Public Law 107–123
107th Congress

An Act

Jan. 16, 2002
[H.R. 1088]

To amend the Securities Exchange Act of 1934 to reduce fees collected by the Securities and Exchange Commission, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Investor and Capital Markets Fee Relief Act. 15 USC 78a note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Investor and Capital Markets Fee Relief Act".

SEC. 2. IMMEDIATE TRANSACTION FEE REDUCTIONS.

Section 31 of the Securities Exchange Act of 1934 (15 U.S.C. 78ee) is amended—

(1) by striking "1/300 of one percent" each place it appears in subsections (b) and (d) and inserting "$15 per $1,000,000";

(2) by striking "and security futures products" each place it appears in such subsections and inserting "security futures products, and options on securities indexes (excluding a narrow-based security index)";

(3) in the first sentence of subsection (b), by striking ", except that" and all that follows through the end of such sentence and inserting a period;

(4) in paragraph (1) of subsection (d), by striking ", except that" and all that follows through the end of such paragraph and inserting a period;

(5) in subsection (e), by striking "$0.02" and inserting "$0.009"; and

(6) by adding at the end the following new subsection:

"(i) PRO RATA APPLICATION.—The rates per $1,000,000 required by this section shall be applied pro rata to amounts and balances of less than $1,000,000.".

SEC. 3. REVISION OF SECURITIES TRANSACTION FEE PROVISIONS; ADDITIONAL FEE REDUCTIONS.

(a) POOLING AND ALLOCATION OF COLLECTIONS.—Section 31 of the Securities Exchange Act of 1934 (15 U.S.C. 78ee) is further amended—

(1) in subsection (b)—

(A) by striking "Every" and inserting "Subject to subsection (j), each"; and

(B) by striking the last sentence;

(2) by striking subsection (c);

(3) in subsection (d)—

(A) by striking paragraphs (2) and (3);

(B) by striking the following:

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"(d) OFF-EXCHANGE TRADES OF LAST-SALE-REPORTED SECURITIES.—

"(1) COVERED TRANSACTIONS.—Each national securities"

and inserting the following:

"(c) OFF-EXCHANGE TRADES OF EXCHANGE REGISTERED AND LAST-SALE-REPORTED SECURITIES.—Subject to subsection (j), each national securities";

(C) by inserting "registered on a national securities exchange or" after "narrow-based security index))" (as added by section 2(2)); and

(D) by striking ", excluding any sales for which a fee is paid under subsection (c)";

(4) in subsection (e), by striking "except that for fiscal year 2007" and all that follows through the end of such subsection and inserting the following: "except that for fiscal year 2007 and each succeeding fiscal year such assessment shall be equal to $0.0042 for each such transaction.";

(5) in subsection (f), by striking "DATES FOR PAYMENT OF FEES.—The fees required" and inserting "DATES FOR PAYMENTS.—The fees and assessments required";

(6) by redesignating subsections (e) through (i) (as added by section 2(5)) as subsections (d) through (h), respectively;

(7) by adding at the end the following new subsection:

"(i) DEPOSIT OF FEES.—

"(1) OFFSETTING COLLECTIONS.—Fees collected pursuant to subsections (b), (c), and (d) for any fiscal year—

"(A) shall be deposited and credited as offsetting collections to the account providing appropriations to the Commission; and

"(B) except as provided in subsection (k), shall not be collected for any fiscal year except to the extent provided in advance in appropriation Acts.

"(2) GENERAL REVENUES PROHIBITED.—No fees collected pursuant to subsections (b), (c), and (d) for fiscal year 2002 or any succeeding fiscal year shall be deposited and credited as general revenue of the Treasury.".

(b) ADDITIONAL REDUCTIONS OF FEES.—

(1) AMENDMENT.—Section 31 of the Securities Exchange Act of 1934 (15 U.S.C. 78ee) is further amended by adding after subsection (i) (as added by subsection (a)(7)) the following new subsections:

"(j) RECAPTURE OF PROJECTION WINDFALLS FOR FURTHER RATE REDUCTIONS.—

"(1) ANNUAL ADJUSTMENT.—For each of the fiscal years 2003 through 2011, the Commission shall by order adjust each of the rates applicable under subsections (b) and (c) for such fiscal year to a uniform adjusted rate that, when applied to the baseline estimate of the aggregate dollar amount of sales for such fiscal year, is reasonably likely to produce aggregate fee collections under this section (including assessments collected under subsection (d)) that are equal to the target offsetting collection amount for such fiscal year.

