

# Union Calendar No. 331

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

# H. R. 3641

[Report No. 116-410]

To enhance civil penalties under the Federal securities laws, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

JULY 9, 2019

Ms. PORTER introduced the following bill; which was referred to the  
Committee on Financial Services

FEBRUARY 27, 2020

Reported with an amendment; committed to the Committee of the Whole  
House on the State of the Union and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on July 9, 2019]

# **A BILL**

To enhance civil penalties under the Federal securities laws,  
and for other purposes.

1        *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4        *This Act may be cited as the “Stronger Enforcement*  
5 *of Civil Penalties Act of 2019”.*

6 **SEC. 2. UPDATED CIVIL MONEY PENALTIES FOR SECURI-**  
7 **TIES LAWS VIOLATIONS.**

8        *(a) SECURITIES ACT OF 1933.—*

9                *(1) MONEY PENALTIES IN ADMINISTRATIVE AC-*  
10 *TIONS.—Section 8A(g)(2) of the Securities Act of*  
11 *1933 (15 U.S.C. 77h–1(g)(2)) is amended—*

12                        *(A) in subparagraph (A)—*

13                                *(i) by striking “\$7,500” and inserting*  
14 *“\$10,000”; and*

15                                *(ii) by striking “\$75,000” and insert-*  
16 *ing “\$100,000”;*

17                        *(B) in subparagraph (B)—*

18                                *(i) by striking “\$75,000” and inserting*  
19 *“\$100,000”; and*

20                                *(ii) by striking “\$375,000” and insert-*  
21 *ing “\$500,000”; and*

22                        *(C) by striking subparagraph (C) and in-*  
23 *serting the following:*

24                                *“(C) THIRD TIER.—*

1           “(i) *IN GENERAL.*—Notwithstanding  
2           subparagraphs (A) and (B), for a third tier  
3           act or omission, the amount of penalty for  
4           each such act or omission shall not exceed  
5           the greater of—

6                     “(I) \$1,000,000 for a natural per-  
7                     son or \$10,000,000 for any other per-  
8                     son;

9                     “(II) 3 times the gross amount of  
10                    pecuniary gain to the person who com-  
11                    mitted the act or omission; or

12                    “(III) the amount of losses in-  
13                    curred by victims as a result of the act  
14                    or omission.

15           “(ii) *THIRD TIER ACT OR OMISSION.*—  
16           For the purposes of this subparagraph, the  
17           term ‘third tier act or omission’ means an  
18           act or omission described in paragraph (1)  
19           that—

20                    “(I) involved fraud, deceit, ma-  
21                    nipulation, or deliberate or reckless  
22                    disregard of a regulatory requirement;  
23                    and

24                    “(II) directly or indirectly—

1                   “(aa) resulted in substantial  
2                   losses to other persons;

3                   “(bb) created a significant  
4                   risk of substantial losses to other  
5                   persons; or

6                   “(cc) resulted in substantial  
7                   pecuniary gain to the person who  
8                   committed the act or omission.”.

9                   (2) *MONEY PENALTIES IN CIVIL ACTIONS.*—*Sec-*  
10                   *tion 20(d)(2) of the Securities Act of 1933 (15 U.S.C.*  
11                   *77t(d)(2)) is amended—*

12                   (A) *in subparagraph (A)—*

13                   (i) *by striking “\$5,000” and inserting*  
14                   *“\$10,000”; and*

15                   (ii) *by striking “\$50,000” and insert-*  
16                   *ing “\$100,000”;*

17                   (B) *in subparagraph (B)—*

18                   (i) *by striking “\$50,000” and inserting*  
19                   *“\$100,000”; and*

20                   (ii) *by striking “\$250,000” and insert-*  
21                   *ing “\$500,000”; and*

22                   (C) *by striking subparagraph (C) and in-*  
23                   *serting the following:*

24                   “(C) *THIRD TIER.*—

1           “(i) *IN GENERAL.*—*Notwithstanding*  
2           *subparagraphs (A) and (B), for a third tier*  
3           *violation, the amount of penalty for each*  
4           *violation shall not exceed the greater of—*

