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# THE CONGRESS PROJECT

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## *Assignment Prompt Sheet*

### **Securities Exchange Act of 1934**

#### **Overview**

**Act Title:** Securities Exchange Act of 1934

**Congress:** 73rd Congress (1933-1934)

**Session/Sessions:** 2

**Statute No:** 48 Stat. 881-909

**Public Law No:** 73 PL 291

**Eid:** 730291

**Gid:** 231-005

**Bill:** HR 9323

**Sponsor:** [Rep. Samuel Rayburn](#) (D-TX)

**House Committees:** Interstate and Foreign Commerce

**Senate Committees:** Banking and Currency

**Companion Bill:** S 3420

**Related Bills:** S 2693; HR 8720

**House Rules:** Hres 363

**Past Bills:** 72 HR 4604; 72 S 3362

**Introduced Date- Law Date:** April 30-June 6, 1934

**House Floor Days:** 6

**Senate Floor Days:** 8

**Roll Call Votes:** 10 (1 in the House on HR 9323; 9 in the Senate on S 3420)

**Issues:** economics; business reg; finance; executive power

**Procedures:** open rule; motion to recommit; amendment; failed yeas; conference

**Last Updated:** 2/15/23



(Above) The Sponsor of the Securities and Exchange Act of 1934, Rep. Sam Rayburn (D-TX). The Chairman of the Interstate and Foreign Commerce Committee in 1934, Rayburn would go on to be the longest serving Speaker in the history of the House of Representatives. When it comes to lawmaking, Rayburn is famously quoted as saying “any jackass can kick a barn down, but it takes a carpenter to build one ([Politico 2019](#)).”

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## Legislative History Comments

The Securities Exchange Act of 1934 created the U.S. Securities and Exchange Commission as an independent oversight agency to prevent market manipulation. The bill “governs securities transactions on the secondary market and gives the [SEC] regulatory oversight over self-regulatory organizations, including stock exchanges such as NASDAQ, that have quasi-governmental authority to police their members and attendant security markets ([CRS 2022](#)).” Unlike the Securities Act of 1933, the 1934 measure primarily covers secondary securities markets. The measure was credited as “curbing the worst stock market abuses of the pre-depression years ([CQ Almanac 1949](#)).”

The SEC continues to be the federal government’s primary enforcement arm against crimes such as insider trading. Like many other agencies, the SEC began to place a greater emphasis on deregulation in the 1980s. This was viewed as playing a notable role in the 2008 financial collapse by some (see e.g. [Labaton 2008](#) for an example). Since then, the SEC has been a highly salient government agency, receiving media attention for a variety of issues. These include high-profile [insider trading cases](#), [crypto-currency regulation](#) and even [climate change](#). Its high profile and policy impact have led some to question whether the contemporary Supreme Court may severely restrict it (see e.g. [Bloomberg 2022](#)).

The SEC Act is rated as the most impactful law enacted by the 73rd Congress (Clinton and Lapinski 2006). This is no small feat, as the 73<sup>rd</sup> Congress is the most impact Congress in American history.

For more on the role of the SEC in the 2008 financial collapse, “The Big Short” by Michael Lewis (and the subsequent movie) are worth looking into.

From a process standpoint, this measure is fairly straight-forward. It’s considered in the House under an open rule. After rejecting a motion to recommit with instructions [83-278](#), the bill [passed 281-84](#). The Senate considers a number of amendments, but I’d focus on a handful detailed in the outline below. The bill was amended in the Senate and adopted [62-13 margin](#). Newspapers sources suggest the bill was weakened in conference, so it’s worth spending some time discussing that. Otherwise, the conference report passes both chambers by voice vote (an attempt to force a recorded vote was rejected).

Please don’t hesitate to contact me with questions!

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## Assignments

For the sections below, you're going to want to answer the questions and write-up the process sections that correspond to your assigned number. Here they are:

#1.

#2.

#3.

## Background Questions

1. Discuss the broader political context this bill was considered in. Who controlled the House? The Senate? By how many? Who was President? Was this part of the President's agenda? What other pieces of legislation were being considered/passed in this Congress? What were the two parties' attitudes on this issue?

The Stathis (2014) piece might worth a citation here.

Specifically, with this question, discuss the Great Depression and the 1932 campaign. Did this measure play a role at all?

