

Calendar No. 712106TH CONGRESS
2^D SESSION**S. 2107****[Report No. 106-360]**

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.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 28, 2000

Mr. GRAMM (for himself, Mr. GRAMS, Mr. SCHUMER, Mr. MACK, Mr. HAGEL, Mr. BUNNING, Mr. ALLARD, Mr. BENNETT, Mr. BAYH, Mr. TORRICELLI, Mr. CRAPO, Mr. ENZI, Mr. BOND, and Mr. REID) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

JULY 25, 2000

Reported by Mr. GRAMM, with amendments

[Omit the part struck through and insert the part printed in *italic*]

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.

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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
 5 “Competitive Market Supervision Act”.

6 (b) TABLE OF CONTENTS.—The table of contents for
 7 this Act is as follows:

- ~~Sec. 1. Short title; table of contents.~~
~~Sec. 2. Reduction in registration fee rates; elimination of general revenue component.~~
~~Sec. 3. Reduction in merger and tender fee rates; reclassification as offsetting collections.~~
~~Sec. 4. Reduction in transaction fees; elimination of general revenue component.~~
~~Sec. 5. Adjustments to fees.~~
~~Sec. 6. Comparability Provisions.~~
~~Sec. 7. Effective date.~~

Sec. 1. Short title; table of contents.

TITLE I—FEES AND COMPARABILITY

- Sec. 101. Reduction in registration fee rates; elimination of general revenue component.*
Sec. 102. Reduction in merger and tender fee rates; reclassification as offsetting collections.
Sec. 103. Reduction in transaction fees; elimination of general revenue component.
Sec. 104. Adjustments to fee rates.
Sec. 105. Comparability provisions.
Sec. 106. Authorization of appropriations.
Sec. 107. Effective date.

TITLE II—SECURITIES MARKETS ENHANCEMENT

Sec. 201. Short title.

Subtitle A—Reducing the Cost of Capital Formation

- Sec. 211. Exempted securities and organizations.*
Sec. 212. National market treatment for certain securities.

Subtitle B—Enhancement of Disclosure and Investment Adviser Regulation

- Sec. 221. Ensuring adequate recordkeeping.*
Sec. 222. Elimination of barriers to providing services.
Sec. 223. Reducing financial reporting burdens.
Sec. 224. Enhancing transparency of records.

1 ***TITLE I—FEES AND***
2 ***COMPARABILITY***

3 **SEC. 2. 101. REDUCTION IN REGISTRATION FEE RATES;**
4 **ELIMINATION OF GENERAL REVENUE COM-**
5 **PONENT.**

6 Section 6(b) of the Securities Act of 1933 (15 U.S.C.
7 77f(b)) is amended—

8 (1) by striking paragraph (2) and inserting the
9 following:

10 “(2) **FEE PAYMENT REQUIRED.**—At the time of
11 filing a registration statement, the applicant shall
12 pay to the Commission a fee that shall be equal to
13 the amount determined under the rate established by
14 paragraph (3). The Commission shall publish in the
15 Federal Register notices of the fee rate applicable
16 under this section for each fiscal year.”;

17 (2) by striking paragraph (3);

18 (3) by redesignating paragraphs (4) and (5) as
19 paragraphs (3) and (4), respectively;

20 (4) in paragraph (3), as redesignated—

21 (A) by striking subparagraph (A) and in-
22 serting the following:

23 “(A) **IN GENERAL.**—Except as provided in
24 subparagraphs (B) and (C), the rate deter-
25 mined under this paragraph is a rate equal to

1 the following amount per \$1,000,000 of the
 2 maximum aggregate price at which the securi-
 3 ties are proposed to be offered:

4 “(i) \$67 for each of fiscal years 2001
 5 through 2006.

6 “(ii) \$33 for fiscal year 2007 and
 7 each fiscal year thereafter.”; and

8 (B) in subparagraph (B), by striking “this
 9 paragraph (4)” and inserting “this paragraph”;
 10 and

11 (5) by striking paragraph (4), as redesignated,
 12 and inserting the following:

13 “(4) PRO RATA APPLICATION OF RATE.—The
 14 rate required by this subsection shall be applied pro
 15 rata to amounts and balances equal to *or* less than
 16 \$1,000,000.”.

17 **SEC. 3. 102. REDUCTION IN MERGER AND TENDER FEE**
 18 **RATES; RECLASSIFICATION AS OFFSETTING**
 19 **COLLECTIONS.**

20 (a) SECTION 13.—Section 13(e)(3) of the Securities
 21 Exchange Act of 1934 (15 U.S.C. 78m(e)(3)) is amended
 22 to read as follows:

23 “(3) FEES.—

24 “(A) IN GENERAL.—At the time of the fil-
 25 ing of any statement that the Commission may

1 require by rule pursuant to paragraph (1), the
2 person making the filing shall pay to the Com-
3 mission a fee equal to—

4 “(i) \$67 for each \$1,000,000 of the
5 value of the securities proposed to be pur-
6 chased, for each of fiscal years 2001
7 through 2006; and

8 “(ii) \$33 for each \$1,000,000 of the
9 value of securities proposed to be pur-
10 chased, for fiscal year 2007 and each fiscal
11 year thereafter.

