Mr. AKIN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

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.

The point of no quorum is considered withdrawn.

OVER-CLASSIFICATION REDUCTION ACT

Mr. CLAY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6575) to require the Archivist of the United States to promulgate regulations to prevent the over-classification of information, and for other purposes, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 6575

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 ''Over-Classification Reduction Act''.

SEC. 2. PURPOSE.

The purpose of this Act is to increase Governmentwide information sharing and the availability of information to the public by applying standards and practices to reduce improper classification.

SEC. 3. OVER-CLASSIFICATION PREVENTION WITHIN THE FEDERAL GOVERNMENT.

(a) ARCHIVIST RESPONSIBILITIES.—

(1) REGULATIONS.—The Archivist of the United States, in consultation with the heads of affected Federal agencies, shall promulgate regulations to prevent the over-classification of information.

(2) REQUIREMENTS.—The regulations under this subsection shall—

(A) identify specific requirements to prevent the over-classification of information, including for determining—

(i) when classified products should be prepared in a similar format governmentwide; and

(ii) when classified products should also be prepared in an unclassified format; taking into consideration whether an unclassified product would reasonably be expected to be of any benefit to a State, local, tribal or territorial government, law enforcement agency, or other emergency response provider, the private sector, or the public;

(B) ensure that compliance with this Act protects national security and privacy rights; and

(C) establish requirements for Federal agencies to implement, subject to chapter 71 of title 5, United States Code, including the following:

(i) The process whereby an individual may challenge without retribution classification decisions by another individual and be rewarded with specific incentives for successful challenges resulting in—

(I) the removal of improper classification markings; or

(II) the correct application of appropriate classification markings.

(ii) A method for informing individuals that repeated failure to comply with the regulations promulgated under this section could subject them to a series of penalties.

(iii) Penalties for individuals who repeatedly fail to comply with the regulations promulgated under this section after having received both notice of their noncompliance and appropriate training or re-training to address such noncompliance.

(3) CONSULTATION.—The regulations shall be promulgated in consultation, as appropriate, with representatives of State, local, tribal, and territorial governments; law enforcement entities; organizations with expertise in civil rights, employee and labor rights, civil liberties, and government oversight; and the private sector.

(4) DEADLINE.—The regulations under this subsection shall be promulgated in final form not later than one year after the date of the enactment of this Act.

(b) INSPECTOR GENERAL RESPONSIBILITIES.—Consistent with the Inspector General Act of 1978 (5 U.S.C. App.) and section 17 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403q), the Inspector General of each affected Federal agency, in consultation with the Archivist, shall randomly audit classified information from each component of the agency with employees that have classification authority. In conducting any such audit, the Inspector General shall—

(1) assess whether applicable classification policies, procedures, rules, and regulations have been followed;

(2) describe any problems with the administration of the applicable classification policies, procedures, rules, and regulations, including specific non-compliance issues;

(3) recommend improvements in awareness and training to address any problems identified under paragraph (2); and

(4) report to Congress, the Archivist, and the public, in an appropriate format, on the findings of the Inspector General's audits under this section.

SEC. 4. ENFORCEMENT OF OVER-CLASSIFICATION PREVENTION WITHIN THE FEDERAL GOVERNMENT.

(a) PERSONAL IDENTIFIERS.—

(1) IN GENERAL.—For purposes described in paragraph (2), the Archivist of the United States shall require that, at the time of classification of information, the following shall appear on the information:

(A) The name, personal identifier, or unique agency identifier of the individual applying classification markings to the information.

(B) The agency, office, and position of the individual.

(2) PURPOSES.—The purposes described in this paragraph are as follows:

(A) To enable the agency to identify and address over-classification problems, including the classification of information that should not be classified.

(B) To assess the information sharing impact of any such problems.