"(2) MID-YEAR ADJUSTMENT.—For each of the fiscal years 2002 through 2011, the Commission shall determine, by March 1 of such fiscal year, whether, based on the actual aggregate dollar volume of sales during the first 5 months of such fiscal year, the baseline estimate of the aggregate dollar volume

Deadline.

of sales used under paragraph (1) for such fiscal year (or $48,800,000,000,000 in the case of fiscal year 2002) is reasonably likely to be 10 percent (or more) greater or less than the actual aggregate dollar volume of sales for such fiscal year. If the Commission so determines, the Commission shall by order, no later than such March 1, adjust each of the rates applicable under subsections (b) and (c) for such fiscal year to a uniform adjusted rate that, when applied to the revised estimate of the aggregate dollar amount of sales for the remainder of such fiscal year, is reasonably likely to produce aggregate fee collections under this section (including fees collected during such 5-month period and assessments collected under subsection (d)) that are equal to the target offsetting collection amount for such fiscal year. In making such revised estimate, the Commission shall, after consultation with the Congressional Budget Office and the Office of Management and Budget, use the same methodology required by subsection (l)(2).

Deadline.

"(3) FINAL RATE ADJUSTMENT.—For fiscal year 2012 and all of the succeeding fiscal years, the Commission shall by order adjust each of the rates applicable under subsections (b) and (c) for all of such fiscal years to a uniform adjusted rate that, when applied to the baseline estimate of the aggregate dollar amount of sales for fiscal year 2012, is reasonably likely to produce aggregate fee collections under this section in fiscal year 2012 (including assessments collected under subsection (d)) equal to the target offsetting collection amount for fiscal year 2011.

"(4) REVIEW AND EFFECTIVE DATE.—In exercising its authority under this subsection, the Commission shall not be required to comply with the provisions of section 553 of title 5, United States Code. An adjusted rate prescribed under paragraph (1), (2), or (3) and published under subsection (g) shall not be subject to judicial review. Subject to subsections (i)(1)(B) and (k)—

"(A) an adjusted rate prescribed under paragraph (1) shall take effect on the later of—

"(i) the first day of the fiscal year to which such rate applies; or

"(ii) thirty days after the date on which a regular appropriation to the Commission for such fiscal year is enacted;

"(B) an adjusted rate prescribed under paragraph (2) shall take effect on April 1 of the fiscal year to which such rate applies; and

"(C) an adjusted rate prescribed under paragraph (3) shall take effect on the later of—

"(i) the first day of fiscal year 2012; or

"(ii) thirty days after the date on which a regular appropriation to the Commission for fiscal year 2012 is enacted.

Termination date.

"(k) LAPSE OF APPROPRIATION.—If on the first day of a fiscal year a regular appropriation to the Commission has not been enacted, the Commission shall continue to collect (as offsetting collections) the fees and assessments under subsections (b), (c), and (d) at the rate in effect during the preceding fiscal year, until 30 days after the date such a regular appropriation is enacted.

"(l) DEFINITIONS.—For purposes of this section:

"(1) TARGET OFFSETTING COLLECTION AMOUNT.—The target offsetting collection amount for each of the fiscal years 2002 through 2011 is determined according to the following table:

"Fiscal year:	Target offsetting collection amount
2002	$732,000,000
2003	$849,000,000
2004	$1,028,000,000
2005	$1,220,000,000
2006	$1,435,000,000
2007	$881,000,000
2008	$892,000,000
2009	$1,023,000,000
2010	$1,161,000,000
2011	$1,321,000,000

"(2) BASELINE ESTIMATE OF THE AGGREGATE DOLLAR AMOUNT OF SALES.—The baseline estimate of the aggregate dollar amount of sales for any fiscal year is the baseline estimate of the aggregate dollar amount of sales of securities (other than bonds, debentures, other evidences of indebtedness, security futures products, and options on securities indexes (excluding a narrow-based security index)) to be transacted on each national securities exchange and by or through any member of each national securities association (otherwise than on a national securities exchange) during such fiscal year as determined by the Commission, after consultation with the Congressional Budget Office and the Office of Management and Budget, using the methodology required for making projections pursuant to section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985.".

