

116TH CONGRESS
2D SESSION

H. R. 8458

To amend the Securities Exchange Act of 1934 to require public companies to provide sexual harassment claim disclosures in certain reports, to require public companies to implement mandatory sexual harassment training, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 30, 2020

Mr. TED LIEU of California introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To amend the Securities Exchange Act of 1934 to require public companies to provide sexual harassment claim disclosures in certain reports, to require public companies to implement mandatory sexual harassment training, 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 “Protections and Trans-
5 parency in the Workplace Act”.

1 **SEC. 2. COVERED DISCRIMINATION AND HARASSMENT DIS-**
2 **CLOSURES.**

3 (a) DEFINITION.—Section 3(a) of the Securities Ex-
4 change Act of 1934 (15 U.S.C. 78c(a)) is amended—

5 (1) by redesignating the second paragraph (80)
6 (related to funding portals) as paragraph (81); and

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

8 “(82) COVERED DISCRIMINATION AND HARASS-
9 MENT.—The term ‘covered discrimination and har-
10 assment’ means—

11 “(A) discrimination because of race, color,
12 religion, sex (including sexual orientation and
13 gender identity), or national origin under title
14 VII of the Civil Rights Act of 1964 (42 U.S.C.
15 2000e et seq.);

16 “(B) discrimination because of age under
17 the Age Discrimination in Employment Act of
18 1967 (29 U.S.C. 621 et seq.);

19 “(C) discrimination on the basis of dis-
20 ability under—

21 “(i) title I of the Americans with Dis-
22 abilities Act of 1990 (42 U.S.C. 12111 et
23 seq.); or

24 “(ii) section 501 of the Rehabilitation
25 Act of 1973 (29 U.S.C. 791);

1 “(D) discrimination because of genetic in-
 2 formation under title II of the Genetic Informa-
 3 tion Nondiscrimination Act of 2008 (42 U.S.C.
 4 2000ff et seq.);

5 “(E) discrimination on the basis of status
 6 concerning service in a uniformed service under
 7 section 4311(a) of title 38, United States Code;

8 “(F) sexual harassment; or

9 “(G) sexual assault or abuse.”.

10 (b) DISCLOSURES.—Section 13 of the Securities Ex-
 11 change Act of 1934 (15 U.S.C. 78m) is amended by add-
 12 ing at the end the following:

13 “(s) COVERED DISCRIMINATION AND HARASSMENT
 14 DISCLOSURES.—

15 “(1) ANNUAL AND QUARTERLY DISCLO-
 16 SURES.—Each issuer required to file an annual or
 17 quarterly report under subsection (a) shall disclose,
 18 in each such report, the following:

19 “(A) IN GENERAL.—

20 “(i) The number of covered discrimi-
 21 nation and harassment claims received
 22 within the reporting period.

23 “(ii) The current number of covered
 24 discrimination and harassment claims

1 being investigated at the time of the re-
2 port.

3 “(iii) The number of covered discrimi-
4 nation and harassment claims that were
5 resolved within the reporting period.

6 “(iv) The number of settlements in
7 connection with covered discrimination and
8 harassment claims within the reporting pe-
9 riod.

10 “(v) The number of court judgements
11 in connection with covered discrimination
12 and harassment claims within the report-
13 ing period.

14 “(vi) The aggregate amount of pay-
15 ments made in connection with covered
16 discrimination and harassment claims, in-
17 cluding payments made by persons other
18 than the issuer (including amounts that
19 may have been paid under an insurance
20 policy or directly by an employee of the
21 issuer).

22 “(vii) The outcomes of all adjudicated
23 covered discrimination and harassment
24 cases, including which party was the pre-
25 vailing party or, if there was no prevailing

1 party, whether there was a settlement with
2 no admission of guilt.

3 “(B) ADDITIONAL DISCLOSURES.—

4 “(i) The number of repeat settlements
5 of covered discrimination and harassment
6 claims with respect to a specific individual.

7 “(ii) The efforts taken by the issuer,
8 including mandatory covered discrimina-
9 tion and harassment training, to prevent
10 the perpetration of harassment, discrimina-
11 tion, or abuse by employees.