(b) TRAINING.—When implementing the security education and training program pursuant to Executive Order 12958, Executive Order 12829, and successor appropriate Executive Orders, the Archivist, subject to chapter 71 of title 5, United States Code, shall, in consultation with heads of affected Federal agencies—

(1) integrate training to educate about—

(A) the prevention of over-classification of information;

(B) the proper use of classification markings, including portion markings;

(C) the consequences of over-classification and other repeated improper uses of classification markings, including the misapplication of classification markings to information that does not merit such markings, and of failing to comply with the policies and procedures established under or pursuant to this section, including the negative consequences for the individual's personnel evaluation, information sharing, and the overall success of the agency's missions; and

(D) information relating to lessons learned from implementation of the regulations including affected Federal agency internal audits and Inspector General audits, as provided under this Act; and

(2) ensure that such program is conducted efficiently, in conjunction with any other security, intelligence, or other training programs required by the agency to reduce the costs and administrative burdens associated with the additional training required by this section.

(c) DETAILEE PROGRAM.—

(1) REQUIREMENT FOR PROGRAM.—The Archivist, subject to chapter 71 of title 5, United States Code, in consultation with heads of affected Federal agencies, shall implement a detailee program to detail Federal agency personnel, on a nonreimbursable basis, to the National Archives and Records Administration for the purpose of—

(A) training and educational benefit for the agency personnel assigned so that they may better understand the policies, procedures and laws governing classification authorities;

(B) bolstering the ability of the National Archives and Records Administration to conduct its oversight authorities over agencies; and

(C) ensuring that the policies and procedures established by the agencies remain consistent with those established by the Archivist of the United States.

(2) SUNSET OF DETAILEE PROGRAM.—Except as otherwise provided by law, this subsection shall cease to have effect on December 31, 2012.

SEC. 5. DEFINITIONS.

In this Act:

(1) INFORMATION.—The term ''information'' means any communicable knowledge or documentary material, regardless of its physical form or characteristics, that is owned by, is produced by or for, or is under the control of the Federal Government.

(2) FEDERAL AGENCY.—The term ''Federal agency'' means—

(A) any Executive agency, as that term is defined in section 105 of title 5, United States Code;

(B) any military department, as that term is defined in section 102 of such title; and

(C) any other entity within the executive branch that comes into the possession of classified information.

(3) AFFECTED FEDERAL AGENCY.—The term ''affected Federal agency'' means any Federal agency that employs an individual with original or derivative classification authority.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Missouri (Mr. CLAY) and the gentleman from Missouri (Mr. AKIN) each will control 20 minutes.

The Chair recognizes the gentleman from Missouri (Mr. CLAY).

□ 1415

GENERAL LEAVE

Mr. CLAY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks.

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

There was no objection.

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

Mr. Speaker, H.R. 6575, the Over-Classification Reduction Act, addresses the ongoing problem in the Federal

Government of over-classification. This bill was introduced by the chairman and ranking member of the Committee on Oversight and Government Reform, HENRY WAXMAN and TOM DAVIS.

The National Commission on Terrorist Attacks Upon the United States, known as the 9/11 Commission, recommended limiting the unnecessary classification of documents and providing incentives for information sharing. Yet as we mark the 7th-year anniversary of the September 11 tragedy, our government still is not sharing important information. Some information must be protected to avoid threatening our national security. But going too far by over-protecting information is also damaging. Over-classification hurts our efforts to fight terrorism because it prevents agencies from sharing information with relevant stakeholders, including State and local law enforcement and other Federal agencies. It also undermines public access to this important information.

H.R. 6575 calls on the Archivist to promulgate regulations to prevent the over-classification of information. In addition to reducing over-classification, the Archivist would consider what classified information should be prepared in an unclassified format. Agencies would be required to give employees training and the opportunity to challenge classifications, and agency inspectors general would randomly audit classified information to ensure that it is properly marked.

This bill is being considered with an amendment that makes clarifications and addresses concerns raised by the administration and some Members of Congress. For example, the amendment ensures that the bill is consistent with executive order 12958 as well as other existing laws and programs. The amendment also clarifies that the regulations required by the bill be developed in consultation with the heads of affected agencies. It is essential that the Director of National Intelligence play an important role in developing policies related to the declassification of intelligence information. The Archivist also should consult with relevant agencies such as the Department of Defense regarding information about military operations or the Department of Energy regarding safeguarding nuclear facilities.

This bill takes a government-wide approach to improving information sharing. By doing so it will help strengthen our national security.

