

110<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 6513

To amend the Federal securities laws to enhance the effectiveness of the Securities and Exchange Commission's enforcement, corporation finance, trading and markets, investment management, and examination programs, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 16, 2008

Mr. KANJORSKI (for himself, Mr. BACHUS, Mr. FRANK of Massachusetts, Ms. PRYCE of Ohio, Mr. MEEKS of New York, Mr. CAMPBELL of California, Ms. BEAN, Mr. DAVIS of Kentucky, Mr. HINOJOSA, Mr. ROSKAM, Mr. MOORE of Kansas, Mr. CASTLE, Mr. SCOTT of Georgia, Mr. SHAYS, Mr. HODES, and Mrs. CAPITO) introduced the following bill; which was referred to the Committee on Financial Services

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## A BILL

To amend the Federal securities laws to enhance the effectiveness of the Securities and Exchange Commission's enforcement, corporation finance, trading and markets, investment management, and examination programs, 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. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Securities Act of 2008”.

1 (b) TABLE OF CONTENTS.—The table of contents for  
 2 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Authority to impose civil penalties in cease and desist proceedings.
- Sec. 3. Formerly associated persons.
- Sec. 4. Scope of exemption from State securities regulation.
- Sec. 5. Covered securities.
- Sec. 6. Collateral bars.
- Sec. 7. Unlawful margin lending.
- Sec. 8. Securities Investor Protection Act of 1970 amendments.
- Sec. 9. Annual testimony on reducing complexity in financial reporting.
- Sec. 10. Equal treatment for self-regulatory organization rules.
- Sec. 11. Lost and stolen securities.
- Sec. 12. Fingerprinting.
- Sec. 13. Clarification that section 205 of the Investment Advisers Act of 1940  
 does not apply to State-registered advisers.
- Sec. 14. Amendments to section 31 of the Securities Exchange Act of 1934.
- Sec. 15. Protecting confidentiality of materials submitted to Commission.
- Sec. 16. Sharing privileged information with other authorities.
- Sec. 17. Technical corrections.
- Sec. 18. Conforming amendments for the repeal of the Public Utility Holding  
 Company Act of 1935.
- Sec. 19. Nationwide service of subpoenas.

3 **SEC. 2. AUTHORITY TO IMPOSE CIVIL PENALTIES IN CEASE**  
 4 **AND DESIST PROCEEDINGS.**

5 (a) UNDER THE SECURITIES ACT OF 1933.—Section  
 6 8A of the Securities Act of 1933 (15 U.S.C. 77h–1) is  
 7 amended by adding at the end the following new sub-  
 8 section:

9 “(g) AUTHORITY TO IMPOSE MONEY PENALTIES.—

10 “(1) GROUNDS FOR IMPOSING.—In any cease-  
 11 and-desist proceeding under subsection (a), the  
 12 Commission may impose a civil penalty on a person  
 13 if it finds, on the record after notice and opportunity  
 14 for hearing, that—

15 “(A) such person—

1           “(i) is violating or has violated any  
2           provision of this title, or any rule or regu-  
3           lation thereunder; or

4           “(ii) is or was a cause of the violation  
5           of any provision of this title, or any rule or  
6           regulation thereunder; and

7           “(B) such penalty is in the public interest.

8           “(2) MAXIMUM AMOUNT OF PENALTY.—

9           “(A) FIRST TIER.—The maximum amount  
10          of penalty for each act or omission described in  
11          paragraph (1) shall be \$6,500 for a natural  
12          person or \$65,000 for any other person.

13          “(B) SECOND TIER.—Notwithstanding  
14          paragraph (A), the maximum amount of pen-  
15          alty for each such act or omission shall be  
16          \$65,000 for a natural person or \$325,000 for  
17          any other person if the act or omission de-  
18          scribed in paragraph (1) involved fraud, deceit,  
19          manipulation, or deliberate or reckless dis-  
20          regard of a regulatory requirement.

21          “(C) THIRD TIER.—Notwithstanding para-  
22          graphs (A) and (B), the maximum amount of  
23          penalty for each such act or omission shall be  
24          \$130,000 for a natural person or \$650,000 for  
25          any other person if—

1           “(i) the act or omission described in  
2           paragraph (1) involved fraud, deceit, ma-  
3           nipulation, or deliberate or reckless dis-  
4           regard of a regulatory requirement; and

5           “(ii) such act or omission directly or  
6           indirectly resulted in substantial losses or  
7           created a significant risk of substantial  
8           losses to other persons or resulted in sub-  
9           stantial pecuniary gain to the person who  
10          committed the act or omission.

11          “(3) EVIDENCE CONCERNING ABILITY TO  
12          PAY.—In any proceeding in which the Commission  
13          may impose a penalty under this section, a respond-  
14          ent may present evidence of the respondent’s ability  
15          to pay such penalty. The Commission may, in its  
16          discretion, consider such evidence in determining  
17          whether such penalty is in the public interest. Such  
18          evidence may relate to the extent of such person’s  
19          ability to continue in business and the collectability  
20          of a penalty, taking into account any other claims of  
21          the United States or third parties upon such per-  
22          son’s assets and the amount of such person’s as-  
23          sets.”.

24          (b) UNDER THE SECURITIES EXCHANGE ACT OF  
25          1934.—Subsection (a) of section 21B of the Securities

1 Exchange Act of 1934 (15 U.S.C. 78u-2(a)) is amend-  
2 ed—

3 (1) by striking “(a) COMMISSION AUTHORITY  
4 TO ASSESS MONEY PENALTIES.—In any pro-  
5 ceeding” and inserting the following:

6 “(a) COMMISSION AUTHORITY TO ASSESS MONEY  
7 PENALTIES.—

8 “(1) IN GENERAL.—In any proceeding”;

9 (2) by redesignating paragraphs (1) through  
10 (4) of such subsection as subparagraphs (A) through  
11 (D), respectively and moving such redesignated sub-  
12 paragraphs and the matter following such subpara-  
13 graphs 2 ems to the right; and

14 (3) by adding at the end of such subsection the  
15 following new paragraph:

16 “(2) CEASE-AND-DESIST PROCEEDINGS.—In  
17 any proceeding instituted pursuant to section 21C of  
18 this title against any person, the Commission may  
19 impose a civil penalty if it finds, on the record after  
20 notice and opportunity for hearing, that such per-  
21 son—

22 “(A) is violating or has violated any provi-  
23 sion of this title, or any rule or regulation  
24 thereunder; or

1           “(B) is or was a cause of the violation of  
2           any provision of this title, or any rule or regula-  
3           tion thereunder.”.

