

**AMENDMENT TO RULES COMMITTEE PRINT 113-**

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**OFFERED BY MR. SARBANES OF MARYLAND**

Page 24, after line 21, insert the following:

1 **SEC. \_\_\_\_ . CIVIL PENALTIES UNDER THE COMMODITY EX-**  
2 **CHANGE ACT.**

3 (a) AUTHORITY OF THE COMMISSION TO DEFINE  
4 MEANING OF “EACH VIOLATION”.—Section 9 of the Com-  
5 modity Exchange Act (7 U.S.C. 13) is amended by adding  
6 at the end the following:

7 “(f) AUTHORITY TO DEFINE SCOPE OF VIOLA-  
8 TION.—The Commission may define the scope of any vio-  
9 lation for purposes of determining the number of viola-  
10 tions involved in any case arising under this Act.”.

11 (b) ENFORCEMENT POWERS OF THE COMMISSION.—  
12 Section 6 of such Act is amended—

13 (1) in subsection (c)(10) (7 U.S.C. 9(10))—

14 (A) by striking subparagraph (C) and in-  
15 serting the following:

16 “(C) assess the person—

17 “(i) a civil penalty of not more than  
18 an amount equal to the greater of—

1                   “(I) \$1,000,000 in the case of a  
2                   person who is an individual;

3                   “(II) \$10,000,000 in the case of  
4                   a person other than an individual;

5                   “(III) triple the monetary gain to  
6                   the person and all other persons act-  
7                   ing in concert with the person, for  
8                   each such violation; or

9                   “(IV) triple the total amount of  
10                  losses to persons proximately caused  
11                  by each such violation; or

12                  “(ii) a civil penalty of triple the max-  
13                  imum amount otherwise available under  
14                  clause (i) if the person, within 5 years pre-  
15                  ceding the violation, has been—

16                  “(I) found in a proceeding  
17                  brought by the Commission, or by  
18                  agreement of settlement to which the  
19                  Commission is a party, to have reck-  
20                  lessly or willfully violated any provi-  
21                  sion of this Act or of a rule, regula-  
22                  tion, or order of the Commission  
23                  under this Act; or

24                  “(II) convicted of a criminal of-  
25                  fense that involves a violation of this

1 Act or of a rule, regulation, or order  
2 of the Commission under this Act;”;

3 (B) in subparagraph (D), by striking the  
4 period and inserting “; and”; and

5 (C) by adding at the end the following:

6 “(E) assess a civil penalty of not more  
7 than the maximum amount available under sub-  
8 paragraph (C) for each day on which a violation  
9 occurs or has occurred.”; and

10 (2) in subsection (d) (7 U.S.C. 13b)—

11 (A) by inserting “(1)” after “(d)”;

12 (B) by striking “\$140,000 or triple the  
13 monetary gain to such person,” and inserting  
14 “(A) \$1,000,000, in the case of a person who  
15 is an individual, (B) \$10,000,000, in the case  
16 of a person other than an individual, (C) triple  
17 the monetary gain to the person and all other  
18 persons acting in concert with the person, for  
19 each such violation, or (D) triple the total  
20 amount of losses to persons proximately caused  
21 by each such violation,”;

22 (C) by striking the period and inserting “;  
23 and”; and

24 (D) by adding after and below the end the  
25 following:

1           “(2)(A) A person shall be held liable for a civil pen-  
2   alty in triple the amount otherwise available for a violation  
3   under this subsection if the person, within 5 years pre-  
4   ceding the violation, has been—

5                   “(i) found in a proceeding brought by the  
6           Commission, or by agreement of settlement to  
7           which the Commission is a party, to have reck-  
8           lessly or willfully violated any provision of this  
9           Act or a rule, regulation, or order of the Com-  
10          mission under this Act; or

11                   “(ii) convicted of any criminal offense that  
12          involves violation of this Act or a rule, regula-  
13          tion, or order of the Commission under this  
14          Act.

15          “(B) A civil penalty up to the maximum amount  
16   available under this subsection shall be assessed for each  
17   day on which a violation occurs or has occurred.”.

