

111TH CONGRESS
1ST SESSION

H. R. 1349

To establish the Federal Accounting Oversight Board to approve and oversee accounting principles and standards for the purposes of the Federal financial regulatory agencies, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 5, 2009

Mr. PERLMUTTER (for himself and Mr. LUCAS) introduced the following bill;
which was referred to the Committee on Financial Services

A BILL

To establish the Federal Accounting Oversight Board to approve and oversee accounting principles and standards for the purposes of the Federal financial regulatory agencies, 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.**

4 This Act may be cited as the “Federal Accounting
5 Oversight Board Act of 2009”.

1 **SEC. 2. THE FEDERAL ACCOUNTING OVERSIGHT BOARD.**

2 (a) ESTABLISHMENT.—There is hereby established
3 the Federal Accounting Oversight Board (hereinafter in
4 this Act referred to as the “FAOB”).

5 (b) DUTIES.—

6 (1) APPROVAL OF ACCOUNTING POLICY.—The
7 FAOB shall approve and oversee accounting prin-
8 ciples and standards for purposes of the Federal fi-
9 nancial regulatory agencies and reporting require-
10 ments required by such agencies. In approving and
11 overseeing such accounting principles and standards,
12 the FAOB shall consider—

13 (A) the extent to which accounting prin-
14 ciples and standards create systemic risk expo-
15 sure for—

16 (i) the United States public;

17 (ii) the United States financial mar-
18 kets; and

19 (iii) global financial markets;

20 (B) the extent to which various accounting
21 principles and standards resolve questions con-
22 cerning liquid and illiquid instruments;

23 (C) whether certain accounting principles
24 and standards should apply to distressed mar-
25 kets differently than well-functioning markets;

1 (D) the balance between investors' need to
2 know a value of a company or financial institu-
3 tion's balance sheet at any given time versus fi-
4 nancial regulators' responsibility to examine a
5 company or financial institution's capital and
6 value on both a liquidation and going concern
7 basis;

8 (E) the accuracy and transparency of fi-
9 nancial statements;

10 (F) the ability of investors and regulators
11 to accurately judge the current and long term
12 financial condition of companies and financial
13 institutions from their financial statements;

14 (G) the need for accounting principles and
15 standards to take into account the need for fi-
16 nancial institutions to maintain adequate re-
17 serves to cover expected losses from assets held
18 by such institution;

19 (H) the extent to which accounting prin-
20 ciples and standards can improve the usefulness
21 of financial reporting by focusing on the charac-
22 teristics of relevance and reliability and on the
23 qualities of comparability and consistency;

24 (I) the extent to which such principles and
25 standards can be kept current to reflect

1 changes in methods of doing business and
2 changes in the economic environment; and

3 (J) any other factors that the FAOB con-
4 siders appropriate.

5 (2) CONSULTATION AND PUBLIC COMMENT.—

6 (A) IN GENERAL.—In carrying out its du-
7 ties, the FAOB may consult with such organi-
8 zations or entities as the FAOB believes to be
9 appropriate, including, but not limited to, the
10 Financial Accounting Standards Board, the
11 International Accounting Standards Board, or
12 the Public Company Accounting Oversight
13 Board.

14 (B) CONSULTATION; PUBLIC COMMENT.—
15 The FAOB shall, before approving a specific
16 accounting principle or standard—

17 (i) solicit input from financial regu-
18 lators on the principle or standard, includ-
19 ing from the Comptroller of the Currency,
20 the Director of the Office of Thrift Super-
21 vision, the Federal Housing Finance Agen-
22 cy, the Administrator of the National
23 Credit Union Administration, the Presi-
24 dent of the National Association of Insur-
25 ance Commissioners, and the Chairman of

1 the Commodities Future Trading Commis-
2 sion; and

3 (ii) provide the public with an oppor-
4 tunity to comment on the principle or
5 standard.