5                     “(I) *\$1,000,000 for a natural per-*  
6                     *son or \$10,000,000 for any other per-*  
7                     *son;*

8                     “(II) *3 times the gross amount of*  
9                     *pecuniary gain to the person who com-*  
10                    *mitted the violation; or*

11                    “(III) *the amount of losses in-*  
12                    *curring by victims as a result of the vio-*  
13                    *lation.*

14           “(ii) *THIRD TIER VIOLATION.*—*For the*  
15           *purposes of this subparagraph, the term*  
16           *‘third tier violation’ means a violation de-*  
17           *scribed in paragraph (1) that—*

18                    “(I) *involved fraud, deceit, ma-*  
19                    *nipulation, or deliberate or reckless*  
20                    *disregard of a regulatory requirement;*  
21                    *and*

22                    “(II) *directly or indirectly—*

23                             “(aa) *resulted in substantial*  
24                             *losses to other persons;*

1                   “(bb) created a significant  
2                   risk of substantial losses to other  
3                   persons; or

4                   “(cc) resulted in substantial  
5                   pecuniary gain to the person who  
6                   committed the violation.”.

7           (b) *SECURITIES EXCHANGE ACT OF 1934.*—

8                   (1) *MONEY PENALTIES IN CIVIL ACTIONS.*—*Sec-*  
9                   *tion 21(d)(3)(B) of the Securities Exchange Act of*  
10                   *1934 (15 U.S.C. 78u(d)(3)(B)) is amended—*

11                   (A) *in clause (i)—*

12                           (i) *by striking “\$5,000” and inserting*  
13                           *“\$10,000”; and*

14                           (ii) *by striking “\$50,000” and insert-*  
15                           *ing “\$100,000”;*

16                   (B) *in clause (ii)—*

17                           (i) *by striking “\$50,000” and inserting*  
18                           *“\$100,000”; and*

19                           (ii) *by striking “\$250,000” and insert-*  
20                           *ing “\$500,000”; and*

21                   (C) *by striking clause (iii) and inserting*

22                   *the following:*

23                           “(iii) *THIRD TIER.*—

24                                   “(I) *IN GENERAL.*—*Notwith-*  
25                                   *standing clauses (i) and (ii), for a*

1 *third tier violation, the amount of pen-*  
2 *alty for each such violation shall not*  
3 *exceed the greater of—*

4 *“(aa) \$1,000,000 for a nat-*  
5 *ural person or \$10,000,000 for*  
6 *any other person;*

7 *“(bb) 3 times the gross*  
8 *amount of pecuniary gain to the*  
9 *person who committed the viola-*  
10 *tion; or*

11 *“(cc) the amount of losses in-*  
12 *curring by victims as a result of*  
13 *the violation.*

14 *“(II) THIRD TIER VIOLATION.—*  
15 *For the purposes of this clause, the*  
16 *term ‘third tier violation’ means a vio-*  
17 *lation described in subparagraph (A)*  
18 *that—*

19 *“(aa) involved fraud, deceit,*  
20 *manipulation, or deliberate or*  
21 *reckless disregard of a regulatory*  
22 *requirement; and*

23 *“(bb) directly or indirectly—*



1                   “(AA) resulted in sub-  
2                   stantial losses to other per-  
3                   sons;

4                   “(BB) created a signifi-  
5                   cant risk of substantial losses  
6                   to other persons; or

7                   “(CC) resulted in sub-  
8                   stantial pecuniary gain to  
9                   the person who committed the  
10                  violation.”.

