

FAIRNESS IN SECURITIES TRANSACTIONS ACT

DECEMBER 15, 2000.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. BLILEY, from the Committee on Commerce,
submitted the following

REPORT

together with

MINORITY VIEWS

[To accompany H.R. 2441]

[Including cost estimate of the Congressional Budget Office]

The Committee on Commerce, to whom was referred the bill (H.R. 2441) to amend the Securities Exchange Act of 1934 to reduce fees on securities transactions, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

CONTENTS

| | Page |
|---|------|
| Amendment | 2 |
| Purpose and Summary | 2 |
| Background and Need for Legislation | 3 |
| Hearings | 5 |
| Committee Consideration | 5 |
| Committee Votes | 5 |
| Committee Oversight Findings | 9 |
| Committee on Government Reform Oversight Findings | 9 |
| New Budget Authority, Entitlement Authority, and Tax Expenditures | 9 |
| Committee Cost Estimate | 9 |
| Congressional Budget Office Estimate | 9 |
| Federal Mandates Statement | 12 |
| Advisory Committee Statement | 12 |
| Constitutional Authority Statement | 12 |
| Applicability to Legislative Branch | 12 |
| Section-by-Section Analysis of the Legislation | 12 |
| Changes in Existing Law Made by the Bill, as Reported | 13 |
| Minority Views | 15 |

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Fairness in Securities Transactions Act”.

SEC. 2. FEE REDUCTION.

(a) **REDUCTIONS OF FEES.**—Section 31 of the Securities Exchange Act of 1934 (15 U.S.C. 78ee) is amended by striking “ $\frac{1}{300}$ of one percent” each place it appears and inserting “ $\frac{1}{500}$ of one percent”.

(b) **PREVENTION OF SHORTFALLS IN COMMISSION APPROPRIATIONS.**—Section 31 of the Securities Exchange Act of 1934 is further amended by adding at the end the following new subsection:

“(h) **INSUFFICIENT FEES.**—In any year in which the total amount of fees collected under this section and section 6(b) of the Securities Act of 1933 (including any balance in the account providing appropriations to the Commission) are insufficient to provide for the Commission’s budget authority as provided by an appropriation Act, such appropriation Act may provide that the fee under this section shall be increased, with all such increased amounts deposited and credited as offsetting collections to the account providing appropriations to the Commission.”.

SEC. 3. REVISION OF SECURITIES TRANSACTION FEE PROVISIONS.

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

- (1) in subsection (b), by striking the last sentence;
- (2) in subsection (c), by striking the last sentence;
- (3) in subsection (d)—
 - (A) by striking paragraphs (2) and (3); and
 - (B) by striking the following:

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

“(1) **COVERED TRANSACTIONS.**—Each national securities” and adding the following:

“(d) **OFF-EXCHANGE TRADES OF LAST-SALE-REPORTED SECURITIES.**—Each national securities”; and

- (4) by adding after subsection (h) (as added by section 2(b) of this Act) the following new subsections:

“(i) **DEPOSIT OF FEES.**—

“(1) **GENERAL REVENUES.**—Fees collected pursuant to subsections (b), (c), and (d) shall be deposited and collected as general revenue of the Treasury, except that the amount deposited and collected as general revenues for any fiscal year shall not exceed the baseline amount for such fiscal year.

“(2) **OFFSETTING COLLECTIONS.**—Fees collected pursuant to subsections (b), (c) and (d) for any fiscal year in excess of the baseline amount for such fiscal year—

“(A) shall not be collected or spent for any fiscal year except to the extent provided in advance in appropriation Acts; and

“(B) shall be deposited and credited as offsetting collections to the account providing appropriations to the Commission.

“(3) **BASELINE AMOUNT.**—For purposes of this subsection, the baseline amount for any fiscal year is the amount projected by the Congressional Budget Office pursuant to section 257 the Balanced Budget and Emergency Deficit Control Act of 1985, in its most recently published report of its baseline projection before the date of enactment of the Fairness in Securities Transactions Act, to be collected and deposited as general revenues pursuant to subsections (b) and (c) of this section as in effect on the day before the date of enactment of such Act.

“(j) **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 under subsections (b), (c), and (d) at the rate in effect during the preceding fiscal year, until such a regular appropriation is enacted.”.

SEC. 4. EFFECTIVE DATE.

The amendments made by this Act—

- (1) shall take effect on October 1, 2000; and
- (2) shall cease to be effective on October 1, 2006.