4           (c) UNDER THE INVESTMENT COMPANY ACT OF  
5 1940.—Paragraph (1) of section 9(d) of the Investment  
6 Company Act of 1940 (15 U.S.C. 80a-9(d)(1)) is amend-  
7 ed—

8           (1) by striking “(1) AUTHORITY OF COMMIS-  
9           SION.—In any proceeding” and inserting the fol-  
10          lowing:

11           “(1) AUTHORITY OF COMMISSION.—

12           “(A) IN GENERAL.—In any proceeding”;

13           (2) by redesignating subparagraphs (A) through  
14           (C) of such paragraph as clauses (i) through (iii),  
15           respectively and by moving such redesignated clauses  
16           and the matter following such subparagraphs 2 ems  
17           to the right; and

18           (3) by adding at the end of such paragraph the  
19           following new subparagraph:

20           “(B) CEASE-AND-DESIST PROCEEDINGS.—

21           In any proceeding instituted pursuant to sub-  
22           section (f) against any person, the Commission  
23           may impose a civil penalty if it finds, on the  
24           record after notice and opportunity for hearing,  
25           that such person—

1                   “(i) is violating or has violated any  
2                   provision of this title, or any rule or regu-  
3                   lation thereunder; or

4                   “(ii) is or was a cause of the violation  
5                   of any provision of this title, or any rule or  
6                   regulation thereunder.”.

7           (d) UNDER THE INVESTMENT ADVISERS ACT OF  
8 1940.—Paragraph (1) of section 203(i) of the Investment  
9 Advisers Act of 1940 (15 U.S.C. 80b–3(i)(1)) is amend-  
10 ed—

11                   (1) by striking “(1) AUTHORITY OF COMMIS-  
12                   SION.—In any proceeding” and inserting the fol-  
13                   lowing:

14                   “(1) AUTHORITY OF COMMISSION.—

15                   “(A) IN GENERAL.—In any proceeding”;

16                   (2) by redesignating subparagraphs (A) through  
17                   (D) of such paragraph as clauses (i) through (iv),  
18                   respectively and moving such redesignated clauses  
19                   and the matter following such subparagraphs 2 ems  
20                   to the right; and

21                   (3) by adding at the end of such paragraph the  
22                   following new subparagraph:

23                   “(B) CEASE-AND-DESIST PROCEEDINGS.—

24                   In any proceeding instituted pursuant to sub-  
25                   section (k) against any person, the Commission

1           may impose a civil penalty if it finds, on the  
2           record after notice and opportunity for hearing,  
3           that such person—

4                   “(i) is violating or has violated any  
5                   provision of this title, or any rule or regu-  
6                   lation thereunder; or

7                   “(ii) is or was a cause of the violation  
8                   of any provision of this title, or any rule or  
9                   regulation thereunder.”.

10 **SEC. 3. FORMERLY ASSOCIATED PERSONS.**

11           (a) **MEMBER OR EMPLOYEE OF THE MUNICIPAL SE-**  
12 **CURITIES RULEMAKING BOARD.**—Section 15B(c)(8) of  
13 the Securities Exchange Act of 1934 (15 U.S.C. 78o–  
14 4(c)(8)) is amended by striking “any member or em-  
15 ployee” and inserting “any person who is, or at the time  
16 of the alleged misconduct was, a member or employee”.

17           (b) **PERSON ASSOCIATED WITH A GOVERNMENT SE-**  
18 **CURITIES BROKER OR DEALER.**—Section 15C of the Se-  
19 curities Exchange Act of 1934 (15 U.S.C. 78o–5) is  
20 amended—

21                   (1) in subsection (c)(1)(C), by striking “or  
22                   seeking to become associated,” and inserting “seek-  
23                   ing to become associated, or, at the time of the al-  
24                   leged misconduct, associated or seeking to become  
25                   associated”;

1           (2) in subsection (c)(2)(A), by inserting “, seek-  
2           ing to become associated, or, at the time of the al-  
3           leged misconduct, associated or seeking to become  
4           associated” after “any person associated”; and

5           (3) in subsection (c)(2)(B), by inserting “,  
6           seeking to become associated, or, at the time of the  
7           alleged misconduct, associated or seeking to become  
8           associated” after “any person associated”.

9           (c) PERSON ASSOCIATED WITH A MEMBER OF A NA-  
10          TIONAL SECURITIES EXCHANGE OR REGISTERED SECURI-  
11          TIES ASSOCIATION.—Section 21(a)(1) of the Securities  
12          Exchange Act of 1934 (15 U.S.C. 78u(a)(1)) is amended  
13          by inserting “, or, as to any act or practice, or omission  
14          to act, while associated with a member, formerly associ-  
15          ated” after “member or a person associated”.

16          (d) PARTICIPANT OF A REGISTERED CLEARING  
17          AGENCY.—Section 21(a)(1) of the Securities Exchange  
18          Act of 1934 (15 U.S.C. 78u(a)(1)) is amended by insert-  
19          ing “or, as to any act or practice, or omission to act, while  
20          a participant, was a participant,” after “in which such  
21          person is a participant,”.

22          (e) OFFICER OR DIRECTOR OF A SELF-REGULATORY  
23          ORGANIZATION.—Section 19(h)(4) of the Securities Ex-  
24          change Act of 1934 (15 U.S.C. 78s(h)(4)) is amended—

1 (1) by striking “any officer or director” and in-  
2 sserting “any person who is, or at the time of the al-  
3 leged misconduct was, an officer or director”; and

4 (2) by striking “such officer or director” and  
5 inserting “such person”.

