

110TH CONGRESS
2D SESSION

S. 3219

To enhance penalties for violations of securities protections that involve targeting seniors.

IN THE SENATE OF THE UNITED STATES

JUNE 27, 2008

Mr. CASEY (for himself and Mr. KOHL) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To enhance penalties for violations of securities protections that involve targeting seniors.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Senior Investor Protec-
5 tions Enhancement Act of 2008”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act, the following definitions shall apply:

8 (1) SENIOR.—The term “senior” means an in-
9 dividual who is 62 years of age or older.

1 (2) SECURITIES LAWS.—The term “securities
2 laws” means the Securities Act of 1933 (15 U.S.C.
3 77b et seq.), the Securities Exchange Act of 1934
4 (15 U.S.C. 78a et seq.), the Investment Company
5 Act of 1940 (15 U.S.C. 80a et seq.), and the Invest-
6 ment Advisers Act of 1940 (15 U.S.C. 80b et seq.).

7 **SEC. 3. ENHANCED PENALTIES FOR VIOLATIONS OF SECURITIES ACT OF 1933.**

9 (a) CIVIL ACTIONS.—Section 20(d)(2) of the Securities Act of 1933 (15 U.S.C. 77t(d)(2)) is amended by adding at the end the following:

12 “(D) SPECIAL RULE FOR SENIORS.—Notwithstanding subparagraphs (A), (B), and (C), the amount of penalty for each violation described in paragraph (1) that may be imposed under subparagraph (A), (B), or (C) may be increased by not more than \$50,000, if the violation is primarily directed toward, targets, or is committed against an individual who, at the time of the violation, is 62 years of age or older.”.

22 (b) OTHER VIOLATIONS.—Section 24 of the Securities Act of 1933 (15 U.S.C. 77x) is amended—

24 (1) by inserting “(a) IN GENERAL.—” before
25 “Any person”; and

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

2 “(b) SPECIAL RULE FOR SENIORS.—Notwith-
3 standing subsection (a), the amount of a fine that may
4 be imposed under subsection (a) may be increased by not
5 more than \$50,000, if the violation is primarily directed
6 toward, targets, or is committed against an individual
7 who, at the time of the violation, is 62 years of age or
8 older.”.

9 **SEC. 4. ENHANCED PENALTIES FOR VIOLATIONS OF SECURITIES ACT OF 1934.**

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11 (a) CIVIL ACTIONS.—Section 21(d)(3)(B) of the Se-
12 curities Exchange Act of 1934 (15 U.S.C. 78u(d)(3)(B))
13 is amended by adding at the end the following:

14 “(iv) SPECIAL RULE FOR SENIORS.—
15 Notwithstanding clauses (i), (ii), and (iii),
16 the amount of penalty for each violation
17 described in subparagraph (A) that may be
18 imposed under clause (i), (ii), or (iii) may
19 be increased by not more than \$50,000, if
20 the violation is primarily directed toward,
21 targets, or is committed against an indi-
22 vidual who, at the time of the violation, is
23 62 years of age or older.”.

1 (b) WILLFUL VIOLATIONS.—Section 21B(b) of the
2 Securities Exchange Act of 1934 (15 U.S.C. 78u–2(b))
3 is amended by adding at the end the following:

4 “(4) SPECIAL RULE FOR SENIORS.—Notwith-
5 standing paragraphs (1), (2), and (3), the amount of
6 penalty for each violation described in subsection (a)
7 that may be imposed under paragraph (1), (2), or
8 (3) may be increased by not more than \$50,000, if
9 the violation is primarily directed toward, targets, or
10 is committed against an individual who, at the time
11 of the violation, is 62 years of age or older.”.

12 (c) OTHER VIOLATIONS.—Section 32 of the Securi-
13 ties Exchange Act of 1934 (15 U.S.C. 78ff) is amended
14 by adding at the end the following:

15 “(d) SPECIAL RULE FOR SENIORS.—Notwith-
16 standing subsection (a), the amount of fine that may be
17 imposed under subsection (a) may be increased by not
18 more than \$50,000, if the violation is primarily directed
19 toward, targets, or is committed against an individual
20 who, at the time of the violation, is 62 years of age or
21 older.”.

1 **SEC. 5. ENHANCED PENALTIES FOR VIOLATIONS OF IN-**
2 **VESTMENT COMPANY ACT OF 1940.**

3 (a) **WILLFUL VIOLATIONS.**—Section 9(d)(2) of the
4 Investment Company Act of 1940 (15 U.S.C. 80a–
5 9(d)(2)) is amended by adding at the end the following:

6 “(D) **SPECIAL RULE FOR SENIORS.**—Not-
7 withstanding subparagraphs (A), (B), and (C),
8 the amount of penalty for each violation de-
9 scribed in paragraph (1) that may be imposed
10 under subparagraph (A), (B), or (C) may be in-
11 creased by not more than \$50,000, if the viola-
12 tion is primarily directed toward, targets, or is
13 committed against an individual who, at the
14 time of the violation, is 62 years of age or
15 older.”.

