

116TH CONGRESS  
1ST SESSION

**S.** \_\_\_\_\_

To amend the Commodity Exchange Act and the Securities Exchange Act of 1934 to modify provisions relating to whistleblower incentives and protection, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

Mr. GRASSLEY (for himself, Ms. BALDWIN, Ms. ERNST, and Mr. DURBIN) introduced the following bill; which was read twice and referred to the Committee on \_\_\_\_\_

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**A BILL**

To amend the Commodity Exchange Act and the Securities Exchange Act of 1934 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 (a) COMMODITIES.—Section 23 of the Commodity  
4 Exchange Act (7 U.S.C. 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—

1                   “(I) a person with supervisory  
2 authority over the whistleblower at the  
3 employer of the whistleblower, if that  
4 employer is an entity registered with,  
5 or required to be registered with, the  
6 Commission, a self-regulatory organi-  
7 zation, or a State securities commis-  
8 sion or office performing like func-  
9 tions; or

10                   “(II) another individual working  
11 for the employer described in sub-  
12 clause (I) who the whistleblower rea-  
13 sonably believes has the authority—

14                   “(aa) to investigate, dis-  
15 cover, or terminate the mis-  
16 conduct; or

17                   “(bb) to take any other ac-  
18 tion to address the misconduct.”.

19           (b) SECURITIES.—Section 21F of the Securities Ex-  
20 change Act of 1934 (15 U.S.C. 78u-6) is amended—

21                   (1) in subsection (a)(6)—

22                   (A) by striking “The term” and inserting  
23 the following:

24                   “(A) IN GENERAL.—The term”; and

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

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

7           (A) in clause (ii), by striking “or” at the  
8           end;

9           (B) in clause (iii), by striking the period at  
10          the end and inserting “; or”; and

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

12                 “(iv) in providing information regard-  
13                 ing any conduct that the whistleblower rea-  
14                 sonably believes constitutes a violation of  
15                 any law, rule, or regulation subject to the  
16                 jurisdiction of the Commission to—

17                         “(I) a person with supervisory  
18                         authority over the whistleblower at the  
19                         employer of the whistleblower, if that  
20                         employer is an entity registered with,  
21                         or required to be registered with, the  
22                         Commission, a self-regulatory organi-  
23                         zation, or a State securities commis-  
24                         sion or office performing like func-  
25                         tions; or

1                   “(II) another individual working  
2                   for the employer described in sub-  
3                   clause (I) who the whistleblower rea-  
4                   sonably believes has the authority  
5                   to—

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

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

10 **SEC. 3. PROMPT PAYMENT OF AWARDS.**

11         (a) COMMODITIES.—

12                 (1) IN GENERAL.—Section 23(b) of the Com-  
13         modity Exchange Act (7 U.S.C. 26) is amended by  
14         adding at the end the following:

15                   “(3) TIMELY PROCESSING OF CLAIMS.—

16                                 “(A) INITIAL DISPOSITION.—

17   “(i) IN GENERAL.—Except as pro-  
18   vided in subparagraph (B), and subject to  
19   clause (ii), the Commission shall make an  
20   initial disposition with respect to a claim  
21   submitted by a whistleblower for an award  
22   under this section (referred to in this para-  
23   graph as an ‘award claim’) not later than  
24   1 year after the deadline established by the

1 Commission, by rule, for the whistleblower  
2 to file the award claim.

3 “(ii) MULTIPLE ACTIONS.—If a cov-  
4 ered judicial or administrative action in-  
5 volves 1 or more related actions, the re-  
6 quirement under clause (i) shall apply with  
7 respect to the latest deadline with respect  
8 to the actions.

9 “(B) EXCEPTIONS.—

10 “(i) INITIAL EXTENSION.—If the Di-  
11 rector of the Division of Enforcement of  
12 the Commission (referred to in this para-  
13 graph as the ‘Director’), or the designee of  
14 the Director, determines that an award  
15 claim is sufficiently complex or involves  
16 more than 1 whistleblower, or if other good  
17 cause exists such that the Commission can-  
18 not reasonably satisfy the requirement  
19 under subparagraph (A), the Director or  
20 the designee, as applicable, after providing  
21 notice to the Chairman of the Commission  
22 (referred to in this paragraph as the  
23 ‘Chairman’), may extend the deadline with  
24 respect to the satisfaction of that subpara-  
25 graph by not more than 180 days.