PURPOSE AND SUMMARY

The purpose of H.R. 2441 is to provide monetary relief to investors and market participants that pay the section 31 transaction

fee. The legislation provides an interim rate reduction until a statutorily mandated reduction becomes effective in fiscal year 2007.

H.R. 2441, as reported, lowers the transaction fee rate from $\frac{1}{300}$ th of one percent to $\frac{1}{500}$ th of one percent through the end of fiscal year 2006. Because the current budgetary treatment is different for exchange-traded securities than for off-exchange-traded securities (transaction fees from exchange traded securities are deposited as general revenue; all other transaction revenue is deposited as offsetting collections), a rate reduction applied equally under current law would result in a decrease to general revenue to the Treasury because of the resultant decrease in revenue from exchange traded securities. In order to remain revenue neutral, the legislation makes changes to the fee structure. Under H.R.2441, all transaction fee revenue collected is deposited as general revenue, except that any amount collected in excess of the most recently published Congressional Budget Office (CBO) baseline at the time of enactment is deposited as offsetting collections.

Based on the March 2000 CBO baseline, preliminary estimates indicate that the legislation will provide over \$460 million in offsetting collections in fiscal year 2001. This will ensure that the appropriators will have the funds necessary to meet the Security and Exchange Commission's (SEC's) budget request of \$423 million.

The legislation also addresses a concern regarding the conversion of the NASDAQ market to an exchange. Currently, transaction revenue collected from securities traded through the NASDAQ is deposited as offsetting collections. However, the NASDAQ has filed an application to become an exchange, at which point the fees collected from securities traded on the NASDAQ would be deposited as general revenue under current law. Because H.R. 2441 does not differentiate between where the securities are traded for purposes of depositing and crediting section 31 transaction fees, the conversion of NASDAQ to an exchange will not affect the funding structure put in place for the SEC by the legislation.

BACKGROUND AND NEED FOR LEGISLATION

The Federal Securities laws provide for several types of fees to be charged for various securities activities. These fees, which include registration, transaction, and merger and tender offer fees, are "user" fees intended to recover the government's cost of providing Federal securities regulation through the Securities and Exchange Commission.

Beginning in the early 1980's, the total revenue collected by the government from these fees began to exceed the cost of funding the SEC.

Notwithstanding the surplus being generated by the fees, Congress authorized increases to the fee rate for securities registration (which is authorized under section 6 of the Securities Act of 1933, and is thus sometimes referred to as the "section 6(b) fee") annually beginning in 1990. The revenue collected above the statutory registration rate was deposited and credited as "offsetting collections" to the account that provided for appropriations for the SEC. This eased the budgetary pressure on discretionary spending for Congressional appropriators by providing them with funds that

they could use outside the limits (caps) imposed by the Budget Enforcement Act.

As the surplus from the fees began to grow dramatically, concerns were raised that the user fees had become a revenue-generating tax—as opposed to being merely a cost recovery mechanism for SEC regulation—and an unnecessary burden on capital formation. In 1995, the revenue collected from these fees was more than double the SEC budget. Because the appropriations committees were relying on the offsetting collections to provide a substantial percentage of the revenue needed to fund the SEC budget each year, and the level of offsetting collections was never predictable, there were concerns about the resulting uncertainty in funding the SEC.

Congress addressed this problem by changing the fee and SEC funding structure in the National Securities Markets Improvement Act of 1996 (P.L. 104–290) (NSMIA). The fee provisions in that Act were intended to reduce the total revenue collected from the fees over time to approximate the cost to the government of securities market regulation, and to provide a more stable long-term funding structure for the SEC by reducing the reliance of the appropriators on fee collections as a funding mechanism.

NSMIA decreased the registration fee rate incrementally each year until it returned to the level that existed prior to the yearly increases in the rate that Congress began to authorize in 1990. Additionally, the Act authorized the transaction fee (which is authorized under section 31 of the Exchange Act, and hence is also called a “section 31 fee”) to be extended to off-exchange traded securities. This was done to eliminate any competitive disparities between exchange-traded securities, which had always been assessed the fee, and non-exchange-traded securities, which were not subject to transaction fees.

Based on the Congressional Budget Office estimates at the time, it was anticipated the revenue collected and deposited as offsetting collections, pursuant to the changes under the Act, would decline and therefore require Congressional appropriators to gradually increase their appropriation to fully fund the SEC. The combination of the decreasing 6(b) registration fee rate and the new application of the section 31 transaction fee to off-exchange traded securities was estimated to provide total offsetting collections of \$244 million in 1997, decreasing annually to \$141 million in 2006.