16 (b) **CIVIL ACTIONS.**—Section 42(e)(2) of the Invest-
17 ment Company Act of 1940 (15 U.S.C. 80a–41(l)(2)) is
18 amended by adding at the end the following:

19 “(D) **SPECIAL RULE FOR SENIORS.**—Not-
20 withstanding subparagraphs (A), (B), and (C),
21 the amount of penalty for each violation de-
22 scribed in paragraph (1) that may be imposed
23 under subparagraph (A), (B), or (C) may be in-
24 creased by not more than \$50,000, if the viola-
25 tion is primarily directed toward, targets, or is
26 committed against an individual who, at the

1 time of the violation, is 62 years of age or
2 older.”.

3 (c) OTHER VIOLATIONS.—Section 49 of the Invest-
4 ment Company Act of 1940 (15 U.S.C. 80a–48) is amend-
5 ed—

6 (1) by inserting “(a) IN GENERAL.—” before
7 “Any person”; and

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

9 “(b) SPECIAL RULE FOR SENIORS.—Notwith-
10 standing subsection (a), the amount of fine that may be
11 imposed under subsection (a) may be increased by not
12 more than \$50,000, if the violation is primarily directed
13 toward, targets, or is committed against an individual
14 who, at the time of the violation, is 62 years of age or
15 older.”.

16 **SEC. 6. ENHANCED PENALTIES FOR VIOLATIONS OF IN-**
17 **VESTMENT ADVISERS ACT OF 1940.**

18 (a) WILLFUL VIOLATIONS.—Section 203(i)(2) of the
19 Investment Advisers Act of 1940 (15 U.S.C. 80b–3(i)(2))
20 is amended by adding at the end the following:

21 “(D) SPECIAL RULE FOR SENIORS.—Not-
22 withstanding subparagraphs (A), (B), and (C),
23 the amount of penalty for each violation de-
24 scribed in paragraph (1) that may be imposed
25 under subparagraph (A), (B), or (C) may be in-

1 creased by not more than \$50,000, if the viola-
2 tion is primarily directed toward, targets, or is
3 committed against an individual who, at the
4 time of the violation, is 62 years of age or
5 older.”.

6 (b) CIVIL ACTIONS.—Section 209(e)(2) of the Invest-
7 ment Advisers Act of 1940 (15 U.S.C. 80b–9(e)(2)) is
8 amended by adding at the end the following:

9 “(D) SPECIAL RULE FOR SENIORS.—Not-
10 withstanding subparagraphs (A), (B), and (C),
11 the amount of penalty for each violation under
12 this title that may be imposed under subpara-
13 graph (A), (B), or (C) may be increased by not
14 more than \$50,000, if the violation is primarily
15 directed toward, targets, or is committed
16 against an individual who, at the time of the
17 violation, is 62 years of age or older.”.

18 (c) OTHER VIOLATIONS.—Section 217 of the Invest-
19 ment Advisers Act of 1940 (15 U.S.C. 80b–17) is amend-
20 ed—

21 (1) by inserting “(a) IN GENERAL.—” before
22 “Any person”; and

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

24 “(b) SPECIAL RULE FOR SENIORS.—Notwith-
25 standing subsection (a), the amount of fine that may be

1 imposed under subsection (a) may be increased by not
2 more than \$50,000, if the violation is primarily directed
3 toward, targets, or is committed against an individual
4 who, at the time of the violation, is 62 years of age or
5 older.”.

6 **SEC. 7. DIRECTIVE TO THE UNITED STATES SENTENCING**
7 **COMMISSION.**

8 (a) **IN GENERAL.**—Pursuant to its authority under
9 section 994(p) of title 28, United States Code, and in ac-
10 cordance with this section, the United States Sentencing
11 Commission shall review and amend the Federal sen-
12 tencing guidelines and policy statements to ensure that the
13 guideline offense levels and enhancements appropriately
14 punish violations of the securities laws against seniors.

15 (b) **REQUIREMENTS.**—In carrying out this section,
16 the United States Sentencing Commission shall—

17 (1) ensure that section 2B1.1 and 2C1.1 of the
18 Federal sentencing guidelines (and any successors
19 thereto) apply to and punish offenses in which the
20 victim of a violation of the securities laws is a sen-
21 ior;

22 (2) ensure reasonable consistency with other
23 relevant directives, provisions of the Federal sen-
24 tencing guidelines, and statutory provisions;

1 (3) make any necessary and conforming
2 changes to the Federal sentencing guidelines, in ac-
3 cordance with the amendments made by this Act;
4 and

5 (4) ensure that the Federal sentencing guide-
6 lines adequately meet the purposes of sentencing set
7 forth in section 3553(a)(2) of title 18, United States
8 Code.

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