12 “(B) REDUCTION.—The fee required by
13 this paragraph shall be reduced with respect to
14 securities in an amount equal to any fee paid
15 with respect to any securities issued in connec-
16 tion with the proposed transaction under sec-
17 tion 6(b) of the Securities Act of 1933, or the
18 fee paid under that section shall be reduced in
19 an amount equal to the fee paid to the Commis-
20 sion in connection with such transaction under
21 this paragraph.

22 “(C) LIMITATION; DEPOSIT OF FEES.—

23 “(i) LIMITATION.—Except as provided
24 in subparagraph (D), no amounts shall be
25 collected pursuant to this paragraph for

1 any fiscal year, except to the extent pro-
2 vided in advance in appropriations Acts.

3 “(ii) DEPOSIT OF FEES.—Fees col-
4 lected during any fiscal year pursuant to
5 this paragraph shall be deposited and cred-
6 ited as offsetting collections in accordance
7 with appropriations Acts.

8 “(D) LAPSE OF APPROPRIATIONS.—If, on
9 the first day of a fiscal year, a regular appro-
10 priation to the Commission has not been en-
11 acted for that fiscal year, the Commission shall
12 continue to collect fees (as offsetting collec-
13 tions) under this paragraph at the rate in effect
14 during the preceding fiscal year, until such a
15 regular appropriation is enacted.

16 “(E) PRO RATA APPLICATION OF RATE.—
17 The rate required by this paragraph shall be
18 applied pro rata to amounts and balances equal
19 to *or* less than \$1,000,000.”.

20 (b) SECTION 14.—

21 (1) PRELIMINARY PROXY SOLICITATIONS.—Sec-
22 tion 14(g)(1) of the Securities Exchange Act of
23 1934 (15 U.S.C. 78n(g)(1)) is amended—

24 (A) in subparagraph (A), by striking
25 “Commission the following fees” and all that

1 follows through the end of the subparagraph
2 and inserting “Commission—

3 “(i) for preliminary proxy solicitation
4 material involving an acquisition, merger,
5 or consolidation, if there is a proposed pay-
6 ment of each or transfer of securities or
7 property to shareholders, a fee equal to—

8 “(I) \$67 for each \$1,000,000 of
9 such proposed payment, or of the
10 value of such securities or other prop-
11 erty proposed to be transferred, for
12 each of fiscal years 2001 through
13 2006; and

14 “(II) \$33 for each \$1,000,000 of
15 such proposed payment, or of the
16 value of such securities or other prop-
17 erty proposed to be transferred, for
18 fiscal year 2007 and each fiscal year
19 thereafter; and

20 “(ii) for preliminary proxy solicitation
21 material involving a proposed sale or other
22 disposition of substantially all of the assets
23 of a company, a fee equal to—

24 “(I) \$67 for each \$1,000,000 of
25 the cash or of the value of any securi-

1 ties or other property proposed to be
2 received upon such sale or disposition,
3 for each of fiscal years 2001 through
4 2006; and

5 “(II) \$33 for each \$1,000,000 of
6 the cash or of the value of any securi-
7 ties or other property proposed to be
8 received upon such sale or disposition,
9 for fiscal year 2007 and each fiscal
10 year thereafter.”;

11 (B) in subparagraph (B), by inserting
12 “REDUCTION.—” before “The fee”; and

13 (C) by adding at the end the following:

14 “(C) LIMITATION; DEPOSIT OF FEES.—

15 “(i) LIMITATION.—Except as provided
16 in subparagraph (D), no amounts shall be
17 collected pursuant to this paragraph for
18 any fiscal year, except to the extent pro-
19 vided in advance in appropriations Acts.

20 “(ii) DEPOSIT OF FEES.—Fees col-
21 lected during any fiscal year pursuant to
22 this paragraph shall be deposited and cred-
23 ited as offsetting collections in accordance
24 with appropriations Acts.

1 “(D) LAPSE OF APPROPRIATIONS.—If, on
2 the first day of a fiscal year, a regular appro-
3 piation to the Commission has not been en-
4 acted for that fiscal year, the Commission shall
5 continue to collect fees (as offsetting collec-
6 tions) under this paragraph at the rate in effect
7 during the preceding fiscal year, until such a
8 regular appropriation is enacted.

9 “(E) PRO RATA APPLICATION OF RATE.—
10 The rate required by this paragraph shall be
11 applied pro rata to amounts and balances equal
12 to *or* less than \$1,000,000.”.

13 (2) OTHER FILINGS.—Section 14(g)(3) of the
14 Securities Exchange Act of 1934 (15 U.S.C.
15 78n(g)(3)) is amended—

16 (A) by striking “At the time” and insert-
17 ing the following: “OTHER FILINGS.—

18 “(A) FEE RATE.—At the time”;

19 (B) by striking “the Commission a fee of”
20 and all that follows through “The fee” and in-
21 serting the following: “the Commission a fee
22 equal to—

23 “(i) \$67 for each \$1,000,000 of the
24 aggregate amount of cash or of the value
25 of securities or other property proposed to

1 be offered, for each of fiscal years 2001
2 through 2006; and

3 “(ii) \$33 for each \$1,000,000 of the
4 aggregate amount of cash or of the value
5 of securities or other property proposed to
6 be offered, for fiscal year 2007 and each
7 fiscal year thereafter.

