

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
<p align="center">Subtitle C--Investor Protection Act</p> <p>SEC. 7001. SHORT TITLE.</p> <p>This subtitle may be cited as the 'Investor Protection Act of 2009'.</p>	<p align="center">TITLE IX--INVESTOR PROTECTIONS AND IMPROVEMENTS TO THE REGULATION OF SECURITIES</p> <p align="center">Subtitle A--Increasing Investor Protection</p>	
<p>PART 1--DISCLOSURE</p> <p>SEC. 7101. INVESTOR ADVISORY COMMITTEE ESTABLISHED.</p> <p>The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by adding after section 4C the following new section:</p>	<p>SEC. 911. INVESTOR ADVISORY COMMITTEE ESTABLISHED.</p> <p><i>Title I of the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by adding at the end the following:</i></p>	
<p>SEC. 4D. INVESTOR ADVISORY COMMITTEE.</p> <p>(a) Establishment and Purpose- There is established an Investor Advisory Committee (in this section referred to as the 'Committee') to advise and consult with the Commission on--</p> <ul style="list-style-type: none"> (1) regulatory priorities and issues regarding new products, trading strategies, fee structures and the effectiveness of disclosures; (2) initiatives to protect investor interest; and (3) initiatives to promote investor confidence in the integrity of the marketplace. <p>(b) Membership-</p> <ul style="list-style-type: none"> (1) APPOINTMENT- The Chairman of the Commission shall appoint the members of the Committee, which members shall-- <ul style="list-style-type: none"> (A) represent the interests of individual investors; (B) represent the interests of institutional investors; and <ul style="list-style-type: none"> (C) use a wide range of investment approaches. (2) MEMBERS NOT COMMISSION EMPLOYEES- Members shall not be considered employees or agents of the Commission solely because of membership on the Committee. <p>(c) Meetings- The Committee shall meet from time to time at the call of the Commission, but, at a minimum, shall meet at least twice each year.</p> <p>(d) Compensation and Travel Expenses- Members of the Committee who are not full-time employees of the United States shall--</p> <ul style="list-style-type: none"> (1) be entitled to receive compensation at a rate fixed by the Commission while attending meetings of the Committee, including travel time; and (2) be allowed travel expenses, including transportation and 	<p>SEC. 39. INVESTOR ADVISORY COMMITTEE.</p> <p>(a) Establishment and Purpose-</p> <ul style="list-style-type: none"> (1) ESTABLISHMENT- There is established within the Commission the Investor Advisory Committee (referred to in this section as the 'Committee'). (2) PURPOSE- The Committee shall-- <ul style="list-style-type: none"> (A) advise and consult with the Commission on-- <ul style="list-style-type: none"> (i) regulatory priorities of the Commission; (ii) issues relating to the regulation of securities products, trading strategies, and fee structures, and the effectiveness of disclosure; (iii) initiatives to protect investor interest; and <ul style="list-style-type: none"> (iv) initiatives to promote investor confidence and the integrity of the securities marketplace; (B) submit to the Commission such findings and recommendations as the Committee determines are appropriate, including recommendations for proposed legislative changes. <p>(b) Membership-</p> <ul style="list-style-type: none"> (1) IN GENERAL- The members of the Committee shall be-- <ul style="list-style-type: none"> (A) the Investor Advocate; (B) a representative of State securities commissions; (C) a representative of the interests of senior citizens; and <ul style="list-style-type: none"> (D) not fewer than 10, and not more than 20, members appointed by the Commission, from among individuals 	

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<p>subsistence, while away from their homes or regular places of business.</p> <p>(e) Committee Findings- Nothing in this section requires the Commission to accept, agree, or act upon the findings or recommendations of the Committee.</p> <p>(f) Authorization of Appropriations- There is authorized to be appropriated to the Commission such sums as are necessary for the activities of the Committee.!</p>	<p>who--</p> <ul style="list-style-type: none"> (i) represent the interests of individual equity and debt investors, including investors in mutual funds; (ii) represent the interests of institutional investors, including the interests of pension funds and registered investment companies; (iii) are knowledgeable about investment issues and decisions; and (iv) have reputations of integrity. <p>(2) TERM- Each member of the Committee appointed under paragraph (1)(B) shall serve for a term of 4 years.</p> <p>(3) MEMBERS NOT COMMISSION EMPLOYEES- Members appointed under paragraph (1)(B) shall not be deemed to be employees or agents of the Commission solely because of membership on the Committee.</p> <p>(c) Chairman; Vice Chairman; Secretary; Assistant Secretary-</p> <p>(1) IN GENERAL- The members of the Committee shall elect, from among the members of the Committee--</p> <ul style="list-style-type: none"> (A) a chairman, who may not be employed by an issuer; (B) a vice chairman, who may not be employed by an issuer; (C) a secretary; and (D) an assistant secretary. <p>(2) TERM- Each member elected under paragraph (1) shall serve for a term of 3 years in the capacity for which the member was elected under paragraph (1).</p> <p>(d) Meetings-</p> <p>(1) FREQUENCY OF MEETINGS- The Committee shall meet--</p> <ul style="list-style-type: none"> (A) not less frequently than twice annually, at the call of the chairman of the Committee; and (B) from time to time, at the call of the Commission. <p>(2) NOTICE- The chairman of the Committee shall give the members of the Committee written notice of each meeting, not later than 2 weeks before the date of the meeting.</p> <p>(e) Compensation and Travel Expenses- Each member of the Committee who is not a full-time employee of the United States shall--</p> <ul style="list-style-type: none"> (1) be compensated at a rate not to exceed the daily equivalent of the annual rate of basic pay in effect for a position at level V of the Executive Schedule under section 5316 of title 5, United States Code, for each day during which the member is engaged in the actual performance of the duties of the Committee; and 	

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	<p><i>“(2) while away from the home or regular place of business of the member in the performance of services for the Committee, be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.</i></p> <p><i>“(f) Staff- The Commission shall make available to the Committee such staff as the chairman of the Committee determines are necessary to carry out this section.</i></p> <p><i>“(g) Review by Commission- The Commission shall--</i></p> <p style="padding-left: 40px;"><i>“(1) review the findings and recommendations of the Committee; and</i></p> <p style="padding-left: 40px;"><i>“(2) each time the Committee submits a finding or recommendation to the Commission, issue a public statement--</i></p> <p style="padding-left: 80px;"><i>“(A) assessing the finding or recommendation of the Committee; and</i></p> <p style="padding-left: 80px;"><i>“(B) disclosing the action, if any, the Commission intends to take with respect to the finding or recommendation.</i></p> <p><i>“(h) Committee Findings- Nothing in this section shall require the Commission to agree to or act upon any finding or recommendation of the Committee.</i></p> <p><i>“(i) Federal Advisory Committee Act- The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply with respect to the Committee and its activities.</i></p> <p><i>“(j) Authorization of Appropriations- There is authorized to be appropriated to the Commission such sums as are necessary to carry out this section.’.</i></p>	
<p>SEC. 7102. CLARIFICATION OF THE COMMISSION'S AUTHORITY TO ENGAGE IN CONSUMER TESTING.</p> <p>(a) Amendment to Securities Act of 1933- Section 19 of the Securities Act of 1933 (15 U.S.C. 77s) is amended by adding at the end the following new subsection:</p> <p>“(e) For the purposes of evaluating its rules and programs and for considering, proposing, adopting, or engaging in rules or programs, the Commission is authorized to gather information, communicate with investors or other members of the public, and engage in such temporary or experimental programs as the Commission in its discretion determines is in the public interest or for the protection of investors. The Commission may delegate to its staff some or all of the authority conferred by this subsection.’.</p>	<p>SEC. 912. CLARIFICATION OF AUTHORITY OF THE COMMISSION TO ENGAGE IN INVESTOR TESTING.</p> <p><i>Section 19 of the Securities Act of 1933 (15 U.S.C. 77s) is amended by adding at the end the following:</i></p> <p><i>“(e) Evaluation of Rules or Programs- For the purpose of evaluating any rule or program of the Commission issued or carried out under any provision of the securities laws, as defined in section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c), and the purposes of considering, proposing, adopting, or engaging in any such rule or program or developing new rules or programs, the Commission may--</i></p> <p style="padding-left: 40px;"><i>“(1) gather information from and communicate with investors or other members of the public;</i></p> <p style="padding-left: 40px;"><i>“(2) engage in such temporary investor testing programs as the</i></p>	

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<p>(b) Amendment to Securities Exchange Act of 1934- Section 23 of the Securities Exchange Act of 1934 (15 U.S.C. 78w) is amended by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively, and inserting after subsection (a) the following: `b) For the purposes of evaluating its rules and programs and for considering proposing, adopting, or engaging in rules or programs, the Commission is authorized to gather information, communicate with investors or other members of the public, and engage in such temporary or experimental programs as the Commission in its discretion determines is in the public interest or for the protection of investors. The Commission may delegate to its staff some or all of the authority conferred by this subsection.'</p> <p>(c) Amendment to Investment Company Act of 1940- Section 38 of the Investment Company Act of 1940 (15 U.S.C. 80a-38) is amended by adding at the end the following new subsection: `d) Gathering Information- For the purposes of evaluating its rules and programs and for considering proposing, adopting, or engaging in rules or programs, the Commission is authorized to gather information, communicate with investors or other members of the public, and engage in such temporary or experimental programs as the Commission in its discretion determines is in the public interest or for the protection of investors. The Commission may delegate to its staff some or all of the authority conferred by this subsection.'</p> <p>(d) Amendment to the Investment Advisers Act of 1940- Section 211 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-11) (as amended by section 5008(2)) is further amended by adding at the end the following new subsection: `f) For the purposes of evaluating its rules and programs and for considering proposing, adopting, or engaging in rules or programs, the Commission is authorized to gather information, communicate with investors or other members of the public, and engage in such temporary or experimental programs as the Commission in its discretion determines is in the public interest or for the protection of investors. The Commission may delegate to its staff some or all of the authority conferred by this subsection.'</p>	<p><i>Commission determines are in the public interest or would protect investors; and</i> `3) <i>consult with academics and consultants, as necessary to carry out this subsection.</i></p> <p><i>`f) Rule of Construction- For purposes of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.), any action taken under subsection (e) shall not be construed to be a collection of information.'</i></p>	
<p>SEC. 7103. ESTABLISHMENT OF A FIDUCIARY DUTY FOR BROKERS, DEALERS, AND INVESTMENT ADVISERS, AND HARMONIZATION OF REGULATION.</p> <p>(a) In General-</p> <p>(1) SECURITIES EXCHANGE ACT OF 1934- Section 15 of the Securities Exchange Act of 1934 (15 U.S.C. 78o) (as amended by section 1951(c)) is further amended by adding at</p>	<p>SEC. 913. STUDY AND RULEMAKING REGARDING OBLIGATIONS OF BROKERS, DEALERS, AND INVESTMENT ADVISERS.</p> <p>(a) <i>Definitions- In this section--</i></p> <p>(1) <i>the term `FINRA' means the Financial Industry Regulatory Authority; and</i></p> <p>(2) <i>the term `retail customer' means an individual customer of a broker, dealer, investment adviser, person associated with a</i></p>	

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<p>the end the following new subsections:</p> <p>^(m) Standard of Conduct-</p> <p>^(1) IN GENERAL- Notwithstanding any other provision of this Act or the Investment Advisers Act of 1940, the Commission shall promulgate rules to provide that, with respect to a broker or dealer, when providing personalized investment advice about securities to a retail customer (and such other customers as the Commission may by rule provide), the standard of conduct for such broker or dealer with respect to such customer shall be the same as the standard of conduct applicable to an investment adviser under section 211 of the Investment Advisers Act of 1940. The receipt of compensation based on commission or other standard compensation for the sale of securities shall not, in and of itself, be considered a violation of such standard applied to a broker or dealer. Nothing in this section shall require a broker or dealer or registered representative to have a continuing duty of care or loyalty to the customer after providing personalized investment advice about securities.</p> <p>^(2) DISCLOSURE OF RANGE OF PRODUCTS OFFERED- Where a broker or dealer sells only proprietary or other limited range of products, as determined by the Commission, the Commission shall by rule require that such broker or dealer provide notice to each retail customer and obtain the consent or acknowledgment of the customer. The sale of only proprietary or other limited range of products by a broker or dealer shall not, in and of itself, be considered a violation of the standard set forth in paragraph (1).</p> <p>^(3) RETAIL CUSTOMER DEFINED- For purposes of this subsection, the term `retail customer' means a natural person, or the legal representative of such natural person, who--</p> <p>^(A) receives personalized investment advice about securities from a broker or dealer; and</p> <p>^(B) uses such advice primarily for personal, family, or household purposes.</p> <p>^(n) Other Matters- The Commission shall--</p> <p>^(1) facilitate the provision of simple and clear disclosures to investors regarding the terms of their relationships with brokers, dealers, and investment advisers, including any material conflicts of interest; and</p> <p>^(2) examine and, where appropriate, promulgate rules prohibiting or restricting certain sales practices, conflicts of interest, and compensation schemes for brokers, dealers, and investment advisers that the Commission deems contrary to the</p>	<p><i>broker or dealer, or a person associated with an investment adviser.</i></p> <p><i>(b) In General- The Commission shall conduct a study to evaluate--</i></p> <p><i>(1) the effectiveness of existing legal or regulatory standards of care for brokers, dealers, investment advisers, persons associated with brokers or dealers, and persons associated with investment advisers for providing personalized investment advice and recommendations about securities to retail customers imposed by the Commission and FINRA, and other Federal and State legal or regulatory standards; and</i></p> <p><i>(2) whether there are legal or regulatory gaps or overlap in legal or regulatory standards in the protection of retail customers relating to the standards of care for brokers, dealers, investment advisers, persons associated with brokers or dealers, and persons associated with investment advisers for providing personalized investment advice about securities to retail customers that should be addressed by rule or statute.</i></p> <p><i>(c) Considerations- In conducting the study required under subsection (b), the Commission shall consider--</i></p> <p><i>(1) the regulatory, examination, and enforcement resources devoted to, and activities of, the Commission and FINRA to enforce the standards of care for brokers, dealers, investment advisers, persons associated with brokers or dealers, and persons associated with investment advisers when providing personalized investment advice and recommendations about securities to retail customers, including--</i></p> <p><i>(A) the frequency of examinations of brokers, dealers, and investment advisers; and</i></p> <p><i>(B) the length of time of the examinations;</i></p> <p><i>(2) the substantive differences, compared and contrasted in detail, in the regulation of brokers, dealers, and investment advisers, when providing personalized investment advice and recommendations about securities to retail customers, including the differences in the amount of resources devoted to the regulation and examination of brokers, dealers, and investment advisers, by the Commission and FINRA;</i></p> <p><i>(3) the specific instances in which--</i></p> <p><i>(A) the regulation and oversight of investment advisers provide greater protection to retail customers than the regulation and oversight of brokers and dealers; and</i></p> <p><i>(B) the regulation and oversight of brokers and dealers provide greater protection to retail customers than the regulation and oversight of investment advisers;</i></p>	

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<p>public interest and the protection of investors.'</p> <p>(2) INVESTMENT ADVISERS ACT OF 1940- Section 211 of the Investment Advisers Act of 1940, as amended by section 7102(d), is further amended by adding at the end the following new subsections:</p> <p>^(g) Standard of Conduct-</p> <p>^(1) IN GENERAL- The Commission shall promulgate rules to provide that the standard of conduct for all brokers, dealers, and investment advisers, when providing personalized investment advice about securities to retail customers (and such other customers as the Commission may by rule provide), shall be to act in the best interest of the customer without regard to the financial or other interest of the broker, dealer, or investment adviser providing the advice. In accordance with such rules, any material conflicts of interest shall be disclosed and may be consented to by the customer. Such rules shall provide that such standard of conduct shall be no less stringent than the standard applicable to investment advisers under section 206(1) and (2) of this Act when providing personalized investment advice about securities, except the Commission shall not ascribe a meaning to the term 'customer' that would include an investor in a private fund managed by an investment adviser, where such private fund has entered into an advisory contract with such adviser. The receipt of compensation based on commission or fees shall not, in and of itself, be considered a violation of such standard applied to a broker, dealer, or investment adviser.</p> <p>^(2) RETAIL CUSTOMER DEFINED- For purposes of this subsection, the term 'retail customer' means a natural person, or the legal representative of such natural person, who--</p> <p>^(A) receives personalized investment advice about securities from a broker, dealer, or investment adviser; and</p> <p>^(B) uses such advice primarily for personal, family, or household purposes.</p> <p>^(h) Other Matters- The Commission shall--</p> <p>^(1) facilitate the provision of simple and clear disclosures to investors regarding the terms of their relationships with brokers, dealers, and investment advisers, including any material conflicts of interest; and</p> <p>^(2) examine and, where appropriate, promulgate rules prohibiting or restricting certain sales practices, conflicts of interest, and compensation schemes for brokers, dealers, and investment advisers that the Commission deems contrary to the</p>	<p>(4) the existing legal or regulatory standards of State securities regulators and other regulators intended to protect retail customers;</p> <p>(5) the potential impact on retail customers, including the potential impact on access of retail customers to the range of products and services offered by brokers and dealers, of imposing upon brokers, dealers, and persons associated with brokers or dealers--</p> <p>(A) the standard of care applied under the Investment Advisers Act of 1940 (15 U.S.C. 80b-1 et seq.) for providing personalized investment advice about securities to retail customers of investment advisers; and</p> <p>(B) other requirements of the Investment Advisers Act of 1940 (15 U.S.C. 80b-1 et seq.);</p> <p>(6) the potential impact of--</p> <p>(A) imposing on investment advisers the standard of care applied by the Commission and FINRA under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) for providing recommendations about securities to retail customers of brokers and dealers and other Commission and FINRA requirements applicable to brokers and dealers; and</p> <p>(B) authorizing the Commission to designate 1 or more self-regulatory organizations to augment the efforts of the Commission to oversee investment advisers;</p> <p>(7) the potential impact of eliminating the broker and dealer exclusion from the definition of 'investment adviser' under section 202(a)(11)(C) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(a)(11)(C)), in terms of--</p> <p>(A) the potential benefits or harm to retail customers that could result from such a change, including any potential impact on access to personalized investment advice and recommendations about securities to retail customers or the availability of such advice and recommendations;</p> <p>(B) the number of additional entities and individuals that would be required to register under, or become subject to, the Investment Advisers Act of 1940 (15 U.S.C. 80b-1 et seq.), and the additional requirements to which brokers, dealers, and persons associated with brokers and dealers would become subject, including--</p> <p>(i) any potential additional associated person</p>	

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<p>public interest and the protection of investors.'</p> <p>(b) Harmonization of Enforcement-</p> <p>(1) SECURITIES EXCHANGE ACT OF 1934- Section 15 of the Securities Exchange Act of 1934, as amended by subsection (a)(1), is further amended by adding at the end the following new subsection:</p> <p>`(o) Harmonization of Enforcement- The enforcement authority of the Commission with respect to violations of the standard of conduct applicable to a broker or dealer providing personalized investment advice about securities to a retail customer shall include--</p> <p>`(1) the enforcement authority of the Commission with respect to such violations provided under this Act; and</p> <p>`(2) the enforcement authority of the Commission with respect to violations of the standard of conduct applicable to an investment advisor under the Investment Advisers Act of 1940, including the authority to impose sanctions for such violations, and the Commission shall seek to prosecute and sanction violators of the standard of conduct applicable to a broker or dealer providing personalized investment advice about securities to a retail customer under this Act to same extent as the Commission prosecutes and sanctions violators of the standard of conduct applicable to an investment advisor under the Investment Advisers Act of 1940.'</p> <p>(2) INVESTMENT ADVISERS ACT OF 1940- Section 211 of the Investment Advisers Act of 1940, as amended by subsection (a)(2), is further amended by adding at the end the following new subsection:</p> <p>`(i) Harmonization of Enforcement- The enforcement authority of the Commission with respect to violations of the standard of conduct applicable to an investment adviser shall include--</p> <p>`(1) the enforcement authority of the Commission with respect to such violations provided under this Act; and</p> <p>`(2) the enforcement authority of the Commission with respect to violations of the standard of conduct applicable to a broker or dealer providing personalized investment advice about securities to a retail customer under the Securities Exchange Act of 1934, including the authority to impose sanctions for such violations, and the Commission shall seek to prosecute and sanction violators of the standard of conduct applicable to an investment advisor under this Act to same extent as the Commission prosecutes and sanctions violators of the standard of conduct applicable to a broker or dealer providing personalized investment advice about securities to a retail customer under the</p>	<p><i>licensing, registration, and examination requirements; and</i></p> <p><i>(ii) the additional costs, if any, to the additional entities and individuals; and</i></p> <p><i>(C) the impact on Commission resources to--</i></p> <p><i>(i) conduct examinations of registered investment advisers and the representatives of registered investment advisers, including the impact on the examination cycle; and</i></p> <p><i>(ii) enforce the standard of care and other applicable requirements imposed under the Investment Advisers Act of 1940 (15 U.S.C. 80b-1 et seq.);</i></p> <p><i>(8) the ability of investors to understand the differences in terms of regulatory oversight and examinations between brokers, dealers, and investment advisers;</i></p> <p><i>(9) the varying level of services provided by brokers, dealers, investment advisers, persons associated with brokers or dealers, and persons associated with investment advisers to retail customers and the varying scope and terms of retail customer relationships of brokers, dealers, investment advisers, persons associated with brokers or dealers, and persons associated with investment advisers with such retail customers;</i></p> <p><i>(10) any potential benefits or harm to retail customers that could result from any potential changes in the regulatory requirements or legal standards affecting brokers, dealers, investment advisers, persons associated with brokers or dealers, and persons associated with investment advisers relating to their obligations to retail customers, including any potential impact on--</i></p> <p><i>(A) protection from fraud;</i></p> <p><i>(B) access to personalized investment advice, and recommendations about securities to retail customers;</i></p> <p><i>or</i></p> <p><i>(C) the availability of such advice and recommendations;</i></p> <p><i>(11) the additional costs and expenses to retail customers and to brokers, dealers, and investment advisers resulting from potential changes in the regulatory requirements or legal standards affecting brokers, dealers, investment advisers, persons associated with brokers or dealers, and persons associated with investment advisers relating to their obligations to retail customers; and</i></p>	

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<p>Securities Exchange Act of 1934.¹.</p>	<p><i>(12) any other consideration that the Commission deems necessary and appropriate to effectively execute the study required under subsection (b).</i></p> <p><i>(d) Report-</i></p> <p><i>(1) IN GENERAL- Not later than 1 year after the date of enactment of this Act, the Commission shall submit a report on the study required under subsection (b) to--</i></p> <p><i>(A) the Committee on Banking, Housing, and Urban Affairs of the Senate; and</i></p> <p><i>(B) the Committee on Financial Services of the House of Representatives.</i></p> <p><i>(2) CONTENT REQUIREMENTS- The report required under paragraph (1) shall describe the findings, conclusions, and recommendations of the Commission from the study required under subsection (b), including--</i></p> <p><i>(A) a description of the considerations, analysis, and public and industry input that the Commission considered, as required under subsection (e), to make such findings, conclusions, and policy recommendations; and</i></p> <p><i>(B) an analysis of--</i></p> <p><i>(i) whether any identified legal or regulatory gaps or overlap in legal or regulatory standards in the protection of retail customers relating to the standards of care for brokers, dealers, investment advisers, persons associated with brokers or dealers, and persons associated with investment advisers for providing personalized investment advice about securities to retail customers can be addressed by rule; and</i></p> <p><i>(ii) whether, and the extent to which, the Commission would require additional statutory authority to address such gaps or overlap.</i></p> <p><i>(e) Public Comment- The Commission shall seek and consider public input, comments, and data in order to prepare the report required under subsection (d).</i></p> <p><i>(f) Rulemaking-</i></p> <p><i>(1) IN GENERAL- If the study required under subsection (b) identifies any gaps or overlap in the legal or regulatory standards in the protection of retail customers relating to the standards of care for brokers, dealers, investment advisers,</i></p>	

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	<p><i>persons associated with brokers or dealers, and persons associated with investment advisers for providing personalized investment advice about securities to such retail customers, the Commission, not later than 2 years after the date of enactment of this Act, shall--</i></p> <p><i>(A) commence a rulemaking, as necessary or appropriate in the public interest and for the protection of retail customers, to address such regulatory gaps and overlap that can be addressed by rule, using its authority under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) and the Investment Advisers Act of 1940 (15 U.S.C. 80b-1 et seq.); and</i></p> <p><i>(B) consider and take into account the findings, conclusions, and recommendations of the study required under this section.</i></p> <p><i>(2) RULE OF CONSTRUCTION- Nothing in this section shall be construed to limit the rulemaking authority of the Commission under any other provision of Federal law.</i></p>	
<p>SEC. 7104. COMMISSION STUDY AND RULEMAKING ON DISCLOSURE TO RETAIL CUSTOMERS BEFORE PURCHASE OF PRODUCTS OR SERVICES.</p> <p>(a) Study Required- Prior to proposing any rules or regulations pursuant to subsection (b)(1) regarding the provision of documents or information to retail customers prior to the purchase of investment products or services, and within 180 days after the date of the enactment of this subtitle, the Securities and Exchange Commission shall publish a study that examines--</p> <p>(1) the nature of a `retail customer', taking into consideration the definition in section 15(k) of the Securities Exchange Act of 1934 (15 U.S.C. 78o), as amended by section 7103 of this subtitle;</p> <p>(2) the range of products and services sold or provided to retail customers, and the sellers or providers of such products and services, that are within the Commission's jurisdiction;</p> <p>(3) how such products and services are sold or provided to retail customers, the fees charged for such products and services, and the conflicts of interest that may arise during the sales process or provision of services;</p> <p>(4) information that retail customers should receive prior to purchasing each product or service, and the appropriate person or entity to provide such information; and</p>	<p>SEC. 916. STUDY REGARDING FINANCIAL LITERACY AMONG INVESTORS.</p> <p><i>(a) In General- The Commission shall conduct a study to identify--</i></p> <p><i>(1) the existing level of financial literacy among retail investors, including subgroups of investors identified by the Commission;</i></p> <p><i>(2) methods to improve the timing, content, and format of disclosures to investors with respect to financial intermediaries, investment products, and investment services;</i></p> <p><i>(3) the most useful and understandable relevant information that retail investors need to make informed financial decisions before engaging a financial intermediary or purchasing an investment product or service that is typically sold to retail investors, including shares of open-end companies, as that term is defined in section 5 of the Investment Company Act of 1940 (15 U.S.C. 80a-5) that are registered under section 8 of that Act;</i></p> <p><i>(4) methods to increase the transparency of expenses and conflicts of interests in transactions involving investment services and products, including shares of open-end companies described in paragraph (3);</i></p> <p><i>(5) the most effective existing private and public efforts to educate investors; and</i></p> <p><i>(6) in consultation with the Financial Literacy and Education</i></p>	

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<p>(5) ways to ensure that, where possible, reasonably similar products and services are subject to similar regulatory treatment, including with respect to information that must be provided to retail customers prior to the purchase of such products or services and how such information is provided.</p> <p>(b) Rulemaking-</p> <p>(1) Notwithstanding any other provision of the Securities Act of 1933 (15 U.S.C. 77a et seq.) or the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.), following completion of the study required by subsection (a), the Commission is authorized to promulgate rules to require that the appropriate persons or entities provide designated documents or information to retail customers prior to the purchase of identified investment products or services. Any such rules shall--</p> <p>(A) take into account the findings of the study conducted pursuant to subsection (a);</p> <p>(B) take into consideration, to the extent possible, the need for such documents and information to be consistent and comparable across investment products or services sold or provided to retail customers; and</p> <p>(C) reduce, to the extent possible, disruptions to the purchase process for investment products and services sold or provided to retail customers, by means such as permitting required disclosures to be made via the Internet.</p> <p>(2) Notwithstanding paragraph (1), the Commission is authorized to promulgate rules in connection with--</p> <p>(A) the implementation of section 7103; and</p> <p>(B) disclosure to retail customers other than rules that require the provision of documents or information to retail customers prior to the purchase of investment products or services.</p>	<p><i>Commission, a strategy (including, to the extent practicable, measurable goals and objectives) to increase the financial literacy of investors in order to bring about a positive change in investor behavior.</i></p> <p><i>(b) Report- Not later than 2 years after the date of enactment of this Act, the Commission shall submit a report on the study required under subsection (a) to--</i></p> <p><i>(1) the Committee on Banking, Housing, and Urban Affairs of the Senate; and</i></p> <p><i>(2) the Committee on Financial Services of the House of Representatives.</i></p>	
<p>SEC. 7105. BENEFICIAL OWNERSHIP AND SHORT-SWING PROFIT REPORTING.</p> <p>(a) Beneficial Ownership Reporting- Section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m) is amended--</p> <p>(1) in subsection (d)(1)--</p> <p>(A) by inserting after `within ten days after such acquisition' the following: `or within such shorter time as the Commission may establish by rule'; and</p> <p>(B) by striking `send to the issuer of the security at its principal executive office, by registered or certified</p>		

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<p>mail, send to each exchange where the security is traded, and';</p> <p>(2) in subsection (d)(2)--</p> <p>(A) by striking `in the statements to the issuer and the exchange, and'; and</p> <p>(B) by striking `shall be transmitted to the issuer and the exchange and';</p> <p>(3) in subsection (g)(1), by striking `shall send to the issuer of the security and'; and</p> <p>(4) in subsection (g)(2)--</p> <p>(A) by striking `sent to the issuer and'; and</p> <p>(B) by striking `shall be transmitted to the issuer and (b) Short-swing Profit Reporting- Section 16(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78p(a)) is amended--</p> <p>(1) in paragraph (1), by striking `(and, if such security is registered on a national securities exchange, also with the exchange)'; and</p> <p>(2) in paragraph (2)(B), by inserting after `officer' the following: ` , or within such shorter time as the Commission may establish by rule'.</p>		
<p>SEC. 7106. REVISION TO RECORDKEEPING RULES.</p> <p>(a) Investment Company Act of 1940 Amendments- Section 31 of the Investment Company Act of 1940 (15 U.S.C. 80a-30) is amended--</p> <p>(1) in subsection (a)(1), by adding at the end the following: `Each person with custody or use of a registered investment company's securities, deposits, or credits shall maintain and preserve all records that relate to the person's custody or use of the registered investment company's securities, deposits, or credits for such period or periods as the Commission, by rules and regulations, may prescribe as necessary or appropriate in the public interest or for the protection of investors.'; and</p> <p>(2) in subsection (b), by adding at the end the following new paragraph:</p> <p>`(4) RECORDS OF PERSONS WITH CUSTODY OR USE-</p> <p>(A) IN GENERAL- Notwithstanding paragraph (1), records of persons with custody or use of a registered investment company's securities, deposits, or credits, that relate to such custody or use, are subject at any time, or from time to time, to such reasonable periodic, special, or other examinations and other information and document requests by representatives of the Commission as the Commission deems necessary or</p>		

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<p>appropriate in the public interest or for the protection of investors.</p> <p>“(B) CERTAIN PERSONS SUBJECT TO OTHER REGULATION- Persons subject to regulation and examination by a Federal financial institution regulatory agency (as such term is defined under section 212(c)(2) of title 18, United States Code) may satisfy any examination request, information request, or document request described under subparagraph (A), by providing the Commission with a detailed listing, in writing, of the registered investment company's securities, deposits, or credits within such person's custody or use.’</p> <p>(b) Investment Advisers Act of 1940 Amendment- Section 204 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-4) is amended by adding at the end the following new subsection:</p> <p>“(d) Records of Persons With Custody or Use-</p> <p>“(1) IN GENERAL- Records of persons with custody or use of a client's securities, deposits, or credits, that relate to such custody or use, are subject at any time, or from time to time, to such reasonable periodic, special, or other examinations and other information and document requests by representatives of the Commission as the Commission deems necessary or appropriate in the public interest or for the protection of investors.</p> <p>“(2) CERTAIN PERSONS SUBJECT TO OTHER REGULATION- Persons subject to regulation and examination by a Federal financial institution regulatory agency (as such term is defined under section 212(c)(2) of title 18, United States Code) may satisfy any examination request, information request, or document request described under paragraph (1), by providing the Commission with a detailed listing, in writing, of the client's securities, deposits, or credits within such person's custody or use.’</p>		
<p>SEC. 7107. STUDY ON ENHANCING INVESTMENT ADVISER EXAMINATIONS.</p> <p>(a) Study Required-</p> <p>(1) IN GENERAL- The Commission shall review and analyze the need for enhanced examination and enforcement resources for investment advisers.</p> <p>(2) AREAS OF CONSIDERATION- The study required by this subsection shall examine--</p> <p>(A) the number and frequency of examinations of</p>		

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<p>investment advisers by the Commission over the 5 years preceding the date of the enactment of this subtitle;</p> <p>(B) the extent to which having Congress authorize the Commission to designate one or more self-regulatory organizations to augment the Commission's efforts in overseeing investment advisers would improve the frequency of examinations of investment advisers; and</p> <p>(C) current and potential approaches to examining the investment advisory activities of dually registered broker-dealers and investment advisers or affiliated broker-dealers and investment advisers.</p> <p>(b) Report Required- The Commission shall report its findings to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, not later than 180 days after the date of enactment of this subtitle, and shall use such findings to revise its rules and regulations, as necessary. The report shall include a discussion of regulatory or legislative steps that are recommended or that may be necessary to address concerns identified in the study.</p>		
<p>SEC. 7108. GAO STUDY OF FINANCIAL PLANNING.</p> <p>(a) Study Required- The Comptroller General of the United States shall conduct a study on the regulation and oversight of financial planning. The study shall consider--</p> <p>(1) the unique role of financial planners in providing comprehensive advice in investment planning, income tax planning, education planning, retirement planning, estate planning, risk management, and other areas with respect to the management of financial resources; and</p> <p>(2) any gaps in the regulation of financial planners given existing State and Federal regulation of financial planning activities and the need to provide related consumer protections for such financial planning activities.</p> <p>(b) Report- Not later than the end of the 180-day period beginning on the date of the enactment of this subtitle, the Comptroller General of the United States shall submit to the Congress a report containing the findings and determinations made by the Comptroller General in carrying out the study required under subsection (a), including recommendations for the appropriate regulation of, or standards for, financial planners as a profession and how such regulations or standards should be established.</p>	<p><i>SEC. 919B. STUDY ON FINANCIAL PLANNERS AND THE USE OF FINANCIAL DESIGNATIONS.</i></p> <p><i>(a) In General- The Comptroller General of the United States shall conduct a study to evaluate--</i></p> <p><i>(1) the effectiveness of State and Federal regulations to protect consumers from individuals who hold themselves out as financial planners through the use of misleading designations;</i></p> <p><i>(2) current State and Federal oversight structure and regulations for financial planners; and</i></p> <p><i>(3) legal or regulatory gaps in the regulation of financial planners and other individuals who provide or offer to provide financial planning services to consumers.</i></p> <p><i>(b) Considerations- In conducting the study required under subsection (a), the Comptroller General shall consider--</i></p> <p><i>(1) the role of financial planners in providing advice regarding the management of financial resources, including investment planning, income tax planning, education planning, retirement planning, estate planning, and risk management;</i></p> <p><i>(2) whether current regulations at the State and Federal level provide adequate ethical and professional standards for financial planners;</i></p>	

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	<p>(3) the use of the title 'financial planner' and misleading designations in connection with sale of financial products, including insurance and securities;</p> <p>(4) the possible risk posed to consumers by individuals who hold themselves out as financial planners through the use of misleading designations, including 'financial advisor' and 'financial consultant';</p> <p>(5) the ability of consumers to understand licensing requirements and standards of care that apply to individuals who provide financial advice;</p> <p>(6) the possible benefits to consumers of regulation and professional oversight of financial planners; and</p> <p>(7) any other consideration that the Comptroller General deems necessary or appropriate to effectively execute the study required under subsection (a).</p> <p>(c) Recommendations- In providing recommendations for the appropriate regulation of financial planners and other individuals who provide or offer to provide financial planning services, in order to protect consumers of financial planning services, the Comptroller General shall consider--</p> <p>(1) the appropriate structure for regulation of financial planners and individuals providing financial planning services; and</p> <p>(2) the appropriate scope of the regulations needed to protect consumers, including but not limited to the need to establish competency standards, practice standards, ethical guidelines, disciplinary authority, and transparency to consumers.</p> <p>(d) Report-</p> <p>(1) IN GENERAL- Not later than 180 days after the date of enactment of this Act, the Comptroller General shall submit a report on the study required under subsection (a) to--</p> <p>(A) the Committee on Banking, Housing, and Urban Affairs of the Senate;</p> <p>(B) the Special Committee on Aging of the Senate; and</p> <p>(C) the Committee on Financial Services of the House of Representatives.</p> <p>(2) CONTENT REQUIREMENTS- The report required under paragraph (1) shall describe the findings and determinations made by the Comptroller General in carrying out the study required under subsection (a), including a description of the considerations, analysis, and government, public, industry, nonprofit and consumer input that the Comptroller General considered to make such findings, conclusions, and legislative,</p>	

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	regulatory, or other recommendations.	
	<p>SEC. 914. OFFICE OF THE INVESTOR ADVOCATE.</p> <p><i>Section 4 of the Securities Exchange Act of 1934 (15 U.S.C. 78d) is amended by adding at the end the following:</i></p> <p><i>`(g) Office of the Investor Advocate-</i></p> <p><i> `(1) OFFICE ESTABLISHED- There is established within the Commission the Office of the Investor Advocate (in this subsection referred to as the `Office').</i></p> <p><i> `(2) INVESTOR ADVOCATE-</i></p> <p><i> `(A) IN GENERAL- The head of the Office shall be the Investor Advocate, who shall--</i></p> <p><i> `i) report directly to the Chairman; and</i></p> <p><i> `ii) be appointed by the Chairman, in consultation with the Commission, from among individuals having experience in advocating for the interests of investors in securities and investor protection issues, from the perspective of investors.</i></p> <p><i> ` (B) COMPENSATION- The annual rate of pay for the Investor Advocate shall be equal to the highest rate of annual pay for a Senior Executive Service position within the Commission.</i></p> <p><i> ` (C) LIMITATION ON SERVICE- An individual who serves as the Investor Advocate may not be employed by the Commission--</i></p> <p><i> `i) during the 2-year period ending on the date of appointment as Investor Advocate; or</i></p> <p><i> `ii) during the 5-year period beginning on the date on which the person ceases to serve as the Investor Advocate.</i></p> <p><i> ` (3) STAFF OF OFFICE- The Investor Advocate may retain or employ independent counsel, research staff, and service staff, as the Investor Advocate deems necessary to carry out the functions, powers, and duties of the Office.</i></p> <p><i> ` (4) FUNCTIONS OF THE INVESTOR ADVOCATE- The Investor Advocate shall--</i></p> <p><i> ` (A) assist retail investors in resolving significant problems such investors may have with the Commission or with self-regulatory organizations;</i></p> <p><i> ` (B) identify areas in which investors would benefit from changes in the regulations of the Commission or</i></p>	