1           “(ii) ADDITIONAL EXTENSIONS.—If,  
2           after providing an extension under clause  
3           (i), the Director, or the designee of the Di-  
4           rector, determines that the Commission  
5           cannot reasonably satisfy the requirement  
6           under subparagraph (A) with respect to an  
7           award claim, as extended under that  
8           clause, the Director or the designee, as ap-  
9           plicable, after providing notice to the  
10          Chairman, may extend the period in which  
11          the Commission may satisfy subparagraph  
12          (A) by 1 additional 180-day period.

13          “(iii) NOTICE TO WHISTLEBLOWER  
14          REQUIRED.—If the Director, or the des-  
15          ignee of the Director, exercises authority  
16          under clause (i) or (ii), the Director or the  
17          designee, as applicable, shall submit to the  
18          whistleblower who filed the award claim  
19          that is subject to that action by the Direc-  
20          tor or the designee a written notification of  
21          that action by the Director or the designee.

22          “(C) APPLICABILITY.—This paragraph  
23          shall apply only to an award claim that is time-  
24          ly submitted under a deadline established by

1 the Commission after the date of enactment of  
2 this paragraph.”.

3 (2) RULES.—The Commodity Futures Trading  
4 Commission may issue any rules that are necessary  
5 to carry out paragraph (3) of section 23(b) of the  
6 Commodity Exchange Act (7 U.S.C. 26(b)) (as  
7 added by paragraph (1)).

8 (b) SECURITIES.—

9 (1) IN GENERAL.—Section 21F(b) of the Secu-  
10 rities Exchange Act of 1934 (15 U.S.C. 78u–6(b))  
11 is amended by adding at the end the following:

12 “(3) TIMELY PROCESSING OF CLAIMS.—

13 “(A) INITIAL DISPOSITION.—

14 “(i) IN GENERAL.—Except as pro-  
15 vided in subparagraph (B), and subject to  
16 clause (ii), the Commission shall make an  
17 initial disposition with respect to a claim  
18 submitted by a whistleblower for an award  
19 under this section (referred to in this para-  
20 graph as an ‘award claim’) not later than  
21 1 year after the deadline established by the  
22 Commission, by rule, for the whistleblower  
23 to file the award claim.

24 “(ii) MULTIPLE ACTIONS.—If a cov-  
25 ered judicial or administrative action in-



1 involves 1 or more related actions, the re-  
2 quirement under clause (i) shall apply with  
3 respect to the latest deadline with respect  
4 to the actions.

5 “(B) EXCEPTIONS.—

6 “(i) INITIAL EXTENSION.—If the Di-  
7 rector of the Division of Enforcement of  
8 the Commission (referred to in this para-  
9 graph as the ‘Director’), or the designee of  
10 the Director, determines that an award  
11 claim is sufficiently complex or involves  
12 more than 1 whistleblower, or if other good  
13 cause exists such that the Commission can-  
14 not reasonably satisfy the requirement  
15 under subparagraph (A), the Director or  
16 the designee, as applicable, after providing  
17 notice to the Chairman of the Commission  
18 (referred to in this paragraph as the  
19 ‘Chairman’), may extend the deadline with  
20 respect to the satisfaction of that subpara-  
21 graph by not more than 180 days.

22 “(ii) ADDITIONAL EXTENSIONS.—If,  
23 after providing an extension under clause  
24 (i), the Director, or the designee of the Di-  
25 rector, determines that the Commission

1 cannot reasonably satisfy the requirement  
2 under subparagraph (A) with respect to an  
3 award claim, as extended under that  
4 clause, the Director or the designee, as ap-  
5 plicable, after providing notice to the  
6 Chairman, may extend the period in which  
7 the Commission may satisfy subparagraph  
8 (A) by 1 additional 180-day period.

9 “(iii) NOTICE TO WHISTLEBLOWER  
10 REQUIRED.—If the Director, or the des-  
11 ignee of the Director, exercises authority  
12 under clause (i) or (ii), the Director or the  
13 designee, as applicable, shall submit to the  
14 whistleblower who filed the award claim  
15 that is subject to that action by the Direc-  
16 tor or the designee a written notification of  
17 that action by the Director or the designee.

