

SECURITIES AND EXCHANGE COMMISSION
OVERPAYMENT CREDIT ACT

APRIL 19, 2016.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

Mr. HENSARLING, from the Committee on Financial Services,
submitted the following

R E P O R T

[To accompany H.R. 1975]

[Including cost estimate of the Congressional Budget Office]

The Committee on Financial Services, to whom was referred the bill (H.R. 1975) to amend the Securities Exchange Act of 1934 to require the Securities Exchange Commission to refund or credit excess payments made to the Commission, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE AND SUMMARY

Under Section 31 of the Securities Exchange Act of 1934 ('34 Act), national securities exchanges and other self-regulatory organizations (collectively, SROs) owe proportional transaction fees to the Securities and Exchange Commission (SEC) for the cost of supervising and regulating such transactions. On April 22, 2015, Representatives Gregory Meeks and Randy Hultgren introduced H.R. 1975, the "Securities and Exchange Commission Overpayment Credit Act," which allows SROs to offset previous Section 31 overpayments against future Section 31 fees, under a 10-year statute of limitations.

Some SROs have overpaid Section 31 fees out of an abundance of caution, rather than risk an enforcement action for underpayment. The SEC, however, has not refunded these overpayments; as it has interpreted the '34 Act as not granting it the authority to refund any such overpaid fees.

BACKGROUND AND NEED FOR LEGISLATION

Under Section 31 of the '34 Act, SROs owe proportional transaction fees to the SEC for the cost of supervising and regulating such transactions. In 2008, the Chicago Stock Exchange discovered it had overpaid \$154,048 for 2007 Section 31 fees. Similarly, in 2014, NASDAQ discovered it had overpaid almost \$750,000 for 2013 Section 31 fees. These exchanges overpaid out of an abundance of caution, rather than risk an enforcement action for underpayment.

The SEC, however, has not refunded these overpayments. The SEC has kept these overpayments because the SEC has interpreted the '34 Act as not granting the SEC the authority to refund the overpayment of Section 31 fees. On May 15, 2013, in a letter to Financial Services Committee Chairman Hensarling, SEC Chair Mary Jo White included a series of legislative proposals, supported by her fellow Commissioners, for the Committee's consideration, including a proposal to allow the SEC to refund Section 31 overpayments,

In the letter, Chair White noted that, "We recommend that the Commission be permitted to effect refunds by allowing an SRO to offset previous Section 31 overpayments against future Section 31 payments . . . This would clarify that the Commission has the authority to follow this approach to effect such refunds as an alternative to using appropriated funds."¹

At an April 29, 2015 Capital Markets and Government Sponsored Enterprises Subcommittee hearing, Mr. Tom Quadman of the U.S. Chamber of Commerce's Center for Capital Markets Competitiveness testified that:

Although the SEC makes at least annual adjustments to the Section 31 fee rate, entities need to do a fair bit of projecting what their responsibility will be for a given time period. SROs and the national exchanges are therefore caught in a bit of a Catch-22 when it comes to Section 31 fees. If they underpay the required amount, they are subject to enforcement action by the SEC. If they overpay the amount, there is no way for them to be refunded or to have the overpayment amount credited against future payments. This legislation would provide a degree of certainty for SROs and exchanges by allowing such overpayments to be credited against future Section 31 responsibilities. Since these payments are often passed on to the investing public, allowing for such credits would ultimately benefit investors who trade in the public markets.

HEARINGS

The Committee on Financial Services held a hearing on April 29, 2015, titled "Legislative Proposals to Enhance Capital Formation and Reduce Regulatory Burdens," at which this matter was examined.

¹Letter from SEC Chair Mary Jo White to Chairman Jeb Hensarling (May 15, 2013).

COMMITTEE CONSIDERATION

The Committee on Financial Services met in open session on May 20, 2015, and ordered H.R. 1975 to be reported favorably to the House without amendment by a recorded vote of 57 yeas to 0 nays (recorded vote no. FC-37), 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. An amendment offered by Representative Meeks was not agreed to by a recorded vote of 24 yeas to 33 nays (recorded vote no. FC-36). The second and final record vote in Committee was a motion by Chairman Hensarling to report the bill favorably to the House without amendment. That motion was agreed to by a recorded vote of 57 yeas to 0 nays (recorded vote no. FC-37), a quorum being present.

