

113TH CONGRESS
1ST SESSION

S. 1185

To enhance penalties for violations of securities protections that involve targeting seniors.

IN THE SENATE OF THE UNITED STATES

JUNE 19, 2013

Mr. CASEY introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To enhance penalties for violations of securities protections that involve targeting seniors.

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 “Senior Investor Protec-
5 tions Enhancement Act of 2013”.

6 **SEC. 2. DEFINITIONS.**

7 (a) IN GENERAL.—In this Act, the following defini-
8 tions shall apply:

9 (1) SENIOR.—The term “senior” means an in-
10 dividual who is 62 years of age or older.

1 (2) SECURITIES LAWS.—The term “securities
2 laws” means the Securities Act of 1933 (15 U.S.C.
3 77b et seq.), the Securities Exchange Act of 1934
4 (15 U.S.C. 78a et seq.), the Investment Company
5 Act of 1940 (15 U.S.C. 80a et seq.), and the Invest-
6 ment Advisers Act of 1940 (15 U.S.C. 80b et seq.).

7 (b) APPLICATION OF SENIOR DEFINITION.—

8 (1) SECURITIES ACT OF 1933.—Section 2(a) of
9 the Securities Act of 1933 (15 U.S.C. 77b(a)) is
10 amended by adding at the end the following:

11 “(20) The term ‘senior’ means an individual
12 who is 62 years of age or older.”.

13 (2) SECURITIES EXCHANGE ACT OF 1934.—Sec-
14 tion 3(a) of the Securities Exchange Act of 1934
15 (15 U.S.C. 78c(a)) is amended—

16 (A) by redesignating the first paragraph
17 designated as (80), as added by 101(b)(2) of
18 the Jumpstart Our Business Startups Act (126
19 Stat. 307) (relating to emerging growth compa-
20 nies), as paragraph (81); and

21 (B) by adding at the end the following:

22 “(82) The term ‘senior’ means an individual
23 who is 62 years of age or older.”.

24 (3) INVESTMENT COMPANY ACT OF 1940.—Sec-
25 tion 2(a) of the Investment Company Act of 1940

1 (15 U.S.C. 80a–2(a)) is amended by adding at the
2 end the following:

3 “(55) The term ‘senior’ means an individual
4 who is 62 years of age or older.”.

5 (4) INVESTMENT ADVISERS ACT OF 1940.—Sec-
6 tion 202(a) of the Investment Advisers Act of 1940
7 (15 U.S.C. 80b–2(a)) is amended—

8 (A) by redesignating the second paragraph
9 designated as paragraph (29), as added by sec-
10 tion 770 of the Wall Street Transparency and
11 Accountability Act of 2010 (124 Stat. 1801), as
12 paragraph (31) and moving such paragraph to
13 the end; and

14 (B) by adding at the end the following:

15 “(32) The term ‘senior’ means an individual
16 who is 62 years of age or older.”.

17 **SEC. 3. ENHANCED PENALTIES FOR VIOLATIONS OF SECURITIES ACT OF 1933.**
18

19 (a) CIVIL ACTIONS.—Section 20(d)(2) of the Securi-
20 ties Act of 1933 (15 U.S.C. 77t(d)(2)) is amended by add-
21 ing at the end the following:

22 “(D) SPECIAL RULE FOR SENIORS.—Not-
23 withstanding subparagraphs (A), (B), and (C),
24 if a person commits a violation described in
25 paragraph (1), and the violation is directed to-

1 ward, targets, or is committed against a person
 2 who, at the time of the violation, is a senior, the
 3 Commission, in addition to any other applicable
 4 civil penalty, may impose a civil penalty of not
 5 more than \$50,000 for each such violation.”.

6 (b) OTHER VIOLATIONS.—Section 24 of the Securi-
 7 ties Act of 1933 (15 U.S.C. 77x) is amended—

8 (1) by inserting “(a) IN GENERAL.—” before
 9 “Any person”; and

10 (2) by adding at the end the following:

11 “(b) SPECIAL RULE FOR SENIORS.—Notwith-
 12 standing subsection (a), if a person commits a violation
 13 described in subsection (a), and the violation is directed
 14 toward, targets, or is committed against a person who, at
 15 the time of the violation is a senior, the Commission, in
 16 addition to any other applicable civil penalty, may impose
 17 a civil penalty of not more than \$50,000 for each such
 18 violation.”.

