to ensure that soft dollar, directed brokerage, and revenue sharing arrangements adhere to the fund's stated policies and are in the shareholders' best interests. (Sec. 102)	Directs the SEC to make rules clarifying the fiduciary duties of independent directors, which shall include (1) evaluation of the relationship between fees and actual costs, the quality of management and disclosures, the size and suitability of the fund's portfolio, costs and benefits of marketing plans, and other matters, and (2) implementation and monitoring of policies to ensure compliance with securities laws, and policies with respect to predatory trading practices. (Sec. 113) For investment advisers, fiduciary duty shall include supplying independent directors with material information and may require reference to the adviser's actual costs with respect to compensation received from the fund. (Sec. 114)

Provision	H.R. 2420 (Rep. Baker)	S. 1822 (Sen. Akaka)	S. 1958 (Sen. Kerry & Kennedy)	S. 1971 (Sens. Dodd & Corzine)	S. 2059 (Sen. Fitzgerald, et al.)
Audit committee composition and responsibilities	A mutual fund's board shall include an audit committee, made up entirely of independent directors, which shall be responsible for selection, compensation, and oversight of the fund's independent auditor, and for procedures for monitoring complaints from investors and fund employees regarding questionable accounting and auditing practices. (Sec. 104)	No provision.	No provision.	Audit committees would consist entirely of independent directors, and would be responsible for hiring, compensating, and overseeing outside auditors. The audit committee will also establish procedures for receiving and encouraging complaints about auditing and accounting matters. (Sec. 202)	The audit committees would consist entirely of independent directors, and would be responsible for hiring, compensating, and overseeing the fund's outside auditor. Selection of an auditor would be subject to ratification by shareholder vote. The audit committee will also establish procedures for receiving and encouraging complaints about auditing and accounting matters. (Sec. 115)
Financial expert	No provision.	No provision.	No provision.	Each mutual fund board shall include a financial expert, to be defined by the SEC. (Sec. 201)	No provision.
Exemption from in-person meeting requirements	SEC may exempt mutual fund directors from the requirement that they be physically present to cast a vote, if their presence is impractical, and if this exemption is consistent with the public interest. (Sec. 108)	No provision.	No provision.	No provision.	SEC may exempt mutual fund directors from the requirement that they be physically present to cast a vote, if their presence is impractical. (Sec. 115)

Provision	H.R. 2420 (Rep. Baker)	S. 1822 (Sen. Akaka)	S. 1958 (Sen. Kerry & Kennedy)	S. 1971 (Sens. Dodd & Corzine)	S. 2059 (Sen. Fitzgerald, et al.)
Notice of regulatory deficiencies	If an SEC inspection discovers deficiencies in a fund's operations, fund management must inform the board of directors. (Sec. 107)	No provision.	No provision.	Significant deficiencies in a fund or its advisers and underwriters found by SEC inspectors must be disclosed to the fund's board. The 10 most common deficiencies in mutual funds would be made public annually by the SEC. (Sec. 203)	No provision.
Insider transactions in fund shares	Short-term transactions in fund shares by insiders, advisers, or underwriters prohibited. (Sec. 203)	No provision.	No provision.	Share purchases by senior executive officers of mutual funds must be disclosed and shares must be held at least six months. (Sec. 307)	Short-term transactions by fund insiders, affiliates, advisers, or underwriters would be prohibited. The prohibition excludes money market funds. The SEC would define short-term trading. (Sec. 314)

