TITLE IX—ADDITIONAL IMPROVEMENTS TO
FINANCIAL MARKETS REGULATION

SEC. 901.  SHORT TITLE.

This title may be cited as the “Investor Protection Act of 2009.”

Subtitle A—Disclosure

SEC. 911.  INVESTOR ADVISORY COMMITTEE ESTABLISHED.

The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by adding at the end the following new section:

“SEC. 38.  INVESTOR ADVISORY COMMITTEE.

“(a) ESTABLISHMENT AND PURPOSE.—There is established an Investor Advisory Committee to advise and consult with the Commission on—

“(1) regulatory priorities and issues regarding new products, trading strategies, fee structures and the effectiveness of disclosures;

“(2) initiatives to protect investor interest; and

“(3) initiatives to promote investor confidence in the integrity of the market place.

“(b) MEMBERSHIP.—

“(1) APPOINTMENT.—The Chairman of the Commission shall appoint the members of the Investor Advisory Committee, which members shall—

“(A) represent the interests of individual investors;

“(B) represent the interests of institutional investors; and

“(C) use a wide range of investment and approaches.

“(2) MEMBERS NOT COMMISSION EMPLOYEES.—Members shall not be deemed
employees or agents of the Commission solely because of membership on the Investor
Advisory Commission.

“(c) MEETINGS.—The Investor Advisory Committee shall meet from time to time at the
call of the Commission, but, at a minimum, shall meet at least twice in each year.

“(d) COMPENSATION AND TRAVEL EXPENSES.—Members of the Investor Advisory
Committee who are not full-time employees of the United States shall—

“(1) be entitled to receive compensation at a rate fixed by the Commission while
attending meetings of the Investor Advisory Committee, including travel time; and

“(2) be allowed travel expenses, including transportation and subsistence, while
away from their homes or regular places of business.

“(e) COMMITTEE FINDINGS.—Nothing in this section requires the Commission to accept,
agree, or act upon the findings or recommendations of the Investor Advisory Committee.

“(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the
Commission such sums as are necessary to cover the costs of the Investor Advisory
Committee.”.

SEC. 912. CLARIFICATION OF THE COMMISSION’S AUTHORITY TO ENGAGE IN
CONSUMER TESTING.

(a) AMENDMENT TO SECURITIES ACT OF 1933.—Section 19 of the Securities Act of 1933
(15 U.S.C. 77s) is amended by adding at the end the following new subsection:

“(c) For the purposes of evaluating its rules and programs and for considering, proposing,
adopting, or engaging in rules or programs, the Commission is authorized to gather information,
communicate with investors or other members of the public, and engage in such temporary or
experimental programs as it in its discretion determines is in the public interest or for the
protection of investors. The Commission may delegate to its staff some or all of the authority conferred by this subsection.”.

(b) AMENDMENT TO SECURITIES EXCHANGE ACT OF 1934.—Section 23 of the Securities Exchange Act of 1934 (15 U.S.C. 78w) is amended by adding the following new subsection (b) after subsection (a) and redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e):

“(c) GATHERING INFORMATION.—For the purposes of evaluating its rules and programs and for considering proposing, adopting, or engaging in rules or programs, the Commission is authorized to gather information, communicate with investors or other members of the public, and engage in such temporary or experimental programs as it in its discretion determines is in the public interest or for the protection of investors. The Commission may delegate to its staff some or all of the authority conferred by this subsection.”.

(d) AMENDMENT TO INVESTMENT COMPANY ACT OF 1940.—Section 38 of the Investment Company Act of 1940 (15 U.S.C. 80a-38) is amended by adding at the end the following new subsection:

“(e) GATHERING INFORMATION.—For the purposes of evaluating its rules and programs and for considering proposing, adopting, or engaging in rules or programs, the Commission is authorized to gather information, communicate with investors or other members of the public, and engage in such temporary or experimental programs as it in its discretion determines is in the public interest or for the protection of investors. The Commission may delegate to its staff some or all of the authority conferred by this subsection.”.

(f) AMENDMENT TO THE INVESTMENT ADVISERS ACT OF 1940.—Section 211 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-11) is amended by adding at the end the following new subsection:
“(g) For the purposes of evaluating its rules and programs and for considering proposing, adopting, or engaging in rules or programs, the Commission is authorized to gather information, communicate with investors or other members of the public, and engage in such temporary or experimental programs as it in its discretion determines is in the public interest or for the protection of investors. The Commission may delegate to its staff some or all of the authority conferred by this subsection.”.