6 (C) SAFETY AND SOUNDNESS CONSIDER-
7 ATIONS.—If any Federal financial regulatory
8 agency determines that any accounting principle
9 or standard approved by the FAOB, or any ac-
10 counting principle or standard in effect on the
11 effective date of this Act, has an adverse effect
12 on the safety and soundness of the entities it
13 regulates, the health of the United States finan-
14 cial system, or the United States economy, the
15 agency may request authorization from the
16 FAOB to review such accounting principle or
17 standard for the agency, and the FAOB shall
18 determine whether the standard or principle
19 should continue to be applied or instead re-
20 moved on either a temporary or permanent
21 basis. The FAOB shall have 30 days or such
22 additional time as it may need up to 180 days
23 to review and act on such request. The agency
24 may exercise discretion in ignoring the principle
25 or standard on an emergency or temporary

1 basis for up to 30 days unless otherwise ex-
2 tended by FAOB. The FAOB shall also con-
3 sider whether any change authorized under this
4 paragraph should be permanently approved by
5 the FAOB as an accounting principle or stand-
6 ard.

7 (3) REPORTS.—The FAOB shall, not less often
8 than yearly, compile a report on the accounting prin-
9 ciples and standards that the FAOB has reviewed
10 and approved either temporarily or permanently,
11 and—

12 (A) submit such report to the Congress;

13 (B) submit such report to the Financial
14 Accounting Standards Board;

15 (C) submit such report to the International
16 Accounting Standards Board; and

17 (D) make such report available to the pub-
18 lic on a website.

19 (c) MEMBERSHIP.—

20 (1) IN GENERAL.—The FAOB shall consist of
21 five members:

22 (A) The Chairman of the Board of Gov-
23 ernors of the Federal Reserve System.

24 (B) The Secretary of the Treasury.

1 (C) The Chairman of the Securities and
2 Exchange Commission.

3 (D) The Chairman of the Federal Deposit
4 Insurance Corporation.

5 (E) The Chairman of the Public Company
6 Accounting Oversight Board.

7 (2) CHAIRMAN.—The Chairman of the Board of
8 Governors of the Federal Reserve System shall serve
9 as the chairman of the FAOB.

10 (d) FUNDING.—

11 (1) ANNUAL BUDGET.—The FAOB shall estab-
12 lish a budget for each fiscal year.

13 (2) SOURCE OF FUNDS.—The budget of the
14 FAOB shall be payable from annual support fees, in
15 accordance with this subsection.

16 (3) ANNUAL SUPPORT FEE FOR THE FAOB.—

17 (A) ESTABLISHMENT OF FEE.—The
18 FAOB shall establish a reasonable annual sup-
19 port fee (or a formula for the computation
20 thereof), as may be necessary or appropriate to
21 establish and maintain the FAOB. Such fee
22 may also cover costs incurred in the FAOB's
23 first fiscal year (which may be a short fiscal
24 year), or may be levied separately with respect
25 to such short fiscal year.

1 (B) ASSESSMENTS.—The rules of the
2 FAOB under subparagraph (A) shall provide
3 for the equitable allocation, assessment, and
4 collection by the FAOB (or an agent appointed
5 by the FAOB) of the fee established under sub-
6 paragraph (A), among registered public ac-
7 counting firms, allowing for differentiation
8 among classes of firms, as appropriate.

9 (4) LIMITATION ON FEE.—The amount of fees
10 collected under this subsection for a fiscal year on
11 behalf of the FAOB shall not exceed the recoverable
12 budget expenses of the FAOB (which may include
13 operating, capital, and accrued items), referred to in
14 paragraph (2).

15 (5) FEE REQUIREMENT FOR REGISTRATION BY
16 THE PUBLIC COMPANY ACCOUNTING OVERSIGHT
17 BOARD.—Section 102 of the Sarbanes-Oxley Act of
18 2002 (15 U.S.C. 7212) is amended by adding at the
19 end the following new subsection:

20 “(g) ANNUAL FEE TO SUPPORT THE FEDERAL AC-
21 COUNTING OVERSIGHT BOARD.—In addition to any other
22 fees required by this title, a registered public accounting
23 firm shall pay the annual support fee allocated to the reg-
24 istered public accounting firm under section 2(d) of the
25 Federal Accounting Oversight Board Act of 2009.”.

1 (6) START-UP EXPENSES.—From the unex-
2 pended balances of the appropriations to the Secu-
3 rity and Exchange Commission for fiscal year 2009,
4 the Secretary of the Treasury is authorized to ad-
5 vance to the FAOB funds not to exceed the amount
6 necessary to cover the expenses of the FAOB during
7 its first fiscal year (which may be a short fiscal
8 year).

