

106TH CONGRESS
1ST SESSION

S. 1015

To require enhanced disclosure with respect to securities transactions conducted “online”, to require the Securities and Exchange Commission to study the effects of online trading on securities markets, to prevent online securities fraud, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 12, 1999

Mr. SCHUMER (for himself, Mr. SARBANES, Mr. BRYAN, and Mr. JOHNSON) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To require enhanced disclosure with respect to securities transactions conducted “online”, to require the Securities and Exchange Commission to study the effects of online trading on securities markets, to prevent online securities fraud, 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; DEFINITIONS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Online Investor Protection Act of 1999”.

6 (b) DEFINITIONS.—In this Act—

1 (1) the term “Commission” means the Securi-
2 ties and Exchange Commission;

3 (2) the term “Internet” means the international
4 computer network of both Federal and non-Federal
5 interoperable packet switched data networks;

6 (3) the term “interactive computer service”
7 means any information service, system, or access
8 software provider that provides or enables computer
9 access by multiple users to a computer server, in-
10 cluding specifically a service or system that provides
11 access to the Internet and such systems operated or
12 services offered by libraries or educational institu-
13 tions;

14 (4) the term “investment adviser” has the same
15 meaning as in section 202 of the Investment Advis-
16 ers Act of 1940;

17 (5) the term “investment company” has the
18 same meaning as in section 3 of the Investment
19 Company Act of 1940;

20 (6) the term “registered broker or dealer” has
21 the same meaning as in section 3 of the Securities
22 Exchange Act of 1934; and

23 (7) the term “retail investor” means—

1 (A) any investor other than an accredited
2 investor (as defined in section 2(a)(15) of the
3 Securities Act of 1933); and

4 (B) any other similar person or class of
5 persons, as the Commission determines to be
6 appropriate.

7 **SEC. 2. ONLINE TRADING DISCLOSURES.**

8 The Securities Exchange Act of 1934 (15 U.S.C. 78a
9 et seq.) is amended by inserting after section 35A the fol-
10 lowing:

11 **“SEC. 35B. ONLINE TRADING DISCLOSURES.**

12 “(a) IN GENERAL.—Each online broker or dealer
13 shall, on a quarterly basis, make available on the Internet
14 or other interactive computer service, such information as
15 the Commission may require, by rule or order, taking into
16 account the needs of customers, and in such format and
17 within such time periods as the Commission may prescribe
18 regarding—

19 “(1) the date, time, and duration of any system
20 outage or other event that prevented or materially
21 delayed the execution of online securities trans-
22 actions during the preceding quarter;

23 “(2) any steps taken to address or prevent such
24 outages or events; and

1 “(3) information regarding limiting risk of loss
2 to securities investors that is unique to online trad-
3 ing, as required by the Commission, by rule or
4 order.

5 “(b) EXCEPTIONS.—The Commission, by rule or
6 order, may exempt from the requirements of subsection
7 (a) any online broker or dealer, or class of online brokers
8 or dealers, as the Commission determines to be appro-
9 priate.

10 “(c) DEFINITIONS.—In this section—

11 “(1) the term ‘Internet’ means the international
12 computer network of both Federal and non-Federal
13 interoperable packet switched data networks;

14 “(2) the term ‘interactive computer service’
15 means any information service, system, or access
16 software provider that provides or enables computer
17 access by multiple users to a computer server, in-
18 cluding specifically a service or system that provides
19 access to the Internet and such systems operated or
20 services offered by libraries or educational institu-
21 tions;

22 “(3) the term ‘online broker or dealer’ means
23 any broker or dealer that provides retail investors
24 with a means to effect securities transactions over
25 the Internet or an interactive computer service;

1 “(4) the term ‘online securities transaction’
 2 means a securities transaction effected between a re-
 3 tail investor and an online broker or dealer over the
 4 Internet or an interactive computer service; and

5 “(5) the term ‘retail investor’ means—

6 “(A) any customer of an online broker or
 7 dealer, other than an accredited investor (as de-
 8 fined in section 2(a)(15) of the Securities Act
 9 of 1933); and

10 “(B) any other similar person or class of
 11 persons, as the Commission determines to be
 12 appropriate, by rule or order.”.