(2) CONFORMING AMENDMENT.—Section 31(g) of such Act (as redesignated by subsection (a)(6) of this section) is amended by inserting before the period at the end the following: "not later than April 30 of the fiscal year preceding the fiscal year to which such rate applies, together with any estimates or projections on which such fees are based". Deadline.

SEC. 4. REDUCTION OF REGISTRATION FEES.

Section 6(b) of the Securities Act of 1933 (15 U.S.C. 77f(b)) is amended by striking paragraphs (2) through (5) and inserting the following:

"(2) FEE PAYMENT REQUIRED.—At the time of filing a registration statement, the applicant shall pay to the Commission a fee at a rate that shall be equal to $92 per $1,000,000 of the maximum aggregate price at which such securities are proposed to be offered, except that during fiscal year 2003 and any succeeding fiscal year such fee shall be adjusted pursuant to paragraph (5) or (6).

"(3) OFFSETTING COLLECTIONS.—Fees collected pursuant to this subsection for any fiscal year—

"(A) shall be deposited and credited as offsetting collections to the account providing appropriations to the Commission; and

"(B) except as provided in paragraph (9), shall not be collected for any fiscal year except to the extent provided in advance in appropriation Acts.

"(4) GENERAL REVENUES PROHIBITED.—No fees collected pursuant to this subsection for fiscal year 2002 or any succeeding fiscal year shall be deposited and credited as general revenue of the Treasury.

"(5) ANNUAL ADJUSTMENT.—For each of the fiscal years 2003 through 2011, the Commission shall by order adjust the rate required by paragraph (2) for such fiscal year to a rate that, when applied to the baseline estimate of the aggregate maximum offering prices for such fiscal year, is reasonably likely to produce aggregate fee collections under this subsection that are equal to the target offsetting collection amount for such fiscal year.

"(6) FINAL RATE ADJUSTMENT.—For fiscal year 2012 and all of the succeeding fiscal years, the Commission shall by order adjust the rate required by paragraph (2) for all of such fiscal years to a rate that, when applied to the baseline estimate of the aggregate maximum offering prices for fiscal year 2012, is reasonably likely to produce aggregate fee collections under this subsection in fiscal year 2012 equal to the target offsetting collection amount for fiscal year 2011.

"(7) PRO RATA APPLICATION.—The rates per $1,000,000 required by this subsection shall be applied pro rata to amounts and balances of less than $1,000,000.

"(8) REVIEW AND EFFECTIVE DATE.—In exercising its authority under this subsection, the Commission shall not be required to comply with the provisions of section 553 of title 5, United States Code. An adjusted rate prescribed under paragraph (5) or (6) and published under paragraph (10) shall not be subject to judicial review. Subject to paragraphs (3)(B) and (9)—

"(A) an adjusted rate prescribed under paragraph (5) shall take effect on the later of—

"(i) the first day of the fiscal year to which such rate applies; or

"(ii) five days after the date on which a regular appropriation to the Commission for such fiscal year is enacted; and

"(B) an adjusted rate prescribed under paragraph (6) shall take effect on the later of—

"(i) the first day of fiscal year 2012; or

"(ii) five days after the date on which a regular appropriation to the Commission for fiscal year 2012 is enacted.

Termination date.

"(9) LAPSE OF APPROPRIATION.—If on the first day of a fiscal year a regular appropriation to the Commission has not been enacted, the Commission shall continue to collect fees (as offsetting collections) under this subsection at the rate in effect during the preceding fiscal year, until 5 days after the date such a regular appropriation is enacted.

Federal Register, publication. Notice. Deadline.

"(10) PUBLICATION.—The Commission shall publish in the Federal Register notices of the rate applicable under this subsection and under sections 13(e) and 14(g) for each fiscal year not later than April 30 of the fiscal year preceding the fiscal year to which such rate applies, together with any estimates or projections on which such rate is based.

