

113TH CONGRESS
2^D SESSION

H. R. 5490

To require the Commodity Futures Trading Commission to impose fees and assessments to recover the cost of appropriations to the Commission.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 16, 2014

Ms. DELAURO (for herself, Mr. WELCH, and Mr. COURTNEY) introduced the following bill; which was referred to the Committee on Agriculture

A BILL

To require the Commodity Futures Trading Commission to impose fees and assessments to recover the cost of appropriations to the Commission.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Wall Street Account-
5 ability through Sustainable Funding Act”.

1 **SEC. 2. REQUIREMENT THAT THE COMMODITY FUTURES**
2 **TRADING COMMISSION IMPOSE FEES AND AS-**
3 **SESSMENTS TO RECOVER THE COST OF AP-**
4 **PROPRIATIONS TO THE COMMISSION.**

5 Section 12 of the Commodity Exchange Act (7 U.S.C.
6 16) is amended by adding at the end the following:

7 “(i) RECOVERY OF COSTS OF ANNUAL APPROPRIA-
8 TIONS.—

9 “(1) IMPOSITION OF FEES.—

10 “(A) IN GENERAL.—Except as provided in
11 subparagraph (C), the Commission shall, by
12 order, impose a fee on each agreement, con-
13 tract, or transaction that is a contract of sale
14 of a commodity for future delivery, an option,
15 or a swap, including an agreement, contract, or
16 transaction transacted through the use of a for-
17 eign terminal, so that the total of the fees so
18 imposed during each fiscal year is sufficient to
19 recover the costs to the Government of the an-
20 nual appropriation to the Commission by Con-
21 gress for the fiscal year.

22 “(B) FOREIGN TERMINAL.—In subpara-
23 graph (A), the term ‘foreign terminal’ means a
24 technology, software, or device, which is located
25 in the United States and used to execute an
26 agreement, contract, or transaction on a foreign

1 board of trade, or which is located outside of
2 the United States and used to execute an agree-
3 ment, contract, or transaction within the
4 United States on a domestic board of trade.

5 “(C) EXEMPTIONS.—The Commission, by
6 rule, may exempt any such agreement, contract,
7 or transaction from any fee imposed under this
8 paragraph, if the Commission finds that the ex-
9 emption is consistent with—

10 “(i) the public interest;

11 “(ii) the equal treatment of contract
12 markets, derivatives clearing organizations,
13 and market participants; and

14 “(iii) the operation of a nationwide
15 market system.

16 “(D) LIMITATION.—The fees imposed
17 under this paragraph on all transactions of the
18 same kind shall be determined in a uniform
19 manner.

20 “(E) MID-YEAR ADJUSTMENT.—

21 “(i) IN GENERAL.—By March 1 of
22 each fiscal year, the Commission shall de-
23 termine whether, based on the fees col-
24 lected under this subsection during the
25 first 5 months of the fiscal year, the total

1 of the amounts collected and to be col-
2 lected under this subsection for the fiscal
3 year is reasonably likely to be 10 percent
4 (or more) greater or less than the costs de-
5 scribed in subparagraph (A) for the fiscal
6 year. If the Commission so determines, the
7 Commission shall by order, no later than
8 March 1 of the fiscal year, adjust the fee
9 rates otherwise applicable under this para-
10 graph for the fiscal year so that the total
11 of the amounts so collected and to be col-
12 lected is reasonably likely to equal to the
13 costs so described.

14 “(ii) EFFECTIVE DATE.—Subject to
15 paragraphs (2)(C) and (4), an adjusted
16 rate prescribed under clause (i) of this sub-
17 paragraph in a fiscal year shall take effect
18 on the later of—

19 “(I) the 1st day of the fiscal year
20 to which the rate applies; or

21 “(II) 60 days after the date on
22 which a regular appropriation to the
23 Commission for the fiscal year is en-
24 acted.

1 “(F) PUBLICATION.—The Commission
2 shall publish in the Federal Register notices of
3 the fee rates applicable under this paragraph
4 for a fiscal year not later than 30 days after
5 the date on which a regular appropriation to
6 the Commission for the fiscal year is enacted,
7 together with any estimates or projections on
8 which the fee rates are based.

9 “(G) INAPPLICABILITY OF RULEMAKING
10 REQUIREMENTS.—In exercising its authority
11 under this paragraph, the Commission shall not
12 be required to comply with section 553 of title
13 5, United States Code.

14 “(H) NO JUDICIAL REVIEW.—A fee rate
15 prescribed under this paragraph and published
16 in accordance with subparagraph (F) shall not
17 be subject to judicial review.

18 “(2) PAYMENT AND COLLECTION OF FEES.—

19 “(A) CLEARED TRANSACTIONS;
20 UNCLEARED SWAPS REPORTED TO SWAP DATA
21 REPOSITORIES.—

22 “(i) PAYMENT OF FEES.—

23 “(I) CLEARED TRANSACTIONS.—

24 In the case of a contract of sale of a
25 commodity for future delivery, an op-

1 tion, or a swap that is cleared by a
2 derivatives clearing organization reg-
3 istered or exempt from registration
4 under this Act, each party to the
5 agreement, contract, or transaction
6 shall pay the fee determined under
7 paragraph (1) to the derivatives clear-
8 ing organization.

