

AMENDMENT NO. _____ Calendar No. _____

Purpose: To improve certain whistleblower protections under
the Commodity Exchange Act.

IN THE SENATE OF THE UNITED STATES—119th Cong., 2d Sess.

S. _____

To provide for the reform and continuation of agricultural
and other programs of the Department of Agriculture
through fiscal year 2031, and for other purposes.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. GRASSLEY (for
himself and Mr. FETTERMAN)

Viz:

- 1 At the appropriate place in subtitle F of title XII,
- 2 insert the following:
- 3 **SEC. 126____. IMPROVING WHISTLEBLOWER PROTECTIONS**
- 4 **UNDER THE COMMODITY EXCHANGE ACT.**
- 5 (a) COMMODITY FUTURES TRADING COMMISSION
- 6 CUSTOMER PROTECTION FUND MODIFICATIONS.—
- 7 (1) SEPARATE ACCOUNT FOR EDUCATION INI-
- 8 TIATIVES AND ADMINISTRATIVE EXPENSES.—Section
- 9 23(g) of the Commodity Exchange Act (7 U.S.C.
- 10 26(g)) is amended—

1 (A) in paragraph (2)(A), by striking “sub-
2 section (a)” and inserting “subsection (b)”; and

3 (B) in paragraph (3)—

4 (i) in subparagraph (A), by striking
5 “\$100,000,000” and inserting
6 “\$300,000,000”;

7 (ii) in subparagraph (B), by striking
8 “subparagraph (A)” and inserting “clause
9 (i)”;

10 (iii) by redesignating subparagraphs
11 (A) through (C) as clauses (i) through
12 (iii), respectively, and indenting the clauses
13 appropriately;

14 (iv) in the matter preceding clause (i)
15 (as so redesignated), by striking “There
16 shall be deposited into or credited to the
17 Fund:” and inserting the following:

18 “(A) IN GENERAL.—There shall be depos-
19 ited in, or credited to, the Fund the following:”;
20 and

21 (v) by adding at the end the following:

22 “(B) SEPARATE ACCOUNT FOR EDUCATION
23 INITIATIVES AND ADMINISTRATIVE EX-
24 PENSES.—

1 “(i) IN GENERAL.—Any amounts con-
2 tained in, deposited in, or credited to the
3 Fund under subparagraph (A) shall be
4 first deposited in, or credited to, a separate
5 account in the Fund described in clause
6 (ii), regardless of outstanding whistle-
7 blower awards, unless the balance of that
8 separate account at the time the amounts
9 are deposited or credited exceeds
10 \$10,000,000.

11 “(ii) USE OF SEPARATE ACCOUNT.—
12 The separate account referred to in clause
13 (i) shall be available to the Commission,
14 without further appropriation or fiscal year
15 limitation, for—

16 “(I) the purpose described in
17 subparagraph (B) of paragraph (2);
18 and

19 “(II) the funding of administra-
20 tive and salary expenses necessary for
21 personnel to carry out the activities
22 described in subparagraphs (A) and
23 (B) of that paragraph.”.

24 (2) COMMODITY FUTURES TRADING COMMIS-
25 SION WHISTLEBLOWER PROGRAM.—Section 1(b) of

1 Public Law 117–25 (135 Stat. 297; 136 Stat. 2133;
2 136 Stat. 2309; 136 Stat. 5984; 139 Stat. 46) is
3 amended—

4 (A) in paragraph (3), by striking “until”
5 and all that follows through the period at the
6 end and inserting “until expended.”; and

7 (B) by striking paragraph (4).

8 (3) DEFINITIONS.—Section 23(a) of the Com-
9modity Exchange Act (7 U.S.C. 26(a)) is amend-
10 ed—

11 (A) in paragraph (3)—

12 (i) in subparagraph (A), by striking
13 “and” at the end;

14 (ii) in subparagraph (B), by striking
15 the period at the end and inserting “;
16 and”; and

17 (iii) by adding at the end the fol-
18 lowing:

19 “(C) any distribution made in a United
20 States bankruptcy proceeding to the Commis-
21 sion, an injured investor, or other defrauded
22 person or entity as a result of information pro-
23 vided by 1 or more whistleblowers.”; and

24 (B) in paragraph (5)—

1 (i) by striking “means any judicial”
2 and inserting “means any proceeding in a
3 United States bankruptcy court brought by
4 any party and any judicial”;

5 (ii) by striking “subsection (h)(2)(C)”
6 and inserting “subsection (h)(2)(C)(i)”;
7 and

8 (iii) by striking “subsection (a)” and
9 inserting “subsection (b)”.