8 “(B) REDUCTION.—The fee required under
9 subparagraph (A)”;

10 (C) by adding at the end the following:

11 “(C) LIMITATION; DEPOSIT OF FEES.—

12 “(i) LIMITATION.—Except as provided
13 in subparagraph (D), no amounts shall be
14 collected pursuant to this paragraph for
15 any fiscal year, except to the extent pro-
16 vided in advance in appropriations Acts.

17 “(ii) DEPOSIT OF FEES.—Fees col-
18 lected during any fiscal year pursuant to
19 this paragraph shall be deposited and cred-
20 ited as offsetting collections in accordance
21 with appropriations Acts.

22 “(D) LAPSE OF APPROPRIATIONS.—If, on
23 the first day of a fiscal year, a regular appro-
24 priation to the Commission has not been en-
25 acted for that fiscal year, the Commission shall

1 continue to collect fees (as offsetting collec-
 2 tions) under this paragraph at the rate in effect
 3 during the preceding fiscal year, until such a
 4 regular appropriations is enacted.

5 “(E) PRO RATA APPLICATION OF RATE.—
 6 The rate required by this paragraph shall be
 7 applied pro rata to amounts and balances equal
 8 to *or* less than \$1,000,000.”.

9 **SEC. 4. 103. REDUCTION IN TRANSACTION FEES; ELIMI-**
 10 **NATION OF GENERAL REVENUE COMPONENT.**

11 Section 31 of the Securities Exchange Act of 1934
 12 (15 U.S.C. 78ee) is amended—

13 (1) by striking subsections (b) through (d) and
 14 inserting the following:

15 “(b) TRANSACTION FEES.—

16 “(1) IN GENERAL.—Each national securities ex-
 17 change and national securities association shall pay
 18 to the Commission a fee at a rate equal to the trans-
 19 action offsetting collection rate described in para-
 20 graph (2) of the aggregate dollar amount of sales of
 21 securities (other than bonds, debentures, and other
 22 evidences of indebtedness)—

23 “(A) transacted on such national securities
 24 exchange;

1 “(B) transacted by or through any member
2 of such association otherwise than on a national
3 securities exchange of securities registered on
4 such an exchange; and

5 “(C) transacted by or through any member
6 of such association otherwise than on a national
7 securities exchange of securities that are subject
8 to prompt last sale reporting pursuant to the
9 rules of the Commission or a registered national
10 securities association, excluding any sales for
11 which a fee is paid under subparagraph (B).

12 “(2) FEE RATE.—

13 “(A) TRANSACTION OFFSETTING COLLEC-
14 TION RATE.—For purposes of this subsection,
15 the ‘transaction offsetting collection rate’ for a
16 fiscal year is the uniform rate required to reach
17 the transaction fee cap for that fiscal year.

18 “(B) TRANSACTION FEE CAP.—For pur-
19 poses of this paragraph, the ‘transaction fee
20 cap’ shall be equal to—

21 “(i) \$413,000,000 for fiscal year
22 2001;

23 “(ii) \$497,000,000 for fiscal year
24 2002;

1 “(iii) \$607,000,000 for fiscal year
2 2003;

3 “(iv) \$706,000,000 for fiscal year
4 2004;

5 “(v) \$896,000,000 for fiscal year
6 2005;

7 “(vi) \$1,094,000,000 for fiscal year
8 2006;

9 “(vii) \$554,000,000 for fiscal year
10 2007;

11 “(viii) \$580,000,000 for fiscal year
12 2008;

13 “(ix) \$719,000,000 for fiscal year
14 2009; and

15 “(x) \$884,000,000 for fiscal year
16 2010 and each fiscal year thereafter.

17 “(c) LIMITATION; DEPOSIT OF FEES.—

18 “(1) LIMITATION.—Except as provided in sub-
19 section (d), no amount may be collected pursuant to
20 subsection (b) for any fiscal year, except to the ex-
21 tent provided in advance in appropriation Acts.

22 “(2) DEPOSIT OF FEES.—Fees collected during
23 any fiscal year pursuant to this section shall be de-
24 posited and credited as offsetting collections in ac-
25 cordance with appropriations Acts.

1 “(d) LAPSE OF APPROPRIATIONS.—If, on the first
 2 day of a fiscal year, a regular appropriation to the Com-
 3 mission has not been enacted for that fiscal year, the Com-
 4 mission shall continue to collect fees (as offsetting collec-
 5 tions) under this section at the rate in effect during the
 6 preceding fiscal year (prior to adjustments, if any, under
 7 subsections (b) and (c) of section ~~5~~ 104 of the Competitive
 8 Market Supervision Act), until such a regular appropria-
 9 tions is enacted.”;

10 (2) in subsection (e), by striking “subsections
 11 (b), (c), and (d)” and inserting “subsection (b)”;
 12 and

13 (3) in subsection (g), by striking “rates” and
 14 inserting “rate”.

15 **SEC. ~~5~~. 104. ADJUSTMENTS TO FEE RATES.**

16 (a) ESTIMATES OF COLLECTIONS.—

17 (1) The Securities and Exchange Commission
 18 (hereafter in this Act referred to as the “Commis-
 19 sion”) shall, 1 month after submission of its initial
 20 report under subsection (e)(1) and on a monthly
 21 basis thereafter, project the aggregate amount of
 22 fees from all sources likely to be collected by the
 23 Commission during the current fiscal year.

