

107TH CONGRESS
2D SESSION

H. R. 3671

To require investment advisers to make prominent public disclosures of ties with companies being analyzed by them, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 4, 2002

Mr. HASTINGS of Florida introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To require investment advisers to make prominent public disclosures of ties with companies being analyzed by them, 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 “Independent Invest-
5 ment Advisers Act of 2002”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that, in the decade preceding the date
8 of enactment of this Act, events have raised concerns
9 about the independence of the research conducted by in-
10 vestment advisers, particularly those who are affiliated

1 with brokerage houses and investment banking institu-
2 tions.

3 **SEC. 3. ENHANCED DISCLOSURES BY INVESTMENT ADVIS-**
4 **ERS.**

5 (a) The Investment Advisers Act of 1940 (15 U.S.C.
6 80b–1 et seq.) is amended by inserting after section 204A
7 the following:

8 “PUBLIC DISCLOSURE OF TIES TO ISSUERS

9 “SEC. 204B. (a) If an investment adviser publishes
10 any analysis or report regarding a company or the securi-
11 ties of a company, the investment adviser shall promi-
12 nently disclose, in plain language—

13 “(1) the amount of any fees that the investment
14 adviser, or person associated with the investment ad-
15 viser, has received from that company during the 5-
16 year period preceding the date of publication;

17 “(2) any merger or acquisition transaction han-
18 dled by the investment adviser during the 5-year pe-
19 riod preceding the date of publication that involves
20 any debt or equity instruments of that company, in-
21 cluding transactions that are concurrent with the
22 publication;

23 “(3) any personal debt or equity holdings that
24 the investment adviser or person associated with the
25 investment adviser has in the company; and

1 “(4) the extent to which the investment adviser
2 or person associated with the investment adviser has
3 debt or equity holdings in that company.

4 “(b) The Commission shall, by rule, prohibit any in-
5 vestment adviser from purchasing, selling, or otherwise en-
6 gaging in any transactions with respect to any security
7 of a company during the 30 days beginning on the date
8 on which such adviser publishes any analysis or report re-
9 garding such company or the securities of such company.

10 “(c) In this section, the term ‘publishes’ has the
11 meaning given that term by regulation of the Commission,
12 and includes—

13 “(1) any written description of the subject com-
14 pany or the securities of that company by the invest-
15 ment adviser; and

16 “(2) to the extent practicable—

17 “(A) any public appearance by the invest-
18 ment adviser or person associated with the in-
19 vestment adviser, such as participation in a
20 seminar or forum regarding the subject com-
21 pany or the securities of that company;

22 “(B) participation by the investment ad-
23 viser or person associated with the investment
24 adviser in an interactive electronic discussion
25 group by the investment adviser regarding the

1 subject company or the securities of that com-
 2 pany; and

3 “(C) any radio or television interview of
 4 the investment adviser or person associated
 5 with the investment adviser regarding the sub-
 6 ject company or the securities of that com-
 7 pany.”.

8 (b) COMMISSION REGULATIONS.—Not later than 60
 9 days after the date of enactment of this Act, the Securities
 10 and Exchange Commission shall issue final regulations to
 11 carry out section 204B of the Investment Advisers Act of
 12 1940, as added by this section.

13 (c) EFFECTIVE DATE.—Section 204B of the Invest-
 14 ment Advisers Act of 1940, as added by this Act, shall
 15 become effective on the date of issuance of final regula-
 16 tions under subsection (b).

17 **SEC. 4. PROHIBITION ON AUDITOR TRADING.**

18 Section 10A of the Securities Exchange Act of 1934
 19 (15 U.S.C. 78j–1) is amended—

20 (1) by redesignating subsections (e) and (f) as
 21 subsections (f) and (g), respectively; and

22 (2) by inserting after subsection (d) the fol-
 23 lowing new subsection:

24 “(e) PROHIBITION ON AUDITOR TRADING.—The
 25 Commission shall, by rule, prohibit any independent public

1 accountant, or any person associated with such account-
2 ant, from purchasing, selling, or otherwise engaging in any
3 transactions with respect to any security of a company
4 during the 30 days preceding, and the 30 days following,
5 the date on which such accountant certifies any financial
6 statement or other financial document regarding such
7 company or the securities of such company. An accountant
8 shall be treated as certifying a statement or other docu-
9 ment on the date the document is filed with the Commis-
10 sion.”.

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