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	<p><i>the rules of self-regulatory organizations;</i></p> <p><i>ˆ(C) identify problems that investors have with financial service providers and investment products;</i></p> <p><i>ˆ(D) analyze the potential impact on investors of--</i></p> <p style="padding-left: 40px;"><i>ˆ(i) proposed regulations of the Commission;</i></p> <p style="padding-left: 40px;"><i>and</i></p> <p style="padding-left: 40px;"><i>ˆ(ii) proposed rules of self-regulatory organizations registered under this title; and</i></p> <p><i>ˆ(E) to the extent practicable, propose to the Commission changes in the regulations or orders of the Commission and to Congress any legislative, administrative, or personnel changes that may be appropriate to mitigate problems identified under this paragraph and to promote the interests of investors.</i></p> <p><i>ˆ(5) ACCESS TO DOCUMENTS- The Commission shall ensure that the Investor Advocate has full access to the documents of the Commission and any self-regulatory organization, as necessary to carry out the functions of the Office.</i></p> <p><i>ˆ(6) ANNUAL REPORTS-</i></p> <p style="padding-left: 20px;"><i>ˆ(A) REPORT ON OBJECTIVES-</i></p> <p style="padding-left: 40px;"><i>ˆ(i) IN GENERAL- Not later than June 30 of each year after 2010, the Investor Advocate shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report on the objectives of the Investor Advocate for the following fiscal year.</i></p> <p style="padding-left: 40px;"><i>ˆ(ii) CONTENTS- Each report required under clause (i) shall contain full and substantive analysis and explanation.</i></p> <p style="padding-left: 20px;"><i>ˆ(B) REPORT ON ACTIVITIES-</i></p> <p style="padding-left: 40px;"><i>ˆ(i) IN GENERAL- Not later than December 31 of each year after 2010, the Investor Advocate shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report on the activities of the Investor Advocate during the immediately preceding fiscal year.</i></p> <p style="padding-left: 40px;"><i>ˆ(ii) CONTENTS- Each report required under clause (i) shall include--</i></p>	

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	<p> <i>“(I) appropriate statistical information and full and substantive analysis;</i> <i>“(II) information on steps that the Investor Advocate has taken during the reporting period to improve investor services and the responsiveness of the Commission and self-regulatory organizations to investor concerns;</i> <i>“(III) a summary of the most serious problems encountered by investors during the reporting period;</i> <i>“(IV) an inventory of the items described in subclauses (III) that includes--</i> </p> <p> <i>“(aa) identification of any action taken by the Commission or the self-regulatory organization and the result of such action;</i> </p> <p> <i>“(bb) the length of time that each item has remained on such inventory; and</i> </p> <p> <i>“(cc) for items on which no action has been taken, the reasons for inaction, and an identification of any official who is responsible for such action;</i> </p> <p> <i>“(V) recommendations for such administrative and legislative actions as may be appropriate to resolve problems encountered by investors; and</i> <i>“(VI) any other information, as determined appropriate by the Investor Advocate.</i> </p> <p> <i>“(iii) INDEPENDENCE- Each report required under this paragraph shall be provided directly to the Committees listed in clause (i) without any prior review or comment from the Commission, any commissioner, any other officer or employee of the Commission, or the Office of Management and Budget.</i> </p> <p> <i>“(iv) CONFIDENTIALITY- No report required under clause (i) may contain confidential</i> </p>	

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	<p>information.</p> <p>“(7) REGULATIONS- The Commission shall, by regulation, establish procedures requiring a formal response to all recommendations submitted to the Commission by the Investor Advocate, not later than 3 months after the date of such submission.’.</p>	
	<p>SEC. 915. STREAMLINING OF FILING PROCEDURES FOR SELF-REGULATORY ORGANIZATIONS.</p> <p>(a) Filing Procedures- Section 19(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78s(b)) is amended by striking paragraph (2) (including the undesignated matter immediately following subparagraph (B)) and inserting the following:</p> <p>“(2) APPROVAL PROCESS-</p> <p>“(A) APPROVAL PROCESS ESTABLISHED-</p> <p>“(i) IN GENERAL- Except as provided in clause (ii), not later than 45 days after the date of publication of a proposed rule change under paragraph (1), the Commission shall--</p> <p>“(I) by order, approve the proposed rule change; or</p> <p>“(II) institute proceedings under subparagraph (B) to determine whether the proposed rule change should be disapproved.</p> <p>“(ii) EXTENSION OF TIME PERIOD- The Commission may extend the period established under clause (i) by not more than an additional 45 days, if--</p> <p>“(I) the Commission determines that a longer period is appropriate and publishes the reasons for such determination; or</p> <p>“(II) the self-regulatory organization that filed the proposed rule change consents to the longer period.</p> <p>“(B) PROCEEDINGS-</p> <p>“(i) NOTICE AND HEARING- If the Commission does not approve a proposed rule change under subparagraph (A), the</p>	

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	<p><i>Commission shall provide to the self-regulatory organization that filed the proposed rule change--</i></p> <p><i> (I) notice of the grounds for disapproval under consideration; and</i></p> <p><i> (II) opportunity for hearing, to be concluded not later than 180 days after the date of publication of notice of the filing of the proposed rule change.</i></p> <p>(ii) ORDER OF APPROVAL OR DISAPPROVAL-</p> <p><i> (I) IN GENERAL- Except as provided in subclause (II), not later than 180 days after the date of publication under paragraph (1), the Commission shall issue an order approving or disapproving the proposed rule change.</i></p> <p><i> (II) EXTENSION OF TIME PERIOD- The Commission may extend the period for issuance under clause (I) by not more than 60 days, if--</i></p> <p><i> (aa) the Commission determines that a longer period is appropriate and publishes the reasons for such determination; or</i></p> <p><i> (bb) the self-regulatory organization that filed the proposed rule change consents to the longer period.</i></p> <p>(C) STANDARDS FOR APPROVAL AND DISAPPROVAL-</p> <p><i> (i) APPROVAL- The Commission shall approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of this title and the rules and regulations issued under this title that are applicable to such organization.</i></p> <p><i> (ii) DISAPPROVAL- The Commission shall</i></p>	

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	<p><i>disapprove a proposed rule change of a self-regulatory organization if it does not make a finding described in clause (i).</i></p> <p><i>“(iii) TIME FOR APPROVAL- The Commission may not approve a proposed rule change earlier than 30 days after the date of publication under paragraph (1), unless the Commission finds good cause for so doing and publishes the reason for the finding.</i></p> <p><i>“(D) RESULT OF FAILURE TO INSTITUTE OR CONCLUDE PROCEEDINGS- A proposed rule change shall be deemed to have been approved by the Commission, if-</i></p> <p><i>“(i) the Commission does not approve the proposed rule change or begin proceedings under subparagraph (B) within the period described in subparagraph (A); or</i></p> <p><i>“(ii) the Commission does not issue an order approving or disapproving the proposed rule change under subparagraph (B) within the period described in subparagraph (B)(ii).</i></p> <p><i>“(E) PUBLICATION DATE BASED ON FEDERAL REGISTER PUBLISHING- For purposes of this paragraph, if, after filing a proposed rule change with the Commission pursuant to paragraph (1), a self-regulatory organization publishes a notice of the filing of such proposed rule change, together with the substantive terms of such proposed rule change, on a publicly accessible website, the Commission shall thereafter send the notice to the Federal Register for publication thereof under paragraph (1) within 15 days of the date on which such website publication is made. If the Commission fails to send the notice for publication thereof within such 15 day period, then the date of publication shall be deemed to be the date on which such website publication was made.’.</i></p> <p><i>(b) Clarification of Filing Date-</i></p> <p><i>(1) RULE OF CONSTRUCTION- Section 19(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78s(b)) is amended by adding at the end the following:</i></p> <p><i>“(10) RULE OF CONSTRUCTION RELATING TO FILING DATE OF PROPOSED RULE CHANGES-</i></p> <p><i>“(A) IN GENERAL- For purposes of this subsection,</i></p>	

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	<p><i>the date of filing of a proposed rule change shall be deemed to be the date on which the Commission receives the proposed rule change.</i></p> <p><i>“(B) EXCEPTION- A proposed rule change has not been received by the Commission for purposes of subparagraph (A) if, not later than 7 days after the date of receipt by the Commission, the Commission notifies the self-regulatory organization that such proposed rule change does not comply with the rules of the Commission relating to the required form of a proposed rule change.”</i></p> <p><i>(2) PUBLICATION- Section 19(b)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78s(b)(1)) is amended by striking ‘upon’ and inserting ‘as soon as practicable after the date of’.</i></p> <p><i>(c) Effective Date of Proposed Rules- Section 19(b)(3) of the Securities Exchange Act of 1934 (15 U.S.C. 78s(b)(3)) is amended--</i></p> <p><i>(1) in subparagraph (A)--</i></p> <p><i>(A) by striking ‘may take effect’ and inserting ‘shall take effect’; and</i></p> <p><i>(B) by inserting ‘on any person, whether or not the person is a member of the self-regulatory organization’ after ‘charge imposed by the self-regulatory organization’; and</i></p> <p><i>(2) in subparagraph (C)--</i></p> <p><i>(A) by amending the second sentence to read as follows: ‘At any time within the 60-day period beginning on the date of filing of such a proposed rule change in accordance with the provisions of paragraph (1), the Commission summarily may temporarily suspend the change in the rules of the self-regulatory organization made thereby, if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of this title.’;</i></p> <p><i>(B) by inserting after the second sentence the following: ‘If the Commission takes such action, the Commission shall institute proceedings under paragraph (2)(B) to determine whether the proposed rule should be approved or disapproved.’; and</i></p> <p><i>(C) in the third sentence, by striking ‘the preceding sentence’ and inserting ‘this subparagraph’.</i></p> <p><i>(d) Conforming Change- Section 19(b)(4)(D) of the Securities Exchange</i></p>	

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	<p>Act of 1934 (15 U.S.C. 78s(b)(4)(D)) is amended to read as follows:</p> <p>“(D)(i) The Commission shall order the temporary suspension of any change in the rules of a clearing agency made by a proposed rule change that has taken effect under paragraph (3), if the appropriate regulatory agency for the clearing agency notifies the Commission not later than 30 days after the date on which the proposed rule change was filed of--</p> <p>“(I) the determination by the appropriate regulatory agency that the rules of such clearing agency, as so changed, may be inconsistent with the safeguarding of securities or funds in the custody or control of such clearing agency or for which it is responsible; and</p> <p>“(II) the reasons for the determination described in subclause (I).</p> <p>“(ii) If the Commission takes action under clause (i), the Commission shall institute proceedings under paragraph (2)(B) to determine if the proposed rule change should be approved or disapproved.’.</p>	
	<p>SEC. 917. STUDY REGARDING MUTUAL FUND ADVERTISING.</p> <p>(a) <i>In General-</i> The Comptroller General of the United States shall conduct a study on mutual fund advertising to identify--</p> <p>(1) existing and proposed regulatory requirements for open-end investment company advertisements;</p> <p>(2) current marketing practices for the sale of open-end investment company shares, including the use of past performance data, funds that have merged, and incubator funds;</p> <p>(3) the impact of such advertising on consumers; and</p> <p>(4) recommendations to improve investor protections in mutual fund advertising and additional information necessary to ensure that investors can make informed financial decisions when purchasing shares.</p> <p>(b) <i>Report-</i> Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall submit a report on the results of the study conducted under subsection (a) to--</p> <p>(1) the Committee on Banking, Housing, and Urban Affairs of the United States Senate; and</p>	

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	<p data-bbox="1231 172 1843 228">(2) the Committee on Financial Services of the House of Representatives.</p> <p data-bbox="1042 269 1924 355">SEC. 918. CLARIFICATION OF COMMISSION AUTHORITY TO REQUIRE INVESTOR DISCLOSURES BEFORE PURCHASE OF INVESTMENT PRODUCTS AND SERVICES.</p> <p data-bbox="1139 399 1870 456">Section 15 of the Securities Exchange Act of 1934 (15 U.S.C. 78o) is amended by adding at the end the following:</p> <p data-bbox="1139 461 1521 485">`k) Disclosures to Retail Investors-</p> <p data-bbox="1231 490 1916 639">`1) IN GENERAL- Notwithstanding any other provision of the securities laws, the Commission may issue rules designating documents or information that shall be provided by a broker or dealer to a retail investor before the purchase of an investment product or service by the retail investor.</p> <p data-bbox="1231 644 1924 760">`2) CONSIDERATIONS- In developing any rules under paragraph (1), the Commission shall consider whether the rules will promote investor protection, efficiency, competition, and capital formation.</p> <p data-bbox="1231 764 1878 850">`3) FORM AND CONTENTS OF DOCUMENTS AND INFORMATION- Any documents or information designated under a rule promulgated under paragraph (1) shall--</p> <p data-bbox="1333 855 1696 880">`A) be in a summary format; and</p> <p data-bbox="1333 885 1876 909">`B) contain clear and concise information about--</p> <p data-bbox="1427 914 1889 971">`i) investment objectives, strategies, costs, and risks; and</p> <p data-bbox="1427 976 1876 1091">`ii) any compensation or other financial incentive received by a broker, dealer, or other intermediary in connection with the purchase of retail investment products.'</p>	
	<p data-bbox="1042 1170 1575 1195">919. STUDY ON CONFLICTS OF INTEREST.</p> <p data-bbox="1139 1235 1897 1292">(a) SE In General- The Comptroller General of the United States shall conduct a study--</p> <p data-bbox="1231 1297 1932 1412">(1) to identify and examine potential conflicts of interest that exist between the staffs of the investment banking and equity and fixed income securities analyst functions within the same firm; and</p> <p data-bbox="1231 1417 1905 1474">(2) to make recommendations to Congress designed to protect investors in light of such conflicts.</p>	

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	<p><i>(b) Considerations- In conducting the study under subsection (a), the Comptroller General shall--</i></p> <p><i>(1) consider--</i></p> <p><i>(A) the potential for investor harm resulting from conflicts, including consideration of the forms of misconduct engaged in by the several securities firms and individuals that entered into the Global Analyst Research Settlements in 2003 (also known as the 'Global Settlement');</i></p> <p><i>(B) the nature and benefits of the undertakings to which those firms agreed in enforcement proceedings, including firewalls between research and investment banking, separate reporting lines, dedicated legal and compliance staffs, allocation of budget, physical separation, compensation, employee performance evaluations, coverage decisions, limitations on soliciting investment banking business, disclosures, transparency, and other measures;</i></p> <p><i>(C) whether any such undertakings should be codified and applied permanently to securities firms, or whether the Commission should adopt rules applying any such undertakings to securities firms; and</i></p> <p><i>(D) whether to recommend regulatory or legislative measures designed to mitigate possible adverse consequences to investors arising from the conflicts of interest or to enhance investor protection or confidence in the integrity of the securities markets; and</i></p> <p><i>(2) consult with State attorneys general, State securities officials, the Commission, the Financial Industry Regulatory Authority ('FINRA'), NYSE Regulation, investor advocates, brokers, dealers, retail investors, institutional investors, and academics.</i></p> <p><i>(c) Report- The Comptroller General shall submit a report on the results of the study required by this section to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives, not later than 18 months after the date of enactment of this Act.</i></p>	
	<p>SEC. 919A. STUDY ON IMPROVED INVESTOR ACCESS TO INFORMATION ON INVESTMENT ADVISERS AND BROKER-DEALERS.</p>	

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	<p>(a) Study-</p> <p>(1) <i>IN GENERAL</i>- Not later than 6 months after the date of enactment of this Act, the Commission shall complete a study, including recommendations, of ways to improve the access of investors to registration information (including disciplinary actions, regulatory, judicial, and arbitration proceedings, and other information) about registered and previously registered investment advisers, associated persons of investment advisers, brokers and dealers and their associated persons on the existing Central Registration Depository and Investment Adviser Registration Depository systems, as well as identify additional information that should be made publicly available.</p> <p>(2) <i>CONTENTS</i>- The study required by subsection (a) shall include an analysis of the advantages and disadvantages of further centralizing access to the information contained in the 2 systems, including--</p> <p style="padding-left: 40px;">(A) identification of those data pertinent to investors; and</p> <p style="padding-left: 40px;">(B) the identification of the method and format for displaying and publishing such data to enhance accessibility by and utility to investors.</p> <p>(b) <i>Implementation</i>- Not later than 18 months after the date of completion of the study required by subsection (a), the Commission shall implement any recommendations of the study.</p>	
	<i>Subtitle B--Increasing Regulatory Enforcement and Remedies</i>	
<p>SEC. 7201. AUTHORITY TO RESTRICT MANDATORY PRE-DISPUTE ARBITRATION.</p> <p>(a) Amendment to Securities Exchange Act of 1934- Section 15 of the Securities Exchange Act of 1934 (15 U.S.C. 78o), as amended by section 7103, is further amended by adding at the end the following new subsection:</p> <p>(p) Authority to Restrict Mandatory Pre-dispute Arbitration- The Commission, by rule, may prohibit, or impose conditions or limitations on the use of, agreements that require customers or clients of any broker, dealer, or municipal securities dealer to arbitrate any future dispute between them arising under the Federal securities laws, the rules and regulations thereunder, or the rules of a self-regulatory organization if it</p>	<p>SEC. 921. AUTHORITY TO ISSUE RULES RELATED TO MANDATORY PREDISPUTE ARBITRATION.</p> <p>(a) Amendment to Securities Exchange Act of 1934- Section 15 of the Securities Exchange Act of 1934 (15 U.S.C. 78o), as amended by section 918, is amended by adding at the end the following:</p> <p>(l) Authority To Restrict Mandatory Predispute Arbitration- The Commission may conduct a rulemaking to reaffirm or prohibit, or impose or not impose conditions or limitations on the use of, agreements that require customers or clients of any broker, dealer, or municipal securities dealer to arbitrate any dispute between them and such broker, dealer, or municipal securities dealer that arises under the securities laws or the rules of a self-regulatory organization, if the Commission</p>	

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<p>finds that such prohibition, imposition of conditions, or limitations are in the public interest and for the protection of investors.'.</p> <p>(b) Amendment to Investment Advisers Act of 1940- Section 205 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-5) is amended by adding at the end the following new subsection:</p> <p>`(f) Authority to Restrict Mandatory Pre-dispute Arbitration- The Commission, by rule, may prohibit, or impose conditions or limitations on the use of, agreements that require customers or clients of any investment adviser to arbitrate any future dispute between them arising under the Federal securities laws, the rules and regulations thereunder, or the rules of a self-regulatory organization if it finds that such prohibition, imposition of conditions, or limitations are in the public interest and for the protection of investors.'.</p>	<p><i>finds that such reaffirmation, prohibition, imposition of conditions or limitations, or other action is in the public interest and for the protection of investors.'.</i></p> <p><i>(b) Amendment to Investment Advisers Act of 1940- Section 205 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-5) is amended by adding at the end the following:</i></p> <p><i>`(f) Authority To Issue Rules Related to Mandatory Pre-dispute Arbitration- The Commission may conduct rulemaking to reaffirm or prohibit, or impose or not impose conditions or limitations on the use of, agreements that require customers or clients of any investment adviser to arbitrate any dispute between them and such investment adviser that arises under the securities laws, as defined in section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c), or the rules of a self-regulatory organization, if the Commission finds that such reaffirmation, prohibition, imposition of conditions or limitations, or other action is in the public interest and for the protection of investors.'.</i></p>	
<p>SEC. 7202. COMPTROLLER GENERAL STUDY TO REVIEW SECURITIES ARBITRATION SYSTEM.</p> <p>(a) Study- The Comptroller General of the United States shall conduct a study to review--</p> <ol style="list-style-type: none"> (1) the costs to parties of an arbitration proceeding using the arbitration system operated by the Financial Industry Regulatory Authority and overseen by the Securities and Exchange Commission as compared to litigation; (2) the percentage of recovery of the total amount of a claim in an arbitration proceeding using the arbitration system operated by the Financial Industry Regulatory Authority and overseen by the Securities and Exchange Commission; and (3) other additional issues as may be raised during the course of the study conducted under this subsection. <p>(b) Report- Not later than 1 year after the date of enactment of this subtitle, the Comptroller General of the United States shall submit to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report on the results of the study required by subsection (a), including in such report recommendations for improvements to the arbitration system referenced in such subsection.</p>		
<p>SEC. 7203. WHISTLEBLOWER PROTECTION.</p> <p>(a) In General- The Securities Exchange Act of 1934 (15 U.S.C. 78a et</p>	<p>SEC. 922. WHISTLEBLOWER PROTECTION.</p> <p>(a) In General- The Securities Exchange Act of 1934 (15 U.S.C. 78a et</p>	

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<p>seq.) is amended by adding after section 21E the following new section:</p> <p>SEC. 21F. SECURITIES WHISTLEBLOWER INCENTIVES AND PROTECTION.</p> <p>(a) In General- In any judicial or administrative action brought by the Commission under the securities laws that results in monetary sanctions exceeding \$1,000,000, the Commission, under regulations prescribed by the Commission and subject to subsection (b), may pay an award or awards not exceeding an amount equal to 30 percent, in total, of the monetary sanctions imposed in the action or related actions to one or more whistleblowers who voluntarily provided original information to the Commission that led to the successful enforcement of the action. Any amount payable under the preceding sentence shall be paid from the fund described in subsection (f).</p>	<p>seq.) is amended by inserting after section 21E the following:</p> <p>SEC. 21F. SECURITIES WHISTLEBLOWER INCENTIVES AND PROTECTION.</p> <p>(b) Awards-</p> <p>(1) IN GENERAL- In any covered judicial or administrative action, or related action, the Commission, under regulations prescribed by the Commission and subject to subsection (c), shall pay an award or awards to 1 or more whistleblowers who voluntarily provided original information to the Commission that led to the successful enforcement of the covered judicial or administrative action, or related action, in an aggregate amount equal to--</p> <p>(A) not less than 10 percent, in total, of what has been collected of the monetary sanctions imposed in the action or related actions; and</p> <p>(B) not more than 30 percent, in total, of what has been collected of the monetary sanctions imposed in the action or related actions.</p> <p>(2) PAYMENT OF AWARDS- Any amount paid under paragraph (1) shall be paid from the Fund.</p>	
<p>(b) Determination of Amount of Award; Denial of Award-</p> <p>(1) DETERMINATION OF AMOUNT OF AWARD- The determination of the amount of an award, within the limit specified in subsection (a), shall be in the sole discretion of the Commission. The Commission may take into account the significance of the whistleblower's information to the success of the judicial or administrative action described in subsection (a), the degree of assistance provided by the whistleblower and any legal representative of the whistleblower in such action, the Commission's programmatic interest in deterring violations of the securities laws by making awards to whistleblowers who provide information that leads to the successful enforcement of such laws, and such additional factors as the Commission may establish by rules or regulations.</p> <p>(2) DENIAL OF AWARD- No award under subsection (a) shall be made--</p> <p>(A) to any whistleblower who is, or was at the time he or she acquired the original information submitted to the Commission, a member, officer, or employee of</p>	<p>(c) Determination of Amount of Award; Denial of Award-</p> <p>(1) DETERMINATION OF AMOUNT OF AWARD-</p> <p>(A) DISCRETION- The determination of the amount of an award made under subsection (b) shall be in the discretion of the Commission.</p> <p>(B) CRITERIA- In determining the amount of an award made under subsection (b), the Commission shall take into account--</p> <p>(i) the significance of the information provided by the whistleblower to the success of the covered judicial or administrative action;</p> <p>(ii) the degree of assistance provided by the whistleblower and any legal representative of the whistleblower in a covered judicial or administrative action;</p> <p>(iii) the programmatic interest of the Commission in deterring violations of the securities laws by making awards to</p>	

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<p>any appropriate regulatory agency, the Department of Justice, the Public Company Accounting Oversight Board, law enforcement agency, or a self-regulatory organization;</p> <p>(B) to any whistleblower who is convicted of a criminal violation related to the judicial or administrative action for which the whistleblower otherwise could receive an award under this section;</p> <p>(C) to any whistleblower who gains the information through the performance of an audit of financial statements required under the securities laws; or</p> <p>(D) to any whistleblower who fails to submit information to the Commission in such form as the Commission may, by rule, require.</p>	<p><i>whistleblowers who provide information that lead to the successful enforcement of such laws; and</i></p> <p><i>(iv) such additional relevant factors as the Commission may establish by rule or regulation.</i></p> <p><i>(2) DENIAL OF AWARD- No award under subsection (b) shall be made--</i></p> <p><i>(A) to any whistleblower who is, or was at the time the whistleblower acquired the original information submitted to the Commission, a member, officer, or employee of--</i></p> <p><i>(i) an appropriate regulatory agency;</i></p> <p><i>(ii) the Department of Justice;</i></p> <p><i>(iii) a self-regulatory organization;</i></p> <p><i>(iv) the Public Company Accounting Oversight Board; or</i></p> <p><i>(v) a law enforcement organization;</i></p> <p><i>(B) to any whistleblower who is convicted of a criminal violation related to the judicial or administrative action for which the whistleblower otherwise could receive an award under this section;</i></p> <p><i>(C) to any whistleblower who gains the information through the performance of an audit of financial statements required under the securities laws and for whom such submission would be contrary to the requirements of section 101A of the Securities Exchange Act of 1934 (15 U.S.C. 78j-1); or</i></p> <p><i>(D) to any whistleblower who fails to submit information to the Commission in such form as the Commission may, by rule, require.</i></p>	
<p>(c) Representation-</p> <p>(1) PERMITTED REPRESENTATION- Any whistleblower who makes a claim for an award under subsection (a) may be represented by counsel.</p> <p>(2) REQUIRED REPRESENTATION- Any whistleblower who makes a claim for an award under subsection (a) must be represented by counsel if the whistleblower submits the information upon which the claim is based anonymously. Prior to the payment of an award, the whistleblower must disclose his or her identity and provide such other information as the Commission may require.</p>	<p>(d) Representation-</p> <p>(1) PERMITTED REPRESENTATION- Any whistleblower who makes a claim for an award under subsection (b) may be represented by counsel.</p> <p>(2) REQUIRED REPRESENTATION-</p> <p>(A) IN GENERAL- Any whistleblower who anonymously makes a claim for an award under subsection (b) shall be represented by counsel if the whistleblower anonymously submits the information upon which the claim is based.</p> <p>(B) DISCLOSURE OF IDENTITY- Prior to the</p>	

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<p>^(d) No Contract Necessary- No contract with the Commission is necessary for any whistleblower to receive an award under subsection (a), unless the Commission, by rule or regulation, so requires.</p> <p>^(e) Appeals- Any determinations under this section, including whether, to whom, or in what amounts to make awards, shall be in the sole discretion of the Commission, and any such determinations shall be final and not subject to judicial review.</p>	<p><i>payment of an award, a whistleblower shall disclose the identity of the whistleblower and provide such other information as the Commission may require, directly or through counsel for the whistleblower.</i></p> <p><i>^(e) No Contract Necessary- No contract with the Commission is necessary for any whistleblower to receive an award under subsection (b), unless otherwise required by the Commission by rule or regulation.</i></p>	
	<p><i>^(f) Appeals- Any determination made under this section, including whether, to whom, or in what amount to make awards, shall be in the discretion of the Commission. Any such determination may be appealed to the appropriate court of appeals of the United States not more than 30 days after the determination is issued by the Commission. The court shall review the determination made by the Commission in accordance with section 706 of title 5, United States Code.</i></p>	
<p>^(f) Investor Protection Fund-</p> <p>^(1) FUND ESTABLISHED- There is established in the Treasury of the United States a fund to be known as the 'Securities and Exchange Commission Investor Protection Fund' (referred to in this section as the 'Fund').</p> <p>^(2) USE OF FUND- The Fund shall be available to the Commission, without further appropriation or fiscal year limitation, for the following purposes:</p> <p>^(A) Paying awards to whistleblowers as provided in subsection (a).</p> <p>^(B) Funding investor education initiatives designed to help investors protect themselves against securities fraud or other violations of the securities laws, or the rules and regulations thereunder.</p> <p>^(3) DEPOSITS AND CREDITS- There shall be deposited into or credited to the Fund--</p> <p>^(A) any monetary sanction collected by the Commission in any judicial or administrative action brought by the Commission under the securities laws that is not added to a disgorgement fund or other fund pursuant to section 308 of the Sarbanes-Oxley Act of 2002 or otherwise distributed to victims of a violation of the securities laws, or the rules and regulations thereunder, underlying such action, unless the balance of the Fund at the time the monetary sanction is collected exceeds \$100,000,000;</p> <p>^(B) any monetary sanction added to a disgorgement</p>	<p>^(g) Investor Protection Fund-</p> <p>^(1) FUND ESTABLISHED- There is established in the Treasury of the United States a fund to be known as the 'Securities and Exchange Commission Investor Protection Fund'.</p> <p>^(2) USE OF FUND- The Fund shall be available to the Commission, without further appropriation or fiscal year limitation, for--</p> <p>^(A) paying awards to whistleblowers as provided in subsection (b); and</p> <p>^(B) funding the activities of the Inspector General of the Commission under section 4(i).</p> <p>^(3) DEPOSITS AND CREDITS- There shall be deposited into or credited to the Fund an amount equal to--</p> <p>^(A) the amount awarded under subsection (b) from any monetary sanction collected by the Commission in any judicial or administrative action brought by the Commission that is based on information provided by a whistleblower under the securities laws, unless, the balance of the Fund at the time the monetary sanction is collected exceeds \$200,000,000;</p> <p>^(B) any monetary sanction added to a disgorgement fund or other fund pursuant to section 308 of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7246) that is not distributed to the victims for whom the disgorgement fund was established, unless the balance of the disgorgement fund at the time the determination</p>	

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<p>fund or other fund pursuant to section 308 of the Sarbanes-Oxley Act of 2002 that is not distributed to the victims for whom the disgorgement fund or other fund was established, unless the balance of the Fund at the time the determination is made not to distribute the monetary sanction to such victims exceeds \$100,000,000; and</p> <p>`(C) all income from investments made under paragraph (4).</p> <p>`(4) INVESTMENTS-</p> <p>`(A) AMOUNTS IN FUND MAY BE INVESTED- The Commission may request the Secretary of the Treasury to invest the portion of the Fund that is not, in the Commission's judgment, required to meet the current needs of the Fund.</p> <p>`(B) ELIGIBLE INVESTMENTS- Investments shall be made by the Secretary of the Treasury in obligations of the United States or obligations that are guaranteed as to principal and interest by the United States, with maturities suitable to the needs of the Fund as determined by the Commission.</p> <p>`(C) INTEREST AND PROCEEDS CREDITED- The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to, and form a part of, the Fund.</p> <p>`(5) REPORTS TO CONGRESS- Not later than October 30 of each year, the Commission shall transmit to the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Financial Services of the House of Representatives a report on--</p> <p>`(A) the Commission's whistleblower award program under this section, including a description of the number of awards that were granted and the types of cases in which awards were granted during the preceding fiscal year;</p> <p>`(B) investor education initiatives described in paragraph (2)(B) that were funded by the Fund during the preceding fiscal year;</p> <p>`(C) the balance of the Fund at the beginning of the preceding fiscal year;</p> <p>`(D) the amounts deposited into or credited to the Fund during the preceding fiscal year;</p> <p>`(E) the amount of earnings on investments of amounts</p>	<p><i>is made not to distribute the monetary sanction to such victims exceeds \$100,000,000; and</i></p> <p><i>`(C) all income from investments made under paragraph (4).</i></p> <p><i>`(4) INVESTMENTS-</i></p> <p><i>`(A) AMOUNTS IN FUND MAY BE INVESTED- The Commission may request the Secretary of the Treasury to invest the portion of the Fund that is not, in the discretion of the Commission, required to meet the current needs of the Fund.</i></p> <p><i>`(B) ELIGIBLE INVESTMENTS- Investments shall be made by the Secretary of the Treasury in obligations of the United States or obligations that are guaranteed as to principal and interest by the United States, with maturities suitable to the needs of the Fund as determined by the Commission on the record.</i></p> <p><i>`(C) INTEREST AND PROCEEDS CREDITED- The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to the Fund.</i></p> <p><i>`(5) REPORTS TO CONGRESS- Not later than October 30 of each fiscal year beginning after the date of enactment of this subsection, the Commission shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Financial Services of the House of Representatives a report on--</i></p> <p><i>`(A) the whistleblower award program, established under this section, including--</i></p> <p><i> `i) a description of the number of awards granted; and</i></p> <p><i> `ii) the types of cases in which awards were granted during the preceding fiscal year;</i></p> <p><i>`(B) the balance of the Fund at the beginning of the preceding fiscal year;</i></p> <p><i>`(C) the amounts deposited into or credited to the Fund during the preceding fiscal year;</i></p> <p><i>`(D) the amount of earnings on investments made under paragraph (4) during the preceding fiscal year;</i></p> <p><i>`(E) the amount paid from the Fund during the preceding fiscal year to whistleblowers pursuant to subsection (b);</i></p> <p><i>`(F) the balance of the Fund at the end of the preceding fiscal year; and</i></p>	

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<p>in the Fund during the preceding fiscal year; `(F) the amount paid from the Fund during the preceding fiscal year to whistleblowers pursuant to subsection (a); `(G) the amount paid from the Fund during the preceding fiscal year for investor education initiatives described in paragraph (1)(B); `(H) the balance of the Fund at the end of the preceding fiscal year; and `(I) a complete set of audited financial statements, including a balance sheet, income statement, and cash flow analysis.</p>	<p><i>`(G) a complete set of audited financial statements, including-- `(i) a balance sheet; `(ii) income statement; and `(iii) cash flow analysis.</i></p>	
<p><i>`(g) Protection of Whistleblowers-</i> <i>`(1) PROHIBITION AGAINST RETALIATION-</i> <i>`(A) IN GENERAL- No employer may discharge, demote, suspend, threaten, harass, or in any other manner discriminate against an employee, contractor, or agent in the terms and conditions of employment because of any lawful act done by the employee, contractor, or agent in providing information to the Commission in accordance with subsection (a), or in assisting in any investigation or judicial or administrative action of the Commission based upon or related to such information.</i> <i>`(B) ENFORCEMENT-</i> <i>`(i) CAUSE OF ACTION- An individual who alleges discharge or other discrimination in violation of subparagraph (A) may bring an action under this subsection in the appropriate district court of the United States for the relief provided in subparagraph (C).</i> <i>`(ii) SUBPOENAS- A subpoena requiring the attendance of a witness at a trial or hearing conducted under this section may be served at any place in the United States.</i> <i>`(iii) STATUTE OF LIMITATIONS- An action under this subsection may not be brought more than 6 years after the date on which the violation of subparagraph (A) occurred, or more than 3 years after the date when facts material to the right of action are known or reasonably should have been known by the employee alleging a violation of</i></p>	<p><i>`(h) Protection of Whistleblowers-</i> <i>`(1) PROHIBITION AGAINST RETALIATION-</i> <i>`(A) IN GENERAL- No employer may discharge, demote, suspend, threaten, harass, directly or indirectly, or in any other manner discriminate against, a whistleblower in the terms and conditions of employment because of any lawful act done by the whistleblower-- `(i) in providing information to the Commission in accordance with subsection (a); or `(ii) in assisting in any investigation or judicial or administrative action of the Commission based upon or related to such information.</i> <i>`(B) ENFORCEMENT-</i> <i>`(i) CAUSE OF ACTION- An individual who alleges discharge or other discrimination in violation of subparagraph (A) may bring an action under this subsection in the appropriate district court of the United States for the relief provided in subparagraph (C).</i> <i>`(ii) SUBPOENAS- A subpoena requiring the attendance of a witness at a trial or hearing conducted under this section may be served at any place in the United States.</i> <i>`(iii) STATUTE OF LIMITATIONS-</i> <i>`(I) IN GENERAL- An action under this subsection may not be brought--</i> <i>`(aa) more than 6 years after the date on which the violation of subparagraph (A)</i></p>	

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<p>subparagraph (A), but in no event after 10 years after the date on which the violation occurs.</p> <p>“(C) RELIEF- An employee, contractor, or agent prevailing in any action brought under subparagraph (B) shall be entitled to all relief necessary to make that employee, contractor, or agent whole, including reinstatement with the same seniority status that the employee, contractor, or agent would have had, but for the discrimination, 2 times the amount of back pay, with interest, and compensation for any special damages sustained as a result of the discrimination, including litigation costs, expert witness fees, and reasonable attorneys' fees.</p> <p>“(2) CONFIDENTIALITY-</p> <p>“(A) IN GENERAL- Except as provided in subparagraph (B), the Commission and any officer or employee of the Commission shall not disclose any information, including information provided by a whistleblower to the Commission, which could reasonably be expected to reveal the identity of a whistleblower, except in accordance with the provisions of section 552a of title 5, United States Code, unless and until required to be disclosed to a defendant or respondent in connection with a public proceeding instituted by the Commission or any entity described in subparagraph (B). For purposes of section 552 of title 5, United States Code, this paragraph shall be considered a statute described in subsection (b)(3)(B) of such section 552.</p> <p>“(B) AVAILABILITY TO GOVERNMENT AGENCIES- Without the loss of its status as confidential and privileged in the hands of the Commission, all information referred to in subparagraph (A) may, in the discretion of the Commission, when determined by the Commission to be necessary to accomplish the purposes of this Act and protect investors, be made available to--</p> <p>“(i) the Attorney General of the United States,</p> <p>“(ii) an appropriate regulatory authority,</p> <p>“(iii) a self-regulatory organization,</p> <p>“(iv) State attorneys general in connection with any criminal investigation, and</p>	<p><i>occurred; or</i></p> <p><i>“(bb) more than 3 years after the date when facts material to the right of action are known or reasonably should have been known by the employee alleging a violation of subparagraph (A).</i></p> <p><i>“(II) REQUIRED ACTION WITHIN 10 YEARS- Notwithstanding subclause (I), an action under this subsection may not in any circumstance be brought more than 10 years after the date on which the violation occurs.</i></p> <p><i>“(C) RELIEF- Relief for an individual prevailing in an action brought under subparagraph (B) shall include--</i></p> <p><i>“(i) reinstatement with the same seniority status that the individual would have had, but for the discrimination;</i></p> <p><i>“(ii) 2 times the amount of back pay otherwise owed to the individual, with interest; and</i></p> <p><i>“(iii) compensation for litigation costs, expert witness fees, and reasonable attorneys' fees.</i></p> <p>“(2) CONFIDENTIALITY-</p> <p>“(A) IN GENERAL- Unless and until required to be disclosed to a defendant or respondent in connection with a proceeding instituted by the Commission or any entity described in subparagraph (D), all information provided to the Commission by a whistleblower--</p> <p>“(i) in any proceeding in any Federal or State court or administrative agency--</p> <p>“(I) shall be confidential and privileged as an evidentiary matter; and</p> <p>“(II) shall not be subject to civil discovery or other legal process; and</p> <p>“(ii) shall not be subject to disclosure under section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act) or under any proceeding under that section.</p> <p>“(B) EXEMPTED STATUTE- For purposes of section 552 of title 5, United States Code, this paragraph shall</p>	

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<p>(v) any appropriate State regulatory authority, each of which shall not disclose such information in accordance with subparagraph (A).</p>	<p><i>be considered a statute described in subsection (b)(3)(B) of such section 552.</i></p> <p><i>(C) RULE OF CONSTRUCTION- Nothing in this section is intended to limit, or shall be construed to limit, the ability of the Attorney General to present such evidence to a grand jury or to share such evidence with potential witnesses or defendants in the course of an ongoing criminal investigation.</i></p> <p><i>(D) AVAILABILITY TO GOVERNMENT AGENCIES-</i></p> <p><i>(i) IN GENERAL- Without the loss of its status as confidential and privileged in the hands of the Commission, all information referred to in subparagraph (A) may, in the discretion of the Commission, when determined by the Commission to be necessary to accomplish the purposes of this Act and to protect investors, be made available to--</i></p> <ul style="list-style-type: none"> <i>(I) the Attorney General of the United States;</i> <i>(II) an appropriate regulatory authority;</i> <i>(III) a self-regulatory organization;</i> <i>(IV) a State attorney general in connection with any criminal investigation;</i> <i>(V) any appropriate State regulatory authority;</i> <i>(VI) the Public Company Accounting Oversight Board;</i> <i>(VII) a foreign securities authority;</i> <i>and</i> <i>(VIII) a foreign law enforcement authority.</i> <p><i>(ii) CONFIDENTIALITY-</i></p> <ul style="list-style-type: none"> <i>(I) IN GENERAL- Each of the entities described in subclauses (I) through (VI) of clause (i) shall maintain such information as confidential and privileged, in accordance with the requirements established under subparagraph (A).</i> <i>(II) FOREIGN AUTHORITIES-</i> 	