11                  (2) *MONEY PENALTIES IN ADMINISTRATIVE AC-*  
12                  *TIONS.—Section 21B(b) of the Securities Exchange*  
13                  *Act of 1934 (15 U.S.C. 78u–2(b)) is amended—*

14                   (A) *in paragraph (1)—*

15                   (i) *by striking “\$5,000” and inserting*  
16                   *“\$10,000”; and*

17                   (ii) *by striking “\$50,000” and insert-*  
18                   *ing “\$100,000”;*

19                   (B) *in paragraph (2)—*

20                   (i) *by striking “\$50,000” and inserting*  
21                   *“\$100,000”; and*

22                   (ii) *by striking “\$250,000” and insert-*  
23                   *ing “\$500,000”; and*

24                   (C) *by striking paragraph (3) and inserting*  
25                  *the following:*

1           “(3) *THIRD TIER.*—

2                   “(A) *IN GENERAL.*—*Notwithstanding para-*  
3 *graphs (1) and (2), for a third tier act or omis-*  
4 *sion, the amount of penalty for each such act or*  
5 *omission shall not exceed the greater of—*

6                           “(i) \$1,000,000 for a natural person or  
7 \$10,000,000 for any other person;

8                           “(ii) 3 times the gross amount of pecu-  
9 niary gain to the person who committed the  
10 act or omission; or

11                           “(iii) the amount of losses incurred by  
12 victims as a result of the act or omission.

13                   “(B) *THIRD TIER ACT OR OMISSION.*—*For*  
14 *the purposes of this paragraph, the term ‘third*  
15 *tier act or omission’ means an act or omission*  
16 *described in paragraph (1) that—*

17                           “(i) involved fraud, deceit, manipula-  
18 tion, or deliberate or reckless disregard of a  
19 regulatory requirement; and

20                           “(ii) directly or indirectly—

21                                   “(I) resulted in substantial losses  
22 to other persons;

23                                   “(II) created a significant risk of  
24 substantial losses to other persons; or

1                   “(III) resulted in substantial pe-  
2                   cuniary gain to the person who com-  
3                   mitted the act or omission.”.

4           (c) INVESTMENT COMPANY ACT OF 1940.—

5                   (1) MONEY PENALTIES IN ADMINISTRATIVE AC-  
6                   TIONS.—Section 9(d)(2) of the Investment Company  
7                   Act of 1940 (15 U.S.C. 80a–9(d)(2)) is amended—

8                           (A) in subparagraph (A)—

9                                   (i) by striking “\$5,000” and inserting  
10                                   “\$10,000”; and

11                                   (ii) by striking “\$50,000” and insert-  
12                                   ing “\$100,000”;

13                           (B) in subparagraph (B)—

14                                   (i) by striking “\$50,000” and inserting  
15                                   “\$100,000”; and

16                                   (ii) by striking “\$250,000” and insert-  
17                                   ing “\$500,000”; and

18                           (C) by striking subparagraph (C) and in-  
19                   serting the following:

20                           “(C) THIRD TIER.—

21                                   “(i) IN GENERAL.—Notwithstanding  
22                                   subparagraphs (A) and (B), for a third tier  
23                                   act or omission, the amount of penalty for  
24                                   each such act or omission shall not exceed  
25                                   the greater of—

1                   “(I) \$1,000,000 for a natural per-  
2                   son or \$10,000,000 for any other per-  
3                   son;

4                   “(II) 3 times the gross amount of  
5                   pecuniary gain to the person who com-  
6                   mitted the act or omission; or

7                   “(III) the amount of losses in-  
8                   curred by victims as a result of the act  
9                   or omission.

10                  “(i) *THIRD TIER ACT OR OMISSION.*—  
11                  For the purposes of this subparagraph, the  
12                  term ‘third tier act or omission’ means an  
13                  act or omission described in paragraph (1)  
14                  that—

15                         “(I) involved fraud, deceit, ma-  
16                         nipulation, or deliberate or reckless  
17                         disregard of a regulatory requirement;  
18                         and

19                         “(II) directly or indirectly—

20                                 “(aa) resulted in substantial  
21                                 losses to other persons;

22                                 “(bb) created a significant  
23                                 risk of substantial losses to other  
24                                 persons; or

1                   “(cc) resulted in substantial  
2                   pecuniary gain to the person who  
3                   committed the act or omission.”.