6 (f) OFFICER OR DIRECTOR OF AN INVESTMENT COM-  
7 PANY.—Section 36(a) of the Investment Company Act of  
8 1940 (15 U.S.C. 80a–35(a)) is amended—

9 (1) by striking “a person serving or acting” and  
10 inserting “a person who is, or at the time of the al-  
11 leged misconduct was, serving or acting”; and

12 (2) by striking “such person so serves or acts”  
13 and inserting “such person so serves or acts, or at  
14 the time of the alleged misconduct, so served or  
15 acted”.

16 **SEC. 4. SCOPE OF EXEMPTION FROM STATE SECURITIES**  
17 **REGULATION.**

18 Section 18(b)(1) of the Securities Act of 1933 (15  
19 U.S.C. 77r(b)(1)) is amended—

20 (1) in subparagraph (A)—

21 (A) by striking “or the American Stock  
22 Exchange, or listed, or authorized for listing, on  
23 the National Market System of the Nasdaq  
24 Stock Market (or any successor to such enti-  
25 ties)” and inserting “, the American Stock Ex-

1 change, or the Nasdaq Stock Market (or any  
2 successor to such entities)”; and

3 (B) by inserting before the semicolon the  
4 following: “, except that a security listed, or au-  
5 thorized for listing, on the New York Stock Ex-  
6 change, the American Stock Exchange, or the  
7 Nasdaq Stock Market (or any successor to such  
8 entities) shall not be a covered security if the  
9 exchange adopts listing standards pursuant to  
10 section 19(b) of the Securities Exchange Act of  
11 1934 (15 U.S.C. 78s(b)) that designates a tier  
12 or segment of such securities as securities that  
13 are not covered securities for purposes of this  
14 section and such security is listed, or authorized  
15 for listing, on such tier or segment”; and

16 (2) in subparagraph (B), by inserting “covered”  
17 after “applicable to”.

18 **SEC. 5. COVERED SECURITIES.**

19 (a) WARRANTS AND RIGHTS.—Section 18(b)(1) of  
20 the Securities Act of 1933 (15 U.S.C. 77r(b)(1)) is  
21 amended—

22 (1) in subparagraph (B), by striking “or” at  
23 the end;

24 (2) in subparagraph (C), by striking the period  
25 at the end and inserting “; or”; and

1 (3) by adding at the end the following:

2 “(D) a warrant or right to subscribe to or  
3 purchase any of the foregoing.”.

4 (b) EXEMPT OFFERINGS.—Section 18(b)(4)(D) of  
5 the Securities Act of 1933 (15 U.S.C. 77r(b)(4)(D)) is  
6 amended to read as follows:

7 “(D) Commission rules or regulations  
8 issued under section 4(2), except that this sub-  
9 paragraph does not prohibit a State from im-  
10 posing notice filing requirements that are sub-  
11 stantially similar to those required by rule or  
12 regulation under section 4(2) that are in effect  
13 on September 1, 1996, including information  
14 corresponding to that in all the parts and the  
15 appendix to Form D.”.

16 **SEC. 6. COLLATERAL BARS.**

17 (a) SECTION 15(b)(6)(A) OF THE SECURITIES EX-  
18 CHANGE ACT OF 1934.—Section 15(b)(6)(A) of the Secu-  
19 rities Exchange Act of 1934 (15 U.S.C. 78o(b)(6)(A)) is  
20 amended by striking “12 months, or bar such person from  
21 being associated with a broker or dealer,” and inserting  
22 “12 months, or bar any such person from being associated  
23 with a broker, dealer, investment adviser, municipal secu-  
24 rities dealer, or transfer agent,”.

1           (b) SECTION 15B(c)(4) OF THE SECURITIES EX-  
2 CHANGE ACT OF 1934.—Section 15B(c)(4) of the Securi-  
3 ties Exchange Act of 1934 (15 U.S.C. 78o–4(c)(4)) is  
4 amended by striking “twelve months or bar any such per-  
5 son from being associated with a municipal securities deal-  
6 er,” and inserting “twelve months or bar any such person  
7 from being associated with a broker, dealer, investment  
8 adviser, municipal securities dealer, or transfer agent,”.

9           (c) SECTION 17A(e)(4)(C) OF THE SECURITIES EX-  
10 CHANGE ACT OF 1934.—Section 17A(e)(4)(C) of the Se-  
11 curities Exchange Act of 1934 (15 U.S.C. 78q–1(e)(4)(C))  
12 is amended by striking “twelve months or bar any such  
13 person from being associated with the transfer agent,”  
14 and inserting “twelve months or bar any such person from  
15 being associated with any transfer agent, broker, dealer,  
16 investment adviser, or municipal securities dealer,”.

17           (d) SECTION 203(f) OF THE INVESTMENT ADVISERS  
18 ACT OF 1940.—Section 203(f) of the Investment Advisers  
19 Act of 1940 (15 U.S.C. 80b–3(f)) is amended by striking  
20 “twelve months or bar any such person from being associ-  
21 ated with an investment adviser,” and inserting “twelve  
22 months or bar any such person from being associated with  
23 an investment adviser, broker, dealer, municipal securities  
24 dealer, or transfer agent,”.

1 **SEC. 7. UNLAWFUL MARGIN LENDING.**

2 Section 7(c)(1)(A) of the Securities Exchange Act of  
3 1934 (15 U.S.C. 78g(c)(1)(A)) is amended by striking “;  
4 and” and inserting “; or”.

5 **SEC. 8. SECURITIES INVESTOR PROTECTION ACT OF 1970**  
6 **AMENDMENTS.**

7 (a) SIPC ADVANCES.—Section 9(a)(1) of the Securi-  
8 ties Investor Protection Act of 1970 (15 U.S.C. 78fff-  
9 3(a)(1)) is amended by inserting “or options on com-  
10 modity futures contracts” after “claim for securities”.