I would like to thank Chairman REYES and Representative HARMAN for working with the Committee on Oversight on this bill. I urge my colleagues to support this measure.

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

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

I agree completely with my friend from St. Louis here, and H.R. 6575 makes a whole lot of sense.

When we face direct threats, it's easy to assume that the best thing to do is to conceal, protect, or hide information, and, in fact, it's probably the worst thing that we can do. That's what the 9/11 Commission decided as it reviewed the American classification process that existed before the 2001 attacks. This is a quotation:

''Current security requirements nurture over-classification and excessive compartmentalization of information among agencies. Each agency's incentive structure opposes sharing, with risks, criminal, civil, and internal administrative sanctions, but few rewards for sharing information. No one has to pay the long-term costs of over-classifying information though these costs, even in literal financial terms, are substantial.''

The result is that the United States for a long time has tried to protect a huge body of secrets using an incomprehensibly complex system of classifications and safeguard requirements. Worst still, this body of secrets is growing and no one can say with any degree of certainty how much information is classified, how much needs to be declassified, or whether the Nation's real secrets can be adequately protected in a system so bloated it often does not distinguish between the critically important and the merely embarrassing.

Our classification practices have been highly subjective, inconsistent, and susceptible to abuse. Over-classification often confuses national security with bureaucratic, political, or diplomatic convenience.

With this legislation we intend to reduce improper and over-classification and consequently increasing government-wide information sharing and the availability of information to the public. We accomplish this by instructing the Archivist to promulgate regulations which will standardize decisions on the classification documents.

The legislation also establishes systems for challenging whether information ought to be classified and instructs agency IGs to randomly audit classified information to assess whether proper classification decisions are actually being made.

Finally, this legislation creates a record attached to each classified document stating who made the decision to classify. The current system of organizational silos restricts the free flow of information from agency to agency. This system reduces this Nation's overall security by making sure no one gets a view of the entire mosaic. The legislation presents a government-wide solution to protect what must be protected but requires sharing what ought to be shared.

Mr. Speaker, our future safety depends on moving from a ''need to know'' culture to a ''need to share'' culture. This legislation will help us reach that goal. I urge my colleagues to support it.

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

Mr. CLAY. Mr. Speaker, I would just like to urge my colleagues to vote in favor of H.R. 6575, the Over-Classification Reduction Act, which addresses the ongoing problem in the Federal Government of over-classification. Let me thank again Chairman WAXMAN as well as Ranking Member DAVIS for their sponsorship of this bill.

Mr. DAVIS of Virginia. Mr. Speaker, an old military maxim instructs, ''He who protects everything protects nothing.'' For too long, that instruction has been ignored in this country with regards to our classified secrets.

When facing direct threats, it is always easy to assume the best thing to do is to conceal, protect and hide information. The problem is, as the old military maxim said, that could be the exact worst thing to do.

The 9/11 Commission put it this way: ''Current security requirements nurture overclassification and excessive compartmentation [sic] of information among agencies. Each agency's incentive structure opposes sharing, with risks, criminal, civil, and internal administrative sanctions, but few rewards for sharing information. No one has to pay the long-term costs of over-classifying information, though these costs—even in literal financial terms—are substantial.''

The result is the United States for a long time has tried to protect a huge body of secrets using an incomprehensibly complex system of classifications and safeguard requirements.

Worse still, this body of secrets is growing. And no one can say—with any degree of certainty—how much information is classified, how much needs to be declassified or whether the Nation's real secrets can be adequately protected in a system so bloated it often does not distinguish between the critically important and the merely embarrassing.

Our classification practices have been highly subjective, inconsistent and susceptible to abuse. Over-classification often confuses national security with bureaucratic, political or diplomatic convenience.

With this legislation, we intend to reduce improper and over-classification—and, consequently, increasing government-wide information sharing and the availability of information to the public.

We accomplish this by instructing the Archivist to promulgate regulations which will standardize decisions on the classification of documents.

The legislation also establishes systems for challenging whether information ought to be classified and instructs agency IGs to randomly audit classified information to assess whether proper classification decisions are being made.