Record vote no. FC-36

| Representative | Yea | Nay | Present | Representative | Yea | Nay | Present |
|-------------------------|-----|-----|---------|----------------------------|-----|-----|---------|
| Mr. Hensarling | | X | | Ms. Waters (CA) | X | | |
| Mr. King (NY) | | | | Mrs. Maloney (NY) | X | | |
| Mr. Royce | | X | | Ms. Velázquez | X | | |
| Mr. Lucas | | X | | Mr. Sherman | X | | |
| Mr. Garrett | | X | | Mr. Meeks | X | | |
| Mr. Neugebauer | | X | | Mr. Capuano | X | | |
| Mr. McHenry | | X | | Mr. Hinojosa | X | | |
| Mr. Pearce | | X | | Mr. Clay | X | | |
| Mr. Posey | | X | | Mr. Lynch | X | | |
| Mr. Fitzpatrick | | X | | Mr. David Scott (GA) | X | | |
| Mr. Westmoreland | | X | | Mr. Al Green (TX) | X | | |
| Mr. Luetkemeyer | | X | | Mr. Cleaver | | | |
| Mr. Huizenga (MI) | | X | | Ms. Moore | X | | |
| Mr. Duffy | | X | | Mr. Ellison | X | | |
| Mr. Hurt (VA) | | X | | Mr. Perlmutter | X | | |
| Mr. Stivers | | X | | Mr. Himes | X | | |
| Mr. Fincher | | X | | Mr. Carney | X | | |
| Mr. Stutzman | | X | | Ms. Sewell (AL) | X | | |
| Mr. Mulvaney | | X | | Mr. Foster | X | | |
| Mr. Hultgren | | X | | Mr. Kildee | X | | |
| Mr. Ross | | X | | Mr. Murphy (FL) | X | | |
| Mr. Pittenger | | X | | Mr. Delaney | X | | |
| Mrs. Wagner | | X | | Ms. Sinema | X | | |
| Mr. Barr | | X | | Mrs. Beatty | X | | |
| Mr. Rothfus | | X | | Mr. Heck (WA) | | | |
| Mr. Messer | | X | | Mr. Vargas | X | | |
| Mr. Schweikert | | X | | | | | |
| Mr. Guinta | | X | | | | | |
| Mr. Tipton | | X | | | | | |
| Mr. Williams | | X | | | | | |
| Mr. Poliquin | | X | | | | | |
| Mrs. Love | | X | | | | | |
| Mr. Hill | | X | | | | | |
| Mr. Emmer | | X | | | | | |

Record vote no. FC-37

| Representative | Yea | Nay | Present | Representative | Yea | Nay | Present |
|-------------------------|-----|-----|---------|----------------------------|-----|-----|---------|
| Mr. Hensarling | X | | | Ms. Waters (CA) | X | | |
| Mr. King (NY) | | | | Mrs. Maloney (NY) | X | | |
| Mr. Royce | X | | | Ms. Velázquez | X | | |
| Mr. Lucas | X | | | Mr. Sherman | X | | |
| Mr. Garrett | X | | | Mr. Meeks | X | | |
| Mr. Neugebauer | X | | | Mr. Capuano | X | | |
| Mr. McHenry | X | | | Mr. Hinojosa | X | | |
| Mr. Pearce | X | | | Mr. Clay | X | | |
| Mr. Posey | X | | | Mr. Lynch | X | | |
| Mr. Fitzpatrick | X | | | Mr. David Scott (GA) | X | | |
| Mr. Westmoreland | X | | | Mr. Al Green (TX) | X | | |
| Mr. Luetkemeyer | X | | | Mr. Cleaver | | | |
| Mr. Huizenga (MI) | X | | | Ms. Moore | X | | |
| Mr. Duffy | X | | | Mr. Ellison | X | | |
| Mr. Hurt (VA) | X | | | Mr. Perlmutter | X | | |
| Mr. Stivers | X | | | Mr. Himes | X | | |
| Mr. Fincher | X | | | Mr. Carney | X | | |
| Mr. Stutzman | X | | | Ms. Sewell (AL) | X | | |
| Mr. Mulvaney | X | | | Mr. Foster | X | | |
| Mr. Hultgren | X | | | Mr. Kildee | X | | |
| Mr. Ross | X | | | Mr. Murphy (FL) | X | | |
| Mr. Pittenger | X | | | Mr. Delaney | X | | |
| Mrs. Wagner | X | | | Ms. Sinema | X | | |
| Mr. Barr | X | | | Mrs. Beatty | X | | |
| Mr. Rothfus | X | | | Mr. Heck (WA) | | | |
| Mr. Messer | X | | | Mr. Vargas | X | | |
| Mr. Schweikert | X | | | | | | |
| Mr. Guinta | X | | | | | | |
| Mr. Tipton | X | | | | | | |
| Mr. Williams | X | | | | | | |
| Mr. Poliquin | X | | | | | | |
| Mrs. Love | X | | | | | | |
| Mr. Hill | X | | | | | | |
| Mr. Emmer | X | | | | | | |

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the findings and recommendations of the committee based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee states that H.R. 1975 will remedy the SEC's inability to provide refunds or credit for previous overpayments of Section 31 fees by statutorily obligating the SEC to allow the SROs to offset previous Section 31 overpayments against future Section 31 fees, under a 10-year statute of limitations.

