

conduct that would have been actionable as fraud in the purchase of sale of securities to establish a violation of section 1962", provided however that this exception shall not apply if any participant in the fraud is criminally convicted in connection therewith, in which case the statute of limitations shall start to run on the date that the conviction became final.

BINGAMAN (AND BRYAN)
AMENDMENT NO. 1482

Mr. BINGAMAN (for himself and Mr. BRYAN) proposed an amendment to the bill S. 240, supra; as follows:

On page 105, line 25, insert ", or the responsive pleading or motion" after "complaint".
On page 107, line 20, insert ", or the responsive pleading or motion" after "complaint".

SPECTER AMENDMENT NOS. 1483-
1485

Mr. SPECTER proposed three amendments to the bill S. 240, supra; as follows:

AMENDMENT No. 1483

Beginning on page 105, strike line 1 and all that follows through page 108, line 17, and insert the following:

SEC. 103. SANCTIONS FOR ABUSIVE LITIGATION.

(a) SECURITIES ACT OF 1933.—Section 20 of the Securities Act of 1933 (15 U.S.C. 77e) is amended by adding at the end the following new subsection:

"(j) SANCTIONS FOR ABUSIVE LITIGATION.—In any private action arising under this title, if an abusive litigation practice relating to the action is brought to the attention of the court, by motion or otherwise, the court shall promptly—

"(1) determine whether or not to impose sanctions under rule 11 or rule 26(g)(3) of the Federal Rules of Civil Procedure, section 1927 of title 28, United States Code, or other authority of the court; and

"(2) include in the record findings of fact and conclusions of law to support such determination."

(b) SECURITIES EXCHANGE ACT OF 1934.—Section 21 of the Securities Exchange Act of 1934 (15 U.S.C. 78u) is amended by adding at the end the following new subsection:

"(l) SANCTIONS FOR ABUSIVE LITIGATION.—In any private action arising under this title, if an abusive litigation practice relating to the action is brought to the attention of the court, by motion or otherwise, the court shall promptly—

"(1) determine whether or not to impose sanctions under rule 11 or rule 26(g)(3) of the Federal Rules of Civil Procedure, section 1927 of title 28, United States Code, or other authority of the court; and

"(2) include in the record findings of fact and conclusions of law to support such determination."

AMENDMENT No. 1484

Beginning on page 108, strike line 24 and all that follows through page 109, line 4, and insert the following:

"(k) STAY OF DISCOVERY.—

"(1) IN GENERAL.—In any private action arising under this title, the court may stay discovery upon motion of any party only if the court determines that the stay of discovery—

"(A) would avoid waste, delay, duplication, or unnecessary expense; and

"(B) would not prejudice any plaintiff.

"(2) ADDITIONAL LIMITATIONS ON DISCOVERY.—In any private action arising under this title—

"(A) prior to the filing of a responsive pleading to the complaint, discovery shall be

limited to materials directly relevant to facts expressly pleaded in the complaint; and

"(B) except as provided in subparagraphs (A) and (B), or otherwise expressly provided in this title, discovery shall be conducted pursuant to the Federal Rules of Civil Procedure."

On page 111, strike lines 1 through 7, and insert the following:

"(2) STAY OF DISCOVERY.—

"(A) IN GENERAL.—In any private action arising under this title, the court may stay discovery upon motion of any party only if the court determines that the stay of discovery—

"(i) would avoid waste, delay, duplication, or unnecessary expense; and

"(ii) would not prejudice any plaintiff.

"(B) ADDITIONAL LIMITATIONS ON DISCOVERY.—In any private action arising under this title—

"(i) notwithstanding any stay of discovery issued in accordance with subparagraph (A), the court may permit such discovery as may be necessary to permit a plaintiff to prepare an amended complaint in order to meet the pleading requirements of this section;

"(ii) prior to the filing of a responsive pleading to the complaint, discovery shall be limited to materials directly relevant to facts expressly pleaded in the complaint; and

"(iii) except as provided in clauses (i) and (ii), or otherwise expressly provided in this title, discovery shall be conducted pursuant to the Federal Rules of Civil Procedure."