4                   (2) *MONEY PENALTIES IN CIVIL ACTIONS.*—*Sec-*  
5                   *tion 42(e)(2) of the Investment Company Act of 1940*  
6                   *(15 U.S.C. 80a-41(e)(2)) is amended—*

7                   (A) *in subparagraph (A)—*

8                   (i) *by striking “\$5,000” and inserting*  
9                   *“\$10,000”; and*

10                   (ii) *by striking “\$50,000” and insert-*  
11                   *ing “\$100,000”;*

12                   (B) *in subparagraph (B)—*

13                   (i) *by striking “\$50,000” and inserting*  
14                   *“\$100,000”; and*

15                   (ii) *by striking “\$250,000” and insert-*  
16                   *ing “\$500,000”; and*

17                   (C) *by striking subparagraph (C) and in-*  
18                   *serting the following:*

19                   “(C) *THIRD TIER.*—

20                   “(i) *IN GENERAL.*—*Notwithstanding*  
21                   *subparagraphs (A) and (B), for a third tier*  
22                   *violation, the amount of penalty for each*  
23                   *such violation shall not exceed the greater*  
24                   *of—*

1                   “(I) \$1,000,000 for a natural per-  
2                   son or \$10,000,000 for any other per-  
3                   son;

4                   “(II) 3 times the gross amount of  
5                   pecuniary gain to the person who com-  
6                   mitted the violation; or

7                   “(III) the amount of losses in-  
8                   curred by victims as a result of the vio-  
9                   lation.

10                  “(i) *THIRD TIER VIOLATION.*—For the  
11                  purposes of this subparagraph, the term  
12                  ‘third tier violation’ means a violation de-  
13                  scribed in paragraph (1) that—

14                         “(I) involved fraud, deceit, ma-  
15                         nipulation, or deliberate or reckless  
16                         disregard of a regulatory requirement;  
17                         and

18                         “(II) directly or indirectly—

19                                 “(aa) resulted in substantial  
20                                 losses to other persons;

21                                 “(bb) created a significant  
22                                 risk of substantial losses to other  
23                                 persons; or

1                   “(cc) resulted in substantial  
2                   pecuniary gain to the person who  
3                   committed the violation.”.

4       (d) *INVESTMENT ADVISERS ACT OF 1940.*—

5               (1) *MONEY PENALTIES IN ADMINISTRATIVE AC-*  
6       *TIONS.*—Section 203(i)(2) of the Investment Advisers  
7       Act of 1940 (15 U.S.C. 80b-3(i)(2)) is amended—

8               (A) in subparagraph (A)—

9                   (i) by striking “\$5,000” and inserting  
10                  “\$10,000”; and

11                  (ii) by striking “\$50,000” and insert-  
12                  ing “\$100,000”;

13               (B) in subparagraph (B)—

14                   (i) by striking “\$50,000” and inserting  
15                  “\$100,000”; and

16                  (ii) by striking “\$250,000” and insert-  
17                  ing “\$500,000”; and

18               (C) by striking subparagraph (C) and in-  
19       serting the following:

20               “(C) *THIRD TIER.*—

21                   “(i) *IN GENERAL.*—Notwithstanding  
22                  subparagraphs (A) and (B), for a third tier  
23                  act or omission, the amount of penalty for  
24                  each such act or omission shall not exceed  
25                  the greater of—

1                   “(I) \$1,000,000 for a natural per-  
2                   son or \$10,000,000 for any other per-  
3                   son;

4                   “(II) 3 times the gross amount of  
5                   pecuniary gain to the person who com-  
6                   mitted the act or omission; or

7                   “(III) the amount of losses in-  
8                   curred by victims as a result of the act  
9                   or omission.

10                  “(i) *THIRD TIER ACT OR OMISSION.*—  
11                  For the purposes of this subparagraph, the  
12                  term ‘third tier act or omission’ means an  
13                  act or omission described in paragraph (1)  
14                  that—

15                         “(I) involved fraud, deceit, ma-  
16                         nipulation, or deliberate or reckless  
17                         disregard of a regulatory requirement;  
18                         and

19                         “(II) directly or indirectly—

20                                 “(aa) resulted in substantial  
21                                 losses to other persons;

22                                 “(bb) created a significant  
23                                 risk of substantial losses to other  
24                                 persons; or



1                   “(cc) resulted in substantial  
2                   pecuniary gain to the person who  
3                   committed the act or omission.”.

