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107TH CONGRESS }  
*1st Session* }

SENATE

{ REPORT  
107-3

COMPETITIVE MARKET SUPERVISION  
ACT OF 2001

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R E P O R T

OF THE

COMMITTEE ON BANKING, HOUSING,  
AND URBAN AFFAIRS  
UNITED STATES SENATE

TO ACCOMPANY

S. 143



MARCH 14, 2001.—Ordered to be printed

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WASHINGTON : 2001

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### COMPETITIVE MARKET SUPERVISION ACT OF 2001

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MARCH 14, 2001.—Ordered to be printed

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Mr. GRAMM, from the Committee on Banking, Housing, and Urban Affairs, submitted the following

### REPORT

[To accompany S. 143]

The Committee on Banking, Housing, and Urban Affairs, to which was referred the bill (S. 143) to amend the Securities Act of 1933 and the Securities Exchange Act of 1934 to reduce securities fees in excess of those required to fund the operations of the Securities and Exchange Commission, to adjust compensation provisions for employees of the commission, and for other purposes, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill as amended do pass.

#### INTRODUCTION

On March 1, 2001, the Senate Committee on Banking, Housing, and Urban Affairs met in legislative session and marked up and ordered to be reported S. 143, the Competitive Market Supervision Act of 2001, a bill to amend the Securities Act of 1933 and the Securities Exchange Act of 1934 to reduce securities fees in excess of those required to fund the operations of the Securities and Exchange Commission, to adjust compensation provisions for employees of the Commission, and for other purposes, with a recommendation that the bill do pass, with an amendment in the nature of a substitute. The Committee reported the bill favorably by voice vote.

#### HISTORY OF LEGISLATION

The Competitive Market Supervision Act of 2001, S. 143, is the culmination of more than three years worth of work by the committee in addressing the problem of excess securities user fees collected by the Securities and Exchange Commission (SEC, or Commission). During the first session of the 106th Congress, on

Wednesday, March 24, 1999, a hearing was held by the Subcommittee on Securities on the need to reduce the excess of user fees. Testimony was received from the Honorable Arthur Levitt, Chairman, Securities and Exchange Commission; Marc Lackritz, President, Securities Industry Association; Lee Korins, President and Chief Executive Officer, Security Traders Association; Arthur Kearney, Chairman, Security Traders Association; and Robert W. Seijas, Executive Vice President of Fleet Specialists and Co-President of the Specialists Association.

The full committee conducted a legislative hearing in New York on February 28, 2000, on S. 2107, the Competitive Market Supervision Act of 2000. Testimony was received from SEC Chairman Arthur Levitt; J. Patrick Campbell, Chief Operating Officer and Executive Vice President, Nasdaq-Amex Market Group Inc.; Keith Helsby, Senior Vice President and Chief Financial Officer, New York Stock Exchange; Hardwick Simmons, President and Chief Executive Officer, Prudential Securities Inc.; Leopold Korins, President and Chief Executive Officer of the Security Traders Association; and Robert Seijas, Executive Vice president, Fleet Specialists, and Co-President, Specialists Association.

On July 13, 2000, the Committee met in legislative session to mark up the Competitive Market Supervision Act of 2000 (S. 2107). The Committee by voice vote reported the bill as amended to the Senate for consideration.

Building on the momentum established during the last Congress, the Competitive Market Supervision Act of 2001 (S. 143) was introduced on January 22, 2001. On February 14, 2001, the Committee on Banking, Housing, and Urban Affairs conducted a legislative hearing on S. 143, the Competitive Market Supervision Act of 2001. Testimony was received from the Honorable Laura Unger, Acting Chairman, Securities and Exchange Commission; Mr. Robert Fagenson, Vice Chairman, Van Der Moolen Specialists, on behalf of the Specialist Association; Marc Lackritz, President, Securities Industry Association; Mr. James E. Burton, Chief Executive Officer, California Public Employees Retirement System (CalPERS); Mr. Leopold Korins, President and Chief Executive Officer, Security Traders Association; Mr. Robert Forney, Chief Executive Officer, Chicago Stock Exchange.