"(11) DEFINITIONS.—For purposes of this subsection:

"(A) TARGET OFFSETTING COLLECTION AMOUNT.—The target offsetting collection amount for each of the fiscal years 2002 through 2011 is determined according to the following table:

"Fiscal year:	Target offsetting collection amount
2002	$377,000,000
2003	$435,000,000
2004	$467,000,000
2005	$570,000,000
2006	$689,000,000
2007	$214,000,000
2008	$234,000,000
2009	$284,000,000
2010	$334,000,000
2011	$394,000,000

"(B) BASELINE ESTIMATE OF THE AGGREGATE MAXIMUM OFFERING PRICES.—The baseline estimate of the aggregate maximum offering prices for any fiscal year is the baseline estimate of the aggregate maximum offering price at which securities are proposed to be offered pursuant to registration statements filed with the Commission during such fiscal year as determined by the Commission, after consultation with the Congressional Budget Office and the Office of Management and Budget, using the methodology required for projections pursuant to section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985.".

SEC. 5. FEES FOR STOCK REPURCHASE STATEMENTS.

Section 13(e) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(e)) is amended—

(1) in paragraph (3), by striking "a fee of 1/50 of 1 per centum of the value of securities proposed to be purchased" and inserting "a fee at a rate that, subject to paragraphs (5) and (6), is equal to $92 per $1,000,000 of the value of securities proposed to be purchased";

(2) by inserting after paragraph (3) the following new paragraphs:

"(4) OFFSETTING COLLECTIONS.—Fees collected pursuant to this subsection for any fiscal year shall be deposited and credited as offsetting collections to the account providing appropriations to the Commission, and, except as provided in paragraph (9), shall not be collected for any fiscal year except to the extent provided in advance in appropriation Acts. No fees collected pursuant to this subsection for fiscal year 2002 or any succeeding fiscal year shall be deposited and credited as general revenue of the Treasury.

"(5) ANNUAL ADJUSTMENT.—For each of the fiscal years 2003 through 2011, the Commission shall by order adjust the rate required by paragraph (3) for such fiscal year to a rate that is equal to the rate (expressed in dollars per million) that is applicable under section 6(b) of the Securities Act of 1933 for such fiscal year.

"(6) FINAL RATE ADJUSTMENT.—For fiscal year 2012 and all of the succeeding fiscal years, the Commission shall by order adjust the rate required by paragraph (3) for all of such fiscal years to a rate that is equal to the rate (expressed

in dollars per million) that is applicable under section 6(b) of the Securities Act of 1933 for all of such fiscal years.

"(7) PRO RATA APPLICATION.—The rates per $1,000,000 required by this subsection shall be applied pro rata to amounts and balances of less than $1,000,000.

"(8) REVIEW AND EFFECTIVE DATE.—In exercising its authority under this subsection, the Commission shall not be required to comply with the provisions of section 553 of title 5, United States Code. An adjusted rate prescribed under paragraph (5) or (6) and published under paragraph (10) shall not be subject to judicial review. Subject to paragraphs (4) and (9)—

"(A) an adjusted rate prescribed under paragraph (5) shall take effect on the later of—

"(i) the first day of the fiscal year to which such rate applies; or

"(ii) five days after the date on which a regular appropriation to the Commission for such fiscal year is enacted; and

"(B) an adjusted rate prescribed under paragraph (6) shall take effect on the later of—

"(i) the first day of fiscal year 2012; or

"(ii) five days after the date on which a regular appropriation to the Commission for fiscal year 2012 is enacted.

Termination date.

"(9) LAPSE OF APPROPRIATION.—If on the first day of a fiscal year a regular appropriation to the Commission has not been enacted, the Commission shall continue to collect fees (as offsetting collections) under this subsection at the rate in effect during the preceding fiscal year, until 5 days after the date such a regular appropriation is enacted.

"(10) PUBLICATION.—The rate applicable under this subsection for each fiscal year is published pursuant to section 6(b)(10) of the Securities Act of 1933.".

