

116TH CONGRESS  
1ST SESSION

# S. 2488

To amend the Securities Exchange Act of 1934 to require the Securities and Exchange Commission to issue rules that prohibit officers and directors of certain companies from trading securities in anticipation of a current report, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

SEPTEMBER 17, 2019

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

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## A BILL

To amend the Securities Exchange Act of 1934 to require the Securities and Exchange Commission to issue rules that prohibit officers and directors of certain companies from trading securities in anticipation of a current report, 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 “8–K Trading Gap Act  
5 of 2019”.

1 **SEC. 2. PROHIBITION ON CERTAIN TRADING IN ANTICIPATION OF A CURRENT REPORT.**  
2

3 The Securities Exchange Act of 1934 (15 U.S.C. 78a  
4 et seq.) is amended by inserting after section 10D (15  
5 U.S.C. 78j-4) the following:

6 **“SEC. 10E. PROHIBITION ON CERTAIN TRADING IN ANTICIPATION OF A CURRENT REPORT.**  
7

8 “(a) PROHIBITION.—Not later than 1 year after the  
9 date of enactment of this section, the Commission shall  
10 issue rules that require each issuer that is subject to re-  
11 porting requirements under section 13(a) or 15(d) to es-  
12 tablish and maintain policies, controls, and procedures  
13 that are reasonably designed to prohibit executive officers  
14 and directors of the issuer from purchasing, selling, or  
15 otherwise transferring any equity security of the issuer,  
16 directly or indirectly—

17 “(1) subject to subsection (b)(3)(C), with re-  
18 spect to an event described in any of sections 1  
19 through 6 of Form 8-K, during the period beginning  
20 on the date on which the event occurs and ending  
21 on the date on which the issuer files or furnishes a  
22 current report on Form 8-K with respect to the  
23 event; and

24 “(2) with respect to an event described in sec-  
25 tion 7 or 8 of Form 8-K, during the period begin-  
26 ning on the date on which the issuer determines that

1 the issuer will disclose the event and ending on the  
2 date on which the issuer files or furnishes a current  
3 report on Form 8-K with respect to the event.

4 “(b) PERMISSIBLE TRANSACTIONS.—In issuing rules  
5 under subsection (a), the Commission—

6 “(1) may exempt from those rules certain  
7 transactions as the Commission determines to be ap-  
8 propriate, including those transactions that—

9 “(A) occur automatically;

10 “(B) are made pursuant to an advance  
11 election; or

12 “(C) except as provided in paragraph (2),  
13 involve a purchase or sale of equity securities  
14 that satisfies the conditions under section  
15 240.10b5-1(e) of title 17, Code of Federal Reg-  
16 ulations, or any successor regulation;

17 “(2) may not exempt from those rules a trans-  
18 action made by an executive officer or director of an  
19 issuer under a plan that—

20 “(A) is described in section 240.10b5-  
21 1(e)(1)(i)(A)(3) of title 17, Code of Federal  
22 Regulations, or any successor regulation; and

23 “(B) was adopted—

24 “(i) with respect to an event described  
25 in sections 1 through 6 of Form 8-K, dur-

1           ing the period beginning on the date on  
2           which the event occurred and ending on  
3           the date on which the issuer files or fur-  
4           nishes a current report on Form 8–K with  
5           respect to the event; and

6           “(ii) with respect to an event de-  
7           scribed in section 7 or 8 of Form 8–K,  
8           during the period beginning on the date on  
9           which the issuer determines that the issuer  
10          will disclose the event and ending on the  
11          date on which the issuer files or furnishes  
12          a current report on Form 8–K with respect  
13          to the event; and

14          “(3) shall exempt from those rules—

15               “(A) issuers that are required to adopt and  
16               administer a code of ethics under section  
17               270.17j–1 of title 17, Code of Federal Regula-  
18               tions, or any successor regulation;

19               “(B) any other issuer that is registered  
20               under the Investment Company Act of 1940  
21               (15 U.S.C. 80a–1 et seq.) and the investment  
22               advisers of which are required to adopt and ad-  
23               minister a code of ethics under section  
24               275.204A–1 of title 17, Code of Federal Regu-  
25               lations, or any successor regulation; and

1 “(C) any event—

2 “(i) that is described in any of sec-  
3 tions 1 through 6 of Form 8–K; and

4 “(ii) with respect to which the issuer  
5 has announced the event in a press release  
6 or other method of dissemination that com-  
7 plies with the method of public disclosure  
8 described in section 243.101(e)(2) of title  
9 17, Code of Federal Regulations, or any  
10 successor regulation.

11 “(c) RULE OF CONSTRUCTION.—Any reference in  
12 this section to a section of Form 8–K shall be construed  
13 to refer to that section of Form 8–K as in effect on the  
14 date of enactment of this section.”.

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