On March 1, 2001, the Committee met in legislative session to mark up the Competitive Market Supervision Act of 2001 (S. 143). During mark up the Committee considered only one amendment. Chairman Gramm and Senator Schumer offered an amendment in the form of a substitute that provided for technical changes to the legislation. The amendment was accepted by voice vote, and the Committee, by voice vote, reported the bill as amended to the Senate for consideration.

#### BACKGROUND

##### *Origins of securities fees*

Since its creation, the Commission has collected securities-related fees. Section 6(b) of the Securities Act of 1933 imposed fees on the registration of securities at a rate equal to one one-hundredths percent of the offering price. In 1965, registration fee rates were increased to one fiftieth percent. These fees were deposited in

the Treasury as general revenue. Section 31 of the Securities Exchange Act of 1934 imposed fees on transactions of exchange-traded securities at a rate equal to one five-hundredths percent of the aggregate amount of sales. This fee rate was later increased to one three-hundredths percent, and, like the registration fees, were deposited in the Treasury as general revenue. The 1983 Securities Exchange Act Amendments (Public Law 98–38; June 6, 1983) imposed general revenue fees on mergers, proxy solicitations, and other activities to the extent registration fees were not already imposed, at a rate equal to one fiftieth percent of the value of the securities involved. The Commodity Futures Modernization Act of 2000 (Public Law 106–554; December 21, 2000) created Section 31(e) of the Securities Exchange Act of 1934. This section applied an initial \$0.02 per round turn assessment on transactions involving narrow based and single stock securities futures products, which subsequently drops to \$0.0075 per transaction after 2006.

Paragraph (1) of Section 6(b) states that registration fees “are designed to recover the costs to the government of the securities registration process,” while subsection (a) of Section 31 states that transaction fees “are designed to recover the costs to the government of the supervision and regulation of securities market and securities professionals.” However, since the fees were all deposited as general revenues, resources to operate the Commission had to be provided in annual appropriations acts. Beginning in fiscal year 1990, and continuing through FY 1997, annual appropriations acts contained language increasing registration fee rates to one twenty-ninth percent, with the amount of fees in excess of the one fiftieth percent rate credited as offsetting collections. By imposing new fees and dedicating them to offsetting appropriations for the Commission, the appropriations acts effectively reduced the amount of direct appropriations for the Commission, the appropriations acts effectively reduced the amount of direct appropriations required to fund the Commission.

#### *The National Securities Markets Improvement Act of 1996*

To balance the goals of providing sufficient resources to the Commission and minimizing taxation of investment, Congress enacted the National Securities Markets Improvement Act of 1996 (NSMIA). This legislation began a gradual reduction in registration fee rates from the equivalent of one twenty-ninth percent in FY 1997 to one fiftieth percent in FY 2006, with a further reduction to one one-hundred-fiftieth percent in FY 2007 and thereafter. In addition, NSMIA set up a reduction in transaction fee rates, which remain at one three-hundredth percent through FY 2006 and then drop to one eight-hundredth percent in FY 2007 and thereafter.

Accompanying this reduction in fee rates was a reallocation of fees credited as offsetting collections. Registration fees credited as offsetting collections would slowly be phased out (leaving only general revenue registration fees), while transaction fees would for the first time be applied to last-reported-sale securities traded primarily on the national market systems, with these new transaction fees credited as offsetting collections. Using projections of securities market activities available at the time, total fee collections were expected to fall from \$711 million in FY 1997 to \$351 million in FY 2007. In the words of the Joint Explanatory Statement of the

NSMIA conference report, “It is the intent of the Managers that at the end of the applicable ten year period, the SEC collect in fees a sum approximately equal to the cost of running the agency.”

Since the time NSMIA was signed into law on October 11, 1996, there has been an unexpected surge in securities market activity, with growth in share values and trading volumes far outstripping the projections that guided NSMIA’s authors. Nasdaq transaction fees alone were expected to grow at a 5 percent annual rate. Instead, these fees have grown more than 500 percent in just three years, and are now projected by some to grow at an annual rate of 15 percent according to the Office of Management and Budget, and at an annual rate of 25 percent according to the Congressional Budget Office (CBO). Registration fees on exchange-traded securities transactions have also grown enormously and are now running at double the levels projected at the time of NSMIA. Thus, while the goal of NSMIA was to have fee collections approximately equal the cost to the Government of securities regulation, in actuality the Commission is projected to collect nearly six hundred percent of the SEC’s budget in fees in FY 2001. Moreover, while projections at the time of the enactment of NSMIA showed a significant share of total fees being allocated to offsetting collections, the bulk of these offsetting collections would be reclassified as general revenues if the Nasdaq Stock Market ceases to be a national market system and becomes a national stock exchange.

