women to hold up to 50 percent of the seats of the upper house of parliament.

For the first time in years, Afghans are hearing the voice of women on the air because the broadcasts of Radio Free Afghanistan air commentary from both the women in the Afghan ministries and the men and women that are interviewed on the streets, in the towns. And it is important to remember again that before 1978 women were very influential in this society. Not only were they two-thirds of teachers, as I mentioned, but they played a role throughout the society, throughout the workforce, and they must play a vital role in helping Afghanistan become a stable state.

There is so much work to be done, and there is so much more attention that we as a Congress, not just the administration, but we as a Congress need to pay to this problem.

But Afghanistan has made tremendous strides, at least in Kabul, in the liberation from the Taliban; and we have to remember that the Taliban is still rooted in parts of that country. And I ask my colleagues to support this resolution and to continue to focus in their own time and in their own ways on ideas of how we can expand some measure of progress beyond the capital into the regional areas of Afghanistan.

Mr. LANTOS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Ms. ROS-LEHTINEN. Mr. Speaker, I yield myself such time as I may consume.

I want to thank the gentleman from California (Mr. LANTOS), my good friend. It is always a real honor and a pleasure to work with him. He is a man of integrity, great intelligence, and I consider him one of my mentors. It is always a pleasure to handle a bill on the floor with him.

□ 1200

Mr. Speaker, in closing, I would merely like to underscore the stark contrast between the Afghanistan that we had under the Taliban and the free Afghanistan that today is working to rebuild from the ruins of over 20 years of war and oppression. But all is not perfect, as we heard from many speakers here today. The road ahead will not be an easy task, but nothing that is worth doing and having usually comes easy.

The Afghan people and especially the women of Afghanistan need our support. They need our steadfast commitment to stay with them, to remain engaged for the long haul. This resolution before us reiterates that commitment, a commitment that was articulated by President Bush just this morning, and I ask my colleagues to support the resolution of the gentlewoman from Illinois (Mrs. BIGGERT) and the gentlewoman from New York (Mrs. MALONEY).

Mr. LARSON of Connecticut. Mr. Speaker, I rise today in strong support of the resolution commending Afghan women for their participation in the Afghan government. Overcoming a history of suppression under Taliban rule, the women of Afghanistan have worked to strengthen women's rights in Afghanistan's new democracy.

Prior to Taliban rule, Afghanistan had a Constitutional democracy that affirmed women's rights, including the right to vote and equal pay provisions. However, under control of the Taliban, women were silenced and denied basic-fundamental rights to healthcare, education and employment. Today, Afghan women have emerged to help build a brighter and more stable future for Afghanistan.

Afghan women are more involved than ever in the Afghanistan government. Currently, there are two women holding high-ranking positions in Afghanistan's transitional government. Additionally, on September 5, 2003, the third annual conference of Women for Afghan Women (WAW) met in Kandahar to draft an Afghan Women's Bill of Rights to present to President Hamid Karzai. These rights include mandatory education for all women, protection and security from gender abuse, freedom to vote and the ability to run for all elections.

Afghanistan is at a crucial transition point and it is imperative that the United States continue its support in promoting democracy and equality for both men and women of Afghanistan. I urge all of my fellow Members to vote with me in support of H. Res. 393 and commend the women of Afghanistan for their contributions and involvement in the Afghan government.

Ms. ROS-LEHTINEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SHAW). The question is on the motion offered by the gentlewoman from Florida (Ms. ROS-LEHTINEN) that the House suspend the rules and agree to the resolution, H. Res. 393, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. LANTOS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

MUTUAL FUNDS INTEGRITY AND FEE TRANSPARENCY ACT OF 2003

Mr. OXLEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2420) to improve transparency relating to the fees and costs that mutual fund investors incur and to improve corporate governance of mutual funds, as amended.

The Clerk read as follows:

H.R. 2420

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

(a) SHORT TITLE.—This Act may be cited as the ''Mutual Funds Integrity and Fee Transparency Act of 2003''.

(b) TABLE OF CONTENTS.—

Sec. 1. Short title.

TITLE I—INTEGRITY AND FEE TRANSPARENCY

Sec. 101. Improved transparency of mutual fund costs.
Sec. 102. Obligations regarding certain distribution and soft dollar arrangements.
Sec. 103. Mutual fund governance.
Sec. 104. Audit committee requirements for investment companies.
Sec. 105. Trading restrictions.
Sec. 106. Definition of no-load mutual fund.
Sec. 107. Informing directors of significant deficiencies.
Sec. 108. Exemption from in person meeting requirements.
Sec. 109. Proxy voting disclosure.
Sec. 110. Incentive compensation and mutual fund sales.
Sec. 111. Commission study and report regulating soft dollar arrangements.
Sec. 112. Study of arbitration claims.

TITLE II—PREVENTION OF ABUSIVE MUTUAL FUND PRACTICES

Sec. 201. Prevention of fraud; internal compliance and control procedures.
Sec. 202. Ban on joint management of mutual funds and hedge funds.
Sec. 203. Short term trading by interested persons prohibited.
Sec. 204. Elimination of stale prices.
Sec. 205. Prevention of unfair after-hours trading.
Sec. 206. Report on adequacy of remedial actions.

TITLE I—INTEGRITY AND FEE TRANSPARENCY

SEC. 101. IMPROVED TRANSPARENCY OF MUTUAL FUND COSTS.

(a) REGULATION REVISION REQUIRED.—Within 270 days after the date of enactment of this Act, the Securities and Exchange Commission shall revise regulations under the Securities Act of 1933, the Securities Exchange Act of 1934, or the Investment Company Act of 1940, or any combination thereof, to require, consistent with the protection of investors and the public interest, improved disclosure with respect to an open-end management investment company, in the quarterly statement or other periodic report to shareholders or other appropriate disclosure document, of the following:

(1) The estimated amount, in dollars for each $1,000 of investment in the company, of the operating expenses of the company that are borne by shareholders.

(2) The structure of, or method used to determine, the compensation of individuals employed by the investment adviser of the company to manage the portfolio of the company, and the ownership interest of such individuals in the securities of the company.

(3) The portfolio turnover rate of the company, set forth in a manner that facilitates comparison among investment companies, and a description of the implications of a high turnover rate for portfolio transaction costs and performance.

(4) Information concerning the company's policies and practices with respect to the payment of commissions for effecting securities transactions to a member of an exchange, broker, or dealer who—

(A) furnishes advice, either directly or through publications or writings, as to the value of securities, the advisability of investing in, purchasing, or selling securities, and the availability of securities or purchasers or sellers of securities;

(B) furnishes analyses and reports concerning issuers, industries, securities, economic factors and trends, portfolio strategy, and the performance of accounts; or

(C) facilitates the sale and distribution of the company's shares.

(5) Information concerning payments by any person other than the company that are intended to facilitate the sale and distribution of the company's shares.

(6) Information concerning discounts on front-end sales loads for which investors may be eligible, including the minimum purchase amounts required for such discounts.

(b) APPROPRIATE DISCLOSURE DOCUMENT.—

(1) IN GENERAL.—For purposes of subsection (a), a disclosure shall not be considered to be made in an appropriate disclosure document if the disclosure is made exclusively in a prospectus or statement of additional information, or both such documents.

(2) EXCEPTIONS.—Notwithstanding paragraph (1), the disclosures required by paragraph (2) and (4) of subsection (a) may be considered to be made in an appropriate disclosure document if the disclosure is made exclusively in a prospectus or statement of additional information, or both such documents.

(c) CONCEPT RELEASE REQUIRED.—

(1) IN GENERAL.—The Commission shall issue a concept release examining the issue of portfolio transaction costs incurred by investment companies, including commission, spread, opportunity, and market impact costs, with respect to trading of portfolio securities and how such costs may be disclosed to mutual fund investors in a manner that will enable investors to compare such costs among funds.

(2) REPORT AND RECOMMENDATIONS REQUIRED.—The Commission shall submit a report on the findings from the concept release required by paragraph (1), as well as legislative and regulatory recommendations, if any, to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, no later than 270 days after the date of enactment of this Act.

(d) ADDITIONAL REQUIREMENT FOR FEE STATEMENT.—

(1) IN GENERAL.—Not later than 270 days after the date of enactment of this Act, the Commission shall prescribe a rule to require, with respect to an open-end management investment company, in the quarterly statement or other periodic report, or other appropriate disclosure document, a statement informing shareholders that such shareholders have paid fees on their investments, that such fees have been deducted from the amounts shown on the statements, and where such shareholders may find additional information regarding the amount of these fees.

(2) APPROPRIATE DISCLOSURE DOCUMENT.—The statement required by paragraph (1) shall not be considered to be made in an appropriate disclosure document unless such statement is—

(A) made in each periodic statement to a shareholder that discloses the value of the holdings of the shareholder in the securities of the company; and

(B) prominently displayed, in a location in close proximity to the statement of the shares account value.

(e) REDUCING BURDENS ON SMALL FUNDS.—In prescribing rules under this section, the Commission shall give consideration to methods for reducing for small investment companies the burdens of making the disclosures required by such rules, consistent with the public interest and the protection of investors.

SEC. 102. OBLIGATIONS REGARDING CERTAIN DISTRIBUTION AND SOFT DOLLAR ARRANGEMENTS.

(a) REPORTING REQUIREMENT.—Section 15 of the Investment Company Act of 1940 (15 U.S.C. 80a–15) is amended by adding at the end the following new subsection:

''(g) OBLIGATIONS REGARDING CERTAIN DISTRIBUTION AND SOFT DOLLAR ARRANGEMENTS.—

''(1) REPORTING REQUIREMENTS.—Each investment adviser to a registered investment company shall, no less frequently than annually, submit to the board of directors of the company a report on—

''(A) payments during the reporting period by the adviser (or an affiliated person of the adviser) that were directly or indirectly made for the purpose of promoting the sale of shares of the investment company (referred to in paragraph (2) as a 'revenue sharing arrangement');

''(B) services to the company provided or paid for by a broker or dealer or an affiliated person of the broker or dealer (other than brokerage and research services) in exchange for the direction of brokerage to the broker or dealer (referred to in paragraph (2) as a 'directed brokerage arrangement'); and

''(C) research services obtained by the adviser (or an affiliated person of the adviser) during the reporting period from a broker or dealer the receipt of which may reasonably be attributed to securities transactions effected on behalf of the company or any other company that is a member of the same group of investment companies (referred to in paragraph (2) as a 'soft dollar arrangement').

''(2) FIDUCIARY DUTY OF BOARD OF DIRECTORS.—The board of directors of a registered investment company shall have a fiduciary duty—

''(A) to review the investment adviser's direction of the company's brokerage transactions, including directed brokerage arrangements and soft dollar arrangements, and to determine that the direction of such brokerage is in the best interests of the shareholders of the company; and

''(B) to review any revenue sharing arrangements to ensure compliance with this Act and the rules adopted thereunder, and to determine that such revenue sharing arrangements are in the best interests of the shareholders of the company.

''(3) SUMMARIES OF REPORTS IN ANNUAL REPORTS TO SHAREHOLDERS.—In accordance with regulations prescribed by the Commission under paragraph (4), annual reports to shareholders of a registered investment company shall include a summary of the most recent report submitted to the board of directors under paragraph (1).

''(4) REGULATIONS.—The Commission shall adopt rules and regulations implementing this section, which rules and regulations shall, among other things, prescribe the content of the required reports.

''(5) DEFINITION.—For purposes of this subsection—

''(A) the term 'brokerage and research services' has the same meaning as in section 28(e)(3) of the Securities Exchange Act of 1934; and

''(B) the term 'research services' means the services described in subparagraphs (A) and (B) of such section.''.

(b) CONTRACTUAL RECORDS.—Within 270 days after the date of enactment of this Act, the Securities and Exchange Commission shall, by rule prescribed pursuant to section 28(e) of the Securities Exchange Act of 1934 (15 U.S.C. 78bb(e)), require that—

(1) if any research services (as such term is defined in section 15(g)(5)(B) of the Investment Company Act of 1940, as amended by subsection (a) of this section)—

(A) are provided by a member of an exchange, broker, or dealer who effects securities transactions in an account, and

(B) are prepared or provided by a party that is unaffiliated with such member, broker, or dealer,

any person exercising investment discretion with respect to such account shall maintain a copy of the written contract between the person preparing such research and the member of an exchange, broker, or dealer; and

(2) such contract shall describe the nature and value of the services provided.

SEC. 103. MUTUAL FUND GOVERNANCE.

(a) DIRECTOR INDEPENDENCE.—Section 10(a) of the Investment Company Act of 1940 (15 U.S.C. 80a–10) is amended by striking ''60 per centum'' and inserting ''one-third''.

(b) DEFINITION OF INTERESTED PERSON.—Section 2(a)(19) of the Investment Company Act of 1940 (15 U.S.C. 80a–2(a)(19)) is amended—

(1) in subparagraph (A)—

(A) by striking clause (vi) and redesignating clause (vii) as clause (vi); and

(B) by amending clause (v) to read as follows:

''(v) any natural person who is a member of a class of persons who the Commission, by rule or regulation, determines are unlikely to exercise an appropriate degree of independence as a result of—

''(I) a material business or professional relationship with the company or any affiliated person of the company, or

''(II) a close familial relationship with any natural person who is an affiliated person of the company,''; and

(2) in subparagraph (B)—

(A) by striking clause (vi) and redesignating clause (vii) as clause (vi); and

(B) by amending clause (v) to read as follows:

''(v) any natural person who is a member of a class of persons who the Commission, by rule or regulation, determines are unlikely to exercise an appropriate degree of independence as a result of—

''(I) a material business or professional relationship with such investment adviser or principal underwriter (or affiliated person thereof), or

''(II) a close familial relationship with a natural person who is such investment adviser or principal underwriter (or affiliated person thereof),''.