11 (b) DEFINITIONS.—Section 16 of such Act (15  
12 U.S.C. 78ll) is amended—

13 (1) by amending paragraph (2) to read as fol-  
14 lows:

15 “(2) CUSTOMER.—

16 “(A) IN GENERAL.—The term ‘customer’  
17 of a debtor means any person (including any  
18 person with whom the debtor deals as principal  
19 or agent) who has a claim on account of securi-  
20 ties received, acquired, or held by the debtor in  
21 the ordinary course of its business as a broker  
22 or dealer from or for the securities accounts of  
23 such person for safekeeping, with a view to sale,  
24 to cover consummated sales, pursuant to pur-  
25 chases, as collateral, security, or for purposes of  
26 effecting transfer.

1           “(B) INCLUDED PERSONS.—The term  
2           ‘customer’ includes—

3                   “(i) any person who has deposited  
4                   cash with the debtor for the purpose of  
5                   purchasing securities;

6                   “(ii) any person who has a claim  
7                   against the debtor for cash, securities, fu-  
8                   tures contracts, or options on futures con-  
9                   tracts received, acquired, or held in a port-  
10                  folio margining account carried as a secu-  
11                  rities account pursuant to a portfolio mar-  
12                  gining program approved by the Commis-  
13                  sion; and

14                  “(iii) any person who has a claim  
15                  against the debtor arising out of sales or  
16                  conversions of such securities.

17           “(C) EXCLUDED PERSONS.—The term  
18           ‘customer’ does not include—

19                   “(i) any person to the extent that the  
20                   claim of such person arises out of trans-  
21                   actions with a foreign subsidiary of a mem-  
22                   ber of SIPC; or

23                   “(ii) any person to the extent that  
24                   such person has a claim for cash or securi-  
25                   ties which by contract, agreement, or un-

1           derstanding, or by operation of law, is part  
2           of the capital of the debtor, or is subordi-  
3           nated to the claims of any or all creditors  
4           of the debtor, notwithstanding that some  
5           ground exists for declaring such contract,  
6           agreement, or understanding void or void-  
7           able in a suit between the claimant and the  
8           debtor.”;

9           (2) in paragraph (4), by inserting after the first  
10          sentence the following new sentence: “In the case of  
11          portfolio margining accounts of customers that are  
12          carried as securities accounts pursuant to a portfolio  
13          margining program approved by the Commission,  
14          such term shall also include futures contracts and  
15          options on futures contracts received, acquired, or  
16          held by or for the account of a debtor from or for  
17          such accounts, and the proceeds thereof.”;

18          (3) in paragraph (9), by inserting before “Such  
19          term” in the matter following subparagraph (L) the  
20          following: “The term includes revenues earned by a  
21          broker or dealer in connection with transactions in  
22          customers’ portfolio margining accounts carried as  
23          securities accounts pursuant to a portfolio margining  
24          program approved by the Commission.”; and

25          (4) in paragraph (11)—

1 (A) by amending subparagraph (A) to read  
2 as follows:

3 “(A) calculating the sum which would have  
4 been owed by the debtor to such customer if the  
5 debtor had liquidated, by sale or purchase on  
6 the filing date—

7 “(i) all securities positions of such  
8 customer (other than customer name secu-  
9 rities reclaimed by such customer); and

10 “(ii) all positions in futures contracts  
11 and options on futures contracts held in a  
12 portfolio margining account carried as a  
13 securities account pursuant to a portfolio  
14 margining program approved by the Com-  
15 mission; minus”; and

16 (B) by inserting before “In determining”  
17 in the matter following subparagraph (C) the  
18 following: “A claim for a commodity futures  
19 contract received, acquired, or held in a port-  
20 folio margining account pursuant to a portfolio  
21 margining program approved by the Commis-  
22 sion, or a claim for a security futures contract,  
23 shall be deemed to be a claim for the mark-to-  
24 market (variation) payments due with respect

1 to such contract as of the filing date, and such  
2 claim shall be treated as a claim for cash.”.

3 **SEC. 9. ANNUAL TESTIMONY ON REDUCING COMPLEXITY IN**  
4 **FINANCIAL REPORTING.**

5 (a) FINDINGS.—Congress finds the following:

6 (1) Transparent and clear financial reporting is  
7 integral to the continued growth and strength of our  
8 capital markets and the confidence of investors.

9 (2) The increasing detail and volume of ac-  
10 counting, auditing, and reporting guidance pose a  
11 major challenge.

12 (3) The complexity of accounting and auditing  
13 standards in the United States has added to the  
14 costs and effort involved in financial reporting.

15 (b) TESTIMONY REQUIRED ON REDUCING COM-  
16 PLEXITY IN FINANCIAL REPORTING.—The Securities and  
17 Exchange Commission, the Financial Accounting Stand-  
18 ards Board, and the Public Company Accounting Over-  
19 sight Board shall annually provide oral testimony by their  
20 respective Chairpersons or a designee of the Chairperson,  
21 beginning in 2009, and for 5 years thereafter, to the Com-  
22 mittee on Financial Services of the House of Representa-  
23 tives on their efforts to reduce the complexity in financial  
24 reporting to provide more accurate and clear financial in-  
25 formation to investors, including—

1 (1) reassessing complex and outdated account-  
2 ing standards;

3 (2) improving the understandability, consist-  
4 ency, and overall usability of the existing accounting  
5 and auditing literature;

6 (3) developing principles-based accounting  
7 standards;

8 (4) encouraging the use and acceptance of  
9 interactive data; and

10 (5) promoting disclosures in “plain English”.

11 **SEC. 10. EQUAL TREATMENT FOR SELF-REGULATORY OR-**  
12 **GANIZATION RULES.**

13 Section 29(a) of the Securities Exchange Act of 1934  
14 (15 U.S.C. 78cc(a)) is amended by striking “an exchange  
15 required thereby” and inserting “a self-regulatory organi-  
16 zation”.