#### PURPOSE AND SCOPE OF LEGISLATION

##### *Reduction of securities user fees*

The original objective of the user fees collected by the SEC was to provide a funding source for the Government’s securities regulation. However, increases in stock market volume and valuation have generated revenues that far surpass what is needed to operate the agency. For example, aggregate fee revenue in FY 2000 was \$2.27 billion while the SEC’s budget totaled \$368 million. The latest CBO projections predict that this imbalance will worsen even further, with total SEC fee revenues increasing to nearly \$4.3 billion by FY 2006. The Committee believes that, rather than user fees, these revenues have become taxes on savings and investment in order to fund general government operations. In the Committee’s view, the excess collections of Section 31 fees are simply a tax that lowers the returns of every investor who buys stock, owns a mutual fund, or plans to use Individual Retirement Accounts, 401(k) plans, or pensions to retire. Furthermore, excess Section 6(b) fees are particularly harmful since these taxes are imposed at the beginning of the investment cycle, subtracting from the economy monies that could be leveraged into several times their value to finance companies’ efforts to spur growth, employment, and wealth creation.

Section 2 of the reported legislation amends Section 6(b) of the Securities Act of 1933 to lower registration fee rates. In addition, this section eliminates the general revenue portion of the registration fee. The offsetting collection rate is set at \$67 per \$1 million of securities registered for FY 2002–06, and at \$33 per \$1 million for FY 2007 and thereafter. Section 3 reduces merger and tender fee rates in Section 13(e)(3) and Section 14(g) of the Securities Ex-

change Act of 1934 from one fiftieth percent under current law to \$67 per \$1 million of securities involved for the period FY 2002–06, and reduces rates further to \$33 per \$1 million for FY 2007 and thereafter, and all fees are also reclassified from general revenues to offsetting collections. The Committee realize the importance of harmonizing the fee registration, and merger and tender fee rates so as to provide no distortions or inject any unintended incentives into the managerial decision as to when a merger should occur.

Under Section 4, all transactions included in Section 31 of the Securities Exchange Act of 1934 are consolidated, with the same fee rate applied to each as an offsetting collection. Transaction fees in any particular fiscal year will be set in appropriations acts at a rate estimated to collect the target dollar amount set in Section 4 for that year. The target dollar amount is calculated to approximate the amount of fees collected from equities and options transactions, so that, when combined with anticipated securities futures assessments, and registration and merger/tender fees, total offsetting collections will equal the offsetting collections projected to be produced by NSMIA. If current projections prove accurate, this will reduce transaction fee rates by about 40 percent.

*Authority of SEC to adjust to fee rates*

Given the difficulty in predicting fee revenues, the Committee realizes the importance of providing a framework that ensures full funding for the SEC. Therefore, Section 5 of this legislation provides the SEC with the authority to adjust fee rates to ensure that the agency is fully funded in the event that reductions in market valuations or volume bring about revenues below the legislative targets. In addition, Section 5 requires the agency to lower fee rates when fees are projected to bring in revenues that are in excess of the cap on total fee collections laid out in the bill. To provide a safeguard against misuse of the authority granted in Section 5, the legislation requires the agency to report to Congress before it exercises any authority to adjust fees.

It is important to emphasize that this makes no transfer of any legislative authority to the SEC. Congress sets out the total amount in fees to be collected and the initial rates designed to collect that total. The SEC is merely delegated the duty to adjust fee rates in order to avoid collecting significantly more or less than the totals set by Congress in law.

