

115TH CONGRESS  
2D SESSION

# S. 3733

To prohibit the Securities and Exchange Commission from compelling a person to produce or furnish algorithmic trading source code or similar intellectual property to the Commission unless the Commission first issues a subpoena, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

DECEMBER 10, 2018

Mr. PERDUE introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

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## A BILL

To prohibit the Securities and Exchange Commission from compelling a person to produce or furnish algorithmic trading source code or similar intellectual property to the Commission unless the Commission first issues a subpoena, and for other purposes.

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 “Protection of Source  
5 Code Act”.

1 **SEC. 2. PROCEDURE FOR OBTAINING CERTAIN INTELLEC-**  
2 **TUAL PROPERTY.**

3 (a) PERSONS UNDER SECURITIES ACT OF 1933.—  
4 Section 8 of the Securities Act of 1933 (15 U.S.C. 77h)  
5 is amended by adding at the end the following:

6 “(g) PROCEDURE FOR OBTAINING CERTAIN INTEL-  
7 LECTUAL PROPERTY.—Under this title, the Commission  
8 may not compel a person to produce or furnish source  
9 code, including algorithmic trading source code or similar  
10 intellectual property that forms the basis for design of the  
11 source code, to the Commission unless the Commission  
12 first issues a subpoena.”.

13 (b) PERSONS UNDER THE SECURITIES EXCHANGE  
14 ACT OF 1934.—Section 23 of the Securities Exchange Act  
15 of 1934 (15 U.S.C. 78w) is amended by adding at the  
16 end the following:

17 “(e) PROCEDURE FOR OBTAINING CERTAIN INTEL-  
18 LECTUAL PROPERTY.—Under this title, the Commission  
19 may not compel a person to produce or furnish source  
20 code, including algorithmic trading source code or similar  
21 intellectual property that forms the basis for design of the  
22 source code, to the Commission unless the Commission  
23 first issues a subpoena.”.

24 (c) INVESTMENT COMPANIES.—Section 31 of the In-  
25 vestment Company Act of 1940 (15 U.S.C. 80a–30) is  
26 amended by adding at the end the following:

1       “(e) PROCEDURE FOR OBTAINING CERTAIN INTEL-  
2 LECTUAL PROPERTY.—Under this title, the Commission  
3 may not compel an investment company to produce or fur-  
4 nish source code, including algorithmic trading source  
5 code or similar intellectual property that forms the basis  
6 for design of the source code, to the Commission unless  
7 the Commission first issues a subpoena.”.

8       (d) INVESTMENT ADVISERS.—Section 204 of the In-  
9 vestment Advisers Act of 1940 (15 U.S.C. 80b–4) is  
10 amended—

11           (1) by redesignating the second subsection (d)  
12           (relating to records of persons with custody or use)  
13           as subsection (e); and

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

15       “(f) PROCEDURE FOR OBTAINING CERTAIN INTEL-  
16 LECTUAL PROPERTY.—Under this title, the Commission  
17 may not compel an investment adviser to produce or fur-  
18 nish source code, including algorithmic trading source  
19 code or similar intellectual property that forms the basis  
20 for design of the source code, to the Commission unless  
21 the Commission first issues a subpoena.”.

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