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Provision	H.R. 2420 (Rep. Baker)	S. 1822 (Sen. Akaka)	S. 1958 (Sen. Kerry & Kennedy)	S. 1971 (Sens. Dodd & Corzine)	S. 2059 (Sen. Fitzgerald, et al.)
Certification of financial statements and/or operational procedures	Independent directors shall certify in disclosure documents that procedures are in place to oversee the setting of net asset values, the flow of funds in and out of the mutual fund, the provision of discounts to eligible investors, that different classes of mutual fund shares are appropriate for investors, disclosure of the fund's portfolio, compensation of portfolio managers, and the fund's code of ethics and antifraud policies. (Sec. 201)	No provision.	No provision.	Board chairman would be required to certify the accuracy of disclosure documents, and that procedures were in place to oversee the setting of net asset values, the flow of funds in and out of the mutual fund, the provision of discounts to eligible investors, that different classes of mutual fund shares are appropriate for investors, disclosure of the fund's portfolio, compensation of portfolio managers, and that the fund has established and enforces a code of ethics. (Sec. 204)	Fund advisers would be required to certify that net asset values of fund shares were calculated appropriately, that different classes of shares (if offered) are in shareholders' interest, that portfolio information is not improperly disclosed, that the independent directors have reviewed the compensation of the fund's portfolio manager, and that the code of ethics is in place and enforced. (Sec. 116)
Ethics compliance	Requires funds and investment advisers to adopt a code of ethics and policies and procedures to prevent violations of law and SEC regulations, to review those policies annually, and to appoint a compliance officer. Independent directors shall certify that such procedures and policies are in force. (Sec. 201)	No provision.	Directs the SEC to require funds to appoint a compliance officer, who will report only to independent directors. (Sec. 101(j))	Requires funds and investment advisers to adopt a code of ethics and policies and procedures to prevent violations of law and SEC regulations, to review those policies annually, and to appoint a compliance officer, who would certify that appropriate internal controls existed.. (Sec. 301)	Requires funds, advisers, and principal underwriters to adopt codes of ethics to prevent fraudulent, deceptive, or manipulative conduct. Funds must adopt policies and procedures reasonably designed to prevent violations of law and regulation, to review such policies annually, and to appoint a chief compliance officer, reporting only to the independent directors. Funds must also adopt rules to protect whistleblowers. (Sec. 116)

Provision	H.R. 2420 (Rep. Baker)	S. 1822 (Sen. Akaka)	S. 1958 (Sen. Kerry & Kennedy)	S. 1971 (Sens. Dodd & Corzine)	S. 2059 (Sen. Fitzgerald, et al.)
Restrictions on Late Trading, Market Timing, and Other Forms of Trading.					
Late trading rules	SEC directed to write rules to prevent after-hours trading. (Sec. 205)	No provision.	Amends the Investment Company Act to prohibit late trading. (Sec. 101(a))	SEC directed to write rules to prevent and detect after-hours trading. (Sec. 306)	SEC directed to issue rules to prevent late trading and to regulate the processing of late orders received through intermediaries at the previous day's price. (Sec. 315) SEC directed to issue rules requiring intermediaries to provide funds with sufficient customer information to allow them to enforce their trading policies. (Sec. 216)
Increased penalties	No provision.	No provision.	Increases civil and criminal penalties. (Sec. 101)	No provision.	No provision.

Provision	H.R. 2420 (Rep. Baker)	S. 1822 (Sen. Akaka)	S. 1958 (Sen. Kerry & Kennedy)	S. 1971 (Sens. Dodd & Corzine)	S. 2059 (Sen. Fitzgerald, et al.)
Market timing rules	<p>Short-term transactions in fund shares by affiliated persons (fund managers, directors, advisers, or underwriters) are prohibited.</p> <p>SEC directed to make rules permitting funds to charge redemption fees in excess of 2% to prevent short-term trading that the SEC deems unfair to shareholders. (Sec. 203)</p>	No provision.	<p>Requires disclosure of market timing policies and steps taken to prevent abuse of such policies. (Sec. 101(d))</p> <p>Prohibits short-term transactions in fund shares by interested persons (fund managers, directors, advisers, or underwriters). (Sec. 101(i))</p>	<p>Short-term transactions in fund shares by affiliated persons (fund managers, directors, advisers, or underwriters) are prohibited.</p> <p>Directs the SEC to require funds that do not allow market timing trading to charge a redemption fee for short-term trades. (Sec. 303)</p>	<p>The SEC would require disclosure of a fund's market timing policy (or lack of such a policy). (Sec. 312)</p> <p>Short-term transactions by fund insiders, affiliates, advisers, or underwriters would be prohibited. The prohibition excludes money market funds. The SEC would define short-term trading. (Sec. 314)</p> <p>Directs the SEC to require funds that do not allow market timing trading to charge a redemption fee for short-term trades, and permits such fees to exceed 2%. (Sec. 314)</p> <p>Directs the SEC to require by rule that intermediaries provide mutual funds with the identities of their customers so that the fund can enforce its trading and fee policies. (Sec. 216)</p>

