119TH CONGRESS
2D SESSION

S. ______

To prohibit the purchase, sale, or exchange of nonpublic information, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. PADILLA (for himself, Mr. BLUMENTHAL, Mr. WHITEHOUSE, and Mr. PETERS) introduced the following bill; which was read twice and referred to the Committee on ______________

A BILL

To prohibit the purchase, sale, or exchange of nonpublic information, and for other purposes.

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 "Stop Corrupt Trading Act".

SEC. 2. MISUSE OF NONPUBLIC INFORMATION.

(a) IN GENERAL.—Chapter 11 of title 18, United States Code, is amended by adding at the end the following:

"§ 228. Misuse of nonpublic information

"(a) DEFINITIONS.—In this section:

"(1) COVERED ENTITY.—The term 'covered entity' means a firm, partnership, association, corporation, or other entity—

"(A) which a covered person or a member of the immediate family of a covered person controls, directly or indirectly; or

"(B) in which a covered person beneficially owns a financial interest in the entity comprising not less than 5 percent of the equity, profits, or revenue interests of the entity.

"(2) COVERED PERSON.—The term 'covered person' means the President or Vice President.

"(3) NONPUBLIC INFORMATION.—The term 'nonpublic information'—

"(A) means information that a covered person gains as a result of the covered person's official position and that the covered person knows or reasonably should know has not been made available to the general public, including information that the covered person knows or reasonably should know—

"(i) is routinely exempt from disclosure under section 552 of title 5 or otherwise protected from disclosure by statute, Executive order, or regulation;

"(ii) is designated as confidential; or

"(iii) has not been disseminated to the general public and is not authorized to be made available to the public on request; and

"(B) includes statements or other communications by a covered person made available via application programming interface or other means that are not made available to the general public on equal terms.

"(b) MISUSE OF NONPUBLIC INFORMATION.—

"(1) SALE BY COVERED PERSONS AND ENTITIES.—No covered person or covered entity may enter into a transaction to sell or exchange nonpublic information for financial benefit.

"(2) PURCHASE OR SALE BY OTHER PERSONS.—No person may enter into a transaction to acquire, purchase, sell, or exchange nonpublic information for financial benefit.

"(c) CRIMINAL PENALTIES AND FORFEITURE.—

"(1) PENALTY.—The punishment for an offense under subsection (b) shall be—

"(A) for an offense under subparagraph (A), a fine not more than double the value of the transaction, to be deposited in the Treasury or imprisonment for not more than 5 years, or both; and

"(B) for an offense under subparagraph (B), a fine not more than double the value of the transaction, to be deposited in the Treasury.

"(2) CRIMINAL FORFEITURE.—The court, in imposing a sentence on a person convicted of an offense under subsection (b), shall order that the person forfeit to the United States any property, real or personal, constituting or derived from proceeds obtained, directly or indirectly, as a result of the offense.

"(d) CIVIL ENFORCEMENT; DISGORGEMENT.—

"(1) CIVIL ACTION.—The Attorney General may bring a civil action in an appropriate district court of the United States against any person or entity that engages in conduct constituting a violation of subsection (b) (without regard to whether a criminal prosecution has been brought), for—

"(A) disgorgement to the United States of all profits, payments, and other things of value derived from the conduct;

"(B) a civil penalty of not more than the greater of $250,000 or 3 times the amount of the gain derived from, or the payment made in, the conduct, for each violation; and

"(C) appropriate equitable relief, including an injunction and a constructive trust for the benefit of the United States over property traceable to the conduct.

"(2) STANDARD OF PROOF.—In an action under this subsection, the standard of proof shall be a preponderance of the evidence.

"(3) STATUTE OF LIMITATIONS; TOLLING.—An action under this subsection shall be commenced not later than 6 years after the date on which the conduct occurred, except that such period shall be tolled during any period in which the defendant, or the covered person from whose position the nonpublic information concerned was derived, holds the office of President or Vice President.

"(4) LIABILITY OF COUNTERPARTIES AND ENTITIES.—A covered entity, and any person that knowingly provides anything of value in a transaction described in subsection (b) shall be jointly and severally liable for the remedies described in paragraph (1) with respect to that transaction.

"(5) REFERRAL.—The Director of the Office of Government Ethics shall refer to the Attorney General any credible evidence of conduct described in paragraph (1), and shall notify the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives of each referral.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 11 of title 18, United States Code, is amended by adding at the end the following:

"228. Misuse of nonpublic information.".