SEC. 913. ESTABLISHMENT OF A FIDUCIARY DUTY FOR BROKERS, DEALERS, AND INVESTMENT ADVISERS, AND HARMONIZATION OF THE REGULATION OF BROKERS, DEALERS, AND INVESTMENT ADVISERS.

(a) AMENDMENT TO SECURITIES EXCHANGE ACT OF 1934.—Section 15 of the Securities Exchange Act of 1934 (15 U.S.C. 78o) is amended by adding at the end the following new subsections:

“(k) STANDARDS OF CONDUCT.—Notwithstanding any other provision of this Act or the Investment Advisers Act of 1940, the Commission may promulgate rules to provide, in substance, that the standards of conduct for all brokers, dealers, and investment advisers, in providing investment advice about securities to retail customers or clients (and such other customers or clients as the Commission may by rule provide), shall be to act solely in the interest of the customer or client without regard to the financial or other interest of the broker, dealer or investment adviser providing the advice.

“(l) OTHER MATTERS.—The Commission shall—

“(1) take steps to facilitate the provision of simple and clear disclosures to investors regarding the terms of their relationships with investment professionals; and
“(2) examine and, where appropriate, promulgate rules prohibiting sales practices, conflicts of interest, and compensation schemes for financial intermediaries (including brokers, dealers, and investment advisers) that it deems contrary to the public interest and the interests of investors.”.

(b) AMENDMENT TO INVESTMENT ADVISERS ACT OF 1940.—Section 211 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-11) is amended by adding at the end the following new subsections:

“(f) STANDARDS OF CONDUCT.—Notwithstanding any other provision of this Act or the Securities Exchange Act of 1934, the Securities and Exchange Commission may promulgate rules to provide, in substance, that the standards of conduct for all brokers, dealers, and investment advisers, in providing investment advice about securities to retail customers or clients (and such other customers or clients as the Commission may by rule provide), shall be to act solely in the interest of the customer or client without regard to the financial or other interest of the broker, dealer, or investment adviser providing the advice.

“(g) OTHER MATTERS.—The Commission shall—

“(1) take steps to facilitate the provision of simple and clear disclosures to investors regarding the terms of their relationships with investment professionals, including consultation with other financial regulators on best practices for consumer disclosures, as appropriate; and

“(2) examine and, where appropriate, promulgate rules prohibiting sales practices, conflicts of interest, and compensation schemes for financial intermediaries (including brokers, dealers, and investment advisers) that it deems contrary to the public interest and the interests of investors.”.
SEC. 914. CLARIFICATION OF COMMISSION AUTHORITY TO REQUIRE INVESTOR DISCLOSURES BEFORE PURCHASE OF INVESTMENT COMPANY SHARES.

Section 24 of the Investment Company Act of 1940 (15 U.S.C. 80a-24) is amended by adding at the end the following new subsection:

“(h) TIMING OF DISCLOSURE.—Notwithstanding any other provision of this Act or the Securities Act of 1933, the Commission is authorized to promulgate rules designating documents or information that must precede a sale to a purchaser of securities issued by a registered investment company.”.

Subtitle B—Enforcement and Remedies

SEC. 921. AUTHORITY TO RESTRICT MANDATORY PRE-DISPUTE ARBITRATION.

(a) AMENDMENT TO SECURITIES EXCHANGE ACT OF 1934.—Section 15 of the Securities Exchange Act of 1934 (15 U.S.C. 78o) is amended by adding at the end the following new subsection:

“(m) AUTHORITY TO RESTRICT MANDATORY PRE-DISPUTE ARBITRATION.—The Commission, by rule, may prohibit, or impose conditions or limitations on the use of, agreements that require customers or clients of any broker, dealer, or municipal securities dealer to arbitrate any future dispute between them arising under the federal securities laws or the rules of a self-regulatory organization if it finds that such prohibition, imposition of conditions, or limitations are in the public interest and for the protection of investors.”.

(b) AMENDMENT TO INVESTMENT ADVISERS ACT OF 1940.—Section 205 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-5) is amended by adding at the end the following new...
“(f) AUTHORITY TO RESTRICT MANDATORY PRE-DISPUTE ARBITRATION.—The Commission, by rule, may prohibit, or impose conditions or limitations on the use of, agreements that require customers or clients of any investment adviser to arbitrate any future dispute between them arising under the federal securities laws or the rules of a self-regulatory organization if it finds that such prohibition, imposition of conditions, or limitations are in the public interest and for the protection of investors.”.