9 (e) PAY; TRAVEL EXPENSES.—Members of the
10 FAOB shall not receive any additional pay, allowances, or
11 benefits by reason of their service on the FAOB, except
12 that each member shall receive travel expenses, including
13 per diem in lieu of subsistence, in accordance with applica-
14 ble provisions under subchapter I of chapter 57 of title
15 5, United States Code.

16 (f) MEETINGS.—The FAOB shall meet at the call of
17 the Chairman of the FAOB.

18 (g) STAFF.—

19 (1) IN GENERAL.—The FAOB may appoint and
20 fix the pay of any personnel that the FAOB con-
21 siders appropriate to carry out its duties under this
22 Act.

23 (2) EXPERTS AND CONSULTANTS.—The FAOB
24 may procure temporary and intermittent services
25 under section 3109(b) of title 5, United States Code.

1 (3) STAFF OF AGENCIES.—Upon request of the
2 FAOB, the head of any Federal department or agen-
3 cy may detail, on a reimbursable basis, any of the
4 personnel of that department or agency to the
5 FAOB to assist it in carrying out its duties under
6 this Act.

7 (h) POWERS.—

8 (1) HEARINGS AND SESSIONS.—The FAOB
9 may, for the purpose of carrying out this Act, hold
10 hearings, sit and act at times and places, take testi-
11 mony, and receive evidence as the FAOB considers
12 appropriate and may administer oaths or affirma-
13 tions to witnesses appearing before it.

14 (2) POWERS OF MEMBERS AND AGENTS.—Any
15 member or agent of the FAOB may, if authorized by
16 the FAOB, take any action which the FAOB is au-
17 thorized to take by this Act.

18 (3) OBTAINING OFFICIAL DATA.—The FAOB
19 may secure directly from any department or agency
20 of the United States information necessary to enable
21 it to carry out this Act. Upon request of the Chair-
22 man of the FAOB, the head of that department or
23 agency shall furnish that information to the FAOB.

1 **SEC. 3. REQUIRING AGENCIES TO CONFORM TO FAOB AP-**
2 **PROVED ACCOUNTING PRACTICES AND**
3 **STANDARDS.**

4 Notwithstanding any other provision of law, a Fed-
5 eral financial regulatory agency shall, not later than 180
6 days, or within a shorter time period as the FAOB may
7 prescribe, after the FAOB approves an accounting prin-
8 ciple or standard, ensure that all rules and regulations
9 made by such agency conform with the approval made by
10 the FAOB.

11 **SEC. 4. TRANSFER OF STANDARD SETTING BODY OVER-**
12 **SIGHT AUTHORITY FROM THE SEC TO THE**
13 **FAOB.**

14 (a) SECURITIES ACT OF 1933.—Section 19(b) of the
15 Securities Act of 1933 (15 U.S.C. 77s(b)) is amended—

16 (1) by striking “ Commission” each place it ap-
17 pears and inserting “Federal Accounting Oversight
18 Board”;

19 (2) by striking “subsection (a) and under sec-
20 tion 13(b) of the Securities Exchange Act of 1934”
21 and inserting “the Federal Accounting Oversight
22 Board Act of 2009”; and

23 (3) by striking “subsection (a) and section
24 13(b) of the Securities Exchange Act of 1934” and
25 inserting “the Federal Accounting Oversight Board
26 Act of 2009”.

1 **SEC. 5. DEFINITIONS.**

2 For the purposes of this Act:

3 (1) **FEDERAL FINANCIAL REGULATORY AGEN-**
4 **CY.**—The term “Federal financial regulatory agen-

5 **cy”** means—

6 (A) the Office of Thrift Supervision;

7 (B) the Federal Deposit Insurance Cor-
8 poration;

9 (C) the National Credit Union Administra-
10 tion;

11 (D) the Securities and Exchange Commis-
12 sion;

13 (E) the Federal Reserve System; and

14 (F) the Office of the Comptroller of the
15 Currency.

16 (2) **REGISTERED PUBLIC ACCOUNTING FIRM.**—
17 The term “registered public accounting firm” shall
18 have the same meaning as in section 2(a)(12) of the
19 Sarbanes-Oxley Act of 2002 (15 U.S.C.
20 7201(a)(12)).

21 (3) **SECURITIES LAWS DEFINED.**—The term
22 “securities laws” shall have the same meaning as in
23 section 3(a)(47) of the Securities Exchange Act of
24 1934 (15 U.S.C. 78c(a)(47)).

○