Washington D.C. – Today, the U.S. House of Representatives passed Congressman McCarthy's bill (H.R. 2623) that would close loopholes in securities laws. Under current law, those who commit misconduct while working for an entity regulated by the SEC, like a stock exchange, could resign and avoid being held accountable for their wrongdoing. Specifically, H.R. 2623 makes it explicit that the U.S. Securities and Exchange Commission has the authority to bring action against persons formerly associated with a regulated or supervised entity for misconduct that occurred during that association. The bill passed the House unanimously by voice vote.

Congressman McCarthy issued the following statement:

"Today the House took the right action to pass this common-sense solution to close loopholes in securities laws and reform Wall Street to help protect Americans' savings. This bill helps clarify the laws on the books by closing a loophole, and also helps the overseers at the SEC better monitor actions to protect American families and retirees from harmful actors in the industry."

Background:

H.R. 2623 is directed at ensuring that former employees of organizations like the New York Stock Exchange or the Financial Industry Regulatory Authority can be held accountable by the Securities and Exchange Commission (SEC) for any misconduct while an employee at these organizations. Currently, the federal securities laws leave confusing loopholes such that employees at some regulated or supervised organizations cannot be sanctioned by the SEC after they leave their positions. By clarifying the SEC's authority to sanction formerly associated persons, employees at regulated or supervised entities would be held accountable for their actions while in those positions, even if they have moved on to another job.

Related:

H.R. 2623 text

Text of Congressman McCarthy’s written floor statement:

Mr. Chairman, I rise in support of H.R. 2623, legislation that would amend the Federal securities laws to clarify the Securities and Exchange Commission’s (SEC) authority to sanction certain employees of regulated or supervised entities after they leave their jobs. I would like to thank Mr. Kanjorski and Chairman Frank for bringing this bill to the floor today.

I would also like to mention that this legislation was included in a larger piece of securities legislation from the 110th Congress, H.R. 6513, the Securities Act of 2008, which passed the House on suspension by voice vote.   This legislation is also included in H.R. 3310, the Consumer Protection and Regulatory Enhancement Act, introduced by Ranking Member Bachus, and I appreciate his support for this legislation.

This legislation is directed at ensuring that former employees of organizations like the New York Stock Exchange or Financial Industry Regulatory Authority can be held accountable for any misconduct while an employee at these organizations.

Many provisions of federal securities laws which authorize the sanctioning of a person who engages in misconduct while associated with a regulated or supervised entity explicitly provide that such authority exists even if the person is no longer associated with that entity and has left his or her job.

But there are confusing loopholes so that employees at some regulated or supervised organizations cannot be sanctioned by the SEC after they leave their positions. By clarifying the SEC’s authority to sanction “formerly associated persons,” we ensure that employees at regulated or supervised entities are held accountable for their actions while in those positions, even if they have moved on to another job.

Specifically my legislation amends the Securities Exchange Act of 1934 and the Investment Company Act of 1940. Congress must ensure that the SEC has unambiguous statutory authority to investigate individuals suspected of violating the securities laws, to bring enforcement cases, and have those cases considered on the merits and not be dismissed on an ambiguity because a statute is confusing. No one should be able to violate the securities laws and resign their position knowing that the SEC cannot proceed against them. My legislation does not expand or alter the SEC’s current authority, it clarifies it.

One illustration of the need for this legislation is the case of Sal Sodano, who was the chairman and CEO of the American Stock Exchange (AMEX). On March 22, 2007, the SEC charged Sodano with failing to enforce compliance with the Exchange Act during his term as the AMEX's chairman and CEO.

However, the SEC’s filing occurred after Sodano left AMEX in 2005, so his lawyers pointed to this loophole in federal law that the SEC could only sanction individuals while they were still associated with the organization. The SEC’s Administrative Law Judge noted that current law does not provide for sanctioning a former officer or director. The judge specifically noted that Congress has drafted many statutes that allow the ability to sanction individuals formerly associated with any number of entities, but not in this case. By passing H.R. 2623, Congress can close this loophole and ensure accountability for individuals working at regulated or supervised entities.

I urge my colleagues to support this legislation, which will provide more accountability, transparency, and efficiency in securities regulation.