SEC. 104. AUDIT COMMITTEE REQUIREMENTS FOR INVESTMENT COMPANIES.

(a) AMENDMENTS.—Section 32 of the Investment Company Act of 1940 (15 U.S.C. 80a–31) is amended—

(1) in subsection (a)—

(A) by striking paragraphs (1) and (2) and inserting the following:

''(1) such accountant shall have been selected at a meeting held within 30 days before or after the beginning of the fiscal year or before the annual meeting of stockholders in that year by the vote, cast in person, of a majority of the members of the audit committee of such registered company;

''(2) such selection shall have been submitted for ratification or rejection at the next succeeding annual meeting of stockholders if such meeting be held, except that any vacancy occurring between annual meetings, due to the death or resignation of the accountant, may be filled by the vote of a majority of the members of the audit committee of such registered company, cast in person at a meeting called for the purpose of voting on such action;''; and

(B) by adding at the end the following new sentence: ''The Commission, by rule, regulation, or order, may exempt a registered management company or registered face-amount certificate company subject to this subsection from the requirement in paragraph (1) that the votes by the members of the audit committee be cast at a meeting in person when such a requirement is impracticable, subject to such conditions as the Commission may require.''; and

(2) by adding at the end the following new subsection:

''(d) AUDIT COMMITTEE REQUIREMENTS.—

''(1) REQUIREMENTS AS PREREQUISITE TO FILING FINANCIAL STATEMENTS.—Any registered management company or registered face-amount certificate company that files with the Commission any financial statement signed or certified by an independent public accountant shall comply with the requirements of paragraphs (2) through (6) of this subsection and any rule or regulation of the Commission issued thereunder.

''(2) RESPONSIBILITY RELATING TO INDEPENDENT PUBLIC ACCOUNTANTS.—The audit committee of the registered company, in its capacity as a committee of the board of directors, shall be directly responsible for the appointment, compensation, and oversight of the work of any independent public accountant employed by such registered company (including resolution of disagreements between management and the auditor regarding financial reporting) for the purpose of preparing or issuing the audit report or related work, and each such independent public accountant shall report directly to the audit committee.

''(3) INDEPENDENCE.—

''(A) IN GENERAL.—Each member of the audit committee of the registered company shall be a member of the board of directors of the company, and shall otherwise be independent.

''(B) CRITERIA.—In order to be considered to be independent for purposes of this paragraph, a member of an audit committee of a registered company may not, other than in his or her capacity as a member of the audit committee, the board of directors, or any other board committee—

''(i) accept any consulting, advisory, or other compensatory fee from the registered company or the investment adviser or principal underwriter of the registered company; or

''(ii) be an 'interested person' of the registered company, as such term is defined in section 2(a)(19).

''(4) COMPLAINTS.—The audit committee of the registered company shall establish procedures for—

''(A) the receipt, retention, and treatment of complaints received by the registered company regarding accounting, internal accounting controls, or auditing matters; and

''(B) the confidential, anonymous submission by employees of the registered company and its investment adviser or principal underwriter of concerns regarding questionable accounting or auditing matters.

''(5) AUTHORITY TO ENGAGE ADVISERS.—The audit committee of the registered company shall have the authority to engage independent counsel and other advisers, as it determines necessary to carry out its duties.

''(6) FUNDING.—The registered company shall provide appropriate funding, as determined by the audit committee, in its capacity as a committee of the board of directors, for payment of compensation—

''(A) to the independent public accountant employed by the registered company for the purpose of rendering or issuing the audit report; and

''(B) to any advisers employed by the audit committee under paragraph (5).

''(7) AUDIT COMMITTEE.—For purposes of this subsection, the term 'audit committee' means—

''(A) a committee (or equivalent body) established by and amongst the board of directors of a registered investment company for the purpose of overseeing the accounting and financial reporting processes of the company and audits of the financial statements of the company; and

''(B) if no such committee exists with respect to a registered investment company, the entire board of directors of the company.''.

(b) CONFORMING AMENDMENT.—Section 10A(m) of the Securities Exchange Act of 1934 is amended by adding at the end the following new paragraph:

''(7) EXEMPTION FOR INVESTMENT COMPANIES.—Effective one year after the date of enactment of the Mutual Funds Integrity and Fee Transparency Act of 2003, for purposes of this subsection, the term 'issuer' shall not include any investment company that is registered under section 8 of the Investment Company Act of 1940.''.

(c) IMPLEMENTATION.—Not later than 180 days after the date of enactment of this Act, the Securities and Exchange Commission shall issue final regulations to carry out section 32(d) of the Investment Company Act of 1940, as added by subsection (a) of this section.

SEC. 105. TRADING RESTRICTIONS.

Subsection (e) of section 22 of the Investment Company Act of 1940 (15 U.S.C. 80a–22(e)) is amended to read as follows:

''(e) TRADING RESTRICTIONS.—

''(1) PROHIBITION AND EXCEPTIONS.—No registered investment company shall suspend the right of redemption, or postpone the date of payment or satisfaction upon redemption of any redeemable security in accordance with its terms for more than seven days after the tender of such security to the company or its agents designated for that purpose for redemption, except—

''(A) for any period (i) during which the principal market for the securities in which the company invests is closed, other than customary week-end and holiday closings; or (ii) during which trading on such exchange is restricted;

''(B) for any period during which an emergency exists as a result of which (i) disposal by the company of securities owned by it is not reasonably practicable; or (ii) it is not reasonably practicable for such company fairly to determine the value of its net assets; or

''(C) for such other periods as the Commission may by order permit for the protection of security holders of the company.

''(2) COMMISSION RULES.—The Commission shall by rules and regulations—

''(A) determine the conditions under which trading shall be deemed to be restricted;

''(B) determine the conditions under which an emergency shall be deemed to exist; and

''(C) provide for the determination by each company, subject to such limitations as the Commission shall determine are necessary and appropriate for the protection of investors, of the principal market for the securities in which the company invests.''.

SEC. 106. DEFINITION OF NO-LOAD MUTUAL FUND.

Within 270 days after the date of enactment of this Act, the Securities and Exchange Commission shall, by rule adopted by the Commission or a self-regulatory organization (or both)—

(1) clarify the definition of ''no-load'' as such term is used by investment companies that impose any fee under a plan adopted pursuant to rule 12b-1 of the Commission's rules (17 C.F.R. 270.12b–1); and

(2) require disclosure to prevent investors from being misled by the use of such terminology by the company or its adviser or principal underwriter.

SEC. 107. INFORMING DIRECTORS OF SIGNIFICANT DEFICIENCIES.

Section 42 of the Investment Company Act of 1940 (15 U.S.C. 80a–41) is amended by adding at the end the following new subsection:

''(f) INFORMING DIRECTORS OF SIGNIFICANT DEFICIENCIES.—If the report of an inspection by the Commission of a registered investment company identifies significant deficiencies in the operations of such company, or of its investment adviser or principal underwriter, the company shall provide such report to the directors of such company.''.

SEC. 108. EXEMPTION FROM IN PERSON MEETING REQUIREMENTS.

Section 15(c) of the of the Investment Company Act of 1940 (15 U.S.C. 80a–15(c)) is amended by adding at the end the following new sentence: ''The Commission, by rule, regulation, or order, may exempt a registered investment company subject to this subsection from the requirement that the votes of its directors be cast at a meeting in person when such a requirement is impracticable, subject to such conditions as the Commission may require.''.

SEC. 109. PROXY VOTING DISCLOSURE.

Section 30 of the Investment Company Act of 1940 (15 U.S.C. 80a–29) is amended by adding at the end the following new subsection:

''(k) PROXY VOTING DISCLOSURE.—Every registered management investment company, other than a small business investment company, shall file with the Commission not later than August 31 of each year an annual report, on a form prescribed by the Commission by rule, containing the registrant's proxy voting record for the most recent twelve-month period ending on June 30. The financial statements of every such company shall state that information regarding how the company voted proxies relating to portfolio securities during the most recent 12-month period ending on June 30 is available—

''(1) without charge, upon request, by calling a specified toll-free (or collect) telephone number; or on or through the company's website at a specified Internet address; or both; and

''(2) on the Commission's website.''.

SEC. 110. INCENTIVE COMPENSATION AND MUTUAL FUND SALES.

(a) COMMISSION RULE REQUIRED.—Within 270 days after the date of enactment of this Act, the Commission shall by rule prohibit, as a means reasonably designed to prevent fraudulent, deceptive, or manipulative acts and practices, the sale of the securities of an investment company or of municipal fund securities by a broker or dealer or by a municipal securities broker or dealer without the disclosure of—

(1) the amount and source of sales fees, payments by persons other than the investment company that are intended to facilitate the sale and distribution of the securities, and commissions for effecting portfolio securities transactions, or other payments, paid to such broker or dealer, or municipal securities broker or dealer, or associated person thereof in connection with such sale;

(2) any commission or other fees or charges the investor has paid or will or might be subject to, including as a result of purchases or redemptions;

(3) any conflicts of interest that any associated person of the investor's broker or dealer or municipal securities broker or dealer may face due to the receipt of differential compensation in connection with such sale; and

(4) information about the estimated amount of any asset-based distribution expenses incurred, or to be incurred, by the investment company in connection with the investor's purchase of the securities.

(b) BENCHMARKS.—In connection with the rule required by subsection (a), the Commission shall, to the extent practical, establish standards for such disclosures.

(c) DEFINITIONS.—

(1) DIFFERENTIAL COMPENSATION.—For purposes of this section, an associated person of

a broker or dealer shall be considered to receive differential compensation if such person receives any increased or additional remuneration, in whatever form—

(A) for sales of the securities of an investment company or municipal fund security that is affiliated with, or otherwise specifically designated by, such broker or dealer or municipal securities broker or dealer, as compared with the remuneration for sales of securities of an investment company or municipal fund security offered by such broker or dealer or municipal securities broker or dealer that are not so affiliated or designated; or

(B) for the sale of any class of securities of an investment company or municipal fund security as compared with the remuneration for the sale of a class of securities of such investment company or municipal fund security (offered by such broker or dealer or municipal securities broker or dealer) that charges a sales load (as defined in section 2(a)(35) of the Investment Company Act of 1940 (15 U.S.C. 80a–2(a)(35)) only at the time of such a sale.

(2) MUNICIPAL FUND SECURITY.—For purposes of this section, a municipal fund security is any municipal security issued by an issuer that, but for the application of section 2(b) of the Investment Company Act of 1940 (15 U.S.C. 80a–2(b)), would constitute an investment company within the meaning of section 3 of the Investment Company Act of 1940 (15 U.S.C. 80a–3).

SEC. 111. COMMISSION STUDY AND REPORT REGULATING SOFT DOLLAR ARRANGEMENTS.

(a) STUDY REQUIRED.—

(1) IN GENERAL.—The Commission shall conduct a study of the use of soft dollar arrangements by investment advisers as contemplated by section 28(e) of the Securities Exchange Act of 1934 (15 U.S.C. 78bb(e)).

(2) AREAS OF CONSIDERATION.—The study required by this section shall examine—

(A) the trends in the average amounts of soft dollar commissions paid by investment advisers and investment companies in the past 3 years;

(B) the types of services provided through soft dollar arrangements;

(C) the benefits and disadvantages of the use of soft dollars for investors, including the extent to which use of soft dollar arrangements affects the ability of mutual fund investors to evaluate and compare the expenses of different mutual funds;

(D) the potential or actual conflicts of interest (or both potential and actual conflicts) created by soft dollar arrangements, including whether certain potential conflicts are being managed effectively by other laws and regulations specifically addressing those situations, the role of the board of directors in managing these potential or actual (or both) conflicts, and the effectiveness of the board in this capacity;

(E) the transparency of such soft dollar arrangements to investment company shareholders and investment advisory clients of investment advisers, the extent to which enhanced disclosure is necessary or appropriate to enable investors to better understand the impact of these arrangements, and an assessment of whether the cost of any enhanced disclosure or other regulatory change would result in benefits to the investor; and

(F) whether such section 28(e) should be modified, and whether other regulatory or legislative changes should be considered and adopted to benefit investors.

(b) REPORT REQUIRED.—The Commission shall submit a report on the study required by subsection (a) to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, no later than one year after the date of enactment of this Act.

SEC. 112. STUDY OF ARBITRATION CLAIMS.

(a) STUDY REQUIRED.—The Securities and Exchange Commission shall conduct a study of the increased rate of arbitration claims and decisions involving mutual funds since 1995 for the purposes of identifying trends in arbitration claim rates and, if applicable, the causes of such increased rates and the means to avert such causes.

(b) REPORT.—The Securities and Exchange Commission shall submit a report on the study required by subsection (a) to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate not later than one year after the date of enactment of this Act.

TITLE II—PREVENTION OF ABUSIVE MUTUAL FUND PRACTICES

SEC. 201. PREVENTION OF FRAUD; INTERNAL COMPLIANCE AND CONTROL PROCEDURES.