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	<p><i>Each of the entities described in subclauses (VII) and (VIII) of clause (i) shall maintain such information in accordance with such assurances of confidentiality as the Commission determines appropriate.</i></p> <p><i>“(3) RIGHTS RETAINED- Nothing in this section shall be deemed to diminish the rights, privileges, or remedies of any whistleblower under any Federal or State law, or under any collective bargaining agreement.</i></p>	
<p>“(h) Provision of False Information- Any whistleblower who knowingly and willfully makes any false, fictitious, or fraudulent statement or representation, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry, shall not be entitled to an award under this section.</p> <p>“(i) Rulemaking Authority- The Commission shall have the authority to issue such rules and regulations as may be necessary or appropriate to implement the provisions of this section.</p>	<p>“(i) Provision of False Information- A whistleblower shall not be entitled to an award under this section if the whistleblower--</p> <p>“(1) knowingly and willfully makes any false, fictitious, or fraudulent statement or representation; or</p> <p>“(2) uses any false writing or document knowing the writing or document contains any false, fictitious, or fraudulent statement or entry.</p> <p>“(j) Rulemaking Authority- The Commission shall have the authority to issue such rules and regulations as may be necessary or appropriate to implement the provisions of this section consistent with the purposes of this section.’</p> <p><i>(b) Protection for Employees of Nationally Recognized Statistical Rating Organizations- Section 1514A(a) of title 18, United States Code, is amended--</i></p> <p><i>(1) by inserting ‘or nationally recognized statistical rating organization (as defined in section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c),’ after ‘78o(d),’; and</i></p> <p><i>(2) by inserting ‘or nationally recognized statistical rating organization’ after ‘such company’.</i></p>	
<p>“(j) Definitions- For purposes of this section, the following terms have the following meanings:</p> <p>“(1) ORIGINAL INFORMATION- The term ‘original information’ means information that--</p> <p>“(A) is based on the direct and independent knowledge or analysis of a whistleblower;</p> <p>“(B) is not known to the Commission from any other source, unless the whistleblower is the initial source of the information; and</p> <p>“(C) is not based on allegations in a judicial or administrative hearing, in a governmental report, hearing, audit, or investigation, or from the news</p>	<p>“(a) Definitions- In this section the following definitions shall apply:</p> <p>“(1) COVERED JUDICIAL OR ADMINISTRATIVE ACTION- The term ‘covered judicial or administrative action’ means any judicial or administrative action brought by the Commission under the securities laws that results in monetary sanctions exceeding \$1,000,000.</p> <p>“(2) FUND- The term ‘Fund’ means the Securities and Exchange Commission Investor Protection Fund.</p> <p>“(3) ORIGINAL INFORMATION- The term ‘original information’ means information that--</p> <p>“(A) is derived from the independent knowledge or analysis of a whistleblower;</p>	

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<p>media, unless the whistleblower is the initial source of the information that resulted in the judicial or administrative hearing, governmental report, hearing, audit, or investigation, or the news media's report on the allegations.</p> <p>“(2) MONETARY SANCTIONS- The term ‘monetary sanctions’, when used with respect to any judicial or administrative action, means any monies, including but not limited to penalties, disgorgement, and interest, ordered to be paid, and any monies deposited into a disgorgement fund or other fund pursuant to section 308(b) of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7246(b)), as a result of such action or any settlement of such action.</p> <p>“(3) RELATED ACTION- The term ‘related action’, when used with respect to any judicial or administrative action brought by the Commission under the securities laws, means any judicial or administrative action brought by an entity described in subsection (g)(2)(B) that is based upon the same original information provided by a whistleblower pursuant to subsection (a) that led to the successful enforcement of the Commission action.</p> <p>“(4) WHISTLEBLOWER- The term ‘whistleblower’ means an individual, or two or more individuals acting jointly, who submit information to the Commission as provided in this section.’</p> <p>(b) Administration and Enforcement- The Securities and Exchange Commission shall establish a separate office within the Commission to administer and enforce the provisions of section 21F of the Securities Exchange Act of 1934, as added by subsection (a). Such office shall report annually to Congress on its activities, whistleblower complaints, and the response of the Commission to such complaints.</p>	<p>“(B) is not known to the Commission from any other source, unless the whistleblower is the original source of the information; and</p> <p>“(C) is not exclusively derived from an allegation made in a judicial or administrative hearing, in a governmental report, hearing, audit, or investigation, or from the news media, unless the whistleblower is a source of the information.</p> <p>“(4) MONETARY SANCTIONS- The term ‘monetary sanctions’, when used with respect to any judicial or administrative action, means--</p> <p>“(A) any monies, including penalties, disgorgement, and interest, ordered to be paid; and</p> <p>“(B) any monies deposited into a disgorgement fund or other fund pursuant to section 308(b) of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7246(b)), as a result of such action or any settlement of such action.</p> <p>“(5) RELATED ACTION- The term ‘related action’, when used with respect to any judicial or administrative action brought by the Commission under the securities laws, means any judicial or administrative action brought by an entity described in subclauses (I) through (IV) of subsection (h)(2)(D)(i) that is based upon the original information provided by a whistleblower pursuant to subsection (a) that led to the successful enforcement of the Commission action.</p> <p>“(6) WHISTLEBLOWER- The term ‘whistleblower’ means any individual, or 2 or more individuals acting jointly, who provides information relating to a violation of the securities laws to the Commission, in a manner established, by rule or regulation, by the Commission.</p>	
<p>SEC. 7204. CONFORMING AMENDMENTS FOR WHISTLEBLOWER PROTECTION.</p> <p>(a) In General- Each of the following provisions is amended by inserting ‘and section 21F of the Securities Exchange Act of 1934’ after ‘the Sarbanes-Oxley Act of 2002’:</p> <p>(1) Section 20(d)(3)(A) of the Securities Act of 1933 (15 U.S.C. 77t(d)(3)(A)).</p> <p>(2) Section 42(e)(3)(A) of the Investment Company Act of 1940 (15 U.S.C. 80a-41(e)(3)(A)).</p> <p>(3) Section 209(e)(3)(A) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-9(e)(3)(A)).</p>	<p>SEC. 923. CONFORMING AMENDMENTS FOR WHISTLEBLOWER PROTECTION.</p> <p>(a) In General-</p> <p>(1) SECURITIES ACT OF 1933- Section 20(d)(3)(A) of the Securities Act of 1933 (15 U.S.C. 77t(d)(3)(A)) is amended by inserting ‘and section 21F of the Securities Exchange Act of 1934’ after ‘the Sarbanes-Oxley Act of 2002’.</p> <p>(2) INVESTMENT COMPANY ACT OF 1940- Section 42(e)(3)(A) of the Investment Company Act of 1940 (15 U.S.C. 80a-41(e)(3)(A)) is amended by inserting ‘and section 21F of the Securities Exchange Act of 1934’ after ‘the Sarbanes-Oxley</p>	

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<p>(b) Securities Exchange Act- The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended--</p> <p>(1) in section 21(d)(3)(C)(i) (15 U.S.C. 78u(d)(3)(C)(i)), by inserting `and section 21F of this title' after `the Sarbanes-Oxley Act of 2002';</p> <p>(2) in section 21A(d)(1) (15 U.S.C. 78u-1(d)(1))--</p> <p>(A) by striking `(subject to subsection (e))'; and</p> <p>(B) by inserting `and section 21F of this title' after `the Sarbanes-Oxley Act of 2002'; and</p> <p>(3) in section 21A, by striking subsection (e) and redesignating subsections (f) and (g) as subsections (e) and (f), respectively.</p>	<p><i>Act of 2002'.</i></p> <p><i>(3) INVESTMENT ADVISERS ACT OF 1940- Section 209(e)(3)(A) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-9(e)(3)(A)) is amended by inserting `and section 21F of the Securities Exchange Act of 1934' after `the Sarbanes-Oxley Act of 2002'.</i></p> <p><i>(b) Securities Exchange Act-</i></p> <p><i>(1) SECTION 21- Section 21(d)(3)(C)(i) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(d)(3)(C)(i)) is amended by inserting `and section 21F of this title' after `the Sarbanes-Oxley Act of 2002'.</i></p> <p><i>(2) SECTION 21A- Section 21A of the Securities Exchange Act of 1934 (15 U.S.C. 78u-1) is amended--</i></p> <p><i>(A) in subsection (d)(1) by--</i></p> <p><i>(i) striking `(subject to subsection (e))'; and</i></p> <p><i>(ii) inserting `and section 21F of this title' after `the Sarbanes-Oxley Act of 2002';</i></p> <p><i>(B) by striking subsection (e); and</i></p> <p><i>(C) by redesignating subsections (f) and (g) as subsections (e) and (f), respectively.</i></p>	
<p>SEC. 7205. IMPLEMENTATION AND TRANSITION PROVISIONS FOR WHISTLEBLOWER PROTECTIONS.</p> <p>(a) Implementing Rules- The Securities and Exchange Commission shall issue final regulations implementing the provisions of section 21F of the Securities Exchange Act of 1934, as added by this part, no later than 270 days after the date of enactment of this subtitle.</p> <p>(b) Original Information- Information submitted to the Commission by a whistleblower in accordance with regulations implementing the provisions of section 21F of the Securities Exchange Act of 1934, as added by this part, shall not lose its status as original information, as defined in subsection (i)(1) of such section, solely because the whistleblower submitted such information prior to the effective date of such regulations, provided such information was submitted after the date of enactment of this subtitle, or related to insider trading violations for which a bounty could have been paid at the time such information was submitted.</p> <p>(c) Awards- A whistleblower may receive an award pursuant to section 21F of the Securities Exchange Act of 1934, as added by this part, regardless of whether any violation of a provision of the securities laws, or a rule or regulation thereunder, underlying the judicial or administrative action upon which the award is based occurred prior to the</p>	<p>SEC. 924. IMPLEMENTATION AND TRANSITION PROVISIONS FOR WHISTLEBLOWER PROTECTION.</p> <p><i>(a) Implementing Rules- The Commission shall issue final regulations implementing the provisions of section 21F of the Securities Exchange Act of 1934, as added by this subtitle, not later than 270 days after the date of enactment of this Act.</i></p> <p><i>(b) Original Information- Information provided to the Commission by a whistleblower in accordance with the regulations referenced in subsection (a) shall not lose the status of original information (as defined in section 21F(i)(1) of the Securities Exchange Act of 1934, as added by this subtitle) solely because the whistleblower provided the information prior to the effective date of the regulations, provided that the information is--</i></p> <p><i>(1) provided by the whistleblower after the date of enactment of this subtitle, or monetary sanctions are collected after the date of enactment of this subtitle; or</i></p> <p><i>(2) related to a violation for which an award under section 21F of the Securities Exchange Act of 1934, as added by this subtitle, could have been paid at the time the information was provided by the whistleblower.</i></p> <p><i>(c) Awards- A whistleblower may receive an award pursuant to section</i></p>	

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<p>date of enactment of this subtitle.</p>	<p><i>21F of the Securities Exchange Act of 1934, as added by this subtitle, regardless of whether any violation of a provision of the securities laws, or a rule or regulation thereunder, underlying the judicial or administrative action upon which the award is based, occurred prior to the date of enactment of this subtitle.</i></p>	
<p>SEC. 7206. COLLATERAL BARS.</p> <p>(a) Section 15 of the Securities Exchange Act of 1934- Section 15(b)(6)(A) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(b)(6)(A)) is amended by striking `12 months, or bar such person from being associated with a broker or dealer,' and inserting `12 months, or bar any such person from being associated with a broker, dealer, investment adviser, municipal securities dealer, transfer agent, municipal financial adviser, or nationally recognized statistical rating organization,'.</p> <p>(b) Section 15B of the Securities Exchange Act of 1934- Section 15B(c)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-4(c)(4)) is amended by striking `twelve months or bar any such person from being associated with a municipal securities dealer,' and inserting `12 months or bar any such person from being associated with a broker, dealer, investment adviser, municipal securities dealer, transfer agent, municipal financial adviser, or nationally recognized statistical rating organization,'.</p> <p>(c) Section 17A of the Securities Exchange Act of 1934- Section 17A(c)(4)(C) of the Securities Exchange Act of 1934 (15 U.S.C. 78q-1(c)(4)(C)) is amended by striking `twelve months or bar any such person from being associated with the transfer agent,' and inserting `12 months or bar any such person from being associated with any transfer agent, broker, dealer, investment adviser, municipal securities dealer, municipal financial adviser, or nationally recognized statistical rating organization,'.</p> <p>(d) Section 203 of the Investment Advisers Act of 1940- Section 203(f) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-3(f)) is amended by striking `twelve months or bar any such person from being associated with an investment adviser,' and inserting `12 months or bar any such person from being associated with an investment adviser, broker, dealer, municipal securities dealer, transfer agent, municipal financial adviser, or nationally recognized statistical rating organization,'.</p>	<p>SEC. 925. COLLATERAL BARS.</p> <p>(a) <i>Securities Exchange Act of 1934-</i></p> <p>(1) <i>SECTION 15- Section 15(b)(6)(A) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(b)(6)(A)) is amended by striking `12 months, or bar such person from being associated with a broker or dealer,' and inserting `12 months, or bar any such person from being associated with a broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization,'.</i></p> <p>(2) <i>SECTION 15B- Section 15B(c)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-4(c)(4)) is amended by striking `twelve months or bar any such person from being associated with a municipal securities dealer,' and inserting `12 months or bar any such person from being associated with a broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization,'.</i></p> <p>(3) <i>SECTION 17A- Section 17A(c)(4)(C) of the Securities Exchange Act of 1934 (15 U.S.C. 78q-1(c)(4)(C)) is amended by striking `twelve months or bar any such person from being associated with the transfer agent,' and inserting `12 months or bar any such person from being associated with any transfer agent, broker, dealer, investment adviser, municipal securities dealer, municipal advisor, or nationally recognized statistical rating organization,'.</i></p> <p>(b) <i>Investment Advisers Act of 1940- Section 203(f) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-3(f)) is amended by striking `twelve months or bar any such person from being associated with an investment adviser,' and inserting `12 months or bar any such person from being associated with an investment adviser, broker, dealer, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization,'.</i></p>	
<p>SEC. 7207. AIDING AND ABETTING AUTHORITY UNDER THE</p>		

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
<p>SECURITIES ACT AND THE INVESTMENT COMPANY ACT.</p> <p>(a) Under the Securities Act of 1933- Section 15 of the Securities Act of 1933 (15 U.S.C. 77o) is amended-- (1) by striking `Every person who' and inserting `(a) Controlling Persons- Every person who'; and (2) by adding at the end the following: `(b) Prosecution of Persons Who Aid and Abet Violations- For purposes of any action brought by the Commission under subparagraph (b) or (d) of section 20, any person that knowingly or recklessly provides substantial assistance to another person in violation of a provision of this Act, or of any rule or regulation issued under this Act, shall be deemed to be in violation of such provision to the same extent as the person to whom such assistance is provided.'</p> <p>(b) Under the Investment Company Act of 1940- Section 48 of the Investment Company Act of 1940 (15 U.S.C. 80a-48) is amended by redesignating subsection (b) as subsection (c) and inserting after subsection (a) the following: `(b) For purposes of any action brought by the Commission under subsection (d) or (e) of section 42, any person that knowingly or recklessly provides substantial assistance to another person in violation of a provision of this Act, or of any rule or regulation issued under this Act, shall be deemed to be in violation of such provision to the same extent as the person to whom such assistance is provided.'</p>		
<p>SEC. 7208. AUTHORITY TO IMPOSE PENALTIES FOR AIDING AND ABETTING VIOLATIONS OF THE INVESTMENT ADVISERS ACT.</p> <p>Section 209 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-9) is amended by inserting at the end the following new subsection: `(f) Aiding and Abetting- For purposes of any action brought by the Commission under subsection (e), any person that knowingly or recklessly has aided, abetted, counseled, commanded, induced, or procured a violation of any provision of this Act, or of any rule, regulation, or order hereunder, shall be deemed to be in violation of such provision, rule, regulation, or order to the same extent as the person that committed such violation.'</p>		
<p>SEC. 7209. DEADLINE FOR COMPLETING EXAMINATIONS, INSPECTIONS AND ENFORCEMENT ACTIONS.</p> <p>The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by inserting after section 4D (as added by section 7101) the following new section:</p>		

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<p>SEC. 4E. DEADLINE FOR COMPLETING ENFORCEMENT INVESTIGATIONS AND COMPLIANCE EXAMINATIONS AND INSPECTIONS.</p> <p>(a) Enforcement Investigations-</p> <p>(1) IN GENERAL- Not later than 180 days after the date on which Commission staff provide a written Wells notification to any person, the Commission staff shall either file an action against such person or provide notice to the Director of the Division of Enforcement of its intent to not file an action.</p> <p>(2) EXCEPTIONS FOR CERTAIN COMPLEX ACTIONS- Notwithstanding paragraph (1), if the Director of the Division of Enforcement of the Commission or the Director's designee determines that a particular enforcement investigation is sufficiently complex such that a determination regarding the filing of an action against a person cannot be completed within the deadline specified in paragraph (1), the Director of the Division of Enforcement of the Commission or the Director's designee may, after providing notice to the Chairman of the Commission, extend such deadline as needed for one additional 180-day period. If after the additional 180-day period the Director of the Division of Enforcement of the Commission or the Director's designee determines that a particular enforcement investigation is sufficiently complex such that a determination regarding the filing of an action against a person cannot be completed within the additional 180-day period, the Director of the Division of Enforcement of the Commission or the Director's designee may, after providing notice to and receiving approval of the Commission, extend such deadline as needed for one or more additional successive 180-day periods.</p> <p>(b) Compliance Examinations and Inspections-</p> <p>(1) IN GENERAL- Not later than 180 days after the date on which Commission staff completes the on-site portion of its compliance examination or inspection or receives all records requested from the entity being examined or inspected, whichever is later, Commission staff shall provide the entity being examined or inspected with written notification indicating either that the examination or inspection has concluded, has concluded without findings, or that the staff requests the entity undertake corrective action.</p> <p>(2) EXCEPTION FOR CERTAIN COMPLEX ACTIONS-</p>		

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
<p>Notwithstanding paragraph (1), if the head of any division or office within the Commission responsible for compliance examinations and inspections or his designee determines that a particular compliance examination or inspection is sufficiently complex such that a determination regarding concluding the examination or inspection, or regarding the staff requests the entity undertake corrective action, cannot be completed within the deadline specified in paragraph (1), the head of any division or office within the Commission responsible for compliance examinations and inspections or his designee may, after providing notice to the Chairman of the Commission, extend such deadline as needed for one additional 180-day period.'</p>		
<p>SEC. 7210. NATIONWIDE SERVICE OF SUBPOENAS.</p> <p>(a) Securities Act of 1933- Section 22(a) of the Securities Act of 1933 (15 U.S.C. 77v(a)) is amended by inserting after the second sentence the following: `In any civil action instituted by the Commission under this title in a United States district court for any judicial district, subpoenas issued to compel the attendance of witnesses or the production of documents or tangible things (or both) at any hearing or trial may be served at any place within the United States. Rule 45(c)(3)(A)(ii) of the Federal Rules of Civil Procedure does not apply to a subpoena so issued.'</p> <p>(b) Securities Exchange Act of 1934- Section 27 of the Securities Exchange Act of 1934 (15 U.S.C. 78aa) is amended by inserting after the third sentence the following: `In any civil action instituted by the Commission under this title in a United States district court for any judicial district, subpoenas issued to compel the attendance of witnesses or the production of documents or tangible things (or both) at any hearing or trial may be served at any place within the United States. Rule 45(c)(3)(A)(ii) of the Federal Rules of Civil Procedure does not apply to a subpoena so issued.'</p> <p>(c) Investment Company Act of 1940- Section 44 of the Investment Company Act of 1940 (15 U.S.C. 80a-43) is amended by inserting after the fourth sentence the following: `In any civil action instituted by the Commission under this title in a United States district court for any judicial district, subpoenas issued to compel the attendance of witnesses or the production of documents or tangible things (or both) at any hearing or trial may be served at any place within the United States. Rule 45(c)(3)(A)(ii) of the Federal Rules of Civil Procedure does not apply to a subpoena so issued.'</p> <p>(d) Investment Advisers Act of 1940- Section 214 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-14) is amended by inserting after</p>		

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<p>the third sentence the following: `In any civil action instituted by the Commission under this title in a United States district court for any judicial district, subpoenas issued to compel the attendance of witnesses or the production of documents or tangible things (or both) at any hearing or trial may be served at any place within the United States. Rule 45(c)(3)(A)(ii) of the Federal Rules of Civil Procedure does not apply to a subpoena so issued.`</p>		
<p>SEC. 7211. AUTHORITY TO IMPOSE CIVIL PENALTIES IN CEASE AND DESIST PROCEEDINGS.</p> <p>(a) Under the Securities Act of 1933- Section 8A of the Securities Act of 1933 (15 U.S.C. 77h-1) is amended by adding at the end the following new subsection:</p> <p>`(g) Authority to Impose Monetary Penalties-</p> <p> `(1) GROUNDS FOR IMPOSING- In any cease-and-desist proceeding under subsection (a), the Commission may impose a civil penalty on a person if it finds, on the record after notice and opportunity for hearing, that--</p> <p> `(A) such person--</p> <p> `(i) is violating or has violated any provision of this title, or any rule or regulation thereunder; or</p> <p> `(ii) is or was a cause of the violation of any provision of this title, or any rule or regulation thereunder; and</p> <p> `(B) such penalty is in the public interest.</p>		
<p> `(2) MAXIMUM AMOUNT OF PENALTY-</p> <p> `(A) FIRST TIER- The maximum amount of penalty for each act or omission described in paragraph (1) shall be \$7,500 for a natural person or \$75,000 for any other person.</p> <p> `(B) SECOND TIER- Notwithstanding paragraph (A), the maximum amount of penalty for each such act or omission shall be \$75,000 for a natural person or \$375,000 for any other person if the act or omission described in paragraph (1) involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement.</p> <p> `(C) THIRD TIER- Notwithstanding paragraphs (A) and (B), the maximum amount of penalty for each such act or omission shall be \$150,000 for a natural person or \$725,000 for any other person if--</p> <p> `(i) the act or omission described in paragraph</p>		

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<p>(1) involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement; and (ii) such act or omission directly or indirectly resulted in substantial losses or created a significant risk of substantial losses to other persons or resulted in substantial pecuniary gain to the person who committed the act or omission.</p>		
<p>(3) EVIDENCE CONCERNING ABILITY TO PAY- In any proceeding in which the Commission may impose a penalty under this section, a respondent may present evidence of the respondent's ability to pay such penalty. The Commission may, in its discretion, consider such evidence in determining whether such penalty is in the public interest. Such evidence may relate to the extent of such person's ability to continue in business and the collectability of a penalty, taking into account any other claims of the United States or third parties upon such person's assets and the amount of such person's assets.'</p> <p>(b) Under the Securities Exchange Act of 1934- Subsection (a) of section 21B of the Securities Exchange Act of 1934 (15 U.S.C. 78u-2(a)) is amended--</p> <p>(1) by striking '(a) Commission Authority To Assess Money Penalties- In any proceeding' and inserting the following:</p> <p>(a) Commission Authority to Assess Monetary Penalties-</p> <p>(1) IN GENERAL- In any proceeding';</p> <p>(2) by redesignating paragraphs (1) through (4) of such subsection as subparagraphs (A) through (D), respectively, and moving such redesignated subparagraphs and the matter following such subparagraphs 2 ems to the right; and</p> <p>(3) by adding at the end of such subsection the following new paragraph:</p> <p>(2) CEASE-AND-DESIST PROCEEDINGS- In any proceeding instituted pursuant to section 21C of this title against any person, the Commission may impose a civil penalty if it finds, on the record after notice and opportunity for hearing, that such person--</p> <p>(A) is violating or has violated any provision of this title, or any rule or regulation thereunder; or</p> <p>(B) is or was a cause of the violation of any provision of this title, or any rule or regulation thereunder.'</p> <p>(c) Under the Investment Company Act of 1940- Paragraph (1) of section 9(d) of the Investment Company Act of 1940 (15 U.S.C. 80a-9(d)(1)) is</p>		

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<p>amended--</p> <p>(1) by striking `(1) AUTHORITY OF COMMISSION- In any proceeding' and inserting the following: ` (1) AUTHORITY OF COMMISSION- ` (A) IN GENERAL- In any proceeding';</p> <p>(2) by redesignating subparagraphs (A) through (C) of such paragraph as clauses (i) through (iii), respectively, and by moving such redesignated clauses and the matter following such subparagraphs 2 ems to the right; and</p> <p>(3) by adding at the end of such paragraph the following new subparagraph: ` (B) CEASE-AND-DESIST PROCEEDINGS- In any proceeding instituted pursuant to subsection (f) against any person, the Commission may impose a civil penalty if it finds, on the record after notice and opportunity for hearing, that such person-- ` (i) is violating or has violated any provision of this title, or any rule or regulation thereunder; or ` (ii) is or was a cause of the violation of any provision of this title, or any rule or regulation thereunder.'</p> <p>(d) Under the Investment Advisers Act of 1940- Paragraph (1) of section 203(i) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-3(i)(1)) is amended--</p> <p>(1) by striking `(1) AUTHORITY OF COMMISSION- In any proceeding' and inserting the following: ` (1) AUTHORITY OF COMMISSION- ` (A) IN GENERAL- In any proceeding';</p> <p>(2) by redesignating subparagraphs (A) through (D) of such paragraph as clauses (i) through (iv), respectively, and moving such redesignated clauses and the matter following such subparagraphs 2 ems to the right; and</p> <p>(3) by adding at the end of such paragraph the following new subparagraph: ` (B) CEASE-AND-DESIST PROCEEDINGS- In any proceeding instituted pursuant to subsection (k) against any person, the Commission may impose a civil penalty if it finds, on the record after notice and opportunity for hearing, that such person-- ` (i) is violating or has violated any provision of this title, or any rule or regulation thereunder; or</p>		

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<p>(ii) is or was a cause of the violation of any provision of this title, or any rule or regulation thereunder.'</p>		
<p>SEC. 7212. FORMERLY ASSOCIATED PERSONS.</p> <p>(a) Member or Employee of the Municipal Securities Rulemaking Board- Section 15B(c)(8) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-4(c)(8)) is amended by striking 'any member or employee' and inserting 'any person who is, or at the time of the alleged misconduct was, a member or employee'.</p> <p>(b) Person Associated With a Government Securities Broker or Dealer- Section 15C of the Securities Exchange Act of 1934 (15 U.S.C. 78o-5) is amended--</p> <p>(1) in subsection (c)(1)(C), by striking 'or seeking to become associated,' and inserting 'seeking to become associated, or, at the time of the alleged misconduct, associated or seeking to become associated';</p> <p>(2) in subsection (c)(2)(A), by inserting ', seeking to become associated, or, at the time of the alleged misconduct, associated or seeking to become associated' after 'any person associated'; and</p> <p>(3) in subsection (c)(2)(B), by inserting ', seeking to become associated, or, at the time of the alleged misconduct, associated or seeking to become associated' after 'any person associated'.</p>		
<p>(c) Person Associated With a Member of a National Securities Exchange or Registered Securities Association- Section 21(a)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(a)(1)) is amended by inserting ', or, as to any act or practice, or omission to act, while associated with a member, formerly associated' after 'member or a person associated'.</p> <p>(d) Participant of a Registered Clearing Agency- Section 21(a)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(a)(1)) is amended by inserting 'or, as to any act or practice, or omission to act, while a participant, was a participant,' after 'in which such person is a participant,'.</p> <p>(e) Officer or Director of a Self-regulatory Organization- Section 19(h)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78s(h)(4)) is amended--</p> <p>(1) by striking 'any officer or director' and inserting 'any person who is, or at the time of the alleged misconduct was, an officer or director'; and</p> <p>(2) by striking 'such officer or director' and inserting 'such person'.</p> <p>(f) Officer or Director of an Investment Company- Section 36(a) of the</p>		

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<p>Investment Company Act of 1940 (15 U.S.C. 80a-35(a)) is amended--</p> <p>(1) by striking `a person serving or acting' and inserting `a person who is, or at the time of the alleged misconduct was, serving or acting'; and</p> <p>(2) by striking `such person so serves or acts' and inserting `such person so serves or acts, or at the time of the alleged misconduct, so served or acted'.</p>		
<p>(g) Person Associated With a Public Accounting Firm-</p> <p>(1) SARBANES-OXLEY ACT OF 2002 AMENDMENT- Section 2(a)(9) of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7201(9)) is amended by adding at the end the following new subparagraph:</p> <p> `(C) INVESTIGATIVE AND ENFORCEMENT AUTHORITY- For purposes of the provisions of sections 3(c), 101(c), 105, and 107(c) and Board or Commission rules thereunder, except to the extent specifically excepted by such rules, the terms defined in subparagraph (A) shall include any person associated, seeking to become associated, or formerly associated with a public accounting firm, except--</p> <p> `(i) the authority to conduct an investigation of such person under section 105(b) shall apply only with respect to any act or practice, or omission to act, while such person was associated or seeking to become associated with a registered public accounting firm; and</p> <p> `(ii) the authority to commence a proceeding under section 105(c)(1), or impose disciplinary sanctions under section 105(c)(4), against such person shall apply only on--</p> <p> `(I) the basis of conduct occurring while such person was associated or seeking to become associated with a registered public accounting firm; or</p> <p> `(II) non-cooperation as described in section 105(b)(3) with respect to a demand in a Board investigation for testimony, documents, or other information relating to a period when such person was associated or seeking to become associated with a registered public accounting firm.'.</p> <p>(2) SECURITIES EXCHANGE ACT OF 1934</p>		

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<p>AMENDMENT- Section 21(a)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(a)(1)) is amended by striking `or a person associated with such a firm' and inserting `, a person associated with such a firm, or, as to any act, practice, or omission to act while associated with such firm, a person formerly associated with such a firm'.</p>		
<p>(h) Supervisory Personnel of an Audit Firm- Section 105(c)(6) of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7215(c)(6)) is amended-- (1) in subparagraph (A), by striking `the supervisory personnel' and inserting `any person who is, or at the time of the alleged failure reasonably to supervise was, a supervisory person'; and (2) in subparagraph (B)-- (A) by striking `No associated person' and inserting `No current or former supervisory person'; and (B) by striking `any other person' and inserting `any associated person'.</p> <p>(i) Member of the Public Company Accounting Oversight Board- Section 107(d)(3) of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7217(d)(3)) is amended by striking `any member' and inserting `any person who is, or at the time of the alleged misconduct was, a member'.</p>		
<p>SEC. 7213. SHARING PRIVILEGED INFORMATION WITH OTHER AUTHORITIES.</p> <p>Section 24 of the Securities Exchange Act of 1934 (15 U.S.C. 78x) is amended-- (1) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; (2) in subsection (e), as redesignated, by striking `as provided in subsection (e)' and inserting `as provided in subsection (f)'; and (3) by inserting after subsection (c) the following new subsection: `d) Sharing Privileged Information With Other Authorities- `1) PRIVILEGED INFORMATION PROVIDED BY THE COMMISSION- The Commission shall not be deemed to have waived any privilege applicable to any information by transferring that information to or permitting that information to be used by-- `A) any agency (as defined in section 6 of title 18, United States Code); `B) any foreign securities authority; `C) the Public Company Accounting Oversight Board; `D) any self-regulatory organization; `E) any foreign law enforcement authority; or</p>		

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<p> `(F) any State securities or law enforcement authority. `(2) NON-DISCLOSURE OF PRIVILEGED INFORMATION PROVIDED TO THE COMMISSION- The Commission shall not be compelled to disclose privileged information obtained from any foreign securities authority, or foreign law enforcement authority, if the authority has in good faith determined and represented to the Commission that the information is privileged. `(3) NON-WAIVER OF PRIVILEGED INFORMATION PROVIDED TO THE COMMISSION- `(A) IN GENERAL- Federal agencies, State securities and law enforcement authorities, self-regulatory organizations, and the Public Company Accounting Oversight Board shall not be deemed to have waived any privilege applicable to any information by transferring that information to or permitting that information to be used by the Commission. `(B) EXCEPTION WITH RESPECT TO CERTAIN ACTIONS- The provisions of subparagraph (A) shall not apply to a self-regulatory organization or the Public Company Accounting Oversight Board with respect to information used by the Commission in an action against such organization. `(4) DEFINITIONS- For purposes of this subsection: `(A) The term `privilege' includes any work-product privilege, attorney-client privilege, governmental privilege, or other privilege recognized under Federal, foreign, or State law. `(B) The term `foreign law enforcement authority' means any foreign authority that is empowered under foreign law to detect, investigate or prosecute potential violations of law. `(C) The term `State securities or law enforcement authority' means the authority of any State or territory that is empowered under State or territory law to detect, investigate or prosecute potential violations of law.'. </p>		
<p>SEC. 7214. EXPANDED ACCESS TO GRAND JURY INFORMATION.</p> <p>Subsection (b) of section 3322 of title 18, United States Code, is amended--</p> <p>(1) in paragraph (1), by striking `matters occurring before a grand jury' and inserting `grand jury information obtained';</p>		

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<p>(2) by redesignating paragraph (2) as paragraph (3); (3) in paragraph (3) (as so redesignated), by inserting `or (2)' after `(1)'; and (4) by inserting after paragraph (1), the following new paragraph: `2) Upon motion of an attorney for the government, a court may direct disclosure of grand jury information obtained during an investigation of a securities law violation to identified personnel of the Securities and Exchange Commission-- `A) for use in relation to any matter within the jurisdiction of the Commission; or `B) to assist an attorney for the government to whom matters have been disclosed under subsection (a).'</p>		
<p>SEC. 7215. AIDING AND ABETTING STANDARD OF KNOWLEDGE SATISFIED BY RECKLESSNESS.</p> <p>Section 20(e) of the Securities Exchange Act of 1934 (15 U.S.C. 78t(e)) is amended by inserting `or recklessly' after `knowingly'.</p>		
<p>SEC. 7216. EXTRATERRITORIAL JURISDICTION OF THE ANTIFRAUD PROVISIONS OF THE FEDERAL SECURITIES LAWS.</p> <p>(a) Under the Securities Act of 1933- Section 22 of the Securities Act of 1933 (15 U.S.C. 77v(a)) is amended by adding at the end the following new subsection: `c) Extraterritorial Jurisdiction- With respect to any actions or proceedings brought or instituted by the Commission or the United States, this jurisdiction includes violations of section 17(a) of this title, and all suits in equity and actions at law under that section, involving-- `1) conduct within the United States that constitutes significant steps in furtherance of the violation, even if the securities transaction occurs outside the United States and involves only foreign investors; or `2) conduct occurring outside the United States that has a foreseeable substantial effect within the United States.'</p> <p>(b) Under the Securities Exchange Act of 1934- Section 27 of the Securities Exchange Act of 1934 (15 U.S.C. 78aa) is amended-- (1) by striking `The district' and inserting the following: `a) In General- The district'; and (2) by inserting at the end the following new subsection: `b) Extraterritorial Jurisdiction- With respect to any actions or proceedings brought or instituted by the Commission or the United States, this jurisdiction includes violations of the antifraud provisions of</p>		

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<p>this title, and all suits in equity and actions at law under those provisions, involving--</p> <ul style="list-style-type: none"> `(1) conduct within the United States that constitutes significant steps in furtherance of the violation, even if the securities transaction occurs outside the United States and involves only foreign investors; or `(2) conduct occurring outside the United States that has a foreseeable substantial effect within the United States.' <p>(c) Under the Investment Advisers Act of 1940- Section 214 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-14) is amended--</p> <ul style="list-style-type: none"> (1) by striking `The district' and inserting the following: `(a) In General- The district'; and (2) by inserting at the end the following new subsection: `(b) Extraterritorial Jurisdiction- With respect to any actions or proceedings brought or instituted by the Commission or the United States, this jurisdiction includes violations of section 206, and all suits in equity and actions at law under that section, involving-- `(1) conduct within the United States that constitutes significant steps in furtherance of the violation, even if the violation is committed by a foreign adviser and involves only foreign investors; or `(2) conduct occurring outside the United States that has a foreseeable substantial effect within the United States.' 		
<p>SEC. 7217. FIDELITY BONDING.</p> <p>Section 17(g) of the Investment Company Act of 1940 (15 U.S.C. 80a-17(g)) is amended to read as follows:</p> <ul style="list-style-type: none"> `(g) Fidelity Bonding- <ul style="list-style-type: none"> `(1) IN GENERAL- The Commission is authorized to require that a registered management company provide and maintain a fidelity bond against loss as to any officer or employee who has access to securities or funds of the company, either directly or through authority to draw upon such funds or to direct generally the disposition of such securities (unless the officer or employee has such access solely through his position as an officer or employee of a bank), in such form and amount as the Commission may prescribe by rule, regulation, or order for the protection of investors. `(2) DEFINITIONS- For purposes of this subsection: <ul style="list-style-type: none"> `(A) MANAGEMENT COMPANY- The term `management company' has the meaning given such term under section 4 of the Investment Company Act of 1940. 		