24 (2) Each national securities exchange and na-
 25 tional securities association shall file with the Com-

1 mission within 10 days after the end of each month
2 an estimate of the fee required to be paid pursuant
3 to section 31 of the Securities Exchange Act of 1934
4 by such national securities exchange or national se-
5 curities association for transactions and sales occur-
6 ring during such month and such other information
7 and documents as the Commission may require as
8 necessary or appropriate to project the aggregate
9 amount of fees pursuant to paragraph (1).

10 (b) FLOOR FOR TOTAL FEE COLLECTIONS.—If, at
11 any time *after* the end of the first half of the fiscal year,
12 the Commission projects under subsection (a) that the ag-
13 gregate amount of fees collected by the Commission will,
14 during that fiscal year, fall below an amount equal to the
15 floor for total fee collections, the Commission may by
16 order, subject to subsection (e), increase the fee rate es-
17 tablished under section 31 of the Securities Exchange Act
18 of 1934 to the extent necessary to bring estimated collec-
19 tions to an amount equal to the floor for total fee collec-
20 tions. Such increase shall apply only to transactions and
21 sales occurring on or after the effective date specified in
22 such order through August 31 of that fiscal year. Such
23 increase shall not affect the obligation of each national
24 securities exchange and national securities association to
25 pay the Commission the fee required by section 31 of the

1 Securities Exchange Act of 1934 at the fee rate in effect
2 prior to the effective date of such order for transactions
3 and sales occurring prior to the effective date of such
4 order. In exercising its authority under this subsection, the
5 Commission shall not be required to comply with the provi-
6 sions of section 553 of title 5, United States Code.

7 (c) CAP ON TOTAL FEE COLLECTIONS.—If, at any
8 time after the end of the first half of the fiscal year, the
9 Commission projects under subsection (a) that the aggre-
10 gate amount of fees collected by the Commission will ex-
11 ceed the cap on total fee collections by more than ~~five~~ 5
12 percent during any fiscal year, the Commission shall by
13 order, subject to subsection (e), decrease the fee rate or
14 suspend collection of fees under section 31 of the Securi-
15 ties Exchange Act of 1934 to the extent necessary to bring
16 estimated collections to an amount equal to the cap on
17 total fee collections. Such decrease or suspension shall
18 apply only to transactions and sales occurring on or after
19 the effective date specified in such order through August
20 31 of that fiscal year. Such decrease or suspension shall
21 not affect the obligation of each national securities ex-
22 change and national securities association to pay the Com-
23 mission the fee required by section 31 of the Securities
24 Exchange Act of 1934 at the fee rate in effect prior to
25 the effective date of such order for transactions and sales

1 occurring prior to the effective date of such order. In exer-
2 cising its authority under this subsection, the Commission
3 shall not be required to comply with the provisions of sec-
4 tion 553 of title 5, United States Code.

5 (d) DEFINITIONS.—

6 (1) For purposes of this section, the term “floor
7 for total fee collections” means the greater of—

8 (A) the total amount appropriated to the
9 Commission for fiscal year 2001 (adjusted an-
10 nually, based on the annual percentage change,
11 if any, in the Consumer Price Index for all
12 urban consumers, as published by the Depart-
13 ment of Labor); or

14 (B) the amount authorized for the Com-
15 mission pursuant to section 35 of the Securities
16 Exchange Act of 1934 (15 U.S.C. 78kk), if ap-
17 plicable.

18 (2) For purposes of this section, the term “cap
19 on total fee collections” means—

20 (A) for fiscal years 2001 through 2010,
21 the baseline amount for aggregate offsetting
22 collections for such fiscal year under section
23 6(b) of the Securities Act of 1933 and section
24 31 of the Securities Exchange Act of 1934, as
25 projected for such fiscal year by the Congres-

1 sional Budget Office pursuant to section 257 of
2 the Balanced Budget and Emergency Deficit
3 Control Act of 1985 in its most recently pub-
4 lished report of its baseline projection before
5 the date of enactment of this Act; and

6 (B) for fiscal years 2011 and thereafter,
7 the amount authorized for the Commission pur-
8 suant to section 35 of the Securities Exchange
9 Act of 1934 (15 U.S.C. 78kk).

10 (e) REPORTS TO CONGRESS; JUDICIAL REVIEW; NO-
11 TICE.—

12 (1) INITIAL REPORT.—Not later than 90 days
13 after the date of enactment of this Act, the Commis-
14 sion shall report to the Committee on Banking,
15 Housing, and Urban Affairs of the Senate and the
16 Committee on Commerce of the House of Represent-
17 atives to explain the methodology used by the Com-
18 mission to make projections under subsection (a).
19 Within 30 days after the beginning of each fiscal
20 year, the Commission may report to the Committee
21 on Banking, Housing, and Urban Affairs of the Sen-
22 ate and the Committee on Commerce of the House
23 of Representatives on revisions to the methodology
24 used by the Commission to make projections under

1 subsection (a) for such fiscal year and subsequent
2 fiscal years.

