

116TH CONGRESS  
1ST SESSION

# H. R. 4816

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

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## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 23, 2019

Mrs. AXNE introduced the following bill; which was referred to the Committee on Agriculture, and in addition to the Committee on Oversight and Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend the Commodity Exchange Act 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 Section 23 of the Commodity Exchange Act (7 U.S.C.  
4 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 **SEC. 3. PROMPT PAYMENT OF AWARDS.**

20           (a) IN GENERAL.—Section 23(b) of the Commodity  
21 Exchange Act (7 U.S.C. 26) is amended by adding at the  
22 end the following:

23                   “(3) TIMELY PROCESSING OF CLAIMS.—

24                           “(A) INITIAL DISPOSITION.—

1           “(i) IN GENERAL.—Except as pro-  
2           vided in subparagraph (B), and subject to  
3           clause (ii), the Commission shall make an  
4           initial disposition with respect to a claim  
5           submitted by a whistleblower for an award  
6           under this section (referred to in this para-  
7           graph as an ‘award claim’) not later than  
8           1 year after the deadline established by the  
9           Commission, by rule, for the whistleblower  
10          to file the award claim.

11          “(ii) MULTIPLE ACTIONS.—If a cov-  
12          ered judicial or administrative action in-  
13          volves 1 or more related actions, the re-  
14          quirement under clause (i) shall apply with  
15          respect to the latest deadline with respect  
16          to the actions.

17          “(B) EXCEPTIONS.—

18          “(i) INITIAL EXTENSION.—If the Di-  
19          rector of the Division of Enforcement of  
20          the Commission (referred to in this para-  
21          graph as the ‘Director’), or the designee of  
22          the Director, determines that an award  
23          claim is sufficiently complex or involves  
24          more than 1 whistleblower, or if other good  
25          cause exists such that the Commission can-

1 not reasonably satisfy the requirement  
2 under subparagraph (A), the Director or  
3 the designee, as applicable, after providing  
4 notice to the Chairman of the Commission  
5 (referred to in this paragraph as the  
6 ‘Chairman’), may extend the deadline with  
7 respect to the satisfaction of that subpara-  
8 graph by not more than 180 days.

9 “(ii) ADDITIONAL EXTENSIONS.—If,  
10 after providing an extension under clause  
11 (i), the Director, or the designee of the Di-  
12 rector, determines that the Commission  
13 cannot reasonably satisfy the requirement  
14 under subparagraph (A) with respect to an  
15 award claim, as extended under that  
16 clause, the Director or the designee, as ap-  
17 plicable, after providing notice to the  
18 Chairman, may extend the period in which  
19 the Commission may satisfy subparagraph  
20 (A) by 1 additional 180-day period.

21 “(iii) NOTICE TO WHISTLEBLOWER  
22 REQUIRED.—If the Director, or the des-  
23 ignee of the Director, exercises authority  
24 under clause (i) or (ii), the Director or the  
25 designee, as applicable, shall submit to the

1 whistleblower who filed the award claim  
2 that is subject to that action by the Direc-  
3 tor or the designee a written notification of  
4 that action by the Director or the designee.

5 “(C) APPLICABILITY.—This paragraph  
6 shall apply only to an award claim that is time-  
7 ly submitted under a deadline established by  
8 the Commission after the date of enactment of  
9 this paragraph.”.

10 (b) RULES.—The Commodity Futures Trading Com-  
11 mission may issue any rules that are necessary to carry  
12 out paragraph (3) of section 23(b) of the Commodity Ex-  
13 change Act (7 U.S.C. 26(b)) (as added by paragraph (1)).

14 **SEC. 4. MISCELLANEOUS PROVISIONS.**

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

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

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

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

23 “(C) the funding of initiatives designed to  
24 educate stakeholders regarding the incentives  
25 and protections available under this section, in-

1 including the benefits of those incentives and pro-  
2 tectioins.”.

3 (b) DEPOSITS INTO CFTC CONSUMER PROTECTION  
4 FUND.—Section 23(g)(3)(A) of the Commodity Exchange  
5 Act (7 U.S.C. 26(g)(3)(A)) is amended by striking  
6 “\$100,000,000” and inserting “\$150,000,000”.

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

11 (1) in clause (i)—

12 (A) in subclause (II), by striking “jurisdic-  
13 tion;” and inserting the following: “jurisdiction,  
14 including—

15 “(aa) the Federal Trade  
16 Commission;

17 “(bb) the Internal Revenue  
18 Service; and

19 “(cc) the Department of  
20 State;”; and

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

24 (2) in clause (ii)—

1 (A) by striking “Each” and inserting the  
2 following:

3 “(I) IN GENERAL.—Each”;

4 (B) in subclause (I) (as so designated), by  
5 inserting “subclauses (I) through (V) of” before  
6 “clause (i)”; and

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

8 “(II) FOREIGN AUTHORITIES.—

9 An entity described in subclause (VI)  
10 of clause (i) shall maintain informa-  
11 tion described in that clause in ac-  
12 cordance with such assurances of con-  
13 fidentiality as the Commission deter-  
14 mines appropriate.”.

15 (d) TECHNICAL CORRECTIONS.—Section 23(f)(3) of  
16 the Commodity Exchange Act (7 U.S.C. 26(f)(3)) is  
17 amended by striking “section 7064” and inserting “sec-  
18 tion 706”.

19 (e) CLARIFICATIONS REGARDING PERFORMANCE  
20 EVALUATIONS FOR THE FOREIGN SERVICE.—Section  
21 2302(a)(2)(viii) of title 5, United States Code, is amended  
22 by striking “or under title 38” and inserting “, under title  
23 38, or under the Foreign Service Act of 1980 (22 U.S.C.  
24 3901 et seq.)”.

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