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<p>(B) OFFICER OR EMPLOYEE- The term 'officer or employee' means--</p> <p>(i) any officer or employee of the management company; and</p> <p>(ii) any officer or employee of any investment adviser to the management company, or of any affiliated company of any such investment adviser, as the Commission may prescribe by rule, regulation, or order for the protection of investors.</p> <p>(C) OTHER DEFINITIONS- The terms 'affiliated company' and 'investment adviser' shall have the meaning given such terms under section 2 of the Investment Company Act of 1940.'</p>		
<p>SEC. 7218. ENHANCED SEC AUTHORITY TO CONDUCT SURVEILLANCE AND RISK ASSESSMENT.</p> <p>(a) Securities Exchange Act of 1934 Amendments- Section 17(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78q(b)) is amended by adding at the end the following new paragraph:</p> <p>(5) SURVEILLANCE AND RISK ASSESSMENT- All persons described in subsection (a) of this section are subject at any time, or from time to time, to such reasonable periodic, special, or other information and document requests by representatives of the Commission as the Commission by rule or order deems necessary or appropriate to conduct surveillance or risk assessments of the securities markets, persons registered with the Commission under this title, or otherwise in furtherance of the purposes of this title.'</p>		
<p>(b) Investment Company Act of 1940 Amendments- Section 31(b) of the Investment Company Act of 1940 (15 U.S.C. 80a-30(b)), as amended by section 7106(a)(2), is further amended by adding at the end the following new paragraph:</p> <p>(5) SURVEILLANCE AND RISK ASSESSMENT- All persons described in paragraph (1) are subject at any time, or from time to time, to such reasonable periodic, special, or other information and document requests by representatives of the Commission as the Commission by rule or order deems necessary or appropriate to conduct surveillance or risk assessments of the securities markets, persons registered with the Commission under this title, or otherwise in furtherance of the purposes of this title.'</p> <p>(c) Investment Advisers Act of 1940 Amendments- Section 204 of the</p>		

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
<p>Investment Advisers Act of 1940 (15 U.S.C. 80b-4), as amended by section 7106(b), is further amended by adding at the end the following new subsection:</p> <p>`(e) Surveillance and Risk Assessment- All persons described in subsection (a) are subject at any time, or from time to time, to such reasonable periodic, special, or other information and document requests by representatives of the Commission as the Commission by rule or order deems necessary or appropriate to conduct surveillance or risk assessments of the securities markets, persons registered with the Commission under this title, or otherwise in furtherance of the purposes of this title.'</p>		
<p>SEC. 7219. INVESTMENT COMPANY EXAMINATIONS.</p> <p>Section 31(b)(1) of the Investment Company Act of 1940 (15 U.S.C. 80a-30) is amended to read as follows:</p> <p>`(1) IN GENERAL- All records of each registered investment company, and each underwriter, broker, dealer, or investment adviser that is a majority-owned subsidiary of such a company, shall be subject at any time, or from time to time, to such reasonable periodic, special, or other examinations by representatives of the Commission as the Commission deems necessary or appropriate in the public interest or for the protection of investors.'</p>		
<p>SEC. 7220. CONTROL PERSON LIABILITY UNDER THE SECURITIES EXCHANGE ACT.</p> <p>Section 20(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78t(a)) is amended by inserting after `controlled person is liable,' the following: `including to the Commission in any action brought under paragraph (1) or (3) of section 21(d),'</p>		
<p>SEC. 7221. ENHANCED APPLICATION OF ANTI-FRAUD PROVISIONS.</p> <p>The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended-</p> <p>(1) in section 9--</p> <p>(A) by striking `registered on a national securities exchange' each place it appears and inserting `other than a government security';</p> <p>(B) in subsection (b), by striking `by use of any facility of a national securities exchange,'; and</p> <p>(C) in subsection (c), by inserting after `unlawful for any' the following: `broker, dealer, or';</p>		

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<p>(2) in section 10(a)(1), by striking `registered on a national securities exchange' and inserting `other than a government security'; and</p> <p>(3) in section 15(c)(1)(A), by striking `otherwise than on a national securities exchange of which it is a member'.</p>		
<p>SEC. 7222. SEC AUTHORITY TO ISSUE RULES ON PROXY ACCESS.</p> <p>Section 14(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78n(a)) is amended--</p> <p>(1) by inserting `(1)' after `(a)'; and</p> <p>(2) by adding at the end the following:</p> <p>`(2) The authority of the Commission to prescribe rules and regulations under paragraph (1) includes rules and regulations that require the inclusion and set procedures relating to the inclusion, in a solicitation of a proxy or consent or authorization by or on behalf of an issuer, of a nominee or nominees submitted by shareholders to serve on the issuer's board of directors.'.</p>		
	<p>SEC. 926. DISQUALIFYING FELONS AND OTHER `BAD ACTORS' FROM REGULATION D OFFERINGS.</p> <p><i>Not later than 1 year after the date of enactment of this Act, the Commission shall issue rules for the disqualification of offerings and sales of securities made under section 230.506 of title 17, Code of Federal Regulations, that--</i></p> <p><i>(1) are substantially similar to the provisions of section 230.262 of title 17, Code of Federal Regulations, or any successor thereto; and</i></p> <p><i>(2) disqualify any offering or sale of securities by a person that--</i></p> <p><i>(A) is subject to a final order of a State securities commission (or an agency or officer of a State performing like functions), a State authority that supervises or examines banks, savings associations, or credit unions, a State insurance commission (or an agency or officer of a State performing like functions), an appropriate Federal banking agency, or the National Credit Union Administration, that--</i></p> <p><i>(i) bars the person from--</i></p> <p><i>(I) association with an entity regulated by such commission, authority, agency, or officer;</i></p> <p><i>(II) engaging in the business of</i></p>	

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
	<p style="text-align: center;"><i>securities, insurance, or banking; or (III) engaging in savings association or credit union activities; or (ii) constitutes a final order based on a violation of any law or regulation that prohibits fraudulent, manipulative, or deceptive conduct within the 10-year period ending on the date of the filing of the offer or sale; or (B) has been convicted of any felony or misdemeanor in connection with the purchase or sale of any security or involving the making of any false filing with the Commission.</i></p>	
	<p>SEC. 927. EQUAL TREATMENT OF SELF-REGULATORY ORGANIZATION RULES.</p> <p style="text-align: center;"><i>Section 29(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78cc(a)) is amended by striking 'an exchange required thereby' and inserting 'a self-regulatory organization,'.</i></p>	
	<p>SEC. 929A. PROTECTION FOR EMPLOYEES OF SUBSIDIARIES AND AFFILIATES OF PUBLICLY TRADED COMPANIES.</p> <p style="text-align: center;"><i>Section 1514A of title 18, United States Code, is amended by inserting 'including any subsidiary or affiliate whose financial information is included in the consolidated financial statements of such company' after 'the Securities Exchange Act of 1934 (15 U.S.C. 78o(d))'.</i></p>	
<p>PART 3--COMMISSION FUNDING AND ORGANIZATION</p>	<p style="text-align: center;"><i>Subtitle F--Improvements to the Management of the Securities and Exchange Commission</i></p> <p style="text-align: center;"><i>Subtitle J--Self-funding of the Securities and Exchange Commission</i></p>	
<p>SEC. 7301. AUTHORIZATION OF APPROPRIATIONS.</p> <p>Section 35 of the Securities Exchange Act of 1934 (15 U.S.C. 78kk) is amended to read as follows:</p>		

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<p>SEC. 35. AUTHORIZATION OF APPROPRIATIONS.</p> <p>In addition to any other funds authorized to be appropriated to the Commission, there are authorized to be appropriated to carry out the functions, powers, and duties of the Commission--</p> <ul style="list-style-type: none"> (1) for fiscal year 2010, \$1,115,000,000; (2) for fiscal year 2011, \$1,300,000,000; (3) for fiscal year 2012, \$1,500,000,000; (4) for fiscal year 2013, \$1,750,000,000; (5) for fiscal year 2014, \$2,000,000,000; and (6) for fiscal year 2015, \$2,250,000,000. 		
<p>SEC. 7302. INVESTMENT ADVISER REGULATION FUNDING.</p> <p>Section 203 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-3) (as amended by sections 5006 and 5007) is further amended by adding at the end the following new subsection:</p> <p>(o) Annual Assessment-</p> <ul style="list-style-type: none"> (1) IN GENERAL- The Commission shall, in accordance with this subsection, promulgate rules pursuant to which it may collect from investment advisers required to register with the Commission under this title, fees designed to help recover the cost of inspections and examinations of registered investment advisers conducted by the Commission pursuant to this title. (2) FEE PAYMENT REQUIRED- An investment adviser shall, at the time of registration with the Commission, and each fiscal year thereafter during which such adviser is so registered, pay to the Commission a fair and reasonable fee determined by the Commission. In determining such fee, the Commission shall consider objective factors such as-- <ul style="list-style-type: none"> (A) the investment adviser's size; (B) the number of clients of the investment adviser; (C) the types of clients of the investment adviser; and (D) such other relevant factors as the Commission determines to be appropriate. (3) AMOUNT AND USE OF FEES- <ul style="list-style-type: none"> (A) MINIMUM AGGREGATE AMOUNT- The aggregate amount of fees determined by the Commission under this subsection for any fiscal year shall be greater than the amount the Commission spent on inspections and examinations of registered investment advisers during the 2009 fiscal year. 	<p>SEC. 991. SECURITIES AND EXCHANGE COMMISSION SELF-FUNDING.</p> <p>(a) Self-funding Authority- Section 4 of the Securities Exchange Act of 1934 (15 U.S.C. 78d) is amended--</p> <ul style="list-style-type: none"> (1) in subsection (c), in the second sentence, by striking 'credited to the appropriated funds of the Commission' and inserting 'deposited in the account described in subsection (i)(4)'; (2) in subsection (f), in the second sentence, by striking 'considered a reimbursement to the appropriated funds of the Commission' and inserting 'deposited in the account described in subsection (i)(4)'; and (3) by adding at the end the following: <p>(i) Funding of the Commission-</p> <ul style="list-style-type: none"> (1) BUDGET- For each fiscal year, the Chairman of the Commission shall prepare and submit to Congress a budget to Congress. Such budget shall be submitted at the same time the President submits a budget of the United States to Congress for such fiscal year. The budget submitted by the Chairman of the Commission pursuant to this paragraph shall not be considered a request for appropriations. (2) TREASURY PAYMENT- <ul style="list-style-type: none"> (A) On the first day of each fiscal year, the Treasury shall pay into the account described in paragraph (4) an amount equal to the budget submitted by the Chairman of the Commission pursuant to paragraph (1) for such fiscal year. (B) At or prior to the end of each fiscal year, the Commission shall pay to the Treasury from fees and 	

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<p>(B) EXCESS FEES- The Commission may retain any excess fees collected under this subsection during a fiscal year for application towards the costs of inspections and examinations of investment advisers in future fiscal years.</p>	<p><i>assessments deposited in the account described in paragraph (4) an amount equal to the amount paid by the Treasury pursuant to subparagraph (A) for such fiscal year, unless there are not sufficient fees and assessments deposited in such account at or prior to the end of the fiscal year to make such payment, in which case the Commission shall make such payment in a subsequent fiscal year.</i></p> <p>(3) OBLIGATIONS AND EXPENSES-</p> <p>(A) IN GENERAL- <i>The Commission shall determine and prescribe the manner in which--</i></p> <p>(i) <i>the obligations of the Commission shall be incurred; and</i></p> <p>(ii) <i>the disbursements and expenses of the Commission allowed and paid.</i></p> <p>(B) INSUFFICIENT FUNDS- <i>If, in the course of any fiscal year, the Chairman of the Commission determines that, due to unforeseen circumstances, the obligations of the Commission will exceed those provided for in the budget submitted under paragraph (1), the Chairman of the Commission may notify Congress of the amount and expected uses of the additional obligations.</i></p> <p>(C) AUTHORITY TO INCUR EXCESS OBLIGATIONS- <i>The Commission may incur obligations in excess of the budget submitted under paragraph (1) from amounts available in the account described in paragraph (4).</i></p> <p>(D) RULE OF CONSTRUCTION- <i>Any notification to Congress under this paragraph shall not be considered a request for appropriations.</i></p> <p>(4) ACCOUNT-</p> <p>(A) ESTABLISHMENT- <i>Fees and assessments collected under this title, section 6(b) of the Securities Act of 1933 (15 U.S.C. 77f(b)), and section 24(f) of the Investment Company Act of 1940 (15 U.S.C. 80a-24(f)) and payments made by the Treasury pursuant to paragraph (2)(A) for any fiscal year shall be deposited into an account established at any regular Government depository or any State or national bank.</i></p> <p>(B) RULE OF CONSTRUCTION- <i>Any amounts deposited into the account established under subparagraph (A) shall not be construed to be</i></p>	

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	<p><i>Government funds or appropriated monies.</i></p> <p><i>“(C) NO APPORTIONMENT- Any amounts deposited into the account established under subparagraph (A) shall not be subject to apportionment for the purpose of chapter 15 of title 31, United States Code, or under any other authority.</i></p> <p><i>“(5) USE OF ACCOUNT FUNDS-</i></p> <p><i>“(A) PERMISSIBLE USES- Amounts available in the account described in paragraph (4) may be withdrawn by the Commission and used for the purposes described in paragraphs (2) and (3).</i></p> <p><i>“(B) IMPERMISSIBLE USE- Except as provided in paragraph (6), no amounts available in the account described in paragraph (4) shall be deposited and credited as general revenue of the Treasury.</i></p> <p><i>“(6) EXCESS FUNDS- If, at the end of any fiscal year and after all payments have been made to the Treasury pursuant to paragraph (2)(B) for such fiscal year and all prior fiscal years, the balance of the account described in paragraph (4) exceeds 25 percent of the budget of the Commission for the following fiscal year, the amount by which the balance exceeds 25 percent of such budget shall be credited as general revenue of the Treasury.’.</i></p> <p><i>(b) Conforming Amendments to Transaction Fee Provisions- Section 31 of the Securities Exchange Act of 1934 (15 U.S.C. 78ee) is amended--</i></p> <p><i>(1) by amending subsection (a) to read as follows:</i></p> <p><i>“(a) Recovery of Costs and Expenses-</i></p> <p><i>“(1) IN GENERAL- The Commission shall, in accordance with this section, collect transaction fees and assessments that are designed--</i></p> <p><i>“(A) to recover the reasonable costs and expenses of the Commission, as set forth in the annual budget of the Commission; and</i></p> <p><i>“(B) to provide funds necessary to maintain a reserve.</i></p> <p><i>“(2) OVERPAYMENTS- The authority to collect transaction fees and assessments in accordance with this section shall include the authority to offset from such collection any overpayment of transaction fees or assessments, regardless of the fiscal year in which such overpayment is made.’;</i></p> <p><i>(2) in subsection (e)(2), by striking ‘September 30’ and inserting ‘September 25’;</i></p> <p><i>(3) in subsection (g), by striking ‘April 30’ and inserting ‘August 31’;</i></p>	

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	<p>(4) by amending subsection (i) to read as follows: <i>“(i) Fee Collections- Fees and assessments collected pursuant to this section shall be deposited and credited in accordance with section 4(g) of this title.”;</i></p> <p>(5) by amending subsection (j) to read as follows: <i>“(j) Adjustments to Transaction Fee Rates-</i> <i>“(1) ANNUAL ADJUSTMENT- For each fiscal year, the Commission shall by order adjust each of the rates applicable under subsections (b) and (c) for such fiscal year to a uniform adjusted rate that, when applied to the baseline estimate of the aggregate dollar amount of sales for such fiscal year, is reasonably likely to produce aggregate fee collections under this section (including assessments collected under subsection (d)) that are equal to the budget of the Commission for such fiscal year, plus amounts necessary to maintain a reserve.</i> <i>“(2) MID-YEAR ADJUSTMENT- For each fiscal year, the Commission shall determine, by March 1 of such fiscal year, whether, based on the actual aggregate dollar volume of sales during the first 4 months of such fiscal year, the baseline estimate of the aggregate dollar volume of sales used under paragraph (1) for such fiscal year is reasonably likely to be 10 percent (or more) greater or less than the actual aggregate dollar volume of sales for such fiscal year. If the Commission so determines, the Commission shall by order, not later than March 1, adjust each of the rates applicable under subsections (b) and (c) for such fiscal year to a uniform adjusted rate that, when applied to the revised estimate of the aggregate dollar amount of sales for the remainder of such fiscal year, is reasonably likely to produce aggregate fee collections under this section (including fees estimated to be collected under subsections (b) and (c) during such fiscal year prior to the effective date of the new uniform adjusted rate and assessments collected under subsection (d)) that are equal to the budget of the Commission for such fiscal year, plus amounts necessary to maintain a reserve. In making such revised estimate, the Commission shall, after consultation with the Congressional Budget Office and the Office of Management and Budget, use the same methodology required by paragraph (4).</i> <i>“(3) REVIEW AND EFFECTIVE DATE- In exercising its authority under this subsection, the Commission shall not be required to comply with the provisions of section 553 of title 5 United States Code. An adjusted rate prescribed under paragraph (1) or (2) and published under subsection (g) shall</i></p>	

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	<p><i>not be subject to judicial review. An adjusted rate prescribed under paragraph (1) shall take effect on the first day of the fiscal year to which such rate applies. An adjusted rate prescribed under paragraph (2) shall take effect on April 1 of the fiscal year to which such rate applies.</i></p> <p><i>“(4) BASELINE ESTIMATE OF THE AGGREGATE DOLLAR AMOUNT OF SALES- For purposes of this subsection, the baseline estimate of the aggregate dollar amount of sales for any fiscal year is the baseline estimate of the aggregate dollar amount of sales of securities (other than bonds, debentures, other evidences of indebtedness, security futures products, and options on securities indexes excluding a narrow-based security index) to be transacted on each national securities exchange and by or through any member of each national securities association (otherwise than on a national securities exchange) during such fiscal year as determined by the Commission, after consultation with the Congressional Budget Office and the Office of Management and Budget, using the methodology required for making projections pursuant to section 907 of title 2.”; and</i></p> <p><i>(6) by striking subsections (k) and (l).</i></p> <p><i>(c) Conforming Amendments to Registration Fee Provisions-</i></p> <p><i>(1) SECTION 6(B) OF THE SECURITIES ACT OF 1933- Section 6(b) of the Securities Act of 1933 (15 U.S.C. 77f(b)) is amended--</i></p> <p><i>(A) by striking ‘offsetting’ each place that term appears and inserting ‘fee’;</i></p> <p><i>(B) in paragraph (3), in the paragraph heading, by striking ‘OFFSETTING’ and inserting ‘FEE’;</i></p> <p><i>(C) in paragraph (11)(A), in the subparagraph heading, by striking ‘OFFSETTING’ and inserting ‘FEE’;</i></p> <p><i>(D) by striking paragraphs (1), (3), (4), (6), (8), and (9);</i></p> <p><i>(E) by redesignating paragraph (2) as paragraph (1);</i></p> <p><i>(F) in paragraph (1), as so redesignated, by striking ‘(5) or (6)’ and inserting ‘(3)’;</i></p> <p><i>(G) by inserting after paragraph (1), as so redesignated, the following:</i></p> <p><i>“(2) FEE COLLECTIONS- Fees collected pursuant to this subsection shall be deposited and credited in accordance with section 4(i) of the Securities Exchange Act of 1934.”;</i></p> <p><i>(H) by redesignating paragraph (5) as paragraph (3);</i></p>	

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	<p>(A) by striking `offsetting' each place that term appears and inserting `fee';</p> <p>(B) in paragraph (3) by striking `paragraphs (5) and (6)' and inserting `paragraph (5)';</p> <p>(C) by amending paragraph (4) to read as follows:</p> <p>“(4) FEE COLLECTIONS- Fees collected pursuant to this subsection shall be deposited and credited in accordance with section 4(g) of this title.”;</p> <p>(D) in paragraph (5), by striking `of the fiscal years 2003 through 2011' and inserting `fiscal year';</p> <p>(E) by striking paragraphs (6), (7), and (8);</p> <p>(F) by redesignating paragraph (7) as paragraph (6);</p> <p>(G) by inserting after paragraph (6), as so redesignated, the following:</p> <p>“(7) REVIEW AND EFFECTIVE DATE- In exercising its authority under this subsection, the Commission shall not be required to comply with the provisions of section 553 of title 5. An adjusted rate prescribed under paragraph (5) and published under paragraph (8) shall not be subject to judicial review. An adjusted rate prescribed under paragraph (5) shall take effect on the first day of the fiscal year to which such rate applies.”;</p> <p>(H) by striking paragraph (9);</p> <p>(I) by redesignating paragraph (10) as paragraph (8);</p> <p>and</p> <p>(J) in paragraph (8), as so redesignated, by striking `6(b)(10)' and inserting `6(b)(6)'.</p> <p>(3) SECTION 14 OF THE SECURITIES EXCHANGE ACT OF 1934- Section 14(g) of the Securities Exchange Act of 1934 (15 U.S.C. 78n(g)) is amended--</p> <p>(A) by striking the word `offsetting' each time that it appears and inserting in its place the word `fee';</p> <p>(B) in paragraph (1)(A), by striking `paragraphs (5) and (6)' each time it appears and inserting `paragraph (5)';</p> <p>(C) in paragraph (3), by striking `paragraphs (5) and (6)' and inserting `paragraph (5)';</p> <p>(D) by amending paragraph (4) to read as follows:</p> <p>“(4) FEE COLLECTIONS- Fees collected pursuant to this subsection shall be deposited and credited in accordance with section 4(g) of this title.”;</p> <p>(E) in paragraph (5), by striking `of the fiscal years 2003 through 2011' and inserting `fiscal year';</p> <p>(F) by striking paragraphs (6), (8), and (9);</p>	

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	<p>(G) by redesignating paragraph (7) as paragraph (6); (H) by inserting after paragraph (6), as so redesignated, the following:</p> <p><i>“(7) REVIEW AND EFFECTIVE DATE- In exercising its authority under this subsection, the Commission shall not be required to comply with the provisions of section 553 of title 5. An adjusted rate prescribed under paragraph (5) and published under paragraph (8) shall not be subject to judicial review. An adjusted rate prescribed under paragraph (5) shall take effect on the first day of the fiscal year to which such rate applies.”;</i></p> <p>(I) by redesignating paragraphs (10) and (11) as paragraphs (8) and (9), respectively; and (J) in paragraph (9), as so redesignated, by striking <i>“6(b)(10)”</i> and inserting <i>“6(b)(7)”</i>.</p> <p>(d) <i>Repeal of Authorization of Appropriations- Section 35 of the Securities Exchange Act of 1934 (15 U.S.C. 78kk) is repealed.</i></p> <p>(e) <i>Effective Date and Transition Provisions-</i></p> <p>(1) <i>IN GENERAL- Except as provided in paragraphs (2) and (3), the amendments made by this section shall be effective on the first day of the fiscal year following the fiscal year in which this Act is enacted.</i></p> <p>(2) <i>TRANSITION PERIOD- For the fiscal year following the fiscal year in which this Act is enacted, the budget of the Commission shall be deemed to be the budget submitted by the Chairman of the Commission to the President for such fiscal year in accordance with the provisions of section 1108 of title 31, United States Code.</i></p> <p>(3) <i>OTHER PROVISIONS- The amendments made by this section to subsections (g) and (j)(1) of section 31 of the Securities Exchange Act of 1934 (15 U.S.C. 78ee) shall be effective on the date of enactment of this Act, and shall require the Commission to make and publish an annual adjustment to the fee rates applicable under subsections (b) and (c) of section 31 of the Securities Exchange Act of 1934 (15 U.S.C. 78ee) for the fiscal year following the fiscal year in which this Act is enacted. The adjusted rate described in the preceding sentence shall supersede any previously published adjusted rate applicable under subsections (b) and (c) of section 31 of the Securities Exchange Act of 1934 for the fiscal year following the fiscal year in which this Act is enacted and shall take effect on the first day of the fiscal year following the fiscal year in which this Act is enacted, except that, if this Act is enacted on or after August 31 and on or prior to September 30, the adjusted rate</i></p>	

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	<p><i>described in the first sentence shall be published not later than 15 days after the date of enactment of this Act and take effect 30 days thereafter, and the Commission shall continue to collect fees under subsections (b) and (c) of section 31 of the Securities Exchange Act of 1934 at the rate in effect during the preceding fiscal year until the adjusted rate is effective.</i></p>	
<p>“(4) REVIEW AND ADJUSTMENT OF FEES- The Commission may review fee rates established pursuant to this section before the end of any fiscal year and make any appropriate adjustments prior to collecting any such fee in the following fiscal year. “(5) PENALTY FEE- The Commission shall prescribe by rule or regulation an additional fee to be assessed as a penalty for late payment of fees required by this subsection. “(6) JUDICIAL REVIEW- Increases or decreases in fees made pursuant to this section shall not be subject to judicial review.’.</p>		
<p>SEC. 7303. AMENDMENTS TO SECTION 31 OF THE SECURITIES EXCHANGE ACT OF 1934.</p> <p>Section 31 of the Securities Exchange Act of 1934 (15 U.S.C. 78ee) is amended--</p> <p>(1) in subsection (e)(2), by striking ‘September 30’ and inserting ‘September 25’;</p> <p>(2) in subsection (g), by striking ‘April 30’ and inserting ‘August 31’; and</p> <p>(3) in subsection (j)(2)--</p> <p>(A) by striking ‘5 months’ and inserting ‘4 months’; and</p> <p>(B) by striking ‘(including fees collected during such 5-month period and assessments collected under subsection (d))’ and inserting ‘(including fees estimated to be collected under subsections (b) and (c) prior to the effective date of the uniform adjusted rate and assessments estimated to be collected under subsection (d))’.</p>		
<p>SEC. 7304. COMMISSION ORGANIZATIONAL STUDY AND REFORM.</p> <p>(a) Study Required-</p> <p>(1) IN GENERAL- Not later than the end of the 90-day period beginning on the date of the enactment of this subtitle, the Securities and Exchange Commission (hereinafter in this section</p>	<p>SEC. 961. REPORT AND CERTIFICATION OF INTERNAL SUPERVISORY CONTROLS.</p> <p><i>(a) Annual Reports and Certification- Not later than 90 days after the end of each fiscal year, the Commission shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and</i></p>	

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<p>referred to as the "SEC") shall hire an independent consultant of high caliber and with expertise in organizational restructuring and the operations of capital markets to examine the internal operations, structure, funding, and the need for comprehensive reform of the SEC, as well as the SEC's relationship with and the reliance on self-regulatory organizations and other entities relevant to the regulation of securities and the protection of securities investors that are under the SEC's oversight.</p> <p>(2) SPECIFIC AREAS FOR STUDY- The study required under paragraph (1) shall, at a minimum, include the study of--</p> <ul style="list-style-type: none"> (A) the possible elimination of unnecessary or redundant units at the SEC; (B) improving communications between SEC offices and divisions; (C) the need to put in place a clear chain-of-command structure, particularly for enforcement examinations and compliance inspections; (D) the effect of high-frequency trading and other technological advances on the market and what the SEC requires to monitor the effect of such trading and advances on the market; (E) the SEC's hiring authorities, workplace policies, and personal practices, including-- <ul style="list-style-type: none"> (i) whether there is a need to further streamline hiring authorities for those who are not lawyers, accountants, compliance examiners, or economists; (ii) whether there is a need for further pay reforms; (iii) the diversity of skill sets of SEC employees and whether the present skill set diversity efficiently and effectively fosters the SEC's mission of investor protection; and (iv) the application of civil service laws by the SEC; (F) whether the SEC's oversight and reliance on self-regulatory organizations promotes efficient and effective governance for the securities markets; and (G) whether adjusting the SEC's reliance on self-regulatory organizations is necessary to promote more efficient and effective governance for the securities markets. 	<p><i>the Committee on Financial Services of the House of Representatives on the conduct by the Commission of examinations of registered entities, enforcement investigations, and review of corporate financial securities filings.</i></p> <p><i>(b) Contents of Reports- Each report under subsection (a) shall contain--</i></p> <ul style="list-style-type: none"> <i>(1) an assessment, as of the end of the most recent fiscal year, of the effectiveness of--</i> <ul style="list-style-type: none"> <i>(A) the internal supervisory controls of the Commission; and</i> <i>(B) the procedures of the Commission applicable to the staff of the Commission who perform examinations of registered entities, enforcement investigations, and reviews of corporate financial securities filings;</i> <i>(2) a certification that the Commission has adequate internal supervisory controls to carry out the duties of the Commission described in paragraph (1)(B); and</i> <i>(3) a summary by the Comptroller General of the United States of the review carried out under subsection (d).</i> <p><i>(c) Certification-</i></p> <ul style="list-style-type: none"> <i>(1) SIGNATURE- The certification under subsection (b)(2) shall be signed by the Director of the Division of Enforcement, the Director of the Division of Corporation Finance, and the Director of the Office of Compliance Inspections and Examinations (or the head of any successor division or office).</i> <i>(2) CONTENT OF CERTIFICATION- Each individual described in paragraph (1) shall certify that the individual--</i> <ul style="list-style-type: none"> <i>(A) is directly responsible for establishing and maintaining the internal supervisory controls of the Division or Office of which the individual is the head;</i> <i>(B) is knowledgeable about the internal supervisory controls of the Division or Office of which the individual is the head;</i> <i>(C) has evaluated the effectiveness of the internal supervisory controls during the 90-day period ending on the final day of the fiscal year to which the report relates; and</i> <i>(D) has disclosed to the Commission any significant deficiencies in the design or operation of internal supervisory controls that could adversely affect the ability of the Division or Office to consistently conduct inspections, or investigations, or reviews of filings with professional competence and integrity.</i> <p><i>(d) Review by the Comptroller General- Not later than the date on which</i></p>	

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	<p><i>the first report is submitted under subsection (a), the Comptroller General of the United States shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives an initial report that contains a review of the adequacy and effectiveness of the internal supervisory control structure and procedures described in subsection (b)(1).</i></p>	
<p>(b) Consultant Report- Not later than the end of the 150-day period after being retained, the independent consultant hired pursuant to subsection (a)(1) shall issue a report to the SEC and the Congress containing--</p> <p style="padding-left: 40px;">(1) a detailed description of any findings and conclusions made while carrying out the study required under subsection (a)(1); and</p> <p style="padding-left: 40px;">(2) recommendations for legislative, regulatory, or administrative action that the consultant determines appropriate to enable the SEC and other entities on which it reports to perform their statutorily or otherwise mandated missions.</p> <p>(c) SEC Report- Not later than the end of the 6-month period beginning on the date the consultant issues the report under subsection (b), and every 6-months thereafter during the 2-year period following the date on which the consultant issues such report, the SEC shall issue a report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate describing the SEC's implementation of the regulatory and administrative recommendations contained in the consultant's report.</p>		
<p>SEC. 7305. CAPITAL MARKETS SAFETY BOARD.</p> <p>There is established within the Securities and Exchange Commission an office to be known as the Capital Markets Safety Board whose purpose shall be to conduct investigations, at the direction of the Commission, of failed institutions registered with the Commission, to determine what caused such institutions to fail. Upon the conclusion of an investigation, the Board shall make available on the Commission's website a report of its findings, including recommendations regarding how others can avoid similar mistakes. No information that may compromise an ongoing Federal investigation shall be made available in any such report.</p>		
<p>SEC. 7306. REPORT ON IMPLEMENTATION OF 'POST-MADOFF REFORMS'.</p> <p>(a) In General- Not later than 6 months after the date of the enactment of this subtitle, the Securities and Exchange Commission shall provide to</p>		

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<p>the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report describing the implementation of reforms outlined by the Commission in the wake of the discovery of fraud by Bernie Madoff.</p> <p>(b) Contents of Report- The report required by subsection (a) shall include an analysis of--</p> <ul style="list-style-type: none"> (1) how many of the post-Madoff reforms have been implemented and to what extent; and (2) whether there is overlap between any of the Commission's reform proposals and those recommended by the Inspector General of the Commission. <p>(c) Publication of Report- The Commission and the Committees referred to in subsection (a) shall publish the report required by such subsection on their Web sites.</p>		
<p>SEC. 7307. JOINT ADVISORY COMMITTEE.</p> <p>The Securities and Exchange Commission and the Commodities Futures Trading Commission may jointly form and operate a joint advisory committee composed of members of each Commission and industry experts and participants. The purposes of such an advisory committee include--</p> <ul style="list-style-type: none"> (1) considering and developing solutions to emerging and ongoing issues of common interest in the futures and securities markets; (2) identifying emerging regulatory risks and assess and quantify their implications for investors and other market participants, and provide recommendations for solutions; (3) serving as a vehicle for discussion and communication on regulatory issues of mutual concerns affecting each Commission, the regulated markets, and the industry generally; and (4) reporting regularly to each Commission and to Congress on its activities. 		
	<p>SEC. 962. TRIENNIAL REPORT ON PERSONNEL MANAGEMENT.</p> <p><i>(a) Triennial Report Required- Once every 3 years, the Comptroller General of the United States shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the quality of personnel management by the Commission.</i></p> <p><i>(b) Contents of Report- Each report under subsection (a) shall include--</i></p>	

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	<p>(1) an evaluation of--</p> <p>(A) the effectiveness of supervisors in using the skills, talents, and motivation of the employees of the Commission to achieve the goals of the Commission;</p> <p>(B) the criteria for promoting employees of the Commission to supervisory positions;</p> <p>(C) the fairness of the application of the promotion criteria to the decisions of the Commission;</p> <p>(D) the competence of the professional staff of the Commission;</p> <p>(E) the efficiency of communication between the units of the Commission regarding the work of the Commission (including communication between divisions and between subunits of a division) and the efforts by the Commission to promote such communication;</p> <p>(F) the turnover within subunits of the Commission, including the identification of supervisors whose subordinates have an unusually high rate of turnover;</p> <p>(G) whether there are excessive numbers of low-level, mid-level, or senior-level managers;</p> <p>(H) any initiatives of the Commission that increase the competence of the staff of the Commission;</p> <p>(I) the actions taken by the Commission regarding employees of the Commission who have failed to perform their duties; and</p> <p>(J) such other factors relating to the management of the Commission as the Comptroller General determines are appropriate;</p> <p>(2) an evaluation of any improvements made with respect to the areas described in paragraph (1) since the date of submission of the previous report; and</p> <p>(3) recommendations for how the Commission can use the human resources of the Commission more effectively and efficiently to carry out the mission of the Commission.</p> <p>(c) Consultation- In preparing the report under subsection (a), the Comptroller General shall consult with current employees of the Commission, retired employees and other former employees of the Commission, the Inspector General of the Commission, persons that have business before the Commission, any union representing the employees of the Commission, private management consultants, academics, and any other source that the Comptroller General deems appropriate.</p> <p>(d) Report by Commission- Not later than 90 days after the date on</p>	

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	<p><i>which the Comptroller General submits each report under subsection (a), the Commission shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report describing the actions taken by the Commission in response to the recommendations contained in the report under subsection (a).</i></p> <p><i>(e) Reimbursements for Cost of Reports-</i></p> <p><i>(1) REIMBURSEMENTS REQUIRED- The Commission shall reimburse the Government Accountability Office for the full cost of making the reports under this section, as billed therefor by the Comptroller General.</i></p> <p><i>(2) CREDITING AND USE OF REIMBURSEMENTS- Such reimbursements shall--</i></p> <p><i>(A) be credited to the appropriation account 'Salaries and Expenses, Government Accountability Office' current when the payment is received; and</i></p> <p><i>(B) remain available until expended.</i></p>	
	<p>SEC. 963. ANNUAL FINANCIAL CONTROLS AUDIT.</p> <p><i>(a) Reports of Commission-</i></p> <p><i>(1) ANNUAL REPORTS REQUIRED- Not later than 6 months after the end of each fiscal year, the Commission shall publish and submit to Congress a report that--</i></p> <p><i>(A) describes the responsibility of the management of the Commission for establishing and maintaining an adequate internal control structure and procedures for financial reporting; and</i></p> <p><i>(B) contains an assessment of the effectiveness of the internal control structure and procedures for financial reporting of the Commission during that fiscal year.</i></p> <p><i>(2) ATTESTATION- The reports required under paragraph (1) shall be attested to by the Chairman and chief financial officer of the Commission.</i></p> <p><i>(b) Report by Comptroller General-</i></p> <p><i>(1) REPORT REQUIRED- Not later than 6 months after the end of the first fiscal year after the date of enactment of this Act, the Comptroller General of the United States shall submit a report to Congress that assesses--</i></p> <p><i>(A) the effectiveness of the internal control structure and procedures of the Commission for financial</i></p>	

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	<p>reporting; and (B) the assessment of the Commission under subsection (a)(1)(B). (2) ATTESTATION- The Comptroller General shall attest to, and report on, the assessment made by the Commission under subsection (a). (c) Reimbursements for Cost of Reports- (1) REIMBURSEMENTS REQUIRED- The Commission shall reimburse the Government Accountability Office for the full cost of making the reports under subsection (b), as billed therefor by the Comptroller General. (2) CREDITING AND USE OF REIMBURSEMENTS- Such reimbursements shall-- (A) be credited to the appropriation account 'Salaries and Expenses, Government Accountability Office' current when the payment is received; and (B) remain available until expended.</p>	
	<p>SEC. 964. REPORT ON OVERSIGHT OF NATIONAL SECURITIES ASSOCIATIONS.</p> <p>(a) Report Required- Not later than 2 years after the date of enactment of this Act, and every 3 years thereafter, the Comptroller General of the United States shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report that includes an evaluation of the oversight by the Commission of national securities associations registered under section 15A of the Securities Exchange Act of 1934 (15 U.S.C. 78o-3) with respect to-- (1) the governance of such national securities associations, including the identification and management of conflicts of interest by such national securities associations, together with an analysis of the impact of any conflicts of interest on the regulatory enforcement or rulemaking by such national securities associations; (2) the examinations carried out by the national securities associations, including the expertise of the examiners; (3) the executive compensation practices of such national securities associations; (4) the arbitration services provided by the national securities associations;</p>	

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	<p>(5) the review performed by national securities associations of advertising by the members of the national securities associations;</p> <p>(6) the cooperation with and assistance to State securities administrators by the national securities associations to promote investor protection;</p> <p>(7) how the funding of national securities associations is used to support the mission of the national securities associations, including--</p> <p>(A) the methods of funding;</p> <p>(B) the sufficiency of funds;</p> <p>(C) how funds are invested by the national securities association pending use; and</p> <p>(D) the impact of the methods, sufficiency, and investment of funds on regulatory enforcement by the national securities associations;</p> <p>(8) the policies regarding the employment of former employees of national securities associations by regulated entities;</p> <p>(9) the ongoing effectiveness of the rules of the national securities associations in achieving the goals of the rules;</p> <p>(10) the transparency of governance and activities of the national securities associations; and</p> <p>(11) any other issue that has an impact, as determined by the Comptroller General, on the effectiveness of such national securities associations in performing their mission and in dealing fairly with investors and members;</p> <p>(b) Reimbursements for Cost of Reports-</p> <p>(1) REIMBURSEMENTS REQUIRED- The Commission shall reimburse the Government Accountability Office for the full cost of making the reports under subsection (a), as billed therefor by the Comptroller General.</p> <p>(2) CREDITING AND USE OF REIMBURSEMENTS- Such reimbursements shall--</p> <p>(A) be credited to the appropriation account 'Salaries and Expenses, Government Accountability Office' current when the payment is received; and</p> <p>(B) remain available until expended.</p>	
	<p>SEC. 965. COMPLIANCE EXAMINERS.</p> <p>Section 4 of the Securities Exchange Act of 1934 (15 U.S.C. 78d) is</p>	

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	<p>amended by adding at the end the following:</p> <p>(h) Examiners-</p> <p>(1) DIVISION OF TRADING AND MARKETS- The Division of Trading and Markets of the Commission, or any successor organizational unit, shall have a staff of examiners who shall--</p> <p>(A) perform compliance inspections and examinations of entities under the jurisdiction of that Division; and</p> <p>(B) report to the Director of that Division.</p> <p>(2) DIVISION OF INVESTMENT MANAGEMENT- The Division of Investment Management of the Commission, or any successor organizational unit, shall have a staff of examiners who shall--</p> <p>(A) perform compliance inspections and examinations of entities under the jurisdiction of that Division; and</p> <p>(B) report to the Director of that Division.'</p>	
	<p>SEC. 966. SUGGESTION PROGRAM FOR EMPLOYEES OF THE COMMISSION.</p> <p>The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by inserting after section 4C (15 U.S.C. 78d-3) the following:</p> <p>SEC. 4D. ADDITIONAL DUTIES OF INSPECTOR GENERAL.</p> <p>(a) Suggestion Submissions by Commission Employees-</p> <p>(1) HOTLINE ESTABLISHED- The Inspector General of the Commission shall establish and maintain a telephone hotline or other electronic means for the receipt of--</p> <p>(A) suggestions by employees of the Commission for improvements in the work efficiency, effectiveness, and productivity, and the use of the resources, of the Commission; and</p> <p>(B) allegations by employees of the Commission of waste, abuse, misconduct, or mismanagement within the Commission.</p> <p>(2) CONFIDENTIALITY- The Inspector General shall maintain as confidential--</p> <p>(A) the identity of any individual who provides information by the means established under paragraph (1), unless the individual requests otherwise, in writing; and</p>	