2. What does this act actually do? Who was pushing for it? Was it significantly altered during consideration? What were the problems it was trying to rectify? What is the SEC? How is it structured? With this question, define terms like "securities" and "margin-trading".

[CRS \(2020\)](#) might be helpful with this question.

3. What motivated consideration of this legislation in this specific Congress? Was it in response to a specific event? Or was this a slower build over time? What happened in previous congresses regarding this? Had Congress considered comparable legislation?

How did this law fit with other measures passed by the 73<sup>rd</sup> Congress? Specifically, what was the Glass-Steagall Act? What about the Securities Act of 1933. Why was this law needed?

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## Process Sections

Please write-up the sections that correspond to your number. Feel free to incorporate any notes I might have dumped in the margins. The second session indices for HR 9323 and S 3420 are available below.

**H.R. 9323**—To provide for the regulation of securities exchanges and of over-the-counter markets operating in interstate and foreign commerce and through the mails, to prevent inequitable and unfair practices on such exchanges and markets, and for other purposes.  
**Mr. Rayburn**; Committee on Interstate and Foreign Commerce, 7376.—Reported back (H.Rept. 1383), 7595.—Minority report (H.Rept. 1383, pt. 2).—Made special order (H.Res. 363), 7689–7693.—Debated, 7693–7717, 7861–7869, 7920–7957, 8007–8040, 8086–8115.—Amended and passed House, 8116.—To the table in the Senate, 8154.—Debated in Senate, 8667, 8713.—Amended by striking out all after the enacting clause and inserting in lieu thereof Senate bill 3420, as amended, 8714.—Passed Senate, 8714.—House disagrees to Senate amendment and asks conference, 8788.—Conferees appointed, 8766, 8788.—Senate insists upon its amendment and agrees to conference, 8766.—Ordered printed with the amendment of the Senate.—Conference report submitted in Senate (S.Doc. 185), 9930.—Debated, 10110, 10181.—Agreed to, 10185.—Conference report submitted in House (H.Rept. 1838), 10248.—Debated, 10265.—Agreed to, 10269.—Examined and signed, 10366, 10470.—Presented to the President, 10470.—Approved [Public, No. 291], 10847.

**S. 3420**—To provide for the regulation of securities exchanges and of over-the-counter markets operating in interstate and foreign commerce and through the mails, to prevent inequitable and unfair practices on such exchanges and markets, and for other purposes.  
**Mr. Fletcher**; Committee on Banking and Currency, 6980.—Reported back (S.Rept. 792), 6980.—Debated, 8160, 8195, 8270, 8295, 8368, 8488, 8507, 8510, 8563, 8588, 8666–8713.—H.R. 9323 substituted, 8713.

### *#1. House Consideration of HR 9323 (April 30 - May 4, 1934)*

[Rep. Samuel Rayburn](#) (D-TX) introduced HR 9323 to the House on April 25, 1934, at which point it was sent to the House Committee on Interstate and Foreign Commerce.

Prior to considering HR 9323, debated Hres 363, which provided for consideration of HR 9323 under an open rule. After a brief debate, Hres 363 was adopted by voice vote.

When floor debate began on April 30, 1934, [Rep. Adolph Sabath](#) (D-IL) described HR 9323 as “the most important piece of legislation that has ever been considered by Congress.” He noted that previous attempts to mitigate the “manipulation” of stock exchanges dated back to 1894, but each proposal had been dismissed using “the same tactics that are pursued against this bill.” He read out what he said was a “description of the stock exchange” from “an inside man,” which described the stock exchange as “the largest gambling house in the world (*Congressional Record*, 73<sup>rd</sup> Congress, April 30, 1934 7689).”

[Rep. John Cooper](#) (R-OH) said he favored granting the federal government the ability to regulate the stock exchange, but suggested the bill went too far by granting the Federal Trade Commission the ability to regulate corporations and banks:

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“Industry and business today want to be let alone for a little while. They want to try to get on their feet. They are trying to recover. They are doing everything that is humanly possible to try to bring our country back to a sound economic situation again; but they are afraid that the restrictions placed upon them in this bill will retard economic recovery and not assist it (*Congressional Record*, 73<sup>rd</sup> Congress, April 30, 1934, 7690).”

