

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

# H. R. 5625

To restore aiding and abetting liability under the Federal securities laws.

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## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 10, 2002

Mr. MARKEY introduced the following bill; which was referred to the Committee on Financial Services, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To restore aiding and abetting liability under the Federal securities laws.

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 “Stop Enablers of  
5 Fraud Act”.

1 **SEC. 2. RESTORATION OF AIDING AND ABETTING LIABIL-**  
2 **ITY.**

3 (a) SECURITIES ACT OF 1933.—Section 20 of the Se-  
4 curities Act of 1933 (15 U.S.C. 77t) is amended by adding  
5 at the end the following new subsection:

6 “(h) PROSECUTION OF PERSONS WHO AID OR ABET  
7 VIOLATIONS.—For purposes of subsections (b) and (d),  
8 any person who knowingly or recklessly provides substan-  
9 tial assistance to another person in the violation of a provi-  
10 sion of this title, or of any rule or regulation hereunder,  
11 shall be deemed to violate such provision to the same ex-  
12 tent as the person to whom such assistance is provided.  
13 No person shall be liable under this subsection based on  
14 an omission or failure to act unless such omission or fail-  
15 ure constituted a breach of a duty owed by such person.”.

16 (b) SECURITIES EXCHANGE ACT OF 1934.—Section  
17 20(e) of the Securities Exchange Act of 1934 (15 U.S.C.  
18 78t(e)) is amended to read as follows:

19 “(e) PROSECUTION OF PERSONS WHO AID OR ABET  
20 VIOLATIONS.—For purposes of subsections (d)(1) and  
21 (d)(3) of section 21, or an action by a self-regulatory orga-  
22 nization, or an express or implied private right of action  
23 under this title, any person who knowingly or recklessly  
24 provides substantial assistance to another person in the  
25 violation of a provision of this title, or of any rule or regu-  
26 lation thereunder, shall be deemed to violate such provi-

1 sion and shall be liable to the same extent as the person  
2 to whom such assistance is provided. No person shall be  
3 liable under this subsection based on an omission or fail-  
4 ure to act unless such omission or failure constituted a  
5 breach of a duty owed by such person.”.

6 (c) INVESTMENT COMPANY ACT OF 1940.—Section  
7 42 of the Investment Company Act of 1940 (15 U.S.C.  
8 80a–41) is amended by adding at the end the following  
9 new subsection:

10 “(f) PROSECUTION OF PERSONS WHO AID OR ABET  
11 VIOLATIONS.—For purposes of subsections (d) and (e),  
12 any person who knowingly or recklessly provides substan-  
13 tial assistance to another person in the violation of a provi-  
14 sion of this title, or of any rule, regulation, or order here-  
15 under, shall be deemed to violate such provision to the  
16 same extent as the person to whom such assistance is pro-  
17 vided. No person shall be liable under this subsection  
18 based on an omission or failure to act unless such omission  
19 or failure constituted a breach of a duty owed by such  
20 person.”.

21 (d) INVESTMENT ADVISERS ACT OF 1940.—Section  
22 209 of the Investment Advisers Act of 1940 (15 U.S.C.  
23 80b–9) is amended—

24 (1) in subsection (d)—

1           (A) by striking “or that any person has  
2           aided, abetted, counseled, commanded, induced,  
3           or procured, is aiding, abetting, counseling,  
4           commanding, inducing, or procuring, or is  
5           about to aid, abet, counsel, command, induce,  
6           or procure such a violation,”; and

7           (B) by striking “or in aiding, abetting,  
8           counseling, commanding, inducing, or procuring  
9           any such act or practice”; and

10          (2) by adding at the end the following new sub-  
11          section:

12          “(f) PROSECUTION OF PERSONS WHO AID OR ABET  
13          VIOLATIONS.—For purposes of subsections (d) and (e),  
14          any person who knowingly or recklessly provides substan-  
15          tial assistance to another person in the violation of a provi-  
16          sion of this title, or of any rule, regulation, or order here-  
17          under, shall be deemed to violate such provision to the  
18          same extent as the person to whom such assistance is pro-  
19          vided. No person shall be liable under this subsection  
20          based on an omission or failure to act unless such omission  
21          or failure constituted a breach of duty owed by such per-  
22          son.”.

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