SEC. 6. FEES FOR PROXY SOLICITATIONS AND STATEMENTS IN CORPORATE CONTROL TRANSACTIONS.

Section 14(g) of the Securities Exchange Act of 1934 (15 U.S.C. 78n(g)) is amended—

(1) in paragraphs (1) and (3), by striking "a fee of 1/50 of 1 per centum of" each place it appears and inserting "a fee at a rate that, subject to paragraphs (5) and (6), is equal to $92 per $1,000,000 of";

(2) by redesignating paragraph (4) as paragraph (11); and

(3) by inserting after paragraph (3) the following new paragraphs:

"(4) OFFSETTING COLLECTIONS.—Fees collected pursuant to this subsection for any fiscal year shall be deposited and credited as offsetting collections to the account providing appropriations to the Commission, and, except as provided in paragraph (9), shall not be collected for any fiscal year except to the extent provided in advance in appropriation Acts. No fees collected pursuant to this subsection for fiscal year 2002 or any succeeding fiscal year shall be deposited and credited as general revenue of the Treasury.

"(5) ANNUAL ADJUSTMENT.—For each of the fiscal years 2003 through 2011, the Commission shall by order adjust each

of the rates required by paragraphs (1) and (3) for such fiscal year to a rate that is equal to the rate (expressed in dollars per million) that is applicable under section 6(b) of the Securities Act of 1933 for such fiscal year.

"(6) FINAL RATE ADJUSTMENT.—For fiscal year 2012 and all of the succeeding fiscal years, the Commission shall by order adjust each of the rates required by paragraphs (1) and (3) for all of such fiscal years to a rate that is equal to the rate (expressed in dollars per million) that is applicable under section 6(b) of the Securities Act of 1933 for all of such fiscal years.

"(7) PRO RATA APPLICATION.—The rates per $1,000,000 required by this subsection shall be applied pro rata to amounts and balances of less than $1,000,000. Applicability.

"(8) REVIEW AND EFFECTIVE DATE.—In exercising its authority under this subsection, the Commission shall not be required to comply with the provisions of section 553 of title 5, United States Code. An adjusted rate prescribed under paragraph (5) or (6) and published under paragraph (10) shall not be subject to judicial review. Subject to paragraphs (4) and (9)—

"(A) an adjusted rate prescribed under paragraph (5) shall take effect on the later of—

"(i) the first day of the fiscal year to which such rate applies; or

"(ii) five days after the date on which a regular appropriation to the Commission for such fiscal year is enacted; and

"(B) an adjusted rate prescribed under paragraph (6) shall take effect on the later of—

"(i) the first day of fiscal year 2012; or

"(ii) five days after the date on which a regular appropriation to the Commission for fiscal year 2012 is enacted.

"(9) LAPSE OF APPROPRIATION.—If on the first day of a fiscal year a regular appropriation to the Commission has not been enacted, the Commission shall continue to collect fees (as offsetting collections) under this subsection at the rate in effect during the preceding fiscal year, until 5 days after the date such a regular appropriation is enacted. Termination date.

"(10) PUBLICATION.—The rate applicable under this subsection for each fiscal year is published pursuant to section 6(b)(10) of the Securities Act of 1933.".

SEC. 7. TRUST INDENTURE ACT FEE.

Section 307(b) of the Trust Indenture Act of 1939 (15 U.S.C. 77ggg(b)) is amended by striking "Commission, but, in the case" and all that follows and inserting "Commission.".

SEC. 8. COMPARABILITY PROVISIONS.

(a) COMMISSION DEMONSTRATION PROJECT.—Subpart C of part III of title 5, United States Code, is amended by adding at the end the following:

"CHAPTER 48—AGENCY PERSONNEL DEMONSTRATION PROJECT

"Sec.
"4801. Nonapplicability of chapter 47.
"4802. Securities and Exchange Commission.

"§ 4801. Nonapplicability of chapter 47

"Chapter 47 shall not apply to this chapter.

"§ 4802. Securities and Exchange Commission

"(a) In this section, the term 'Commission' means the Securities and Exchange Commission.

"(b) The Commission may appoint and fix the compensation of such officers, attorneys, economists, examiners, and other employees as may be necessary for carrying out its functions under the securities laws as defined under section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c).

