

116TH CONGRESS
1ST SESSION

H. R. 4816

To amend the Commodity Exchange Act to modify provisions relating to whistleblower incentives and protection, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 23, 2019

Mrs. AXNE introduced the following bill; which was referred to the Committee on Agriculture, and in addition to the Committee on Oversight and Reform, 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

A BILL

To amend the Commodity Exchange Act to modify provisions relating to whistleblower incentives and protection, 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 “Whistleblower Pro-
5 grams Improvement Act”.

1 **SEC. 2. WHISTLEBLOWER PROTECTIONS FOR INTERNAL**
2 **DISCLOSURES.**

3 Section 23 of the Commodity Exchange Act (7 U.S.C.
4 26) is amended—

5 (1) in subsection (a)(7)—

6 (A) by striking “The term” and inserting
7 the following:

8 “(A) IN GENERAL.—The term”; and

9 (B) by adding at the end the following:

10 “(B) SPECIAL RULE.—Solely for the pur-
11 poses of subsection (h)(1), the term ‘whistle-
12 blower’ includes any individual who takes, or 2
13 or more individuals acting jointly who take, an
14 action described in subsection (h)(1)(A).”; and
15 (2) in subsection (h)(1)(A)—

16 (A) in clause (i), by striking “or” at the
17 end;

18 (B) in clause (ii), by striking the period at
19 the end and inserting “; or”; and

20 (C) by adding at the end the following:

21 “(iii) in providing information regard-
22 ing any conduct that the whistleblower rea-
23 sonably believes constitutes a violation of
24 any law, rule, or regulation subject to the
25 jurisdiction of the Commission to—

“(I) a person with supervisory authority over the whistleblower at the employer of the whistleblower, if that employer is an entity registered with, or required to be registered with, the Commission, a self-regulatory organization, or a State securities commission or office performing like functions; or

“(II) another individual working for the employer described in subclause (I) who the whistleblower reasonably believes has the authority—

“(aa) to investigate, discover, or terminate the misconduct; or

“(bb) to take any other action to address the misconduct.”.

SEC. 3. PROMPT PAYMENT OF AWARDS.

(a) IN GENERAL.—Section 23(b) of the Commodity Exchange Act (7 U.S.C. 26) is amended by adding at the end the following:

“(3) TIMELY PROCESSING OF CLAIMS.—

“(A) INITIAL DISPOSITION.—

1 “(i) IN GENERAL.—Except as pro-
2 vided in subparagraph (B), and subject to
3 clause (ii), the Commission shall make an
4 initial disposition with respect to a claim
5 submitted by a whistleblower for an award
6 under this section (referred to in this para-
7 graph as an ‘award claim’) not later than
8 1 year after the deadline established by the
9 Commission, by rule, for the whistleblower
10 to file the award claim.

11 “(ii) MULTIPLE ACTIONS.—If a cov-
12 ered judicial or administrative action in-
13 volves 1 or more related actions, the re-
14 quirement under clause (i) shall apply with
15 respect to the latest deadline with respect
16 to the actions.

17 “(B) EXCEPTIONS.—

18 “(i) INITIAL EXTENSION.—If the Di-
19 rector of the Division of Enforcement of
20 the Commission (referred to in this para-
21 graph as the ‘Director’), or the designee of
22 the Director, determines that an award
23 claim is sufficiently complex or involves
24 more than 1 whistleblower, or if other good
25 cause exists such that the Commission can-

1 not reasonably satisfy the requirement
2 under subparagraph (A), the Director or
3 the designee, as applicable, after providing
4 notice to the Chairman of the Commission
5 (referred to in this paragraph as the
6 ‘Chairman’), may extend the deadline with
7 respect to the satisfaction of that subpara-
8 graph by not more than 180 days.

9 “(ii) ADDITIONAL EXTENSIONS.—If,
10 after providing an extension under clause
11 (i), the Director, or the designee of the Di-
12 rector, determines that the Commission
13 cannot reasonably satisfy the requirement
14 under subparagraph (A) with respect to an
15 award claim, as extended under that
16 clause, the Director or the designee, as ap-
17 plicable, after providing notice to the
18 Chairman, may extend the period in which
19 the Commission may satisfy subparagraph
20 (A) by 1 additional 180-day period.