4                   (2) *MONEY PENALTIES IN CIVIL ACTIONS.*—*Sec-*  
5                   *tion 209(e)(2) of the Investment Advisers Act of 1940*  
6                   *(15 U.S.C. 80b-9(e)(2)) is amended—*

7                   (A) *in subparagraph (A)—*

8                   (i) *by striking “\$5,000” and inserting*  
9                   *“\$10,000”; and*

10                   (ii) *by striking “\$50,000” and insert-*  
11                   *ing “\$100,000”;*

12                   (B) *in subparagraph (B)—*

13                   (i) *by striking “\$50,000” and inserting*  
14                   *“\$100,000”; and*

15                   (ii) *by striking “\$250,000” and insert-*  
16                   *ing “\$500,000”; and*

17                   (C) *by striking subparagraph (C) and in-*  
18                   *serting the following:*

19                   “(C) *THIRD TIER.*—

20                   “(i) *IN GENERAL.*—*Notwithstanding*  
21                   *subparagraphs (A) and (B), for a third tier*  
22                   *violation, the amount of penalty for each*  
23                   *such violation shall not exceed the greater*  
24                   *of—*

1                   “(I) \$1,000,000 for a natural per-  
2                   son or \$10,000,000 for any other per-  
3                   son;

4                   “(II) 3 times the gross amount of  
5                   pecuniary gain to the person who com-  
6                   mitted the violation; or

7                   “(III) the amount of losses in-  
8                   curred by victims as a result of the vio-  
9                   lation.

10                  “(i) *THIRD TIER VIOLATION.*—For the  
11                  purposes of this subparagraph, the term  
12                  ‘third tier violation’ means a violation de-  
13                  scribed in paragraph (1) that—

14                         “(I) involved fraud, deceit, ma-  
15                         nipulation, or deliberate or reckless  
16                         disregard of a regulatory requirement;  
17                         and

18                         “(II) directly or indirectly—

19                                 “(aa) resulted in substantial  
20                                 losses to other persons;

21                                 “(bb) created a significant  
22                                 risk of substantial losses to other  
23                                 persons; or

1                                   “(cc) resulted in substantial  
2                                   pecuniary gain to the person who  
3                                   committed the violation.”.

4 **SEC. 3. PENALTIES FOR RECIDIVISTS.**

5       (a) *SECURITIES ACT OF 1933.*—

6               (1) *CEASE-AND-DESIST PROCEEDINGS.*—Section  
7       8A(g)(2) of the Securities Act of 1933 (15 U.S.C.  
8       77h–1(g)(2)) is amended by adding at the end the fol-  
9       lowing:

10                               “(D) *FOURTH TIER.*—Notwithstanding sub-  
11                               paragraphs (A), (B), and (C), the maximum  
12                               amount of penalty for each such act or omission  
13                               shall be 3 times the otherwise applicable amount  
14                               in such subparagraphs if, within the 5-year pe-  
15                               riod preceding such act or omission, the person  
16                               who committed the act or omission was crimi-  
17                               nally convicted for securities fraud or became  
18                               subject to a judgment or order imposing mone-  
19                               tary, equitable, or administrative relief in any  
20                               Commission action alleging fraud by that per-  
21                               son.”.

22               (2) *INJUNCTIONS AND PROSECUTION OF OF-*  
23       *FENSES.*—Section 20(d)(2) of the Securities Act of  
24       1933 (15 U.S.C. 77t(d)(2)) is amended by adding at  
25       the end the following:

1           “(D) *FOURTH TIER.*—Notwithstanding sub-  
2           paragraphs (A), (B), and (C), the maximum  
3           amount of penalty for each such violation shall  
4           be 3 times the otherwise applicable amount in  
5           such subparagraphs if, within the 5-year period  
6           preceding such violation, the defendant was  
7           criminally convicted for securities fraud or be-  
8           came subject to a judgment or order imposing  
9           monetary, equitable, or administrative relief in  
10          any Commission action alleging fraud by that  
11          defendant.”.