SEC. 922 WHISTLEBLOWER PROTECTION.

The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by adding after section 21E the following new section:

“SEC. 21F. SECURITIES WHISTLEBLOWER INCENTIVES AND PROTECTION.

“(a) IN GENERAL.—In any judicial or administrative action brought by the Commission under the securities laws that results in monetary sanctions exceeding $1,000,000, the Commission, under regulations prescribed by the Commission and subject to subsection (b), may pay an award or awards not exceeding an amount equal to 30 percent, in total, of the monetary sanctions imposed in the action or related actions to one or more whistleblowers who voluntarily provided original information to the Commission that led to the successful enforcement of the action. Any amount payable under the preceding sentence shall be paid from the fund described in subsection (f).

“(b) DETERMINATION OF AMOUNT OF AWARD; DENIAL OF AWARD.—

“(1) DETERMINATION OF AMOUNT OF AWARD.—The determination of the amount of an award, within the limit specified in subsection (a), shall be in the sole discretion of the Commission. The Commission may take into account the significance of the
whistleblower’s information to the success of the judicial or administrative action described in subsection (a), the degree of assistance provided by the whistleblower and any legal representative of the whistleblower in such action, the Commission’s programmatic interest in deterring violations of the securities laws by making awards to whistleblowers who provide information that leads to the successful enforcement of such laws, and such additional factors as the Commission may establish by rules or regulations.

“(2) DENIAL OF AWARD.—No award under subsection (a) shall be made—

“(A) to any individual who is, or was at the time he or she acquired the original information submitted to the Commission, a member, officer, or employee of any appropriate regulatory agency, the Department of Justice, or a self-regulatory organization;

“(B) to any individual who is convicted of a criminal violation related to the judicial or administrative action for which the individual otherwise could receive an award under this section; or

“(C) to any individual who fails to submit information to the Commission in such form as the Commission may, by rule, require.

“(c) REPRESENTATION.—

“(1) PERMITTED REPRESENTATION.—Any whistleblower who makes a claim for an award under subsection (a) may be represented by counsel.

“(2) REQUIRED REPRESENTATION.—Any whistleblower who makes a claim for an award under subsection (a) must be represented by counsel if the whistleblower submits the information upon which the claim is based anonymously. Prior to the payment of an award, a
whistleblower must disclose his or her identity and provide such other information as the Commission may require.

“(d) NO CONTRACT NECESSARY.—No contract with the Commission is necessary for any whistleblower to receive an award under subsection (a), unless the Commission, by rule or regulation, so requires.

“(e) APPEALS.—Any determinations under this section, including whether, to whom, or in what amounts to make awards, shall be in the sole discretion of the Commission, and any such determinations shall be final and not subject to judicial review.

“(f) INVESTOR PROTECTION FUND.—

“(1) FUND ESTABLISHED.—There is established in the Treasury of the United States a fund to be known as the “Securities and Exchange Commission Investor Protection Fund” (referred to in this section as the “Fund”).

“(2) USE OF FUND.—The Fund shall be available to the Commission, without further appropriation or fiscal year limitation, for the following purposes:

“(A) paying awards to whistleblowers as provided in subsection (a); and.

“(B) funding investor education initiatives designed to help investors protect themselves against securities fraud or other violations of the securities laws, or the rules and regulations thereunder.

“(2) DEPOSITS AND CREDITS.—There shall be deposited into or credited to the Fund—

“(A) any monetary sanction collected by the Commission in any judicial or administrative action brought by the Commission under the securities laws that is not added to a disgorgement fund pursuant to Section 308 of the Sarbanes-
Oxley Act of 2002 or other fund or otherwise distributed to victims of a violation of the securities laws, or the rules and regulations thereunder, underlying such action, unless the balance of the Fund at the time the monetary sanction is collected exceeds $100,000,000;

“(B) any monetary sanction added to a disgorgement fund pursuant to Section 308 of the Sarbanes-Oxley Act of 2002 or other fund that is not distributed to the victims for whom the disgorgement fund was established, unless the balance of the Fund at the time the determination is made not to distribute the monetary sanction to such victims exceeds $100,000,000; and

“(C) all income from investments made under paragraph (3).

“(3) INVESTMENTS.—

“(A) AMOUNTS IN FUND MAY BE INVESTED.—The Commission may request the Secretary of the Treasury to invest the portion of the Fund that is not, in the Commission’s judgment, required to meet the current needs of the Fund.