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	<p style="text-align: center;"><i>“(B) at the request of any such individual, any specific information provided by the individual.</i></p> <p><i>“(b) Consideration of Reports- The Inspector General shall consider any suggestions or allegations received by the means established under subsection (a)(1), and shall recommend appropriate action in relation to such suggestions or allegations.</i></p> <p><i>“(c) Recognition- The Inspector General may recognize any employee who makes a suggestion under subsection (a)(1) (or by other means) that would or does--</i></p> <ul style="list-style-type: none"> <i>“(1) increase the work efficiency, effectiveness, or productivity of the Commission; or</i> <i>“(2) reduce waste, abuse, misconduct, or mismanagement within the Commission.</i> <p><i>“(d) Report- The Inspector General of the Commission shall submit to Congress an annual report containing a description of--</i></p> <ul style="list-style-type: none"> <i>“(1) the nature, number, and potential benefits of any suggestions received under subsection (a);</i> <i>“(2) the nature, number, and seriousness of any allegations received under subsection (a);</i> <i>“(3) any recommendations made or actions taken by the Inspector General in response to substantiated allegations received under subsection (a); and</i> <i>“(4) any action the Commission has taken in response to suggestions or allegations received under subsection (a).</i> <p><i>“(e) Funding- The activities of the Inspector General under this subsection shall be funded by the Securities and Exchange Commission Investor Protection Fund established under section 21F.’.</i></p>	

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<p>PART 4--ADDITIONAL COMMISSION REFORMS</p> <p>SEC. 7401. REGULATION OF SECURITIES LENDING.</p> <p>Section 10 of the Securities Exchange Act of 1934 (15 U.S.C. 78j) is amended by adding at the end the following new subsection:</p> <p>“(c)(1) To effect, accept, or facilitate a transaction involving the loan or borrowing of securities in contravention of such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors.</p> <p>“(2) Nothing in paragraph (1) shall be construed to limit the authority of an appropriate Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813(q))), the National Credit Union Administration, or any other Federal department or agency identified under law as having a systemic risk responsibility from prescribing rules or regulations to impose restrictions on transactions involving the loan or borrowing of securities in order to protect the safety and soundness of a financial institution or to protect the financial system from systemic risk.’</p>	<p>SEC. 984. LOAN OR BORROWING OF SECURITIES.</p> <p><i>(a) Rulemaking Authority- Section 10 of the Securities Exchange Act of 1934 (15 U.S.C. 78j) is amended by adding at the end the following:</i></p> <p><i>“(c)(1) To effect, accept, or facilitate a transaction involving the loan or borrowing of securities in contravention of such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors.</i></p> <p><i>“(2) Nothing in paragraph (1) may be construed to limit the authority of the appropriate Federal banking agency (as defined in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q))), the National Credit Union Administration, or any other Federal department or agency having a responsibility under Federal law to prescribe rules or regulations restricting transactions involving the loan or borrowing of securities in order to protect the safety and soundness of a financial institution or to protect the financial system from systemic risk.’.</i></p> <p><i>(b) Rulemaking Required- Not later than 2 years after the date of enactment of this Act, the Commission shall promulgate rules that are designed to increase the transparency of information available to brokers, dealers, and investors, with respect to the loan or borrowing of securities.</i></p>	
<p>SEC. 7402. LOST AND STOLEN SECURITIES.</p> <p>Section 17(f)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78q(f)(1)) is amended--</p> <p>(1) in subparagraph (A), by striking ‘missing, lost, counterfeit, or stolen securities’ and inserting ‘securities that are missing, lost, counterfeit, stolen, cancelled, or any other category of securities as the Commission, by rule, may prescribe’; and</p> <p>(2) in subparagraph (B), by striking ‘or stolen’ and inserting ‘stolen, cancelled, or reported in such other manner as the Commission, by rule, may prescribe’.</p>		
<p>SEC. 7403. FINGERPRINTING.</p> <p>Section 17(f)(2) of the Securities Exchange Act of 1934 (15 U.S.C. 78q(f)(2)) is amended--</p> <p>(1) by striking ‘and registered clearing agency,’ and inserting ‘registered clearing agency, registered securities information processor, national securities exchange, and national securities</p>		

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<p>association'; and (2) by striking `or clearing agency,' and inserting `clearing agency, securities information processor, national securities exchange, or national securities association,'.</p>		
<p>SEC. 7404. EQUAL TREATMENT OF SELF-REGULATORY ORGANIZATION RULES.</p> <p>Section 29(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78cc(a)) is amended by striking `an exchange required thereby' and inserting `a self-regulatory organization,'.</p>		
<p>SEC. 7405. CLARIFICATION THAT SECTION 205 OF THE INVESTMENT ADVISERS ACT OF 1940 DOES NOT APPLY TO STATE-REGISTERED ADVISERS.</p> <p>Section 205(a) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-5(a)) is amended--</p> <p>(1) by striking `, unless exempt from registration pursuant to section 203(b),' and inserting `registered or required to be registered with the Commission';</p> <p>(2) by striking `make use of the mails or any means or instrumentality of interstate commerce, directly or indirectly, to'; and</p> <p>(3) by striking `to' after `in any way'.</p>	<p>SEC. 928. CLARIFICATION THAT SECTION 205 OF THE INVESTMENT ADVISERS ACT OF 1940 DOES NOT APPLY TO STATE-REGISTERED ADVISERS.</p> <p><i>Section 205(a) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-5(a)) is amended, in the matter preceding paragraph (1)--</i></p> <p><i>(1) by striking `, unless exempt from registration pursuant to section 203(b),' and inserting `registered or required to be registered with the Commission';</i></p> <p><i>(2) by striking `make use of the mails or any means or instrumentality of interstate commerce, directly or (3) by striking `to' after `in any way'.</i></p> <p><i>indirectly, to'; and</i></p>	
<p>SEC. 7406. CONFORMING AMENDMENTS FOR THE REPEAL OF THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935.</p> <p>(a) Securities Exchange Act of 1934- The Securities Exchange Act of 1934 (15 U.S.C. 78 et seq.) is amended--</p> <p>(1) in section 3(a)(47) (15 U.S.C. 78c(a)(47)), by striking `the Public Utility Holding Company Act of 1935 (15 U.S.C. 79a et seq.);' and</p> <p>(2) in section 12(k) (15 U.S.C. 78l(k)), by amending paragraph (7) to read as follows:</p> <p>`(7) DEFINITION- For purposes of this subsection, the term `emergency' means--</p> <p> `(A) a major market disturbance characterized by or constituting--</p> <p> `(i) sudden and excessive fluctuations of securities prices generally, or a substantial threat thereof, that threaten fair and orderly markets; or</p>	<p>SEC. 986. CONFORMING AMENDMENTS RELATING TO REPEAL OF THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935.</p> <p>(a) Securities Exchange Act of 1934- The Securities Exchange Act of 1934 (15 U.S.C. 78 et seq.) is amended--</p> <p>(1) in section 3(a)(47) (15 U.S.C. 78c(a)(47)), by striking `the Public Utility Holding Company Act of 1935 (15 U.S.C. 79a et seq.);'</p> <p>(2) in section 12(k) (15 U.S.C. 78l(k)), by amending paragraph (7) to read as follows:</p> <p>`(7) DEFINITION- For purposes of this subsection, the term `emergency' means--</p> <p> `(A) a major market disturbance characterized by or constituting--</p> <p> `(i) sudden and excessive fluctuations of securities prices generally, or a substantial threat thereof, that threaten fair and orderly markets; or</p>	

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<p>(ii) a substantial disruption of the safe or efficient operation of the national system for clearance and settlement of transactions in securities, or a substantial threat thereof; or</p> <p>(B) a major disturbance that substantially disrupts, or threatens to substantially disrupt--</p> <p>(i) the functioning of securities markets, investment companies, or any other significant portion or segment of the securities markets; or</p> <p>(ii) the transmission or processing of securities transactions.'</p> <p>(3) in section 21(h)(2) (15 U.S.C. 78u(h)(2)), by striking section 18(c) of the Public Utility Holding Company Act of 1935,.'</p>	<p>(ii) a substantial disruption of the safe or efficient operation of the national system for clearance and settlement of transactions in securities, or a substantial threat thereof; or</p> <p>(B) a major disturbance that substantially disrupts, or threatens to substantially disrupt--</p> <p>(i) the functioning of securities markets, investment companies, or any other significant portion or segment of the securities markets; or</p> <p>(ii) the transmission or processing of securities transactions.'; and</p> <p>(3) in section 21(h)(2) (15 U.S.C. 78u(h)(2)), by striking section 18(c) of the Public Utility Holding Company Act of 1935,.'</p>	
<p>(b) Trust Indenture Act of 1939- The Trust Indenture Act of 1939 (15 U.S.C. 77aaa et seq.) is amended--</p> <p>(1) in section 303 (15 U.S.C. 77ccc), by amending paragraph (17) to read as follows:</p> <p>(17) The terms 'Securities Act of 1933' and 'Securities Exchange Act of 1934' shall be deemed to refer, respectively, to such Acts, as amended, whether amended prior to or after the enactment of this title.';</p> <p>(2) in section 308 (15 U.S.C. 77hhh), by striking 'Securities Act of 1933, the Securities Exchange Act of 1934, or the Public Utility Holding Company Act of 1935' each place it appears and inserting 'Securities Act of 1933 or the Securities Exchange Act of 1934';</p> <p>(3) in section 310 (15 U.S.C. 77jjj), by striking subsection (c);</p> <p>(4) in section 311 (15 U.S.C. 77kkk) by striking subsection (c);</p> <p>(5) in section 323(b) (15 U.S.C. 77www(b)), by striking 'Securities Act of 1933, or the Securities Exchange Act of 1934, or the Public Utility Holding Company Act of 1935' and inserting 'Securities Act of 1933 or the Securities Exchange Act of 1934'; and</p> <p>(6) in section 326 (15 U.S.C. 77zzz), by striking 'Securities Act of 1933, or the Securities Exchange Act of 1934, or the Public Utility Holding Company Act of 1935,' and inserting 'Securities Act of 1933 or the Securities Exchange Act of 1934'.</p> <p>(c) Investment Company Act of 1940- The Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.) is amended--</p> <p>(1) in section 2(a)(44) (15 U.S.C. 80a-2(a)(44)), by striking</p>	<p>(b) Trust Indenture Act of 1939- The Trust Indenture Act of 1939 (15 U.S.C. 77aaa et seq.) is amended--</p> <p>(1) in section 303 (15 U.S.C. 77ccc), by striking paragraph (17) and inserting the following:</p> <p>(17) The terms 'Securities Act of 1933' and 'Securities Exchange Act of 1934' shall be deemed to refer, respectively, to such Acts, as amended, whether amended prior to or after the enactment of this title.';</p> <p>(2) in section 308 (15 U.S.C. 77hhh), by striking 'Securities Act of 1933, the Securities Exchange Act of 1934, or the Public Utility Holding Company Act of 1935' each place that term appears and inserting 'Securities Act of 1933 or the Securities Exchange Act of 1934';</p> <p>(3) in section 310 (15 U.S.C. 77jjj), by striking subsection (c);</p> <p>(4) in section 311 (15 U.S.C. 77kkk), by striking subsection (c);</p> <p>(5) in section 323(b) (15 U.S.C. 77www(b)), by striking 'Securities Act of 1933, or the Securities Exchange Act of 1934, or the Public Utility Holding Company Act of 1935' and inserting 'Securities Act of 1933 or the Securities Exchange Act of 1934'; and</p> <p>(6) in section 326 (15 U.S.C. 77zzz), by striking 'Securities Act of 1933, or the Securities Exchange Act of 1934, or the Public Utility Holding Company Act of 1935,' and inserting 'Securities Act of 1933 or the Securities Exchange Act of 1934'.</p> <p>(c) Investment Company Act of 1940- The Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.) is amended--</p> <p>(1) in section 2(a)(44) (15 U.S.C. 80a-2(a)(44)), by striking</p>	

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<p>Public Utility Holding Company Act of 1935','; (2) in section 3(c) (15 U.S.C. 80a-3(c)), by amending paragraph (8) to read as follows: (8) [Repealed]'; (3) in section 38(b) (15 U.S.C. 80a-37(b)), by striking the Public Utility Holding Company Act of 1935,'; and (4) in section 50 (15 U.S.C. 80a-49), by striking the Public Utility Holding Company Act of 1935,'. (d) Investment Advisers Act of 1940- Section 202(a)(21) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(a)(21)) is amended by striking Public Utility Holding Company Act of 1935,'.</p>	<p>Public Utility Holding Company Act of 1935','; (2) in section 3(c) (15 U.S.C. 80a-3(c)), by striking paragraph (8) and inserting the following: (8) [Repealed]'; (3) in section 38(b) (15 U.S.C. 80a-37(b)), by striking the Public Utility Holding Company Act of 1935,'; and (4) in section 50 (15 U.S.C. 80a-49), by striking the Public Utility Holding Company Act of 1935,'. (d) Investment Advisers Act of 1940- Section 202(a)(21) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(a)(21)) is amended by striking Public Utility Holding Company Act of 1935,'.</p>	
<p>SEC. 7407. PROMOTING TRANSPARENCY IN FINANCIAL REPORTING.</p> <p>(a) Findings- Congress finds the following: (1) Transparent and clear financial reporting is integral to the continued growth and strength of our capital markets and the confidence of investors. (2) The increasing detail and volume of accounting, auditing, and reporting guidance pose a major challenge. (3) The complexity of accounting and auditing standards in the United States has added to the costs and effort involved in financial reporting.</p> <p>(b) Testimony Required on Reducing Complexity in Financial Reporting- The Securities and Exchange Commission, the Public Company Accounting Oversight Board, and the standard setting body designated pursuant to section 19(b) of the Securities Act of 1933 shall annually provide oral testimony by their respective Chairpersons or a designee of the Chairperson, beginning in 2010, and for 5 years thereafter, to the Committee on Financial Services of the House of Representatives on their efforts to reduce the complexity in financial reporting to provide more accurate and clear financial information to investors, including-- (1) reassessing complex and outdated accounting standards; (2) improving the understandability, consistency, and overall usability of the existing accounting and auditing literature; (3) developing principles-based accounting standards; (4) encouraging the use and acceptance of interactive data; and (5) promoting disclosures in plain English'.</p>		
<p>SEC. 7408. UNLAWFUL MARGIN LENDING.</p> <p>Section 7(c)(1)(A) of the Securities Exchange Act of 1934 (15 U.S.C.</p>	<p>SEC. 929. UNLAWFUL MARGIN LENDING.</p> <p>Section 7(c)(1)(A) of the Securities Exchange Act of 1934 (15 U.S.C.</p>	

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78g(c)(1)(A)) is amended by striking `; and' and inserting `; or'.	<i>78g(c)(1)(A)) is amended by striking `; and' and inserting `; or'.</i>	
<p>SEC. 7409. PROTECTING CONFIDENTIALITY OF MATERIALS SUBMITTED TO THE COMMISSION.</p> <p>(a) Securities Exchange Act of 1934- Section 17(i) of the Securities Exchange Act of 1934 (as amended by section 1314(2)) is amended to read as follows:</p> <p> `(i) Authority To Limit Disclosure of Information-</p> <p> `(1) IN GENERAL- Notwithstanding any other provision of law, the Commission shall not be compelled to disclose any information, documents, records, or reports that relate to an examination, surveillance, or risk assessment of a person subject to or described in this section, or the financial or operational condition of such persons, or any information supplied to the Commission by any domestic or foreign regulatory agency or self-regulatory organization that relates to the financial or operational condition of such persons, of any associated person of such persons, or any affiliate of an investment bank holding company.</p> <p> `(2) CERTAIN EXCEPTIONS- Nothing in this subsection shall authorize the Commission to withhold information from the Congress, prevent the Commission from complying with a request for information from any other Federal department or agency, the Public Company Accounting Oversight Board, or any self-regulatory organization requesting the information for purposes within the scope of its jurisdiction, or prevent the Commission from complying with an order of a court of the United States in an action brought by the United States or the Commission against a person subject to or described in this section to produce information, documents, records, or reports relating directly to the examination, surveillance, or risk assessment of that person or the financial or operational condition of that person or an associated or affiliated person of that person.</p> <p> `(3) TREATMENT UNDER SECTION 552 OF TITLE 5, UNITED STATES CODE- For purposes of section 552 of title 5, United States Code, this subsection shall be considered a statute described in subsection (b)(3)(B) of that section.</p> <p> `(4) CERTAIN INFORMATION TO BE CONFIDENTIAL- In prescribing regulations to carry out the requirements of this subsection, the Commission shall designate information described in or obtained pursuant to subparagraphs (A), (B), and</p>		

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<p>(C) of subsection (i)(3) as confidential information for purposes of section 24(b)(2) of this title.'</p>		
<p>(b) Investment Company Act of 1940- Section 31(b) of the Investment Company Act of 1940 (15 U.S.C. 80a-30(b)), as amended by sections 7106(a)(2) and 7218(b)(4), is further amended by adding at the end the following new paragraph: ` (6) CONFIDENTIALITY- ` (A) IN GENERAL- Notwithstanding any other provision of law, the Commission shall not be compelled to disclose any information, documents, records, or reports that relate to an examination, surveillance, or risk assessment of a person subject to or described in this section. ` (B) CERTAIN EXCEPTIONS- Nothing in this subsection shall authorize the Commission to withhold information from the Congress, prevent the Commission from complying with a request for information from any other Federal department or agency, or the Public Company Accounting Oversight Board requesting the information for purposes within the scope of its jurisdiction, or prevent the Commission from complying with an order of a court of the United States in an action brought by the United States or the Commission against a person subject to or described in this section to produce information, documents, records, or reports relating directly to the examination of that person or the financial or operational condition of that person or an associated or affiliated person of that person. ` (C) TREATMENT UNDER SECTION 552 OF TITLE 5, UNITED STATES CODE- For purposes of section 552 of title 5, United States Code, this subsection shall be considered a statute described in subsection (b)(3)(B) of that section.'</p>		
<p>(c) Investment Advisers Act of 1940- Section 204 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-4), as amended by sections 7106(b) and 7218(c), is further amended by adding at the end the following new subsection: ` (f) Confidentiality- ` (1) IN GENERAL- Notwithstanding any other provision of law, the Commission shall not be compelled to disclose any information, documents, records, or reports that relate to an examination of a person subject to or described in this section.</p>		

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<p>“(2) CERTAIN EXCEPTIONS- Nothing in this subsection shall authorize the Commission to withhold information from Congress, prevent the Commission from complying with a request for information from any other Federal department or agency, the Public Company Accounting Oversight Board, or a self-regulatory organization requesting the information for purposes within the scope of its jurisdiction, or prevent the Commission from complying with an order of a court of the United States in an action brought by the United States or the Commission against a person subject to or described in this section to produce information, documents, records, or reports relating directly to the examination of that person or the financial or operational condition of that person or an associated or affiliated person of that person.</p> <p>“(3) TREATMENT UNDER SECTION 552 OF TITLE 5, UNITED STATES CODE- For purposes of section 552 of title 5, United States Code, this subsection shall be considered a statute described in subsection (b)(3)(B) of that section.’</p>		
<p>SEC. 7410. TECHNICAL CORRECTIONS.</p> <p>(a) Securities Act of 1933- The Securities Act of 1933 (15 U.S.C. 77a et seq.) is amended--</p> <p>(1) in section 3(a)(4) (15 U.S.C. 77c(a)(4)), by striking ‘individual;’ and inserting ‘individual;’</p> <p>(2) in the matter following paragraph (5) of section 11(a), by striking ‘earning statement’ and inserting ‘earnings statement;’</p> <p>(3) in section 18(b)(1)(C) (15 U.S.C. 77r(b)(1)(C)), by striking ‘is a security’ and inserting ‘a security;’</p> <p>(4) in section 18(c)(2)(B)(i) (15 U.S.C. 77r(c)(2)(B)(i)), by striking ‘State, or’ and inserting ‘State or;’</p> <p>(5) in section 19(d)(6)(A) (15 U.S.C. 77s(d)(6)(A)), by striking ‘in paragraph (1) of (3)’ and inserting ‘in paragraph (1) or (3);’ and</p> <p>(6) in section 27A(c)(1)(B)(ii) (15 U.S.C. 77z-2(c)(1)(B)(ii)), by striking ‘business entity;’ and inserting ‘business entity.’</p> <p>(b) Securities Exchange Act of 1934- The Securities Exchange Act of 1934 (15 U.S.C. 78 et seq.) is amended--</p> <p>(1) in section 2(1)(a) (15 U.S.C. 78b(1)(a)), by striking ‘affected’ and inserting ‘effected;’</p> <p>(2) in section 3(a)(55)(A) (15 U.S.C. 78c(a)(55)(A)), by striking ‘section 3(a)(12) of the Securities Exchange Act of 1934’ and inserting ‘section 3(a)(12) of this Act;’</p> <p>(3) in section 3(g) (15 U.S.C. 78c(g)), by striking ‘company,</p>	<p>SEC. 985. TECHNICAL CORRECTIONS TO FEDERAL SECURITIES LAWS.</p> <p>(a) Securities Act of 1933- The Securities Act of 1933 (15 U.S.C. 77a et seq.) is amended--</p> <p>(1) in section 3(a)(4) (15 U.S.C. 77c(a)(4)), by striking ‘individual;’ and inserting ‘individual;’</p> <p>(2) in section 18 (15 U.S.C. 77r)--</p> <p>(A) in subsection (b)(1)(C), by striking ‘is a security’ and inserting ‘a security;’ and</p> <p>(B) in subsection (c)(2)(B)(i), by striking ‘State, or’ and inserting ‘State or;’</p> <p>(3) in section 19(d)(6)(A) (15 U.S.C. 77s(d)(6)(A)), by striking ‘in paragraph (1) of (3)’ and inserting ‘in paragraph (1) or (3);’ and</p> <p>(4) in section 27A(c)(1)(B)(ii) (15 U.S.C. 77z-2(c)(1)(B)(ii)), by striking ‘business entity;’ and inserting ‘business entity.’</p> <p>(b) Securities Exchange Act of 1934- The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended--</p> <p>(1) in section 2 (15 U.S.C. 78b), by striking ‘affected’ and inserting ‘effected;’</p> <p>(2) in section 3 (15 U.S.C. 78c)--</p> <p>(A) in subsection (a)(55)(A), by striking ‘section 3(a)(12) of the Securities Exchange Act of 1934’ and inserting ‘section 3(a)(12) of this title;’ and</p>	

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<p>account person, or entity' and inserting 'company, account, person, or entity';</p> <p>(4) in section 10A(i)(1)(B)(i) (15 U.S.C. 78j-1(i)(1)(B)(i)), by striking 'nonaudit' and inserting 'non-audit';</p> <p>(5) in section 13(b)(1) (15 U.S.C. 78m(b)(1)), by striking 'earning statement' and inserting 'earnings statement';</p> <p>(6) in section 15(b)(1) (15 U.S.C. 78o(b)(1))--</p> <p>(A) by striking the sentence beginning 'The order granting' and ending 'from such membership.' in subparagraph (B); and</p> <p>(B) by inserting such sentence in the matter following such subparagraph after 'are satisfied.';</p> <p>(7) in section 15C(a)(2) (15 U.S.C. 78o-5(a)(2))--</p> <p>(A) by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively;</p> <p>(B) by striking the sentence beginning 'The order granting' and ending 'from such membership.' in such subparagraph (B), as redesignated; and</p> <p>(C) by inserting such sentence in the matter following such redesignated subparagraph after 'are satisfied.';</p> <p>(8) in section 17(b)(1)(B) (15 U.S.C. 78q(b)(1)(B)), by striking '15A(k) gives' and inserting '15A(k), give'; and</p> <p>(9) in section 21C(c)(2) (15 U.S.C. 78u-3(c)(2)), by striking 'paragraph (1) subsection' and inserting 'Paragraph (1)'.</p> <p>(c) Trust Indenture Act of 1939- The Trust Indenture Act of 1939 (15 U.S.C. 77aaa et seq.) is amended--</p> <p>(1) in section 304(b) (15 U.S.C. 77ddd(b)), by striking 'section 2 of such Act' and inserting 'section 2(a) of such Act';</p> <p>(2) in section 313(a)(4) (15 U.S.C. 77mmm(a)(4)) by striking 'subsection (b) of section 311' and inserting 'section 311(b)'; and</p> <p>(3) in section 317(a)(1) (15 U.S.C. 77qqq(a)(1)), by striking '(1),' and inserting '(1)'.</p> <p>(d) Investment Company Act of 1940- The Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.) is amended--</p> <p>(1) in section 2(a)(19)(B) (15 U.S.C. 80a-2(a)(19)(B)) by striking 'clause (vi)' both places it appears in the last two sentences and inserting 'clause (vii)';</p> <p>(2) in section 9(b)(4)(B) (15 U.S.C. 80a-9(b)(4)(B)), by inserting 'or' after the semicolon at the end;</p> <p>(3) in section 12(d)(1)(J) (15 U.S.C. 80a-12(d)(1)(J)), by striking 'any provision of this subsection' and inserting 'any provision of this paragraph';</p>	<p>(B) in subsection (g), by striking 'company, account person, or entity' and inserting 'company, account, person, or entity';</p> <p>(3) in section 10A(i)(1)(B) (15 U.S.C. 78j-1(i)(1)(B))--</p> <p>(A) in the subparagraph heading, by striking 'MINIMUS' and inserting 'MINIMIS'; and</p> <p>(B) in clause (i), by striking 'nonaudit' and inserting 'non-audit';</p> <p>(4) in section 13(b)(1) (15 U.S.C. 78m(b)(1)), by striking 'earning statement' and inserting 'earnings statement';</p> <p>(5) in section 15 (15 U.S.C. 78o)--</p> <p>(A) in subsection (b)(1)--</p> <p>(i) in subparagraph (B), by striking 'The order granting' and all that follows through 'from such membership.'; and</p> <p>(ii) in the undesignated matter immediately following subparagraph (B), by inserting after the first sentence the following: 'The order granting registration shall not be effective until such broker or dealer has become a member of a registered securities association, or until such broker or dealer has become a member of a national securities exchange, if such broker or dealer effects transactions solely on that exchange, unless the Commission has exempted such broker or dealer, by rule or order, from such membership.';</p> <p>(6) in section 15C(a)(2) (15 U.S.C. 78o-5(a)(2))--</p> <p>(A) by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively, and adjusting the subparagraph margins accordingly;</p> <p>(B) in subparagraph (B), as so redesignated, by striking 'The order granting' and all that follows through 'from such membership.'; and</p> <p>(C) in the matter following subparagraph (B), as so redesignated, by inserting after the first sentence the following: 'The order granting registration shall not be effective until such government securities broker or government securities dealer has become a member of a national securities exchange registered under section 6 of this title, or a securities association registered under section 15A of this title, unless the Commission</p>	

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<p>(4) in section 13(a)(3) (15 U.S.C. 80a-13(a)(3)), by inserting `or' after the semicolon at the end;</p> <p>(5) in section 17(f)(4) (15 U.S.C. 80a-17(f)(4)), by striking `No such member' and inserting `No member of a national securities exchange';</p> <p>(6) in section 17(f)(6) (15 U.S.C. 80a-17(f)(6)), by striking `company may serve' and inserting `company, may serve'; and</p> <p>(7) in section 61(a)(3)(B)(iii) (15 U.S.C. 80a-60(a)(3)(B)(iii))--</p> <p style="padding-left: 20px;">(A) by striking `paragraph (1) of section 205' and inserting `section 205(a)(1)'; and</p> <p style="padding-left: 20px;">(B) by striking `clause (A) or (B) of that section' and inserting `section 205(b)(1) or (2)'.</p> <p>(e) Investment Advisers Act of 1940- The Investment Advisers Act of 1940 (15 U.S.C. 80b-1 et seq.) is amended--</p> <p style="padding-left: 20px;">(1) in each of the following sections, by striking `principal business office' or `principal place of business' (whichever and wherever it appears) and inserting `principal office and place of business': sections 203(c)(1)(A), 203(k)(4)(B), 213(a), 222(b), and 222(c) (15 U.S.C. 80b-3(c)(1)(A), 80b-3(k)(4)(B), 80b-13(a), 80b-18a(b), and 80b-18a(c)); and</p> <p style="padding-left: 20px;">(2) in section 206(3) (15 U.S.C. 80b-6(3)), by inserting `or' after the semicolon at the end.</p>	<p style="padding-left: 40px;"><i>has exempted such government securities broker or government securities dealer, by rule or order, from such membership.';</i></p> <p style="padding-left: 20px;">(7) in section 17(b)(1)(B) (15 U.S.C. 78q(b)(1)(B)), by striking `15A(k) gives' and inserting `15A(k), give'; and</p> <p style="padding-left: 20px;">(8) in section 21C(c)(2) (15 U.S.C. 78u-3(c)(2)), by striking `paragraph (1) subsection' and inserting `Paragraph (1)'.</p> <p>(c) Trust Indenture Act of 1939- The Trust Indenture Act of 1939 (15 U.S.C. 77aaa et seq.) is amended--</p> <p style="padding-left: 20px;">(1) in section 304(b) (15 U.S.C. 77ddd(b)), by striking `section 2 of such Act' and inserting `section 2(a) of such Act'; and</p> <p style="padding-left: 20px;">(2) in section 317(a)(1) (15 U.S.C. 77qqq(a)(1)), by striking `, in the' and inserting `in the'.</p> <p>(d) Investment Company Act of 1940- The Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.) is amended--</p> <p style="padding-left: 20px;">(1) in section 2(a)(19) (15 U.S.C. 80a-2(a)(19)), in the matter following subparagraph (B)(vii)--</p> <p style="padding-left: 40px;">(A) by striking `clause (vi)' each place that term appears and inserting `clause (vii)'; and</p> <p style="padding-left: 40px;">(B) in each of subparagraphs (A)(vi) and (B)(vi), by adding `and' at the end of subclause (III);</p> <p style="padding-left: 20px;">(2) in section 9(b)(4)(B) (15 U.S.C. 80a-9(b)(4)(B)), by adding `or' after the semicolon at the end;</p> <p style="padding-left: 20px;">(3) in section 12(d)(1)(J) (15 U.S.C. 80a-12(d)(1)(J)), by striking `any provision of this subsection' and inserting `any provision of this paragraph';</p> <p style="padding-left: 20px;">(4) in section 17(f) (15 U.S.C. 80a-17(f))--</p> <p style="padding-left: 40px;">(A) in paragraph (4), by striking `No such member' and inserting `No member of a national securities exchange'; and</p> <p style="padding-left: 40px;">(B) in paragraph (6), by striking `company may serve' and inserting `company, may serve'; and</p> <p style="padding-left: 20px;">(5) in section 61(a)(3)(B)(iii) (15 U.S.C. 80a-60(a)(3)(B)(iii))--</p> <p style="padding-left: 40px;">(A) by striking `paragraph (1) of section 205' and inserting `section 205(a)(1)'; and</p> <p style="padding-left: 40px;">(B) by striking `clause (A) or (B) of that section' and inserting `paragraph (1) or (2) of section 205(b)'.</p> <p>(e) Investment Advisers Act of 1940- The Investment Advisers Act of 1940 (15 U.S.C. 80b-1 et seq.) is amended--</p> <p style="padding-left: 20px;">(1) in section 203 (15 U.S.C. 80b-3)--</p> <p style="padding-left: 40px;">(A) in subsection (c)(1)(A), by striking `principal business office and' and inserting `principal office, principal place of business, and'; and</p>	

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	<p>(B) in subsection (k)(4)(B), in the matter following clause (ii), by striking `principal place of business' and inserting `principal office or place of business';</p> <p>(2) in section 206(3) (15 U.S.C. 80b-6(3)), by adding `or' after the semicolon at the end;</p> <p>(3) in section 213(a) (15 U.S.C. 80b-13(a)), by striking `principal place of business' and inserting `principal office or place of business'; and</p> <p>(4) in section 222 (15 U.S.C. 80b-18a), by striking `principal place of business' each place that term appears and inserting `principal office and place of business'.</p>	
	<p style="text-align: center;">Subtitle H--Municipal Securities</p> <p>SEC. 975. REGULATION OF MUNICIPAL SECURITIES AND CHANGES TO THE BOARD OF THE MSRB.</p> <p>(a) Registration of Municipal Securities Dealers and Municipal Advisors- Section 15B(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-4(a)) is amended--</p> <p>(1) in paragraph (1)--</p> <p>(A) by inserting `(A)' after `(1)'; and</p> <p>(B) by adding at the end the following:</p> <p>`(B) It shall be unlawful for a municipal advisor to provide advice to or on behalf of a municipal entity or obligated person with respect to municipal financial products or the issuance of municipal securities, or to undertake a solicitation of a municipal entity or obligated person, unless the municipal advisor is registered in accordance with this subsection.';</p> <p>(2) in paragraph (2), by inserting `or municipal advisor' after `municipal securities dealer' each place that term appears;</p> <p>(3) in paragraph (3), by inserting `or municipal advisor' after `municipal securities dealer' each place that term appears;</p> <p>(4) in paragraph (4), by striking `dealer, or municipal securities dealer or class of brokers, dealers, or municipal securities dealers' and inserting `dealer, municipal securities dealer, or municipal advisor, or class of brokers, dealers, municipal securities dealers, or municipal advisors'; and</p> <p>(5) by adding at the end the following:</p> <p>`(5) No municipal advisor shall make use of the mails or any means or instrumentality of interstate commerce to provide</p>	

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	<p><i>advice to or on behalf of a municipal entity or obligated person with respect to municipal financial products, the issuance of municipal securities, or participation in the issuance of municipal securities, or to undertake a solicitation of a municipal entity or obligated person, in connection with which such municipal advisor engages in any fraudulent, deceptive, or manipulative act or practice.'</i></p>	
<p>SEC. 7411. MUNICIPAL SECURITIES.</p> <p>Section 15B(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-4(b)) is amended--</p> <p>(1) by amending paragraph (1) to read as follows: ` (1) COMPOSITION OF THE MUNICIPAL SECURITIES RULEMAKING BOARD- Not later than October 1, 2010, the Municipal Securities Rulemaking Board (hereinafter in this section referred to as the `Board'), shall be composed of members which shall perform the duties set forth in this section and shall consist of--</p> <p style="padding-left: 2em;">` (A) a majority of independent public representatives, at least one of whom shall be representative of investors in municipal securities and at least one of whom shall be representative of issuers of municipal securities (which members are hereinafter referred to as `public representatives');</p> <p style="padding-left: 2em;">` (B) at least one individual who is representative of municipal securities brokers and municipal securities dealers which are not banks or subsidiaries or departments or divisions of banks (which members are hereinafter referred to as `broker-dealer representatives');</p> <p style="padding-left: 2em;">` (C) at least one individual who is representative of municipal securities dealers which are banks or subsidiaries or departments or divisions of banks (which members are hereinafter referred to as `bank representatives').'; and</p> <p>(2) by amending paragraph (2)(B) to read as follows: ` (B) Establish fair procedures for the nomination and election of members of the Board and assure fair representation in such nominations and elections of municipal securities brokers and municipal securities dealers. Such rules--</p> <p style="padding-left: 2em;">` (i) shall establish requirements regarding the independence of public representatives;</p>	<p><i>(b) Municipal Securities Rulemaking Board- Section 15B(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-4(b)) is amended--</i></p> <p><i>(1) in paragraph (1)--</i></p> <p style="padding-left: 2em;"><i>(A) in the first sentence, by striking `Not later than' and all that follows through `appointed by the Commission' and inserting `The Municipal Securities Rulemaking Board shall be composed of 15 members, or such other number of members as specified by rules of the Board pursuant to paragraph (2)(B),';</i></p> <p style="padding-left: 2em;"><i>(B) by striking the second sentence and inserting the following: `The members of the Board shall serve as members for a term of 3 years or for such other terms as specified by rules of the Board pursuant to paragraph (2)(B), and shall consist of (A) 8 individuals who are not associated with any broker, dealer, municipal securities dealer, or municipal advisor (other than by reason of being under common control with, or indirectly controlling, any broker or dealer which is not a municipal securities broker or municipal securities dealer), at least 1 of whom shall be representative of institutional or retail investors in municipal securities, at least 1 of whom shall be representative of municipal entities, and at least 1 of whom shall be a member of the public with knowledge of or experience in the municipal industry (which members are hereinafter referred to as `public representatives');</i></p> <p style="padding-left: 2em;"><i>and (B) 7 individuals who are associated with a broker, dealer, municipal securities dealer, or municipal advisor, including at least 1 individual who is associated with and representative of brokers, dealers, or municipal securities dealers that are not banks or subsidiaries or departments or divisions of banks (which members are hereinafter referred to as `broker-dealer representatives'), at least 1 individual who is associated with and representative</i></p>	

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<p>(ii) shall provide that the number of public representatives of the Board shall at all times exceed the total number of broker-dealer representatives and bank representatives;</p> <p>(iii) shall establish minimum knowledge, experience, and other appropriate qualifications for individuals to serve as public representatives, which may include, among other things, prior work experience in the securities, municipal finance, or municipal securities industries;</p> <p>(iv) shall specify the term members shall serve; and</p> <p>(v) may increase or decrease the number of members which shall constitute the whole Board, but in no case may such number be an even number.'</p>	<p><i>of municipal securities dealers which are banks or subsidiaries or departments or divisions of banks (which members are hereinafter referred to as 'bank representatives'), and at least 1 individual who is associated with a municipal advisor (which member is hereinafter referred to as the 'advisor representative').'; and</i></p> <p><i>(C) in the third sentence, by striking 'initial';</i></p>	
	<p><i>(2) in paragraph (2)--</i></p> <p><i>(A) in the matter preceding subparagraph (A)--</i></p> <p><i>(i) by inserting before the period at the end of the first sentence the following: 'and advice provided to or on behalf of municipal entities or obligated persons by brokers, dealers, municipal securities dealers, and municipal advisors with respect to municipal financial products, the issuance of municipal securities, or participation in the issuance of municipal securities, and solicitations of municipal entities or obligated persons undertaken by brokers, dealers, municipal securities dealers, and municipal advisors'; and</i></p> <p><i>(ii) by striking the second sentence;</i></p> <p><i>(B) in subparagraph (A)--</i></p> <p><i>(i) in the matter preceding clause (i)--</i></p> <p><i>(I) by inserting ', and no broker, dealer, municipal securities dealer, or municipal advisor shall provide advice to or on behalf of a municipal entity or obligated person with respect to municipal financial products, the issuance of municipal securities, or participation in the issuance of municipal securities' after 'sale of, any municipal security'; and</i></p> <p><i>(II) by inserting 'and municipal</i></p>	

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	<p style="text-align: center;"><i>entities or obligated persons' after `protection of investors';</i></p> <p style="text-align: center;"><i>(ii) in clause (i), by striking `municipal securities brokers and municipal securities dealers' each place that term appears and inserting `municipal securities brokers, municipal securities dealers, and municipal advisors';</i></p> <p style="text-align: center;"><i>(iii) in clause (ii), by adding `and' at the end;</i></p> <p style="text-align: center;"><i>(iv) in clause (iii), by striking `; and' and inserting a period; and</i></p> <p style="text-align: center;"><i>(v) by striking clause (iv);</i></p> <p style="text-align: center;"><i>(C) in subparagraph (B), by striking `nominations and elections' and all that follows through `specify' and inserting `nominations and elections of public representatives, broker-dealer representatives, bank representatives, and advisor representatives. Such rules shall provide that the membership of the Board shall at all times be as evenly divided in number as possible between entities or individuals who are subject to regulation by the Board and entities or individuals not subject to regulation by the Board, provided, however, that a majority of the members of the Board shall at all times be public representatives. Such rules shall also specify';</i></p> <p style="text-align: center;"><i>(D) in subparagraph (C)--</i></p> <p style="text-align: center;"><i>(i) by inserting `and municipal financial products' after `municipal securities' the first two times that term appears;</i></p> <p style="text-align: center;"><i>(ii) by inserting `, municipal entities, obligated persons,' before `and the public interest';</i></p> <p style="text-align: center;"><i>(iii) by striking `between' and inserting `among';</i></p> <p style="text-align: center;"><i>(iv) by striking `issuers, municipal securities brokers, or municipal securities dealers, to fix' and inserting `municipal entities, obligated persons, municipal securities brokers, municipal securities dealers, or municipal advisors, to fix'; and</i></p> <p style="text-align: center;"><i>(v) by striking `brokers or municipal securities dealers, to regulate' and inserting `brokers, municipal securities dealers, or municipal advisors, to regulate';</i></p>	