3 (2) JUDICIAL REVIEW; REPORTS OF INTENT TO
4 ACT.—The determinations made and the actions
5 taken by the Commission under this subsection shall
6 not be subject to judicial review. Not later than 45
7 days before taking action under subsection (b) or
8 (c), the Commission shall report to the Committee
9 on Banking, Housing, and Urban Affairs of the Sen-
10 ate and the Committee on Commerce of the House
11 of Representatives on its intent to take such action.

12 (3) NOTICE.—Not later than 30 days before
13 taking action under subsection (b) or (c), the Com-
14 mission shall notify each national securities ex-
15 change and national securities association of its in-
16 tent to take such action.

17 **SEC. 6. 105. COMPARABILITY PROVISIONS.**

18 (a) SECURITIES AND EXCHANGE COMMISSION EM-
19 PLOYEES.—

20 (1) IN GENERAL.—Section 4(b) of the Securi-
21 ties Exchange Act of 1934 (15 U.S.C. 78d(b)) is
22 amended by redesignating paragraph (3) as para-
23 graph (2), and by striking paragraphs (1) and (2)
24 and inserting the following:

25 “(1) APPOINTMENT AND COMPENSATION.—

1 “(A) IN GENERAL.—The Commission may
2 appoint and fix the compensation of such offi-
3 cers, attorneys, economists, examiners, and
4 other employees as may be necessary for car-
5 rying out its functions under this Act.

6 “(B) RATES OF PAY.—Rates of basic pay
7 for all employees of the Commission may be set
8 and adjusted by the Commission without regard
9 to the provisions of chapter 51 or subchapter
10 III of chapter 53 of title 5, United States Code.

11 “(C) COMPARABILITY.—The Commission
12 may provide additional compensation and bene-
13 fits to employees of the Commission if the same
14 type of compensation or benefits are then being
15 provided by any agency referred to under sec-
16 tion 1206(a) of the Financial Institutions Re-
17 form, Recovery, and Enforcement Act of 1989
18 (12 U.S.C. 1833b) or, if not then being pro-
19 vided, could be provided by such an agency
20 under applicable provisions of law, rule, or reg-
21 ulation. In setting and adjusting the total
22 amount of compensation and benefits for em-
23 ployees, the Commission shall consult with, and
24 seek to maintain comparability with, the agen-
25 cies referred to under section 1206(a) of the Fi-

1 nancial Institutions Reform, Recovery, and En-
2 forcement Act of 1989 (12 U.S.C. 1833b).”.

3 (2) EMPLOYEES REPRESENTED BY LABOR OR-
4 GANIZATIONS.—To the extent that any employee of
5 the Commission is represented by a labor organiza-
6 tion with exclusive recognition in accordance with
7 chapter 71 of title 5, United States Code, no reduc-
8 tion in base pay of such employee shall be made by
9 reason of enactment of this subsection.

10 (b) REPORTING ON INFORMATION BY THE COMMIS-
11 SION.—Section 1206 of the Financial Institutions Reform,
12 Recovery, and Enforcement Act of 1989 (12 U.S.C.
13 1833b) is amended—

14 (1) by inserting “(a) IN GENERAL.—” before
15 “The Federal Deposit”;

16 (2) by striking “the Thrift Depositor Protection
17 Oversight Board of the Resolution Trust Corpora-
18 tion”; and

19 (3) by adding at the end the following:

20 “(b) In establishing and adjusting schedules of com-
21 pensation and benefits for employees of the Securities and
22 Exchange Commission under applicable provisions of law,
23 the Commission shall inform the heads of the agencies re-
24 ferred to under subsection (a) and Congress of such com-
25 pensation and benefits and shall seek to maintain com-

1 parability with such agencies regarding compensation and
2 benefits.”.

3 (c) TECHNICAL AMENDMENTS.—

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

6 (A) in subparagraph (C), by striking “or”
7 after the semicolon;

8 (B) in subparagraph (D), by inserting
9 “or” after the semicolon; and

10 (C) by adding at the end the following:

11 “(E) the Securities and Exchange Commis-
12 sion.”.

13 (2) Section 5373(a) of title 5, United States
14 Code, is amended—

15 (A) in paragraph (2), by striking “or”
16 after the semicolon;

17 (B) in paragraph (3), by striking the pe-
18 riod and inserting “; or”; and

19 (C) by adding at the end the following:

20 “(4) section 4(b) of the Securities Exchange
21 Act of 1934.”.

22 **SEC. 106. AUTHORIZATION OF APPROPRIATIONS.**

23 *Section 35(a) of the Securities Exchange Act of 1934*
24 *(15 U.S.C. 78kk(a)) is amended by striking “\$351,280,000”*

1 *and all that follows through “1999” and inserting*
 2 *“\$422,800,000 for fiscal year 2001”.*

3 **SEC. 7. 107. EFFECTIVE DATE.**

4 (a) IN GENERAL.—Subject to subsection (b), this ~~Act~~
 5 *title* and the amendments made by this ~~Act~~ *title* shall be-
 6 come effective on October 1, 2000.

7 (b) EXCEPTIONS.—The authorities provided by sec-
 8 tion 13(e)(3)(D), section 14(g)(1)(D), section
 9 14(g)(3)(D), and section 31(d) of the Securities Exchange
 10 Act of 1934, as so designated by this ~~Act~~ *title*, shall not
 11 apply until October 1, 2001.