"(c) Rates of basic pay for all employees of the Commission may be set and adjusted by the Commission without regard to the provisions of chapter 51 or subchapter III of chapter 53.

"(d) The Commission may provide additional compensation and benefits to employees of the Commission if the same type of compensation or benefits are then being provided by any agency referred to under section 1206 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833b) or, if not then being provided, could be provided by such an agency under applicable provisions of law, rule, or regulation. In setting and adjusting the total amount of compensation and benefits for employees, the Commission shall consult with, and seek to maintain comparability with, the agencies referred to under section 1206 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833b).

"(e) The Commission shall consult with the Office of Personnel Management in the implementation of this section.

"(f) This section shall be administered consistent with merit system principles.".

5 USC 4802 note.

(b) EMPLOYEES REPRESENTED BY LABOR ORGANIZATIONS.—To the extent that any employee of the Securities and Exchange Commission is represented by a labor organization with exclusive recognition in accordance with chapter 71 of title 5, United States Code, no reduction in base pay of such employee shall be made by reason of enactment of this section (including the amendments made by this section).

5 USC 4802 note.

(c) IMPLEMENTATION PLAN AND REPORT.—

(1) IMPLEMENTATION PLAN.—

(A) IN GENERAL.—The Securities and Exchange Commission shall develop a plan to implement section 4802 of title 5, United States Code, as added by this section.

(B) INCLUSION IN ANNUAL PERFORMANCE PLAN AND REPORT.—The Securities and Exchange Commission shall include—

(i) the plan developed under this paragraph in the annual program performance plan submitted under section 1115 of title 31, United States Code; and

(ii) the effects of implementing the plan developed under this paragraph in the annual program performance report submitted under section 1116 of title 31, United States Code.

(2) IMPLEMENTATION REPORT.—

(A) IN GENERAL.—Before implementing the plan developed under paragraph (1), the Securities and Exchange Commission shall submit a report to the Committee on Governmental Affairs and the Committee on Banking, Housing, and Urban Affairs of the Senate, the Committee on Government Reform and the Committee on Financial Services of the House of Representatives, and the Office of Personnel Management on the details of the plan.

(B) CONTENT.—The report under this paragraph shall include—

(i) evidence and supporting documentation justifying the plan; and

(ii) budgeting projections on costs and benefits resulting from the plan.

(d) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) AMENDMENTS TO TITLE 5, UNITED STATES CODE.—

(A) The table of chapters for part III of title 5, United States Code, is amended by adding at the end of subpart C the following:

"48. Agency Personnel Demonstration Project ..... 4801.".

(B) Section 3132(a)(1) of title 5, United States Code, is amended—

(i) in subparagraph (C), by striking "or" after the semicolon;

(ii) in subparagraph (D), by inserting "or" after the semicolon; and

(iii) by adding at the end the following:

"(E) the Securities and Exchange Commission;".

(C) Section 5373(a) of title 5, United States Code, is amended—

(i) in paragraph (2), by striking "or" after the semicolon;

(ii) in paragraph (3), by striking the period and inserting "; or"; and

(iii) by adding at the end the following:

"(4) section 4802.".

(2) AMENDMENT TO SECURITIES EXCHANGE ACT OF 1934.—Section 4(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78d(b)) is amended by striking paragraphs (1) and (2) and inserting the following:

"(1) APPOINTMENT AND COMPENSATION.—The Commission shall appoint and compensate officers, attorneys, economists, examiners, and other employees in accordance with section 4802 of title 5, United States Code.

"(2) REPORTING OF INFORMATION.—In establishing and adjusting schedules of compensation and benefits for officers, attorneys, economists, examiners, and other employees of the Commission under applicable provisions of law, the Commission shall inform the heads of the agencies referred to under section 1206 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833b) and Congress of

such compensation and benefits and shall seek to maintain comparability with such agencies regarding compensation and benefits.".

(3) AMENDMENT TO FIRREA OF 1989.—Section 1206 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833b) is amended by striking "the Thrift Depositor Protection Oversight Board of the Resolution Trust Corporation".