Provision	H.R. 2420 (Rep. Baker)	S. 1822 (Sen. Akaka)	S. 1958 (Sen. Kerry & Kennedy)	S. 1971 (Sens. Dodd & Corzine)	S. 2059 (Sen. Fitzgerald, et al.)
Elimination of stale prices	SEC directed to make rules governing the use of fair value pricing to set net asset values when market quotations are unavailable or out of date. (Sec. 204)	No provision.	No provision.	SEC directed to make rules governing the use of fair value pricing to set net asset values when market quotations are unavailable or out of date. Funds and advisers would be required to adopt formal policies regarding price-setting procedures and certify that they were being adhered to. (Sec. 304)	The SEC would by rule require the adoption of fair value pricing, when market quotations do not accurately reflect portfolio value. (Sec. 313)
Suspension of redemptions	Mutual funds may not suspend investors' right of redemption unless the primary stock market is closed or other emergency exists. SEC is directed to make rules specifying the conditions under which trading may be restricted. (Sec. 105)	No provision.	No provision.	No provision.	No provision.

Provision	H.R. 2420 (Rep. Baker)	S. 1822 (Sen. Akaka)	S. 1958 (Sen. Kerry & Kennedy)	S. 1971 (Sens. Dodd & Corzine)	S. 2059 (Sen. Fitzgerald, et al.)
Other Provisions.					
Disclosure of proxy votes	Codifies SEC rules that require funds to disclose how they voted in proxy contests of companies whose shares they hold. (Sec. 109)	No provision.	No provision.	No provision.	Requires funds to report annually on their proxy voting record, and to make this information available via the Internet or a toll-free telephone number. (Sec. 215)
Hedge funds	Prohibits persons from serving as advisers or managers of both mutual funds and hedge funds. (Sec. 202)	No provision.	No provision.	Prohibits persons from serving as advisers or managers of both mutual funds and hedge funds. (Sec. 302)	Prohibits investment advisers and portfolio managers from providing services to both mutual funds and hedge funds, except as permitted by SEC exemption. (Sec. 316)
Selective disclosure	No provision.	No provision.	No provision.	No provision.	Directs the SEC to make rules to prevent selective disclosure of mutual fund portfolio contents. (Sec. 317)
Arbitration of investor disputes	SEC directed to study trends in mutual fund arbitration claims, and the reasons for the increase in such claims since 1995. (Sec. 112)	No provision	Directs the SEC to adopt rules giving complainants in mutual fund disputes the right to have their complaints heard in an independent arbitration forum. (Sec. 209)	SEC directed to study trends in mutual fund arbitration claims, and the reasons for the increase (if any) in such claims since 1995 (Sec. 406)	SEC directed to study trends in mutual fund arbitration claims since 1995, and alternative means to settle such disputes out of court. (Sec. 413)
Whistleblowers	A mutual fund's audit committee shall be responsible for monitoring complaints from fund employees and others regarding questionable accounting and auditing practices. (Sec. 104)	No provision.	No provision.	Requires funds to establish policies and procedures to protect whistleblowers from retaliation. (Sec. 301)	Funds must adopt rules to protect whistleblowers who report violations of law, regulation, or ethical standards. (Sec. 116)