In adopting NSMIA, Congress relied upon 1996 CBO baseline projections for market volume. In fact, actual registration and transaction volume has exceeded the CBO’s estimates by multiples. For example, in 2000, total fee revenue collected was \$2 billion, while the SEC budget was \$377 million. The 1996 projections estimated total collections of \$778 million. Although registration volume increased significantly, the bulk of the unexpected revenue was derived from the section 31 fee. The fiscal year 2000 revenue collected from the transaction fee has more than quadrupled, totaling more than \$1 billion; the 1996 estimates predicted \$273 million. The CBO’s March 2000 baseline estimates predict that transaction volume will continue to escalate and generate over \$3 billion in 2006. Revenue from registration fees is estimated to produce an additional \$876 million in 2006.

Many Members of Congress agree that the section 31 transaction fee rate, as amended in 1996, was never envisioned to generate the level of revenue being collected. In 1998, legislation (H.R. 4213) was introduced to address the problem. No action was taken on that legislation.

Transaction volume is expected to continue to increase, and concerns were again raised in the 106th Congress that the section 31 transaction fees do not reflect their statutory purpose of a cost recovery fee. Legislation was introduced in the House to address the problem.

HEARINGS

The Subcommittee on Finance and Hazardous Materials held two hearings on H.R. 2441, the Fairness in Securities Transactions Act on July 27, 1999 and September 28, 1999. The July 27, 1999 hearing examined the impact of the growth in the securities markets on transaction fee revenue. The Subcommittee received testimony from: Mr. William J. Brodsky, Chairman and C.E.O., Chicago Board Options Exchange; Mr. Andrew Cader, Senior Managing Director, Spear, Leeds & Kellogg, representing the Specialist Association of the New York Stock Exchange; Mr. Steve Nelson, Vice President of Special Projects, Herzog Heine Geduld, representing the Securities Industry Association; and Mr. Art Kearney, Director of Equity Capital, John G. Kinnard & Co., representing the Security Traders Association.

On September 28, 1999, the Subcommittee received testimony on H.R. 2441 from the following witnesses: The Honorable Rick Lazio, United States House of Representatives; The Honorable Robert Menendez, United States House of Representatives; and Mr. James M. McConnell, Executive Director, Securities and Exchange Commission.

COMMITTEE CONSIDERATION

On February 15, 2000, the Subcommittee on Finance and Hazardous Materials met in open markup session and approved H.R. 2441 for Full Committee consideration, as amended by a voice vote. On October 6, 2000, the Full Committee met in open markup session and ordered H.R. 2441 reported to the House, amended, by a record vote of 24 yeas and 16 nays, a quorum being present.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. A motion by Mr. Bliely to order H.R. 2441 reported to the House, with an amendment, was agreed to by a record vote of 24 yeas and 16 nays (Record Vote No. 37). The names of Members voting for and against follow.

The following amendment was ruled nongermane by the chair—

An amendment in the nature of a substitute by Mr. Towns, No. 1, crediting all securities transaction fees collected to the account of the appropriators and providing the SEC with an exemption from the civil service pay code.

An appeal of the ruling of the Chair was tabled by a record vote of 25 yeas and 16 nays (Record Vote No. 36). The names of Members voting for and against follow.

Committee on Commerce

One Hundred Sixth Congress

Record Vote No. 36

Bill: H.R. 2441, Fairness in Securities Transactions Act

Amendment or Motion: Tabling the appeal of the ruling of the Chair with respect to the germaneness of the Towns amendment in the nature of a substitute