17 **SEC. 11. LOST AND STOLEN SECURITIES.**

18 Section 17(f)(1) of the Securities Exchange Act of  
19 1934 (15 U.S.C. 78q(f)(1)) is amended—

20 (1) in subparagraph (A), by striking “missing,  
21 lost, counterfeit, or stolen securities” and inserting  
22 “securities that are missing, lost, counterfeit, stolen,  
23 cancelled, or any other category of securities as the  
24 Commission, by rule, may prescribe”; and

1           (2) in subparagraph (B), by striking “or sto-  
2           len” and inserting “stolen, cancelled, or reported in  
3           such other manner as the Commission, by rule, may  
4           prescribe”.

5 **SEC. 12. FINGERPRINTING.**

6           Section 17(f)(2) of the Securities Exchange Act of  
7 1934 (15 U.S.C. 78q(f)(2)) is amended—

8           (1) by striking “and registered clearing agen-  
9           cy,” and inserting “registered clearing agency, reg-  
10          istered securities information processor, national se-  
11          curities exchange, and national securities associa-  
12          tion”; and

13          (2) by striking “or clearing agency,” and insert-  
14          ing “clearing agency, securities information proc-  
15          essor, national securities exchange, or national secu-  
16          rities association,”.

17 **SEC. 13. CLARIFICATION THAT SECTION 205 OF THE IN-**  
18 **VESTMENT ADVISERS ACT OF 1940 DOES NOT**  
19 **APPLY TO STATE-REGISTERED ADVISERS.**

20          Section 205(a) of the Investment Advisers Act of  
21 1940 (15 U.S.C. 80b-5(a)) is amended—

22          (1) by striking “, unless exempt from registra-  
23          tion pursuant to section 203(b),” and inserting  
24          “registered or required to be registered with the  
25          Commission”;

1           (2) by striking “make use of the mails or any  
2           means or instrumentality of interstate commerce, di-  
3           rectly or indirectly, to”; and

4           (3) by striking “to” after “in any way”.

5 **SEC. 14. AMENDMENTS TO SECTION 31 OF THE SECURITIES**

6                           **EXCHANGE ACT OF 1934.**

7           Section 31 of the Securities Exchange Act of 1934  
8 (15 U.S.C. 78ee) is amended—

9           (1) in subsection (e)(2), by striking “September  
10          30” and inserting “September 25”; and

11          (2) in subsection (g), by striking “April 30”  
12          and inserting “August 31”.

13 **SEC. 15. PROTECTING CONFIDENTIALITY OF MATERIALS**

14                           **SUBMITTED TO COMMISSION.**

15          (a) SECURITIES EXCHANGE ACT OF 1934.—Section  
16 17(j) of the Securities Exchange Act of 1934 (15 U.S.C.  
17 78q(j)) is amended to read as follows:

18          “(j) AUTHORITY TO LIMIT DISCLOSURE OF INFOR-  
19 MATION.—Notwithstanding any other provision of law, the  
20 Commission shall not be compelled to disclose any infor-  
21 mation, documents, records, or reports that relate to an  
22 examination of a person subject to or described in this  
23 section, including subsection (i)(5)(A), or the financial or  
24 operational condition of such persons, or any information  
25 supplied to the Commission by any domestic or foreign

1 regulatory agency that relates to the financial or oper-  
2 ational condition of such persons, of any associated person  
3 of such persons, or any affiliate of an investment bank  
4 holding company. Nothing in this subsection shall author-  
5 ize the Commission to withhold information from Con-  
6 gress, or prevent the Commission from complying with a  
7 request for information from any other Federal depart-  
8 ment or agency or any self-regulatory organization re-  
9 questing the information for purposes within the scope of  
10 its jurisdiction. Nothing in this subsection shall prevent  
11 the Commission from complying with an order of a court  
12 of the United States in an action brought by the United  
13 States or the Commission against such a person to  
14 produce information, documents, records, or reports relat-  
15 ing directly to the examination of that person or the finan-  
16 cial or operational condition of that person or an associ-  
17 ated or affiliated person of that person. For purposes of  
18 section 552 of title 5, United States Code, this subsection  
19 shall be considered a statute described in subsection  
20 (b)(3)(B) of such section 552. In prescribing regulations  
21 to carry out the requirements of this subsection, the Com-  
22 mission shall designate information described in or ob-  
23 tained pursuant to subparagraphs (A), (B), and (C) of  
24 subsection (i)(3) as confidential information for purposes  
25 of section 24(b)(2) of this title.”.

1 (b) INVESTMENT COMPANY ACT OF 1940.—Section  
2 31(b) of the Investment Company Act of 1940 (15 U.S.C.  
3 80a–30(b)) is amended by adding at the end the following:

4 “(4) CONFIDENTIALITY.—Notwithstanding any  
5 other provision of law, the Commission shall not be  
6 compelled to disclose any information, documents,  
7 records, or reports that relate to an examination of  
8 a person subject to or described in this section.  
9 Nothing in this subsection shall authorize the Com-  
10 mission to withhold information from Congress, or  
11 prevent the Commission from complying with a re-  
12 quest for information from any other Federal de-  
13 partment or agency requesting the information for  
14 purposes within the scope of its jurisdiction. Nothing  
15 in this subsection shall prevent the Commission from  
16 complying with an order of a court of the United  
17 States in an action brought by the United States or  
18 the Commission against such a person to produce in-  
19 formation, documents, records, or reports relating  
20 directly to the examination of that person or the fi-  
21 nancial or operational condition of that person or an  
22 associated or affiliated person of that person. For  
23 purposes of section 552 of title 5, United States  
24 Code, this subsection shall be considered a statute

1 described in subsection (b)(3)(B) of such section  
2 552.”.