12 “(iii) The average length of time it
13 takes for the issuer to resolve covered dis-
14 crimination and harassment claims.

15 “(C) INCLUSION OF RELATED ENTITIES.—

16 “(i) IN GENERAL.—In making any
17 disclosure under this paragraph, the issuer
18 shall disclose such information with re-
19 spect to itself as well as any parent, sub-
20 sidiary, or affiliate.

21 “(ii) DATA FORMAT.—In making any
22 disclosure under this paragraph, the issuer
23 shall report each of the following sets of
24 data:

1 “(I) In an aggregated format in-
2 cluding the disclosures with respect to
3 the issuer and all parents, subsidi-
4 aries, and affiliates of the issuer.

5 “(II) The aggregate of the disclo-
6 sures for all parents, subsidiaries, and
7 affiliates of the issuer.

8 “(III) Separate disclosures for
9 the issuer and each parent, sub-
10 sidiary, or affiliate.

11 “(2) ATTESTATION REQUIREMENT.—Each
12 issuer required to file an annual or quarterly report
13 under subsection (a) shall include with such report
14 a separate attestation by the general counsel, the
15 chief financial officer, the chief executive officer, and
16 each member of the board of directors of the issuer
17 that the issuer—

18 “(A) has in place policies and systems to
19 ensure that the management of the issuer is
20 aware of the requirements of this subsection,
21 section 14C, and section 14D, and any rules
22 issued thereunder; and

23 “(B) is in compliance with such require-
24 ments and rules.

25 “(3) CURRENT REPORTS.—

1 “(A) IN GENERAL.—Each issuer required
2 to file current reports under this section shall—

3 “(i) file such a report each time the
4 issuer enters or exits any agreement re-
5 lated to the resolution of a covered dis-
6 crimination and harassment claim against
7 the issuer (or a parent, subsidiary, or other
8 affiliate of the issuer); and

9 “(ii) state in such report whether the
10 agreement involved a claim against an em-
11 ployee who has had 2 or more previous
12 covered discrimination and harassment
13 claims made against them.

14 “(B) REDACTIONS.—In making a report
15 required under subparagraph (A), the issuer—

16 “(i) may redact the names of specific
17 individuals involved with the agreement;
18 and

19 “(ii) unless the issuer has received
20 consent from a complainant, shall redact
21 the name of the complainant.

22 “(4) CLAIM DEFINED.—In this subsection, the
23 term ‘claim’ means any allegation, assertion, or for-
24 mal legal action.”.

1 **SEC. 3. INDEPENDENT AND IMPARTIAL INVESTIGATORY**
 2 **REQUIREMENTS.**

3 The Securities Exchange Act of 1934 (15 U.S.C. 78a
 4 et seq.) is amended by inserting after section 14B the fol-
 5 lowing:

6 **“SEC. 14C. INDEPENDENT AND IMPARTIAL INVESTIGATORY**
 7 **REQUIREMENTS.**

8 “(a) IN GENERAL.—In investigating any covered dis-
 9 crimination and harassment claim, an issuer shall engage
 10 and pay for a third-party law firm to investigate reports
 11 of covered discrimination and harassment on an impartial,
 12 fact-finding basis rather than at the direction of or scope
 13 defined by the issuer.

14 “(b) SELECTION OF LAW FIRM.—In choosing the
 15 third-party law firm to be engaged under subsection (a),
 16 the issuer may only choose a law firm agreed to by all
 17 employees involved with the claim.

18 “(c) CLAIM DEFINED.—In this section, the term
 19 ‘claim’ means any allegation, assertion, or formal legal ac-
 20 tion.”.