10 (b) STRENGTHENING PROTECTIONS FOR COMMODITY
11 WHISTLEBLOWERS.—Section 23 of the Commodity Ex-
12 change Act (7 U.S.C. 26) is amended—

13 (1) in subsection (a)(7)—

14 (A) by striking “The term” and inserting
15 the following:

16 “(A) IN GENERAL.—The term”; and

17 (B) by adding at the end the following:

18 “(B) SPECIAL RULE.—For purposes of
19 subsection (h), the term ‘whistleblower’ includes
20 any individual who takes, or any 2 or more in-
21 dividuals, acting jointly, who take, an action de-
22 scribed in paragraph (1)(A) of that sub-
23 section.”;

24 (2) in subsection (h)(1)—

1 (A) by striking subparagraph (A) and in-
2 serting the following:

3 “(A) IN GENERAL.—No employer may, di-
4 rectly or indirectly, discharge, demote, suspend,
5 threaten, blacklist, harass, seek to deny any
6 award, or in any other manner discriminate
7 against a whistleblower in the terms and condi-
8 tions of employment or post-employment be-
9 cause of any lawful act done by the whistle-
10 blower—

11 “(i) in providing information in writ-
12 ing or orally, if the oral report is docu-
13 mented, including information provided as
14 part of the job duties of the whistleblower,
15 in accordance with this section to—

16 “(I) the Commission or the At-
17 torney General;

18 “(II) a Federal, State, or local
19 regulatory or law enforcement agency;

20 “(III) any Member of Congress
21 or any committee of Congress; or

22 “(IV) a person with supervisory
23 authority over the whistleblower, or
24 such other person working for the em-
25 ployer who has the authority to inves-

1 tigate, discover, or terminate mis-
2 conduct;

3 “(ii) in initiating, testifying in, or as-
4 sisting in any investigation or judicial or
5 administrative action of the Commission or
6 the Department of Justice based upon or
7 related to the information described in
8 clause (i); or

9 “(iii) in providing information, in
10 writing or orally, if the oral report is docu-
11 mented, regarding any conduct that the
12 whistleblower reasonably believes con-
13 stitutes a violation of any law, rule, or reg-
14 ulation subject to the jurisdiction of the
15 Commission, or a violation of section 1956,
16 1957, or 1960 of title 18, United States
17 Code (or any rule or regulation under any
18 such provision), to—

19 “(I) a person with supervisory
20 authority over the whistleblower at the
21 employer of the whistleblower; or

22 “(II) another individual working
23 for the employer described in sub-
24 clause (I) who the whistleblower rea-
25 sonably believes has the authority—

1 “(aa) to investigate, dis-
2 cover, or terminate the mis-
3 conduct; or

4 “(bb) to take any other ac-
5 tion to address the misconduct.”;

6 (B) in subparagraph (B)(i)—

7 (i) by striking “An individual” and in-
8 serting the following:

9 “(I) IN GENERAL.—An indi-
10 vidual”;

11 (ii) in subclause (I) (as so des-
12 ignated), by striking “, unless” and all
13 that follows through “title 5, United States
14 Code”; and

15 (iii) by adding at the end the fol-
16 lowing:

17 “(II) JURY TRIAL.—A person
18 against whom an action is brought
19 under this subsection shall be entitled
20 to a jury trial.

21 “(III) BURDEN OF PROOF.—All
22 complaints under this subsection shall
23 be governed by the legal burdens of
24 proof set forth in section 1221(e) of
25 title 5, United States Code.”; and

1 (C) in subparagraph (C)(ii), by inserting
2 “2 times” before “the amount”; and
3 (3) by adding at the end the following:

4 “(o) EMPLOYEE EDUCATION ON WHISTLEBLOWER
5 RIGHTS.—

6 “(1) IN GENERAL.—Not later than 360 days
7 after the date of enactment of this Act, the Commis-
8 sion shall publish in the Federal Register a final rule
9 requiring each registered entity to provide education
10 and training to employees of the registered entity on
11 the rights of whistleblowers and remedies under this
12 section, including, at a minimum, through—

13 “(A) notice provided individually to each
14 employee;

15 “(B) posting information on the homepage
16 of the website of the registered entity; and

17 “(C) mandatory training for each em-
18 ployee.