Finally, this legislation creates a record—attached to each classified document—stating who made the decision to classify it.

The current system of organizational silos restricts the free flow of information from agency to agency. This reduces the Nation's overall security by making sure no one gets to view the entire mosaic.

Today, ''connecting the dots'' must be a ''team sport'' and this legislation presents a government-wide solution to protect what must be protected—but requires sharing of what ought to be shared.

Mr. Speaker, our future safety depends on moving from a ''need to know'' culture to a ''need to share'' culture.

This legislation will help us reach that goal and I urge my colleagues to support it.

Mr. WAXMAN. Mr. Speaker, H.R. 6575, the Over-Classification Reduction Act, is aimed at reducing over-classification by the Federal Government. I introduced this bill with the Ranking Member of the Committee on Oversight and Government Reform, TOM DAVIS.

I want to thank Ranking Member DAVIS for working with me to move this bill. I also want to thank Chairman REYES and Representative HARMAN for their cooperation on this bill and for their leadership on this issue. In addition, I want to recognize Representative CLAY for his work on this issue.

The 9/11 Commission recommended providing incentives for information sharing, "to restore a better balance between security and shared knowledge." But unfortunately, that advice has not been heeded. We continue to see the Federal Government fostering secrecy using the tool of over-classification.

As the 9/11 Commission pointed out in its report, "[c]urrent security requirements nurture overclassification and excessive compartmentalization of information among agencies. Each agency's incentive structure opposes sharing, with risks . . . but few rewards for sharing information. No one has to pay the long-term costs of overclassifying information, though these costs—even in literal financial terms—are substantial."

H.R. 6575 would require the Archivist to promulgate regulations to prevent the over-classification of information. This bill would increase accountability by allowing individuals to challenge decisions to classify information and requiring that successful challenges be rewarded. The bill improves oversight of classification decisions by requiring the Inspector General of each affected agency to randomly audit classified information to determine whether the appropriate procedures were followed and to provide recommendations for improvements. It also requires training for employees to proactively prevent over-classification.

The problem of over-classification is governmentwide and it demands a governmentwide solution. In order to improve information sharing, every agency that has employees with the authority to classify documents must be held accountable. This bill does that. I urge support for H.R. 6575.

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Missouri (Mr. CLAY) that the House suspend the rules and pass the bill, H.R. 6575, as amended.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

SECURITIES ACT OF 2008

Mr. KANJORSKI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6513) to amend the Federal securities laws to enhance the effectiveness of the Securities and Exchange Commission's enforcement, corporation finance, trading and markets, investment management, and examination programs, and for other purposes, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 6513

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Securities Act of 2008".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Authority to impose civil penalties in cease and desist proceedings.
Sec. 3. Formerly associated persons.
Sec. 4. Scope of exemption from State securities regulation.
Sec. 5. Covered securities.
Sec. 6. Collateral bars.
Sec. 7. Unlawful margin lending.
Sec. 8. Securities Investor Protection Act of 1970 amendments.
Sec. 9. Annual testimony on reducing complexity in financial reporting.
Sec. 10. Equal treatment for self-regulatory organization rules.
Sec. 11. Lost and stolen securities.
Sec. 12. Fingerprinting.
Sec. 13. Clarification that section 205 of the Investment Advisers Act of 1940 does not apply to State-registered advisers.
Sec. 14. Amendments to section 31 of the Securities Exchange Act of 1934.
Sec. 15. Protecting confidentiality of materials submitted to Commission.
Sec. 16. Sharing privileged information with other authorities.
Sec. 17. Technical corrections.
Sec. 18. Conforming amendments for the repeal of the Public Utility Holding Company Act of 1935.
Sec. 19. Nationwide service of subpoenas.

SEC. 2. AUTHORITY TO IMPOSE CIVIL PENALTIES IN CEASE AND DESIST PROCEEDINGS.

