

Union Calendar No. 412

115TH CONGRESS
2^D SESSION

H. R. 3948

[Report No. 115-549]

To prohibit the Securities and Exchange Commission from compelling a person to produce or furnish algorithmic trading source code or similar intellectual property to the Commission unless the Commission first issues a subpoena, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 4, 2017

Mr. DUFFY (for himself, Mr. DAVID SCOTT of Georgia, and Mr. HULTGREN) introduced the following bill; which was referred to the Committee on Financial Services

FEBRUARY 8, 2018

Additional sponsors: Mr. MESSER and Mr. GOTTHEIMER

FEBRUARY 8, 2018

Reported with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Omit the part struck through]

A BILL

To prohibit the Securities and Exchange Commission from compelling a person to produce or furnish algorithmic trading source code or similar intellectual property to the Commission unless the Commission first issues a subpoena, 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 “Protection of Source
 5 Code Act”.

6 **SEC. 2. PROCEDURE FOR OBTAINING CERTAIN INTELLEC-**
 7 **TUAL PROPERTY.**

8 (a) PERSONS UNDER SECURITIES ACT OF 1933.—
 9 Section 8 of the Securities Act of 1933 (15 U.S.C. 77h)
 10 is amended by adding at the end the following:

11 “(g) PROCEDURE FOR OBTAINING CERTAIN INTEL-
 12 LECTUAL PROPERTY.—The Commission is not authorized
 13 to compel under this title a person to produce or furnish
 14 source code, including algorithmic trading source code or
 15 similar intellectual property that forms the basis for de-
 16 sign of ~~or provides insight to~~ the source code, to the Com-
 17 mission unless the Commission first issues a subpoena.”.

18 (b) PERSONS UNDER THE SECURITIES EXCHANGE
 19 ACT OF 1934.—Section 23 of the Securities Exchange Act
 20 of 1934 (15 U.S.C. 78w) is amended by adding at the
 21 end the following:

22 “(e) PROCEDURE FOR OBTAINING CERTAIN INTEL-
 23 LECTUAL PROPERTY.—The Commission is not authorized
 24 to compel under this title a person to produce or furnish
 25 source code, including algorithmic trading source code or

1 similar intellectual property that forms the basis for de-
2 sign of ~~or provides insight to~~ the source code, to the Com-
3 mission unless the Commission first issues a subpoena.”.

4 (c) INVESTMENT COMPANIES.—Section 31 of the In-
5 vestment Company Act of 1940 (15 U.S.C. 80a–30) is
6 amended by adding at the end the following:

7 “(e) PROCEDURE FOR OBTAINING CERTAIN INTEL-
8 LECTUAL PROPERTY.—The Commission is not authorized
9 to compel under this title an investment company to
10 produce or furnish source code, including algorithmic trad-
11 ing source code or similar intellectual property that forms
12 the basis for design of ~~or provides insight to~~ the source
13 code, to the Commission unless the Commission first
14 issues a subpoena.”.

15 (d) INVESTMENT ADVISERS.—Section 204 of the In-
16 vestment Advisers Act of 1940 (15 U.S.C. 80b–4) is
17 amended—

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

19 “(f) PROCEDURE FOR OBTAINING CERTAIN INTEL-
20 LECTUAL PROPERTY.—The Commission is not authorized
21 to compel under this title an investment adviser to produce
22 or furnish source code, including algorithmic trading
23 source code or similar intellectual property that forms the
24 basis for design of ~~or provides insight to~~ the source code,

1 to the Commission unless the Commission first issues a
2 subpoena.”; and

3 (2) in the second subsection (d), by striking
4 “(d)” and inserting “(e)”.

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