Rayburn stated that the “vicious and persistent” lobbyists favoring the New York Stock Exchange would “protest against it in any form so long as there was a tooth left in it.” He said some were coming up with “exaggerated interpretations of the bill and terroristic prophesies of general disaster” in order to stir up opposition to the regulations (*Congressional Record*, 73<sup>rd</sup> Congress, April 30, 1934 7693-7694).

On May 4, 1934, [Rep. Hamilton Fish](#) (R-NY) offered an amendment to allow legal appeals against Federal Trade Commission rulings. He noted that several members of Congress run their own businesses, and should therefore understand why this was a reasonable approach. [Rep. Charles Truax](#) (D-OH) then turned Fish’s statements against him.

“I want you to remember one thing that the gentleman from New York said... He stated that one half of the Members of this House are in business. Can you imagine what an insidious, what a damnable position that would be to take before the American people, that one half of the Members of this House of 435 Members are in private or legal business for themselves, hence their views, their voices, and their votes should be colored and determined by their own private business rather than by the business of 120,000,000 people of this great country of ours? ... The Wall Street brokers say that they favor law and order. Of course they do, so long as they can write the law and issue the orders... The gentleman may be right. Possibly he meant that one half of the Members were engaged in racketeering business (*Congressional Record*, 73<sup>rd</sup> Congress, May 4, 1934, 8089).”

Prior to voting on the measure, the House considered a motion to recommit with instructions offered by Rep. Schuyler Merritt (R-CT). This was rejected [83-278](#).

The House passed HR 9323 by [a 281 - 84 margin](#) via on May 4, 1934.

## ***#2. Senate Consideration of S 3420 & HR 9323 (May 7 - 12, 1934)***

As HR 9323 made its way through the House, the Senate Committee on Banking and Currency discussed a similar bill to regulate securities exchanges: S 3420. The Senate bill came up for debate on the Senate floor on May 7, 1934, and HR 9323 was referred to the Senate the same day. [Sen. Duncan Fletcher](#) (D-FL), the Senate bill’s sponsor, described it as the “final stage” of setting up federal supervision of securities, a follow-up to the Securities Act of 1933 (*Congressional Record*, 73<sup>rd</sup> Congress, May 7, 1934, 8161).

Most of the Senate debate regarding securities exchanges occurred in its discussions of the Senate bill, rather than the House bill. The discussions were also relatively similar to the House’s discussions on HR 9323. [Sen. Frederick Steiwer](#) (R-OR) referred to S 3420 as “one of the most important measures that Congress has had before it in a very long time (*Congressional Record*,

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73<sup>rd</sup> Congress, May 8, 1934, 8271).” Despite this, he expressed concern that the bill reached too far in its regulations and suggested it be recommitted.<sup>1</sup>

Others were blunter. Sen. Daniel Hastings (R-DE) argued against the bill, claiming “the United States cannot enact legislation to protect the suckers of the Nation (*Congressional Record*, 73<sup>rd</sup> Congress, May 10, 1934, 8490).”

The Senate considered a number of amendments, adopted several and rejected a number of controversial ones. This included an amendment by Sen. Robert Bulkley (D-OH) that “would have prohibited margin trading altogether” was also defeated ([CQ Almanac 1949](#)). This fell by a [48 to 30](#) margin on May 8th.

An amendment by Sen. Edward Costigan (D-CO) that would eliminate the SEC and allow the Federal Trade Commission to regulate securities was defeated on May 10, 1934. Costigan’s amendment was rejected [29-51](#).

And an amendment by Sen. Frederic Walcott (R-CT) that the New York Times characterized as a “series of changes submitted by the Durable Goods Industries Committee” fell [30-46](#) on May 12<sup>th</sup>. Shortly afterwards, the Senate brought up HR 9323, struck the text of it and inserted the amended S 3420. HR 9323 was then adopted by a [62-13 margin](#).<sup>2</sup>

### ***#3. Senate Consideration of the Conference Report on HR 9323 (May 31 – June 1, 1934)***

The Senate proceeded to consider the conference report on May 30, 1934.

The Senate agreed to the conference report on June 1, 1934 after a brief debate via voice vote.