13 **SEC. 3. EXTENDING DISCIPLINARY DISCLOSURES TO THE**
 14 **INTERNET.**

15 (a) IN GENERAL.—Section 15A of the Securities Ex-
 16 change Act of 1934 (15 U.S.C. 78o–3) is amended by
 17 striking subsection (i) and inserting the following:

18 “(i) OBLIGATION TO MAINTAIN DISCIPLINARY AND
 19 OTHER DATA.—

20 “(1) MAINTENANCE OF SYSTEM TO RESPOND
 21 TO INQUIRIES.—A registered securities association
 22 shall—

23 “(A) establish and maintain a toll-free tele-
 24 phone listing or other readily accessible elec-
 25 tronic process to receive inquiries regarding dis-

1 disciplinary actions and proceedings and other in-
 2 formation involving its members and associated
 3 persons of those members; and

4 “(B) promptly respond to such inquiries.

5 “(2) RECOVERY OF COSTS.—A registered secu-
 6 rities association may charge persons, other than in-
 7 dividual investors, reasonable fees for responses to
 8 inquiries referred to in paragraph (1).

9 “(3) LIMITATION ON LIABILITY.—A registered
 10 securities association shall not have any liability to
 11 any person for any action taken or omitted in good
 12 faith under this subsection.”.

13 (b) RECORDS AND REPORTS OF INVESTMENT ADVIS-
 14 ERS.—Section 204 of the Investment Advisers Act of 1940
 15 (15 U.S.C. 80b–4) is amended—

16 (1) by striking “Every investment” and insert-
 17 ing the following:

18 “(a) IN GENERAL.—Every investment”; and

19 (2) by adding at the end the following:

20 “(b) FILING DEPOSITORIES.—The Commission, by
 21 rule or order, may require an investment adviser—

22 “(1) to file with the Commission any fee, appli-
 23 cation, report, or notice required to be filed by this
 24 title or the rules issued under this title through any

1 entity designated by the Commission for that pur-
2 pose; and

3 “(2) to pay the reasonable costs associated with
4 such filing and the establishment and maintenance
5 of the systems required by subsection (c).

6 “(c) ACCESS TO DISCIPLINARY AND OTHER INFOR-
7 MATION.—

8 “(1) MAINTENANCE OF SYSTEM TO RESPOND
9 TO INQUIRIES.—The Commission shall require an
10 entity designated by the Commission pursuant to
11 subsection (b)(1)—

12 “(A) to establish and maintain a toll-free
13 telephone listing or other readily accessible elec-
14 tronic process to receive inquiries regarding dis-
15 ciplinary actions and proceedings and other in-
16 formation involving investment advisers and
17 persons associated with investment advisers;
18 and

19 “(B) to respond promptly to such inquir-
20 ies.

21 “(2) RECOVERY OF COSTS.—An entity des-
22 ignated under subsection (b)(1) may charge persons,
23 other than individual investors, reasonable fees for
24 responses to inquiries referred to in paragraph (1).

1 “(3) LIMITATION ON LIABILITY.—An entity
 2 designated under subsection (b)(1) shall not have
 3 any liability to any person for any action taken or
 4 omitted in good faith under this subsection.”.

5 (c) CONFORMING AMENDMENTS.—

6 (1) IN GENERAL.—Section 203A of the Invest-
 7 ment Advisers Act of 1940 (15 U.S.C. 80b–3a) is
 8 amended—

9 (A) by striking subsection (d); and

10 (B) by redesignating subsection (e) as sub-
 11 section (d).

12 (2) REPEAL.—Section 306 of the National Se-
 13 curities Markets Improvement Act of 1996 (Public
 14 Law 104–290; 110 Stat. 3438) is repealed.

15 **SEC. 4. ELECTRONIC ACCESS TO COMMISSION INFORMA-**
 16 **TION.**

17 (a) ELECTRONIC LINKS.—Not later than 1 year after
 18 the date of enactment of this Act, each broker or dealer,
 19 investment company, and investment adviser that effects
 20 securities transactions with retail investors, or makes se-
 21 curities market information available to retail investors for
 22 the purpose of effecting such transactions over the Inter-
 23 net or other interactive computer service, shall provide to
 24 those investors information regarding investor education
 25 and fraud prevention provided by the Commission,

1 through a hypertext link to a Commission website estab-
 2 lished for that purpose, or in such other manner as may
 3 be prescribed by the Commission.

4 (b) REGULATORY ACTION.—The Commission shall
 5 issue final regulations to implement this section not later
 6 than 6 months after the date of enactment of this Act.

7 **SEC. 5. CIVIL PENALTIES FOR INTERNET-RELATED VIOLA-**
 8 **TIONS.**

9 (a) SECURITIES ACT OF 1933.—Section 20(d)(2) of
 10 the Securities Act of 1933 (15 U.S.C. 77t(d)(2)) is
 11 amended by adding at the end the following:

12 “(D) INTERNET-RELATED VIOLATIONS.—

13 In any case in which the Internet or other
 14 interactive computer service (as defined in sec-
 15 tion 35B of the Securities Exchange Act of
 16 1934) is used as part of the Act or omission re-
 17 sulting in a violation referred to in paragraph
 18 (1) the amount of the penalty provided for in
 19 this paragraph shall be doubled.”.

