II

115TH CONGRESS
2D SESSION

S. 2885

To amend the Securities Exchange Act of 1934 to require additional disclosure for pharmaceutical companies.

IN THE SENATE OF THE UNITED STATES

MAY 17, 2018

Ms. SMITH introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

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A BILL

To amend the Securities Exchange Act of 1934 to require additional disclosure for pharmaceutical companies.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Disclosing Pharmaceutical Company Windfall Profits Act of 2018''.

SEC. 2. ADDITIONAL DISCLOSURE FOR PHARMACEUTICAL COMPANIES.

Section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m) is amended by adding at the end the following:

''(s) ADDITIONAL DISCLOSURE FOR PHARMACEUTICAL COMPANIES.—

''(1) IN GENERAL.—Each issuer required to file an annual or quarterly report under subsection (a) shall disclose in that report the information required by paragraph (2) if, during the period covered by the report, the issuer or any affiliate of the issuer is a drug manufacturer.

''(2) INFORMATION REQUIRED.—If an issuer or an affiliate of the issuer is required to make a disclosure pursuant to paragraph (1), the disclosure shall include—

''(A) a country-by-country report;

''(B) a description of any change in dividend or change in share repurchase plan after November 2, 2017, and the total value of such change;

''(C) bonuses or other changes in compensation of officers or directors after November 2, 2017, and the total value and percentage changes in comparison to the prior year;

''(D) the total value of the research and experimentation tax credit (pursuant to section 41 of the Internal Revenue Code of 1986)

claimed by the issuer or any affiliate for the preceding tax year;

''(E) the change in spending on research and development of prescription drugs, including an estimate of total value of investment in research and development and the total value of any change in research and development for which the change was principally the result of Public Law 115–97 (131 Stat. 2054);

''(F) the total amount of—

''(i) deferred foreign income subject to mandatory inclusion pursuant to section 965(a) of the Internal Revenue Code of 1986; and

''(ii) deductions allowable under section 965(c) of such Code, including the amount of such deductions attributable to the 8 percent rate equivalent percentage and the amount attributable to the 15.5 percent rate equivalent percentage;

''(G) amounts described in section 162(e) of the Internal Revenue Code of 1986; and

''(H) any other material actions by the issuer for which the action was principally the result of Public Law 115–97 (131 Stat. 2054).

''(3) FOREIGN SUBSIDIARIES.—For each foreign subsidiary in the country-by-country report, the report required by paragraph (1) shall be grouped by resident jurisdiction (including a group for subsidiaries resident nowhere), the tax jurisdiction (if different), and main business activity.

''(4) DEFINITIONS.—In this subsection:

''(A) COUNTRY-BY-COUNTRY REPORT.—The term 'country-by-country report' means information on a country-by-country basis during the covered period for each tax jurisdiction, aggregated from all subsidiaries residing in that jurisdiction, consisting of—

''(i) revenues from unrelated parties, related parties, and in total;

''(ii) profit or loss before taxes;

''(iii) income tax accrued for the current year;

''(iv) income tax paid (on a cash basis);

''(v) stated capital;

''(vi) accumulated earnings;

''(vii) number of employees;

''(viii) tangible assets other than cash or cash equivalents; and

"(ix) such other financial information as the Commission may determine is necessary or appropriate in the public interest or for the protection of investors.

"(B) DRUG MANUFACTURER.—The term 'drug manufacturer' means the person that holds the application for a drug approved under section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) or the license issued under section 351 of the Public Health Service Act (42 U.S.C. 262).".

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