The Commission has informed the Committee of the desirability of an up-front appropriation which will provide full funding of the agency's Fiscal Year activities and operations. Without an up-front appropriation, the Commission could face a cash flow problem since the exchanges and the National Association of Securities Dealers (NASD) only pay Section 31 fees twice a year, on March 15 and September 30. The Commission is unable to spend the September 30 payment of Section 31 fees until it is actually received, and is therefore reliant on fees carried over from the prior fiscal year. Accordingly, the Committee encourages the Appropriations Committee to consider up-front appropriations to ensure that the Commission will be able to operate without interruption during the year.

*SEC pay comparability*

Section 6 amends the Securities Exchange Act of 1934 to permit the Commission to adjust base rates of compensation for all of its employees outside the Civil Service's General Schedule (GS). Under existing law, the SEC may do so only for its economists. The provisions allow parity among the SEC and Federal banking agency compensation programs. An amendment also is made to the Federal Deposit Insurance Act to bring the SEC within the consultation and information-sharing requirements of other agencies mentioned at 12 U.S.C. 1833b with respect to rates of employee compensation. A further technical amendment to section 1833b deletes references to entities that have been abolished.

Although the Committee believes in the need to provide parity of compensation to the SEC, the legislation does not require the SEC to institute such changes.

This is not to be interpreted as an entitlement or any form of mandatory spending requirement. The authority is permissive, and any increased spending the agency might seek in connection with this provision would have to be provided through the authorization and appropriations process. In testimony last year before the Congress, then SEC Chairman Arthur Levitt stated that during the past two years, the Commission lost 25 percent of its attorneys, accountants, and examiners.<sup>1</sup> This year's testimony by Acting Chairman Laura Unger noted that over the last two fiscal years the Commission has lost 30 percent of its attorneys, accountants, and examiners. Further, last year SEC records reflected an overall staff attrition rate of 13 percent, "nearly twice the government-wide average . . ." <sup>2</sup> The most recent data shows that the attrition rate for the agency edged up to just under 14 percent in FY 2000.

The legislation assures that reductions, if any, in the base pay of an SEC employee represented by a labor organization with exclusive recognition in accordance with Chapter 71 of Title 5 of the United States Code, result from negotiations between such organization and SEC management, rather than by reason of the enactment of this amendment.

## SECTION-BY-SECTION ANALYSIS

*Section 1. Short title*

Designates this title as the "Competitive Market Supervision Act of 2001."

*Section 2. Reduction in registration fees; elimination of general revenue component*

Registration fee rates in Section 6(b) of the Securities Act of 1933 (15 U.S.C. 77f(b)) are reduced. The general revenue portion of the registration fee is eliminated. The offsetting collection rate is set at \$67 per \$1 million of securities registered for FY 2002–2006, and at \$33 per \$1 million for FY 2007 and thereafter.

<sup>1</sup>Testimony of Chairman Arthur Levitt, before the Committee on Banking, Housing, and Urban Affairs, United States Senate, February 28, 2000, p. 5.

<sup>2</sup>Id., p. 5.

*Section 3. Reduction in merger and tender fees; reclassification as offsetting collections*

Section 3 reduces merger and tender fee rates in Section 13(e)(3) and Section 14(g) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(e)(3) and 78n(g), respectively) from one fiftieth percent under current law, to \$67 per \$1 million of securities involved for the period FY 2002–2006, and reduces rates further to \$33 per \$1 million for FY 2007 and thereafter. All fees are reclassified from general revenues to offsetting collections.

*Section 4. Reduction in transaction fees; elimination of general revenue component*

Under this section, all transactions included in Section 31 of the Securities Exchange Act of 1934 are consolidated and designated as offsetting collections. Transaction fees on options and equity securities in any particular fiscal year will be set at the same rate in appropriations acts so as to collect the target dollar amount set for that year. The target dollar amount is calculated to approximately the amount, when combined with anticipated securities futures assessments, and registration and merger/tender fee, that will approximately equal the offsetting collections anticipated to be produced under current law.

*Section 5. Adjustment to fee rates*

The Commission is given authority to increase or decrease transaction fee rates after the first half of the fiscal year if projections show that either the cap or floor for total fee collections will be breached. To provide a safeguard against misuse of the authority granted in Section 5, the legislation requires the agency to report to Congress before it exercises any authority to adjust fees.