19 “(2) PROCEDURE.—Notwithstanding the excep-
20 tions described in the undesignated matter following
21 subsection (b)(4) of section 553 of title 5, United
22 States Code, that section shall apply to the issuance
23 of the rule under paragraph (1).”.

1 (c) PROMPT PAYMENT OF AWARDS.—Section 23(b)
2 of the Commodity Exchange Act (7 U.S.C. 26(b)) is
3 amended by adding at the end the following:

4 “(3) TIMELY PROCESSING OF CLAIMS.—

5 “(A) DEFINITIONS.—In this paragraph:

6 “(i) AWARD CLAIM.—The term ‘award
7 claim’ means a claim submitted by a whis-
8 tleblower for an award under this section.

9 “(ii) DIRECTOR.—The term ‘Director’
10 means the Director of the Division of En-
11 forcement of the Commission (or a des-
12 ignee).

13 “(B) PRELIMINARY DETERMINATION.—

14 “(i) IN GENERAL.—Except as pro-
15 vided in subparagraph (C), the Commis-
16 sion shall make a preliminary determina-
17 tion with respect to an award claim not
18 later than the later of—

19 “(I) the date that is 1 year after
20 the deadline established by the Com-
21 mission, by rule, for the whistleblower
22 to file the award claim; and

23 “(II) the date that is 1 year after
24 the final resolution of all litigation, in-
25 cluding any appeals, concerning the

1 covered judicial or administrative ac-
2 tion or related action.

3 “(ii) MULTIPLE RELATED ACTIONS.—

4 If an award claim involves 1 or more re-
5 lated actions, the requirement under clause
6 (i) shall apply with respect to the latest
7 deadline with respect to the involved ac-
8 tions.

9 “(C) EXCEPTIONS.—

10 “(i) INITIAL EXTENSION.—If the Di-
11 rector determines that an award claim is
12 sufficiently complex or involves more than
13 1 whistleblower, or if other good cause ex-
14 ists such that the Commission cannot rea-
15 sonably satisfy the requirements under
16 subparagraph (B), as determined by the
17 Director, the Director, after providing no-
18 tice to the Chairman of the Commission,
19 may extend the deadline with respect to
20 the satisfaction of those requirements by
21 not more than 180 days.

22 “(ii) ADDITIONAL EXTENSION.—If,
23 after providing an extension under clause
24 (i), the Director determines that good
25 cause exists such that the Commission can-

1 not reasonably satisfy the requirement
2 under subparagraph (B), the Director may
3 extend the deadline described in clause (i)
4 for 1 additional successive 180-day period
5 only after providing notice to, and receiv-
6 ing approval from, the Commission.

7 “(iii) NOTICE TO WHISTLEBLOWER
8 REQUIRED.—If the Director exercises au-
9 thority under clause (i) or (ii), the Director
10 shall submit to the whistleblower who filed
11 the award claim that is subject to that ex-
12 ercise a written notification of the exercise.

13 “(D) FINAL ORDER.—The Commission
14 shall issue a final order with respect to an
15 award claim not later than 1 year after the pre-
16 liminary determination under subparagraph
17 (B).

18 “(E) APPLICABILITY.—This paragraph
19 shall apply only to an award claim that the Di-
20 rector determines is timely submitted under a
21 deadline established by the Commission after
22 the date of enactment of this paragraph.”.

23 (d) TECHNICAL CORRECTIONS.—Section 23 of the
24 Commodity Exchange Act (7 U.S.C. 26) is amended—

- 1 (1) in subsection (c)(1)(B)(i)(III), by striking
- 2 “the Act” each place it appears and inserting “this
- 3 Act”; and
- 4 (2) in subsection (f)(3), by striking “section
- 5 7064” and inserting “section 706”.