12          (b) *SECURITIES EXCHANGE ACT OF 1934.*—

13           (1) *CIVIL ACTIONS.*—Section 21(d)(3)(B) of the  
14          *Securities Exchange Act of 1934* (15 U.S.C.  
15          78u(d)(3)(B)) is amended by adding at the end the  
16          following:

17           “(iv) *FOURTH TIER.*—Notwithstanding  
18          clauses (i), (ii), and (iii), the maximum amount  
19          of penalty for each such violation shall be 3  
20          times the otherwise applicable amount in such  
21          clauses if, within the 5-year period preceding  
22          such violation, the defendant was criminally  
23          convicted for securities fraud or became subject  
24          to a judgment or order imposing monetary, equi-

1           *table, or administrative relief in any Commis-*  
2           *sion action alleging fraud by that defendant.”.*

3           (2) *ADMINISTRATIVE PROCEEDINGS.—Section*  
4           *21B(b) of the Securities Exchange Act of 1934 (15*  
5           *U.S.C. 78u–2(b)) is amended by adding at the end*  
6           *the following:*

7           “(4) *FOURTH TIER.—Notwithstanding para-*  
8           *graphs (1), (2), and (3), the maximum amount of*  
9           *penalty for each such act or omission shall be 3 times*  
10           *the otherwise applicable amount in such paragraphs*  
11           *if, within the 5-year period preceding such act or*  
12           *omission, the person who committed the act or omis-*  
13           *sion was criminally convicted for securities fraud or*  
14           *became subject to a judgment or order imposing mon-*  
15           *etary, equitable, or administrative relief in any Com-*  
16           *mission action alleging fraud by that person.”.*

17           (c) *INVESTMENT COMPANY ACT OF 1940.—*

18           (1) *INELIGIBILITY OF CERTAIN UNDERWRITERS*  
19           *AND AFFILIATES.—Section 9(d)(2) of the Investment*  
20           *Company Act of 1940 (15 U.S.C. 80a–9(d)(2)) is*  
21           *amended by adding at the end the following:*

22           “(D) *FOURTH TIER.—Notwithstanding sub-*  
23           *paragraphs (A), (B), and (C), the maximum*  
24           *amount of penalty for each such act or omission*  
25           *shall be 3 times the otherwise applicable amount*

1           *in such subparagraphs if, within the 5-year pe-*  
2           *riod preceding such act or omission, the person*  
3           *who committed the act or omission was crimi-*  
4           *nally convicted for securities fraud or became*  
5           *subject to a judgment or order imposing mone-*  
6           *tary, equitable, or administrative relief in any*  
7           *Commission action alleging fraud by that per-*  
8           *son.”.*

9           (2) *ENFORCEMENT OF CERTAIN ACTIONS.*—*Sec-*  
10          *tion 42(e)(2) of the Investment Company Act of 1940*  
11          *(15 U.S.C. 80a–41(e)(2)) is amended by adding at the*  
12          *end the following:*

13                 “(D) *FOURTH TIER.*—*Notwithstanding sub-*  
14                 *paragraphs (A), (B), and (C), the maximum*  
15                 *amount of penalty for each such violation shall*  
16                 *be 3 times the otherwise applicable amount in*  
17                 *such subparagraphs if, within the 5-year period*  
18                 *preceding such violation, the defendant was*  
19                 *criminally convicted for securities fraud or be-*  
20                 *came subject to a judgment or order imposing*  
21                 *monetary, equitable, or administrative relief in*  
22                 *any Commission action alleging fraud by that*  
23                 *defendant.”.*

1           (d) *INVESTMENT ADVISERS ACT OF 1940.*—*The Invest-*  
2 *ment Advisers Act of 1940 (15 U.S.C. 80b–1 et seq.) is*  
3 *amended—*

4           (1) *in section 203(i)(2) (15 U.S.C. 80b–3(i)(2)),*  
5 *by adding at the end the following:*