*Section 6. Comparability provisions*

Section 6(a) amends Section 4(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78d(b)) to authorize, but not require, the SEC to compensate its employees according to a scale outside the Federal Government's General Schedule (GS) rates. Pursuant to this authority, the SEC may provide additional compensation and benefits to its employees on the same comparable basis as do the agencies referred to under Section 1206(a) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833b). Such agencies include the Federal banking agencies, the National Credit Union Administration, the Federal Housing Finance Board, and the Farm Credit Administration. The amendment ensures that reductions, if any, in base pay for an employee of the SEC represented by a labor organization with exclusive recognition in accordance with Chapter 71 of Title 5 of the United States Code, result from negotiations between such organization and SEC management, rather than by reason of the enactment of this amendment.

In establishing and adjusting schedules of compensation and benefits for its employees outside of GS rates, Section 6(b) requires the SEC to inform the heads of the agencies mentioned above and must seek to maintain comparability with such agencies regarding compensation and benefits. There is nothing in the bill that requires setting compensation outside of GS rates, and there is no entitle-

ment or mandated spending envisioned either explicitly or implicitly. A technical change is made to strike from Section 1206(a) the reference to the Thrift Depositor Protection Oversight Board of the Resolution Trust Corporation, which was abolished on December 31, 1995. Section 6(c) provides certain conforming amendments to Title 5 of the United States Code to reflect changes made under subsection (a).

*Section 7. Effective date*

In general, the bill becomes effective October 1, 2001. However, the authorities provided by Section 13(e)(3)(D), Section 14(g)(1)(D), Section 14(g)(3)(D), and Section 31(d) of the Securities Exchange Act of 1934, as so designated by this title shall not apply until October 1, 2002.

REGULATORY IMPACT STATEMENT

In accordance with Paragraph 11(g), rule XXVI of the Standing Rules of the Senate, the Committee makes the following statement regarding the regulatory impact of the bill.

The bill dramatically lowers user fees on securities transactions and registrations, as well as mergers and tender offerings. The reduction of these fees lowers the cost of savings and investment for consumers, and reduces fee burden on businesses that raise capital in the securities markets. According to the Congressional Budget Office's January 2001 baseline, beginning in FY 2002, the savings to investors and issuers from this bill are expected to be \$8.9 billion over five years, and \$14 billion over ten years.

Section 6 provides the SEC with authority to compensate its employees according to a scale outside of the Federal Government's General Schedule rates. This compensation parity provision will result in no increase in regulatory burden. Neither does it necessitate any increase in the SEC budget, since the increase is not mandatory. That is to say, the SEC would exercise this authority on a discretionary basis within the context of funds made available to the Commission by Congress through the normal authorization and appropriations process.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

Senate rule XXVI, Section 11(b) of the Standing Rules of the Senate, and Section 403 of the Congressional Budget Impoundment and Control Act, require that each committee report on a bill containing a statement estimating the cost of the proposed legislation, which was prepared by the Congressional Budget Office. The Congressional Budget Office Cost Estimate and its Estimate of Costs of Private-Sector Mandates, both dated March 14, 2001, are hereby included in this report.

The Committee notes that the Congressional Budget Office finds, as the Committee intended, that "the fee-related provisions of S. 143 would have no significant effect on the total fees that are recorded as offsetting collections" available for appropriations purposes.

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, March 14, 2001.*

Hon. PHIL GRAMM,  
*Chairman, Committee on Banking, Housing, and Urban Affairs,  
U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 143, the Competitive Market Supervision Act of 2001.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Ken Johnson (for federal costs), Susan Sieg Tompkins (for the state and local impact), and Jean Talarico (for the private-sector impact).

Sincerely,

BARRY B. ANDERSON  
(For Dan L. Crippen, Director).

Enclosure.