21 **SEC. 4. MANDATORY COVERED DISCRIMINATION AND HAR-**
 22 **ASSMENT TRAINING, INCLUDING BYSTANDER**
 23 **TRAINING, AND WORKPLACE SURVEY.**

24 The Securities Exchange Act of 1934 (15 U.S.C. 78a
 25 et seq.), as amended by section 3, is further amended by
 26 inserting after section 14C the following:

1 **“SEC. 14D. MANDATORY COVERED DISCRIMINATION AND**
2 **HARASSMENT TRAINING, INCLUDING BY-**
3 **STANDER TRAINING, AND WORKPLACE SUR-**
4 **VEY.**

5 “(a) WORKPLACE TRAINING PROGRAMS.—

6 “(1) IN GENERAL.—Each covered issuer shall
7 develop and disseminate workplace training pro-
8 grams to educate employees at all levels, no matter
9 what position, about what constitutes prohibited cov-
10 ered discrimination and harassment, how to report
11 covered discrimination and harassment, how to pre-
12 vent covered discrimination and harassment, and
13 what rights employees have with respect to covered
14 discrimination and harassment.

15 “(2) SPECIAL TRAINING FOR CERTAIN EMPLOY-
16 EES.—Each training program developed under para-
17 graph (1) shall require separate training for man-
18 agers and human resources employees.

19 “(3) SPECIFIC CONTENTS OF TRAINING PRO-
20 GRAM.—Each training program developed under
21 paragraph (1) shall contain the following:

22 “(A) An explanation of what constitutes
23 covered discrimination and harassment.

24 “(B) An explanation of how covered dis-
25 crimination and harassment can impact victims.

1 “(C) The rights of individuals with respect
2 to covered discrimination and harassment and
3 how to report it.

4 “(D) How individuals, including bystand-
5 ers who encounter covered discrimination and
6 harassment, can intervene or report covered dis-
7 crimination and harassment and what their
8 rights are should they report.

9 “(E) How employers and managers can
10 prevent covered discrimination and harassment
11 from occurring in the workplace.

12 “(F) An identification of available re-
13 sources for making complaints, including con-
14 tact information for the head of human re-
15 sources, contact information for the whistle-
16 blower tip line established under this section,
17 and other public resources where further infor-
18 mation can be obtained, such as law enforce-
19 ment agencies, hospitals, and mental health re-
20 sources.

21 “(4) FREQUENCY OF TRAINING.—Each training
22 program developed under paragraph (1) shall—

23 “(A) require new employees to complete
24 the training program not later than 60 days
25 after the employee assumes their position;

1 “(B) require all employees to complete the
2 training program once annually; and

3 “(C) require any employee found to have
4 committed covered discrimination and harass-
5 ment to retake the training as soon as possible.

6 “(b) ANNUAL SURVEY.—Each covered issuer shall
7 conduct an annual survey of the issuer’s employees to de-
8 termine—

9 “(1) whether employees feel safe;

10 “(2) whether employees would be comfortable
11 reporting sexual harassment; and

12 “(3) if there are ways the issuer could create
13 better avenues for employees to report sexual har-
14 assment.

15 “(c) USE OF OUTSIDE LAW FIRMS.—

16 “(1) IN GENERAL.—Each covered issuer shall
17 contract with a third-party law firm to carry out the
18 workplace training program required under sub-
19 section (a) and the annual survey required under
20 subsection (b).

21 “(2) SENSE OF CONGRESS.—It is the sense of
22 the Congress that covered issuers should use the
23 same law firm to carry out the annual survey and
24 the workplace training program.

1 “(d) WHISTLEBLOWER TIP LINE.—Each covered
2 issuer shall—

3 “(1) establish an anonymous whistle blower tip
4 line for employees; and

5 “(2) with respect to any report made to the tip
6 line, immediately provide the report to the general
7 counsel of the issuer, the head of human resources
8 for the issuer, and the members of the board of di-
9 rectors of the issuer.

10 “(e) DEFINITIONS.—In this section:

11 “(1) COVERED ISSUER.—The term ‘covered
12 issuer’ means an issuer of a security registered pur-
13 suant to section 12.

14 “(2) EMPLOYEE.—With respect to an issuer,
15 the term ‘employee’ means—

16 “(A) an employee of the issuer, including
17 a volunteer or other individual working for the
18 issuer without pay; and

19 “(B) an independent contractor who is
20 contracting with the issuer, and each employee
21 of the independent contractor, including a vol-
22 unteer or other individual working for the con-
23 tractor without pay.”.

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