18 “(C) APPLICABILITY.—This paragraph  
19 shall apply only to an award claim that is time-  
20 ly submitted under a deadline established by  
21 the Commission after the date of enactment of  
22 this paragraph.”.

23 (2) RULES.—The Securities and Exchange  
24 Commission may issue any rules that are necessary  
25 to carry out paragraph (3) of section 21F(b) of the

1 Securities Exchange Act of 1934 (15 U.S.C. 78u–  
2 6(b)), as added by paragraph (1).

3 **SEC. 4. MISCELLANEOUS PROVISIONS.**

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

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

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

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

12 “(C) the funding of initiatives designed to  
13 educate stakeholders regarding the incentives  
14 and protections available under this section, in-  
15 cluding the benefits of those incentives and pro-  
16 tections.”.

17 (b) DEPOSITS INTO CFTC CONSUMER PROTECTION  
18 FUND.—Section 23(g)(3)(A) of the Commodity Exchange  
19 Act (7 U.S.C. 26(g)(3)(A)) is amended by striking  
20 “\$100,000,000” and inserting “\$150,000,000”.

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

25 (1) in clause (i)—

1 (A) in subclause (II), by striking “jurisdic-  
2 tion;” and inserting the following: “jurisdiction,  
3 including—

4 “(aa) the Federal Trade  
5 Commission;

6 “(bb) the Internal Revenue  
7 Service; and

8 “(cc) the Department of  
9 State;”; and

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

13 (2) in clause (ii)—

14 (A) by striking “Each” and inserting the  
15 following:

16 “(I) IN GENERAL.—Each”;

17 (B) in subclause (I) (as so designated), by  
18 inserting “subclauses (I) through (V) of” before  
19 “clause (i)”; and

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

21 “(II) FOREIGN AUTHORITIES.—

22 An entity described in subclause (VI)  
23 of clause (i) shall maintain informa-  
24 tion described in that clause in ac-  
25 cordance with such assurances of con-

1                    confidentiality as the Commission deter-  
2                    mines appropriate.”.

3            (d) TECHNICAL CORRECTIONS.—

4                    (1) REVIEW.—Section 23(f)(3) of the Com-  
5                    modity Exchange Act (7 U.S.C. 26(f)(3)) is amend-  
6                    ed by striking “section 7064” and inserting “section  
7                    706”.

8                    (2) EXISTING COMMODITIES PROVISION.—

9                            (A) IN GENERAL.—Section 21F of the Se-  
10                    curities Exchange Act of 1934 (15 U.S.C. 78u-  
11                    6) is amended by adding at the end the fol-  
12                    lowing:

13                    “(k) NONENFORCEABILITY OF CERTAIN PROVISIONS  
14                    WAIVING RIGHTS AND REMEDIES OR REQUIRING ARBI-  
15                    TRATION.—

16                            “(1) WAIVER OF RIGHTS AND REMEDIES.—The  
17                    rights and remedies provided in this section may not  
18                    be waived by any agreement, policy form, or condi-  
19                    tion of employment, including by a predispute arbi-  
20                    tration agreement.

21                            “(2) PREDISPUTE ARBITRATION AGREEMENT.—  
22                    No predispute arbitration agreement shall be valid  
23                    or enforceable if the agreement requires the arbitra-  
24                    tion of a dispute arising under this section.”.

1                   (B) APPLICABILITY.—Subsection (k) of  
2                   section 21F of the Securities Exchange Act of  
3                   1934 (15 U.S.C. 78u–6), as added by subpara-  
4                   graph (A), shall apply with respect to any ac-  
5                   tion that is filed on or after, or that is pending  
6                   as of, the date of enactment of this Act.

7                   (e) CLARIFICATIONS REGARDING PERFORMANCE  
8                   EVALUATIONS FOR THE FOREIGN SERVICE.—Section  
9                   2302(a)(2)(viii) of title 5, United States Code, is amended  
10                  by striking “or under title 38” and inserting “, under title  
11                  38, or under the Foreign Service Act of 1980 (22 U.S.C.  
12                  3901 et seq.)”.