AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 4344
OFFERED BY MR. McADAMS OF UTAH

In the matter relating to disgorgement of unjust enrichment

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

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

4 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 instituted 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.