

108TH CONGRESS
1ST SESSION

S. 1975

To amend the Internal Revenue Code of 1986 to deny a deduction for securities-related fines, penalties, and other amounts, and to provide that revenues resulting from such denial be transferred to Fair Funds for the relief of victims.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 25, 2003

Mr. DODD (for himself and Mr. MCCAIN) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to deny a deduction for securities-related fines, penalties, and other amounts, and to provide that revenues resulting from such denial be transferred to Fair Funds for the relief of victims.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. DENIAL OF DEDUCTION FOR SECURITIES-RE-**
 2 **LATED FINES, PENALTIES, AND OTHER**
 3 **AMOUNTS.**

4 (a) IN GENERAL.—Subsection (f) of section 162 of
 5 the Internal Revenue Code of 1986 (relating to trade or
 6 business expenses) is amended to read as follows:

7 “(f) FINES AND PENALTIES.—

8 “(1) IN GENERAL.—No deduction shall be al-
 9 lowed under subsection (a) for any fine or similar
 10 penalty paid to a government for the violation of any
 11 law.

12 “(2) SPECIAL RULES FOR SECURITIES-RELATED
 13 FINES, PENALTIES, AND OTHER AMOUNTS.—

14 “(A) IN GENERAL.—No deduction other-
 15 wise allowable (after the application of para-
 16 graph (1)) shall be allowed under this chapter
 17 for any amount paid or incurred (whether by
 18 suit, agreement, or otherwise) to, or at the di-
 19 rection of, a government or self-regulatory orga-
 20 nization in relation to—

21 “(i) the violation of the securities laws
 22 or the rules of a self-regulatory organiza-
 23 tion,

24 “(ii) the failure to supervise any per-
 25 son who violates such laws or rules, or

1 “(iii) the investigation or inquiry into
 2 the potential violation of such laws or
 3 rules.

4 “(B) DEFINITIONS.—For purposes of this
 5 paragraph, the terms ‘securities laws’, ‘self-reg-
 6 ulatory organization’, and ‘rules of a self-regu-
 7 latory organization’ have the meanings given
 8 such terms by section 3(a) of the Securities and
 9 Exchange Act of 1934 (15 U.S.C. 78c(a)).

10 “(C) TRANSFER OF CERTAIN REVENUES
 11 TO FAIR FUNDS FOR THE RELIEF OF VIC-
 12 TIMS.—

13 “(i) IN GENERAL.—There are hereby
 14 appropriated to the Securities and Ex-
 15 change Commission amounts which the
 16 Secretary determines are equivalent to the
 17 increases in Federal revenues by reason of
 18 the application of this subsection to
 19 amounts described in subparagraph (A).

20 “(ii) ALLOCATION TO FAIR FUNDS.—
 21 The Securities and Exchange Commission
 22 shall transfer to any disgorgement fund es-
 23 tablished by the Commission with respect
 24 to any taxpayer pursuant to section 308 of
 25 the Sarbanes-Oxley Act of 2002 (15

1 U.S.C. 7246) the portion of the amounts
2 appropriated under clause (i) attributable
3 to the payment of any amount described in
4 subparagraph (A) by the taxpayer.”.

5 (b) EFFECTIVE DATE.—The amendment made by
6 this section shall apply to amounts paid or incurred after
7 April 28, 2003, except that such amendment shall not
8 apply to amounts paid or incurred under any binding
9 order or agreement entered into on or before April 28,
10 2003. Such exception shall not apply to an order or agree-
11 ment requiring court approval unless the approval was ob-
12 tained on or before April 28, 2003.

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