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<sup>1</sup> Specifically, he argued: “The bill is not alone a stock exchange bill. It is not alone a bill to restrain and regulate brokers and dealers and to control over-the-counter transactions in securities. It is a bill which relates, in addition to the stock exchanges and to the brokers and the over-the counter markets, to the corporations of the country, and to the internal management of the affairs of those corporations. It has in it potentialities that may cause some of us to hesitate, regardless of our faith and hope that this kind of legislation will be helpful in protecting American investors against wrongdoing (*Congressional Record*, 73<sup>rd</sup> Congress, May 8, 1934, 8271).”

<sup>2</sup> “Senate Modifies Securities Act,” *New York Times*, May 13, 1934.

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## *#3. House Consideration of the Conference Report on HR 9323 (June 1, 1934)*

The New York Times noted that conferees barred one “major point of controversy...relating to the activities of bondholders’ protective committees.” This provision had been written by Fletcher, but was “subjected to steady fire from real estate organizations and corporations who complained that they would work a grave hardship rather than ease the situation.”<sup>3</sup>

Rayburn moved the House consider the conference report on June 1<sup>st</sup>, 1934. The motion was agreed to by unanimous consent. During debate, several members, like Fish, announced the changes made in conference had led them to decide to support it. Specifically, Fish praised the elimination of a “number of drastic provisions in the bill (*Congressional Record*, 73<sup>rd</sup> Congress, June 1, 1934, 10266).”

An attempt by Fish to request the yeas and nays was refused and the measure was adopted by voice vote.

President Franklin D. Roosevelt signed HR 9323 into law on June 6, 1934.

### **Member Spotlight**

Choose one of the following for your member spotlight:

**#1.** Rep. Samuel Rayburn (D-TX); [Rep. Adolph Sabath](#) (D-IL); [Rep. John Cooper](#) (R-OH); Rep. Charles Truax (D-OH); Rep. Schuyler Merritt (R-CT)

**#2.** [Sen. Duncan Fletcher](#) (D-FL); [Sen. Frederick Steiwer](#) (R-OR); Sen. Robert Bulkley (D-OH); Sen. Edward Costigan (D-CO); Sen. George Norris (R-NE)

**#3.** Sen. Carter Glass (D-VA)<sup>4</sup>; Rep. Hamilton Fish (R-NY); Sen. Frederic Walcott (R-CT); Sen. Daniel Hastings (R-DE); Rep. Everett Dirksen (R-IL)

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<sup>3</sup> “One Change Halted in Securities Act,” *New York Times*, May 25, 1934.

<sup>4</sup> A former House member, the Senate sponsor of the Glass-Steagall Act and a former Treasury secretary in the Wilson administration, Glass was a white supremacist who declined an offer to serve as Treasury secretary under Roosevelt. Glass would later coin the term “court-packing” in response to Roosevelt’s proposal to expand the Supreme Court. Roosevelt famously dubbed Glass an “unreconstructed rebel” after Glass’s continued opposition to New Deal proposals (Fink 2019). Glass was reelected in 1942 to his fourth term in office, but he was infirmed at that point. He did not attend the Senate from 1942 until his death in 1946 and was serving under a leave of absence (see Warren 2012).

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## Aftermath Questions

1. How was this act viewed upon passage? What did the newspapers say? How did the final measure differ from the one reformers were pushing?

How has this law evolved over time? Has it been featured in any major Supreme Court cases? Significantly altered by subsequent legislation?

Keller and Gehlmann (1988, 329-330), for example, argue that while the SEC Act was impactful, “one must realize that Congress enacted four additional statutes to regulate securities during this time.” They go on to mention “the Public Utilities Holding Company Act of 1935; the Trust Indenture Act of 1939; the Investment Company Act of 1940; and the Investment Advisors Act of 1940.” What did these acts do? How has the SEC changed afterwards?

2. How relevant is this law currently? Are there additional issues related to it that reformers have been pushing to change? What have scholars argued? What makes this law so impactful?

Additionally, what role (if any) did the SEC have in the 2008 financial collapse? How has it evolved since?

3. How has this act been viewed by scholars? Did it achieve its stated goals? Do scholars highlight any major limitations? Are there aspects of the bill that are viewed more favorably than others?