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	<p>(E) in subparagraph (D)--</p> <p>(i) by inserting `and advice concerning municipal financial products' after `transactions in municipal securities';</p> <p>(ii) by striking `That no' and inserting `that no';</p> <p>(iii) by inserting `municipal advisor,' before `or person associated'; and</p> <p>(iv) by striking `a municipal securities broker or municipal securities dealer may be compelled' and inserting `a municipal securities broker, municipal securities dealer, or municipal advisor may be compelled';</p> <p>(F) in subparagraph (E)--</p> <p>(i) by striking `municipal securities brokers and municipal securities dealers' and inserting `municipal securities brokers, municipal securities dealers, and municipal advisors'; and</p> <p>(ii) by striking `municipal securities broker or municipal securities dealer' and inserting `municipal securities broker, municipal securities dealer, or municipal advisor';</p> <p>(G) in subparagraph (G), by striking `municipal securities brokers and municipal securities dealers' and inserting `municipal securities brokers, municipal securities dealers, and municipal advisors';</p> <p>(H) in subparagraph (J)--</p> <p>(i) by striking `municipal securities broker and each municipal securities dealer' and inserting `municipal securities broker, municipal securities dealer, and municipal advisor'; and</p> <p>(ii) by striking the period at the end of the second sentence and inserting `, which may include charges for failure to submit to the Board required information or documents to any information system operated by the Board in a full, accurate, or timely manner, or any other failure to comply with the rules of the Board.';</p> <p>(I) in subparagraph (K)--</p> <p>(i) by inserting `broker, dealer, or' before</p>	

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	<p><i>`municipal securities dealer' each place that term appears; and</i></p> <p><i>(ii) by striking `municipal securities investment portfolio' and inserting `related account of a broker, dealer, or municipal securities dealer'; and</i></p> <p><i>(J) by adding at the end the following:</i></p> <p><i>`(L) provide continuing education requirements for municipal advisors.</i></p> <p><i>`(M) provide professional standards.</i></p> <p><i>`(N) not impose a regulatory burden on small municipal advisors that is not necessary or appropriate in the public interest and for the protection of investors, municipal entities, and obligated persons.';</i></p> <p><i>(3) by redesignating paragraph (3) as paragraph (7); and</i></p> <p><i>(4) by inserting after paragraph (2) the following:</i></p> <p><i>`(3) The Board, in conjunction with or on behalf of any Federal financial regulator or self-regulatory organization, may--</i></p> <p><i>`(A) establish information systems; and</i></p> <p><i>`(B) assess such reasonable fees and charges for the submission of information to, or the receipt of information from, such systems from any persons which systems may be developed for the purposes of serving as a repository of information from municipal market participants or otherwise in furtherance of the purposes of the Board, a Federal financial regulator, or a self-regulatory organization.</i></p> <p><i>`(4) The Board shall provide guidance and assistance in the enforcement of, and examination for, compliance with the rules of the Board to the Commission, a registered securities association under section 15A, or any other appropriate regulatory agency, as applicable.'</i></p> <p><i>(c) Discipline of Dealers and Municipal Advisors and Other Matters-Section 15B(c) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-4(c)) is amended--</i></p> <p><i>(1) in paragraph (1), by inserting `, and no broker, dealer, municipal securities dealer, or municipal advisor shall make use of the mails or any means or instrumentality of interstate commerce to provide advice to or on behalf of a municipal entity or obligated person with respect to municipal financial products, the issuance of municipal securities, or participation in the issuance of municipal securities, or to undertake a solicitation of a municipal entity or obligated person,' after `any</i></p>	

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	<p><i>municipal security</i>’;</p> <p>(2) in paragraph (2), by inserting ‘or municipal advisor’ after ‘municipal securities dealer’ each place that term appears;</p> <p>(3) in paragraph (3)--</p> <p>(A) by inserting ‘or municipal entities or obligated person’ after ‘protection of investors’ each place that term appears; and</p> <p>(B) by inserting ‘or municipal advisor’ after ‘municipal securities dealer’ each place that term appears;</p> <p>(4) in paragraph (4), by inserting ‘or municipal advisor’ after ‘municipal securities dealer or obligated person’ each place that term appears;</p> <p>(5) in paragraph (6)(B), by inserting ‘or municipal entities’ after ‘protection of investors’;</p> <p>(6) in paragraph (7)--</p> <p>(A) in subparagraph (A)--</p> <p>(i) in clause (i), by striking ‘; and’ and inserting a semicolon;</p> <p>(ii) in clause (ii), by striking the period and inserting ‘; and’; and</p> <p>(iii) by adding at the end the following:</p> <p>‘(iii) the Commission, or its designee, in the case of municipal advisors.’.</p> <p>(B) in subparagraph (B), by inserting ‘or municipal entities or obligated person’ after ‘protection of investors’; and</p> <p>(7) by adding at the end the following:</p> <p>‘(9)(A) Fines collected by the Commission for violations of the rules of the Board shall be equally divided between the Commission and the Board.</p> <p>‘(B) Fines collected by a registered securities association under section 15A(7) with respect to violations of the rules of the Board shall be accounted for by such registered securities association separately from other fines collected under section 15A(7) and shall be allocated between such registered securities association and the Board at the direction of the Commission.’.</p> <p>(d) Issuance of Municipal Securities- Section 15B(d)(2) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-4(d)) is amended--</p> <p>(1) by striking ‘through a municipal securities broker or municipal securities dealer or otherwise’ and inserting ‘through a municipal securities broker, municipal securities dealer, municipal advisor, or otherwise’; and</p> <p>(2) by inserting ‘or municipal advisors’ before ‘to furnish’.</p>	

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	<p><i>(e) Definitions- Section 15B of the Securities Exchange Act of 1934 (15 U.S.C. 78o-4) is amended by adding at the end the following:</i></p> <p><i>“(e) Definitions- For purposes of this section--</i></p> <p><i>“(1) the term ‘Board’ means the Municipal Securities Rulemaking Board established under subsection (b)(1);</i></p> <p><i>“(2) the term ‘guaranteed investment contract’ includes any investment that has specified withdrawal or reinvestment provisions and a specifically negotiated or bid interest rate, and also includes any agreement to supply investments on 2 or more future dates, such as a forward supply contract;</i></p> <p><i>“(3) the term ‘investment strategies’ includes plans or programs for the investment of the proceeds of municipal securities that are not municipal derivatives, guaranteed investment contracts, and the recommendation of and brokerage of municipal escrow investments;</i></p> <p><i>“(4) the term ‘municipal advisor’--</i></p> <p><i>“(A) means a person (who is not a municipal entity or an employee of a municipal entity) that--</i></p> <p><i>“(i) provides advice to or on behalf of a municipal entity or obligated person with respect to municipal financial products or the issuance of municipal securities, including advice with respect to the structure, timing, terms, and other similar matters concerning such financial products or issues;</i></p> <p><i>“(ii) participates in the issuance of municipal securities; or</i></p> <p><i>“(iii) undertakes a solicitation of a municipal entity;</i></p> <p><i>“(B) includes financial advisors, guaranteed investment contract brokers, third-party marketers, placement agents, solicitors, finders, and swap advisors, if such persons are described in any of clauses (i) through (iii) of subparagraph (A); and</i></p> <p><i>“(C) does not include a broker, dealer, or municipal securities dealer serving as an underwriter (as defined in section 2(a)(11) of the Securities Act of 1933) (15 U.S.C. 77b(a)(11)), any investment adviser registered under the Investment Advisers Act of 1940, or persons associated with such investment advisers who are providing investment advice, attorneys offering legal advice or providing services that are of a traditional legal nature, or engineers providing engineering</i></p>	

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	<p><i>advice;</i></p> <p><i>ˆ(5) the term `municipal derivative' means any financial instrument or contract designed to hedge a risk (including interest rate swaps, basis swaps, credit default swaps, caps, floors, and collars);</i></p> <p><i>ˆ(6) the term `municipal financial product' means municipal derivatives, guaranteed investment contracts, and investment strategies;</i></p> <p><i>ˆ(7) the term `rules of the Board' means the rules proposed and adopted by the Board under subsection (b)(2);</i></p> <p><i>ˆ(8) the term `person associated with a municipal advisor' or `associated person of an advisor' means--</i></p> <p style="padding-left: 40px;"><i>ˆ(A) any partner, officer, director, or branch manager of such municipal advisor (or any person occupying a similar status or performing similar functions);</i></p> <p style="padding-left: 40px;"><i>ˆ(B) any other employee of such municipal advisor who is engaged in the management, direction, supervision, or performance of any activities relating to the provision of advice to or on behalf of a municipal entity or obligated person with respect to municipal financial products, the issuance of municipal securities, or participation in the issuance of municipal securities; and</i></p> <p style="padding-left: 40px;"><i>ˆ(C) any person directly or indirectly controlling, controlled by, or under common control with such municipal advisor;</i></p> <p><i>ˆ(9) the term `municipal entity' means any State, political subdivision of a State, or municipal corporate instrumentality of a State, including--</i></p> <p style="padding-left: 40px;"><i>ˆ(A) any agency, authority, or instrumentality of the State, political subdivision, or municipal corporate instrumentality;</i></p> <p style="padding-left: 40px;"><i>ˆ(B) any plan, program, or pool of assets sponsored or established by the State, political subdivision, or municipal corporate instrumentality or any agency, authority, or instrumentality thereof; and</i></p> <p style="padding-left: 40px;"><i>ˆ(C) any other issuer of municipal securities;</i></p> <p><i>ˆ(10) the term `solicitation of a municipal entity or obligated person' means a direct or indirect communication with a municipal entity or obligated person made by a person, for direct or indirect compensation, on behalf of a broker, dealer, municipal securities dealer, municipal advisor, or investment adviser (as defined in section 202 of the Investment Advisers Act</i></p>	

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	<p><i>of 1940) that does not control, is not controlled by, or is not under common control with the person undertaking such solicitation for the purpose of obtaining or retaining an engagement by a municipal entity or obligated person of a broker, dealer, municipal securities dealer, or municipal advisor for or in connection with municipal financial products, the issuance of municipal securities, or participation in the issuance of municipal securities, or of an investment adviser to provide investment advisory services to or on behalf of a municipal entity; and</i></p> <p><i>`(11) the term `obligated person' means any person, including an issuer of municipal securities, who is either generally or through an enterprise, fund, or account of such person, committed by contract or other arrangement to support the payment of all or part of the obligations on the municipal securities to be sold in an offering of municipal securities.'</i></p> <p><i>(f) Registered Securities Association- Section 15A(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-3(b)) is amended by adding at the end the following:</i></p> <p><i>`(15) The rules of the association provide that the association shall--</i></p> <p><i> `A) request guidance from the Municipal Securities Rulemaking Board in interpretation of the rules of the Municipal Securities Rulemaking Board; and</i></p> <p><i> `B) provide information to the Municipal Securities Rulemaking Board about the enforcement actions and examinations of the association under section 15B(b)(2)(E), so that the Municipal Securities Rulemaking Board may--</i></p> <p><i> `i) assist in such enforcement actions and examinations; and</i></p> <p><i> `ii) evaluate the ongoing effectiveness of the rules of the Board.'</i></p> <p><i>(g) Registration and Regulation of Brokers and Dealers- Section 15 of the Securities Exchange Act of 1934 is amended--</i></p> <p><i> (1) in subsection (b)(4), by inserting `municipal advisor,' after `municipal securities dealer' each place that term appears; and</i></p> <p><i> (2) in subsection (c), by inserting `broker, dealer, or' before `municipal securities dealer' each place that term appears.</i></p> <p><i>(h) Accounts and Records, Reports, Examinations of Exchanges, Members, and Others- Section 17(a)(1) of the Securities Exchange Act of 1934 is amended by inserting `municipal advisor,' after `municipal securities dealer'.</i></p>	

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	<p>(i) <i>Savings Clause- Notwithstanding any provision of the Over-the-Counter Derivatives Markets Act of 2010, or any amendment made pursuant to such Act, the provisions of this section, and the amendments made pursuant to this section, shall apply to any municipal derivative.</i></p> <p>(j) <i>Effective Date- This section, and the amendments made by this section, shall take effect on October 1, 2010.</i></p>	
	<p>SEC. 976. GOVERNMENT ACCOUNTABILITY OFFICE STUDY OF INCREASED DISCLOSURE TO INVESTORS.</p> <p>(a) <i>Study- The Comptroller General of the United States shall conduct a study and review of the disclosure required to be made by issuers of municipal securities.</i></p> <p>(b) <i>Subjects for Evaluation- In conducting the study under subsection (a), the Comptroller General of the United States shall--</i></p> <p style="padding-left: 40px;">(1) <i>broadly describe--</i></p> <p style="padding-left: 80px;">(A) <i>the size of the municipal securities markets and the issuers and investors; and</i></p> <p style="padding-left: 80px;">(B) <i>the disclosures provided by issuers to investors;</i></p> <p style="padding-left: 40px;">(2) <i>compare the amount, frequency, and quality of disclosures that issuers of municipal securities are required by law to provide for the benefit of municipal securities holders, including the amount of and frequency of disclosures actually provided by issuers of municipal securities, with the amount of and frequency of disclosures that issuers of corporate securities provide for the benefit of corporate securities holders, taking into account the differences between issuers of municipal securities and issuers of corporate securities;</i></p> <p style="padding-left: 40px;">(3) <i>evaluate the costs and benefits to various types of issuers of municipal securities of requiring issuers of municipal bonds to provide additional financial disclosures for the benefit of investors;</i></p> <p style="padding-left: 40px;">(4) <i>evaluate the potential benefit to investors from additional financial disclosures by issuers of municipal bonds; and</i></p> <p style="padding-left: 40px;">(5) <i>make recommendations relating to disclosure requirements for municipal issuers, including the advisability of the repeal or retention of section 15B(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-4(d)) (commonly known as the 'Tower Amendment').</i></p> <p>(c) <i>Report- Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall submit a report to Congress on the results of the study conducted under subsection (a), including recommendations for how to improve disclosure by issuers of</i></p>	

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	<p><i>municipal securities.</i></p> <p>SEC. 977. GOVERNMENT ACCOUNTABILITY OFFICE STUDY ON THE MUNICIPAL SECURITIES MARKETS.</p> <p><i>(a) Study- The Comptroller General of the United States shall conduct a study of the municipal securities markets.</i></p> <p><i>(b) Report- Not later than 180 days after the date of enactment of this Act, the Comptroller General of the United States shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Financial Services of the House of Representatives, with copies to the Special Committee on Aging of the Senate and the Commission, on the results of the study conducted under subsection (a), including--</i></p> <ul style="list-style-type: none"> <i>(1) an analysis of the mechanisms for trading, quality of trade executions, market transparency, trade reporting, price discovery, settlement clearing, and credit enhancements;</i> <i>(2) the needs of the markets and investors and the impact of recent innovations;</i> <i>(3) recommendations for how to improve the transparency, efficiency, fairness, and liquidity of trading in the municipal securities markets, including with reference to items listed in paragraph (1); and</i> <i>(4) potential uses of derivatives in the municipal securities markets.</i> <p><i>(c) Responses- Not later than 180 days after receipt of the report required under subsection (b), the Commission shall submit a response to the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Financial Services of the House of Representatives, with a copy to the Special Committee on Aging of the Senate, stating the actions the Commission has taken in response to the recommendations contained in such report.</i></p> <p>SEC. 978. STUDY OF FUNDING FOR GOVERNMENT ACCOUNTING STANDARDS BOARD.</p> <p><i>(a) Study- The Commission shall conduct a study that evaluates--</i></p> <ul style="list-style-type: none"> <i>(1) the role and importance of the Government Accounting Standards Board in the municipal securities markets;</i> <i>(2) the manner in which the Government Accounting Standards Board is funded, and how such manner of funding affects the financial information available to securities investors;</i> 	

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	<p>(3) the advisability of changes to the manner in which the Government Accounting Standards Board is funded; and</p> <p>(4) whether legislative changes to the manner in which the Government Accounting Standards Board is funded are necessary for the benefit of investors and in the public interest.</p> <p>(b) Consultation- In conducting the study required under subsection (a), the Commission shall consult with State and local government financial officers.</p> <p>(c) Report- Not later than 270 days after the date of enactment of this Act, the Commission shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report on the study required under subsection (a).</p> <p>SEC. 979. COMMISSION OFFICE OF MUNICIPAL SECURITIES.</p> <p>(a) In General- There shall be in the Commission an Office of Municipal Securities, which shall--</p> <p>(1) administer the rules of the Commission with respect to the practices of municipal securities brokers and dealers, municipal securities advisors, municipal securities investors, and municipal securities issuers; and</p> <p>(2) coordinate with the Municipal Securities Rulemaking Board for rulemaking and enforcement actions as required by law.</p> <p>(b) Director of the Office- The head of the Office of Municipal Securities shall be the Director, who shall report to the Chairman.</p> <p>(c) Staffing-</p> <p>(1) IN GENERAL- The Office of Municipal Securities shall be staffed sufficiently to carry out the requirements of this section.</p> <p>(2) REQUIREMENT- The staff of the Office of Municipal Securities shall include individuals with knowledge of and expertise in municipal finance.</p>	
<p>SEC. 7412. INTERESTED PERSON DEFINITION.</p> <p>Section 2(a)(19)(A) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(19)(A)) is amended--</p> <p>(1) by striking clauses (v) and (vi);</p> <p>(2) by inserting after clause (iv) the following new clause:</p> <p>(v) any natural person who is a member of a class of persons who the Commission, by rule or regulation, determines are unlikely to</p>		

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<p>exercise an appropriate degree of independence as a result of--</p> <ul style="list-style-type: none"> `(I) a material business or professional relationship with such company or any affiliated person of such company; or `(II) a close familial relationship with any natural person who is an affiliated person of such company;'; <p>(3) by redesignating clause (vii) as clause (vi); and (4) in clause (vi), as redesignated, by striking `two completed fiscal years' and inserting `five completed fiscal years'.</p>		
<p>SEC. 7413. RULEMAKING AUTHORITY TO PROTECT REDEEMING INVESTORS.</p> <p>Section 22(e) of the Investment Company Act of 1940 (15 U.S.C. 80a-22(e)) is amended by adding at the end the following: `The Commission may, by rules and regulations, limit the extent to which a registered open-end investment company may own, hold, or invest in illiquid securities or other illiquid property.'.</p>		
<p>SEC. 7414. STUDY ON SEC REVOLVING DOOR.</p> <p>(a) Government Accountability Office Study- The Comptroller General of the United States shall conduct a study that will--</p> <ul style="list-style-type: none"> (1) review the number of employees who leave the Securities and Exchange Commission to work for financial institutions regulated by such Commission; (2) determine how many employees who leave the Securities and Exchange Commission worked on cases that involved financial institutions regulated by such Commission; (3) review the length of time employees work for the Securities and Exchange Commission before leaving to be employed by financial institutions regulated by such Commission; (4) review existing internal controls and make recommendations on strengthening such controls to ensure that employees of the Securities and Exchange Commission who are later employed by financial institutions did not assist such institutions in violating any rules or regulations of the Commission during the course of their employment with such Commission; (5) determine if greater post-employment restrictions are necessary to prevent employees of the Securities and Exchange Commission from being employed by financial institutions after 		

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<p>employment with such Commission;</p> <p>(6) determine if the volume of employees of the Securities and Exchange Commission who are later employed by financial institutions has led to inefficiencies in enforcement;</p> <p>(7) determine if employees of the Securities and Exchange Commission who are later employed by financial institutions assisted such institutions in circumventing Federal rules and regulations while employed by such Commission;</p> <p>(8) review any information that may address the volume of employees of the Securities and Exchange Commission who are later employed by financial institutions, and make recommendations to Congress; and</p> <p>(9) review other additional issues as may be raised during the course of the study conducted under this subsection.</p> <p>(b) Report- Not later than 1 year after the date of the enactment of this subtitle, the Comptroller General of the United States shall submit to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report on the results of the study required by subsection (a).</p>		
<p>SEC. 7415. STUDY ON INTERNAL CONTROL EVALUATION AND REPORTING COST BURDENS ON SMALLER ISSUERS.</p> <p>(a) Study Required- The Government Accountability Office shall conduct a study evaluating the costs and benefits of complying with section 404(b) of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7262(b)) on issuers who are not accelerated or large accelerated filers as defined by Commission Rule 12b-2. The study shall--</p> <p>(1) include recommendations, administrative reforms, and legislative proposals on implementation steps that could be taken to reduce compliance burdens on these issuers;</p> <p>(2) determine the efficacy of the Securities and Exchange Commission's measures to limit the cost of compliance on smaller issuers;</p> <p>(3) determine how to reduce the burden of complying with section 404(b) of the Sarbanes-Oxley Act of 2002 for companies whose market capitalization is less than \$250,000,000 for the relevant reporting period while maintaining investor protections for such companies; and</p> <p>(4) determine whether various methods of reducing the compliance burden or a complete exemption for such companies (whose market capitalization is less than \$250,000,000 for the relevant reporting period) from such compliance would encourage companies to list on exchanges in the United States</p>		

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<p>in their initial public offerings.</p> <p>(b) Reports Required- Not later than 9 months after the date of the enactment of this subtitle, the Government Accountability Office shall submit a report to Congress containing the findings and conclusions of the studies required under subsection (a), together with such recommendations for regulatory, legislative, or administrative action as may be appropriate.</p> <p>(c) Effective Date Contingent on Reports- Requirements under section 404(b) of the Sarbanes-Oxley Act of 2002 on issuers described under subsection (a) shall not become effective until the results of the report are delivered, but in no case before June 1, 2011.</p>		
<p>SEC. 7416. ANALYSIS OF RULE REGARDING SMALLER REPORTING COMPANIES.</p> <p>(a) Findings- Congress finds the following:</p> <p>(1) Many small businesses in cutting-edge technology sectors require significant capital investment to develop new technologies related to clean energy, drug treatments for terminal diseases and food production in hunger-stricken areas of the World.</p> <p>(2) Many technology companies conducting research do not meet the definition of `smaller reporting company' under the Securities and Exchange Commission's Rule 12b-2 due to unusually high public floats despite low or zero revenue.</p> <p>(3) The Final Report of the Advisory Committee on Smaller Public Companies to the Securities and Exchange Commission recommended that a company with a market capitalization of less than about \$787,000,000 be considered a smallcap company and that the Commission provide exemptions from section 404(b) of the Sarbanes-Oxley Act to companies with less than \$250,000,000 in annual revenues.</p> <p>(b) Study of Using Revenue as Criteria to Define Smaller Reporting Company- The Securities and Exchange Commission shall conduct a study of the inclusion of revenue as a criteria used in defining smaller reporting company as defined under the Commission's Rule 12b-2 to account for smaller public companies with public floats less than \$700,000,000 and revenues less than \$250,000,000. Not later than 180 days after the date of enactment of this subtitle, the Commission shall provide the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing and Urban Affairs of the Senate a report of the findings of the study.</p>		

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<p>SEC. 7417. FINANCIAL REPORTING FORUM.</p> <p>(a) Establishment- There is hereby established a Financial Reporting Forum (hereinafter referred to as the `Forum'), which shall consist of--</p> <ol style="list-style-type: none"> (1) the Chairman of the Securities Exchange Commission (hereinafter referred to as the `SEC'); (2) the head of the Financial Accounting Standards Board; (3) the Chairman of the Public Company Accounting Oversight Board; (4) the head of each appropriate Federal banking agency, as such term is defined under section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)); (5) the Administrator of the National Credit Union Administration; (6) the Secretary of the Treasury; (7) a representative of a non-financial institution, appointed by the SEC; (8) a representative of a financial institution, appointed by the SEC; (9) a representative of auditors, appointed by the SEC; and (10) a representative of investors, appointed by the SEC. <p>(b) Meetings- The Forum shall meet no less often than quarterly.</p> <p>(c) Duties- The Forum shall meet to discuss immediate and long-term issues critical to financial reporting.</p> <p>(d) Reporting- The Forum shall issue an annual report to the Congress detailing any determinations or findings made by the Forum during the previous year, including any legislative recommendations the Forum may have related to financial reporting matters.</p>		
<p>SEC. 7418. INVESTMENT ADVISERS SUBJECT TO STATE AUTHORITIES.</p> <p>Section 203A(a) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-3a(a)) is amended--</p> <ol style="list-style-type: none"> (1) by redesignating paragraph (2) as paragraph (3); and (2) by inserting after paragraph (1) the following new paragraph: `2) TREATMENT OF CERTAIN MID-SIZED INVESTMENT ADVISERS- Notwithstanding paragraph (1), an investment adviser that is not exempt from registration under section 203 and-- `A) is regulated and examined, or required to be regulated and examined, in the State where it maintains 		

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<p>its principal office and place of business; and (B) has assets under management between-- (i) the amount specified under subparagraph (A) of paragraph (1), as such amount may have been adjusted by the Commission pursuant to that subparagraph; and (ii) \$100,000,000, or such higher amount as the Commission may, by rule, deem appropriate in accordance with the purposes of this title,</p> <p>shall register with, and be subject to examination by, such State. The Commission shall publish a list of the States that regulate and examine, or require regulation and examination of, investment advisers to which the requirements of this paragraph apply. If no State in which an investment adviser described in subparagraph (B) is registered conducts such an examination, the investment adviser must register with the Commission. If, pursuant to this paragraph, an investment adviser would be required to register with 5 or more States, then the adviser may maintain its registration with the Commission.'</p>		
<p>SEC. 7419. CUSTODIAL REQUIREMENTS.</p> <p>(a) In General- Not later than 180 days after the date of the enactment of this title, the Securities and Exchange Commission shall adopt a rule pursuant to its authority under section 211(a) of the Investment Advisers Act of 1940 making it unlawful under section 206(4) of that Act for an investment adviser registered under such Act to have custody of funds or securities of a client the value of which exceeds \$10,000,000, unless--</p> <p>(1) the funds and securities are maintained with a qualified custodian either in a separate account for each client under the client's name, or in accounts that contain only client funds and securities under the name of the investment adviser as agent or trustee for the client; and</p> <p>(2) the qualified custodian does not directly or indirectly provide investment advice with respect to such funds or securities.</p> <p>(b) Exceptions- The rule adopted under subsection (a) shall include such exceptions as the Commission determines in the public interest and consistent with the protection of investors. Any exemption granted under this subsection shall ensure that at least once per year, a client described in subsection (a) shall receive a report from an independent entity with a fiduciary responsibility to the client to verify that the assets in the client's</p>		

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<p>account are in accord with those stated on the client's account statement.</p> <p>(c) No Limits on Other Actions- Nothing in this section shall be construed to limit other actions the Securities and Exchange Commission may take under this Act to require the protection of client assets.</p>		
<p>SEC. 7420. OMBUDSMAN.</p> <p>(a) Appointment- Not later than 180 days after the date of the enactment of this subtitle, the Chairman of the Securities and Exchange Commission shall appoint an Ombudsman who shall report directly to the Chairman.</p> <p>(b) Duties- The Ombudsman appointed under subsection (a) shall--</p> <ul style="list-style-type: none"> (1) act as a liaison between the Commission and any affected person with respect to any problem such person may have in dealing with the Commission resulting from the regulatory activities of the Commission; (2) review and make recommendations regarding Commission policies and procedures to encourage persons to present questions to the Commission regarding compliance with Federal securities laws; and (3) assure that safeguards exist to maintain confidentiality of communications between such persons and the Ombudsman. <p>(c) Limitation- In carrying out the duties under subsection (b), the Ombudsman shall utilize personnel of the Commission to the extent practicable. Nothing in this section shall be construed as replacing, altering, or diminishing the activities of any ombudsman or similar office in any other agency.</p> <p>(d) Report- Each year, the Ombudsman shall submit a report to the Commission for inclusion in the annual report that describes the activities and evaluates the effectiveness of the Ombudsman during the preceding year. In that report, the Ombudsman shall include solicited comments and evaluations from registrants in regard to the effectiveness of the Ombudsman.</p>		
<p>SEC. 7421. NOTICE TO MISSING SECURITY HOLDERS.</p> <p>Section 17A of the Securities Exchange Act of 1934 (15 U.S.C. 78q-1) is amended by adding at the end the following new subsection:</p> <p>“(g) Due Diligence for the Delivery of Dividends, Interest, and Other Valuable Property Rights-</p> <ul style="list-style-type: none"> “(1) REVISION OF RULES REQUIRED- The Commission shall revise its regulations in section 240.17Ad-17 of title 17, Code of Federal Regulations, as in effect on December 8, 1997, to extend the application of such section to brokers and dealers 		

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<p>and to provide for the following:</p> <p>`(A) A requirement that the paying agent provide a single written notification to each missing security holder that the missing security holder has been sent a check that has not yet been negotiated. The written notification may be sent along with a check or other mailing subsequently sent to the missing security holder but must be provided no later than 7 months after the sending of the not yet negotiated check.</p> <p>`(B) An exclusion for paying agents from the notification requirements when the value of the not yet negotiated check is less than \$25.</p> <p>`(C) A provision clarifying that the requirements described in subparagraph (A) shall have no effect on State escheatment laws.</p> <p>`(D) For purposes of such revised regulations--</p> <p style="padding-left: 20px;">`(i) a security holder shall be considered a `missing security holder' if a check is sent to the security holder and the check is not negotiated before the earlier of the paying agent sending the next regularly scheduled check or the elapsing of 6 months after the sending of the not yet negotiated check; and</p> <p style="padding-left: 20px;">`(ii) the term `paying agent' includes any issuer, transfer agent, broker, dealer, investment adviser, indenture trustee, custodian, or any other person that accepts payments from the issuer of a security and distributes the payments to the holders of the security.</p>		
<p>`(2) RULEMAKING- The Commission shall adopt such rules, regulations, and orders necessary to implement this subsection no later than 1 year after the date of enactment of this subsection. In proposing such rules, the Commission shall seek to minimize disruptions to current systems used by or on behalf of paying agents to process payment to account holders and avoid requiring multiple paying agents to send written notification to a missing security holder regarding the same not yet negotiated check.'</p>		
<p>SEC. 7422. SHORT SALE REFORMS.</p> <p>(a) Short Sale Disclosure- Section 13(f) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(f)) is amended by redesignating paragraphs (2),</p>		

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<p>(3), (4), and (5) as paragraphs (3), (4), (5), and (6), respectively, and inserting after paragraph (1) the following:</p> <p>“(2)(A) Every institutional investment manager that effects a short sale of an equity security shall also file a report on a daily basis with the Commission in such form as the Commission, by rule, may prescribe. Such report shall include, as applicable, the name of the institution, the name of the institutional investment manager and the title, class, CUSIP number, number of shares or principal amount, aggregate fair market value of each security, and any additional information requested by the Commission. For purposes of section 552 of title 5, United States Code, this subparagraph shall be considered a statute described in subsection (b)(3)(B) of such section. The information contained in reports of an institutional investment manager filed with the Commission pursuant to this section, shall be subject to the same non-disclosure and confidentiality protection provided under section 204(b)(8) of the Investment Advisers Act of 1940.</p> <p>“(B) The Commission shall prescribe rules providing for the public disclosure of the name of the issuer and the title, class, CUSIP number, aggregate amount of the number of short sales of each security, and any additional information determined by the Commission following the end of the reporting period. At a minimum, such public disclosure shall occur every month.’</p>		
<p>(b) Short Selling Enforcement- Section 9 of the Securities Exchange Act of 1934 (15 U.S.C. 78i) is amended--</p> <p>(1) by redesignating subsections (d), (e), (f), (g), (h), and (i) as subsections (e), (f), (g), (h), (i), and (j), respectively; and</p> <p>(2) inserting after subsection (c), the following new subsection:</p> <p>“(d) Transactions Relating to Short Sales of Securities- It shall be unlawful for any person, directly or indirectly, by the use of the mails or any means or instrumentality of interstate commerce, or of any facility of any national securities exchange, or for any member of a national securities exchange to effect, alone or with one or more other persons, a manipulative short sale of any security. The Commission shall issue such other rules as are necessary or appropriate to ensure that the appropriate enforcement options and remedies are available for violations of this subsection in the public interest or for the protection of investors.’</p> <p>(c) Investor Notification- Section 15 of the Securities Exchange Act of 1934 (15 U.S.C. 78o) is amended--</p> <p>(1) by redesignating subsections (e), (f), (g), (h), and (i) as subsections (f), (g), (h), (i), and (j), respectively; and</p> <p>(2) inserting after subsection (d) the following new subsection:</p>		

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<p>^(e) Notices to Customers Regarding Securities Lending- Every registered broker or dealer shall provide notice to its customers that they may elect not to allow their fully paid securities to be used in connection with short sales. If a broker or dealer uses a customer's securities in connection with short sales, the broker or dealer shall provide notice to its customer that the broker or dealer may receive compensation in connection with lending the customer's securities. The Commission, by rule, as it deems necessary or appropriate in the public interest and for the protection of investors, may prescribe the form, content, time, and manner of delivery of any notice required under this paragraph.'</p>		
<p>SEC. 7423. STREAMLINING OF SEC FILING PROCEDURES.</p> <p>(a) Approval Process- Section 19(b)(2) of the Securities Exchange Act of 1934 (15 U.S.C. 78s(b)(2)) is amended to read as follows:</p> <p>^(2) FILING PROCEDURES-</p> <p>^(A) IN GENERAL- Within thirty-five days of the date of publication of notice of the filing of a proposed rule change in accordance with paragraph (1) of this subsection, or within such longer period as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall--</p> <p>^(i) by order approve such proposed rule change; or</p> <p>^(ii) institute proceedings under subparagraph (B) to determine whether the proposed rule change should be disapproved.</p> <p>^(B) PROCEEDINGS- Proceedings to determine whether the proposed rule change should be disapproved shall include notice of the grounds for disapproval under consideration and opportunity for hearing and be concluded within 200 days from the date of receipt of a proper filing. At the conclusion of such proceedings the Commission, by order, shall approve or disapprove such proposed rule change. The Commission may extend the time for conclusion of such proceedings for up to 60 days if it finds good cause for such extension and publishes its reasons for so finding or for such longer period as to which the self-regulatory organization consents. The Commission shall approve a proposed rule change of a self-</p>		

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<p>regulatory organization if it finds that such proposed rule change is consistent with the requirements of this title and the rules and regulations thereunder applicable to such organization. The Commission shall disapprove a proposed rule change of a self-regulatory organization if it does not make such finding. The Commission shall not approve any proposed rule change prior to the thirtieth day after the date of publication of notice of the filing thereof, unless the Commission finds good cause for so doing and publishes its reasons for so finding.'</p> <p>(b) Rules- Not later than 12 months after the date of enactment of this Act, the Commission shall issue rules implementing a disapproval process for filings submitted on or after the effective date of such rules.</p>		
<p>PART 5--SECURITIES INVESTOR PROTECTION ACT AMENDMENTS</p> <p>SEC. 7501. INCREASING THE MINIMUM ASSESSMENT PAID BY SIPC MEMBERS.</p> <p>Section 4(d)(1)(C) of the Securities Investor Protection Act of 1970 (15 U.S.C. 78ddd(d)(1)(C)) is amended by striking `'\$150 per annum' and inserting the following: `0.02 percent of the gross revenues from the securities business of such member of SIPC'.</p>		
<p>SEC. 7502. INCREASING THE BORROWING LIMIT ON TREASURY LOANS.</p> <p>Section 4(h) of the Securities Investor Protection Act of 1970 (15 U.S.C. 78ddd(h)) is amended by striking `of not to exceed \$1,000,000,000' and inserting `the lesser of \$2,500,000,000 or the target amount of the SIPC Fund specified in the bylaws of SIPC'.</p>	<p>SEC. 929C. INCREASING THE BORROWING LIMIT ON TREASURY LOANS.</p> <p><i>Section 4(h) of the Securities Investor Protection Act of 1970 (15 U.S.C. 78ddd(h)) is amended in the first sentence, by striking `'\$1,000,000,000' and inserting `'\$2,500,000,000'.</i></p>	
<p>SEC. 7503. INCREASING THE CASH LIMIT OF PROTECTION.</p> <p>Section 9 of the Securities Investor Protection Act of 1970 (15 U.S.C. 78fff-3) is amended--</p> <p>(1) in subsection (a)(1), by striking `'\$100,000 for each such customer' and inserting `the standard maximum cash advance amount for each such customer, as determined in accordance with subsection (d)'; and</p> <p>(2) by adding the following new subsections:</p> <p>`(d) Standard Maximum Cash Advance Amount Defined- For purposes of this section, the term `standard maximum cash advance amount' means</p>		

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<p>\$250,000, as such amount may be adjusted after March 31, 2010, as provided under subsection (e).</p> <p>(e) Inflation Adjustment-</p> <p>(1) IN GENERAL- No later than April 1, 2010, and every 5 years thereafter, and subject to the approval of the Commission as provided under section 3(e)(2), the Board of Directors of SIPC shall determine whether an inflation adjustment to the standard maximum cash advance amount is appropriate. If the Board of Directors of SIPC determines such an adjustment is appropriate, then the standard maximum cash advance amount shall be an amount equal to--</p> <p>(A) \$250,000 multiplied by</p> <p>(B) the ratio of the annual value of the Personal Consumption Expenditures Chain-Type Price Index (or any successor index thereto), published by the Department of Commerce, for the calendar year preceding the year in which such determination is made, to the published annual value of such index for the calendar year preceding the year in which this subsection was enacted.</p> <p>The index values used in calculations under this paragraph shall be, as of the date of the calculation, the values most recently published by the Department of Commerce.</p>		
<p>(2) ROUNDING- If the standard maximum cash advance amount determined under paragraph (1) for any period is not a multiple of \$10,000, the amount so determined shall be rounded down to the nearest \$10,000.</p> <p>(3) PUBLICATION AND REPORT TO THE CONGRESS- Not later than April 5 of any calendar year in which a determination is required to be made under paragraph (1)--</p> <p>(A) the Commission shall publish in the Federal Register the standard maximum cash advance amount; and</p> <p>(B) the Board of Directors of SIPC shall submit a report to the Congress stating the standard maximum cash advance amount.</p> <p>(4) IMPLEMENTATION PERIOD- Any adjustment to the standard maximum cash advance amount shall take effect on January 1 of the year immediately succeeding the calendar year in which such adjustment is made.</p> <p>(5) INFLATION ADJUSTMENT CONSIDERATIONS- In making any determination under paragraph (1) to increase the standard maximum cash advance amount, the Board of</p>		