6                   “(D) *FOURTH TIER.*—*Notwithstanding sub-*  
7 *paragraphs (A), (B), and (C), the maximum*  
8 *amount of penalty for each such act or omission*  
9 *shall be 3 times the otherwise applicable amount*  
10 *in such subparagraphs if, within the 5-year pe-*  
11 *riod preceding such act or omission, the person*  
12 *who committed the act or omission was crimi-*  
13 *nally convicted for securities fraud or became*  
14 *subject to a judgment or order imposing mone-*  
15 *tary, equitable, or administrative relief in any*  
16 *Commission action alleging fraud by that per-*  
17 *son.”; and*

18           (2) *in section 209(e)(2) (15 U.S.C. 80b–9(e)(2))*  
19 *by adding at the end the following:*

20                   “(D) *FOURTH TIER.*—*Notwithstanding sub-*  
21 *paragraphs (A), (B), and (C), the maximum*  
22 *amount of penalty for each such violation shall*  
23 *be 3 times the otherwise applicable amount in*  
24 *such subparagraphs if, within the 5-year period*  
25 *preceding such violation, the defendant was*

1           *criminally convicted for securities fraud or be-*  
2           *came subject to a judgment or order imposing*  
3           *monetary, equitable, or administrative relief in*  
4           *any Commission action alleging fraud by that*  
5           *defendant.”.*

6 **SEC. 4. VIOLATIONS OF INJUNCTIONS AND BARS.**

7           *(a) SECURITIES ACT OF 1933.—Section 20(d) of the*  
8           *Securities Act of 1933 (15 U.S.C. 77t(d)) is amended—*

9                   *(1) in paragraph (1), by inserting after “the*  
10           *rules or regulations thereunder,” the following: “a*  
11           *Federal court injunction or a bar obtained or entered*  
12           *by the Commission under this title,”; and*

13                   *(2) by striking paragraph (4) and inserting the*  
14           *following:*

15                   *“(4) SPECIAL PROVISIONS RELATING TO A VIOLA-*  
16           *TION OF AN INJUNCTION OR CERTAIN ORDERS.—*

17                   *“(A) IN GENERAL.—Each separate violation*  
18           *of an injunction or order described in subpara-*  
19           *graph (B) shall be a separate offense, except that*  
20           *in the case of a violation through a continuing*  
21           *failure to comply with such injunction or order,*  
22           *each day of the failure to comply with the in-*  
23           *junction or order shall be deemed a separate of-*  
24           *fense.*



1           “(B) *INJUNCTIONS AND ORDERS.*—Subpara-  
2           *graph (A) shall apply with respect to any action*  
3           *to enforce—*

4                   “(i) *a Federal court injunction ob-*  
5                   *tained pursuant to this title;*

6                   “(ii) *an order entered or obtained by*  
7                   *the Commission pursuant to this title that*  
8                   *bars, suspends, places limitations on the ac-*  
9                   *tivities or functions of, or prohibits the ac-*  
10                   *tivities of a person; or*

11                   “(iii) *a cease-and-desist order entered*  
12                   *by the Commission pursuant to section*  
13                   *8A.”.*

14           (b) *SECURITIES EXCHANGE ACT OF 1934.*—Section  
15           *21(d)(3) of the Securities Exchange Act of 1934 (15 U.S.C.*  
16           *78u(d)(3)) is amended—*

17                   (1) *in subparagraph (A), by inserting after “the*  
18                   *rules or regulations thereunder,” the following: “a*  
19                   *Federal court injunction or a bar obtained or entered*  
20                   *by the Commission under this title,”; and*

21                   (2) *by striking subparagraph (D) and inserting*  
22                   *the following:*

23                   “(D) *SPECIAL PROVISIONS RELATING TO A VIO-*  
24                   *LATION OF AN INJUNCTION OR CERTAIN ORDERS.*—

1           “(i) *IN GENERAL.*—Each separate violation  
2 of an injunction or order described in clause (ii)  
3 shall be a separate offense, except that in the case  
4 of a violation through a continuing failure to  
5 comply with such injunction or order, each day  
6 of the failure to comply with the injunction or  
7 order shall be deemed a separate offense.