12 ***TITLE II—SECURITIES MARKETS***
 13 ***ENHANCEMENT***

14 **SEC. 201. SHORT TITLE.**

15 *This title may be cited as the “Securities Markets En-*
 16 *hancement Act of 2000”.*

17 ***Subtitle A—Reducing the Cost of***
 18 ***Capital Formation***

19 **SEC. 211. EXEMPTED SECURITIES AND ORGANIZATIONS.**

20 (a) *SECURITIES EXEMPTION THRESHOLD.*—Section
 21 *3(b) of the Securities Act of 1933 (15 U.S.C. 77c(b)) is*
 22 *amended by striking “\$5,000,000” and inserting*
 23 *“\$12,000,000 (adjusted annually, based on the annual per-*
 24 *centage change, if any, in the Consumer Price Index for*

1 all urban consumers, as published by the Department of
2 Labor)”.
3

4 (b) CHARITABLE GIFT ANNUITIES.—Section 3(e)(2)
5 of the Securities Exchange Act of 1934 (15 U.S.C.
6 78c(e)(2)) is amended—

7 (1) by striking “The exemption” and inserting
8 the following:

9 “(A) IN GENERAL.—The exemption”; and
10 (2) by adding at the end the following:

11 “(B) EXCEPTION.—The limitation on com-
12 pensation provided under subparagraph (A)
13 does not apply to compensation paid to any per-
14 son for any service rendered in connection with
15 the issuance by a charitable organization of a
16 charitable gift annuity or other exempted secu-
17 rity described in subsection (a)(12)(A)(v), if—

18 “(i) the charitable organization has
19 been in continuous operation for not less
20 than 10 years and has total net assets of
21 not less than \$10,000,000; and

22 “(ii) the person receiving
23 compensation—

24 “(I) is registered, licensed, or
25 certified by a Federal or State agency,
self-regulatory organization, or profes-

1 sional licensing authority as an attor-
2 ney, financial planner, insurance
3 agent, insurance broker, investment
4 adviser, or public accountant;

5 “(II) is not subject to any sus-
6 pension order or other disciplinary ac-
7 tion from the Commission;

8 “(III) before completion of the
9 exempted security transaction, clearly
10 and conspicuously discloses in writing
11 to the purchaser of the exempted se-
12 curity the fact that such person is re-
13 ceiving compensation in connection
14 with the transaction; and

15 “(IV) obtains from the purchaser
16 at the time of the purchase of the ex-
17 empted security a signed statement
18 acknowledging that the purchaser has
19 received and understands the disclo-
20 sure required under this clause.”.

21 **SEC. 212. NATIONAL MARKET TREATMENT FOR CERTAIN**
22 **SECURITIES.**

23 Section 18 of the Securities Act of 1933 (15 U.S.C.
24 77r) is amended—

25 (1) in subsection (b)—

- 1 (A) in paragraph (1)—
- 2 (i) in subparagraph (B), by striking
- 3 “or” at the end;
- 4 (ii) in subparagraph (C), by striking
- 5 the period at the end and inserting a semi-
- 6 colon; and
- 7 (iii) by adding at the end the fol-
- 8 lowing:
- 9 “(D) a warrant or right to purchase or
- 10 subscribe to any security described in subpara-
- 11 graph (A), (B), or (C);
- 12 “(E) a security issued by a foreign govern-
- 13 ment, or a political subdivision thereof, for
- 14 which Schedule B has been filed with the Com-
- 15 mission pursuant to section 7; or
- 16 “(F) an interest in an employee benefit
- 17 plan and the security underlying the employee
- 18 benefit plan, if the underlying security is—
- 19 “(i) a security described in subpara-
- 20 graph (A), (B), or (C); or
- 21 “(ii) a foreign equity security that is
- 22 a ‘margin security’, as that term (or any
- 23 successor term) is defined in rules and reg-
- 24 ulations prescribed by the Board of Gov-

1 errors of the Federal Reserve System.”;

2 and

3 (B) in paragraph (4)—

4 (i) by striking subparagraph (A) and
5 inserting the following:

6 “(A) paragraph (1) or (3) of section 4,

7 if—

8 “(i) the issuer of such security files
9 reports with the Commission pursuant to
10 section 13 or 15(d) of the Securities Ex-
11 change Act of 1934; or

12 “(ii) the transaction involves a foreign
13 equity security that is a ‘margin security’,
14 as that term (or any successor term) is de-
15 fined in rules or regulations prescribed by
16 the Board of Governors of the Federal Re-
17 serve System;”;

18 (ii) in subparagraph (D), by inserting
19 before the period at the end the following:
20 “, including any form prescribed by rule or
21 regulation of the Commission that includes
22 a listing of the States in which the securi-
23 ties are intended to be sold”;

24 (2) in subsection (c)(2), by striking subpara-
25 graphs (C) and (D) and inserting the following:

1 “(C) ELIMINATION OF PAPERWORK AND
2 FEES ON CERTAIN COVERED SECURITIES.—Not-
3 withstanding subparagraphs (A) and (B), no
4 State securities commission (or agency or office
5 performing like functions) may require a notice
6 filing or fee with respect to any security that is
7 a covered security pursuant to—

8 “(i) subsection (b)(1), or will be such
9 a covered security upon completion of the
10 transaction; or

11 “(ii) subparagraph (A), (B), or (C) of
12 subsection (b)(4).”; and

13 (3) by adding at the end the following:

14 “(e) ISSUER AGENTS.—No law of any State, or polit-
15 ical subdivision thereof, that requires the registration, li-
16 censing, or qualification of any individual who represents
17 an issuer in effecting or attempting to effect the purchase
18 or sale of securities of the issuer shall apply to any indi-
19 vidual who represents an issuer in a transaction involving
20 a covered security, as described in subsection (b)(4)(D),
21 if the individual receives no compensation, directly or indi-
22 rectly, in connection with the offer, sale, or purchase of
23 the security.”.