15 USC 78ee note.

SEC. 9. STUDY OF THE EFFECT OF FEE REDUCTIONS.

(a) STUDY.—The Office of Economic Analysis of the Securities and Exchange Commission (hereinafter referred to as the "Office") shall conduct a study of the extent to which the benefits of reductions in fees effected as a result of this Act are passed on to investors.

(b) FACTORS FOR CONSIDERATION.—In conducting the study under subsection (a), the Office shall—

(1) consider the various elements of the securities industry directly and indirectly benefiting from the fee reductions, including purchasers and sellers of securities, members of national securities exchanges, issuers, broker-dealers, underwriters, participants in investment companies, retirement programs, and others;

(2) consider the impact on different types of investors, such as individual equity holders, individual investment company shareholders, businesses, and other types of investors;

(3) include in the interpretation of the term "investor" shareholders of entities subject to the fee reductions; and

(4) consider the economic benefits to investors flowing from the fee reductions to include such factors as market efficiency, expansion of investment opportunities, and enhanced liquidity and capital formation.

Deadline.

(c) REPORT TO CONGRESS.—Not later than 2 years after the date of the enactment of this Act, the Securities and Exchange Commission shall submit to the Congress the report prepared by the Office on the findings of the study conducted under subsection (a).

SEC. 10. STUDY OF CONVERSION TO SELF-FUNDING.

(a) GAO STUDY REQUIRED.—The Comptroller General shall conduct a study of the impact, implications, and consequences of converting the Securities and Exchange Commission to a self-funded basis. Such study shall include analysis of the following issues:

(1) SEC OPERATIONS.—The impact of such conversion on the Commission's operations, including staff quality, recruitment, and retention.

(2) CONGRESSIONAL OVERSIGHT.—The implications for congressional oversight of the Commission, including whether imposing annual expenditure limitations would be beneficial to such oversight.

(3) FEES.—The likely consequences of the conversion on the rates, collection procedures, and predictability of fees collected by the Commission.

(4) APPROPRIATIONS.—The methods by which the conversion may be accomplished without reducing the availability of offsetting collections for appropriations.

(5) OTHER MATTERS.—Such other impacts, implications, and consequences as the Comptroller General may consider relevant

to congressional consideration of the question of such conversion.

(b) SUBMISSION OF REPORT.—The Comptroller General shall submit to the Committees on Financial Services and Government Reform of the House of Representatives and the Committees on Banking, Housing, and Urban Affairs and Governmental Affairs of the Senate a report on the study required by subsection (a) no later than 180 days after the date of the enactment of this Act. Deadline.

(c) DEFINITION.—For the purposes of this section, the term "self-funded basis" means that—

(1) an agency is authorized to deposit the receipts of its collections in the Treasury of the United States, or in a depository institution, but such deposits are not treated as Government funds or appropriated monies, and are available for the salaries and other expenses of the Commission and its employees without annual appropriation or apportionment; and

(2) the agency is authorized to employ and fix the salaries and other compensation of its officers and employees, and such salaries and other compensation are paid without regard to the provisions of other laws applicable to officers and employees of the United States.

SEC. 11. EFFECTIVE DATES. 15 USC 78ee note.

(a) IN GENERAL.—Except as provided in subsections (b) and (c), the amendments made by this Act shall take effect on October 1, 2001.

(b) IMMEDIATE TRANSACTION FEE REDUCTIONS.—The amendments made by section 2 shall take effect on the later of—

(1) the first day of fiscal year 2002; or

(2) thirty days after the date on which a regular appropriation to the Commission for such fiscal year is enacted.

(c) ADDITIONAL EXCEPTIONS.—The authorities provided by section 6(b)(9) of the Securities Act of 1933 and sections 13(e)(9), 14(g)(9), and 31(k) of the Securities Exchange Act of 1934, as so designated by this Act, shall not apply until October 1, 2002.

Approved January 16, 2002.

LEGISLATIVE HISTORY—H.R. 1088:

HOUSE REPORTS: No. 107–52, Pt. 1 (Comm. on Financial Services).
CONGRESSIONAL RECORD, Vol. 147 (2001):
June 14, considered and passed House.
Dec. 20, considered and passed Senate.