“(B) ELIGIBLE INVESTMENTS.—Investments shall be made by the Secretary of the Treasury in obligations of the United States or obligations that are guaranteed as to principal and interest by the United States, with maturities suitable to the needs of the Fund as determined by the Commission.

“(C) INTEREST AND PROCEEDS CREDITED.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to, and form a part of, the Fund.

“(4) REPORTS TO CONGRESS.—Not later than October 30 of each year, the Commission shall transmit to the Committee on Banking, Housing, and Urban Affairs of
the Senate, and the Committee on Financial Services of the House of Representatives a

report on—

“(A) the Commission’s whistleblower award program under this section, including a description of the number of awards granted and the types of cases in which awards were granted during the preceding fiscal year;

“(B) investor education initiatives described in paragraph (1)(B) that were funded by the Fund during the preceding fiscal year;

“(C) the balance of the Fund at the beginning of the preceding fiscal year;

“(D) the amounts deposited into or credited to the Fund during the preceding fiscal year;

“(E) the amount of earnings on investments of amounts in the Fund during the preceding fiscal year;

“(F) the amount paid from the Fund during the preceding fiscal year to whistleblowers pursuant to subsection (a);

“(G) the amount paid from the Fund during the preceding fiscal year for investor education initiatives described in paragraph (1)(B);

“(H) the balance of the Fund at the end of the preceding fiscal year; and

“(I) a complete set of audited financial statements, including a balance sheet, income statement, and cash flow analysis.

“(g) PROTECTION OF WHISTLEBLOWERS.—

“(1) PROHIBITION AGAINST RETALIATION.—

“(A) IN GENERAL.—Any employee, contractor, or agent shall be entitled to all relief necessary to make that employee, contractor, or agent whole, if that
employee, contractor, or agent is discharged, demoted, suspended, threatened, 
harassed, or in any other manner discriminated against in the terms and conditions 
of employment because of any lawful act done by the employee, contractor, or 
agent or associated others in providing information to the Commission in 
accordance with subsection (a), or in assisting in any investigation or judicial or 
administrative action of the Commission based upon or related to such 
information.

“(B) RELIEF.—Relief under subparagraph (A) shall include reinstatement 
with the same seniority status that the employee, contractor, or agent would have 
had, but for the discrimination, 2 times the amount of back pay, with interest; and 
compensation for any special damages sustained as a result of the discrimination, 
including litigation costs, expert witness fees, and reasonable attorneys’ fees. An 
action under this subsection may be brought in the appropriate district court of the 
United States for the relief provided in this subsection.

“(C) PROCEDURE.—

“(i) SUBPOENAS.—A subpoena requiring the attendance of a 
witness at a trial or hearing conducted under this section may be served at 
any place in the United States.

“(ii) STATUTE OF LIMITATIONS.—An action under this subsection 
may not be brought more than 6 years after the date on which the violation 
reported in section (a) is committed, or more than 3 years after the date 
when facts material to the right of action are known or reasonably should 
have been known by the whistleblower, but in no event after 10 years after
the date on which the violation is committed.

“(2) CONFIDENTIALITY.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), all information provided to the Commission by a whistleblower shall be confidential and privileged as an evidentiary matter (and shall not be subject to civil discovery or other legal process) in any proceeding in any Federal or State court or administrative agency, and shall be exempt from disclosure, in the hands of an agency or establishment of the Federal Government, under the Freedom of Information Act (5 U.S.C. 552), or otherwise, unless and until required to be disclosed to a defendant or respondent in connection with a public proceeding instituted by the Commission or any entity described in subparagraph (B). For purposes of section 552 of title 5, United States Code, this paragraph shall be considered a statute described in subsection (b)(3)(B) of such section 552. Nothing herein is intended to limit the Attorney General’s ability to present such evidence to a grand jury or to share such evidence with potential witnesses or defendants in the course of an ongoing criminal investigation.

“(B) AVAILABILITY TO GOVERNMENT AGENCIES.—Without the loss of its status as confidential and privileged in the hands of the Commission, all information referred to in subparagraph (A) may, in the discretion of the Commission, when determined by the Commission to be necessary to accomplish the purposes of this Act and protect investors, be made available to—

“(i) the Attorney General of the United States;

“(ii) an appropriate regulatory authority;
“(iii) a self-regulatory organization;

“(iv) State attorneys general in connection with any criminal investigation; and

“(v) any appropriate State regulatory authority,

each of which shall maintain such information as confidential and privileged, in accordance with the requirements in subparagraph (A).