3 (c) INVESTMENT ADVISERS ACT OF 1940.—Section  
4 204 of the Investment Advisers Act of 1940 (15 U.S.C.  
5 80b–4) is amended by adding at the end the following new  
6 subsection:

7 “(d) CONFIDENTIALITY.—Notwithstanding any other  
8 provision of law, the Commission shall not be compelled  
9 to disclose any information, documents, records, or reports  
10 that relate to an examination of a person subject to or  
11 described in this section. Nothing in this subsection shall  
12 authorize the Commission to withhold information from  
13 Congress, or prevent the Commission from complying with  
14 a request for information from any other Federal depart-  
15 ment or agency requesting the information for purposes  
16 within the scope of its jurisdiction. Nothing in this sub-  
17 section shall prevent the Commission from complying with  
18 an order of a court of the United States in an action  
19 brought by the United States or the Commission against  
20 such a person to produce information, documents, records,  
21 or reports relating directly to the examination of that per-  
22 son or the financial or operational condition of that person  
23 or an associated or affiliated person of that person. For  
24 purposes of section 552 of title 5, United States Code,

1 this subsection shall be considered a statute described in  
2 subsection (b)(3)(B) of such section 552.”.

3 **SEC. 16. SHARING PRIVILEGED INFORMATION WITH OTHER**  
4 **AUTHORITIES.**

5 Section 24 of the Securities Exchange Act of 1934  
6 (15 U.S.C. 78x) is amended—

7 (1) by redesignating subsections (d) and (e) as  
8 subsections (e) and (f), respectively;

9 (2) in subsection (e), as redesignated, by strik-  
10 ing “as provided in subsection (e)” and inserting “as  
11 provided in subsection (f)”;

12 (3) by inserting after subsection (c) the fol-  
13 lowing new subsection (d)—

14 “(d) SHARING PRIVILEGED INFORMATION WITH  
15 OTHER AUTHORITIES.—

16 “(1) PRIVILEGED INFORMATION PROVIDED BY  
17 THE COMMISSION.—The Commission shall not be  
18 deemed to have waived any privilege applicable to  
19 any information by transferring that information to  
20 or permitting that information to be used by—

21 “(A) any agency (as defined in section 6 of  
22 title 18, United States Code);

23 “(B) any foreign securities authority;

24 “(C) any foreign law enforcement author-  
25 ity; or

1           “(D) any State securities or law enforce-  
2           ment authority.

3           “(2) NON-DISCLOSURE OF PRIVILEGED INFOR-  
4           MATION PROVIDED TO THE COMMISSION.—Except as  
5           provided in subsection (f), the Commission shall not  
6           be compelled to disclose privileged information ob-  
7           tained from any foreign securities authority, or for-  
8           eign law enforcement authority, if the authority has  
9           in good faith determined and represented to the  
10          Commission that the information is privileged.

11          “(3) NON-WAIVER OF PRIVILEGED INFORMA-  
12          TION PROVIDED TO THE COMMISSION.—No Federal  
13          agency or State securities or law enforcement au-  
14          thority shall be deemed to have waived any privilege  
15          applicable to any information by transferring that  
16          information to or permitting that information to be  
17          used by the Commission.

18          “(4) DEFINITIONS.—For purposes of this sub-  
19          section:

20                 “(A) The term ‘privilege’ includes any  
21                 work-product privilege, attorney-client privilege,  
22                 governmental privilege, or other privilege recog-  
23                 nized under Federal, Foreign, or State law.

24                 “(B) The term ‘foreign law enforcement  
25                 authority’ means any foreign authority that is

1           empowered under foreign law to detect, inves-  
2           tigate or prosecute potential violations of law.

3           “(C) The term ‘State securities or law en-  
4           forcement authority’ means the authority of any  
5           State or territory that is empowered under  
6           State or territory law to detect, investigate or  
7           prosecute potential violations of law.”.

8 **SEC. 17. TECHNICAL CORRECTIONS.**

9           (a) SECURITIES ACT OF 1933.—The Securities Act  
10 of 1933 (15 U.S.C. 77a et seq.) is amended—

11           (1) in section 3(a)(4) (15 U.S.C. 77c(a)(4)), by  
12           striking “individual;” and inserting “individual;”;

13           (2) in section 18(b)(1)(C) (15 U.S.C.  
14           77r(b)(1)(C)), by striking “is a security” and insert-  
15           ing “a security”;

16           (3) in section 18(c)(2)(B)(i) (15 U.S.C.  
17           77r(c)(2)(B)(i)), by striking “State, or” and insert-  
18           ing “State or”;

19           (4) in section 19(d)(6)(A) (15 U.S.C.  
20           77s(d)(6)(A)), by striking “in paragraph (1) of (3)”  
21           and inserting “in paragraph (1) or (3)”;

22           (5) in section 27A(c)(1)(B)(ii) (15 U.S.C. 77z-  
23           2(c)(1)(B)(ii)), by striking “business entity;” and in-  
24           serting “business entity;”.

1 (b) SECURITIES EXCHANGE ACT OF 1934.—The Se-  
2 curities Exchange Act of 1934 (15 U.S.C. 78 et seq.) is  
3 amended—

4 (1) in section 2(1)(a) (15 U.S.C. 78b(1)(a)), by  
5 striking “affected” and inserting “effected”;

6 (2) in section 3(a)(55)(A) (15 U.S.C.  
7 78c(a)(55)(A)), by striking “section 3(a)(12) of the  
8 Securities Exchange Act of 1934” and inserting  
9 “section 3(a)(12) of this Act”;

10 (3) in section 3(g) (15 U.S.C. 78c(g)), by strik-  
11 ing “company, account person, or entity” and insert-  
12 ing “company, account, person, or entity”;

13 (4) in section 10A(i)(1)(B)(i) (15 U.S.C. 78j-  
14 1(i)(1)(B)(i)), by striking “nonaudit” and inserting  
15 “non-audit”;

16 (5) in section 13(b)(1) (15 U.S.C. 78m(b)(1)),  
17 by striking “earning statement” and inserting  
18 “earnings statement”;

19 (6) in section 15(b)(1) (15 U.S.C. 78o(b)(1))—

20 (A) by striking the sentence beginning  
21 “The order granting” and ending “from such  
22 membership.” in subparagraph (B); and

23 (B) by inserting such sentence in the mat-  
24 ter following such subparagraph after “are sat-  
25 isfied.”;

1           (7) in section 15 (15 U.S.C. 78o), by redesignig-  
2           nating subsection (i), as added by section 303(f) of  
3           the Commodity Futures Modernization Act of 2000  
4           (114 Stat. 2763A–455), as subsection (j);