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<p>Directors of SIPC shall consider--</p> <ul style="list-style-type: none"> `(A) the overall state of the fund and the economic conditions affecting members of SIPC; `(B) the potential problems affecting members of SIPC; and `(C) such other factors as the Board of Directors of SIPC may determine appropriate.'. 		
<p>SEC. 7504. SIPC AS TRUSTEE IN SIPA LIQUIDATION PROCEEDINGS.</p> <p>Section 5(b)(3) of the Securities Investor Protection Act of 1970 (15 U.S.C. 78eee(b)(3)) is amended--</p> <ul style="list-style-type: none"> (1) by striking `SIPC has determined that the liabilities of the debtor to unsecured general creditors and to subordinated lenders appear to aggregate less than \$750,000 and that'; and (2) by striking `five hundred' and inserting `five thousand'. 		
<p>SEC. 7505. INSIDERS INELIGIBLE FOR SIPC ADVANCES.</p> <p>Section 9(a)(4) of the Securities Investor Protection Act of 1970 (15 U.S.C. 78fff-3(a)(4)) is amended by inserting `an insider,' after `or net profits of the debtor,'.</p>		
<p>SEC. 7506. ELIGIBILITY FOR DIRECT PAYMENT PROCEDURE.</p> <p>Section 10(a)(4) of the Securities Investor Protection Act of 1970 (15 U.S.C. 78fff-4(a)(4)) is amended by striking `\$250,000' and inserting `\$850,000'.</p>		
<p>SEC. 7507. INCREASING THE FINE FOR PROHIBITED ACTS UNDER SIPA.</p> <p>Section 14(c) of the Securities Investor Protection Act of 1970 (15 U.S.C. 78jjj(c)) is amended--</p> <ul style="list-style-type: none"> (1) in paragraph (1), by striking `\$50,000' and inserting `\$250,000'; and (2) in paragraph (2), by striking `\$50,000' and inserting `\$250,000'. 		
<p>SEC. 7508. PENALTY FOR MISREPRESENTATION OF SIPC MEMBERSHIP OR PROTECTION.</p> <p>Section 14 of the Securities Investor Protection Act of 1970 (15 U.S.C. 78jjj) is amended by adding at the end the following new subsection:</p> <ul style="list-style-type: none"> `(d) Misrepresentation of SIPC Membership or Protection- <ul style="list-style-type: none"> `(1) IN GENERAL- Any person who falsely represents by any means (including, without limitation, through the Internet or any 		

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<p>other medium of mass communication), with actual knowledge of the falsity of the representation and with an intent to deceive or cause injury to another, that such person, or another person, is a member of SIPC or that any person or account is protected or is eligible for protection under this Act or by SIPC, shall be liable for any damages caused thereby and shall be fined not more than \$250,000 or imprisoned for not more than 5 years.</p> <p>“(2) INJUNCTIONS- Any court having jurisdiction of a civil action arising under this Act may grant temporary injunctions and final injunctions on such terms as the court deems reasonable to prevent or restrain any violation of paragraph (1). Any such injunction may be served anywhere in the United States on the person enjoined, shall be operative throughout the United States, and shall be enforceable, by proceedings in contempt or otherwise, by any United States court having jurisdiction over that person. The clerk of the court granting the injunction shall, when requested by any other court in which enforcement of the injunction is sought, transmit promptly to the other court a certified copy of all papers in the case on file in such clerk’s office.’.</p>		
<p>SEC. 7509. FUTURES HELD IN A PORTFOLIO MARGIN SECURITIES ACCOUNT PROTECTION.</p> <p>(a) SIPC Advances- Section 9(a)(1) of the Securities Investor Protection Act of 1970 (15 U.S.C. 78fff-3(a)(1)) is amended by inserting ‘or options on futures contracts’ after ‘claim for securities’.</p> <p>(b) Definitions- Section 16 of such Act (15 U.S.C. 78lll) is amended--</p> <p>(1) by amending paragraph (2) to read as follows:</p> <p>“(2) CUSTOMER-</p> <p>“(A) IN GENERAL- The term ‘customer’ of a debtor means any person (including any person with whom the debtor deals as principal or agent) who has a claim on account of securities received, acquired, or held by the debtor in the ordinary course of its business as a broker or dealer from or for the securities accounts of such person for safekeeping, with a view to sale, to cover consummated sales, pursuant to purchases, as collateral, security, or for purposes of effecting transfer. The term ‘customer’ includes any person who has a claim against the debtor arising out of sales or conversions of such securities.</p> <p>“(B) INCLUDED PERSONS- The term ‘customer’ includes--</p>	<p>SEC. 983. PORTFOLIO MARGINING.</p> <p>(a) <i>Advances- Section 9(a)(1) of the Securities Investor Protection Act of 1970 (15 U.S.C. 78fff-3(a)(1)) is amended by inserting ‘or options on commodity futures contracts’ after ‘claim for securities’.</i></p> <p>(b) <i>Definitions- Section 16 of the Securities Investor Protection Act of 1970 (15 U.S.C. 78lll) is amended--</i></p> <p>(1) <i>by striking paragraph (2) and inserting the following:</i></p> <p>“(2) CUSTOMER-</p> <p>“(A) <i>IN GENERAL- The term ‘customer’ of a debtor means any person (including any person with whom the debtor deals as principal or agent) who has a claim on account of securities received, acquired, or held by the debtor in the ordinary course of its business as a broker or dealer from or for the securities accounts of such person for safekeeping, with a view to sale, to cover consummated sales, pursuant to purchases, as collateral, security, or for purposes of effecting transfer.</i></p> <p>“(B) <i>INCLUDED PERSONS- The term ‘customer’ includes--</i></p> <p>(i) <i>any person who has deposited cash with the debtor for the purpose of purchasing</i></p>	

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<p>(i) any person who has deposited cash with the debtor for the purpose of purchasing securities; and</p> <p>(ii) any person who has a claim against the debtor for, or a claim against the debtor arising out of sales or conversions of, cash, securities, futures contracts, or options on futures contracts received, acquired, or held in a portfolio margining account carried as a securities account pursuant to a portfolio margining program approved by the Commission.</p>	<p>securities;</p> <p>(ii) any person who has a claim against the debtor for cash, securities, futures contracts, or options on futures contracts received, acquired, or held in a portfolio margining account carried as a securities account pursuant to a portfolio margining program approved by the Commission; and</p> <p>(iii) any person who has a claim against the debtor arising out of sales or conversions of such securities.</p>	
<p>(C) EXCLUDED PERSONS- The term 'customer' does not include--</p> <p>(i) any person to the extent that the claim of such person arises out of transactions with a foreign subsidiary of a member of SIPC;</p> <p>(ii) any person to the extent that such person has a claim for cash or securities which by contract, agreement, or understanding, or by operation of law, is part of the capital of the debtor, or is subordinated to the claims of any or all creditors of the debtor, notwithstanding that some ground exists for declaring such contract, agreement, or understanding void or voidable in a suit between the claimant and the debtor; or</p> <p>(iii) any person to the extent such person has a claim relating to any open repurchase or open reverse repurchase agreement.</p> <p>For purposes of this paragraph, the term 'repurchase agreement' means the sale of a security at a specified price with a simultaneous agreement or obligation to repurchase the security at a specified price on a specified future date.;</p>	<p>(C) EXCLUDED PERSONS- The term 'customer' does not include any person, to the extent that--</p> <p>(i) the claim of such person arises out of transactions with a foreign subsidiary of a member of SIPC; or</p> <p>(ii) such person has a claim for cash or securities which by contract, agreement, or understanding, or by operation of law, is part of the capital of the debtor, or is subordinated to the claims of any or all creditors of the debtor, notwithstanding that some ground exists for declaring such contract, agreement, or understanding void or voidable in a suit between the claimant and the debtor.;</p>	
<p>(2) in paragraph (4), by inserting after the first sentence the following new sentence: 'In the case of portfolio margining accounts of customers that are carried as securities accounts pursuant to a portfolio margining program approved by the Commission, such term shall also include futures contracts and options on futures contracts received, acquired, or held by or for the account of a debtor from or for such accounts, and the</p>	<p>(2) in paragraph (4)--</p> <p>(A) in subparagraph (C), by striking 'and' at the end;</p> <p>(B) by redesignating subparagraph (D) as subparagraph (E); and</p> <p>(C) by inserting after subparagraph (C) the following:</p> <p>(D) in the case of a portfolio margining account of a customer that is carried as a securities account</p>	

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<p>proceeds thereof.;</p> <p>(3) in paragraph (9), by inserting before `Such term' in the matter following subparagraph (L) the following: `The term includes revenues earned by a broker or dealer in connection with transactions in customers' portfolio margining accounts carried as securities accounts pursuant to a portfolio margining program approved by the Commission.'; and</p>	<p><i>pursuant to a portfolio margining program approved by the Commission, a futures contract or an option on a futures contract received, acquired, or held by or for the account of a debtor from or for such portfolio margining account, and the proceeds thereof; and';</i></p> <p><i>(3) in paragraph (9), in the matter following subparagraph (L), by inserting after `Such term' the following: `includes revenues earned by a broker or dealer in connection with a transaction in the portfolio margining account of a customer carried as securities accounts pursuant to a portfolio margining program approved by the Commission. Such term'; and</i></p>	
<p>(4) in paragraph (11)--</p> <p>(A) by amending subparagraph (A) to read as follows: `(A) calculating the sum which would have been owed by the debtor to such customer if the debtor had liquidated, by sale or purchase on the filing date--</p> <p> (i) all securities positions of such customer (other than customer name securities reclaimed by such customer); and</p> <p> (ii) all positions in futures contracts and options on futures contracts held in a portfolio margining account carried as a securities account pursuant to a portfolio margining program approved by the Commission; minus'; and</p> <p>(B) by inserting before `In determining' in the matter following subparagraph (C) the following: `A claim for a commodity futures contract received, acquired, or held in a portfolio margining account pursuant to a portfolio margining program approved by the Commission, or a claim for a security futures contract, shall be deemed to be a claim for the mark-to-market (variation) payments due with respect to such contract as of the filing date, and such claim shall be treated as a claim for cash.'</p>	<p>(4) in paragraph (11)--</p> <p>(A) in subparagraph (A)--</p> <p> (i) by striking `filing date, all' and all that follows through the end of the subparagraph and inserting the following: `filing date--</p> <p> (i) all securities positions of such customer (other than customer name securities reclaimed by such customer); and</p> <p> (ii) all positions in futures contracts and options on futures contracts held in a portfolio margining account carried as a securities account pursuant to a portfolio margining program approved by the Commission, including all property collateralizing such positions, to the extent that such property is not otherwise included herein; minus'; and</p> <p>(B) in the matter following subparagraph (C), by striking `In determining' and inserting the following: `A claim for a commodity futures contract received, acquired, or held in a portfolio margining account pursuant to a portfolio margining program approved by the Commission or a claim for a security futures contract, shall be deemed to be a claim with respect to such contract as of the filing date, and such claim shall be treated as a claim for cash. In determining'.</p>	
<p>SEC. 7510. STUDY AND REPORT ON THE FEASIBILITY OF RISK-BASED ASSESSMENTS FOR SIPC MEMBERS.</p> <p>(a) Study Required- The Comptroller General of the United States shall conduct a study on whether the Securities Investor Protection</p>		

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<p>Corporation (hereafter in this section referred to as "SIPC") should be required to impose assessments, on its member brokers and dealers, based on risk for the purpose of adequately maintaining the SIPC Fund and to provide additional levels of coverage on an optional basis.</p>		
<p>(b) Content- The Comptroller General in conducting this study shall--</p> <ul style="list-style-type: none"> (1) identify and examine available approaches, including modeling, to measure broker and dealer operational risk; (2) analyze whether the available approaches to measure broker and dealer operational risk can be used in managing the aggregate risk to the SIPC Fund; (3) explore whether objective measures like the volume of assets of the SIPC member, previous enforcement and compliance actions taken by regulatory bodies against the SIPC member, or the number of years the SIPC member has been in operation, among other factors, can be used to assess the probability the fund will incur a loss with respect to the SIPC member; (4) examine the impact that risk-based assessments could have on large and small brokers and dealers; (5) examine the impact that risk-based assessments could have on institutional and retail brokers and dealers; and (6) examine the feasibility of SIPC providing additional levels of coverage on an optional basis, what those additional levels of coverage should be, and the appropriate risk-based premium for providing additional coverage. <p>(c) Consultation- The Comptroller General in planning and conducting this study shall consult with the Securities and Exchange Commission, the Federal Deposit Insurance Corporation, SIPC, the Financial Industry Regulatory Authority, and any other public or private sector organization that the Comptroller General considers appropriate.</p> <p>(d) Report Required- Not later than 1 year after the date of enactment of this subtitle, the Comptroller general shall submit a report of the results of the study required by this section to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives.</p>		

House-passed H.R. 4173	Senate-passed H.R. 4713 (S. 3217 as amended)	Notes
<p>PART 6--SARBANES-OXLEY ACT AMENDMENTS</p> <p>SEC. 7601. PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD OVERSIGHT OF AUDITORS OF BROKERS AND DEALERS.</p> <p>(a) Definitions- (1) Title I of the Sarbanes-Oxley Act of 2002 is amended by adding at the end the following new section:</p> <p>SEC. 110. DEFINITIONS.</p> <p>For the purposes of this title, and notwithstanding section 2:</p> <p>(1) AUDIT- The term 'audit' means an examination of the financial statements, reports, documents, procedures or controls, or notices, of any issuer, broker, or dealer by an independent public accounting firm in accordance with the rules of the Board or the Commission (or, for the period preceding the adoption of applicable rules of the Board under section 103, in accordance with then-applicable generally accepted auditing and related standards for such purposes), for the purpose of expressing an opinion on such financial statements, reports, documents, procedures or controls, or notices.</p> <p>(2) AUDIT REPORT- The term 'audit report' means a document, report, notice, or other record--</p> <p>(A) prepared following an audit performed for purposes of compliance by an issuer, broker, or dealer with the requirements of the securities laws; and</p> <p>(B) in which a public accounting firm either--</p> <p>(i) sets forth the opinion of that firm regarding a financial statement, report, notice, other document, procedures, or controls; or</p> <p>(ii) asserts that no such opinion can be expressed.</p>	<p>SEC. 982. OVERSIGHT OF BROKERS AND DEALERS.</p> <p>(a) Definitions-</p> <p>(1) DEFINITIONS AMENDED- Title I of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7201 et seq.) is amended by adding at the end the following new section:</p> <p>SEC. 110. DEFINITIONS.</p> <p>For the purposes of this title, the following definitions shall apply:</p> <p>(1) AUDIT- The term 'audit' means an examination of the financial statements, reports, documents, procedures, controls, or notices of any issuer, broker, or dealer by an independent public accounting firm in accordance with the rules of the Board or the Commission, for the purpose of expressing an opinion on the financial statements or providing an audit report.</p> <p>(2) AUDIT REPORT- The term 'audit report' means a document, report, notice, or other record--</p> <p>(A) prepared following an audit performed for purposes of compliance by an issuer, broker, or dealer with the requirements of the securities laws; and</p> <p>(B) in which a public accounting firm either--</p> <p>(i) sets forth the opinion of that firm regarding a financial statement, report, notice, or other document, procedures, or controls; or</p> <p>(ii) asserts that no such opinion can be expressed.</p>	
<p>(3) PROFESSIONAL STANDARDS- The term 'professional standards' means--</p> <p>(A) accounting principles that are--</p> <p>(i) established by the standard setting body described in section 19(b) of the Securities Act of 1933, as amended by this Act, or prescribed by the Commission under section 19(a) of that Act (15 U.S.C. 17a(s)) or section 13(b) of the Securities Exchange Act of 1934</p>	<p>(3) BROKER- The term 'broker' means a broker (as such term is defined in section 3(a)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(4))) that is required to file a balance sheet, income statement, or other financial statement under section 17(e)(1)(A) of such Act (15 U.S.C. 78q(e)(1)(A)), where such balance sheet, income statement, or financial statement is required to be certified by a registered public accounting firm.</p> <p>(4) DEALER- The term 'dealer' means a dealer (as such term is defined in section 3(a)(5) of the Securities Exchange Act of 1934</p>	

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<p>(15 U.S.C. 78a(m)); and (ii) relevant to audit reports for particular issuers, brokers, or dealers, or dealt with in the quality control system of a particular registered public accounting firm; and (B) auditing standards, standards for attestation engagements, quality control policies and procedures, ethical and competency standards, and independence standards (including rules implementing title II) that the Board or the Commission determines-- (i) relate to the preparation or issuance of audit reports for issuers, brokers, or dealers; and (ii) are established or adopted by the Board under section 103(a), or are promulgated as rules of the Commission.</p> <p>(4) BROKER- The term 'broker' means a broker (as such term is defined in section 3(a)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(4))) that is required to file a balance sheet, income statement, or other financial statement under section 17(e)(1)(A) of such Act (15 U.S.C. 78q(e)(1)(A)), where such balance sheet, income statement, or financial statement is required to be certified by a registered public accounting firm.</p> <p>(5) DEALER- The term 'dealer' means a dealer (as such term is defined in section 3(a)(5) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(5))) that is required to file a balance sheet, income statement, or other financial statement under section 17(e)(1)(A) of such Act (15 U.S.C. 78q(e)(1)(A)), where such balance sheet, income statement, or financial statement is required to be certified by a registered public accounting firm.</p> <p>(6) SELF-REGULATORY ORGANIZATION- The term 'self-regulatory organization' has the same meaning as in section 3(a)(26) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(26)).'</p> <p>(2) The table of sections in section 1(b) of such Act is amended, by inserting after the item relating to section 109 the following new item: 'Sec. 110. Definitions.'</p>	<p>(15 U.S.C. 78c(a)(5))) that is required to file a balance sheet, income statement, or other financial statement under section 17(e)(1)(A) of such Act (15 U.S.C. 78q(e)(1)(A)), where such balance sheet, income statement, or financial statement is required to be certified by a registered public accounting firm.</p> <p>(5) PROFESSIONAL STANDARDS- The term 'professional standards' means-- (A) accounting principles that are-- (i) established by the standard setting body described in section 19(b) of the Securities Act of 1933, as amended by this Act, or prescribed by the Commission under section 19(a) of that Act (15 U.S.C. 17a(s)) or section 13(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78a(m)); and (ii) relevant to audit reports for particular issuers, brokers, or dealers, or dealt with in the quality control system of a particular registered public accounting firm; and (B) auditing standards, standards for attestation engagements, quality control policies and procedures, ethical and competency standards, and independence standards (including rules implementing title II) that the Board or the Commission determines-- (i) relate to the preparation or issuance of audit reports for issuers, brokers, or dealers; and (ii) are established or adopted by the Board under section 103(a), or are promulgated as rules of the Commission.</p> <p>(6) SELF-REGULATORY ORGANIZATION- The term 'self-regulatory organization' has the same meaning as in section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)).'</p> <p>(2) CONFORMING AMENDMENT- Section 2(a) of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7201(a)) is amended in the matter preceding paragraph (1), by striking 'In this' and inserting 'Except as otherwise specifically provided in this Act, in this'.</p>	
<p>(b) Establishment and Administration of the Public Company Accounting Oversight Board- Section 101 of such Act is amended-- (1) by striking 'issuers' each place it appears and inserting 'issuers, brokers, and dealers';</p>	<p>(b) Establishment and Administration of the Public Company Accounting Oversight Board- Section 101 of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7211) is amended-- (1) by striking 'issuers' each place that term appears and</p>	

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<p>(2) in subsection (a), by striking `public companies' and inserting `companies'; and</p> <p>(3) in subsection (a), by striking `for companies the securities of which are sold to, and held by and for, public investors'.</p> <p>(c) Registration With the Board- Section 102 of such Act is amended--</p> <p>(1) in subsection (a), by striking `Beginning 180 days after the date of the determination of the Commission under section 101(d), it' and inserting `It';</p> <p>(2) in subsections (a) and (b)(2)(G), by striking `issuer' each place it appears and inserting `issuer, broker, or dealer'; and</p> <p>(3) in subsection (b)(2)(A), by striking `issuers' and inserting `issuers, brokers, and dealers'.</p> <p>(d) Auditing and Independence- Section 103(a) of such Act is amended--</p> <p>(1) in paragraph (1), by striking `and such ethics standards' and inserting `such ethics standards, and such independence standards';</p> <p>(2) in paragraph (2)(A)(iii), by striking `describe in each audit report' and inserting `in each audit report for an issuer, describe'; and</p> <p>(3) in paragraph (2)(B)(i), by striking `issuers' and inserting `issuers, brokers, and dealers'.</p> <p>(e) Inspections by Registered Accounting Firms- Subsection (a) of Section 104 of such Act is amended--</p> <p>(1) by striking `(a) In General- The Board shall' and inserting the following:</p> <p>`(a) In General-</p> <p> `1) The Board shall'; and</p> <p> (2) by adding at the end of such subsection the following:</p> <p> `2) INSPECTIONS OF AUDIT REPORT FOR BROKERS AND DEALERS-</p> <p> `A) The Board may, by rule, conduct and require a program of inspection in accordance with paragraph (a)(1), on a basis to be determined by the Board, of registered public accounting firms that provide one or more audit reports for a broker or dealer. The Board, in establishing such a program, may allow for differentiation among classes of brokers and dealers, as appropriate.</p> <p> `B) If the Board determines to establish a program of inspection pursuant to subparagraph (A), the Board shall consider in establishing any inspection schedules whether differing schedules would be appropriate with respect to registered public accounting firms that issue</p>	<p><i>inserting `issuers, brokers, and dealers'; and</i></p> <p><i>(2) in subsection (a)--</i></p> <p><i>(A) by striking `public companies' and inserting `companies'; and</i></p> <p><i>(B) by striking `for companies the securities of which are sold to, and held by and for, public investors'.</i></p> <p><i>(c) Registration With the Board- Section 102 of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7212) is amended--</i></p> <p><i>(1) in subsection (a)--</i></p> <p><i>(A) by striking `Beginning 180' and all that follows through `101(d), it' and inserting `It'; and</i></p> <p><i>(B) by striking `issuer' and inserting `issuer, broker, or dealer';</i></p> <p><i>(2) in subsection (b)--</i></p> <p><i>(A) in paragraph (2)(A), by striking `issuers' and inserting `issuers, brokers, and dealers'; and</i></p> <p><i>(B) by striking `issuer' each place that term appears and inserting `issuer, broker, or dealer'.</i></p> <p><i>(d) Auditing and Independence- Section 103(a) of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7213(a)) is amended--</i></p> <p><i>(1) in paragraph (1), by striking `and such ethics standards' and inserting `such ethics standards, and such independence standards';</i></p> <p><i>(2) in paragraph (2)(A)(iii), by striking `describe in each audit report' and inserting `in each audit report for an issuer, describe'; and</i></p> <p><i>(3) in paragraph (2)(B)(i), by striking `issuers' and inserting `issuers, brokers, and dealers'.</i></p> <p><i>(e) Inspections of Registered Public Accounting Firms- Section 104 of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7214) is amended--</i></p> <p><i>(1) in subsection (a), by striking `issuers' and inserting `issuers, brokers, and dealers'; and</i></p> <p><i>(2) in subsection (b)(1)--</i></p> <p><i>(A) by striking `audit reports for' each place that term appears and inserting `audit reports on annual financial statements for';</i></p> <p><i>(B) in subparagraph (A), by striking `and' at the end;</i></p> <p><i>(C) in subparagraph (B), by striking the period at the end and inserting `; and'; and</i></p> <p><i>(D) by adding at the end the following:</i></p> <p><i> `C) with respect to each registered public accounting firm that regularly provides audit reports and that is not described in subparagraph (A) or (B), on a basis</i></p>	

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<p>audit reports only for one or more brokers or dealers that do not receive, handle, or hold customer securities or cash or are not a member of the Securities Investor Protection Corporation.</p> <p>`(C) Any rules of the Board pursuant to this paragraph shall be subject to prior approval by the Commission pursuant to section 107(b) before the rules become effective, including an opportunity for public notice and comment.</p> <p>`(D) Notwithstanding anything to the contrary in section 102 of this Act, a public accounting firm shall not be required to register with the Board if the public accounting firm is exempt from the inspection program which may be established by the Board under subparagraph (a)(2)(A) of this section.</p> <p>`(3) CONFORMING AMENDMENT- Section 17 (e)(1)(A) of the Securities Exchange Act of 1934 (15 U.S.C. 78q(e)(1)(A)) is amended by striking `registered public accounting firm' and inserting `independent public accounting firm or by a registered public accounting firm if registration is required under the Sarbanes-Oxley Act of 2002 as amended.'.</p>	<p><i>determined by the Board, by rule, that is consistent with the public interest and protection of investors.'</i></p>	
<p>(f) Investigations and Disciplinary Proceedings- Section 105(c)(7)(B) of such Act is amended--</p> <p>(1) in the subparagraph heading, by inserting `, BROKER, OR DEALER' after `ISSUER';</p> <p>(2) by striking `any issuer' each place it appears and inserting `any issuer, broker, or dealer'; and</p> <p>(3) by striking `an issuer under this subsection' and inserting `a registered public accounting firm under this subsection'.</p> <p>(g) Foreign Public Accounting Firms- Section 106 of such Act is amended--</p> <p>(1) in subsection (a)(1), by striking `issuer' and inserting `issuer, broker, or dealer'; and</p> <p>(2) in subsection (a)(2), by striking `issuers' and inserting `issuers, brokers, or dealers'.</p>	<p><i>(f) Investigations and Disciplinary Proceedings- Section 105(c)(7)(B) of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7215(c)(7)(B)) is amended--</i></p> <p><i>(1) in the subparagraph heading, by inserting `, BROKER, OR DEALER' after `ISSUER';</i></p> <p><i>(2) by striking `any issuer' each place that term appears and inserting `any issuer, broker, or dealer'; and</i></p> <p><i>(3) by striking `an issuer under this subsection' and inserting `a registered public accounting firm under this subsection'.</i></p> <p><i>(g) Foreign Public Accounting Firms- Section 106(a) of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7216(a)) is amended--</i></p> <p><i>(1) in paragraph (1), by striking `issuer' and inserting `issuer, broker, or dealer'; and</i></p> <p><i>(2) in paragraph (2), by striking `issuers' and inserting `issuers, brokers, or dealers'.</i></p>	
<p>(h) Funding- Section 109 of such Act is amended--</p> <p>(1) in subsection (c)(2), by striking `subsection (i)' and inserting `subsection (j)';</p> <p>(2) in subsection (d)(2), by striking `allowing for differentiation among classes of issuers, as appropriate' and inserting `and among brokers and dealers in accordance with subsection (h),</p>	<p><i>(h) Funding- Section 109 of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7219) is amended--</i></p> <p><i>(1) in subsection (c)(2), by striking `subsection (i)' and inserting `subsection (j)';</i></p> <p><i>(2) in subsection (d)--</i></p> <p><i>(A) in paragraph (2), by striking `allowing for</i></p>	

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<p>and allowing for differentiation among classes of issuers and brokers and dealers, as appropriate';</p> <p>(3) in subsection (d), by inserting at the end the following new paragraph:</p> <p>`(3) BROKERS AND DEALERS- The rules of the Board under paragraph (1) shall provide that the allocation, assessment, and collection by the Board (or an agent appointed by the Board) of the fee established under paragraph (1) with respect to brokers and dealers shall not begin until the first day of the first full fiscal year beginning after the date of the enactment of this paragraph.';</p> <p>(4) by redesignating subsections (h), (i), and (j) as subsections (i), (j), and (k), respectively; and</p> <p>(5) by inserting after subsection (g) the following new subsection:</p> <p>`(h) Allocation of Accounting Support Fees Among Brokers and Dealers-</p> <p>`(1) IN GENERAL- Any amount due from brokers and dealers (or a particular class of such brokers and dealers) under this section to fund the budget of the Board shall be allocated among and payable by such brokers and dealers (or such brokers and dealers in a particular class, as applicable). A broker or dealer's allocation shall be in proportion to the broker or dealer's net capital compared to the total net capital of all brokers and dealers, in accordance with the rules of the Board.</p> <p>`(2) OBLIGATION TO PAY- Every broker or dealer shall pay the share of a reasonable annual accounting support fee or fees allocated to such broker or dealer under this section.'.</p>	<p><i>differentiation among classes of issuers, as appropriate' and inserting `and among brokers and dealers, in accordance with subsection (h), and allowing for differentiation among classes of issuers, brokers and dealers, as appropriate'; and</i></p> <p><i>(B) by adding at the end the following:</i></p> <p><i>`(3) BROKERS AND DEALERS- The Board shall begin the allocation, assessment, and collection of fees under paragraph (2) with respect to brokers and dealers with the payment of support fees to fund the first full fiscal year beginning after the effective date of this paragraph.';</i></p> <p><i>(3) by redesignating subsections (h), (i), and (j) as subsections (i), (j), and (k), respectively; and</i></p> <p><i>(4) by inserting after subsection (g) the following:</i></p> <p><i>`(h) Allocation of Accounting Support Fees Among Brokers and Dealers-</i></p> <p><i>`(1) OBLIGATION TO PAY- Each broker or dealer shall pay to the Board the annual accounting support fee allocated to such broker or dealer under this section.</i></p> <p><i>`(2) ALLOCATION- Any amount due from a broker or dealer (or from a particular class of brokers and dealers) under this section shall be allocated among brokers and dealers and payable by the broker or dealer (or the brokers and dealers in the particular class, as applicable).</i></p> <p><i>`(3) PROPORTIONALITY- The amount due from a broker or dealer shall be in proportion to the net capital of the broker or dealer, compared to the total net capital of all brokers and dealers, in accordance with rules issued by the Board.'.</i></p>	
<p>(i) Referral of Investigations to a Self-regulatory Organization- Section 105(b)(4)(B) of the Sarbanes-Oxley Act of 2002 is amended--</p> <p>(1) by redesignating clauses (ii) and (iii) as clauses (iii) and (iv), respectively; and</p> <p>(2) by inserting after clause (i) the following new clause:</p> <p style="padding-left: 40px;">`<i>(ii) to a self-regulatory organization, in the case of an investigation that concerns an audit report for a broker or dealer that is subject to the jurisdiction of such self-regulatory organization;</i>'.</p> <p>(j) Use of Documents Related to an Inspection or Investigation- Section 105(b)(5)(B)(ii) of such Act is amended--</p> <p>(1) in subclause (III), by striking `and';</p> <p>(2) in subclause (IV), by striking the comma and inserting `; and'; and</p>	<p><i>(i) Referral of Investigations to a Self-regulatory Organization- Section 105(b)(4)(B) of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7215(b)(4)(B)) is amended--</i></p> <p><i>(1) by redesignating clauses (ii) and (iii) as clauses (iii) and (iv), respectively; and</i></p> <p><i>(2) by inserting after clause (i) the following:</i></p> <p style="padding-left: 40px;"><i>`(ii) to a self-regulatory organization, in the case of an investigation that concerns an audit report for a broker or dealer that is under the jurisdiction of such self-regulatory organization;</i>'.</p> <p><i>(j) Use of Documents Related to an Inspection or Investigation- Section 105(b)(5)(B)(ii) of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7215(b)(5)(B)(ii)) is amended--</i></p> <p><i>(1) in subclause (III), by striking `and' at the end;</i></p>	

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<p>(3) by inserting after subclause (IV) the following new subclause:</p> <p style="padding-left: 40px;">(V) a self-regulatory organization, with respect to an audit report for a broker or dealer that is subject to the jurisdiction of such self-regulatory organization,'.</p>	<p>(2) in subclause (IV), by striking the comma and inserting `; and'; and</p> <p>(3) by inserting after subclause (IV) the following:</p> <p style="padding-left: 40px;">(V) a self-regulatory organization, with respect to an audit report for a broker or dealer that is under the jurisdiction of such self-regulatory organization,'.</p> <p>(k) Effective Date- The amendments made by this section shall take effect 180 days after the date of enactment of this Act.</p>	
<p>SEC. 7602. FOREIGN REGULATORY INFORMATION SHARING.</p> <p>(a) Definition- Section 2(a) of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7201(a)) is amended by inserting after paragraph (16) the following:</p> <p style="padding-left: 20px;">(17) FOREIGN AUDITOR OVERSIGHT AUTHORITY- The term 'foreign auditor oversight authority' means any governmental body or other entity empowered by a foreign government to conduct inspections of public accounting firms or otherwise to administer or enforce laws related to the regulation of public accounting firms.'.</p> <p>(b) Availability To Share Information- Section 105(b)(5) of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7215(b)(5)) is amended by adding at the end the following:</p> <p style="padding-left: 20px;">(C) AVAILABILITY TO FOREIGN OVERSIGHT AUTHORITIES- When in the Board's discretion it is necessary to accomplish the purposes of this Act or to protect investors, and without the loss of its status as confidential and privileged in the hands of the Board, all information referred to in subparagraph (A) that relates to a public accounting firm within the inspection authority, or other regulatory or law enforcement jurisdiction, of a foreign auditor oversight authority may be made available to the foreign auditor oversight authority if the foreign auditor oversight authority provides such assurances of confidentiality as the Board determines appropriate.'.</p> <p>(c) Conforming Amendment- Section 105(b)(5)(A) of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7215(b)(5)(A)) is amended by striking 'subparagraph (B)' and inserting 'subparagraphs (B) and (C)'.</p>	<p>SEC. 981. AUTHORITY TO SHARE CERTAIN INFORMATION WITH FOREIGN AUTHORITIES.</p> <p>(a) Definition- Section 2(a) of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7201(a)) is amended by adding at the end the following:</p> <p style="padding-left: 20px;">(17) FOREIGN AUDITOR OVERSIGHT AUTHORITY- The term 'foreign auditor oversight authority' means any governmental body or other entity empowered by a foreign government to conduct inspections of public accounting firms or otherwise to administer or enforce laws related to the regulation of public accounting firms.'.</p> <p>(b) Availability To Share Information- Section 105(b)(5) of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7215(b)(5)) is amended by adding at the end the following:</p> <p style="padding-left: 20px;">(C) AVAILABILITY TO FOREIGN OVERSIGHT AUTHORITIES- Without the loss of its status as confidential and privileged in the hands of the Board, all information referred to in subparagraph (A) that relates to a public accounting firm that a foreign government has empowered a foreign auditor oversight authority to inspect or otherwise enforce laws with respect to, may, at the discretion of the Board, be made available to the foreign auditor oversight authority, if--</p> <p style="padding-left: 40px;">(i) the Board finds that it is necessary to accomplish the purposes of this Act or to protect investors;</p> <p style="padding-left: 40px;">(ii) the foreign auditor oversight authority provides--</p> <p style="padding-left: 60px;">(I) such assurances of confidentiality as the Board may request;</p> <p style="padding-left: 60px;">(II) a description of the applicable</p>	

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	<p><i>information systems and controls of the foreign auditor oversight authority; and</i></p> <p><i>`(III) a description of the laws and regulations of the foreign government of the foreign auditor oversight authority that are relevant to information access; and</i></p> <p><i>`(iii) the Board determines that it is appropriate to share such information.'</i></p> <p><i>(c) Conforming Amendment- Section 105(b)(5)(A) of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7215(b)(5)(A)) is amended by striking ` subparagraph (B)' and inserting ` subparagraphs (B) and (C)'.</i></p>	
<p>SEC. 7603. EXPANSION OF AUDIT INFORMATION TO BE PRODUCED AND EXCHANGED WITH FOREIGN COUNTERPARTS.</p> <p>Section 106 of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7216) is amended--</p> <p>(1) by amending subsection (b) to read as follows:</p> <p>`(b) Production of Documents-</p> <p> `1) PRODUCTION BY FOREIGN FIRMS- If a foreign public accounting firm issues an audit report, performs audit work, conducts interim reviews, or performs material services upon which a registered public accounting firm relies in the conduct of an audit or interim review, the foreign public accounting firm shall produce its audit work papers and all other documents related to any such audit work or interim review to the Commission or the Board when requested by the Commission or the Board and the foreign public accounting firm shall be subject to the jurisdiction of the courts of the United States for purposes of enforcement of any request of such documents.</p> <p> `2) OTHER PRODUCTION- Any registered public accounting firm that relies, in whole or in part, on the work of a foreign public accounting firm in issuing an audit report, performing audit work, or conducting an interim review, shall--</p> <p> `A) produce the foreign public accounting firm's audit work papers and all other documents related to any such work in response to a request for production by the Commission or the Board; and</p> <p> `B) secure the agreement of any foreign public accounting firm to such production, as a condition of its reliance on the work of that foreign public</p>		

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<p>accounting firm.';</p> <p>(2) by redesignating subsection (d) as subsection (g); and</p> <p>(3) by inserting after subsection (c) the following new subsections:</p> <p>`(d) Service of Requests or Process- Any foreign public accounting firm that performs work for a domestically registered public accounting firm shall furnish to the domestically firm a written irrevocable consent and power of attorney that designates the domestic firm as an agent upon whom may be served any process, pleadings, or other papers in any action brought to enforce this section. Any foreign public accounting firm that issues an audit report, performs audit work, performs interim reviews, or performs other material services upon which a registered public accounting firm relies in the conduct of an audit or interim review, shall designate to the Commission or the Board an agent in the United States upon whom may be served any process, pleading, or other papers in any action brought to enforce this section or any request by the Commission or the Board under this section.</p> <p>`(e) Sanctions- A willful refusal to comply, in whole in or in part, with any request by the Commission or the Board under this section, shall be a violation of this Act.</p> <p>`(f) Other Means of Satisfying Production Obligations- Notwithstanding any other provision of this section, the staff of the Commission or Board may allow foreign public accounting firms subject to this section to meet production obligations under this section through alternate means, such as through foreign counterparts of the Commission or Board.'</p>		
<p>SEC. 7604. CONFORMING AMENDMENT RELATED TO REGISTRATION.</p> <p>Section 102(b)(3)(A) of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7212(b)(3)(A)) is amended by striking `by the Board' and inserting `by the Commission or the Board'.</p>		
<p>SEC. 7605. FAIR FUND AMENDMENTS.</p> <p>Section 308 of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7246(a)) is amended--</p> <p>(1) by amending subsection (a) to read as follows:</p> <p>`(a) Civil Penalties to Be Used for the Relief of Victims- If in any judicial or administrative action brought by the Commission under the securities laws (as such term is defined in section 3(a)(47) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(47)), the Commission obtains a civil penalty against any person for a violation of such laws or the rules and regulations thereunder, or such person agrees</p>	<p>SEC. 929B. FAIR FUND AMENDMENTS.</p> <p><i>Section 308 of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7246(a)) is amended--</i></p> <p><i>(1) by striking subsection (a) and inserting the following:</i></p> <p><i>`(a) Civil Penalties To Be Used for the Relief of Victims- If, in any judicial or administrative action brought by the Commission under the securities laws, the Commission obtains a civil penalty against any person for a violation of such laws, or such person agrees, in settlement of any such action, to such civil penalty, the amount of such civil penalty shall, on the motion or at the direction of the Commission, be added to</i></p>	

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<p>in settlement of any such action to such civil penalty, the amount of such civil penalty or settlement shall, on the motion or at the direction of the Commission, be added to and become part of a disgorgement fund or other fund established for the benefit of the victims of such violation.';</p> <p>(2) in subsection (b), by--</p> <p>(A) striking `for a disgorgement fund described in subsection (a)' and inserting `for a disgorgement fund or other fund described in subsection (a)'; and</p> <p>(B) striking `in the disgorgement fund' and inserting `in such fund'; and</p> <p>(3) by striking subsection (e).</p>	<p><i>and become part of a disgorgement fund or other fund established for the benefit of the victims of such violation.';</i></p> <p><i>(2) in subsection (b)--</i></p> <p><i>(A) by striking `for a disgorgement fund described in subsection (a)' and inserting `for a disgorgement fund or other fund described in subsection (a)'; and</i></p> <p><i>(B) by striking `in the disgorgement fund' and inserting `in such fund'; and</i></p> <p><i>(3) by striking subsection (e).</i></p>	
<p>SEC. 7606. EXEMPTION FOR NONACCELERATED FILERS.</p> <p>(a) Exemption- Section 404 of the Sarbanes-Oxley Act of 2002 is amended by adding at the end the following:</p> <p>`(c) Exemption for Smaller Issuers- Subsection (b) shall not apply with respect to any audit report prepared for an issuer that is not an accelerated filer within the meaning Rule 12b-2 of the Commission (17 CFR 240.12b-2).'</p> <p>(b) Study- The Securities and Exchange Commission shall conduct a study to determine how the Commission could reduce the burden of complying with section 404(b) of the Sarbanes-Oxley Act of 2002 for companies whose market capitalization is between \$75,000,000 and \$250,000,000 for the relevant reporting period while maintaining investor protections for such companies. The study shall also consider whether any such methods of reducing the compliance burden or a complete exemption for such companies from compliance with such section would encourage companies to list on exchanges in the United States in their initial public offerings. Not later than 9 months after the date of the enactment of this subtitle, the Commission shall transmit a report of such study to Congress.</p>		
<p>SEC. 7607. WHISTLEBLOWER PROTECTION AGAINST RETALIATION BY A SUBSIDIARY OF AN ISSUER.</p> <p>Section 1514A(a) of title 18, United States Code, is amended by inserting `including any subsidiary or affiliate whose financial information is included in the consolidated financial statements of such company,' after `(15 U.S.C. 78o(d)),'</p>		
<p>SEC. 7608. CONGRESSIONAL ACCESS TO INFORMATION.</p> <p>Section 101 of the Sarbanes-Oxley Act of 2002 is amended by adding at the end the following:</p>		