19 **SEC. 4. ENHANCED PENALTIES FOR VIOLATIONS OF SECURITIES ACT OF 1934.**

21 (a) CIVIL ACTIONS.—Section 21(d)(3)(B) of the Se-
 22 curities Exchange Act of 1934 (15 U.S.C. 78u(d)(3)(B))
 23 is amended by adding at the end the following:

24 “(iv) SPECIAL RULE FOR SENIORS.—
 25 Notwithstanding clauses (i), (ii), and (iii),

1 if a person commits a violation described
2 in subparagraph (A), and the violation is
3 directed toward, targets, or is committed
4 against a person who, at the time of the
5 violation, is a senior, the Commission, in
6 addition to any other applicable civil pen-
7 alty, may impose a civil penalty of not
8 more than \$50,000 for each such viola-
9 tion.”.

10 (b) WILLFUL VIOLATIONS.—Section 21B(b) of the
11 Securities Exchange Act of 1934 (15 U.S.C. 78u–2(b))
12 is amended by adding at the end the following:

13 “(4) SPECIAL RULE FOR SENIORS.—Notwith-
14 standing paragraphs (1), (2), and (3), if a person
15 engages in an act or omission described in sub-
16 section (a), and the violation is directed toward, tar-
17 gets, or is committed against a person who, at the
18 time of the violation, is a senior, the Commission, in
19 addition to any other applicable civil penalty, may
20 impose a civil penalty of not more than \$50,000 for
21 each such violation.”.

22 (c) OTHER VIOLATIONS.—Section 32 of the Securi-
23 ties Exchange Act of 1934 (15 U.S.C. 78ff) is amended
24 by adding at the end the following:

1 “(d) SPECIAL RULE FOR SENIORS.—Notwith-
 2 standing subsections (a), (b), and (c), if a person commits
 3 a violation described in this section, and the violation is
 4 directed toward, targets, or is committed against a person,
 5 who at the time of the violation, is a senior, the Commis-
 6 sion, in addition to any other applicable civil penalty, may
 7 impose a civil penalty of not more than \$50,000 for each
 8 such violation.”.

9 **SEC. 5. ENHANCED PENALTIES FOR VIOLATIONS OF IN-**
 10 **VESTMENT COMPANY ACT OF 1940.**

11 (a) WILLFUL VIOLATIONS.—Section 9(d)(2) of the
 12 Investment Company Act of 1940 (15 U.S.C. 80a-
 13 9(d)(2)) is amended by adding at the end the following:

14 “(D) SPECIAL RULE FOR SENIORS.—Not-
 15 withstanding subparagraphs (A), (B), and (C),
 16 if a person engages in an act or omission de-
 17 scribed in paragraph (1), and the violation is
 18 directed toward, targets, or is committed
 19 against a person, who, at the time of the viola-
 20 tion, is a senior, the Commission, in addition to
 21 any other applicable civil penalty, may impose a
 22 civil penalty of not more than \$50,000 for each
 23 such violation.”.

1 (b) CIVIL ACTIONS.—Section 42(e)(2) of the Invest-
2 ment Company Act of 1940 (15 U.S.C. 80a–41(e)(2)) is
3 amended by adding at the end the following:

4 “(D) SPECIAL RULE FOR SENIORS.—Not-
5 withstanding subparagraphs (A), (B), and (C),
6 if a person commits a violation described in
7 paragraph (1), and the violation is directed to-
8 ward, targets, or is committed against a person
9 who, at the time of the violation, is a senior, the
10 Commission, in addition to any other applicable
11 civil penalty, may impose a civil penalty not
12 more than \$50,000 for each such violation.”.