5           (8) in section 15C(a)(2) (15 U.S.C. 78o–  
6           5(a)(2))—

7                   (A) by redesignating clauses (i) and (ii) as  
8                   subparagraphs (A) and (B), respectively;

9                   (B) by striking the sentence beginning  
10                   “The order granting” and ending “from such  
11                   membership.” in such subparagraph (B), as re-  
12                   designated; and

13                   (C) by inserting such sentence in the mat-  
14                   ter following such redesignated subparagraph  
15                   after “are satisfied.”;

16           (9) in section 16(a)(2)(C) (15 U.S.C.  
17           78p(a)(2)(C)), by striking “section 206(b)” and in-  
18           serting “section 206B”;

19           (10) in section 17(b)(1)(B) (15 U.S.C.  
20           78q(b)(1)(B)), by striking “15A(k) gives” and in-  
21           serting “15A(k), give”; and

22           (11) in section 21C(c)(2) (15 U.S.C. 78u–  
23           3(c)(2)), by striking “paragraph (1) subsection” and  
24           inserting “Paragraph (1)”.

1 (c) TRUST INDENTURE ACT OF 1939.—The Trust  
2 Indenture Act of 1939 (15 U.S.C. 77aaa et seq.) is  
3 amended—

4 (1) in section 304(b) (15 U.S.C. 77ddd(b)), by  
5 striking “section 2 of such Act” and inserting “sec-  
6 tion 2(a) of such Act”;

7 (2) in section 313(a)(4) (15 U.S.C.  
8 77mmm(a)(4)) by striking “subsection 311” and in-  
9 serting “section 311(b)”; and

10 (3) in section 317(a)(1) (15 U.S.C.  
11 77qqq(a)(1)), by striking “(1),” and inserting “(1)”.

12 (d) INVESTMENT COMPANY ACT OF 1940.—The In-  
13 vestment Company Act of 1940 (15 U.S.C. 80a–1 et seq.)  
14 is amended—

15 (1) in section 2(a)(19) (15 U.S.C. 80a–  
16 2(a)(19)) by striking “clause (vi)” both places it ap-  
17 pears in the last two sentences and inserting “clause  
18 (vii)”;

19 (2) in section 9(b)(4)(B) (15 U.S.C. 80a–  
20 9(b)(4)(B)), by inserting “or” after the semicolon at  
21 the end;

22 (3) in section 12(d)(1)(J) (15 U.S.C. 80a–  
23 12(d)(1)(J)), by striking “any provision of this sub-  
24 section” and inserting “any provision of this para-  
25 graph”;

1           (4) in section 13(a)(3) (15 U.S.C. 80a–  
2           13(a)(3)), by inserting “or” after the semicolon at  
3           the end;

4           (5) in section 17(f)(4) (15 U.S.C. 80a–  
5           17(f)(4)), by striking “No such member” and insert-  
6           ing “No member of a national securities exchange”;

7           (6) in section 17(f)(6) (15 U.S.C. 80a–  
8           17(f)(6)), by striking “company may serve” and in-  
9           serting “company, may serve”; and

10          (7) in section 61(a)(3)(B)(iii) (15 U.S.C. 80a–  
11          60(a)(3)(B)(iii))—

12                   (A) by striking “paragraph (1) of section  
13                   205” and inserting “section 205(a)(1)”; and

14                   (B) by striking “clause (A) or (B) of that  
15                   section” and inserting “section 205(b)(1) or  
16                   (2)”.

17          (e) INVESTMENT ADVISERS ACT OF 1940.—The In-  
18          vestment Advisers Act of 1940 (15 U.S.C. 80b–1 et seq.)  
19          is amended—

20                   (1) in each of the following sections, by striking  
21                   “principal business office” or “principal place of  
22                   business” (whichever and wherever it appears) and  
23                   inserting “principal office and place of business”:  
24                   sections 203(c)(1)(A), 203(k)(4)(B), 213(a), 222(b),  
25                   and 222(c) (15 U.S.C. 80b–3(c)(1)(A), 80b–

1 3(k)(4)(B), 80b-13(a), 80b-18a(b), and 80b-  
2 18a(c)); and

3 (2) in section 206(3) (15 U.S.C. 80b-6(3)), by  
4 inserting “or” after the semicolon at the end.

5 **SEC. 18. CONFORMING AMENDMENTS FOR THE REPEAL OF**  
6 **THE PUBLIC UTILITY HOLDING COMPANY**  
7 **ACT OF 1935.**

8 (a) SECURITIES EXCHANGE ACT OF 1934.—The Se-  
9 curities Exchange Act of 1934 (15 U.S.C. 78 et seq.) is  
10 amended—

11 (1) in section 3(a)(47) (15 U.S.C. 78c(a)(47)),  
12 by striking “the Public Utility Holding Company  
13 Act of 1935 (15 U.S.C. 79a et seq.)”; and

14 (2) in section 12(k) (15 U.S.C. 78l(k)), by  
15 amending paragraph (7) to read as follows:

16 “(7) DEFINITION.—For purposes of this sub-  
17 section, the term ‘emergency’ means—

18 “(A) a major market disturbance charac-  
19 terized by or constituting—

20 “(i) sudden and excessive fluctuations  
21 of securities prices generally, or a substan-  
22 tial threat thereof, that threaten fair and  
23 orderly markets; or

24 “(ii) a substantial disruption of the  
25 safe or efficient operation of the national

1 system for clearance and settlement of  
2 transactions in securities, or a substantial  
3 threat thereof; or

4 “(B) a major disturbance that substan-  
5 tially disrupts, or threatens to substantially dis-  
6 rupt—

7 “(i) the functioning of securities mar-  
8 kets, investment companies, or any other  
9 significant portion or segment of the secu-  
10 rities markets; or

11 “(ii) the transmission or processing of  
12 securities transactions.”.

13 (3) in section 21(h)(2) (15 U.S.C. 78u(h)(2)),  
14 by striking “section 18(c) of the Public Utility Hold-  
15 ing Company Act of 1935,”.