Provision	H.R. 2420 (Rep. Baker)	S. 1822 (Sen. Akaka)	S. 1958 (Sen. Kerry & Kennedy)	S. 1971 (Sens. Dodd & Corzine)	S. 2059 (Sen. Fitzgerald, et al.)
Fund advertising	No provision.	No provision.	No provision.	No provision.	Directs the SEC to establish standards and benchmarks for claims regarding investment performance contained in fund advertising. (Sec. 217)
Studies and Reports Called For.					
Investment adviser conflicts of interest	No provision.	No provision.	No provision.	No provision.	SEC to study and report to Congress on conflicts between funds and advisers, whether changes in law or regulation are needed to ameliorate such conflicts or to encourage internal investment management by mutual funds. (Sec. 410)
Soft dollar arrangements and transaction costs	SEC directed to study soft dollar arrangements involving fund investment advisers — trends, amounts, benefits and costs to investors, possible conflicts of interest, and transparency — and to make legislative recommendations. (Sec. 111)	No provision.	SEC to issue a concept release and report to Congress on portfolio transaction costs, including commission, spread, opportunity, and market impact costs. (Sec. 101(h))	SEC directed to study soft dollar arrangements — trends, amounts, benefits and costs to investors, possible conflicts of interest, and transparency. (Sec. 404)	No study required, but Sec. 311 prohibits soft dollar arrangements.
Arbitration claims	SEC directed to study trends in mutual fund arbitration claims, and the reasons for the increase in such claims since 1995. (Sec. 112)	No provision.	No provision.	SEC directed to study trends in mutual fund arbitration claims, and the reasons for the increase (if any) in such claims since 1995. (Sec. 406)	SEC directed to study trends in mutual fund arbitration claims since 1995, and alternative means to settle such disputes out of court. (Sec. 413)

Provision	H.R. 2420 (Rep. Baker)	S. 1822 (Sen. Akaka)	S. 1958 (Sen. Kerry & Kennedy)	S. 1971 (Sens. Dodd & Corzine)	S. 2059 (Sen. Fitzgerald, et al.)
Creation of a Mutual Fund Oversight Board	No provision.	SEC shall study and report to Congress on the creation of an entity with inspection and enforcement authority over mutual fund boards of directors, funded by assessments on mutual funds, and appointed by the SEC. (Sec. 3(e))	No provision. (Section 101 establishes such a board.)	GAO to study the feasibility and benefits (if any) to shareholders of establishing a Mutual Fund Oversight Board with inspection, examination, and enforcement authority over mutual fund boards of directors. (Sec. 401)	Directs GAO to study the efficacy of the SEC's current organizational structure as it affects the regulation of mutual funds. (Sec. 412)
Adequacy of remedial actions	SEC to report to Congress on market timing and late trading, including (1) economic harm to long-term shareholders, (2) the SEC's findings regarding such trading practices, (3) when and how the SEC discovered that such trading was harming shareholders, (4) steps taken by the SEC to protect long-term shareholders, and (5) additional legislation or regulation needed to protect shareholders. (Sec. 206)	No provision.	No provision.	GAO directed to study the coordination of the enforcement activities of the SEC and the states. (Sec. 402) SEC to study the allocation and adequacy of its regulatory and enforcement resources devoted to mutual funds. (Sec. 403) SEC to report on economic harm caused by late trading and market timing and the SEC's actions since becoming aware of those practices. (Sec. 405)	SEC directed to study the coordination between SEC headquarters, regional offices, and state and local regulators and law enforcement. (Sec. 411)

Provision	H.R. 2420 (Rep. Baker)	S. 1822 (Sen. Akaka)	S. 1958 (Sen. Kerry & Kennedy)	S. 1971 (Sens. Dodd & Corzine)	S. 2059 (Sen. Fitzgerald, et al.)
Hedge funds	No provision.	No provision.	No provision.	No provision.	SEC directed to study whether additional regulation of hedge funds might deter trading abuses, manipulations, and distortions that affect investors in mutual funds. (Sec. 414)
Financial literacy	No provision.	SEC shall study and report to Congress on the existing level of financial literacy among mutual fund investors, what information they most need, the transparency of fee disclosure, and efforts and strategies to educate investors. (Sec. 5)	No provision.	SEC to study the existing level of financial literacy among mutual fund investors, the information most needed by investors, methods to increase transparency, and existing and improved methods of educating investors. (Sec. 501)	SEC to study means of using the Internet to increase financial literacy and to improve investor access to mutual fund filings. (Sec. 415)
Mutual fund advertising	No provision.	The GAO shall study and report to Congress on the impact and regulation of mutual fund advertising, current sales practices in the industry, and consider recommendations to improve investor protection. (Sec. 6)	No provision.	No provision.	No study required, but Sec 217 directs the SEC to establish standards and benchmarks for claims regarding investment performance contained in fund advertising.