(a) AMENDMENT.—Subsection (j) of section 17 of the Investment Company Act of 1940 (15 U.S.C. 80a–17(j)) is amended to read as follows:

''(j) DETECTION AND PREVENTION OF FRAUD.—

''(1) COMMISSION RULES TO PROHIBIT FRAUD, DECEPTION, AND MANIPULATION.—It shall be unlawful for any affiliated person of or principal underwriter for a registered investment company or any affiliated person of an investment adviser of or principal underwriter for a registered investment company, to engage in any act, practice, or course of business in connection with the purchase or sale, directly or indirectly, by such person of any security held or to be acquired by such registered investment company, or any security issued by such registered investment company or by an affiliated registered investment company, in contravention of such rules and regulations as the Commission may adopt to define, and prescribe means reasonably necessary to prevent, such acts, practices, or courses of business as are fraudulent, deceptive or manipulative.

''(2) CODES OF ETHICS.—Such rules and regulations shall include requirements for the adoption of codes of ethics by registered investment companies and investment advisers of, and principal underwriters for, such investment companies establishing such standards as are reasonably necessary to prevent such acts, practices, or courses of business. Such rules and regulations shall require each such registered investment company to disclose such codes of ethics (and any changes therein) in the periodic report to shareholders of such company, and to disclose such code of ethics and any waivers and material violations thereof on a readily accessible electronic public information facility of such company and in such additional form and manner as the Commission shall require by rule or regulation.

''(3) ADDITIONAL COMPLIANCE PROCEDURES.—Such rules and regulations shall—

''(A) require each investment company and investment adviser registered with the Commission to adopt and implement policies and procedures reasonably designed to prevent violation of the Securities Act of 1933 (15 U.S.C. 78a et seq.), the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7201 et seq.), the Trust Indenture Act of 1939 (15 U.S.C. 77aaa et seq.), the Investment Company Act of 1940 (15 U.S.C. 80a–1 et seq.), the Investment Advisers Act of 1940 (15 U.S.C. 80b et seq.), the Securities Investor Protection Act of 1970 (15 U.S.C. 78aaa et seq.), subchapter II of chapter 53 of title 31, United States Code, chapter 2 of title I of Public Law 91–508 (12 U.S.C. 1951 et seq.), or section 21 of the Federal Deposit Insurance Act (12 U.S.C. 1829b);

''(B) require each such company and adviser to review such policies and procedures annually for their adequacy and the effectiveness of their implementation;

''(C) require each such company to appoint a chief compliance officer to be responsible for overseeing such policies and procedures—

''(i) whose compensation shall be approved by the members of the board of directors of the company who are not interested persons of such company;

''(ii) who shall report directly to the members of the board of directors of the company who are not interested persons of such company, privately as such members request, but no less frequently than annually; and

''(iii) whose report to such members shall include any violations or waivers of, and any other significant issues arising under, such policies and procedures; and

''(D) require each such company to establish policies and procedures reasonably designed to protect any officer, director, employee, contractor, subcontractor, or agent of such company from retaliation, including discharge, demotion, suspension, harassment, or any other manner of discrimination in the terms and conditions of employment, because of any lawful act done by such officer, director, employee, contractor, subcontractor, or agent to provide information, cause information to be provided, or otherwise assist in an investigation that relates to any conduct which such officer, director, employee, contractor, subcontractor, or agent reasonably believes constitutes a violation of the securities laws or the code of ethics of such investment company.

''(4) SELF-CERTIFICATION.—Such rules and regulations shall require the members of the board of directors who are not interested persons of each registered open-end investment company to certify, in the periodic report to shareholders, or other appropriate disclosure document, that—

''(A) procedures are in place for verifying that the determination of current net asset value of any redeemable security issued by the company used in computing periodically the current price for the purpose of purchase, redemption, and sale complies with the requirements of the Investment Company Act of 1940 and the rules and regulations thereunder, and the company is in compliance with such procedures;

''(B) procedures are in place for the oversight of the flow of funds into and out of the securities of the company, and the company is in compliance with such procedures;

''(C) procedures are in place to ensure that investors are receiving any applicable discounts on front-end sales loads that are disclosed in the company's prospectus;

''(D) procedures are in place to ensure that, if the company's shares are offered as different classes of shares, such classes are designed in the interests of investors, and could reasonably be an appropriate investment option for an investor;

''(E) procedures are in place to ensure that information about the company's portfolio securities is not disclosed in violation of the securities laws or the company's code of ethics;

''(F) the members of the board of directors who are not interested persons of the company have reviewed and approved the compensation of the company's portfolio manager in connection with their consideration of the investment advisory contract under section 15(c);

''(G) the company has established and enforces a code of ethics as required by paragraph (2) of this subsection; and

''(H) the company is in compliance with the additional requirements of paragraph (3) of this subsection.''.

(b) DEADLINE FOR RULES.—The Securities and Exchange Commission shall prescribe rules to implement the amendment made by subsection (a) of this section within 90 days after the date of enactment of this Act.

SEC. 202. BAN ON JOINT MANAGEMENT OF MUTUAL FUNDS AND HEDGE FUNDS.

(a) AMENDMENT.—Section 15 of the Investment Company Act of 1940 (15 U.S.C. 80a-15) is further amended by adding at the end the following new subsection:

''(h) BAN ON JOINT MANAGEMENT OF MUTUAL FUNDS AND HEDGE FUNDS.—

''(1) PROHIBITION OF JOINT MANAGEMENT.—It shall be unlawful for any individual to serve or act as the portfolio manager or investment adviser of a registered open-end investment company if such individual also serves or acts as the portfolio manager or investment adviser of an investment company that is not registered or of such other categories of companies as the Commission shall prescribe by rule in order to prohibit conflicts of interest, such as conflicts in the selection of the portfolio securities.

''(2) EXCEPTIONS.—Notwithstanding paragraph (1), the Commission may, by rule, regulation, or order, permit joint management by a portfolio manager in exceptional circumstances when necessary to protect the interest of investors, provided that such rule, regulation, or order requires—

''(A) enhanced disclosure by the registered open-end investment company to investors of any conflicts of interest raised by such joint management; and

''(B) fair and equitable policies and procedures for the allocation of securities to the portfolios of the jointly managed companies, and certification by the members of the board of directors who are not interested persons of such registered open-end investment company, in the periodic report to shareholders, or other appropriate disclosure document, that such policies and procedures of such company are fair and equitable.

''(3) DEFINITION.—For purposes of this subsection, the term 'portfolio manager' means the individual or individuals who are designated as responsible for decision-making in connection with the securities purchased and sold on behalf of a registered open-end investment company, but shall not include individuals who participate only in making research recommendations or executing transactions on behalf of such company.''.

(b) DEADLINE FOR RULES.—The Securities and Exchange Commission shall prescribe rules to implement the amendment made by subsection (a) of this section within 90 days after the date of enactment of this Act.

SEC. 203. SHORT TERM TRADING BY INTERESTED PERSONS PROHIBITED.

(a) SHORT TERM TRADING PROHIBITED.—Section 17 of the Investment Company Act of 1940 (15 U.S.C. 80a–17) is further amended by adding at the end the following new subsection:

''(k) SHORT TERM TRADING PROHIBITED.—It shall be unlawful for any officer, director, partner, or employee of a registered investment company, any affiliated person, investment adviser, or principal underwriter of such company, or any officer, director, partner, or employee of such an affiliated person, investment adviser, or principal underwriter, to engage in short-term transactions, as such term is defined by the Commission by rule, in any securities of which such company, or any affiliate of such company, is the issuer, except that this subsection shall not prohibit transactions in money market funds, other funds the investment policy of which expressly permits short-term transactions, or such other categories of registered investment companies as the Commission shall specify by rule.''.

(b) INCREASED REDEMPTION FEES PERMITTED FOR SHORT TERM TRADING.—Within 90 days after the date of enactment of this Act, the Securities and Exchange Commission shall revise rule 11a–3 of its rules under the Investment Company Act of 1940 (17 CFR 270.11a–30), or other rules of the Commission, as necessary to permit an investment company to charge redemption fees in excess of 2 percent upon the redemption of any securities of such company that are redeemed within such period after their purchase as the Commission specifies in such rule to prevent short term trading that is unfair to the shareholders of such company.

(c) DEADLINE FOR RULES.—The Securities and Exchange Commission shall prescribe rules to implement the amendment made by subsection (a) of this section within 90 days after the date of enactment of this Act.

SEC. 204. ELIMINATION OF STALE PRICES.

Within 90 days after the date of enactment of this Act, the Securities and Exchange Commission shall prescribe, by rule or regulation, standards concerning the obligation of registered open-end investment companies under the Investment Company Act of 1940 to apply and use fair value methods of determination of net asset value when market quotations are unavailable or do not accurately reflect the fair market value of the companies' portfolio securities, in order to prevent dilution of the interests of long-term investors or as necessary in the other interests of investors. Such rule or regulation shall identify, in addition to significant events, the conditions or circumstances from which such obligation will arise, such as the need to value securities traded on foreign exchanges, and the methods by which fair value methods shall be applied in such events, conditions, and circumstances.

SEC. 205. PREVENTION OF UNFAIR AFTER-HOURS TRADING.

(a) ADDITIONAL RULES REQUIRED.—Within 90 days after the date of enactment of this Act, the Securities and Exchange Commission shall issue rules to prevent transactions in the securities of any registered open-end investment company in violation of section 22 of the Investment Company Act of 1940 (15 U.S.C. 80a-22), including after-hours trades that are executed at a price based on a net asset value that was determined as of a time prior to the actual execution of the transaction.

(b) TRADES COLLECTED BY INTERMEDIARIES.—Such rules shall permit execution of such after-hours trades that are provided to the registered open-end investment company by a broker-dealer, retirement plan administrator, or other intermediary, after the time as of which such net asset value was determined, if such trades are collected by such intermediaries subject to procedures that are—

(1) designed to prevent the acceptance of trades by such intermediaries after the time as of which net asset value was determined; and

(2) subject to an independent annual audit to verify that the procedures do not permit the acceptance of trades after the time as of which such net asset value was determined.

(c) INDEPENDENTLY MAINTAINED SYSTEMS.—Such rules shall permit firms that utilize computer systems and procedures provided by unaffiliated entities to collect transactions to satisfy the independent audit requirements under subsection (b)(2) by means of an independent audit obtained by such unaffiliated entity.

SEC. 206. REPORT ON ADEQUACY OF REMEDIAL ACTIONS.

(a) REPORT REQUIRED.—Within 180 days of enactment, the Securities and Exchange Commission shall submit a report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on market timing and late trading of mutual funds.

(b) REQUIRED CONTENTS OF REPORT.—The report required by this section shall include the following:

(1) The economic harm of market timing and late trading of mutual fund shares on long-term mutual fund shareholders.

(2) The findings by the Commission's Office of Compliance, Inspections and Examinations, and the actions taken by the Commission's Division of Enforcement, regarding—

(A) illegal late trading practices;

(B) illegal market timing practices; and

(C) market timing practices that are not in violation of prospectus disclosures.

(3) When the Commission became aware that the use of market timing practices was harming long-term shareholders, and the circumstances surrounding the Commission's discovery of that activity.

(4) The steps the Commission has taken since becoming aware of market timing practices to protect long-term mutual fund investors.

(5) Any additional legislative or regulatory action that is necessary to protect long-term mutual fund shareholders against the detrimental effects of late trading and market timing practices.

The SPEAKER pro tempore (Mr. SIMMONS). Pursuant to the rule, the gentleman from Ohio (Mr. OXLEY) and the gentleman from Pennsylvania (Mr. KANJORSKI) each will control 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. OXLEY).

GENERAL LEAVE

Mr. OXLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on this legislation, and to insert extraneous material thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. OXLEY. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I stood on this floor last year and spoke of the need to reform and improve the accounting profession, financial reporting, corporate governance, and Wall Street research practices. Congress responded admirably by passing the Sarbanes-Oxley Act which has proved successful in improving the transparency of financial statements and stemming the alarming rate of corporate fraud.

Now, we necessarily turn our focus to mutual funds. We are in the midst of what one former SEC chairman calls the ''biggest financial scandal of the past 50 years.'' An industry representative has lamented the ''shocking betrayal of trust.'' Indeed, the scandals are deeply troubling for a host of reasons.

First, we have become a Nation of investors, 95 million strong, and the investment vehicles of choice are mutual funds. It is imperative that Congress ensures that these investors, representing 54 million households, are protected.

Second, the nature of the misconduct by trusted fiduciaries, fund executives, directors, and portfolio managers is especially egregious. Secret deals were reached to provide special trading privileges to large, preferred customers. Fund managers and executives were caught market-timing their own funds, and fund directors were found asleep at the switch.

Third, the mutual fund fraud is widespread. We are not talking about the actions of a few boiler room operations; we are talking about pervasive financial fraud by all segments of the fund industry, including the most trusted companies.

Finally, the regulators charged with investor protection failed to detect or deter improper and illegal practices which have apparently been occurring for a number of years. It is inexcusable that these activities were not uncovered until this year.

Long before the current scandal came to light, the Committee on Financial Services has called for reform. I am proud of the work of my colleagues, particularly the gentleman from Louisiana (Mr. BAKER), chairman of the Subcommittee on Capital Markets, Insurance and Government Sponsored Enterprises. The gentleman from Louisiana (Chairman BAKER) held oversight and legislative hearings long before it was fashionable to scrutinize the fund industry. He and I shepherded this legislation through the committee in July, but not without some resistance.