16 (b) TRUST INDENTURE ACT OF 1939.—The Trust  
17 Indenture Act of 1939 (15 U.S.C. 77aaa et seq.) is  
18 amended—

19 (1) in section 303 (15 U.S.C. 77ccc), by  
20 amending paragraph (17) to read as follows:

21 “(17) The terms ‘Securities Act of 1933’ and  
22 ‘Securities Exchange Act of 1934’ shall be deemed  
23 to refer, respectively, to such Acts, as amended,  
24 whether amended prior to or after the enactment of  
25 this title.”;

1           (2) in section 308 (15 U.S.C. 77hhh), by strik-  
2           ing “Securities Act of 1933, the Securities Exchange  
3           Act of 1934, or the Public Utility Holding Company  
4           Act of 1935” each place it appears and inserting  
5           “Securities Act of 1933 or the Securities Exchange  
6           Act of 1934”;

7           (3) in section 310 (15 U.S.C. 77jjj), by striking  
8           subsection (c) (including the preceding heading);

9           (4) in section 311 (15 U.S.C. 77kkk) by strik-  
10          ing subsection (c);

11          (5) in section 323(b) (15 U.S.C. 77www(b)), by  
12          striking “Securities Act of 1933, or the Securities  
13          Exchange Act of 1934, or the Public Utility Holding  
14          Company Act of 1935” and inserting “Securities Act  
15          of 1933 or the Securities Exchange Act of 1934”;  
16          and

17          (6) in section 326 (15 U.S.C. 77zzz), by strik-  
18          ing “Securities Act of 1933, or the Securities Ex-  
19          change Act of 1934, or the Public Utility Holding  
20          Company Act of 1935,” and inserting “Securities  
21          Act of 1933 or the Securities Exchange Act of  
22          1934”.

23          (c) INVESTMENT COMPANY ACT OF 1940.—The In-  
24          vestment Company Act of 1940 (15 U.S.C. 80a–1 et seq.)  
25          is amended—

1           (1) in section 2(a)(44) (15 U.S.C. 80a–  
2           2(a)(44)), by striking “‘Public Utility Holding Com-  
3           pany Act of 1935’,”;

4           (2) in section 3(c) (15 U.S.C. 80a–3(c)), by  
5           amending paragraph (8) to read as follows:

6           “(8) [Repealed]”;

7           (3) in section 38(b) (15 U.S.C. 80a–37(b)), by  
8           striking “the Public Utility Holding Company Act of  
9           1935,”; and

10          (4) in section 50 (15 U.S.C. 80a–49), by strik-  
11          ing “the Public Utility Holding Company Act of  
12          1935,”.

13          (d) INVESTMENT ADVISERS ACT OF 1940.—Section  
14          202(a)(21) of the Investment Advisers Act of 1940 (15  
15          U.S.C. 80b–2(a)(21)) is amended by striking “‘Public  
16          Utility Holding Company Act of 1935’,”.

17          **SEC. 19. NATIONWIDE SERVICE OF SUBPOENAS.**

18          (a) SECURITIES ACT OF 1933.—Section 22(a) of the  
19          Securities Act of 1933 (15 U.S.C. 77v(a)) is amended by  
20          inserting after the second sentence the following: “In any  
21          action or proceeding instituted by the Commission under  
22          this title in a United States district court for any judicial  
23          district, subpoenas issued by or on behalf of such court  
24          to compel the attendance of witnesses or the production  
25          of documents or tangible things (or both) may be served

1 in any other district. Such subpoenas may be served and  
2 enforced without application to the court or a showing of  
3 cause, notwithstanding the provisions of rule 45(b)(2),  
4 (c)(3)(A)(ii), and (c)(3)(B)(iii) of the Federal Rules of  
5 Civil Procedure.”.

6 (b) SECURITIES EXCHANGE ACT OF 1934.—Section  
7 27 of the Securities Exchange Act of 1934 (15 U.S.C.  
8 78aa) is amended by inserting after the third sentence the  
9 following: “In any action or proceeding instituted by the  
10 Commission under this title in a United States district  
11 court for any judicial district, subpoenas issued by or on  
12 behalf of such court to compel the attendance of witnesses  
13 or the production of documents or tangible things (or  
14 both) may be served in any other district. Such subpoenas  
15 may be served and enforced without application to the  
16 court or a showing of cause, notwithstanding the provi-  
17 sions of rule 45(b)(2), (c)(3)(A)(ii), and (c)(3)(B)(iii) of  
18 the Federal Rules of Civil Procedure.”.

19 (c) INVESTMENT COMPANY ACT OF 1940.—Section  
20 44 of the Investment Company Act of 1940 (15 U.S.C.  
21 80a–43) is amended by inserting after the fourth sentence  
22 the following: “In any action or proceeding instituted by  
23 the Commission under this title in a United States district  
24 court for any judicial district, subpoenas issued by or on  
25 behalf of such court to compel the attendance of witnesses

1 or the production of documents or tangible things (or  
2 both) may be served in any other district. Such subpoenas  
3 may be served and enforced without application to the  
4 court or a showing of cause, notwithstanding the provi-  
5 sions of rule 45(b)(2), (c)(3)(A)(ii), and (c)(3)(B)(iii) of  
6 the Federal Rules of Civil Procedure.”.

7 (d) INVESTMENT ADVISERS ACT OF 1940.—Section  
8 214 of the Investment Advisers Act of 1940 (15 U.S.C.  
9 80b–14) is amended by inserting after the third sentence  
10 the following: “In any action or proceeding instituted by  
11 the Commission under this title in a United States district  
12 court for any judicial district, subpoenas issued by or on  
13 behalf of such court to compel the attendance of witnesses  
14 or the production of documents or tangible things (or  
15 both) may be served in any other district. Such subpoenas  
16 may be served and enforced without application to the  
17 court or a showing of cause, notwithstanding the provi-  
18 sions of rule 45(b)(2), (c)(3)(A)(ii), and (c)(3)(B)(iii) of  
19 the Federal Rules of Civil Procedure.”.

○