“(3) RIGHTS RETAINED.—Nothing in this section shall be deemed to diminish the rights, privileges, or remedies of any whistleblower under any Federal or State law, or under any collective bargaining agreement.

“(h) RULEMAKING AUTHORITY.—The Commission shall have the authority to issue such rules and regulations as may be necessary or appropriate to implement the provisions of this section consistent with the purposes of this section.

“(i) DEFINITIONS.—For purposes of this section, the following terms have the following meanings:

“(1) ORIGINAL INFORMATION.—The term ‘original information’ means information that—

“(A) is based on the direct and independent knowledge or analysis of a whistleblower;

“(B) is not known to the Commission from any other source; and

“(C) is not based on allegations in a judicial or administrative hearing, in a governmental report, hearing, audit, or investigation, or from the news media, unless the whistleblower is the initial source of the information that resulted in the judicial or administrative hearing, governmental report, hearing, audit, or
investigation, or the news media’s report on the allegations.

“(2) MONETARY SANCTIONS.—The term ‘monetary sanctions,’ when used with respect to any judicial or administrative action, means any monies, including but not limited to penalties, disgorgement, and interest, ordered to be paid, and any monies deposited into a disgorgement fund pursuant to Section 308(b) of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7246(b)), as a result of such action or any settlement of such action.

“(3) RELATED ACTION.—The term ‘related action,’ when used with respect to any judicial or administrative action brought by the Commission under the securities laws, means any judicial or administrative action brought by an entity described in subsection (g)(2)(B) that is based upon the same original information provided by a whistleblower pursuant to subsection (a) that led to the successful enforcement of the Commission action.

“(4) WHISTLEBLOWER.—The term ‘whistleblower’ means an individual, or two or more individuals acting jointly, who submit information to the Commission as provided in this section.”.

SEC. 923. CONFORMING AMENDMENTS FOR WHISTLEBLOWER PROTECTION.

(a) IN GENERAL.—Each of the following provisions is amended by inserting “and section 21F of the Securities Exchange Act of 1934” after “the Sarbanes-Oxley Act of 2002”:


(2) in section 21A(d)(1) (15 U.S.C. 78u-1(d)(1)), by

(A) striking “(subject to subsection (e))”; and

(B) inserting “and section 21F of this title” after “the Sarbanes-Oxley Act of 2002”; and

(C) by striking section 21A(e) (15 U.S.C. 78u-1(e)) and renumbering sections 21A(f) and (g) (15 U.S.C. 78u-1(f) and (g)) as sections 21A(e) and (f).

SEC. 924. IMPLEMENTATION AND TRANSITION PROVISIONS FOR WHISTLEBLOWER PROTECTIONS.

(a) IMPLEMENTING RULES.—The Securities and Exchange Commission shall issue final regulations implementing the provisions of section 21F of the Securities Exchange Act of 1934, as added by this subtitle, no later than 270 days after the date of enactment of this Act.

(b) ORIGINAL INFORMATION.—Information submitted to the Commission by a whistleblower in accordance with regulations implementing the provisions of section 21F of the Securities Exchange Act of 1934, as added by this subtitle, shall not lose its status as original information, as defined in section 21F(i)(1) of the Securities Exchange Act of 1934, as added by this subtitle, solely because the whistleblower submitted such information prior to the effective date of such regulations, provided such information was submitted after the date of enactment of this subtitle, or related to insider trading violations for which a bounty could have been paid at the time such information was submitted.
(c) AWARDS.—A whistleblower may receive an award pursuant to section 21F of the Securities Exchange Act of 1934, as added by this subtitle, regardless of whether any violation of a provision of the securities laws, or a rule or regulation thereunder, underlying the judicial or administrative action upon which the award is based occurred prior to the date of enactment of this subtitle.

SEC. 925. COLLATERAL BARS.

(a) SECTION 15 OF THE SECURITIES EXCHANGE ACT OF 1934.—Section 15(b)(6)(A) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(b)(6)(A)) is amended by striking “12 months, or bar such person from being associated with a broker or dealer,” and inserting “12 months, or bar any such person from being associated with a broker, dealer, investment adviser, municipal securities dealer, transfer agent, or nationally recognized statistical rating organization,”.