The legislation before the House today, the Mutual Funds Integrity and Fee Transparency Act, is a comprehensive reform package which contains numerous provisions to aid investors.

I will not go into all of the details but, importantly, it will provide for greater transparency of fund fees, costs, expenses, and operations so that investors can make better informed decisions and help market forces to drive fees down for fund investors. It will strengthen fund management, particularly the board's independent directors, and it will curb the trading abuses which have recently been revealed.

We know there are some who believe this legislation goes too far; there are some who think it does not go far enough. To those people, I would say that we have achieved a good balance here. It is proinvestor, it is tough, but it does not regulate for regulation's sake.

Again, I would like to commend the gentleman from Louisiana (Mr. BAKER) for his outstanding leadership on these issues and for crafting a fine piece of legislation. He was ahead of the curve yet again.

Mr. Speaker, I reserve the balance of my time.

Mr. KANJORSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, with approximately 95 million investors and $7 trillion in assets, mutual funds constitute a major component of our securities industry. Mutual funds became a dominant force in our capital markets because they have democratized investing for millions of average Americans, greatly facilitating their ability to acquire a diversified portfolio. Before September, many authorities and experts had also generally extolled the reliability and integrity of the industry.

During the last 2 months, however, we have learned of alleged and actual instances of wrongdoing at more than a dozen mutual fund families with more than $2.5 trillion in assets under management. The most serious transgressions brought to light so far have involved market timing abuses, late trading, and preferential portfolio disclosures to industry insiders.

The current evidence also suggests that additional announcements of misconduct in the mutual fund industry will continue to proliferate in the months ahead. A recent survey by the Securities and Exchange Commission found that 30 percent of responding broker-dealers assisted market timers in some way. It also revealed that more than 25 percent of answering broker-dealers reported that customers had placed or confirmed mutual fund orders after the market closed and received the preferential closing price.

These misdeeds and findings have caused great and considerable concern for average American investors who had placed their trust and hard-earned savings in accounts at mutual fund companies. The widening investigation by State and Federal authorities has also resulted in a reevaluation of the mutual fund industry's business practices and regulatory oversight.

These budding inquiries have caused me considerable unease as well. It is completely and absolutely unacceptable for securities professionals, who have an obligation to serve the best interests of their customers, to place their own interests first and to provide preferential treatment to selected insiders. In my view, we have an obligation to American investors to monitor these developments and take action to prevent further abuses.

Before news of the mutual fund industry scandals broke in September, the Committee on Financial Services approved a mutual fund reform bill by a voice vote. In general, H.R. 2420 seeks to enhance the disclosures of the mutual fund fees and costs to investors, improve corporate governance for mutual funds, and heighten the awareness of boards about mutual funds activities.

A manager's amendment attached today to H.R. 2420 makes several additions to the reported bill. Several of these changes address the recently discovered problems in the mutual fund industry. For example, the bill will now allow for an increase in redemption fees to reduce the ability of market timers to profit from their transactions. The bill also now requires the Commission to act to strengthen audit trails to guard against late trading.

Although each of these modifications generally improve H.R. 2420, I remain concerned that we may have rushed to judgment in these matters. The manager's amendment would have benefited from a more thorough vetting by the Securities and Exchange Commission, State regulators, and other experts. We should have made technical improvements to the bill to ensure its workability.

We also have missed an opportunity to consider other worthy reform ideas. We could have created a system to better protect mutual fund investors against fraud by expanding fidelity bonding requirements. We could have additionally required mutual fund managers to make the same disclosures about their personal transactions that we already mandate senior corporate executives to make.

The Investment Company Act further requires that mutual funds be organized and operated in the best interests of shareholders. We, therefore, could have considered adding legislative language to establish a fiduciary responsibility of mutual fund boards to ensure that funds are also organized and operated in such a way. Finally, we might have worked to heighten the scrutiny of the joint management of mutual funds and hedge funds within the same investment company to prevent conflicts of interest.

Mr. Speaker, I am particularly disappointed that H.R. 2420 does not include any of the regulatory enhancements that the Securities and Exchange Commission specifically requested earlier this year and that are contained in H.R. 2179, the Securities Fraud Deterrence and Investor Restitution Act. These proposals would increase the level of fines the Commission may impose against wrongdoers, improve its ability to return money to swindled investors, and enhance the agency's enforcement authorities.

Each of these administrative proposals would protect mutual fund investors more immediately and more effectively than the bill we are now considering. Fortunately, the Senate has an opportunity to review these worthy ideas and adopt a more comprehensive, stronger, and refined mutual fund bill when it considers these matters next year.

That said, we need to advance the legislative process today so that we can eventually better protect average investors from further transgressions by unscrupulous and unprincipled participants in the mutual fund industry. Although imperfect, H.R. 2420 takes some steps to restore accountability and reestablish investor trust. We should, therefore, approve the bill.

In closing, Mr. Speaker, mutual funds have successfully worked to help millions of middle-class Americans to successfully save for an early retirement, purchase a vacation home, afford a dream vacation, pay for a college education, or cover medical bills or other needs. We need to ensure that

this success continues. I encourage my colleagues to adopt this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. OXLEY. Mr. Speaker, I am pleased to yield 6 minutes to the gentleman from Louisiana (Mr. BAKER), the chairman of the Subcommittee on Capital Markets, Insurance and Government Sponsored Enterprises.

Mr. BAKER. Mr. Speaker, I thank the gentleman for yielding me this time. I certainly want to start by commending the chairman for his leadership on this important issue. He has been committed to the principle of getting it right, not getting it done fast, and I think his long-suffering patience on this issue is to be highly commended, for we have learned much, unfortunately, over the last weeks and months.

When the committee first began its work almost 2 years ago with an examination of mutual fund industry performance, it was with an eye toward whether or not investors truly understood the costs associated with investing in a particular fund, whether disclosures were adequate, and whether the markets were functioning in a fair manner.

Well, only a few months later, the door to scandal not only opened a bit, it blew wide open. There were not just minor aberrations of some arcane accounting misrepresentation, but intentional acts clearly in violation of the statutory provisions.

In one instance, there was a union where certain selected union members were engaging in a practice known as late trading. This resulted in their fellow union brotherhood being disenfranchised. It became so prevalent that the house where these trades were executed began to call that time of day the ''boilermaker hour.'' Our systems of checks and balances had broken. It was a system of checks: you write me one, I will write you one.

Clearly, the principle on which a fair, functioning capital market must operate would require professionals never to set aside their fiduciary duties for the sake of personal gain. Unfortunately, it was happening.

So how do we ensure that that is the principle that guides market performance? It is not easy, but I think H.R. 2420 is a very important beginning. Full disclosure of all fees, full disclosure of what are known as ''soft dollar'' transactions, full disclosure of where the portfolio managers themselves invest their own funds and what they are paid at the expense of shareholders.

The bill goes a long way, and I would join with some in saying perhaps we have not gone far enough.

Let me digress with regard to the description of a mutual fund and a mutual fund management company. Mutual funds are organizations into which working families write their checks and send their money. They have a board which then hires a mutual fund management company, an operating company, a for-profit company, a company driven by the goal to make as much money as they can through the mutual fund.

□ 1215

Nothing wrong with that. But the board is constructed of members who may well be the executives of the management company. So the people who are making the judgments about whether to hire management company A or management B are themselves employees of that company. Imagine how hard it must be to fire one's self in that instance. That is why I think it very important for us to engage in not only the bill's proposed two-thirds required membership be independent, but that the chairman himself be independent of that significant conflict.

And I would like to read from testimony of Chairman Donaldson, chairman of the SEC, just yesterday in response to a question in the Senate: ''I think the board chairman should be totally independent. And I think the further you go toward a totally independent board, the better. The matter seems to be closed.''

And as we proceed with consideration of this legislation through conference, I certainly will renew my effort to see that that particular provision is included. The bill does a great deal more, but I think it is not the end of the process.

We in the Congress have an obligation with 95 million Americans and over half of all households now directly invested in the marketplace to ensure there is a fair and balanced functioning market. We must have the investing facts clearly disclosed. We must have rules that are clearly understood, trades engaged in by professionals who hold themselves to the highest standards of fiduciary duty.

We must have, above all, the standard adopted where fiduciary principles never are set aside for personal gain and all the rules will be applied equitably to all investors. We do, in fact, have the broadest, deepest, most successful capital markets of any time in world history, but we cannot deviate from these principles.

The passage of H.R. 2420 will ensure we begin to return to that path, never again to deviate from that responsibility.

Mr. Speaker, I would like to ask the chair of the Committee on Financial Services, the gentleman from Ohio (Mr. OXLEY), if the gentleman would like to express his opinion with regard to the appropriateness of further consideration of the independent chair and a provision being adopted, if possible, in conference at a later time in the consideration of this legislation.

Mr. OXLEY. Mr. Speaker, will the gentleman yield?

Mr. BAKER. I yield to the gentleman from Ohio.

Mr. OXLEY. Mr. Speaker, I thank the gentleman for his continued leadership and tenacity on this issue. A few of us were kind of isolated and lonely when this whole issue began. And I suspect that we are now seeing the fruits of your efforts in taking on this difficult issue.

And I would say that based on the testimony that Chairman Donaldson gave to the other body just yesterday it is pretty clear that the SEC not only supports our efforts but would indeed support an independent chair. So from that standpoint, obviously, this is the beginning of the process, not the end. And to that end, obviously we will consider other measures going forward.

But I think, clearly, as the gentleman pointed out, this is an excellent bill that deals with some of the real abuses that have been out there in the public eye for the last several months. And this is how our process works. As you know, very much like what ended up as Sarbanes-Oxley, this is the House's ability to get our hands around this issue and show that the Members of the House are quite concerned about these burgeoning scandals and are not willing to sit back and allow this to happen on our watch.

Mr. BAKER. Mr. Speaker, I thank the chairman for his leadership.

Mr. KANJORSKI. Mr. Speaker, I yield 3½ minutes to the gentleman from Massachusetts (Mr. FRANK), the ranking member of the Committee on Financial Services, who has been instrumental in working with me on this bill on our side of the aisle.

Mr. FRANK of Massachusetts. Mr. Speaker, the gentleman from Pennsylvania (Mr. KANJORSKI) has played a very important role in this. I am glad to be here in support of his efforts. I agree that this is a bill that is a good set of steps forward, it is more than a first step, but it is not everything that we should be doing. It is useful to do it now.

I have spoken with the Attorney General of New York, Mr. Spitzer, the Secretary of the Commonwealth of Massachusetts, Mr. Galvin. They have further ideas about how we can improve the protection of the investing public. The gentleman from Pennsylvania (Mr. KANJORSKI) himself has some ideas. So I am glad we are moving. And I appreciate the fact we do not end when we adjourn for the year this legislative process; we will resume it next year and be in conference with the Senate bill, and maybe even ourselves pass some other legislation in this regard.

But I want to address two other aspects of this issue. It is important that we legislate. It is also important that we fully empower those who are charged with investigation and enforcement. We are the legislative branch. We set the policy. But we are not able to carry it out. What is important is that those entities that are empowered to carry it out be allowed to do that. Now, a number of people have noted today on that.

We have learned recently some disturbing facts about the mutual fund industry. It should be clear that we

learned them primarily from two State regulators, the Attorney General of New York and the Secretary of the Commonwealth of Massachusetts. And I am proud to say, Mr. Speaker, that on our side of the aisle we take pride in that because there were efforts to impinge on their ability to do this work.

And I am very pleased that our resistance to any effort to diminish the role played by State regulators in the securities field has been vindicated. If, in fact, the Attorney General of New York, the Secretary of the Commonwealth of Massachusetts, and some other regulators did not have the incentive, the tools, the ability fully to investigate, we would not know today what we know.

In addition, we have had the problem that the SEC has said, well, there were some limits in terms of funding. A year ago back to 2001, my predecessor as ranking member, the very able gentleman from New York, Mr. JOHN LaFalce, when we were asked to raise SEC fees, he led our side in saying, let us make sure a lot of that goes to the SEC to increase their budget. And there was resistance. Even after the corporate reform bill last year, the Sarbanes-Oxley bill, was passed, we as a Congress did not initially give the SEC the money they needed to enforce that.

Now, my colleague, the gentleman from Pennsylvania (Mr. KANJORSKI), has correctly pointed out we regret the fact that we have not also passed 2179, the SEC enforcement bill, giving the SEC more powers that they have asked for, including some that would specifically enhance their ability to levy fines against mutual fund companies. Parts of that bill specifically deal with the power to penalize mutual fund companies under those acts. But in addition to the additional powers, we need to give them more people. And we did fight, beginning late last year on into early this year; finally the Congress agreed to give the SEC the amount of money that they needed for Sarbanes-Oxley, but there is, of course, a time lag between getting the money and being able to spend it.

Now, both sides agreed to give the SEC flexibility in hiring, and we gave them that. But we ought to note that by the time we were to persuade this Congress to give the SEC adequate funds, they tell us they did not have time to spend it. So, ironically, the SEC had to give back some money this year, over $100 million. But they have told us that that does not mean that that level was too high, only that they did not get it in time to spend it, over our objections.

We now, I think, should go forward and have a situation where State regulators and the SEC are fully funded and fully empowered to do their job.