*S. 143—Competitive Market Supervision Act of 2001*

Summary: S. 143 would adjust the fees and assessments that the Securities and Exchange Commission (SEC) is authorized to collect for registrations, mergers, and transactions of securities. Under current law, some of those fees and assessments are recorded in the budget as governmental receipts (revenues), and some are recorded as offsetting collections that are credited against discretionary appropriations for the SEC. The bill would reclassify all SEC fees and assessments as offsetting collections, reduce the fee rates, and require that total collections fall between a lower limit and an upper limit. If implemented, S. 143 would reduce the total amount of SEC fees from an estimated \$2.5 billion in fiscal year 2001 to about \$1.1 billion in 2002. CBO estimates that enacting S. 143 would reduce governmental receipts by \$1.5 billion in 2002 and by \$8.9 billion over the 2002–2006 period. Because S. 143 would affect governmental receipts, pay-as-you-go procedures would apply. Although the bill would change the rates of certain SEC fees that are treated as offsetting collections, CBO estimates that the net budgetary effect of these changes would not be significant, relative to CBO's current baseline estimates.

The bill also would authorize the SEC to increase employees' compensation and benefits to make them comparable to agencies that regulate banking, such as the Federal Deposit Insurance Corporation (FDIC) and the National Credit Union Administration (NCUA). Implementing the bill's compensation-related provisions would cost about \$59 million in 2002 and \$347 million over the 2002–2006 period, assuming the appropriation of the necessary amounts.

S. 143 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments. S. 143 would impose a private-sector mandate on the national securities exchanges and the national securities association. CBO estimates that the direct cost of the mandate would be below the annual threshold established by UMRA for private-sector mandates (\$109 million in 2000, adjusted for inflation).

Estimated cost to the Federal Government: The estimated budgetary impact of S. 143 is shown in Table 1. The costs of this legislation fall within budget function 370 (commerce and housing credit).

TABLE 1.—ESTIMATED BUDGETARY EFFECTS OF S. 143

	By fiscal year, in millions of dollars—					
	2001	2002	2003	2004	2005	2006
SPENDING SUBJECT TO APPROPRIATION						
CBO baseline estimate of net SEC spending:						
Estimated authorization level <sup>1</sup> .....	–594	0	0	0	0	0
Estimated outlays .....	–620	–156	–54	–62	–86	–97
Proposed changes:						
Estimated authorization level .....	0	65	69	71	73	75
Estimated outlays .....	0	59	69	71	73	75
Net SEC spending under S. 143:						
Estimated authorization level <sup>1</sup> .....	–594	65	69	71	73	75
Estimated outlays .....	–620	–97	15	9	–13	–22
CHANGES IN REVENUES						
Estimated revenues .....	0	–1,547	–1,601	–1,750	–1,919	–2,097

<sup>1</sup>The 2001 level is the estimated net amount appropriated for that year; the gross SEC appropriation for 2001 was \$423 million.

### *Basis of estimate*

CBO estimates that implementing the compensation-related provisions of S. 143 would increase the gross spending of the SEC by \$347 million over the 2002–2006 period, subject to future appropriations acts. We estimate that enactment of the bill would reduce revenues by \$1.5 billion in 2002 and by \$8.9 billion over the 2002–2006 period by eliminating those SEC fees and assessments that are currently recorded in the budget as revenues. Although the bill would restructure the SEC fees that are recorded as offsetting collections, CBO estimates that the net effect of the bill on these collections would be insignificant, relative to CBO’s current baseline estimates of such offsetting collections.

### *Spending subject to appropriation*

S. 143 would allow the SEC to adjust the compensation it offers to its employees. Also, the bill would restructure the fees the agency is authorized to charge as an offset to its discretionary appropriations. CBO estimates that this restructuring should not significantly change the amount of such fees projected to be collected under our baseline assumptions.

*Changes in Gross Spending.*—Currently, SEC employees fall into two compensation categories: those subject to the pay scales of the civil service system, and those whose salaries have been adjusted to equal the amounts received by similar employees in the securities industry. S. 143 would authorize the SEC to raise the pay of both types of employees to a level commensurate with the compensation offered by federal banking regulatory agencies. Based on information from the SEC and several of the banking-related agencies, CBO estimates that implementing this provision of the bill would cost \$59 million in 2002 and \$347 million over the 2002–2006 period, assuming the appropriation of the necessary amounts.

*Changes in Offsetting Collections.*—S. 143 would restructure all four types of SEC collections: registration fees, merger and tender fees, assessments on the trading of single stock futures, and trans-

action fees (see Table 2). The bill also would establish an upper and lower limit on the total amount of offsetting collections the SEC may collect in any year. Based on historical information from the securities industry on the number and type of securities registered and traded, and the likelihood that offsetting collections would exceed the upper limit that would be established by the bill, CBO estimates that the fee-related provisions of S. 143 would have no significant effect on the total fees that are recorded as offsetting collections (relative to CBO's baseline).

