

108TH CONGRESS  
1ST SESSION

# H. R. 657

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IN THE SENATE OF THE UNITED STATES

FEBRUARY 27, 2003

Received; read twice and referred to the Committee on Banking, Housing, and  
Urban Affairs

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## AN ACT

To amend the Securities Exchange Act of 1934 to augment  
the emergency authority of the Securities and Exchange  
Commission.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

**1 SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Emergency Securities  
3 Response Act of 2003”.

**4 SEC. 2. EXTENSION OF EMERGENCY ORDER AUTHORITY OF  
5 THE SECURITIES EXCHANGE COMMISSION.**

6 (a) EXTENSION OF AUTHORITY.—Paragraph (2) of  
7 section 12(k) of the Securities Exchange Act of 1934 (15  
8 U.S.C. 78l(k)(2)) is amended to read as follows:

9         “(2) EMERGENCY ORDERS.—(A) The Commis-  
10 sion, in an emergency, may by order summarily take  
11 such action to alter, supplement, suspend, or impose  
12 requirements or restrictions with respect to any mat-  
13 ter or action subject to regulation by the Commis-  
14 sion or a self-regulatory organization under the secu-  
15 rities laws, as the Commission determines is nec-  
16 essary in the public interest and for the protection  
17 of investors—

18             “(i) to maintain or restore fair and orderly  
19 securities markets (other than markets in ex-  
20 emted securities);

21             “(ii) to ensure prompt, accurate, and safe  
22 clearance and settlement of transactions in se-  
23 curities (other than exempted securities); or

24             “(iii) to reduce, eliminate, or prevent the  
25 substantial disruption by the emergency of (I)  
26 securities markets (other than markets in ex-

1           empted securities), investment companies, or  
2           any other significant portion or segment of such  
3           markets, or (II) the transmission or processing  
4           of securities transactions (other than trans-  
5           actions in exempted securities).

6           “(B) An order of the Commission under this  
7           paragraph (2) shall continue in effect for the period  
8           specified by the Commission, and may be extended.  
9           Except as provided in subparagraph (C), the Com-  
10           mission’s action may not continue in effect for more  
11           than 30 business days, including extensions.

12           “(C) An order of the Commission under this  
13           paragraph (2) may be extended to continue in effect  
14           for more than 30 business days if, at the time of the  
15           extension, the Commission finds that the emergency  
16           still exists and determines that the continuation of  
17           the order beyond 30 business days is necessary in  
18           the public interest and for the protection of investors  
19           to attain an objective described in clause (i), (ii), or  
20           (iii) of subparagraph (A). In no event shall an order  
21           of the Commission under this paragraph (2) con-  
22           tinue in effect for more than 90 calendar days.

23           “(D) If the actions described in subparagraph  
24           (A) involve a security futures product, the Commis-  
25           sion shall consult with and consider the views of the

1 Commodity Futures Trading Commission. In exercising its authority under this paragraph, the Commission shall not be required to comply with the provisions of section 553 of title 5, United States Code, or with the provisions of section 19(c) of this title.

6 “(E) Notwithstanding the exclusion of exempted securities (and markets therein) from the Commission’s authority under subparagraph (A), the Commission may use such authority to take action to alter, supplement, suspend, or impose requirements or restrictions with respect to clearing agencies for transactions in such exempted securities. In taking any action under this subparagraph, the Commission shall consult with and consider the views of the Secretary of the Treasury.”.

16 (b) CONSULTATION; DEFINITION OF EMERGENCY.—  
17 Section 12(k) of the Securities Exchange Act of 1934 (15  
18 U.S.C. 78l(k)) is further amended by striking paragraph  
19 (6) and inserting the following:

20 “(6) CONSULTATION.—Prior to taking any action described in paragraph (1)(B), the Commission shall consult with and consider the views of the Secretary of the Treasury, Board of Governors of the Federal Reserve System, and the Commodity Fu-

1       tures Trading Commission, unless such consultation  
2       is impracticable in light of the emergency.

3       “(7) DEFINITIONS.—

4           “(A) EMERGENCY.—For purposes of this  
5       subsection, the term ‘emergency’ means—

6               “(i) a major market disturbance char-  
7       acterized by or constituting—

8                   “(I) sudden and excessive fluc-  
9       tuations of securities prices generally,  
10       or a substantial threat thereof, that  
11       threaten fair and orderly markets; or

12                   “(II) a substantial disruption of  
13       the safe or efficient operation of the  
14       national system for clearance and set-  
15       tlement of transactions in securities,  
16       or a substantial threat thereof; or

17               “(ii) a major disturbance that sub-  
18       stantially disrupts, or threatens to substan-  
19       tially disrupt—

20                   “(I) the functioning of securities  
21       markets, investment companies, or  
22       any other significant portion or seg-  
23       ment of the securities markets; or

24                   “(II) the transmission or proc-  
25       essing of securities transactions.

1                   “(B) SECURITIES LAWS.—Notwithstanding  
2                   section 3(a)(47), for purposes of this sub-  
3                   section, the term ‘securities laws’ does not in-  
4                   clude the Public Utility Holding Company Act  
5                   of 1935 (15 U.S.C. 79a et seq.).”.

6 **SEC. 3. PARALLEL AUTHORITY OF THE SECRETARY OF THE**  
7                   **TREASURY WITH RESPECT TO GOVERNMENT**  
8                   **SECURITIES.**

9                   Section 15C of the Securities Exchange Act of 1934  
10 (15 U.S.C. 78o–5) is amended by adding at the end the  
11 following new subsection:

12                  “(h) EMERGENCY AUTHORITY.—The Secretary may  
13 by order take any action with respect to a matter or action  
14 subject to regulation by the Secretary under this section,  
15 or the rules of the Secretary thereunder, involving a gov-  
16 ernment security or a market therein (or significant por-  
17 tion or segment of that market), that the Commission may  
18 take under section 12(k)(2) of this title with respect to  
19 transactions in securities (other than exempted securities)  
20 or a market therein (or significant portion or segment of  
21 that market).”.

Passed the House of Representatives February 26,  
2003.

Attest:

JEFF TRANDAHL,

*Clerk.*