Mr. OXLEY. Mr. Speaker, I yield 3½ minutes to the gentleman from Delaware (Mr. CASTLE), distinguished member of the committee.

Mr. CASTLE. Mr. Speaker, I thank the chairman, not just for yielding to me, but for the great work that he and the gentleman from Louisiana (Mr. BAKER) have done on this and also the gentleman from Pennsylvania (Mr. KANJORSKI) and the gentleman from Massachusetts (Mr. FRANK). I think it truly has been a team effort for both parties getting together to try to address the problem. Maybe we are not as far as I would like to be, as perhaps some others would like to be, but I think we started to move in the right direction. For that I am very pleased.

Mr. Speaker, I will submit a statement here that supports H.R. 2420 and goes through the details of some of the reasons for that. But I would like to take my time before us today just to discuss what I consider to be the breadth and extent of this problem and what we have to do.

It is very interesting because 2 decades ago only 6 percent of American households had mutual funds, and the total was supposedly $134 billion. Today one-half of all American families are involved in mutual funds in some way or another, probably do not even know they are. They are in their 401(k) plans or another retirement plan or something of that nature. It involves $7 trillion of money.

This, of all these issues we have talked about, probably involves more Americans in a financial sense than anything else we ever had before our committee or before the Congress of the United States of America. It represents 10 percent of all the financial assets of the United States of America. To suggest that this is not overwhelmingly important, in my judgment, would be wrong.

It is amazing to me that just 6 months ago the mutual fund industry was making statements as they were looking at the banking industry and the corporate problems and everything else that they are the only ones with an unblemished record. Nobody knew. Nobody at the State level, nobody at the Federal level knew what was going on. And while we can talk about the SEC now, I would like to know where the SEC was a year ago, 3 years ago, 5 years ago, 10 years ago, or whatever it may be, why was somebody not looking at some of these problems, which are relatively self-evident when you really examine it closely if you understand the details of how mutual funds work.

I would hope that those kinds of people have been working at the SEC under Republicans and Democrats. And I am afraid to say that has not been the case so far. And, frankly, I think we all need to be critical of that.

Should we move quickly on this? And I understand what Mr. Greenspan and Secretary Snow and others have said about, well, we need to take our time. Well, I do not disagree completely because you want to do it correctly; but on the other hand I think we need to move as quickly as possible. There has been a recognized problem, and we need to do something about it. And quite frankly, I am delighted that this bill is on the floor today and our leaders have come forward and said we need to move forward. Maybe they will do something somewhat differently in the Senate, but hopefully they will do something and hopefully we will have something which we can hold out to the American public as evidence that we are moving in the right direction as far as mutual funds are concerned.

On the old issue of who should regulate, where we should be, I give credit to the States. I think they have done a wonderful job, particularly in New York and Massachusetts, and perhaps other States in coming forward and revealing some the problems. Frankly, I am not sure where the SEC would be today, I am not sure where we would be today if that had not happened. Yes, there are jurisdictional issues, but for the most part I think they deserve a great deal of credit as far as all of that is concerned.

The SEC, according to Stephen Cutler, has examined the records of 88 of these mutual funds, and they found problems with a great percentage of them. And they have found in the case of 30 percent of them that they have had market-timing problems. Virtually half of these funds have had problems one way or another in the area in which we are trying to deal. That just shows me how rapidly we have to move and what we have to do.

So I give credit to everybody for the hearings, for the legislation, and what we are doing today because, frankly, I think you are going to start to see some changes. I think a lot of it is going to be because of this legislation which we are considering today and all that has led up to it.

Mr. Speaker, I rise today in support of H.R. 2420, the ''Mutual Funds Integrity and Fee Transparency Act of 2003.'' I commend Chairman OXLEY and Subcommittee Chairman BAKER for continuing your work in protecting American investors and I am proud to play a role in addressing the problems in the mutual fund industry. Hearings in the Financial Services Committee have enabled us to address a number of ongoing reforms that are necessary for the mutual fund industry to increase transparency for investors. From these hearings we have also learned of additional problems within the mutual fund industry that have only recently come to light such as improper trading practices. We have improved this legislation by incorporating all of the issues and I am proud of the legislation we passed out of committee with strong bipartisan support.

The average American family chooses to invest in mutual funds. I want to make clear what is at stake. Two decades ago, only 6 percent of American households had mutual fund shares valued at $134 billion. Today, half of all American families have $7 trillion at stake. Mutual funds represent about 10 percent of the total financial assets of the U.S. population. The number of funds have grown from less than 500 mutual funds in 1980 to approximately 8,000 mutual funds today.

Just 6 months ago the mutual fund industry was boasting of its unblemished record. It concerns me that the scandals we have learned of in recent weeks may only be the tip of the

iceberg. This should be a wake-up call to both the Securities and Exchange Commission (SEC) and the industry that change is needed. Mutual funds are a $7 trillion industry, and with more than 50 percent of the American public invested in mutual funds there is the potential for investors to be hurt more so by these recent revelations than even the WorldCom and Enron scandals. I am not downplaying the problems that were in play there, but I feel this issue is further-reaching and could impact a greater number of investors in the long run. Some in the industry have stated market timing was an open practice; furthermore, some funds have even stated they participated in market timing on a limited level with clients to allow controversial trading as a way to control the improper practice. This bothers me. Favoritism to big investors and violating ethical and legal codes rob the average investor who depends on their investments for costs such as education and retirement. There is a lot at stake, and the reforms addressed in this legislation will help prevent future investor betrayals. This bill addresses the recent market scandals and makes additional necessary reforms to the mutual fund industry, and I would like to highlight just a few.

First, to address recent scandals in the mutual fund industry, the manager's amendment will explicitly ban short-term trading by fund insiders and permit funds to charge more than the current maximum 2 percent redemption fee to discourage all market timers. Second, to prevent market timing trades, made possible by stale pricing, the manager's amendment directs the SEC to clarify rules regarding mutual funds' obligation to apply fair value pricing. Third, the manager' amendment also addresses late trading. Late trading is not only an improper advantage for large fund investors, it is illegal. Late trading has allowed some big fund investors to take advantage of the current day's price on orders to buy or sell shares placed after the close of the New York markets, when proper procedure would be to carry out the orders at the following day's price. Some have likened this practice to ''betting today on yesterday's horse race.'' The manager's amendment directs the SEC to issue rules to prevent late trading without disadvantaging those investors who use financial intermediaries such as broker-dealers and 401(k) and pension plan administrators to purchase fund shares.

Fourth, this legislation rightly increases the requirement of independent board members from one-half to two-thirds of total board membership and strengthens independence qualifications. A greater number of independent directors will increase protections of investors' interests against those of directors whose interests are tied to the success of their funds' advisers. Fifth, the bill requires disclosure of brokers' conflicts of interest where they are paid incentives to promote particular funds, so that investors can weigh sales incentives.

Finally, I am concerned about fees that mutual fund investors face. I understand that mutual fund companies feel there is a need for certain fees, but these fees must be transparent to investors. In many cases investors choose ''no-load'' funds for their no-fee structure, but hidden fees such as 12-(b)-1 fees are often charged. I am pleased this legislation would prohibit a fund from advertising as a ''no-load'' fund if in fact the 12-(b)-1 fee is charged. Furthermore, in an effort to enhance transparency of fees, the bill requires that mutual funds disclose fees, in dollar amounts, on a hypothetical $1,000 investment, and further requires that this information not be buried in a prospectus.

Mr. Speaker, the House Financial Services Committee and Congress acted in the wake of the Enron and WorldCom scandals to protect investors. Today we are again being called on to protect the average American investor, and I urge my colleagues on both sides of the aisle to join me in supporting this important and very necessary legislation.

Mr. KANJORSKI. Mr. Speaker, I yield 2½ minutes to the gentleman from North Carolina (Mr. MILLER).

Mr. MILLER of North Carolina. Mr. Speaker, mutual funds are how America's middle class saves. It is how young couples save for their first home. It is how middle class families save for their children's education, for their children's college, and for retirement. It is how the middle class families save for a rainy day, to provide against life's harsh uncertainties.

It is infuriating that some mutual fund managers have taken advantage of those families. It is even more infuriating that they have such disrespect for the middle class families who trusted them with their life savings. They seem to see America's middle class as rubes or hicks, not as the very people who make this Nation work.

This legislation is a beginning, and I am pleased that no one today has described it as the end. But I certainly hope that when the Senate considers the regulation of the mutual fund industry next year they will pause to consider other reform proposals which others today have spoken of. The gentleman from Pennsylvania (Mr. KANJORSKI) has already spoken of such proposals, and I know that the gentleman from Illinois (Mr. EMANUEL) will in just a moment.

I certainly hope that we will urge that the Senate consider measures to assure that the welfare of the funds' investors, not the funds' managers, is the guiding principle to how the funds are governed. The funds need truly independent directors who know the industry, will ask tough questions, and will exercise independent judgment, not just go along with the funds' managers.

We should consider requiring that there be a single lead independent director, focused responsibility with the authority to hire outside experts, to call meetings of the board, and to place items on the board's agenda.

Finally, we should require a clear fiduciary duty by the managers of the fund to the investors in the fund.

Mr. Speaker, there may be reasons to address the same concerns in different ways or, perhaps, even to leave well enough alone. But as long as some funds are not governed for the benefit of the investors, we will likely be dealing with one new fund management practice after another, each designed to separate the middle class from more and more of its life savings.

I will vote for this bill today; but I hope the Senate, with the luxury of time next year, will look closely to make sure that we have done enough to protect America's middle class. They work hard for the money they have earned, and they deserve better.

□ 1230

Mr. OXLEY. Mr. Speaker, I yield 3 minutes to the gentlewoman from New York (Mrs. KELLY), the distinguished chairman of the Subcommittee on Oversight and Investigations.

Mrs. KELLY. Mr. Speaker, I rise in support of this legislation.

Mr. Speaker, I would like to commend the gentleman from Ohio (Mr. OXLEY) and the gentleman from Louisiana (Mr. BAKER), the gentleman from Pennsylvania (Mr. KANJORSKI) and the gentleman from Massachusetts (Mr. FRANK) for their leadership in improving and moving this legislation through. It is going to send a clear message to all Americans that we are trying to make sure that when they invest their money, there will be fairness and there will be oversight in the marketplace.

The interest of the investors of this Nation need to come first. As the gentleman from Delaware (Mr. CASTLE) said, this is a good step in restoring confidence to those people with whom we trust our investment money. And when we entrust that money to them, we want to know that it will be regulated, that the transactions will be transparent so we can see what they are doing.

This problem with the mutual funds should have been addressed many years ago. Again, as my colleague, the gentleman from Delaware (Mr. CASTLE) pointed out, this is something the SEC should have acted on a long time ago, and especially during the 1990s when we had a strong market and such a bright light of investigation could have gone in with possibly less impact, because we certainly do not want to do anything that is going to affect this Nation's growth that we are experiencing with our economy now.

I think it is imperative that Congress take action to strengthen investor confidence. It will allow our economy to continue to experience a full growth. And we have to be sure that our investors here in the United States, now over half of all American families are invested in mutual funds, we have to make sure that we have, they have the backing of Congress, that they have the oversight from Congress, but more importantly, that that backing and oversight comes from the SEC.

They need to invest their hard-earned money with full faith and hope for prosperous futures. The Mutual Fund Integrity Fee and Transparency Act is an important step in the process. The legislation improves accountability and integrity by requiring a greater independence and transparency, as I mentioned before, and eliminating conflict of interests which we certainly are finding out were.

Nearly 100 million Americans invest their money in mutual funds. These investments really represent a part of

their nest egg. This is what they are using for their tuition for their kids. This is what they are going to use for their first home. It is what they are thinking about when they are thinking about what they are going to do for their retirement. These investments are the essential part of the lives of American families. Our work today is not going to be done. We are going to be all finished because this is a first step in this. We are going to continue to investigate these issues, and I look forward to continuing to work on these issues to strengthen investor confidence to ensure the highest level of integrity, transparency and accountability in this market.

I want people to have faith when they put their dollars into the U.S. markets, that the market is acting in their behalf and not on the behalf of someone who is going to make a private profit from what their money is. I urge my colleagues to support this legislation.

Mr. KANJORSKI. Mr. Speaker, I yield 2 minutes to the gentlewoman from New York (Mrs. MALONEY).

(Mrs. MALONEY asked and was given permission to revise and extend her remarks.)

Mrs. MALONEY. Mr. Speaker, as a cosponsor of this legislation I am pleased to rise in support of it, but I regret that it did not include the SEC recommendations that the Democrats supported.

Since the demise of Enron 2 years ago, the Committee on Financial Services has undertaken a comprehensive reform agenda. We have rewritten the rules applying to the accounting industry and completely changed the relationship between boards of directors and corporate managers.

The legislation we are considering today represents the beginning of similar reforms for the mutual funds industry. This legislation attacks conflicts of interest and increases the independence and accountability of oversight boards. It increases the number of independent board members from 40 percent to two-thirds. With increased independence, also comes increased responsibility as the legislation places fiduciary duties on boards of directors, requiring them to review revenue sharing and soft dollar arrangements.

It will also require disclosure of fund managers' compensation structure and bar the same individual from managing a mutual fund and hedge fund. On the consumer side, the bill requires the disclosure of total fees an investor will pay per $1,000 they invest.