*Transaction fees.*—Under current law, the SEC collects 1/300th of a percent of the aggregate dollars traded through national securities exchanges, national securities associations, brokers, and dealers. The fee rate will decline to 1/800th of a percent for 2007 and thereafter. Currently, fees collected from national securities associations are recorded as offsetting collections, while fees from other sources are recorded as revenues.

Under the bill, all transactions fees would be classified as offsetting collections. Furthermore, the bill would require that the transaction fee rate be established at the beginning of each fiscal year so that transaction fee collections in a given fiscal year will equal a target amount. For a given year, the target amount would be equal to a figure specified in the bill, minus the estimated assessments on trades of single stock futures that would be collected by the SEC in that year.

TABLE 2.—SEC FEES UNDER CBO'S BASELINE ESTIMATES AND S. 143

	By fiscal year, in millions of dollars—					
	2001	2002	2003	2004	2005	2006
SEC fees under CBO's January 2001 baseline:						
Transactions fees .....	1,370	1,627	1,887	2,284	2,712	3,189
Registration fees .....	1,024	980	953	912	958	999
Merger fees .....	84	89	93	97	99	100
Assessments on single stock futures .....	0	1	1	2	2	2
Total .....	2,478	2,697	2,934	3,295	3,771	4,290
SEC fee collections under S. 143:						
Transaction fees .....	1,370	843	1,020	1,218	1,502	1,821
Registration fees .....	1,024	275	280	292	313	335
Merger fees .....	84	30	31	32	33	33
Assessments on single stock futures .....	0	1	1	2	2	2
Total .....	2,478	1,149	1,332	1,544	1,850	2,191
Changes:						
Transaction fees .....	0	-784	-867	-1,066	-1,210	-1,368
Registration fees .....	0	-705	-673	-620	-645	-664
Merger fees .....	0	-59	-62	-65	-66	-67
Assessments on single stock futures .....	0	0	0	0	0	0
Total changes .....	0	-1,548	-1,602	-1,751	-1,921	-2,099

S. 143 also would require that the SEC adjust the transaction fee rate during the year so that total SEC fee collections (including fees for registrations, mergers, and transactions, and assessments for trades of single stock futures) would not fall below a specified minimum amount of collections, nor exceed a specified maximum amount of collections. The bill would set the minimum amount equal to the SEC's 2002 appropriation, adjusted annually for changes in inflation, or equal to the amount authorized to be ap-

appropriated for the SEC in a given year, whichever is greater. S. 143 would set the maximum amount of collections at a level that is 10 percent above the January 2001 CBO baseline estimate for total SEC collections for fiscal years 2002 through 2011. For fiscal years 2012 and thereafter, the bill would set the ceiling equal to the amount authorized to be appropriated for the SEC.

Taking into account the provisions that would establish a target level, as well as minimum and maximum levels of fees, CBO estimates that implementing S. 143 would yield \$843 million in 2002 from such fees. By comparison, under our current baseline assumptions, CBO estimates \$989 million in offsetting collections from transaction fees in 2002. (Under current law, we also estimate revenues of \$638 million in 2002 from transaction fees.)

*Registration fees.*—Under current law, the SEC collects a fee on the registration of securities. The current registration fee is \$200 per \$1 million of the maximum aggregate price for securities that are proposed to be offered during the 2002–2006 period. After 2006, the fee drops to \$67 per \$1 million of the maximum aggregate price for securities that are proposed to be offered. These fees are recorded as governmental receipts (revenues). Current law also requires, subject to appropriation, that the SEC charge an additional registration fee of \$39 per \$1 million of the maximum aggregate price for securities that are proposed to be offered in 2002. Under current law, this added registration fee gradually declines after 2002, until it ends at the end of 2005. These additional fees are recorded as offsetting collections.

