

117TH CONGRESS  
1ST SESSION

# S. 2360

To amend the Securities Exchange Act of 1934 to require the Securities and Exchange Commission to issue rules that prohibit officers and directors of certain companies from trading securities in anticipation of a current report, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JULY 15, 2021

Mr. VAN HOLLEN introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

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## A BILL

To amend the Securities Exchange Act of 1934 to require the Securities and Exchange Commission to issue rules that prohibit officers and directors of certain companies from trading securities in anticipation of a current report, 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 “8–K Trading Gap Act  
5 of 2021”.

1 **SEC. 2. PROHIBITION ON CERTAIN TRADING IN ANTICIPATION OF A CURRENT REPORT.**

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3 The Securities Exchange Act of 1934 (15 U.S.C. 78a  
4 et seq.) is amended by inserting after section 10D (15  
5 U.S.C. 78j-4) the following:

6 **“SEC. 10E. PROHIBITION ON CERTAIN TRADING IN ANTICIPATION OF A CURRENT REPORT.**

7  
8 “(a) PROHIBITION.—Not later than 1 year after the  
9 date of enactment of this section, the Commission shall  
10 issue rules that require each issuer that is subject to re-  
11 porting requirements under section 13(a) or 15(d) to es-  
12 tablish and maintain policies, controls, and procedures  
13 that are reasonably designed to prohibit executive officers  
14 and directors of the issuer from purchasing, selling, or  
15 otherwise transferring any equity security of the issuer,  
16 directly or indirectly—

17 “(1) with respect to an event described in any  
18 of sections 1 through 6 of Form 8-K, during the pe-  
19 riod beginning on the date on which the event occurs  
20 and ending on the date on which the issuer files or  
21 furnishes a current report on Form 8-K with re-  
22 spect to the event; and

23 “(2) with respect to an event described in sec-  
24 tion 7 or 8 of Form 8-K, during the period begin-  
25 ning on the date on which the issuer determines that  
26 the issuer will disclose the event and ending on the

1 date on which the issuer files or furnishes a current  
2 report on Form 8-K with respect to the event.

3 “(b) PERMISSIBLE TRANSACTIONS.—In issuing rules  
4 under subsection (a), the Commission—

5 “(1) may exempt from those rules certain  
6 transactions as the Commission determines to be ap-  
7 propriate, including those transactions that—

8 “(A) occur automatically;

9 “(B) are made pursuant to an advance  
10 election; or

11 “(C) except as provided in paragraph (2),  
12 involve a purchase or sale of equity securities  
13 that satisfies the conditions under section  
14 240.10b5-1(e) of title 17, Code of Federal Reg-  
15 ulations;

16 “(2) may not exempt from those rules a trans-  
17 action made by an executive officer or director of an  
18 issuer under a plan that—

19 “(A) is described in section 240.10b5-  
20 1(e)(1)(i)(A)(3) of title 17, Code of Federal  
21 Regulations; and

22 “(B) was adopted—

23 “(i) with respect to an event described  
24 in sections 1 through 6 of Form 8-K, dur-  
25 ing the period beginning on the date on

1           which the event occurred and ending on  
2           the date on which the issuer files or fur-  
3           nishes a current report on Form 8–K with  
4           respect to the event; and

5           “(ii) with respect to an event de-  
6           scribed in section 7 or 8 of Form 8–K,  
7           during the period beginning on the date on  
8           which the issuer determines that the issuer  
9           will disclose the event and ending on the  
10          date on which the issuer files or furnishes  
11          a current report on Form 8–K with respect  
12          to the event; and

13          “(3) shall exempt from those rules—

14                 “(A) issuers that are required to adopt and  
15                 administer a code of ethics under section  
16                 270.17j–1 of title 17, Code of Federal Regula-  
17                 tions, and any other issuer registered under the  
18                 Investment Company Act of 1940 (15 U.S.C.  
19                 80a–1 et seq.), the investment advisers of which  
20                 are required to adopt and administer a code of  
21                 ethics under section 275.204A–1 of title 17,  
22                 Code of Federal Regulations; and

23                 “(B) any event—

24                         “(i) that is described in any of sec-  
25                         tions 1 through 6 of Form 8–K; and

1           “(ii) with respect to which the issuer  
2           has announced the event in a press release  
3           or other method of dissemination that com-  
4           plies with the requirements of section  
5           243.101(e)(2) of title 17, Code of Federal  
6           Regulations.

7           “(c) RULE OF CONSTRUCTION.—Any reference in  
8           this section to a rule, including any reference to Form 8–  
9           K, shall be construed to refer to that rule, including that  
10          version of Form 8–K, as in effect on the date of enactment  
11          of this section.”.

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