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(Original Signature of Member)

114TH CONGRESS
1ST SESSION

H. R.

To amend the Securities Exchange Act of 1934 to prohibit certain securities trading and related communications by those who possess material, non-public information.

IN THE HOUSE OF REPRESENTATIVES

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

A BILL

To amend the Securities Exchange Act of 1934 to prohibit certain securities trading and related communications by those who possess material, nonpublic information.

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 “Insider Trading Prohi-
5 bition Act”.

1 **SEC. 2. PROHIBITION ON INSIDER TRADING.**

2 (a) IN GENERAL.—The Securities Exchange Act of
3 1934 (15 U.S.C. 78a et seq.) is amended by adding after
4 section 16 the following new section:

5 **“SEC. 16A. PROHIBITION ON INSIDER TRADING.**

6 “(a) PROHIBITION AGAINST TRADING SECURITIES
7 WHILE IN POSSESSION OF MATERIAL, NONPUBLIC IN-
8 FORMATION.—It shall be unlawful for any person, directly
9 or indirectly, to purchase, sell, or enter into, or cause the
10 purchase or sale of or entry into, any security, security-
11 based swap, or security-based swap agreement, while in
12 possession of material, nonpublic information relating to
13 such security, security-based swap, or security-based swap
14 agreement, or relating to the market for such security, se-
15 curity-based swap, or security-based swap agreement, if
16 such person knows, or recklessly disregards, that such in-
17 formation has been obtained wrongfully, or that such pur-
18 chase, sale, or entry would constitute a wrongful use of
19 such information.

20 “(b) PROHIBITION AGAINST THE WRONGFUL COM-
21 MUNICATION OF CERTAIN MATERIAL, NONPUBLIC INFOR-
22 MATION.—It shall be unlawful for any person whose own
23 purchase or sale of a security, security-based swap, or
24 entry into a security-based swap agreement would violate
25 subsection (a) (referred to in this subsection as the ‘com-
26 municating person’), wrongfully to communicate material,

1 nonpublic information relating to such security, security-
2 based swap, or security-based swap agreement, or relating
3 to the market for such security, security-based swap, or
4 security-based swap agreement, to any other person if—

5 “(1) the other person—

6 “(A) purchases, sells, or causes the pur-
7 chase or sale of, any security or security-based
8 swap or enters into or causes the entry into any
9 security-based swap agreement, to which such
10 communication relates; or

11 “(B) communicates the information to an-
12 other person who makes or causes such a pur-
13 chase, sale, or entry while in possession of such
14 information; and

15 “(2) such a purchase, sale, or entry while in
16 possession of such information is reasonably foresee-
17 able.

18 “(c) STANDARD AND KNOWLEDGE REQUIREMENT.—

19 “(1) STANDARD.—For purposes of this section,
20 trading while in possession of material, nonpublic in-
21 formation under subsection (a) or communicating
22 material nonpublic information under subsection (b)
23 is wrongful only if the information has been obtained
24 by, or its communication or use would constitute, di-
25 rectly or indirectly—

1 “(A) theft, bribery, misrepresentation, or
2 espionage (through electronic or other means)

3 “(B) a violation of any Federal law pro-
4 tecting computer data or the intellectual prop-
5 erty or privacy of computer users; or

6 “(C) conversion, misappropriation, or other
7 unauthorized and deceptive taking of such in-
8 formation, or a breach of any fiduciary duty or
9 any other personal or other relationship of trust
10 and confidence.

11 “(2) KNOWLEDGE REQUIREMENT.—It shall not
12 be necessary that the person trading while in posses-
13 sion of such information (as proscribed by sub-
14 section (a)), or making the communication (as pro-
15 scribed by subsection (b)), know the specific means
16 by which the information was obtained or commu-
17 nicated, or whether any personal benefit was paid or
18 promised by or to any person in the chain of com-
19 munication, so long as the person trading while in
20 possession of such information or making the com-
21 munication, as the case may be, was aware, or reck-
22 lessly disregarded that such information was wrong-
23 fully obtained or communicated.

24 “(d) DERIVATIVE LIABILITY.—Except as provided in
25 section 20(a), no person shall be liable under this section

1 solely by reason of the fact that such person controls or
2 employs a person who has violated this section, if such
3 controlling person or employer did not participate in, prof-
4 it from, or directly or indirectly induce the acts consti-
5 tuting the violation of this section.

6 “(e) EXEMPTED TRANSACTIONS.—The Commission
7 may, by rule, exempt any person, security, or transaction,
8 or any class persons securities, or transactions, from any
9 or all of the provisions of this section, upon such terms
10 and conditions as it considers necessary or appropriate,
11 if the Commission determines that such action is not in-
12 consistent with the purposes of this section. The prohibi-
13 tions of this section shall not apply to any person who
14 acts at the specific direction of, and solely for the account
15 of, a person whose own securities trading, or communica-
16 tions of material, nonpublic information, would be lawful
17 under this section.”.

18 (b) CONFORMING AMENDMENTS.—The Securities
19 Exchange Act of 1934 (15 U.S.C. 78a et seq.) is further
20 amended—

21 (1) in section 21(d)(2), by inserting “or section
22 16A,” after “section 10(b) of this title”;

23 (2) in section 21A—

24 (A) in subsection (g)(1), by inserting “and
25 section 16A,” after “thereunder,”; and

1 (B) in subsection (h)(1), by inserting “and
2 section 16A,” after “thereunder,”; and
3 (3) in section 21C(f), by inserting “or section
4 16A,” after “section 10(b)”.