8           “(i) *INJUNCTIONS AND ORDERS.*—Clause  
9 (i) shall apply with respect to an action to en-  
10 force—

11           “(I) a Federal court injunction ob-  
12 tained pursuant to this title;

13           “(II) an order entered or obtained by  
14 the Commission pursuant to this title that  
15 bars, suspends, places limitations on the ac-  
16 tivities or functions of, or prohibits the ac-  
17 tivities of a person; or

18           “(III) a cease-and-desist order entered  
19 by the Commission pursuant to section  
20 21C.”.

21           (c) *INVESTMENT COMPANY ACT OF 1940.*—Section  
22 42(e) of the Investment Company Act of 1940 (15 U.S.C.  
23 80a–41(e)) is amended—

24           (1) in paragraph (1), by inserting after “the  
25 rules or regulations thereunder,” the following: “a

1 *Federal court injunction or a bar obtained or entered*  
2 *by the Commission under this title,”; and*

3 *(2) by striking paragraph (4) and inserting the*  
4 *following:*

5 *“(4) SPECIAL PROVISIONS RELATING TO A VIOLA-*  
6 *TION OF AN INJUNCTION OR CERTAIN ORDERS.—*

7 *“(A) IN GENERAL.—Each separate violation*  
8 *of an injunction or order described in subpara-*  
9 *graph (B) shall be a separate offense, except that*  
10 *in the case of a violation through a continuing*  
11 *failure to comply with such injunction or order,*  
12 *each day of the failure to comply with the in-*  
13 *junction or order shall be deemed a separate of-*  
14 *fense.*

15 *“(B) INJUNCTIONS AND ORDERS.—Subpara-*  
16 *graph (A) shall apply with respect to any action*  
17 *to enforce—*

18 *“(i) a Federal court injunction ob-*  
19 *tained pursuant to this title;*

20 *“(ii) an order entered or obtained by*  
21 *the Commission pursuant to this title that*  
22 *bars, suspends, places limitations on the ac-*  
23 *tivities or functions of, or prohibits the ac-*  
24 *tivities of a person; or*

1                   “(iii) a cease-and-desist order entered  
2                   by the Commission pursuant to section  
3                   9(f).”.

4           (d) *INVESTMENT ADVISERS ACT OF 1940.*—Section  
5 209(e) of the Investment Advisers Act of 1940 (15 U.S.C.  
6 80b–9(e)) is amended—

7           (1) in paragraph (1), by inserting after “the  
8           rules or regulations thereunder,” the following: “a  
9           Federal court injunction or a bar obtained or entered  
10          by the Commission under this title,”; and

11          (2) by striking paragraph (4) and inserting the  
12          following:

13               “(4) *SPECIAL PROVISIONS RELATING TO A VIOLA-*  
14               *TION OF AN INJUNCTION OR CERTAIN ORDERS.*—

15               “(A) *IN GENERAL.*—Each separate violation  
16               of an injunction or order described in subpara-  
17               graph (B) shall be a separate offense, except that  
18               in the case of a violation through a continuing  
19               failure to comply with such injunction or order,  
20               each day of the failure to comply with the in-  
21               junction or order shall be deemed a separate of-  
22               fense.

23               “(B) *INJUNCTIONS AND ORDERS.*—Subpara-  
24               graph (A) shall apply with respect to any action  
25               to enforce—

1                   “(i) a Federal court injunction ob-  
2                   tained pursuant to this title;

3                   “(ii) an order entered or obtained by  
4                   the Commission pursuant to this title that  
5                   bars, suspends, places limitations on the ac-  
6                   tivities or functions of, or prohibits the ac-  
7                   tivities of a person; or

8                   “(iii) a cease-and-desist order entered  
9                   by the Commission pursuant to section  
10                  203(k).”.

Union Calendar No. 331

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

**H. R. 3641**

[Report No. 116-410]

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## **A BILL**

To enhance civil penalties under the Federal securities laws, and for other purposes.

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FEBRUARY 27, 2020

Reported with an amendment; committed to the Committee of the Whole House on the State of the Union and ordered to be printed