Disposition: AGREED TO, by a record vote of 25 yeas and 16 nays

| Representative | Yea | Nay | Pres | Representative | Yea | Nay | Pres |
|----------------|-----|-----|------|----------------|-----|-----|------|
| Mr. Bliley | X | | | Mr. Dingell | | X | |
| Mr. Tauzin | X | | | Mr. Waxman | | | |
| Mr. Oxley | X | | | Mr. Markey | | X | |
| Mr. Bilirakis | X | | | Mr. Hall | | | |
| Mr. Barton | X | | | Mr. Boucher | | | |
| Mr. Upton | X | | | Mr. Towns | | X | |
| Mr. Stearns | X | | | Mr. Pallone | | | |
| Mr. Gillmor | X | | | Mr. Brown | | X | |
| Mr. Greenwood | X | | | Mr. Gordon | | X | |
| Mr. Cox | X | | | Mr. Deutsch | | X | |
| Mr. Deal | X | | | Mr. Rush | | X | |
| Mr. Largent | X | | | Mrs. Eshoo | | | |
| Mr. Burr | X | | | Mr. Klink | | | |
| Mr. Bilbray | X | | | Mr. Stupak | | X | |
| Mr. Whitfield | X | | | Mr. Engel | | | |
| Mr. Ganske | | | | Mr. Sawyer | | X | |
| Mr. Norwood | X | | | Mr. Wynn | | X | |
| Mr. Coburn | X | | | Mr. Green | | X | |
| Mr. Lazio | | | | Mrs. McCarthy | | X | |
| Mrs. Cubin | X | | | Mr. Strickland | | | |
| Mr. Rogan | X | | | Mrs. DeGette | | X | |
| Mr. Shimkus | X | | | Mr. Barrett | | X | |
| Mrs. Wilson | X | | | Mr. Luther | | X | |
| Mr. Shadegg | | | | Mrs. Capps | | X | |
| Mr. Pickering | | | | | | | |
| Mr. Fossella | X | | | | | | |
| Mr. Blunt | X | | | | | | |
| Mr. Bryant | X | | | | | | |
| Mr. Ehrlich | X | | | | | | |

Committee on Commerce

One Hundred Sixth Congress

Record Vote No. 37

Bill: H.R. 2441, Fairness in Securities Transactions Act
Amendment or Motion: Reporting to the House with a favorable recommendation
Disposition: AGREED TO, by a record vote of 24 yeas and 16 nays

| Representative | Yea | Nay | Pres | Representative | Yea | Nay | Pres |
|----------------|-----|-----|------|----------------|-----|-----|------|
| Mr. Bliley | X | | | Mr. Dingell | | X | |
| Mr. Tauzin | X | | | Mr. Waxman | | | |
| Mr. Oxley | X | | | Mr. Markey | | X | |
| Mr. Bilirakis | X | | | Mr. Hall | | | |
| Mr. Barton | X | | | Mr. Boucher | | | |
| Mr. Upton | X | | | Mr. Towns | | X | |
| Mr. Stearns | X | | | Mr. Pallone | | | |
| Mr. Gillmor | X | | | Mr. Brown | | X | |
| Mr. Greenwood | X | | | Mr. Gordon | | X | |
| Mr. Cox | X | | | Mr. Deutsch | | X | |
| Mr. Deal | X | | | Mr. Rush | | X | |
| Mr. Largent | X | | | Mrs. Eshoo | | | |
| Mr. Burr | X | | | Mr. Klink | | | |
| Mr. Bilbray | X | | | Mr. Stupak | | X | |
| Mr. Whitfield | | | | Mr. Engel | | | |
| Mr. Ganske | | | | Mr. Sawyer | | X | |
| Mr. Norwood | X | | | Mr. Wynn | | X | |
| Mr. Coburn | | | | Mr. Green | | X | |
| Mr. Lazio | | | | Mrs. McCarthy | | X | |
| Mrs. Cubin | X | | | Mr. Strickland | | | |
| Mr. Rogan | X | | | Mrs. DeGette | | X | |
| Mr. Shimkus | X | | | Mr. Barrett | | X | |
| Mrs. Wilson | X | | | Mr. Luther | | X | |
| Mr. Shadegg | | | | Mrs. Capps | | X | |
| Mr. Pickering | X | | | | | | |
| Mr. Fossella | X | | | | | | |
| Mr. Blunt | X | | | | | | |
| Mr. Bryant | X | | | | | | |
| Mr. Ehrlich | X | | | | | | |

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee held legislative and oversight hearings and made findings that are reflected in this report.

COMMITTEE ON GOVERNMENT REFORM OVERSIGHT FINDINGS

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, no oversight findings have been submitted to the Committee by the Committee on Government Reform.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee finds that H.R. 2441, the Fairness in Securities Transactions Act, would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 24, 2000.

Hon. TOM BLILEY,
Chairman, Committee on Commerce, House of Representatives,
Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2441, the Fairness in Securities Transactions Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Ken Johnson.

Sincerely,

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

Enclosure.

H.R. 2441—Fairness in Securities Transactions Act

Summary: H.R. 2441 would reduce the fees the Securities and Exchange Commission (SEC) is authorized to collect on securities transactions conducted through national securities exchanges, associations, brokers, and dealers. The rate would be cut from $\frac{1}{3000}$ th of 1 percent of the aggregate dollars traded to $\frac{1}{5000}$ th of 1 percent of the aggregate dollars traded. Under the bill, all transaction fees

collected up to a certain threshold would be classified as governmental receipts (that is, revenues). Any transaction fees above this threshold would be authorized to be collected only to the extent provided in appropriation acts and would be classified as offsetting collections (that is, offsets to discretionary spending). The provisions of H.R. 2441 would be effective from October 1, 2000, through October 1, 2006.