18          (c) NONENFORCEMENT OF RULES OF GOVERNMENT  
19   OR OTHER VIOLATIONS.—Section 6b of such Act (7  
20   U.S.C. 13a) is amended in the 1st sentence by striking  
21   “\$500,000 for each such violation, or, in any case of ma-  
22   nipulation or attempted manipulation in violation of sec-  
23   tion 6(c), 6(d), or 9(a)(2), a civil penalty of not more than  
24   \$1,000,000 for each such violation.” and inserting “(A)  
25   \$1,000,000 in the case of a person who is an individual,

1 (B) \$10,000,000 in the case of a person other than an  
2 individual, (C) triple the monetary gain to the person and  
3 all other persons acting in concert with the person, for  
4 each such violation, or (D) triple the total amount of losses  
5 to persons proximately caused by each such violation, and  
6 the civil penalty shall be assessed for each day on which  
7 a failure to enforce or other violation occurs or has oc-  
8 curred; except that a registered entity, director, officer,  
9 agent, or employee shall be assessed a civil penalty of tri-  
10 ple the amount otherwise available if the person, within  
11 5 years preceding the violation, has been found in a pro-  
12 ceeding brought by the Commission, or by agreement of  
13 settlement to which the Commission is a party, to have  
14 recklessly or willfully violated any provision of this Act or  
15 a rule, regulation, or order of the Commission under this  
16 Act, or convicted of any criminal offense that involves a  
17 violation of this Act or a rule, regulation, or order of the  
18 Commission under this Act.”.

19 (d) ACTION TO ENJOIN OR RESTRAIN VIOLATIONS.—  
20 Section 6c(d) of such Act (7 U.S.C. 13a–1(d)) is amended  
21 by—

22 (1) in paragraph (1)—

23 (A) by inserting “a civil penalty in the  
24 amount of” after “violation”; and

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

3 “(A) not more than the greater of—

4 “(i) \$1,000,000, in the case of a per-  
5 son who is an individual;

6 “(ii) \$10,000,000, in the case of a  
7 person other than an individual;

8 “(iii) triple the monetary gain to the  
9 person and all other persons acting in con-  
10 cert with the person, for each such viola-  
11 tion; or

12 “(iv) triple the total amount of losses  
13 by persons proximately caused by each  
14 such violation; or

15 “(B) triple the maximum amount other-  
16 wise available under subparagraph (A) if such  
17 person, within 5 years preceding the violation,  
18 has been—

19 “(i) found in a proceeding brought by  
20 the Commission, or by agreement of settle-  
21 ment to which the Commission is a party,  
22 to have recklessly or willfully violated any  
23 provision of this Act or of a rule, regula-  
24 tion, or order of the Commission under  
25 this Act; or

1                   “(ii) convicted of any criminal offense  
2                   that involves a violation of this Act or of  
3                   a rule, regulation, or order of the Commis-  
4                   sion under this Act;” and

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

6                   “(4) PER-DAY VIOLATIONS.—In any action  
7                   brought under this section, the Commission may  
8                   seek, and the court shall have jurisdiction to assess,  
9                   a civil penalty of not more than the maximum  
10                  amount available under paragraph (1) for each day  
11                  on which a violation occurs or has occurred.”.

12                  (e) CRIMINAL PENALTIES.—Section 9 of such Act (7  
13 U.S.C. 13) is amended by inserting “in the case of an  
14 individual, or \$10,000,000 in the case of a person other  
15 than an individual,” after “\$1,000,000”.

16                  (f) TIME FOR COMMENCING PROCEEDINGS.—Section  
17 9 of such Act (7 U.S.C. 13) is amended by adding at the  
18 end the following:

19                  “(f) TIME FOR COMMENCING PROCEEDINGS.—An ac-  
20 tion, suit, or proceeding for the enforcement of a civil fine,  
21 penalty, or forfeiture, pecuniary or otherwise, shall not be  
22 entertained unless commenced within 10 years after the  
23 date when the claim first accrued if, within the same pe-  
24 riod, the offender or the property is found within the

1 United States, in order that proper service may be made  
2 on the offender.”.