Discuss the relevance of this act as it pertains to contemporary policy. With this question, take us through contemporary debates over some of the issues discussed in the comments section. For example what controversies exist in terms of [insider trading cases](#), [crypto-currency regulation](#) and [climate change](#)” What about debates over the SEC’s constitutionality ([Bloomberg 2022](#))?

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## Suggested Sources

### *Scholarly Articles*

Fink, Matthew P. *The Unlikely Reformer: Carter Glass and Financial Regulation*. University of Virginia Press, 2019.

Clinton, Joshua D., and John S. Lapinski. "Measuring legislative accomplishment, 1877–1994." *American Journal of Political Science* 50.1 (2006): 232-249.

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Coffee Jr, John C., and Hillary A. Sale. "Redesigning the SEC: Does the Treasury have a better idea?." *Virginia Law Review* (2009): 707-783.

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Lewis, Michael. *The big short: Inside the doomsday machine*. Penguin UK, 2011.

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Benston, George J. "Required disclosure and the stock market: An evaluation of the Securities Exchange Act of 1934." *The American Economic Review* 63.1 (1973): 132-155.

Clark, Jane Perry. "Emergencies and the Law." *Political Science Quarterly* 49.2 (1934): 268-283.

Keller, Elisabeth, and Gregory A. Gehlmann. "Introductory comment: a historical introduction to the Securities Act of 1933 and the Securities Exchange Act of 1934." *Ohio St. LJ* 49 (1988): 329.

Clinton, Joshua D., and John S. Lapinski. "Measuring legislative accomplishment, 1877–1994." *American Journal of Political Science* 50.1 (2006): 232-249.

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Hanna, John. "The Securities Exchange Act of 1934." *California Law Review*, vol. 23, no. 1, November 1934, 1-29.

Herlands, William B. "Criminal Law Aspects of the Securities Exchange Act of 1934." *Virginia Law Review*, vol. 21, no. 2, 1934-1935, 139-204.

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## *Newspaper Pieces*

- <https://www.vox.com/2018/8/2/17639762/stock-buybacks-tax-cuts-trump-republicans>
- <https://www.vox.com/2018/8/19/17755348/trump-twitter-quarterly-earnings-sec-indra-nooyi>
- <https://www.nytimes.com/1979/10/31/archives/sec-watchdog-1929-lacked-sec-the-watchdog-1929-lacked.html>
- <https://www.nytimes.com/interactive/2016/12/06/business/dealbook/insider-trading-timeline.html>
- <https://www.nytimes.com/2010/02/16/business/16adviserside.html>
- <https://www.nytimes.com/2022/07/25/business/sec-insider-trading.html>
- <https://www.politico.com/story/2019/01/06/this-day-in-politics-january-6-1081395>
- <https://www.nytimes.com/2016/08/16/business/dealbook/blurred-lines-in-pursuing-insider-trading-cases.html>
- <https://www.theatlantic.com/magazine/archive/1934/02/the-fight-on-the-securities-act/376231/>
- <https://slate.com/business/2010/04/a-brief-history-of-alarmist-and-wrong-wall-street-predictions-about-the-effect-of-new-regulations.html>
- <https://www.washingtonpost.com/news/wonk/wp/2017/03/23/sec-nominee-to-face-tough-questions-on-wall-street-connections/>
- <https://www.vox.com/recode/2019/5/22/18629621/long-term-stock-exchange-explainer-capitalism-quarterly-earnings>
- <https://www.nytimes.com/2008/09/27/business/27sec.html>
- <https://www.npr.org/2021/12/19/1063573184/wall-streets-sec-gary-gensler-cryptocurrencies-bitcoin-spac>
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- <https://www.npr.org/2017/01/05/508408455/can-an-sec-nominee-with-ties-to-goldman-regulate-wall-street-impartially>
- <https://www.nytimes.com/2022/11/21/technology/gary-gensler-crypto-sec.html>
- <https://www.vox.com/2022/5/19/23130569/jarkesy-fifth-circuit-sec>
- <https://www.vox.com/2014/4/11/5602188/the-secs-just-been-caught-colluding-with-the-banks-its-supposed-to>
- <https://www.cnbc.com/2023/02/10/sec-weighs-making-adjustments-to-controversial-climate-risk-disclosure-rule-chairman-gensler-says.html>
- <https://www.bloomberg.com/opinion/articles/2022-05-19/is-the-sec-unconstitutional>