CBO estimates that enacting H.R. 2441 would reduce the SEC's transaction fees by \$478 million in fiscal year 2001 and by a total of \$4 billion over the 2001–2005 period (from \$10 billion to about \$6 billion).

Table 1 shows the estimated impact of H.R. 2441 on the SEC's transaction fees, assuming that future appropriation actions would continue to allow the collection of these fees consistent with the authorizing statute.

Because the collection of fees from 2002 through 2005 would be subject to future appropriation action, the reduction mandated by this bill would be reflected as a loss of offsetting collections credited against future appropriations (\$3.5 billion over the four-year period).

For 2001, the nature of the budgetary impact of this bill would depend on whether the SEC appropriation would be enacted before H.R. 2441. If it is, then this bill would affect outlays from an already-enacted appropriation, which would be considered a direct spending impact (of \$478 million). Alternatively, if the SEC appropriation were not enacted before H.R. 2441, the effect of this bill in 2001 would be like that in the subsequent years—a loss of offsetting collections credited against future discretionary appropriations.

| | Millions of dollars, by fiscal year— | | | | |
|--|--------------------------------------|-------|-------|-------|---------|
| | 2001 | 2002 | 2003 | 2004 | 2005 |
| CBO Baseline Estimate of SEC Transaction Fees ¹ | 1,303 | 1,593 | 1,938 | 2,346 | 2,836 |
| SEC Transaction Fees Under H.R. 2441 | 825 | 956 | 1,163 | 1,408 | 1,701 |
| Estimated Change in SEC Transaction Fees | – 478 | – 637 | – 775 | – 938 | – 1,135 |

¹ These estimates are sums of the transaction fees that are classified as governmental receipts and the transaction fees that are classified as offsetting collections.

For this estimate, we assume H.R. 2441 will be enacted after a regular 2001 appropriation is in place for the SEC (see Table 2).

H.R. 2441 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Estimated cost to the Federal Government: Table 2 shows the estimated budgetary impact of H.R. 2441, assuming that the SEC's appropriation for 2001 is enacted before this bill. The costs of this legislation fall within budget function 370 (commerce and housing credit).

| | Millions of dollars, by fiscal year— | | | | |
|----------------------------------|--------------------------------------|------|------|------|-------|
| | 2001 | 2002 | 2003 | 2004 | 2005 |
| CHANGES IN DIRECT SPENDING | | | | | |
| Estimated Budget Authority | 478 | 0 | 0 | 0 | 0 |
| Estimated Outlays | 478 | 0 | 0 | 0 | 0 |
| CHANGES SUBJECT TO APPROPRIATION | | | | | |
| Estimated Budget Authority | 0 | 637 | 775 | 938 | 1,135 |

| | Millions of dollars, by fiscal year— | | | | |
|-------------------------|--------------------------------------|------|------|------|-------|
| | 2001 | 2002 | 2003 | 2004 | 2005 |
| Estimated Outlays | 0 | 637 | 775 | 938 | 1,135 |

Basis of estimate: Under current law, the SEC collects $\frac{1}{300}$ th of a percent of the aggregate dollar value of securities traded through national securities exchanges, national securities associations, brokers, and dealers. The fee rate will decline to $\frac{1}{800}$ th of a percent for 2007 and thereafter. Fees collected from national securities associations are subject to appropriation action and are recorded as offsetting collections, while fees from other sources are recorded as revenues.

H.R. 2441 would reduce the transaction fees to $\frac{1}{500}$ th of 1 percent of the aggregate dollar value of securities traded during the period between October 1, 2000, and October 1, 2006. Based on historical data on the dollar volume of securities traded on the major national securities associations and exchanges, CBO estimates that the aggregate dollar volume of securities traded will amount to about \$39 trillion in 2001 and about \$300 trillion over the 2001–2005 period. On this basis, CBO estimates that implementing H.R. 2441 would reduce SEC transaction fees by a total of \$4 billion over the 2001–2005 period, relative to the CBO’s most recent baseline estimates.

The bill would classify all transaction fees collected up to a certain threshold as revenues. H.R. 2441 would define that threshold as the most recent CBO baseline estimate of revenues from transaction fees. (CBO currently estimates that such revenues will total \$486 million in fiscal year 2001 and \$3.5 billion over the 2001–2005 period.) Under the bill, any transaction fees collected above that threshold would be recorded as offsetting collections, to the extent provided in appropriation acts.