1 **Subtitle B—Enhancement of Dis-**
2 **closure and Investment Adviser**
3 **Regulation**

4 **SEC. 221. ENSURING ADEQUATE RECORDKEEPING.**

5 Section 203A of the Investment Advisers Act of 1940
6 (15 U.S.C. 80b–3a) is amended—

7 (1) by striking subsection (d);

8 (2) by redesignating subsection (e) as sub-
9 section (d); and

10 (3) in subsection (b)(2)—

11 (A) by striking “this subsection” and in-
12 serting “this title”;

13 (B) by striking “from investigating” and
14 inserting “from—

15 “(A) investigating”;

16 (C) by striking the period at the end and
17 inserting “; or”; and

18 (D) by adding at the end the following:

19 “(B) except as provided in subsection (e),
20 requiring an investment adviser registered
21 under section 203 to file any document filed
22 with the Commission under this title solely for
23 notice purposes, together with a consent to
24 service of process and any required fee.”.

1 **SEC. 222. ELIMINATION OF BARRIERS TO PROVIDING SERV-**
2 **ICES.**

3 Section 203A of the Investment Advisers Act of 1940
4 (15 U.S.C. 80b–3a) is amended by adding at the end the
5 following:

6 “(e) CERTAIN STATE FILINGS AND FEES PROHIB-
7 ITED; NATIONAL DE MINIMIS STANDARD FOR ALL IN-
8 VESTMENT ADVISERS.—Notwithstanding subsection
9 (b)(2)(B), no law of any State or political subdivision
10 thereof requiring the registration, licensing, or qualifica-
11 tion of an investment adviser shall require—

12 “(1) the filing of any document with respect to,
13 or any payment of any fee for, a supervised person
14 of an investment adviser registered under section
15 203, if the supervised person does not have a place
16 of business located in the State;

17 “(2) an investment adviser registered under
18 section 203 to file any document or pay any fee, un-
19 less the investment adviser—

20 “(A) has a place of business located within
21 the State; or

22 “(B) during the 12-month period pre-
23 ceding the date on which such filing or payment
24 is required under the State law, had more than
25 5 clients who are residents of that State; or

1 “(3) an investment adviser to register, license,
2 qualify, or otherwise comply with such law (other
3 than any provision thereof prohibiting fraudulent
4 conduct), or to file any document or pay any fee, un-
5 less the investment adviser—

6 “(A) has a place of business located within
7 the State; or

8 “(B) during the 12-month period pre-
9 ceding the date on which such compliance, fil-
10 ing, or payment is required under the State
11 law, had more than 5 clients who are residents
12 of that State.

13 “(f) PRESERVATION OF STATE FILING FEES.—Sub-
14 ject to the limitations provided in this title, a State or
15 political subdivision thereof may require an investment ad-
16 viser registered under section 203 to pay filing fees.”.

17 **SEC. 223. REDUCING FINANCIAL REPORTING BURDENS.**

18 Section 222 of the Investment Advisers Act of 1940
19 (15 U.S.C. 80b–18a) is amended by striking subsection
20 (d) and inserting the following:

21 “(d) LIMITATION ON FINANCIAL REPORTING RE-
22 QUIREMENTS.—No State may enforce any law or regula-
23 tion that would require an investment adviser to maintain
24 or file with that State any financial report, in addition
25 to those required under the laws of the State in which

1 the investment adviser maintains its principal place of
2 business, if the investment adviser—

3 “(1) is registered or licensed as an investment
4 adviser in the State in which it maintains its prin-
5 cipal place of business;

6 “(2) is in compliance with the applicable finan-
7 cial reporting requirements of the State in which it
8 maintains its principal place of business; and

9 “(3) has not taken custody of the assets of any
10 client residing in that State at any time during the
11 12-month period preceding the date on which the fi-
12 nancial report otherwise would be required to be
13 filed with that State.

14 “(e) LIMITATION ON STATE FEES AND FILINGS.—

15 “(1) IN GENERAL.—Beginning 90 days after
16 the date of enactment of this subsection, no law of
17 any State or political subdivision thereof requiring
18 the registration, licensing, or qualification of an in-
19 vestment adviser may require an investment adviser
20 registered under section 203, an investment adviser
21 having its principal place of business in another
22 State, or an investment adviser representative of ei-
23 ther such adviser to pay any fee to or file any docu-
24 ment with the securities commission (or any agency
25 or office performing like functions) of that State,

1 unless the State or the securities commission accepts
2 registration and renewal materials, documents filed
3 solely for notice purposes, and related fees through
4 an entity designated under section 204(b), except as
5 provided in paragraph (2).

