

112TH CONGRESS
1ST SESSION

H. R. 3665

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

DECEMBER 14, 2011

Ms. DELAURO (for herself, Mr. WELCH, and Mr. BOSWELL) 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.—The Commission
11 shall, by order, impose a fee on each agreement,
12 contract, or transaction that is a contract of
13 sale of a commodity for future delivery, an op-
14 tion on such a contract, or a swap, so that the
15 total of the fees so imposed during each fiscal
16 year is sufficient to recover the costs to the
17 Government of the annual appropriation to the
18 Commission by Congress for the fiscal year.

19 “(B) LIMITATION.—The fees imposed
20 under this paragraph on all transactions of the
21 same kind shall be determined in a uniform
22 manner.

23 “(C) MID-YEAR ADJUSTMENT.—

24 “(i) IN GENERAL.—By March 1 of
25 each fiscal year, the Commission shall de-
26 termine whether, based on the fees col-

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

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

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

23 “(II) 60 days after the date on
24 which a regular appropriation to the

1 Commission for the fiscal year is en-
2 acted.

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

11 “(E) INAPPLICABILITY OF RULE MAKING
12 REQUIREMENTS.—In exercising its authority
13 under this paragraph, the Commission shall not
14 be required to comply with section 553 of title
15 5, United States Code.

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

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

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

24 “(i) PAYMENT OF FEES.—

1 “(I) CLEARED TRANSACTIONS.—

2 In the case of a contract of sale of a
3 commodity for future delivery, an op-
4 tion on such a contract, or a swap
5 that is cleared by a derivatives clear-
6 ing organization registered or exempt
7 from registration under this Act, each
8 party to the agreement, contract, or
9 transaction shall pay the fee deter-
10 mined under paragraph (1) to the de-
11 rivatives clearing organization.

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

23 “(ii) COLLECTION OF FEES.—The
24 Commission shall collect the fees paid in
25 accordance with clause (i) in such manner

1 and within such time as the Commission
2 deems appropriate.

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

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

18 “(3) DEPOSIT OF FEES.—

19 “(A) OFFSETTING COLLECTIONS.—A fee
20 collected under paragraph (2) for a fiscal year
21 shall be deposited and credited as offsetting col-
22 lections to the account providing appropriations
23 to the Commission.

24 “(B) GENERAL REVENUES PROHIBITED.—
25 A fee collected under paragraph (2) for a fiscal

1 year shall not be deposited and credited as gen-
2 eral revenue of the Treasury.

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

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