Suspend the Rules and Pass the Bill, H.R. 4344, with an Amendment

(The amendment strikes all after the enacting clause and inserts a new text)

116TH CONGRESS
1ST SESSION

H. R. 4344

To amend the Securities Exchange Act of 1934 to allow the Securities and Exchange Commission to seek and Federal courts to grant disgorgement of unjust enrichment, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 17, 2019

Mr. McADAMS (for himself and Mr. HUIZENGA) introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To amend the Securities Exchange Act of 1934 to allow the Securities and Exchange Commission to seek and Federal courts to grant disgorgement of unjust enrichment, and for other purposes.

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

2 SECTION 1. SHORT TITLE.

3 This Act may be cited as the “Investor Protection and Capital Markets Fairness Act”.

SEC. 2. ADDITIONAL RELIEF.

(a) IN GENERAL.—Section 21(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(d)) is amended by adding at the end the following:

“(7) ADDITIONAL RELIEF.—

“(A) IN GENERAL.—In any action or proceeding brought or instituted by the Commission under any provision of the securities laws, the Commission may seek, and any Federal court may grant the following additional relief:

“(i) Disgorgement in the amount of any unjust enrichment obtained as a result of the act or practice with respect to which the Commission is bringing such an action or proceeding.

“(ii) Injunctions, including officer and director bars.

“(B) RULE OF CONSTRUCTION.—Additional relief sought under this paragraph may not be construed to be a civil fine, penalty, or forfeiture subject to chapter 163 of part VI of title 28, United States Code.

“(C) STATUTE OF LIMITATIONS.—A Federal court may not issue relief under this paragraph if the action or proceeding brought or in-
stituted by the Commission was commenced more than 14 years after the alleged violation.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to any actions or proceedings pending or commenced on or after the date of the enactment of this section.

(c) REPORT.—

(1) IN GENERAL.—Not later than 10 years after the date of the enactment of this Act, the Securities Exchange Commission shall submit to Congress data about each enforcement action brought by the Commission in the 10 years following the date of the enactment of this Act.

(2) CONTENTS.—In submitting data pursuant to paragraph (1), the Commission shall—

(A) with regard to each enforcement action—

(i) categorize the type of enforcement action;

(ii) categorize the type of issuer involved in the enforcement action;

(iii) identify the approximate duration of the misconduct that gave rise to the enforcement action; and
(iv) identify the approximate duration of the investigation; and

(B) identify the 10 enforcement actions with the longest durations of misconduct that gave rise to enforcement actions.

SEC. 3. DETERMINATION OF BUDGETARY EFFECTS.

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement titled “Budgetary Effects of PAYGO Legislation” for this Act, submitted for printing in the Congressional Record by the Chairman of the House Budget Committee, provided that such statement has been submitted prior to the vote on passage.