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 net changes in outlays that are subject to pay-as-you-go procedures are shown in the following table, assuming the SEC appropriation for 2001 is enacted before H.R. 2441. If not, this bill would have no pay-as-you-go impact.

| | By fiscal year, in millions of dollars— | | | | | | | | | |
|---------------------------|---|------|------|------|------|------|------|------|------|------|
| | 2001 | 2002 | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 |
| Changes in outlays | 478 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Changes in receipts | Not applicable | | | | | | | | | |

Intergovernmental and private sector mandates statement: H.R. 2441 contains no intergovernmental and private-sector mandates as defined in UMRA, and would impose no costs on state, local, or tribal governments.

Estimate prepared by: Federal Costs: Ken Johnson and Mark Hadley. Revenues: Erin Whitaker. Impact on State, Local, and Tribal Governments: Shelley Finlayson. Impact on the Private Sector: Jean Wooster.

Estimate approved by: Robert A. Sunshine, Assistant Director for Budget Analysis.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds that the Constitutional authority for this legislation is provided in Article I, section 8, clause 3, which grants Congress the power to regulate commerce with foreign nations, among the several States, and with the Indian tribes.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

This section provides the short title of the legislation, the “Fairness in Securities Transactions Act.”

Section 2. Fee reduction

Subsection (a) of section 2 of the legislation provides that section 31 of the Securities and Exchange Act of 1934 (Exchange Act) is amended to reduce the fee rate from $\frac{1}{3000}$ th of one percent to $\frac{1}{5000}$ th of one percent. This change reduces the rate until further reductions mandated by statute occur in fiscal year 2007.

Subsection (b) provides that in any year when total revenue collected from both registration and transaction fees is insufficient to provide the Commission’s budget authority, the transaction fee rate under section 31 may be increased through an appropriation Act.

Section 3. Revision of securities transaction fee provisions

This section amends section 31 of the Exchange Act. The section adds new subsection (i) which stipulates that revenue collected pursuant to section 31 be deposited as general revenue to the Treasury, except that no such amount may exceed the baseline amount (as defined by H.R. 2441). Fees collected in excess of the baseline amount will be deposited and credited as offsetting collection to the account providing appropriations to the Commission.

The section also defines the baseline amount to be the amount projected by the Congressional Budget Office in its most recently published report of the baseline amount before the date of enactment of the legislation.

Section 3 also modifies section 31(d)(3) to conform to the new funding scheme. A new subsection (j) provides that, in the case of

a lapse of regular appropriation, the Commission must continue to collect fees under subsections (b), (c), and (d) of section 31 at the rate in effect during the preceding fiscal year until such regular appropriation is enacted.

Section 4. Effective date

Section 4 provides that the changes made by this bill take effect October 1, 2000 and cease to be effective October 1, 2006.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

**SECTION 31 OF THE SECURITIES EXCHANGE ACT OF
1934**

SEC. 31. TRANSACTION FEES.

(a) * * *

(b) EXCHANGE-TRADED SECURITIES.—Every national securities exchange shall pay to the Commission a fee at a rate equal to **[$\frac{1}{300}$ of one percent]** *$\frac{1}{500}$ of one percent* of the aggregate dollar amount of sales of securities (other than bonds, debentures, and other evidences of indebtedness) transacted on such national securities exchange, except that for fiscal year 2007 or any succeeding fiscal year such rate shall be equal to $\frac{1}{800}$ of one percent of such aggregate dollar amount of sales. **[Fees collected pursuant to this subsection shall be deposited and collected as general revenue of the Treasury.]**

(c) OFF-EXCHANGE TRADES OF EXCHANGE REGISTERED SECURITIES.—Each national securities association shall pay to the Commission a fee at a rate equal to **[$\frac{1}{300}$ of one percent]** *$\frac{1}{500}$ of one percent* of the aggregate dollar amount of sales transacted by or through any member of such association otherwise than on a national securities exchange of securities registered on such an exchange (other than bonds, debentures, and other evidences of indebtedness), except that for fiscal year 2007 or any succeeding fiscal year such rate shall be equal to $\frac{1}{800}$ of one percent of such aggregate dollar amount of sales. **[Fees collected pursuant to this subsection shall be deposited and collected as general revenue of the Treasury.]**

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

[(1) COVERED TRANSACTIONS.—Each national securities]

(d) OFF-EXCHANGE TRADES OF LAST-SALE-REPORTED SECURITIES.—*Each national securities* association shall pay to the Commission a fee at a rate equal to **[$\frac{1}{300}$ of one percent]** *$\frac{1}{500}$ of one percent* of the aggregate dollar amount of sales transacted by or through any member of such association otherwise than on a national securities exchange of securities (other than bonds, debentures, and other evidences of indebtedness) subject to prompt last sale reporting pursuant to the rules of the Commission or a registered national securities association, excluding any sales for

which a fee is paid under subsection (c), except that for fiscal year 2007, or any succeeding fiscal year, such rate shall be equal to $\frac{1}{800}$ of one percent of such aggregate dollar amount of sale.