13 (c) OTHER VIOLATIONS.—Section 49 of the Invest-
14 ment Company Act of 1940 (15 U.S.C. 80a–48) is amend-
15 ed—

16 (1) by inserting “(a) IN GENERAL.—” before
17 “Any person”; and

18 (2) by adding at the end the following:

19 “(b) SPECIAL RULE FOR SENIORS.—Notwith-
20 standing subsection (a), if a person commits a violation
21 described in subsection (a), and the violation is directed
22 toward, targets, or is committed against a person who, at
23 the time of the violation, is a senior, the Commission, in
24 addition to any other applicable civil penalty, may impose

1 a civil penalty of not more than \$50,000 for each such
2 violation.”.

3 **SEC. 6. ENHANCED PENALTIES FOR VIOLATIONS OF IN-**
4 **VESTMENT ADVISERS ACT OF 1940.**

5 (a) **WILLFUL VIOLATIONS.**—Section 203(i)(2) of the
6 Investment Advisers Act of 1940 (15 U.S.C. 80b–3(i)(2))
7 is amended by adding at the end the following:

8 “(D) **SPECIAL RULE FOR SENIORS.**—Not-
9 withstanding subparagraphs (A), (B), and (C),
10 if a person engages in an act or omission de-
11 scribed in paragraph (1), and the violation is
12 directed toward, targets, or is committed
13 against a person who, at the time of the viola-
14 tion, is a senior, the Commission, in addition to
15 any other applicable civil penalty, may impose a
16 civil penalty of not more than \$50,000 for each
17 such violation.”.

18 (b) **CIVIL ACTIONS.**—Section 209(e)(2) of the Invest-
19 ment Advisers Act of 1940 (15 U.S.C. 80b–9(e)(2)) is
20 amended by adding at the end the following:

21 “(D) **SPECIAL RULE FOR SENIORS.**—Not-
22 withstanding subparagraphs (A), (B), and (C),
23 if a person commits a violation under this title,
24 and the violation is directed toward, targets, or
25 is committed against a person who, at the time

1 of the violation, is a senior, the Commission, in
2 addition to any other applicable civil penalty,
3 may impose a civil penalty of not more than
4 \$50,000 for each such violation.”.

5 (c) OTHER VIOLATIONS.—Section 217 of the Invest-
6 ment Advisers Act of 1940 (15 U.S.C. 80b–17) is amend-
7 ed—

8 (1) by inserting “(a) IN GENERAL.—” before
9 “Any person”; and

10 (2) by adding at the end the following:

11 “(b) SPECIAL RULE FOR SENIORS.—Notwith-
12 standing subsection (a), if a person commits a violation
13 described in subsection (a), and the violation is directed
14 toward, targets, or is committed against a person who, at
15 the time of the violation, is a senior, the Commission, in
16 addition to any other applicable civil penalty, may impose
17 a civil penalty of not more than \$50,000 for each such
18 violation.”.

19 **SEC. 7. DIRECTIVE TO THE UNITED STATES SENTENCING**
20 **COMMISSION.**

21 (a) IN GENERAL.—Pursuant to its authority under
22 section 994(p) of title 28, United States Code, and in ac-
23 cordance with this section, the United States Sentencing
24 Commission shall review and amend the Federal sen-
25 tencing guidelines and policy statements to ensure that the

1 guideline offense levels and enhancements appropriately
2 punish violations of the securities laws against seniors.

3 (b) REQUIREMENTS.—In carrying out this section,
4 the United States Sentencing Commission shall—

5 (1) ensure that section 2B1.1 and 2C1.1 of the
6 Federal sentencing guidelines (and any successors
7 thereto) apply to and punish offenses in which the
8 victim of a violation of the securities laws is a sen-
9 ior;

10 (2) ensure reasonable consistency with other
11 relevant directives, provisions of the Federal sen-
12 tencing guidelines, and statutory provisions;

13 (3) make any necessary and conforming
14 changes to the Federal sentencing guidelines, in ac-
15 cordance with the amendments made by this Act;
16 and

17 (4) ensure that the Federal sentencing guide-
18 lines adequately meet the purposes of sentencing set
19 forth in section 3553(a)(2) of title 18, United States
20 Code.

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