AMENDMENT No. 1485

On page 110, strike lines 12 through 19, and insert the following:

"(b) REQUIRED STATE OF MIND.—

"(1) IN GENERAL.—In any private action arising under this title in which the plaintiff may recover money damages only on proof that the defendant acted with a particular state of mind, the complaint shall, with respect to each act or omission alleged to violate this title, specifically allege facts giving rise to a strong inference that the defendant acted with the requested state of mind.

"(2) STRONG INFERENCE OF FRAUDULENT INTENT.—For purposes of paragraph (1), a strong inference that the defendant acted with the required state of mind may be established either—

"(A) by alleging facts to show that the defendant had both motive and opportunity to commit fraud; or

"(B) by alleging facts that constitute strong circumstantial evidence of conscious misbehavior or recklessness by the defendant."

D'AMATO (AND SARBANES)
AMENDMENT NO. 1486

Mr. BENNETT (for Mr. D'AMATO for himself and Mr. SARBANES) proposed an amendment to the bill S. 240, supra; as follows:

On page 84, line 11, strike ", if" and insert "in which".

On page 111, beginning on line 2, strike "during the pendency of any motion to dismiss."

On page 111, line 4, insert "during the pendency of any motion to dismiss," after "stayed".

On page 114, line 13, strike "has been."

On page 114, strike line 15 and insert the following: "made—

"(i) was convicted of any felony or misdemeanor"

On page 114, strike line 17 and insert the following: "15(b)(4)(B); or

"(ii) has been made the subject of a ju-"

On page 114, line 20, strike "(i) prohibits" and insert the following:

"(I) prohibits".

On page 115, line 1, strike "(ii) requires" and insert the following:

"(II) requires".

On page 115, line 4, strike "(iii) determines" and insert the following:

"(III) determines".

On page 116, between lines 11 and 12, insert the following:

"(D) made in connection with an initial public offering;

On page 116, line 12, strike "(D)" and insert "(E)".

On page 116, line 17, strike "(E)" and insert "(F)".

On page 118, line 13, before the period insert "that are not compensated through final adjudication or settlement of a private action brought under this title arising from the same violation".

On page 121, line 7, strike "has been."

On page 121, strike line 9, and insert the following: "made—

"(i) was convicted of any felony or misdemeanor".

On page 121, strike line 11 and insert the following: "15(b)(4)(B); or

"(ii) has been made the subject of a ju-".

On page 121, line 14, strike "(i) prohibits" and insert the following:

"(I) prohibits".

On page 121, line 16, strike "(ii) requires" and insert the following:

"(II) requires".

On page 121, line 19, strike "(iii) determines" and insert the following:

"(III) determines".

On page 122, between lines 20 and 21, insert the following:

"(D) made in connection with an initial public offering;

On page 122, line 21, strike "(D)" and insert "(E)".

On page 123, line 1, strike "(E)" and insert "(F)".

On page 124, line 21, insert before the period "that are not compensated through final adjudication or settlement of a private action brought under this title arising from the same violation".

On page 128, line 25, strike "the liability of" and insert "if".

On page 128, line 25, strike "offers or sells" and insert "offered or sold".

On page 129, line 1, strike "shall be limited to damages if that person".

On page 129, line 9, strike "and such portion or all of such amount" and insert "then such portion or amount, as the case may be."

On page 131, lines 19 and 20, strike "that person's degree" and insert "the percentage".

On page 131, line 20, insert "of that person" before the comma.

NOTICE OF HEARING

COMMITTEE ON INDIAN AFFAIRS

Mr. MCCAIN. Mr. President, I would like to announce that the Senate Committee on Indian Affairs will be holding a hearing on Wednesday, June 28, 1995, beginning at 9:45 a.m., in room 485 of the Russell Senate Office Building on S. 814, a bill to provide for the reorganization of the Bureau of Indian Affairs, and for other purposes.

Those wishing additional information should contact the Committee on Indian Affairs at 224-2251.