(a) UNDER THE SECURITIES ACT OF 1933.—Section 8A of the Securities Act of 1933 (15 U.S.C. 77h–1) is amended by adding at the end the following new subsection:

"(g) AUTHORITY TO IMPOSE MONEY PENALTIES.—

"(1) GROUNDS FOR IMPOSING.—In any cease-and-desist proceeding under subsection (a), the Commission may impose a civil penalty on a person if it finds, on the record after notice and opportunity for hearing, that—

"(A) such person—

"(i) is violating or has violated any provision of this title, or any rule or regulation thereunder; or

"(ii) is or was a cause of the violation of any provision of this title, or any rule or regulation thereunder; and

"(B) such penalty is in the public interest.

"(2) MAXIMUM AMOUNT OF PENALTY.—

"(A) FIRST TIER.—The maximum amount of penalty for each act or omission described in paragraph (1) shall be $6,500 for a natural person or $65,000 for any other person.

"(B) SECOND TIER.—Notwithstanding paragraph (A), the maximum amount of penalty for each such act or omission shall be $65,000 for a natural person or $325,000 for any other person if the act or omission described in paragraph (1) involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement.

"(C) THIRD TIER.—Notwithstanding paragraphs (A) and (B), the maximum amount of penalty for each such act or omission shall be $130,000 for a natural person or $650,000 for any other person if—

"(i) the act or omission described in paragraph (1) involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement; and

"(ii) such act or omission directly or indirectly resulted in substantial losses or created a significant risk of substantial losses to other persons or resulted in substantial pecuniary gain to the person who committed the act or omission.

"(3) EVIDENCE CONCERNING ABILITY TO PAY.—In any proceeding in which the Commission may impose a penalty under this section, a respondent may present evidence of the respondent's ability to pay such penalty. The Commission may, in its discretion, consider such evidence in determining whether such penalty is in the public interest. Such evidence may relate to the extent of such person's ability to continue in business and the collectability of a penalty, taking into account any other claims of the United States or third parties upon such person's assets and the amount of such person's assets.".

(b) UNDER THE SECURITIES EXCHANGE ACT OF 1934.—Subsection (a) of section 21B of the Securities Exchange Act of 1934 (15 U.S.C. 78u–2(a)) is amended—

(1) by striking "(a) COMMISSION AUTHORITY TO ASSESS MONEY PENALTIES.—In any proceeding" and inserting the following:

"(a) COMMISSION AUTHORITY TO ASSESS MONEY PENALTIES.—

"(1) IN GENERAL.—In any proceeding";

(2) by redesignating paragraphs (1) through (4) of such subsection as subparagraphs (A) through (D), respectively and moving such redesignated subparagraphs and the matter following such subparagraphs 2 ems to the right; and

(3) by adding at the end of such subsection the following new paragraph:

"(2) CEASE-AND-DESIST PROCEEDINGS.—In any proceeding instituted pursuant to section 21C of this title against any person, the Commission may impose a civil penalty if it finds, on the record after notice and opportunity for hearing, that such person—

"(A) is violating or has violated any provision of this title, or any rule or regulation thereunder; or

"(B) is or was a cause of the violation of any provision of this title, or any rule or regulation thereunder.".

(c) UNDER THE INVESTMENT COMPANY ACT OF 1940.—Paragraph (1) of section 9(d) of the Investment Company Act of 1940 (15 U.S.C. 80a–9(d)(1))) is amended—

(1) by striking "(1) AUTHORITY OF COMMISSION.—In any proceeding" and inserting the following:

"(1) AUTHORITY OF COMMISSION.—

"(A) IN GENERAL.—In any proceeding";

(2) by redesignating subparagraphs (A) through (C) of such paragraph as clauses (i) through (iii), respectively and by moving such redesignated clauses and the matter following such subparagraphs 2 ems to the right; and

(3) by adding at the end of such paragraph the following new subparagraph:

"(B) CEASE-AND-DESIST PROCEEDINGS.—In any proceeding instituted pursuant to subsection (f) against any person, the Commission may impose a civil penalty if it finds, on the record after notice and opportunity for hearing, that such person—

"(i) is violating or has violated any provision of this title, or any rule or regulation thereunder; or

"(ii) is or was a cause of the violation of any provision of this title, or any rule or regulation thereunder.".

(d) UNDER THE INVESTMENT ADVISERS ACT OF 1940.—Paragraph (1) of section 203(i) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–3(i)(1)) is amended