

[DISCUSSION DRAFT]

116TH CONGRESS
2^D SESSION

H. R. _____

To establish a COVID–19 Securities Restitution Assistance Fund to help ensure restitution is paid to victims of securities violations related to the COVID–19 pandemic, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

M____. _____ introduced the following bill; which was referred to the
Committee on _____

A BILL

To establish a COVID–19 Securities Restitution Assistance Fund to help ensure restitution is paid to victims of securities violations related to the COVID–19 pandemic, 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 “COVID–19 Restitution
5 Assistance Fund for Victims of Securities Violations Act”.

1 **SEC. 2. COVID-19 SECURITIES RESTITUTION ASSISTANCE**

2 **FUND.**

3 (a) DEFINITIONS.—In this section:

4 (1) COMMISSION.—The term “Commission”
5 means the Securities and Exchange Commission.

6 (2) ESSENTIAL WORKER.—The term “essential
7 worker” means an individual who is exempt from a
8 State “Stay at Home” order on the basis of the in-
9 dividual’s employment or qualifications.

10 (3) SECURITIES FRAUD RELATED TO COVID-
11 19.—The Commission shall define the term “securi-
12 ties fraud related to COVID-19” for purposes of
13 this section.

14 (4) VULNERABLE PERSON.—The term “vulner-
15 able person” means—

16 (A) an individual who has contracted
17 COVID-19;

18 (B) a spouse or child of an individual who
19 has contracted COVID-19;

20 (C) a student attending an institution that
21 is closed due to COVID-19;

22 (D) an individual who is an essential work-
23 er;

24 (E) a resident at a nursing home or elder
25 care facility;

26 (F) an individual 65 years of age or older;

1 (G) an individual meeting any of the appli-
2 cable criteria in the a State Adult Protective
3 Services statute in the State in which the indi-
4 vidual resides; and

5 (H) an individual in such other category of
6 individuals having suffered due to the COVID-
7 19 pandemic as the Commission may determine
8 by rule.

9 (b) ESTABLISHMENT OF FUND.—

10 (1) IN GENERAL.—There is established a fund
11 to be known as the “COVID–19 Securities Restitu-
12 tion Assistance Fund”, which shall be used to pro-
13 vide restitution payments described under subsection
14 (c).

15 (2) FUNDING.—The Fund shall consist of—

16 (A) any fines or other amounts ordered to
17 be paid to the Government in any judicial or
18 administrative action brought by the Commis-
19 sion in connection with securities fraud related
20 to COVID–19; and

21 (B) any amounts received by the Commis-
22 sion in connection with payments made under
23 this section, including with respect to sub-
24 rogated claims and any refunds of excess
25 awards.

1 (c) RESTITUTION PAYMENTS.—

2 (1) IN GENERAL.— If the Commission obtains
3 an order awarding restitution in favor of an indi-
4 vidual in any judicial or administrative action in
5 connection with securities fraud related to COVID-
6 19, and if an individual has not received full pay-
7 ment of restitution, such individual may request a
8 restitution payment from the Commission.

9 (2) APPLICATION.—A request for a restitution
10 payment under this section shall be made—

11 (A) not later than the end of the 1-year
12 period beginning on the date the restitution is
13 awarded in the applicable judicial or adminis-
14 trative action, unless such 1-year period is ex-
15 tended by the Commission upon a showing of
16 good cause; and

17 (B) in such form and manner and con-
18 taining such information as the Commission de-
19 termines appropriate.

20 (3) LIMITATIONS ON RESTITUTION PAY-
21 MENTS.—

22 (A) PAYMENT CAPS.—The maximum
23 amount that may be paid by the Commission
24 under this section to an individual with respect

1 to a single judicial or administrative action
2 shall be—

3 (i) the lesser of \$25,000 or 25 percent
4 of the amount of unpaid restitution award-
5 ed in such action; or

6 (ii) in the case of a vulnerable person,
7 the lesser of \$50,000 or 50 percent of the
8 amount of unpaid restitution awarded in
9 such action.

10 (B) WAIVER.—Subparagraph (A) may be
11 waived by the Commission upon a showing of
12 good cause.

13 (C) RESTITUTION PROHIBITED IN CERTAIN
14 CASES.—The Commission may not pay a res-
15 titution payment under this section, and shall
16 recoup any restitution previously paid, to an in-
17 dividual who—

18 (i) sustained the monetary injury pri-
19 marily as a result of committing (or at-
20 tempting to commit) a securities violation;

21 (ii) profited or would have profited
22 from a securities violation; or

23 (iii) is convicted of a crime in connec-
24 tion with the actions giving rise to the res-
25 titution award or in connection with the re-

1 quest for a restitution payment under this
2 section.

3 (d) RIGHTS OF THE COMMISSION.—

4 (1) SUBROGATION.—The Commission shall be
5 subrogated to the rights of the individual paid res-
6 titution under this section to the extent of such pay-
7 ment. The subrogation rights are against the person
8 ordered to pay restitution to the individual in con-
9 nection with securities fraud related to COVID-19.

10 (2) LIEN ON RECOVERY.—The Commission is
11 entitled to a lien in the amount of the restitution
12 paid under this section to an individual on any re-
13 covery made by or on behalf of the individual.

14 (3) REFUND OF EXCESS AWARD.—An indi-
15 vidual shall refund any amount of payment under
16 this section if, when combined with any restitution
17 received by the individual in connection with the res-
18 titution award under the applicable judicial or ad-
19 ministrative action, such amount exceeds the restitu-
20 tion award in such judicial or administrative action.

21 (4) RULEMAKING.—The Commission may issue
22 such rules as may be necessary to carry out this sec-
23 tion.

1 (e) RULE OF APPLICATION.—This section shall apply
2 to restitution awarded in a judicial or administrative ac-
3 tion on or after the date of enactment of this section.