S. 143 would eliminate all registration fees that are recorded as governmental receipts and would set fees that are recorded as offsetting collections at \$67 per \$1 million of the maximum aggregate price for securities that are proposed to be offered during the 2002–2006 period. The bill also would change the registration fees for 2007 and thereafter to \$33 per \$1 million of the maximum aggregate price for securities that are proposed to be offered. CBO estimates that under the bill the SEC would collect \$275 million in registration fees in 2002, subject to appropriation. By comparison, we estimate that under the CBO baseline the SEC would collect a total of \$980 million in registration fees in 2002 (\$820 million that would be recorded as revenues and \$160 million in offsetting collections).

*Merger and tender fees.*—Under current law, the SEC charges a merger fee equal to \$200 per \$1 million of the value of securities proposed to be purchased as part of a merger. These current fees are also currently recorded as revenues. S. 143 would eliminate the current merger fee and establish a new one that would be recorded as an offsetting collection at the rate of \$67 per \$1 million of the aggregate value of securities proposed to be purchased during the 2002–2006 period. The bill also would establish merger fees for 2007 and thereafter at the rate of \$33 per \$1 million of the aggregate value of securities proposed to be purchased as part of a merger. CBO estimates that under S. 143 the SEC would collect about \$30 million in merger fees in 2002, subject to appropriation. By comparison, under the CBO baseline, we estimate that merger fees would total \$89 million in 2002.

*Assessments on transactions of single stock futures.*—The Commodity Futures Modernization Act of 2000 allowed individuals to

begin trading futures on individual stocks. The act also established an assessment on these trades equal to 2 cents per transaction through 2006 and 0.75 cents per transaction for 2007 and thereafter. These assessments are currently recorded as governmental receipts (i.e., revenues). Under CBO's baseline, we project that these assessments will total \$1 million in 2002.

S. 143 would reclassify those assessments that are recorded as receipts and would treat them as offsetting collections subject to annual appropriation acts. The rates on these assessments would remain the same as under current law. CBO estimates that, under S. 143, the SEC would collect \$1 million in assessments on trading of single stock futures in 2002 and \$8 million over the 2002–2006 period.

*Summary.*—CBO's January 2001 baseline includes estimated offsetting collections for the SEC totaling about \$1.15 billion in 2002, rising to \$2.2 billion in 2006. We estimate the change in the fee rates paid for registrations, mergers, and transactions, and the reclassification of all SEC fees as offsetting collections would have no significant net effect on the offsetting collections received by the SEC (relative to our baseline projections).

#### *Revenues*

S. 143 would eliminate or reclassify all fees and assessments on registrations, mergers, and transactions that are currently recorded as revenues. CBO estimates that S. 143 would reduce revenues by \$8.9 billion over the 2002–2006 period, and by \$14.0 billion over the 2002–2011 period.

Pay-as-you-go considerations: The Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. The changes in governmental receipts that are subject to pay-as-you-go procedures are shown in Table 3. For the purposes of enforcing pay-as-you-go procedures, only the effects in the current year, the budget year, and the succeeding four years are counted.

TABLE 3.—ESTIMATED IMPACT OF S. 143 ON DIRECT SPENDING AND RECEIPTS

	By fiscal year, in millions of dollars—										
	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
Changes in outlays ....	Not applicable										
Changes in receipts ...	0	-1,547	-1,601	-1,750	-1,919	-2,097	-921	-933	-1,009	-1,087	-1,176

Estimated impact on State, local, and tribal governments: S. 143 contains no intergovernmental mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

Estimated impact on the private sector: S. 143 would require each national securities exchange and the national securities association to file monthly with the SEC an estimate of fees and assessments that they are required to pay. Based on information from government and industry sources, CBO estimates that the direct cost of the mandate would be below the annual threshold established by UMRA for private-sector mandates (\$109 million in 2000, adjusted for inflation).

Estimate prepared by: Federal costs: Ken Johnson and Erin Whitaker, impact on State, local, and tribal governments: Susan Sieg Tompkins, impact on the private sector: Jean Talarico.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis; Robertson C. Williams, Deputy Assistant Director for Tax Analysis.

CHANGES IN EXISTING LAW

In the opinion of the Committee, it is necessary to dispense with the requirement of Section 12 of rule XXVI of the Standing Rules of the Senate in order to expedite the business of the Senate.