Finally, I am pleased that this legislation provides the SEC more authority to police the funds industry. I can only hope that they use it. I would also like to commend the leadership of State regulators and State attorneys general, specifically Mr. Elliot Spitzer from New York State. The following is an article he recently authored and published on this subject:

[From the New York Times, Nov. 17, 2003]

REGULATION BEGINS AT HOME

(By Eliot Spitzer)

ALBANY—With two decisions in the last two weeks, the Bush administration has sent its clearest message yet that it values corporate interests over the interests of the average Americans. In the Securities and Exchange Commission's settlement with Putnam Investments, the public comes away short-changed. In the Environmental Protection Agency's decision to forgo enforcement of the Clean Air Act, the public comes away completely empty-handed.

The 95 million Americans who invest in mutual funds paid more than $70 billion in fees in 2002. These fees went to an industry that did not take seriously its responsibility to safeguard investors' money. Investors are now rightly concerned about whether those mutual funds that breached their fiduciary duties will be required to refund the exorbitant fees they took, and what mechanism will be put in place to ensure that the fees charged in the future are fair.

Unfortunately, the S.E.C.'s deal with Putnam does not provide a satisfactory answer to these questions. Instead, it raises new questions.

The commission's first failure is one of oversight. The mutual fund investigation began when an informant approached our office with evidence of illegal trading practices. Tipsters also approached the commission, which is supposed to be the nation's primary securities markets regulator, but the commission simply did not act on the information.

The commission's second failure was acting in haste to settle with Putnam even though the investigation is barely 10 weeks old and is yielding new and important information each day. Whether the commission recognizes it or not, the first settlement in a complex investigation always sets the tone for what follows. In this case, the bar is set too low.

The Putnam agreement does contain a useful provision mandating that the funds' board of directors be more independent of the management companies that run its day-to-day operations. It also talks of fines and restitution, but leaves for another day the determination of the amount Putnam should pay.

Most important, the agreement does not address the manner in which the fees charged to investors are calculated. Nor does it require the fund to inform investors exactly how much they are being charged—or even provide a structure that will create market pressure to reduce those fees. Finally, there is no discussion of civil or criminal sanctions for the managers who acted improperly by engaging in or permitting market timing and late trading.

S.E.C. officials are now saying that they may be interested in additional reforms. But by settling so quickly, they have lost leverage in obtaining further measures to protect investors. After reviewing this agreement, I can say with certainty that any resolution with my office will require concessions from the industry that go far beyond what the commission obtained from Putnam.

It is not surprising that the commission would sanction a deal that ignores consumers and is unsatisfactory to state regulators. Just look at the Bush administration's decision to abandon pending enforcement actions and investigations of Clear Air Act violations.

Even supporters of the Bush administration's environmental policy were stunned when the E.P.A. announced that it was closing pending investigations into more than 100 power plants and factories for violating the Clean Air Act—and dropping 13 cases in which it had already made a determination that the law had been violated.

Regulators may disagree about what our environmental laws should look like. But we should all be able to agree that companies that violated then-existing pollution laws should be punished.

Those environmental laws were enacted to protect a public that was concerned about its health and safety. By letting companies that violated the Clean Air Act off the hook, the Environmental Protection Agency has effectively issued an industry-wide pardon. This will only embolden polluters to continue practices that harm the environment.

My office had worked with the agency to investigate polluters, and will continue to do so when possible. But today a bipartisan coalition of 14 state attorneys general will sue the agency to halt the implementation of weaker standards. In addition, we will continue to press the lawsuits that have been filed. We have also requested the E.P.A. records for the cases that have been dropped, and will file lawsuits if they are warranted by the facts.

Similarly, my office—while committed to working with the Security and Exchange Commission in our investigation of the mutual fund industry—will not be party to settlements that fail to protect the interests of investors and let the industry off with little more than a slap on the wrist.

The public expects and deserves the protection that effective government oversight provides. Until the Bush administration shows it is willing to do the job, however, it appears the public will have to rely on state regulators and lawmakers to protect its interests.

Mr. OXLEY. Mr. Speaker, I yield 2 minutes to the gentlewoman from Florida (Ms. HARRIS), a valuable member of the committee.

(Ms. HARRIS asked and was given permission to revise and extend her remarks.)

Ms. HARRIS. Mr. Speaker, I rise to express my vigorous support for H.R. 2420, the Mutual Fund Integrity and Fee Transparency Act. Mutual funds have become a vital tool that millions of Americans rely on. In fact, approximately some 95 million investors representing nearly half of all U.S. households own a stake in some type of mutual fund. Reflecting the dramatic shift in recent decades toward this investment alternative, the mutual funds industry hold an estimated $7 trillion dollars in assets.

Just as the stock market boom of the 1990s bolstered the average American's belief in the strength of our Nation's capital markets, the corporate malfeasance of recent years rocked that market.

Through the market's ups and down during this period, many investors maintained their mutual fund holdings because they felt these investments represented a safe harbor for their assets. In essence, this perception constitutes precisely why the latest problems to shake the industry have created such damage. Mutual funds reputation as the harbinger of safe and easy investing has vanished. As our Nation confronts an array of daunting challenges, restoring and safeguarding the economic security of every American must remain one of our top priorities.

The legislation that we consider today responds to the illegal and unethical practices that have affected the mutual fund industry. Moreover, it comprises an integral part of the gentleman from Ohio's (Mr. OXLEY) strategy to enhance investor protection which continues to serve as the hallmark of his leadership in the Committee on Financial Services.

I applaud the vision and foresight of the gentleman from Ohio (Mr. OXLEY) and the gentleman from Louisiana (Mr. BAKER) that they have demonstrated in forcefully addressing the concerns regarding the mutual fund disclosure and investor protection well in advance of State and Federal investigators.

Throughout the hearing and markup process, we have heard ample evidence regarding how the vague disclosures permitted under current law have allowed greed to tarnish the mutual fund industry.

The Mutual Fund Integrity and Fee Transparency Act provide Americans with a clear understanding of the management, the fees and the ethics of the organizations with whom they entrust that are hard earned dollars, restoring a significant amount of confidence in the reliability and security of our capital markets.

Mr. KANJORSKI. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. HINOJOSA).

Mr. HINOJOSA. Mr. Speaker, I thank the gentleman from Pennsylvania (Mr. KANJORSKI) for yielding me time.

Mr. Speaker, I commend the gentleman from Ohio (Mr. OXLEY) and the ranking member, the gentleman from Massachusetts (Mr. FRANK) for their leadership in moving this issue forward. I also acknowledge and credit the good work of the gentleman from Louisiana (Mr. BAKER) and the gentleman from Pennsylvania (Mr. KANJORSKI).

I rise in support of H.R. 2420, the Mutual Fund Integrity and Fee Transparency Act of 2003. I agreed to cosponsor this legislation which emphasizes integrity and values in the securities industry. I will vote for this bill today. However, I want the House and Senate to continue to modify its content because the mutual fund issues at hand continue to evolve.

Congress needs to ensure that the final bill sent to President Bush for his signature reflects appropriate solutions to real problems so that mutual funds shareholders will benefit from it. At present we are caught in the middle of regulatory one-upsmanship which is creating an interesting situation for Congress. Although some people in the mutual funds industry certainly make themselves easy targets, press accounts of the problem have helped inflame the situation, as have the very public battles between two regulators responsible for oversight of the mutual funds industry.

Mutual funds such as Putnam have violated certain laws and regulations. However, in just 6 weeks that same fund is in the process of cleaning house, has settled with the Securities and Exchange Commission, put strict compliance measures in place as part of that settlement, and is now run by a man some consider to be one of the most ethical men in the financial services industry.

At the end of the day, the overall mutual funds industry restitution may be $50 to $100 per affected share holder. We need to remember that the majority of mutual funds shareholders are not affected by the recent developments in this market and the guilty parties are rightfully being fined and punished under existing laws, not laws that have yet to be passed. Market forces are at work.

Mr. Speaker, the public perception of good funds versus bad funds will shape success for the mutual funds companies. Although I have cosponsored this legislation, and will vote for it today, I want to stress how important it is that we proceed very carefully with this legislation and any legislation that changes the regulation of the mutual funds industry.

Mr. OXLEY. Mr. Speaker, does the gentleman from Pennsylvania (Mr. KANJORSKI) have any further speakers?

Mr. KANJORSKI. Mr. Speaker, I have one more speaker.

Mr. OXLEY. Mr. Speaker, I reserve the balance of my time.

Mr. KANJORSKI. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. EMANUEL).

Mr. EMANUEL. Mr. Speaker, I would like to enter into a colloquy with the chairman of the committee.

Section 202 of the manager's amendment requires the commission to issue rules that will protect mutual fund investors against conflicts of the interest created by the situation where the same individual serves as a portfolio manager of both a mutual fund and a hedge fund. This provision generally bans joint management of the two types of funds by the same individual. I note that the joint management of such funds by the same individual could create conflict whereby mutual fund investors effectively subsidize the hedge fund managed by the same individual.

Is it your understanding that the rules that the commission will be promulgating pursuant to the section will address those conflicts of interest?

Mr. OXLEY. Mr. Speaker, will the gentleman yield?

Mr. EMANUEL. I yield to the gentleman from Ohio.

Mr. OXLEY. Mr. Speaker, the answer is yes. The rules will ban joint management by the same individual but not the same firm, both the registered investment company and other unregistered investment vehicles. Those rules will address the conflicts of interest that are presented by such an arrangement, including the conflicts raised by the gentleman.

Mr. EMANUEL. Reclaiming my time, I support H.R. 2420 for the simple reason that I think it is essential to replace and retain, but also reconstruct the Good Housekeeping seal that the mutual fund industry has had for so long. They have lost it in the last 6 months.

This legislation would restore that seal, that sense that people's money, the middle-class investors' money is safe with the mutual fund. How it would do that is it would reverse the culture and the practice that has been developed in the mutual fund industry where the manager's strategy, the manager's mentality is, heads I win; tails the investors lose.

That is what has been going on. This legislation is not only a good step in the right direction, it is a strong step in the right direction.

As we just were talking a second ago about the relationship between mutual funds and hedge funds, I know as the Senate takes this up, we have more work to do in this area. In my view for too long we have a culture that has been developed in the industry where it is self-serving to the management. It is essential now as the relationship between mutual funds and hedge funds exist in the same family, to go beyond the individual area, but to ensure that the mutual fund investor does not subsidize the well-to-do investors in the hedge fund.

We have made sure that if we are going to allow that to exist, that real walls exist between the mutual fund industry and the hedge funds inside those families; and that those walls that boast sharing of research, staffing, IPO's, that, in fact, there is a wall that exists so we get back that culture, get back that mentality, look for other conflicts of interest and deal with them in this legislation.

I am proud like we did in the Fair Credit Reporting Act which we will soon vote on, that again here in this step we have bipartisanship, taking the right type of steps to ensure that the democratic capitalism and culture of the most fluid markets that exist in the world and the most open markets continue to be encouraged; that mom-and-pop investors that save for college and save for retirement, that their funds are safe.

The SPEAKER pro tempore (Mr. SIMMONS). The gentleman from Pennsylvania (Mr. KANJORSKI) has 30 seconds.

Mr. KANJORSKI. Mr. Speaker, I yield myself such time as I may consume.

I have no further requests for time. Mr. Speaker, in closing, I would like to congratulate the chairman, the gentleman from Ohio (Mr. OXLEY) for a job well done and the chairman of my subcommittee, the gentleman from Louisiana (Mr. BAKER) for a job well done.

We have the unusual experience in the House of Representatives in the Financial Services industry of having a collegial relationship on both sides of the aisle, and this piece of legislation reflects that. We certainly look for a continuing of that type of collegial relationship, and, again, my compliments

to the chairman and to the chairman of the subcommittee.

Mr. Speaker, I yield back the balance of my time.

□ 1245

Mr. OXLEY. Mr. Speaker, I yield myself such time as I may consume.

In closing, let me also commend my friend from Pennsylvania, as well as the gentleman from Massachusetts (Mr. FRANK), the ranking member, for their leadership and their assistance on this issue.

As the gentleman knows, the gentleman from Louisiana (Mr. BAKER) has been very active on this issue for a number of months; and as I indicated to him, his efforts going forward were most appreciated, and we come to this day where we are going to pass this bill by a large margin, and that is due to the work of all three gentlemen that I mentioned. It is good to be in a situation where the committee works so well together on a number of issues. As the gentleman from Illinois indicated, when we bring up the conference report on the bill that all of us worked so hard on, we are going to be a very effective responder to some of those problems that developed in the area of consumer demand, as well as identity theft which will come forward, we hope, in the next few hours.

Mrs. KELLY. Mr. Speaker, during debate on the bill today, the gentleman from Pennsylvania placed in the RECORD an editorial authored by the Attorney General of New York. I want to also include for the RECORD a response published on November 18, 2003, in the Wall Street Journal by the chairman of the Securities Exchange Commission.

[From the Wall Street Journal, Nov. 18, 2003]

INVESTORS FIRST

(By William H. Donaldson)

WASHINGTON.—Among its many roles, the Securities and Exchange Commission has two critical missions. The first is to protect investors, and the second is to punish those who violate our securities laws. Last week's partial settlement of the SEC's fraud case against the Putnam mutual-fund complex does both. It offers immediate and significant protections for Putnam's current mutual-fund investors, serving as an important first step. Moreover, by its terms, it enhances our ability to obtain meaningful financial sanctions against alleged wrongdoing at Putnam, and leaves the door open for further inquiry and regulatory action.