6 “(2) EXCEPTION FOR DIRECT PAYMENTS AND
7 FILINGS.—A State may require the direct payment
8 of any fees to and the paper filing of any registra-
9 tion materials or documents with the State, filed
10 solely for notice purposes, if—

11 “(A) the entity designated under section
12 204(b) is not capable of electronically transmit-
13 ting such fees, filings, and documents to the
14 State;

15 “(B) the investment adviser having its
16 principal place of business in another State
17 does not file through the entity designated
18 under section 204(b); or

19 “(C) the investment adviser has otherwise
20 been granted regulatory relief from filing or
21 payment in accordance with paragraph (1) for
22 hardship reasons.”.

23 **SEC. 224. ENHANCING TRANSPARENCY OF RECORDS.**

24 (a) DISCIPLINARY AND OTHER RECORDS OF BRO-
25 KERS, DEALERS, AND ASSOCIATED PERSONS.—Section

1 15A(i) of the Securities Exchange Act of 1934 (15 U.S.C.
2 78o-3(i)) is amended—

3 (1) by striking “(i) A registered” and inserting
4 the following:

5 “(i) ACCESS TO DISCIPLINARY AND OTHER INFOR-
6 MATION.—

7 “(1) TELEPHONE ACCESS.—A registered”;

8 (2) by striking “section, (1) establish” and in-
9 serting the following: “section—

10 “(A) establish”;

11 (3) by striking “, and (2) promptly” and all
12 that follows through the end and inserting the fol-
13 lowing: “and the members and associated persons of
14 any registered national securities exchange; and

15 “(B) promptly respond to such inquiries in
16 writing.”; and

17 (4) by adding at the end the following:

18 “(2) ELECTRONIC ACCESS.—A registered secu-
19 rities association shall—

20 “(A) establish and maintain a readily ac-
21 cessible electronic process to receive inquiries
22 about its members and their associated persons,
23 and the members and associated persons of any
24 registered national securities exchange,
25 regarding—

1 “(i) disciplinary actions, proceedings,
2 and arbitrations involving members and
3 their associated persons, including those
4 that have been reported to the Central
5 Registration Depository; and

6 “(ii) the employment history, registra-
7 tion status, and licensing status of such
8 members and their associated persons; and

9 “(B) promptly respond to such inquiries.

10 “(3) RECOVERY OF COSTS.—A registered secu-
11 rities association may charge persons, other than in-
12 dividual investors, reasonable fees for responses to
13 inquiries referred to in paragraphs (1) and (2).

14 “(4) LIMITATION ON LIABILITY.—A registered
15 securities association or registered national securities
16 exchange shall not have any liability to any person
17 for any action taken or omitted in good faith under
18 this subsection.”.

19 (b) DISCIPLINARY AND OTHER RECORDS OF INVEST-
20 MENT ADVISERS AND ASSOCIATED PERSONS.—Section
21 204 of the Investment Advisers Act of 1940 (15 U.S.C.
22 80b-4) is amended—

23 (1) by inserting “(a) IN GENERAL.—” after
24 “SEC. 204.”; and

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

1 “(b) FILING DEPOSITORIES.—The Commission, by
2 rule, may require an investment adviser—

3 “(1) to file with the Commission any applica-
4 tion, report, or notice required to be filed by this
5 title or the rules issued under this title through an
6 entity designated by the Commission for that pur-
7 pose; and

8 “(2) to pay the reasonable costs associated with
9 such filing and the establishment and maintenance
10 of the systems required by subsection (c).

11 “(c) ACCESS TO DISCIPLINARY AND OTHER INFOR-
12 MATION.—

13 “(1) MAINTENANCE OF SYSTEM TO RESPOND
14 TO INQUIRIES.—The Commission shall require an
15 entity designated by the Commission under sub-
16 section (b)(1)—

17 “(A) to establish and maintain a toll-free
18 telephone listing or other readily accessible elec-
19 tronic process to receive inquiries about invest-
20 ment advisers and persons associated with in-
21 vestment advisers concerning—

22 “(i) disciplinary actions, proceedings,
23 and arbitrations involving such investment
24 advisers and associated persons; and

1 “(ii) the registration status of such
2 investment advisers and associated per-
3 sons; and

4 “(B) to respond promptly to such inquir-
5 ies.

6 “(2) RECOVERY OF COSTS.—An entity des-
7 ignated by the Commission under subsection (b)(1)
8 may charge persons, other than individual investors,
9 reasonable fees for responses to inquiries made
10 under paragraph (1).

11 “(3) LIMITATION ON LIABILITY.—An entity
12 designated by the Commission under subsection
13 (b)(1) shall not have any liability to any person for
14 any action taken or omitted in good faith under this
15 subsection.”.

16 (c) CONFORMING AMENDMENT TO NSMIA OF
17 1996.—Sections 306 and 307 of the National Securities
18 Markets Improvement Act of 1996 (Public Law 104–290;
19 110 Stat. 3438) are repealed.

Calendar No. 712

106TH CONGRESS
2D SESSION

S. 2107

[Report No. 106-360]

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.

JULY 25, 2000

Reported with amendments