[(2) LIMITATION; DEPOSIT OF FEES.—Except as provided in paragraph (3), no amounts shall be collected pursuant to subsection (d) for any fiscal year, except to the extent provided in advance in appropriations Acts. Fees collected during any such fiscal year pursuant to this subsection shall be deposited and credited as offsetting collections to the account providing appropriations to the Commission.]

[(3) LAPSE OF APPROPRIATIONS.—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 such a regular appropriation is enacted.]

* * * * *

(h) INSUFFICIENT FEES.—In any year in which the total amount of fees collected under this section and section 6(b) of the Securities Act of 1933 (including any balance in the account providing appropriations to the Commission) are insufficient to provide for the Commission's budget authority as provided by an appropriation Act, such appropriation Act may provide that the fee under this section shall be increased, with all such increased amounts deposited and credited as offsetting collections to the account providing appropriations to the Commission.

(i) DEPOSIT OF FEES.—

(1) GENERAL REVENUES.—Fees collected pursuant to subsections (b), (c), and (d) shall be deposited and collected as general revenue of the Treasury, except that the amount deposited and collected as general revenues for any fiscal year shall not exceed the baseline amount for such fiscal year.

(2) OFFSETTING COLLECTIONS.—Fees collected pursuant subsections (b), (c) and (d) for any fiscal year in excess of the baseline amount for such fiscal year—

(A) shall not be collected or spent for any fiscal year except to the extent provided in advance in appropriation Acts; and

(B) shall be deposited and credited as offsetting collections to the account providing appropriations to the Commission.

(3) BASELINE AMOUNT.—For purposes of this subsection, the baseline amount for any fiscal year is the amount projected by the Congressional Budget Office pursuant to section 257 the Balanced Budget and Emergency Deficit Control Act of 1985, in its most recently published report of its baseline projection before the date of enactment of the Fairness in Securities Transactions Act, to be collected and deposited as general revenues pursuant to subsections (b) and (c) of this section as in effect on the day before the date of enactment of such Act.

(j) 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 under subsections (b), (c), and (d) at the rate in effect during the preceding fiscal year, until such a regular appropriation is enacted.

MINORITY VIEWS

Given a flawed process and a flawed bill, all of the Commerce Committee Democrats opposed this legislation at full Committee markup. I enthusiastically joined that opposition.

I am a strong supporter of eliminating the excess fees collected by the SEC over and above its funding needs. Twice under my leadership, with the cooperation and support of the Appropriations, Budget, and Ways and Means Committees, the House passed legislation to provide the SEC with a stable and assured funding mechanism while also gradually reducing surplus fee collections to zero. Twice the Senate refused to act on that legislation or even negotiate with the House. Had that legislation passed, we would not be having this debate now.

I am a strong supporter of a fully-funded SEC. It would be foolish to be otherwise, given the large number of American households invested in the stock market, the dramatic changes in the structure and functions of the nation's securities markets, the role the stock market currently plays in our economic growth, and last but not least, the need to maintain a strong law enforcement presence to combat the increase in securities fraud, especially on the Internet.

H.R. 2441, as reported by the Commerce Committee on a 24-16 partisan vote, was opposed by Democrats because it achieves reductions in fee collections by targeting only the offsetting collections used by the SEC's appropriators to fund SEC operations. It makes no attempt to reduce the general revenue portion of fee collections, which represent approximately 70 percent of total fee collections. The bill increases the risk that the SEC will face a funding shortfall by giving general revenue first claim on any fee collections. Under this bill general revenue is credited with all fee collections until a general revenue cap is reached. Any collections over the general revenue cap go to offsetting collections. This provision has the effect of shifting the risk of any collection shortfall to offsetting collections. The SEC would thus bear the brunt of any shortfall, exposing the SEC to the possibility of an emergency budget situation that could severely affect its operations.

The House should reject this not-so-veiled Republican attempt to cripple the SEC by potentially shutting off its funding.