20 (b) SECURITIES EXCHANGE ACT OF 1934.—

21 (1) SECTION 21.—Section 21(d)(3)(B) of the
 22 Securities Exchange Act of 1934 (15 U.S.C.
 23 78u(d)(3)(B)) is amended by adding at the end the
 24 following:

1 “(iv) INTERNET-RELATED VIOLA-
 2 TIONS.—In any case in which the Internet
 3 or other interactive computer service (as
 4 defined in section 35B) is used as part of
 5 the act or omission resulting in a violation
 6 referred to in subparagraph (A), the
 7 amount of the penalty provided for in this
 8 subparagraph shall be doubled.”.

9 (2) SECTION 21B.—Section 21B(b) of the Secu-
 10 rities Exchange Act of 1934 (15 U.S.C. 78u–2(b))
 11 is amended by adding at the end the following:

12 “(4) INTERNET-RELATED VIOLATIONS.—In any
 13 case in which the Internet or other interactive com-
 14 puter service (as defined in section 35B) is used as
 15 part of the act or omission resulting in a violation
 16 referred to in subsection (a), the amount of the pen-
 17 alty provided for in this subsection shall be dou-
 18 bled.”.

19 (c) INVESTMENT ADVISERS ACT OF 1940.—

20 (1) SECTION 203.—Section 203(i)(2) of the In-
 21 vestment Advisers Act of 1940 (15 U.S.C. 80b–
 22 3(i)(2)) is amended by adding at the end the fol-
 23 lowing:

24 “(D) INTERNET-RELATED VIOLATIONS.—

25 In any case in which the Internet or other

1 interactive computer service (as defined in sec-
2 tion 35B of the Securities Exchange Act of
3 1934) is used as part of the act or omission re-
4 sulting in a violation referred to in paragraph
5 (1), the amount of the penalty provided for in
6 this paragraph shall be doubled.”.

7 (2) SECTION 209.—Section 209(e)(2) of the In-
8 vestment Advisers Act of 1940 (15 U.S.C. 80b-
9 9(e)(2)) is amended by adding at the end the fol-
10 lowing:

11 “(D) INTERNET-RELATED VIOLATIONS.—
12 In any case in which the Internet or other
13 interactive computer service (as defined in sec-
14 tion 35B of the Securities Exchange Act of
15 1934) is used as part of the act or omission re-
16 sulting in a violation referred to in paragraph
17 (1), the amount of the penalty provided for in
18 this paragraph shall be doubled.”.

19 (d) INVESTMENT COMPANY ACT OF 1940.—Section
20 9(d)(2) of the Investment Company Act of 1940 (15
21 U.S.C. 80a-9(d)(2)) is amended by adding at the end the
22 following:

23 “(D) INTERNET-RELATED VIOLATIONS.—
24 In any case in which the Internet or other
25 interactive computer service (as defined in sec-

tion 35B of the Securities Exchange Act of
 1934) is used as part of the act or omission re-
 sulting in a violation referred to in paragraph
 (1), the amount of the penalty provided for in
 this paragraph shall be doubled.”.

**SEC. 6. STUDY AND REPORT ON MARKET IMPACT OF ON-
 LINE TRADING.**

(a) STUDY.—The Commission shall conduct a study
 of the effects that trading in securities by retail investors
 over the Internet or other interactive computer service has
 on the securities markets, including—

(1) with respect to “day trading” activities—

(A) whether a greater risk of fraud exists;

(B) whether such trading results in market
 volatility;

(C) the effects on individual companies,
 the stock of which fluctuates as a result of such
 volatility, if any; and

(D) the effects on investors and their in-
 vestment patterns resulting from such volatility,
 if any; and

(2) the quality of execution received through
 online trading services, including the effect of “pay-
 ment for order flow” and other practices on—

(A) the promptness of execution; and

1 (B) the purchase or sale price obtained for
2 the retail investor.

3 (b) REPORT.—Not later than 1 year after the date
4 of enactment of this Act, the Commission shall submit to
5 the Congress a report on the results of its study under
6 subsection (a).

7 **SEC. 7. AUTHORIZATION OF APPROPRIATIONS.**

8 There is authorized to be appropriated to the Office
9 of Internet Enforcement of the Securities and Exchange
10 Commission \$70,000,000 for each of fiscal years 2000
11 through 2004, for the purpose of Internet enforcement
12 and other related investor protection activities, subject to
13 appropriations Acts.

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