21 “(iii) NOTICE TO WHISTLEBLOWER
22 REQUIRED.—If the Director, or the des-
23 ignee of the Director, exercises authority
24 under clause (i) or (ii), the Director or the
25 designee, as applicable, shall submit to the

1 whistleblower who filed the award claim
 2 that is subject to that action by the Direc-
 3 tor or the designee a written notification of
 4 that action by the Director or the designee.

5 “(C) APPLICABILITY.—This paragraph
 6 shall apply only to an award claim that is time-
 7 ly submitted under a deadline established by
 8 the Commission after the date of enactment of
 9 this paragraph.”.

10 (b) RULES.—The Commodity Futures Trading Com-
 11 mission may issue any rules that are necessary to carry
 12 out paragraph (3) of section 23(b) of the Commodity Ex-
 13 change Act (7 U.S.C. 26(b)) (as added by paragraph (1)).

14 **SEC. 4. MISCELLANEOUS PROVISIONS.**

15 (a) CFTC WHISTLEBLOWER PROGRAM EDUCATION
 16 INITIATIVES.—Section 23(g)(2) of the Commodity Ex-
 17 change Act (7 U.S.C. 26(g)(2)) is amended—

18 (1) in subparagraph (A), by striking “and” at
 19 the end;

20 (2) in subparagraph (B), by striking the period
 21 at the end and inserting “; and”; and

22 (3) by adding at the end the following:

23 “(C) the funding of initiatives designed to
 24 educate stakeholders regarding the incentives
 25 and protections available under this section, in-

1 including the benefits of those incentives and pro-
 2 tectioins.”.

3 (b) DEPOSITS INTO CFTC CONSUMER PROTECTION
 4 FUND.—Section 23(g)(3)(A) of the Commodity Exchange
 5 Act (7 U.S.C. 26(g)(3)(A)) is amended by striking
 6 “\$100,000,000” and inserting “\$150,000,000”.

7 (c) AVAILABILITY OF CERTAIN CFTC INFORMATION
 8 TO GOVERNMENT AGENCIES.—Section 23(h)(2)(C) of the
 9 Commodity Exchange Act (7 U.S.C. 26(h)(2)(C)) is
 10 amended—

11 (1) in clause (i)—

12 (A) in subclause (II), by striking “jurisdic-
 13 tion;” and inserting the following: “jurisdiction,
 14 including—

15 “(aa) the Federal Trade
 16 Commission;

17 “(bb) the Internal Revenue
 18 Service; and

19 “(cc) the Department of
 20 State;”; and

21 (B) in subclause (VI), by inserting “or
 22 other foreign law enforcement authority” before
 23 the period at the end; and

24 (2) in clause (ii)—

1 (A) by striking “Each” and inserting the
 2 following:

3 “(I) IN GENERAL.—Each”;

4 (B) in subclause (I) (as so designated), by
 5 inserting “subclauses (I) through (V) of” before
 6 “clause (i)”; and

7 (C) by adding at the end the following:

8 “(II) FOREIGN AUTHORITIES.—

9 An entity described in subclause (VI)
 10 of clause (i) shall maintain informa-
 11 tion described in that clause in ac-
 12 cordance with such assurances of con-
 13 fidentiality as the Commission deter-
 14 mines appropriate.”.

15 (d) TECHNICAL CORRECTIONS.—Section 23(f)(3) of
 16 the Commodity Exchange Act (7 U.S.C. 26(f)(3)) is
 17 amended by striking “section 7064” and inserting “sec-
 18 tion 706”.

19 (e) CLARIFICATIONS REGARDING PERFORMANCE
 20 EVALUATIONS FOR THE FOREIGN SERVICE.—Section
 21 2302(a)(2)(viii) of title 5, United States Code, is amended
 22 by striking “or under title 38” and inserting “, under title
 23 38, or under the Foreign Service Act of 1980 (22 U.S.C.
 24 3901 et seq.)”.

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