Despite its merits, the settlement has provoked considerable discussion, and some criticism. Unfortunately, the criticism is misguided and misinformed, and it obscures the settlement's fundamental significance.

By acting quickly, the SEC required Putnam to agree to terms that produce immediate and lasting benefits for investors currently holding Putnam funds. First, we put in place a process for Putnam to make full restitution for investor losses associated with Putnam's misconduct. Second, we required Putnam to admit its violations for purposes of seeking a penalty and other monetary relief. Third, we forced immediate, tangible reforms at Putnam to protect investors from this day forward. These reforms are already being put into place, and they are working to protect Putnam investors from the sort of misconduct we found in this case.

Among the important reforms Putnam will implement is a requirement that Putnam employees who invest in Putnam funds hold those investments for at least 90 days, and in some cases for as long as one year—putting an end to the type of short-term trading we found at Putnam. On the corporate governance front, Putnam fund boards of trustees will have independent chairmen, at least 75% of the board members will be independent, and all board actions will be approved by a majority of the independent directors.

In addition, the fund boards of trustees will have their own independent staff member who will report to and assist the fund boards in monitoring Putnam's compliance with the federal securities laws, its fiduciary duties to shareholders, and its Code of Ethics. Putnam has also committed to submit to an independent review of its policies and procedures designed to prevent and detect problems in these critical areas—now, and every other year.

This settlement is not the end of the Commission's investigation of Putnam. We are also continuing to examine the firm's actions and to pursue additional remedies that may be appropriate, including penalties and other monetary relief. If we turn up more evidence of illegal trading, or any other prohibited activity, we will not hesitate to bring additional enforcement actions against Putnam or any of its employees. Indeed, our action in federal court charging two Putnam portfolio managers with securities fraud is pending.

There are two specific criticisms of the settlement that merit a response.

First, some have charged that it was a mistake not to force the new management at Putnam to agree that the old management had committed illegal acts. In fact, we took the unusual step of requiring Putnam to admit to liability for the purpose of determining the amount of any penalty to be imposed. We made a decision, however, that it would be better to move quickly to obtain real and practical protections for Putnam's investors, right now, rather than to pursue a blanket legal admission from Putnam. The SEC is hardly out of the mainstream in making such a decision. All other federal agencies, and many state agencies (including that of the New York attorney general), willingly and regularly forgo blanket admissions in order to achieve meaningful and timely resolutions of civil proceedings.

Second, some have criticized the Putnam settlement because it does not address how fees are charged and disclosed in the mutual fund industry. While this issue is serious, the claim is spurious. The Putnam case is about excessive short-term trading by at least six Putnam management professionals and the failure of Putnam to detect and deter that trading. The amount and disclosure of fees is not, and never has been, a part of the Putnam case, and thus it would be wholly improper to try to piggyback the fee-disclosure issue on an unrelated matter.

If our continuing investigation of Putnam uncovers evidence of wrongdoing in the fee-disclosure area, we will not hesitate to act, and the Commission is already moving forward with rulemaking that will address this issue, and others, on an industry-wide basis. Those lacking rulemaking authority seem to want to shoehorn the consideration of the fee-disclosure issues into the settlement of lawsuits about other subjects. But we should not use the threat of civil or criminal prosecution to extract concessions that have nothing to do with the alleged violations of the law.

Criticism of the Commission for moving to quickly misses the significance of the Commission's action. While continuing our broader investigation of Putnam, we have reached a fair and far-reaching settlement that establishes substantial governance reforms and compliance controls that are already benefiting Putnam's investors. It is a settlement where the Commission put the interests of investors first.

As the Commission continues to initiate critical and immediate reforms of the mutual-fund industry, and while we investigate a multitude of other cases involving mutual fund abuses, we will continue to seek reforms that provide immediate relief to harmed investors.

Mr. MOORE. Mr. Speaker, as a member of the Financial Services Committee, I rise in support of H.R. 2420, the Mutual Fund Integrity and Fee Transparency Act of 2003, which I joined in cosponsoring after our committee approved it earlier this year.

H.R. 2420 includes numerous provisions to help stop trading abuses involving mutual funds such as those that have been recently uncovered by State and Federal regulators. For example, it requires better disclosures of mutual fund fees and expenses to help investors compare the relative costs of funds and make more informed investment decisions, and it improves the corporate governance of mutual fund companies.

Among other things, the bill requires the Securities and Exchange Commission (SEC) to issue rules that would prevent late trades; prohibits mutual fund employees from engaging in any short-term trading of their personal shares, and allows funds to charge higher redemption fees to discourage short-term trades by others; prohibits any individual from managing both a mutual fund and a hedge fund at the same time; requires mutual funds to provide operating cost comparisons using a standard $1,000 investment as an example; requires funds to disclose the extent to which their portfolio ''turns over'' each year; requires disclosures of financial incentives provided to brokers to recommend certain funds, of how fund managers are compensated, and of the extent to which fund managers hold fund shares in their personal portfolio; requires that at least two-thirds of the directors of a mutual fund be independent; and enhances the fiduciary duty of a fund's board of directors to act on behalf of investors.

I do, however, have concerns with some of the provisions that were included in the bill through adoption of today's manager's amendment. I believe that this legislation has suffered as a result of the addition of this amendment without any bipartisan consideration of its provisions. My concerns involve the following issues:

The manager's amendment would require fund companies and their principals to establish a code of ethics and to disclose such code of ethics in periodic reports to shareholders. In addition to developing and making public a fund's code of ethics, the fund company is required by this section to ''disclose such code of ethics and any waivers and material violations thereof on a readily accessible electronic public information facility of such company.''

Establishing and following a code of ethics to ensure that fund companies operate in the best interests of investors is a critical step towards meaningful reform of the mutual fund industry; however, publicly disclosing waivers and material violations of codes of ethics places fund companies at unprecedented levels of liability risk, particularly if done on a

''readily accessible electronic public information facility''—e.g., a Web site.

The manager's amendment requires the independent directors of a fund's board to certify, at the risk of personal liability, that a host of procedures exist for the day-to-day operations of the fund company, including: Verification that the current net asset value of any security issued by the fund company complies with the applicable securities laws; oversight of the flow of funds into and out of the securities company; ensuring investors receive applicable discounts on advertised front-end sales loads; share classes are offered in the interests of investors and ''could reasonably be an appropriate investment option for an investor''; and review and approval of the portfolio manager's compensation.

This section raises serious questions about the appropriate role of the board of directors by changing the face of mutual fund company boards to act as managers of the day-to-day operations of the fund, over which they normally now have little control, with regard to actual compliance. No other board structure, for any other sort of public company, has these sorts of requirements. Given the litany of new requirements imposed on independent directors, grave concerns are already being raised about a fund's ability to find individuals willing to serve on a fund board. If fund companies are able to find individuals willing to subject themselves to new liability, the company would likely have to compensate that individual for taking on this risk—a cost that will ultimately be borne by shareholders.

For example, section 201(a)(4)(A) requires the independent directors of the mutual fund (a separate company) to certify that the mutual fund's investment manager (another company) has procedures in place to verify the fund's net asset value and that there is compliance with these procedures. Net asset values are determined daily. Given the independent fund director's relationship to those who do daily pricing, independent directors would be hard pressed to comfortably provide the certifications required. I have additional concern about how independent directors of the mutual fund could certify that investors receive front-end load sales discounts when neither the fund nor their investment manager knows the identity of the investors or how to communicate with them. This is often the case when funds are sold by third party intermediaries. I am also concerned about language that requires the independent directors to certify that mutual fund share classes are designed in the interests of investors and are reasonably appropriate investment options. Directors of the fund should not be asked to assume the role of financial adviser to an investor.

Another significant concern relates to independent fund director approval and certification of portfolio manager compensation. This chips away at the fundamental structure underlying the relationship between the mutual fund and its investment management company. As indicated, they are separate companies. The independent fund directors negotiate and approve the investment management contract on behalf of mutual fund investors. In this way, they control expenses for investors. They hire out expert investment management and can fire them if they don't perform. It is inappropriate for them to approve and certify approval of compensation at another company. When someone hires a company to do something, you don't usually get to approve their employees' compensation—only what you pay the company.

Finally, the manager's amendment requires the mutual fund to appoint a chief compliance officer and the independent directors of the fund to approve his or her compensation. The amendment also requires the compliance officer to provide reports directly and privately to the independent fund directors. I have no problem with the fund appointing a compliance officer who ''functionally reports'' to it, but ''administratively reports'' to the investment manager. This can be worked out. But, for the same reasons cited above, I think it is improper for the independent directors of the fund to approve the compensation of someone who works for its contractor. In addition, the language of this provision could be read to require each fund to appoint its own compliance officer, when a mutual fund often manages several dozen funds. The result could be a costly, unworkable situation.

Overall, H.R. 2420 is a bill is a timely and needed piece of legislation; as Consumers Union stated in a letter to Congress earlier today, it ''is an important first step in the effort toward reforming this industry and protecting the interests of millions of investors.'' I support its passage in this body today, but hope that the Senate and ultimately, a conference committee, can address the remaining issues I have outlined here.

Mr. UDALL of Colorado. Mr. Speaker, I support this bill as a necessary first step toward greater protection for the millions of Americans who have invested in mutual funds.

Anyone who reads the daily newspapers is aware of the need for greater vigilance by the Securities and Exchange Commission to prevent continued practices by fund managers and others that enrich favored individuals and groups at the expense of the majority of mutual-fund shareholders.

I do understand that there are concerns about some parts of the bill, including a provision that would authorize an increase in the fees charged for redemption of fund shares, presumably as a way to reduce the likelihood of some transactions that would have adverse effects on other shareholders.

I have heard from people in Colorado who think that the costs to shareholders of such fee increases would outweigh its benefits, and I think they make some good points in support of that view.

However, my understanding is that while the bill would authorize such fee increases, it does not mandate them. And, on balance, I think the potentially adverse effects of this provision are outweighed by the desirable changes to current law that would be made by other parts of the bill.

So, I will vote for the bill as a necessary first step to respond to a real and urgent problem. My hope is that it will be further refined as the legislative process proceeds in the other body and possibly in conference.

Mr. CASTLE. Mr. Speaker, I rise today in support of H.R. 2420, the ''Mutual Funds Integrity and Fee Transparency Act of 2003.'' I commend Chairman OXLEY and Subcommittee Chairman BAKER for continuing your work in protecting American investors and I am proud to play a role in addressing the problems in the mutual fund industry. Hearings in the Financial Services Committee have enabled us to address a number of ongoing reforms that are necessary for the mutual fund industry to increase transparency for investors. From these hearings we have also learned of additional problems within the mutual fund industry that have only recently come to light such as improper trading practices. We have improved this legislation by incorporating all of the issues and I am proud of the legislation we passed out of committee with strong bipartisan support.

The average American family chooses to invest in mutual funds. I want to make clear what is at stake. Two decades ago, only 6 percent of American households had mutual fund shares valued at $134 billion. Today, half of all American families have $7 trillion at stake. Mutual funds represent about 10 percent of the total financial assets of the U.S. population. The number of funds have grown from less than 500 mutual funds in 1980 to approximately 8,000 mutual funds today.

It concerns me that the scandals we have learned of in recent weeks may only be the tip of the iceberg. This should be a wake up call to both the Securities and Exchange Commission (SEC) and the industry that change is needed. Mutual funds are a $7 trillion industry and with more than 50 percent of the American public invested in mutual funds there is the potential for investors to be hurt more so by these recent revelations than even the World Com and Enron scandals. I am not downplaying the problems that were in play there but I feel this issue is further reaching and could impact a greater number of investors in the long run. Some in the industry have stated market timing was an open practice, furthermore, some funds have even stated they participated in market timing on a limited level with clients to allow controversial trading as a way to control the improper practice. This bothers me. Favoritism to big investors and violating ethical and legal codes rob the average investor who depends on their investments for costs such as education and retirement. There is a lot at stake and the reforms addressed in this legislation will help prevent future investor betrayals. This bill addresses the recent market scandals and makes additional necessary reforms to the mutual fund industry, and I would like to highlight just a few.

First, to address recent scandals in the mutual fund industry, the manager's amendment will explicitly ban sort term trading by fund insiders and permit funds to charge more than the current maximum 2 percent redemption fee to discourage all market timers. Second, to prevent market timing trades, made possible by stale pricing, the manager's amendment directs the SEC to clarify rules regarding mutual funds' obligation to apply fair value pricing. Third, the manager's amendment also addresses late trading. Late trading is not only an improper advantage for large fund investors, it is illegal. Late trading has allowed some big fund investors to take advantage of the current day's price on orders to buy or sell shares placed after the close of the New York markets, when proper procedure would be to carry out the orders at the following day's price. Some have likened this practice to ''betting today on yesterday's horse race.'' The manager's amendment directs the SEC to issue rules to prevent late trading without disadvantaging those investors who use financial intermediaries such as broker-dealers and 401(k) and pension plan administrators to purchase fund shares.

Fourth, this legislation rightly increases the requirement of independent board members from one-half to two-thirds of total board membership and strengthens independence qualifications. A greater number of independent directors will increase protections of investors' interest against those of directors whose interests are tied to the success of their funds' advisers. Fifth, the bill requires disclosure of brokers' conflicts of interest where they are paid incentives to promote particular funds so that investors can weigh sales incentives.