9 “(II) UNCLEARED SWAPS RE-
10 PORTED TO SWAP DATA REPOSI-
11 TORIES.—In the case of a swap that
12 is not cleared by a derivatives clearing
13 organization registered or exempt
14 from registration under this Act and
15 that is accepted by a swap data repos-
16 itory registered under section 21, each
17 party to the swap shall pay the trans-
18 action fee determined under para-
19 graph (1) to the swap data repository.

20 “(ii) COLLECTION OF FEES.—The
21 Commission shall collect the fees paid in
22 accordance with clause (i) in such manner
23 and within such time as the Commission
24 deems appropriate, except that if the Com-
25 mission has not collected a fee paid in ac-

1 cordance with clause (i) within 30 days
2 after receipt by the derivatives clearing or-
3 ganization or swap data repository, as the
4 case may be, the organization or reposi-
5 tory, as the case may be, shall transmit the
6 fee to the Commission.

7 “(B) UNCLEARED SWAPS REPORTED TO
8 COMMISSION.—In the case of a swap that is not
9 cleared by a derivatives clearing organization
10 registered or exempt from registration under
11 this Act and that is reported to the Commission
12 pursuant to section 4r, each party to the swap
13 shall pay the fee determined under paragraph
14 (1) to the Commission in a manner and within
15 such time as the Commission deems appro-
16 priate.

17 “(C) SUBJECT TO APPROPRIATIONS.—Ex-
18 cept as provided in paragraph (4), a fee shall
19 not be collected under this subsection for a fis-
20 cal year, except to the extent provided in ad-
21 vance in appropriation Acts.

22 “(3) DEPOSIT OF FEES.—

23 “(A) OFFSETTING COLLECTIONS.—A fee
24 collected under paragraph (2) for a fiscal year
25 shall be deposited and credited as offsetting col-

1 lections to the account providing appropriations
2 to the Commission.

3 “(B) GENERAL REVENUES PROHIBITED.—
4 A fee collected under paragraph (2) for a fiscal
5 year shall not be deposited and credited as gen-
6 eral revenue of the Treasury.

7 “(4) LAPSE OF APPROPRIATION.—If on the
8 first day of a fiscal year a regular appropriation to
9 the Commission has not been enacted, the Commis-
10 sion shall continue to collect (as offsetting collec-
11 tions) the fees imposed under paragraph (1) at the
12 rate in effect during the preceding fiscal year, until
13 60 days after the date such a regular appropriation
14 is enacted.

15 “(j) COMMODITY FUTURES TRADING COMMISSION
16 RESERVE FUND.—

17 “(1) ESTABLISHMENT.—There is established in
18 the Treasury of the United States a separate fund,
19 to be known as the ‘Commodity Futures Trading
20 Commission Reserve Fund’ (referred to in this sub-
21 section as the ‘Reserve Fund’).

22 “(2) IMPOSITION OF FEES.—The Commission
23 shall impose and collect an additional fee, as pro-
24 vided in subsection (i), except that the total amount
25 of the fees imposed and collected in each fiscal year

1 shall not exceed an amount equal to the amount (if
2 any) by which \$50,000,000 exceeds the balance in
3 the Reserve Fund as of the end of the preceding fis-
4 cal year, and paragraphs (2)(C) and (4) of sub-
5 section (i) shall not apply with respect to this sub-
6 section.

7 “(3) DEPOSITS INTO RESERVE FUND.—

8 “(A) IN GENERAL.—Except as provided in
9 this paragraph, all fees collected under this
10 paragraph shall be deposited into the Reserve
11 Fund.

12 “(B) LIMITATION.—The balance in the Re-
13 serve Fund shall not exceed \$50,000,000.

14 “(4) USE OF FUNDS.—The Commission may
15 obligate amounts in the Reserve Fund, not to exceed
16 a total of \$50,000,000 in any 1 fiscal year, as the
17 Commission determines is necessary to make long-
18 term investments in information technology for use
19 by the Commission and to cover unexpected expenses
20 of the Commission (as determined by the Commis-
21 sion). Not later than 10 days after the date on
22 which the Commission obligates amounts under this
23 paragraph, the Commission shall notify the Congress
24 of the date, amount, and purpose of the obligation.

1 “(5) AVAILABILITY OF FUNDS.—Amounts in
2 the Reserve Fund shall remain available until ex-
3 pended.

4 “(6) RULE OF CONSTRUCTION.—Amounts in
5 the Reserve Fund shall not be construed to be Gov-
6 ernment funds or appropriated monies and shall not
7 be subject to apportionment for the purpose of chap-
8 ter 15 of title 31, United States Code, or under any
9 other authority.”.

○