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<p>“(i) Congressional Access to Information- Nothing in this section shall prevent the Board from responding to requests for reports from the Committee’s specified under subsection (h) about the activities or programs of the Board, provided that any confidential information contained therein shall be subject to the provisions of section 105(b)(5).”</p>		
<p>SEC. 7609. CREATION OF OMBUDSMAN FOR THE PCAOB.</p> <p>(a) Ombudsman- Title I of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7211 et seq.), as amended by section 7601(a)(1), is further amended by adding at the end the following new section:</p>		
<p>SEC. 111. OMBUDSMAN.</p> <p>“(a) Establishment Required- Not later than 180 days after the date of enactment of the Investor Protection Act, the Board shall appoint an ombudsman for the Board. The Ombudsman shall report directly to the Chairman.</p> <p>“(b) Duties of Ombudsman- The ombudsman appointed in accordance with subsection (a) for the Board shall--</p> <p style="padding-left: 20px;">“(1) act as a liaison between the Board and--</p> <p style="padding-left: 40px;">“(A) any registered public accounting firm or issuer with respect to issues or disputes concerning the preparation or issuance of any audit report with respect to that issuer; and</p> <p style="padding-left: 40px;">“(B) any affected registered public accounting firm or issuer with respect to--</p> <p style="padding-left: 60px;">“(i) any problem such firm or issuer may have in dealing with the Board resulting from the regulatory activities of the Board, particularly with regard to the implementation of section 404; and</p> <p style="padding-left: 60px;">“(ii) issues caused by the relationships of registered public accounting firms and issuers generally;</p> <p style="padding-left: 20px;">“(2) assure that safeguards exist to encourage complainants to come forward and to preserve confidentiality; and</p> <p style="padding-left: 20px;">“(3) carry out such activities, and any other activities assigned by the Board, in accordance with guidelines prescribed by the Board.”</p> <p>(b) Conforming Amendment- The table of sections in section 1(b) of such Act is amended, by inserting after the item relating to section 110 (as added by section 601(a)(2)) the following new item:</p> <p style="padding-left: 20px;">“Sec. 111. Ombudsman.”</p>		

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<p>SEC. 7610. AUDITING OVERSIGHT BOARD.</p> <p>The Sarbanes-Oxley Act of 2002 is amended--</p> <ul style="list-style-type: none"> (1) in section 2(a)(5), by striking `Public Company Accounting Oversight Board' and inserting `Auditing Oversight Board'; (2) in section 101(a), by striking `Public Company Accounting Oversight Board' and inserting `Auditing Oversight Board'; and (3) in the heading of title I, by striking `PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD' and inserting `AUDITING OVERSIGHT BOARD'. 		
<p>PART 7--SENIOR INVESTMENT PROTECTION</p> <p>SEC. 7701. FINDINGS.</p> <p>Congress finds that--</p> <ul style="list-style-type: none"> (1) many seniors are targeted by salespersons and advisers using misleading certifications and professional designations; (2) many certifications and professional designations used by salespersons and advisers represent limited training or expertise, and may in fact be of no value with respect to advising seniors on financial and estate planning matters, and far too often, such designations are obtained simply by attending a weekend seminar and passing an open book, multiple choice test; (3) many seniors have lost their life savings because salespersons and advisers holding a misleading designation have steered them toward products that were unsuitable for them, given their retirement needs and life expectancies; (4) seniors have a right to clearly know whether they are working with a qualified adviser who understands the products and is working in their best interest or a self-interested salesperson or adviser advocating particular products; and (5) many existing State laws and enforcement measures addressing the use of certifications, professional designations, and suitability standards in selling financial products to seniors are inadequate to protect senior investors from salespersons and advisers using such designations. 		
<p>SEC. 7702. DEFINITIONS.</p> <p>For purposes of this part:</p> <ul style="list-style-type: none"> (1) MISLEADING DESIGNATION- The term `misleading designation'-- 	<p>SEC. 989A. SENIOR INVESTOR PROTECTIONS.</p> <p><i>(a) Definitions- As used in this section--</i></p> <ul style="list-style-type: none"> <i>(1) the term `eligible entity' means--</i> <i>(A) a securities commission (or any agency or office</i> 	

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<p>(A) means the use of a purported certification, professional designation, or other credential, that indicates or implies that a salesperson or adviser has special certification or training in advising or servicing seniors; and</p> <p>(B) does not include any legitimate certification, professional designation, license, or other credential, if--</p> <p style="padding-left: 40px;">(i) it has been offered by an academic institution having regional accreditation; or</p> <p style="padding-left: 40px;">(ii) it meets the standards for certifications, licenses, and professional designations outlined by the North American Securities Administrators Association (in this part referred to as the `NASAA') Model Rule on the Use of Senior-Specific Certifications and Professional Designations, as in effect on the date of the enactment of this subtitle, or any successor thereto, or it was issued by or obtained from any State.</p> <p>(2) FINANCIAL PRODUCT- The term `financial product' means securities, insurance products (including insurance products which pay a return, whether fixed or variable), and bank and loan products.</p> <p>(3) MISLEADING OR FRAUDULENT MARKETING- The term `misleading or fraudulent marketing' means the use of a misleading designation when selling to or advising a senior about the sale of a financial product.</p> <p>(4) SENIOR- The term `senior' means any individual who has attained the age of 62 years or more.</p> <p>(5) STATE- The term `State' means each of the 50 States, the District of Columbia, and the unincorporated territories of Puerto Rico and the U.S. Virgin Islands.</p>	<p><i>performing like functions) of a State that the Office determines has adopted rules on the appropriate use of designations in the offer or sale of securities or investment advice that meet or exceed the minimum requirements of the NASAA Model Rule on the Use of Senior-Specific Certifications and Professional Designations (or any successor thereto);</i></p> <p><i>(B) the insurance commission (or any agency or office performing like functions) of any State that the Office determines has--</i></p> <p style="padding-left: 40px;"><i>(i) adopted rules on the appropriate use of designations in the sale of insurance products that, to the extent practicable, conform to the minimum requirements of the National Association of Insurance Commissioners Model Regulation on the Use of Senior-Specific Certifications and Professional Designations in the Sale of Life Insurance and Annuities (or any successor thereto); and</i></p> <p style="padding-left: 40px;"><i>(ii) adopted rules with respect to fiduciary or suitability requirements in the sale of annuities that meet or exceed the minimum requirements established by the Suitability in Annuity Transactions Model Regulation of the National Association of Insurance Commissioners (or any successor thereto); or</i></p> <p><i>(C) a consumer protection agency of any State, if--</i></p> <p style="padding-left: 40px;"><i>(i) the securities commission (or any agency or office performing like functions) of the State is eligible under subparagraph (A); or</i></p> <p style="padding-left: 40px;"><i>(ii) the insurance commission (or any agency or office performing like functions) of the State is eligible under subparagraph (B);</i></p> <p><i>(2) the term `financial product' means a security, an insurance product (including an insurance product that pays a return, whether fixed or variable), a bank product, and a loan product;</i></p> <p><i>(3) the term `misleading designation'--</i></p> <p style="padding-left: 40px;"><i>(A) means a certification, professional designation, or other purported credential that indicates or implies that a salesperson or adviser has special certification or training in advising or servicing seniors; and</i></p> <p style="padding-left: 40px;"><i>(B) does not include a certification, professional designation, license, or other credential that--</i></p>	

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	<p>(i) was issued by or obtained from an academic institution having regional accreditation;</p> <p>(ii) meets the standards for certifications, licenses, and professional designations outlined by the NASAA Model Rule on the Use of Senior-Specific Certifications and Professional Designations in the Sale of Life Insurance and Annuities, adopted by the National Association of Insurance Commissioners (or any successor thereto); or</p> <p>(iii) was issued by or obtained from a State;</p> <p>(4) the term `misleading or fraudulent marketing' means the use of a misleading designation by a person that sells to or advises a senior in connection with the sale of a financial product;</p> <p>(5) the term `NASAA' means the North American Securities Administrators Association;</p> <p>(6) the term `Office' means the Office of Financial Literacy of the Bureau; and</p> <p>(7) the term `senior' means any individual who has attained the age of 62 years or older.</p>	
<p>SEC. 7703. GRANTS TO STATES FOR ENHANCED PROTECTION OF SENIORS FROM BEING MISLED BY FALSE DESIGNATIONS.</p> <p>(a) Grant Program- The Securities and Exchange Commission (in this part referred to as the `Commission')--</p> <p>(1) shall establish a program in accordance with this part to provide grants to States--</p> <p>(A) to investigate and prosecute misleading and fraudulent marketing practices; or</p> <p>(B) to develop educational materials and training aimed at reducing misleading and fraudulent marketing of financial products toward seniors; and</p> <p>(2) may establish such performance objectives, reporting requirements, and application procedures for States and State agencies receiving grants under this part as the Commission determines are necessary to carry out and assess the effectiveness of the program under this part.</p> <p>(b) Use of Grant Amounts- A grant under this part may be used (including through subgrants) by the State or the appropriate State agency designated by the State--</p> <p>(1) to fund additional staff to identify, investigate, and prosecute</p>	<p>(b) Grants to States for Enhanced Protection of Seniors From Being Misled by False Designations- The Office shall establish a program under which the Office may make grants to States or eligible entities--</p> <p>(1) to hire staff to identify, investigate, and prosecute (through civil, administrative, or criminal enforcement actions) cases involving misleading or fraudulent marketing;</p> <p>(2) to fund technology, equipment, and training for regulators, prosecutors, and law enforcement officers, in order to identify salespersons and advisers who target seniors through the use of misleading designations;</p> <p>(3) to fund technology, equipment, and training for prosecutors to increase the successful prosecution of salespersons and advisers who target seniors with the use of misleading designations;</p> <p>(4) to provide educational materials and training to regulators on the appropriateness of the use of designations by salespersons and advisers in connection with the sale and marketing of financial products;</p> <p>(5) to provide educational materials and training to seniors to increase awareness and understanding of misleading or fraudulent marketing;</p>	

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<p>(through civil, administrative, or criminal enforcement actions) cases involving misleading or fraudulent marketing of financial products to seniors;</p> <p>(2) to fund technology, equipment, and training for regulators, prosecutors, and law enforcement in order to identify salespersons and advisers who target seniors through the use of misleading designations;</p> <p>(3) to fund technology, equipment, and training for prosecutors to increase the successful prosecution of those targeting seniors with the use of misleading designations;</p> <p>(4) to provide educational materials and training to regulators on the appropriateness of the use of designations by salespersons and advisers of financial products;</p> <p>(5) to provide educational materials and training to seniors to increase their awareness and understanding of designations; and</p> <p>(6) to develop comprehensive plans to combat misleading or fraudulent marketing of financial products to seniors.</p> <p>(c) Grant Requirements-</p> <p>(1) MAXIMUM- The amount of a grant under this part may not exceed \$1,000,000 per fiscal year per State, if all requirements of paragraphs (2), (3), (4), and (5) are met. Such amount shall be limited to \$250,000 per fiscal year per State in any case in which the State meets the requirements of--</p> <p>(A) paragraphs (2) and (3), but not each of paragraphs (4) and (5); or</p> <p>(B) paragraphs (4) and (5), but not each of paragraphs (2) and (3).</p> <p>(2) STANDARD DESIGNATION RULES FOR SECURITIES- A State shall have adopted rules on the appropriate use of designations in the offer or sale of securities or investment advice, which shall meet or exceed the minimum requirements of the NASAA Model Rule on the Use of Senior-Specific Certifications and Professional Designations, as in effect on the date of the enactment of this subtitle, or any successor thereto.</p> <p>(3) SUITABILITY RULES FOR SECURITIES- A State shall have adopted standard rules on the suitability requirements in the sale of securities, which shall, to the extent practicable, conform to the minimum requirements on suitability imposed by self-regulatory organization rules under the securities laws (as defined in section 3 of the Securities Exchange Act of 1934).</p> <p>(4) APPLICATION OF FIDUCIARY DUTY FOR PERSONALIZED INVESTMENT ADVICE ABOUT SECURITIES- Nothing in this section shall diminish in any</p>	<p>(6) to develop comprehensive plans to combat misleading or fraudulent marketing of financial products to seniors; and</p> <p>(7) to enhance provisions of State law to provide protection for seniors against misleading or fraudulent marketing.</p> <p>(c) Applications- A State or eligible entity desiring a grant under this section shall submit an application to the Office, in such form and in such a manner as the Office may determine, that includes--</p> <p>(1) a proposal for activities to protect seniors from misleading or fraudulent marketing that are proposed to be funded using a grant under this section, including--</p> <p>(A) an identification of the scope of the problem of misleading or fraudulent marketing in the State;</p> <p>(B) a description of how the proposed activities would--</p> <p>(i) protect seniors from misleading or fraudulent marketing in the sale of financial products, including by proactively identifying victims of misleading and fraudulent marketing who are seniors;</p> <p>(ii) assist in the investigation and prosecution of those using misleading or fraudulent marketing; and</p> <p>(iii) discourage and reduce cases of misleading or fraudulent marketing; and</p> <p>(C) a description of how the proposed activities would be coordinated with other State efforts; and</p> <p>(2) any other information, as the Office determines is appropriate.</p> <p>(d) Performance Objectives and Reporting Requirements- The Office may establish such performance objectives and reporting requirements for States and eligible entities receiving a grant under this section as the Office determines are necessary to carry out and assess the effectiveness of the program under this section.</p> <p>(e) Maximum Amount- The amount of a grant under this section may not exceed--</p> <p>(1) \$500,000 for each of 3 consecutive fiscal years, if the recipient is a State, or an eligible entity of a State, that has adopted rules--</p> <p>(A) on the appropriate use of designations in the offer or sale of securities or investment advice that meet or exceed the minimum requirements of the NASAA Model Rule on the Use of Senior-Specific Certifications and Professional Designations (or any successor thereto);</p>	

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<p>manner nor supersede the standard of conduct applicable to all brokers, dealers and investment advisers providing personalized investment advice about securities as set forth in section 7103 of this Act.</p> <p>(5) STANDARD DESIGNATION RULES FOR INSURANCE PRODUCTS- A State shall have adopted standard rules on the appropriate use of designations in the sale of insurance products, which shall meet or exceed minimum requirements of the National Association of Insurance Commissioners Model Regulation on the Use of Senior-Specific Certifications and Professional Designations in the Sale of Life Insurance and Annuities, as in effect on the date of the enactment of this subtitle, or any successor thereto.</p> <p>(6) SUITABILITY AND SUPERVISION RULES FOR ANNUITY PRODUCTS- A State shall have adopted rules that govern suitability requirements in the sale of annuities which shall meet or exceed the minimum requirements established by the National Association of Insurance Commissioners Suitability in Annuity Transactions Model Regulation in effect on the date of the enactment of this Act, or any successor thereto.</p> <p>SEC. 7704. APPLICATIONS.</p> <p>To be eligible for a grant under this part, the State or appropriate State agency shall submit to the Commission a proposal to use the grant money to protect seniors from misleading or fraudulent marketing techniques in the offer and sale of financial products, which application shall--</p> <p>(1) identify the scope of the problem;</p> <p>(2) describe how the proposed program will help to protect seniors from misleading or fraudulent marketing in the sale of financial products, including, at a minimum--</p> <p>(A) by proactively identifying seniors who are victims of misleading and fraudulent marketing in the offer and sale of financial products;</p> <p>(B) how the proposed program can assist in the investigation and prosecution of those using misleading or fraudulent marketing in the offer and sale of financial products to seniors; and</p> <p>(C) how the proposed program can help discourage and reduce future cases of misleading or fraudulent marketing in the offer and sale of financial products to</p>	<p><i>(B) on the appropriate use of designations in the sale of insurance products that, to the extent practicable, conform to the minimum requirements of the National Association of Insurance Commissioners Model Regulation on the Use of Senior-Specific Certifications and Professional Designations in the Sale of Life Insurance and Annuities (or any successor thereto); and</i></p> <p><i>(C) with respect to fiduciary or suitability requirements in the sale of annuities that meet or exceed the minimum requirements established by the Suitability in Annuity Transactions Model Regulation of the National Association of Insurance Commissioners (or any successor thereto); and</i></p> <p><i>(2) \$100,000 for each of 3 consecutive fiscal years, if the recipient is a State, or an eligible entity of a State, that has adopted--</i></p> <p><i>(A) rules on the appropriate use of designations in the offer or sale of securities or investment advice that meet or exceed the minimum requirements of the NASAA Model Rule on the Use of Senior-Specific Certifications and Professional Designations (or any successor thereto); or</i></p> <p><i>(B) rules--</i></p> <p><i>(i) on the appropriate use of designations in the sale of insurance products that, to the extent practicable, conform to the minimum requirements of the National Association of Insurance Commissioners Model Regulation on the Use of Senior-Specific Certifications and Professional Designations in the Sale of Life Insurance and Annuities (or any successor thereto); and</i></p> <p><i>(ii) with respect to fiduciary or suitability requirements in the sale of annuities that meet or exceed the minimum requirements established by the Suitability in Annuity Transactions Model Regulation of the National Association of Insurance Commissioners (or any successor thereto).</i></p> <p><i>(f) Subgrants- A State or eligible entity that receives a grant under this section may make a subgrant, as the State or eligible entity determines is necessary to carry out the activities funded using a grant under this</i></p>	

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<p>seniors; and (3) describe how the proposed program is to be integrated with other existing State efforts.</p> <p>SEC. 7705. LENGTH OF PARTICIPATION.</p> <p>A State receiving a grant under this part shall be provided assistance funds for a period of 3 years, after which the State may reapply for additional funding.</p>	<p><i>section.</i> <i>(g) Reapplication- A State or eligible entity that receives a grant under this section may reapply for a grant under this section, notwithstanding the limitations on grant amounts under subsection (e).</i></p>	
<p>SEC. 7706. AUTHORIZATION OF APPROPRIATIONS.</p> <p>There are authorized to be appropriated to carry out this part, \$16,000,000 for each of the fiscal years 2011 through 2015.</p>	<p><i>(h) Authorization of Appropriations- There are authorized to be appropriated to carry out this section, \$8,000,000 for each of fiscal years 2011 through 2015.</i></p>	
<p>PART 8--REGISTRATION OF MUNICIPAL FINANCIAL ADVISORS</p> <p>SEC. 7801. MUNICIPAL FINANCIAL ADVISER REGISTRATION REQUIREMENT.</p> <p>(a) In General- The Securities Exchange Act of 1934 (as amended by section 3204) is amended by inserting after section 15F (15 U.S.C. 78o-7) the following new section:</p>		
<p>SEC. 15G. MUNICIPAL FINANCIAL ADVISER REGISTRATION REQUIREMENT.</p> <p>(a)(1)(A) It shall be unlawful for any person to make use of the mails or any means or instrumentality of interstate commerce to act as a municipal financial adviser unless such person is registered as a municipal financial adviser in accordance with subsection (b).</p> <p>(B) Subparagraph (A) shall not apply to a natural person associated with a municipal financial adviser, as long as such adviser is registered in accordance with subsection (b) and is not a natural person.</p> <p>(2) The Commission, by rule or order, as it deems consistent with the public interest and the protection of investors, may conditionally or unconditionally exempt from paragraph (1) of this section any municipal financial adviser or class of municipal financial advisers specified in such rule or order.</p> <p>(b)(1) A municipal financial adviser may be registered by filing with the Commission an application for registration in such form and containing such information and documents concerning such municipal financial</p>		

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<p>adviser and any persons associated with such municipal financial adviser as the Commission, by rule, may prescribe as necessary or appropriate in the public interest or for the protection of investors. Within 45 days of the date of the filing of such application (or within such longer period as to which the applicant consents), the Commission shall--</p> <p>^(A) by order grant registration; or</p> <p>^(B) institute proceedings to determine whether registration should be denied. Such proceedings shall include notice of the grounds for denial under consideration and opportunity for hearing and shall be concluded within 120 days of the date of the filing of the application for registration. At the conclusion of such proceedings, the Commission, by order, shall grant or deny such registration. The Commission may extend the time for conclusion of such proceedings for up to 90 days if it finds good cause for such extension and publishes its reasons for so finding, or for such longer period as to which the applicant consents.</p> <p>The Commission shall grant such registration if the Commission finds that the requirements of this section are satisfied. The Commission shall deny such registration if it does not make such a finding or if it finds that if the applicant were so registered, its registration would be subject to suspension or revocation under paragraph (4).</p>		
<p>^(2) An application for registration of a municipal financial adviser to be formed or organized may be made by a municipal financial adviser to which the municipal financial adviser to be formed or organized is to be the successor. Such application, in such form as the Commission, by rule, may prescribe, shall contain such information and documents concerning the applicant, the successor, and any persons associated with the applicant or the successor, as the Commission, by rule, may prescribe as necessary or appropriate in the public interest or for the protection of investors. The grant or denial of registration to such an applicant shall be in accordance with the procedures set forth in paragraph (1) of this subsection. If the Commission grants such registration, the registration shall terminate on the 45th day after the effective date thereof, unless prior thereto the successor shall, in accordance with such rules and regulations as the Commission may prescribe, adopt the application for registration as its own.</p> <p>^(3) Any provision of this title (other than section 5 and subsection (a) of this section) which prohibits any act, practice, or course of business if the mails or any means or instrumentality of interstate commerce is used in connection therewith shall also prohibit any such act, practice, or course of business by any registered municipal financial adviser or any person acting on behalf of such a municipal financial adviser, irrespective of any</p>		

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<p>use of the mails or any means or instrumentality of interstate commerce in connection therewith.</p> <p>`(4) The Commission, by order, shall censure, place limitations on the activities, functions, or operations of, suspend for a period not exceeding 12 months, or revoke the registration of any municipal financial adviser if it finds, on the record after notice and opportunity for hearing, that such censure, placing of limitations, suspension, or revocation is in the public interest and that such municipal financial adviser, whether prior or subsequent to becoming such, or any person associated with such municipal financial adviser, whether prior or subsequent to becoming so associated--</p>		
<p>`(A) has willfully made or caused to be made in any application for registration or report required to be filed with the Commission or with any other appropriate regulatory agency under this title, or in any proceeding before the Commission with respect to registration, any statement which was at the time and in the light of the circumstances under which it was made false or misleading with respect to any material fact, or has omitted to state in any such application or report any material fact which is required to be stated therein;</p> <p>`(B) has been convicted within 10 years preceding the filing of any application for registration or at any time thereafter of any felony or misdemeanor or of a substantially equivalent crime by a foreign court of competent jurisdiction which the Commission finds--</p> <p> `(i) involves the purchase or sale of any security, the taking of a false oath, the making of a false report, bribery, perjury, burglary, any substantially equivalent activity however denominated by the laws of the relevant foreign government, or conspiracy to commit any such offense;</p> <p> `(ii) arises out of the conduct of the business of a municipal financial adviser, broker, dealer, municipal securities dealer, government securities broker, government securities dealer, investment adviser, bank, insurance company, fiduciary, transfer agent, nationally recognized statistical rating organization, foreign person performing a function substantially equivalent to any of the above, or entity or person required to be registered under the Commodity Exchange Act (7 U.S.C. 1 et seq.) or any substantially equivalent foreign statute or regulation;</p> <p> `(iii) involves the larceny, theft, robbery, extortion,</p>		

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<p>forgery, counterfeiting, fraudulent concealment, embezzlement, fraudulent conversion, or misappropriation of funds, or securities, or substantially equivalent activity however denominated by the laws of the relevant foreign government; or (iv) involves the violation of section 152, 1341, 1342, or 1343 or chapter 25 or 47 of title 18, United States Code, or a violation of a substantially equivalent foreign statute;</p>		
<p>(C) is permanently or temporarily enjoined by order, judgment, or decree of any court of competent jurisdiction from acting as a municipal financial adviser, investment adviser, underwriter, broker, dealer, municipal securities dealer, government securities broker, government securities dealer, transfer agent, nationally recognized statistical rating organization, foreign person performing a function substantially equivalent to any of the above, or entity or person required to be registered under the Commodity Exchange Act or any substantially equivalent foreign statute or regulation, or as an affiliated person or employee of any investment company, bank, insurance company, foreign entity substantially equivalent to any of the above, or entity or person required to be registered under the Commodity Exchange Act or any substantially equivalent foreign statute or regulation or from engaging in or continuing any conduct or practice in connection with any such activity, or in connection with the purchase or sale of any security; (D) has willfully violated any provision of the Securities Act of 1933, the Investment Advisers Act of 1940, the Investment Company Act of 1940, the Commodity Exchange Act, this title, the rules or regulations under any of such statutes, or the rules of the Municipal Securities Rulemaking Board, or is unable to comply with any such provision; (E) has willfully aided, abetted, counseled, commanded, induced, or procured the violation by any other person of any provision of the Securities Act of 1933, the Investment Advisers Act of 1940, the Investment Company Act of 1940, the Commodity Exchange Act, this title, the rules or regulations under any of such statutes, or the rules of the Municipal Securities Rulemaking Board, or has failed reasonably to supervise, with a view to preventing violations of the provisions of such statutes, rules, and regulations, another person who commits such a violation, if such other person is subject to his supervision. For the purposes of this subparagraph, no person</p>		

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<p>shall be deemed to have failed reasonably to supervise any other person, if--</p> <ul style="list-style-type: none"> `(i) there have been established procedures, and a system for applying such procedures, which would reasonably be expected to prevent and detect, insofar as practicable, any such violation by such other person; and `(ii) such person has reasonably discharged the duties and obligations incumbent upon him by reason of such procedures and system without reasonable cause to believe that such procedures and system were not being complied with; 		
<ul style="list-style-type: none"> `(F) is subject to any order of the Commission barring or suspending the right of the person to be associated with a municipal financial adviser; `(G) has been found by a foreign financial regulatory authority to have-- <ul style="list-style-type: none"> `(i) made or caused to be made in any application for registration or report required to be filed with a foreign financial regulatory authority, or in any proceeding before a foreign financial regulatory authority with respect to registration, any statement that was at the time and in the light of the circumstances under which it was made false or misleading with respect to any material fact, or has omitted to state in any application or report to the foreign financial regulatory authority any material fact that is required to be stated therein; `(ii) violated any foreign statute or regulation regarding transactions in securities, or contracts of sale of a commodity for future delivery, traded on or subject to the rules of a contract market or any board of trade; or `(iii) aided, abetted, counseled, commanded, induced, or procured the violation by any person of any provision of any statutory provisions enacted by a foreign government, or rules or regulations thereunder, empowering a foreign financial regulatory authority regarding transactions in securities, or contracts of sale of a commodity for future delivery, traded on or subject to the rules of a contract market or any board of trade, or has been found, by a foreign financial regulatory authority, to have failed reasonably to supervise, with a view to preventing violations of such statutory provisions, rules, and regulations, another 		

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<p>person who commits such a violation, if such other person is subject to his supervision; or</p> <p>“(H) is subject to any final order of a State securities commission (or any agency or officer performing like functions), State authority that supervises or examines banks, savings associations, or credit unions, State insurance commission (or any agency or office performing like functions), an appropriate Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813(q))), or the National Credit Union Administration, that--</p> <p>“(i) bars such person from association with an entity regulated by such commission, authority, agency, or officer, or from engaging in the business of securities, insurance, banking, savings association activities, or credit union activities; or</p> <p>“(ii) constitutes a final order based on violations of any laws or regulations that prohibit fraudulent, manipulative, or deceptive conduct.</p>		
<p>“(5) Pending final determination whether any registration under this subsection shall be revoked, the Commission, by order, may suspend such registration, if such suspension appears to the Commission, after notice and opportunity for hearing, to be necessary or appropriate in the public interest or for the protection of investors. Any registered municipal financial adviser may, upon such terms and conditions as the Commission deems necessary or appropriate in the public interest or for the protection of investors, withdraw from registration by filing a written notice of withdrawal with the Commission. If the Commission finds that any registered municipal financial adviser is no longer in existence or has ceased to do business as a municipal financial adviser, the Commission, by order, shall cancel the registration of such municipal financial adviser.</p> <p>“(6)(A) With respect to any person who is associated, who is seeking to become associated, or, at the time of the alleged misconduct, who was associated or was seeking to become associated with a municipal financial adviser, the Commission, by order, shall censure, place limitations on the activities or functions of such person, or suspend for a period not exceeding 12 months, or bar such person from being associated with a broker, dealer, investment adviser, municipal securities dealer, transfer agent, nationally recognized statistical rating organization, or municipal financial adviser, if the Commission finds, on the record after notice and opportunity for a hearing, that such censure, placing of limitations, suspension, or bar is in the public interest and that such person--</p> <p>“(i) has committed or omitted any act, or is subject to an order or</p>		

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<p>finding, enumerated in subparagraph (A), (D), (E), (G), or (H) of paragraph (4) of this subsection;</p> <p>“(ii) has been convicted of any offense specified in subparagraph (B) of such paragraph (4) within 10 years of the commencement of the proceedings under this paragraph; or</p> <p>“(iii) is enjoined from any action, conduct, or practice specified in subparagraph (C) of such paragraph (4).</p> <p>“(B) It shall be unlawful--</p> <p>“(i) for any person as to whom an order under subparagraph (A) is in effect, without the consent of the Commission, willfully to become, or to be, associated with a municipal financial adviser in contravention of such order; or</p> <p>“(ii) for any municipal financial adviser to permit such a person, without the consent of the Commission, to become or remain, a person associated with the municipal financial adviser in contravention of such order, if such municipal financial adviser knew, or in the exercise of reasonable care should have known, of such order.</p>		
<p>“(7) No registered municipal financial adviser shall act as such unless it meets such standards of operational capability and such municipal financial adviser and all natural persons associated with such municipal financial adviser meet such standards of training, experience, competence, and such other qualifications as the Commission finds necessary or appropriate in the public interest or for the protection of investors. The Commission shall establish such standards by rules and regulations, which may--</p> <p>“(A) specify that all or any portion of such standards shall be applicable to any class of municipal financial advisers and persons associated with municipal financial advisers;</p> <p>“(B) require persons in any such class to pass tests prescribed in accordance with such rules and regulations, which tests shall, with respect to any class of partners, officers, or supervisory employees (which latter term may be defined by the Commission's rules and regulations) engaged in the management of the municipal financial adviser, include questions relating to bookkeeping, accounting, supervision of employees, maintenance of records, and other appropriate matters; and</p> <p>“(C) provide that persons in any such class other than municipal financial advisers and partners, officers, and supervisory employees of municipal financial advisers, may be qualified solely on the basis of compliance with such standards of training and such other qualifications as the Commission finds</p>		

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<p>appropriate. The Commission, by rule, may prescribe reasonable fees and charges to defray its costs in carrying out this paragraph, including, but not limited to, fees for any test administered by it or under its direction.</p>		
<p>^(c)(1)(A) No municipal financial adviser shall make use of the mails or any means or instrumentality of interstate commerce in connection with which such municipal financial adviser engages in any fraudulent, deceptive, or manipulative act or practice or violates such rules and regulations regarding conflicts of interest or fair practices, including but not limited to rules and regulations related to political contributions, as the Commission shall prescribe in the public interest or for the protection of investors or to maintain fair and orderly markets.</p> <p>^(B) The Commission shall, for the purposes of this paragraph as the Commission finds necessary or appropriate in the public interest or for the protection of investors, by rules and regulations define, and prescribe means reasonably designed to prevent, such acts and practices as are fraudulent, deceptive, or manipulative.</p> <p>^(2) If the Commission finds, after notice and opportunity for a hearing, that any person subject to the provisions of this section or any rule or regulation thereunder has failed to comply with any such provision, rule, or regulation in any material respect, the Commission may publish its findings and issue an order requiring such person, and any person who was a cause of the failure to comply due to an act or omission the person knew or should have known would contribute to the failure to comply, to comply, or to take steps to effect compliance, with such provision or such rule or regulation thereunder upon such terms and conditions and within such time as the Commission may specify in such order.</p> <p>^(d) Every registered municipal financial adviser shall establish, maintain, and enforce written policies and procedures reasonably designed, taking into consideration the nature of such municipal financial adviser's business, to prevent the misuse in violation of this title, or the rules or regulations thereunder, of material, nonpublic information by such municipal financial adviser or any person associated with such municipal financial adviser. The Commission, as it deems necessary or appropriate in the public interest or for the protection of investors, shall adopt rules or regulations to require specific policies or procedures reasonably designed to prevent misuse in violation of this title (or the rules or regulations thereunder) of material, nonpublic information.</p> <p>^(e) A municipal financial adviser and any person associated with such municipal financial adviser shall be deemed to have a fiduciary duty to any municipal securities issuer for whom such municipal financial adviser acts as a municipal financial adviser. A municipal financial adviser may not engage in any act, practice, or course of business which</p>		

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<p>is not consistent with a municipal financial adviser's fiduciary duty. The Commission shall, for the purposes of this paragraph, by rules and regulations define, and prescribe means reasonably designed to prevent, such acts, practices, and courses of business as are not consistent with a municipal financial adviser's fiduciary duty to its clients.'</p> <p>(b) Definition- Section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)) (as amended by section 3201(6)) is amended by adding at the end the following new paragraphs:</p>		
<p> (78) MUNICIPAL FINANCIAL ADVISER-</p> <p> (A) The term `municipal financial adviser' means a person who, for compensation, engages in the business of--</p> <p> (i) providing advice to a municipal securities issuer with respect to--</p> <p> (I) the issuance or proposed issuance of securities, including any remarketing of municipal securities directly or indirectly by or on behalf of a municipal securities issuer;</p> <p> (II) the investment of proceeds from securities issued by such municipal securities issuer;</p> <p> (III) the hedging of any risks associated with subclause (I) or (II), including advice as to swap agreements (as defined in section 206A of the Gramm-Leach-Bliley Act regardless of whether the counterparties constitute eligible contract participants); or</p> <p> (IV) preparation of disclosure documents in connection with the issuance, proposed issuance, or previous issuance of securities issued by a municipal securities issuer, including, without limitation, official statements and documents prepared in connection with a written agreement or contract for the benefit of holders of such securities described in section 240.15c2-12 of title 17, Code of Federal Regulations;</p> <p> (ii) assisting a municipal securities issuer in</p>		

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<p>selecting or negotiating guaranteed investment contracts or other investment products; or ` (iii) assisting any municipal securities issuer in the primary offering of securities not involving a public offering.</p> <p>` (B) Such term does not include--</p> <ul style="list-style-type: none"> ` (i) an attorney, if the attorney is offering advice or providing services that are of a traditional legal nature; ` (ii) a nationally recognized statistical rating organization to the extent it is involved in the process of developing credit ratings; ` (iii) a registered broker-dealer when acting as an underwriter, as such term is defined in section 2(a)(11) of the Securities Act of 1933 (15 U.S.C. 77b(a)(11)); ` (iv) a State or any political subdivision thereof; or ` (v) the independent accountant that audits the financial statements of the municipal securities issuer. 		
<p>` (79) MUNICIPAL SECURITIES ISSUER- The term `municipal securities issuer' means--</p> <ul style="list-style-type: none"> ` (A) any entity that has the ability to issue a security the interest on which is excludable from gross income under section 103 of the Internal Revenue Code of 1986 and the regulations thereunder; or ` (B) any person who receives the proceeds generated from the issuance of municipal securities. <p>` (80) PERSON ASSOCIATED WITH A MUNICIPAL FINANCIAL ADVISER; ASSOCIATED PERSON OF A MUNICIPAL FINANCIAL ADVISER- The term `person associated with a municipal financial adviser' or `associated person of a municipal financial adviser' means any partner, officer, director, or branch manager of such municipal financial adviser (or any person occupying a similar status or performing similar functions), any person directly or indirectly controlling, controlled by, or under common control with such municipal financial adviser, or any employee of such municipal financial adviser, except that any person associated with a municipal financial adviser whose functions are solely clerical or ministerial shall not be included in the meaning of such term for purposes of section 15G(b) (other than paragraph (6) thereof).'</p>		

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<p>SEC. 7802. CONFORMING AMENDMENTS.</p> <p>(a) Securities Exchange Act of 1934 - The Securities Exchange Act of 1934 is amended--</p> <p>(1) in section 15(b)(4)(B)(ii) (15 U.S.C. 78o(b)(4)(B)(ii)), by inserting `municipal finance adviser,' after `nationally recognized statistical rating organization,';</p> <p>(2) in section 15(b)(4)(C) (15 U.S.C. 78o(b)(4)(C)), by inserting `municipal finance adviser,' after `nationally recognized statistical rating organization,'; and</p> <p>(3) in section 17(a)(1) (15 U.S.C. 78q(a)(1)), by inserting `registered municipal financial adviser,' after `nationally recognized statistical rating organization,'.</p> <p>(b) Investment Company Act of 1940- The Investment Company Act of 1940 is amended--</p> <p>(1) in section 2(a) (15 U.S.C. 80a-2(a)), by inserting at the end the following new paragraph: `54) The term `municipal finance adviser' has the same meaning as in section 3 of the Securities Exchange Act of 1934.';</p> <p>(2) in section 9(a)(1) (15 U.S.C. 80a-9(a)(1)), by inserting `municipal finance adviser,' after `credit rating agency,'; and</p> <p>(3) in section 9(a)(2) (15 U.S.C. 80a-9(a)(2)), by inserting `municipal finance adviser,' after `credit rating agency,'.</p> <p>(c) Investment Advisers Act of 1940- The Investment Advisers Act of 1940 is amended--</p> <p>(1) in section 202(a) (15 U.S.C. 80b-2(a)), by inserting at the end the following new paragraph: `31) The term `municipal finance adviser' has the same meaning as in section 3 of the Securities Exchange Act of 1934.';</p> <p>(2) in section 203(e)(2)(B) (15 U.S.C. 80b-3(e)(2)(B)), by inserting `municipal finance adviser,' after `credit rating agency,'; and</p> <p>(3) in section 203(e)(4) (15 U.S.C. 80b-3(e)(4)) is amended by inserting `municipal finance adviser,' after `credit rating agency,'.</p>		
<p>SEC. 7803. EFFECTIVE DATES.</p> <p>(a) In General- The amendments made by this part shall take effect 30 days after the date of the enactment of this subtitle.</p> <p>(b) Effective Date and Requirements for Regulations- Notwithstanding</p>		

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<p>subsection (a), the Securities and Exchange Commission shall, within 120 days after the date of the enactment of this subtitle, publish for notice and public comment such regulations as are initially required to implement this part, and shall take final action with respect to such regulations not later than 270 days after the date of enactment of this subtitle.</p> <p>(c) Registration Date- No person may continue to act as a municipal financial adviser, as such term is defined in section 3(a)(65) of the Securities Exchange Act of 1934 (as added by this part), after 30 days after the date the regulations described in subsection (b) become effective unless such person has been registered as required by the amendment made by section 7701 of this part.</p>		