Finally, I am concerned about fees that mutual fund investors face. I understand that mutual fund companies feel there is a need for certain fees, but these fees must be transparent to investors. In many cases investors choose ''no-load'' funds for their no fee structure, but hidden fees such as 12–(b)–1 fees are often charged. I am pleased this legislation would prohibit a fund from advertising as a ''no-load'' fund if in fact the 12–(b)–1 fee is charged. Furthermore, in an effort to enhance transparency of fees, the bill requires that mutual funds disclose fees, in dollar amounts, on a hypothetical $1,000 investment, and further requires that this information not be buried in a prospectus.

Mr. Speaker, the House Financial Services Committee and Congress acted in the wake of the Enron and World Com scandals to protect investors. Today we are again being called on to protect the average American investor and I urge my colleagues on both sides of the aisle to join me in supporting this important and very necessary legislation.

Mr. PORTMAN. Mr. Speaker, I rise today in strong support of H.R. 2420, the Mutual Funds Integrity and Fee Transparency Act, and congratulate Chairman OXLEY and Chairman BAKER for bringing this needed legislation to the House Floor so expeditiously. These critical reforms will help to ensure that America's 95 million mutual fund investors, representing a combined $7 trillion in assets, are reassured and protected. I have a special interest in this issue because I have worked over the past eight years to strengthen 401(k) plans, many of which are significantly invested in mutual funds.

I am deeply concerned about the allegations of illegal mutual fund trading practices, including improper market timing and late trading. There have also been reports that certain investors, including large institutional investors, have been given preferential treatment, to the detriment and disadvantage of individual investors. Each day has brought news of additional allegations, indicating that the abuse is widespread in the mutual fund industry.

Every investor is entitled to fair treatment. Every investor should expect, and is indeed entitled, to expect that the mutual fund industry will place the interest of investors first. In fact, the Investment Company Act requires that mutual funds be organized, operated and managed in the interest of the funds' shareholders, not those of the fund directors, executives or certain investors.

H.R. 2420 provides key reforms. The bill will strengthen funds' compliance with rules, by requiring each fund a code of ethics and a chief compliance officer; ban short-term trading by insiders; allow higher fees to discourage short-term trading; and eliminate conflicts of interest in portfolio management. Investors will be provided with more information about fees, with additional disclosure required about estimated fund operating expenses, portfolio turnover rates and whether brokers receive extra financial incentives to sell particular fund shares. And mutual fund corporate governance will be strengthened by requiring two thirds of all board directors be independent.

Mr. Speaker, I strongly support these important reforms. I urge my colleagues to vote for this legislation to help improve mutual fund disclosure; eliminate conflicts of interest, and strengthen corporate governance.

Ms. MCCARTHY of Missouri. Mr. Speaker, I rise today to urge my colleagues to support H.R. 2420 and remove any question that U.S. mutual funds are a sound investment. ''The Mutual Funds Integrity and Fee Transparency Act of 2003'' is the product of hard work and bipartisan cooperation to address concerns by investors in the wake of revelations this year of improprieties by irresponsible individuals in the mutual fund industry.

Today almost 100 million Americans invest in stock and bond mutual funds through direct holdings, 401(k) accounts, and through other mechanisms. I am one of these investors. Mutual funds are a stellar success story, combining diversification of risk with the simplicity of a single vehicle. Estimates are that mutual fund holdings today exceed $7 trillion dollars.

We must provide investors with the assurances they need to continue to fuel the mutual fund engine. H.R. 2420 will protect investors by reforming the mutual fund industry in several significant ways. Among the important provisions of this measure are rules to require greater transparency to investors as to the fees they are charged, and a new directive to the Securities and Exchange Commission to conduct a study of transaction costs.

This measure also correctly addresses the issue of the objectivity of the mutual fund's board of directors by requiring that two-thirds of the directors be independent, a significant increase from the current 40 percent requirement.

I support H.R. 2420 and urge my colleagues to do the same. As the bill advances through the legislative process it will undergo further changes, and I would recommend minor corrections that will improve the functionality and efficacy of this measure.

I encourage my colleagues to make certain that we enact legislation that produces the transparency that investors require yet does not become overly bureaucratic or burdensome to the mutual fund industry. For example, the requirement in H.R. 2420 for the appointment of a Chief Compliance Officer should take into account that investment management companies generally oversee several funds, and that each individual fund should not require a separate Chief Compliance Officer. Such a step would only add to the management costs of the funds which in turn will result in higher costs to the investor.

We must also balance the much needed protection given to whistleblowers in H.R. 2420 with the legitimate needs of businesses to weed out poor performers. With hundreds of funds to choose among, there is no lack of competition in the mutual fund industry, and when the success of a given fund is measured in fractions the emphasis must be on getting results for the investor. Let us be certain to protect whistleblowers while not creating a safe harbor for underachievers.

Mr. Speaker, H.R. 2420 is worthy of our support, and again I urge my colleagues to vote in the affirmative today, and to work to further improve the measure as it moves toward enactment.

Mr. SHAYS. Mr. Speaker, I rise in support of the Mutual Funds Integrity and Fee Transparency Act.

Mutual funds are based on trust. Every day, America's workers hand over their hard-earned money and trust mutual fund companies to invest their savings for them.

That trust has been severely damaged in recent months, and I can only hope this harm is not irreparable because mutual funds have played an important role in democratizing our stock markets.

This isn't Enron. It isn't WorldCom. But it's just as bad because there are 95 million mutual fund investors in America and they're being harmed. Mutual funds are one of the best ways for workers to plan for their retirements. It allows them to diversity their investments and access the capital markets without having to become experts in individual stocks. It allows them to build wealth in a way that was once reserved for the Rockefellers and Kennedys.

These investors are being defrauded by insiders who trade, in the short term, their own fund shares and trade even after the markets close. For each dollar gained through these illegal activities, every other investor in these funds loses, a result that goes against the very nature of mutual funds.

The Financial Services Committee acted quickly and reported out a good bill. The legislation before us today takes important steps in highlighting the growing cost of mutual fund fees and improving the accountability and integrity of mutual fund companies.

In an equally important step, the bill increase the requirement of independent board members from one-half to two-thirds and strengthens independence qualifications. I hope this provision leads to more independent directors who will be better able to protect investors' interest against those of directors whose interests are tied to the success of their funds' advisers.

I urge swift passage of this bill so that the Securities and Exchange Commission will have the tools it needs to right the mutual fund industry. In the meantime, I hope mutual fund companies heed this wake-up call and begin to rebuild the trust they have squandered.

Mr. OSE. Mr. Speaker, I rise today in strong support of H.R. 2420, the Mutual Funds Integrity and Fee Transparency Act of 2003. As a Member of the Financial Services Committee I am proud to be an original cosponsor of legislation that makes significant and much needed reforms to the mutual funds industry by implementing measures to improve transparency on fund fees and practices, bolster oversight abilities, address conflicts of interest and enhance information provided to investors. H.R. 2420 will strengthen the market by improving investor confidence and by giving investors the necessary information to make more informed investment decisions.

In today's climate, it seems one cannot pick up a paper without reading about financial scandals involving improper conduct involving mutual funds. The actions of this body in passing this H.R. 2420 will mitigate the adverse impact these recent scandals may have on the market by reassuring American investors that Congress and relevant regulatory bodies are acting expeditiously to address shortfalls in industry practice and regulation.

I commend Chairman BAKER on his leadership on this bill, with foresight he recognized loopholes in mutual fund regulation and even before the current scandals surfaced worked hard to implement significant reforms to clarify and codify rules on disclosure, improve transparency, and increase oversight capabilities. In the Subcommittee on Capital Markets, Insurance and Government Sponsored Enterprises, where I serve as Vice-Chairman, Chairman BAKER has held a number of hearings to examine this issue in a deliberate and methodical manner, and I thank him for his dedication to this issue.

I would also like to recognize the leadership Chairman OXLEY has demonstrated in bringing this bill to the floor today. His manager's amendment strengthen the existing bill and in the spirit of the H.R. 2420's original intent, ensure that mutual funds are contentious in their fiduciary duty to investors.

Mutual funds have become more accessible to increasing numbers of Americans over the years, and this has served the industry well. Today 95 million individuals, comprising nearly half of all U.S. households, own mutual funds. More Americans have a vested interest in the success of these funds for the health of their savings and pensions, and their increased involvement also is symbolic of the trust they have in the integrity of the system. It is imperative that we do not let the American mutual investors down by failing to resolve these issues.

Mr. Speaker, this bill is an important and necessary step in restoring American investor trust into the mutual fund industry. I applaud the leadership Chairman BAKER and Chairman OXLEY have shown on this bill, and thank them for their service on behalf of American investors. I yield back the remainder of my time.

Mr. OXLEY. Mr. Speaker, I yield back the balance of our time.

The SPEAKER pro tempore (Mr. SIMMONS). The question is on the motion offered by the gentleman from Ohio (Mr. OXLEY) that the House suspend the rules and pass the bill, H.R. 2420, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. OXLEY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

TORTURE VICTIMS RELIEF REAUTHORIZATION ACT OF 2003

Mr. SMITH of New Jersey. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1813) to amend the Torture Victims Relief Act of 1998 to authorize appropriations to provide assistance for domestic and foreign centers and programs for the treatment of victims of torture, and for other purposes, as amended.

The Clerk read as follows:

H.R. 1813

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Torture Victims Relief Reauthorization Act of 2003''.

SEC. 2. AUTHORIZATION OF APPROPRIATIONS FOR DOMESTIC TREATMENT CENTERS FOR VICTIMS OF TORTURE.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 5(b)(1) of the Torture Victims Relief Act of 1998 (22 U.S.C. 2152 note) is amended to read as follows:

''(1) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts authorized to be appropriated for the Department of Health and Human Services for fiscal years 2004 and 2005, there are authorized to be appropriated to carry out subsection (a) (relating to assistance for domestic centers and programs for the treatment of victims of torture) $20,000,000 for fiscal year 2004 and $25,000,000 for fiscal year 2005.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect October 1, 2003.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS FOR FOREIGN TREATMENT CENTERS FOR VICTIMS OF TORTURE.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 4(b)(1) of the Torture Victims Relief Act of 1998 (22 U.S.C. 2152 note) is amended to read as follows:

''(1) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts authorized to be appropriated for fiscal years 2004 and 2005 pursuant to chapter 1 of part I of the Foreign Assistance Act of 1961, there are authorized to be appropriated to the President to carry out section 130 of such Act (relating to assistance for centers in foreign countries and programs for the treatment of victims of torture) $11,000,000 for fiscal year 2004 and $12,000,000 for fiscal year 2005.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect October 1, 2003.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS FOR THE UNITED STATES CONTRIBUTION TO THE UNITED NATIONS VOLUNTARY FUND FOR VICTIMS OF TORTURE.

Of the amounts authorized to be appropriated for fiscal years 2004 and 2005 pursuant to chapter 3 of part I of the Foreign Assistance Act of 1961, there are authorized to be appropriated to the President for a voluntary contribution to the United Nations Voluntary Fund for Victims of Torture $6,000,000 for fiscal year 2004 and $7,000,000 for fiscal year 2005.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey (Mr. SMITH) and the gentleman from California (Mr. LANTOS) each will control 20 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. SMITH).

GENERAL LEAVE

Mr. SMITH of New Jersey. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill that is under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. SMITH of New Jersey. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, torture remains a cruel weapon of choice for antidemocratic, dictatorial regimes around the globe. It is used to silence opposition leaders and to suffocate political dissent.

Today, torture is commonplace and, sadly, systematic. In many countries around the globe, including the People's Republic of China, Cuba, and many countries in Africa, the Middle East, it is used to extract confessions. It is used to humiliate, to punish. It is used to crush people's souls and hearts and their bodies and to break them while they are in captivity. Torturers themselves, it turns out and is no surprise to any of us, are sadistic and cruel beyond imagination.

Mr. Speaker, even torturing a single, carefully targeted individual can have a multiplier effect, sending a message of fear throughout the entire community and even across generations. For example, the paralyzing effect of torture is painfully clear in Turkmenistan where countless people have been tortured, killed and disappeared in the wake of last year's November 25 attack on President Niyazov's motorcade.

We see it throughout China, especially regarding people who are part of the Falun Gong. Hundreds of them have been tortured to death simply because of their expression of their conscience in that religious expression. We see it with the Buddhists and others. We see it with the Catholics in the underground church in China where, again, these individuals are routinely and through incredible harshness tortured.

I point out to my colleagues that even after a dictatorial regime has fallen, as it has in Iraq, the impact of torture can be felt for years. Leaders are broken and lost. There is a profound lack of trust in public institutions, in the police and in courts. Unless we find a way to understand and to heal the legacy of torture people will be unable to work with each other to rebuild their nation. Individuals who are tortured, who carry around both psychologically and in their person that legacy, very often suffer post-traumatic stress disorder, one of the worst expressions or manifestations or legacies of that torture. Unless we are able to heal or provide or facilitate that healing, these people are literally walking time bombs, and we will find it hard both in these countries and the emigre community to build institutions that will not fail.

I think many Members will be surprised to learn that in the United States there are an estimated 500,000 torture survivors, most of whom came to the United States as refugees. Worldwide, while it is impossible to count the actual number, Amnesty International has documented torture in 150 countries. So we know the number is in the millions.

The Torture Victims Relief Reauthorization Act before the body today provides $20 million to the Department of Health and Human Services to assist