(b) SECTION 15B OF THE SECURITIES EXCHANGE ACT OF 1934.—Section 15B(c)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-4(c)(4)) is amended by striking “twelve months or bar any such person from being associated with a municipal securities dealer,” and inserting “twelve months or bar any such person from being associated with a broker, dealer, investment adviser, municipal securities dealer, transfer agent, or nationally recognized statistical rating organization,”.

(c) SECTION 17A OF THE SECURITIES EXCHANGE ACT OF 1934.—Section 17A(c)(4)(C) of the Securities Exchange Act of 1934 (15 U.S.C. 78q-1(c)(4)(C)) is amended by striking “twelve months or bar any such person from being associated with the transfer agent,” and inserting “twelve months or bar any such person from being associated with any transfer agent, broker, dealer, investment adviser, municipal securities dealer, or nationally recognized statistical rating organization,”.
(d) SECTION 203 OF THE INVESTMENT ADVISERS ACT OF 1940.—Section 203(f) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-3(f)) is amended by striking “twelve months or bar any such person from being associated with an investment adviser,” and inserting “twelve months or bar any such person from being associated with an investment adviser, broker, dealer, municipal securities dealer, transfer agent, or nationally recognized statistical rating organization,”.

SEC. 926. AIDING AND ABETTING AUTHORITY UNDER THE SECURITIES ACT AND THE INVESTMENT COMPANY ACT.

(a) UNDER THE SECURITIES ACT OF 1933.—Section 15 of the Securities Act of 1933 (15 U.S.C. 77o) is amended to read as follows:

“SEC. 15. LIABILITY OF CONTROLLING PERSONS AND PERSONS WHO AID AND ABET VIOLATIONS.

“(a) CONTROLLING PERSONS.—Every person who, by or through stock ownership, agency, or otherwise, or who, pursuant to or in connection with an agreement or understanding with one or more other persons by or through stock ownership, agency, or otherwise, controls any person liable under section 11, or 12, shall also be liable jointly and severally with and to the same extent as such controlled person to any person to which such controlled person is liable, unless the controlling person had no knowledge of or reasonable ground to believe in the existence of the facts by reason of which the liability of the controlled person is alleged to exist.

“(b) PROSECUTION OF PERSONS WHO AID AND ABET VIOLATIONS.—For purposes of any action brought by the Commission under subparagraph (b) or (d) of section 20, any person that knowingly or recklessly provides substantial assistance to another person in violation of a provision of this Act, or of any rule or regulation issued under this Act, shall be deemed to be in
violation of such provision to the same extent as the person to whom such assistance is
provided.”.

(b) UNDER THE INVESTMENT COMPANY ACT OF 1940.—Section 48 of the Investment
Company Act of 1940 (15 U.S.C. 80a-48) is amended to read as follows:

“SEC. 48. LIABILITY OF CONTROLLING PERSONS AND PERSONS WHO AID AND
ABET VIOLATIONS; PREVENTING COMPLIANCE WITH ACT.

“(a) CONTROLLING PERSONS.—It shall be unlawful for any person, directly or indirectly,
to cause to be done any act or thing through or by means of any other person which it would be
unlawful for such person to do under the provisions of this Act or any rule, regulation, or order
thereunder.

“(b) PROSECUTION OF PERSONS WHO AID AND ABET VIOLATIONS.—For purposes of any
action brought by the Commission under subsection (d) or (e) of section 42, any person that
knowingly or recklessly provides substantial assistance to another person in violation of a
provision of this Act, or of any rule or regulation issued under this Act, shall be deemed to be in
violation of such provision to the same extent as the person to whom such assistance is provided.

“(c) PREVENTING COMPLIANCE WITH ACT.—It shall be unlawful for any person without
just cause to hinder, delay, or obstruct the making, filing, or keeping of any information,
document, report, record, or account required to be made, filed, or kept under any provision of
this Act or any rule, regulation, or order thereunder.”.

SEC. 927. AUTHORITY TO IMPOSE PENALTIES FOR AIDING AND ABETTING
VIOLATIONS OF THE INVESTMENT ADVISERS ACT.

Section 209 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-9) is amended by
inserting at the end the following new subsection:
“(f) AIDING AND ABETTING.—For purposes of any action brought by the Commission
under subsection (e), any person that knowingly or recklessly has aided, abetted, counseled,
commanded, induced, or procured a violation of any provision of this Act, or of any rule,
regulation, or order hereunder, shall be deemed to be in violation of such provision, rule,
regulation, or order to the same extent as the person that committed such violation.”.