I also would express disappointment in the Republicans for blocking consideration of the responsible amendment authored by Representative Towns, who joins me in these views. The Towns amendment offered the securities industry the potential of more fee relief than H.R. 2441, without jeopardizing the SEC's budget. It also would have given the SEC pay parity with the federal banking regulatory authorities to address the serious problems that the SEC is having with recruiting and retaining highly-qualified staff. Recent press reports indicate that the Division of Investment Man-

agement has lost one-third of its attorneys. This is an outrageous situation that needs to be remedied: it undermines both the protection of investors and the ability of business to get timely response to its filings with the agency.

I am filing with these views a copy of the letter that Representatives Towns, Markey, and I wrote to the Democratic Leadership of Appropriations on this matter and I commend it to our colleagues on both sides of the aisle.

JOHN D. DINGELL.

ONE HUNDRED SIXTH CONGRESS

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JAMES E. DERDERIAN, CHIEF OF STAFF

U.S. House of Representatives
Committee on Commerce
 Room 2125, Rayburn House Office Building
 Washington, DC 20515-6115

October 12, 2000

The Honorable David R. Obey
 Ranking Member
 Committee on Appropriations
 1016 Longworth House Office Building
 Washington, D.C. 20515

The Honorable José E. Serrano
 Ranking Member
 Subcommittee on Commerce, Justice,
 State, and Judiciary
 1016 Longworth House Office Building
 Washington, D.C. 20515

Dear David and José:

Last week the House Commerce Committee approved H.R. 2441, the Fairness in Securities Transactions Act, on a 24-16 partisan vote after trampling on the rights of the Minority. We are writing to respectfully request your support in assuring that this legislation is not added as a rider to any pending appropriations legislation.

Sponsored by Representative Rick Lazio, H.R. 2441 reduces the federal fees on stock trades, a goal that we all support since burgeoning stock market volume is causing the so-called section 31 fees to collect more than intended or needed. However, Representative Lazio's fee reduction bill attempts to achieve a dramatic reduction in fee collections by targeting only the offsetting collections used by the SEC's appropriators to fund SEC operations. It makes no attempt to reduce the general revenue portion of fee collections, which represents approximately 70 percent of total fee collections. The Lazio bill increases the risk that the SEC will face a funding shortfall by giving general revenue first claim on any fee collections. This creates serious potential SEC funding shortfall and cash flow issues.

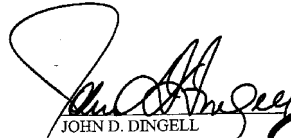
At the full Committee markup, Chairman Bliley ruled nongermane a bipartisan amendment sponsored by Rep. Edolphus Towns that offered more fee reduction than the Lazio

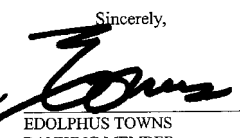
The Honorable David R. Obey
 The Honorable José E. Serrano
 Page 2

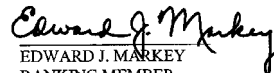
amendment, while safeguarding SEC funding. It did this by giving offsetting collections first claim on any Section 31 fee collections. It also provided the SEC with the ability to match the pay and benefits of federal banking regulators in order to address the agency's inability to attract and retain qualified staff. The Towns amendment was supported by the SEC, the Securities Industry Association, the New York Stock Exchange, and the Nasdaq Stock Market. Representative Towns' request to appeal the ruling of the chair was tabled by another partisan vote in order to gag the Democrats and stifle criticism of the Lazio bill. Chairman Bliley offered to rule the Towns amendment germane if we would accept otherwise nongermane provisions on electronic delivery of documents and imposing a cost-benefit analysis requirement on SEC rules, amendments that were highly objectionable both to the Administration and to Democrats on the Commerce Committee.

Please block any efforts to add the Lazio bill to any pending spending bills. Today, there are more American families invested in our markets than ever before, and the number is growing every day. Never has the need for investor protection and a fully-funded and well-staffed SEC been greater. Thank you for your consideration of our request. If you need any additional information, please do not hesitate to contact us.

Sincerely,


 JOHN D. DINGELL
 RANKING MEMBER
 COMMITTEE ON COMMERCE


 EDOLPHUS TOWNS
 RANKING MEMBER
 SUBCOMMITTEE ON
 FINANCE AND HAZARDOUS
 MATERIALS


 EDWARD J. MARKEY
 RANKING MEMBER
 SUBCOMMITTEE ON
 TELECOMMUNICATIONS,
 TRADE, AND CONSUMER
 PROTECTION

cc: The Honorable Richard A. Gephardt
 Minority Leader

The Honorable Arthur Levitt, Jr., Chairman
 Securities and Exchange Commission