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 adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

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 ESTIMATES

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, August 31, 2015.

Hon. JEB HENSARLING,
*Chairman, Committee on Financial Services,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1975, the Securities and Exchange Commission Overpayment Credit Act.

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

Sincerely,

KEITH HALL.

Enclosure.

H.R. 1975—Securities and Exchange Commission Overpayment Credit Act

Summary: H.R. 1975 would require the Securities and Exchange Commission (SEC) to provide a credit to national securities exchanges that overpay fees and assessments to the agency by offsetting future payments by the affected exchanges.

CBO estimates that enacting H.R. 1975 would increase direct spending by \$12 million over the 2016–2025 period; therefore, pay-as-you-go procedures apply. Enacting H.R. 1975 would not affect revenues.

Under current law, the SEC is authorized to collect fees to offset its annual appropriation; therefore, assuming appropriation action consistent with that authority, CBO estimates that implementing the bill would have a negligible effect on net discretionary spending.

H.R. 1975 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

If the SEC increases fees to offset the costs of implementing the bill, H.R. 1975 would increase the cost of an existing mandate on private entities required to pay those fees. Based on information from the SEC, CBO estimates that the incremental cost of the mandate, if any, would fall well below the annual threshold for private-sector mandates established in UMRA (\$154 million in 2015, adjusted annually for inflation).

Estimated cost to the Federal Government: The estimated budgetary effect of H.R. 1975 is shown in the following table. The costs of this legislation fall within budget function 370 (commerce and housing credit).

| | By fiscal year, in millions of dollars— | | | | | | | | | | | 2016–2020 | 2016–2025 | |
|----------------------------------|---|------|------|------|------|------|------|------|------|------|---|-----------|-----------|--|
| | 2016 | 2017 | 2018 | 2019 | 2020 | 2021 | 2022 | 2023 | 2024 | 2025 | | | | |
| CHANGES IN DIRECT SPENDING | | | | | | | | | | | | | | |
| Estimated Budget Authority | 7 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 9 | 12 | |
| Estimated Outlays | 7 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 9 | 12 | |

Notes: Components may not sum to totals because of rounding. CBO estimates that implementing H.R. 1975 would have an insignificant effect on net discretionary costs.

Basis of estimate: For this estimate, CBO assumes that H.R. 1975 will be enacted early in fiscal year 2016.

Direct spending

H.R. 1975 would require the SEC to reduce future fees and assessments paid by a national securities exchange by the amount of any overpayment of such fees that an exchange identifies within 10 years of the overpayment. Current law requires the SEC to make periodic adjustments to the rates that associations and exchanges must pay, but does not have a current mechanism to compensate exchanges for the overpayments of fees and assessments. Lowering current collections by the amount of a previous overpayment would be similar to providing a refund, which would be considered direct spending. Based on information from the SEC, CBO estimates that enacting H.R. 1975 would increase direct spending by \$12 million over the 2016–2025 period. That amount includes \$6 million in

overpayments that have been identified by the agency over the past 10 years plus an estimated \$0.6 million per year in credits for overpayments over the 2016–2025 period. In fiscal year 2014, the SEC collected about \$1.3 billion in fees that would be covered under H.R. 1975.

Pay-As-You-Go considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in outlays and revenues that are subject to those pay-as-you-go procedures are shown in the following table.

CBO ESTIMATE OF PAY-AS-YOU-GO EFFECTS FOR H.R. 1975 AS ORDERED REPORTED BY THE HOUSE COMMITTEE ON FINANCIAL SERVICES ON MAY 20, 2015

| | By fiscal year, in millions of dollars— | | | | | | | | | | | |
|--------------------------------------|---|------|------|------|------|------|------|------|------|------|-----------|-----------|
| | 2016 | 2017 | 2018 | 2019 | 2020 | 2021 | 2022 | 2023 | 2024 | 2025 | 2016–2020 | 2016–2025 |
| NET INCREASE IN THE DEFICIT | | | | | | | | | | | | |
| Statutory Pay-As-You-Go Impact | 7 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 9 | 12 |

Note: Components may not sum to totals because of rounding.

Estimated impact on state, local, and tribal governments: H.R. 1975 contains no intergovernmental mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

Estimated impact on the private sector: If the SEC increases fees to offset the costs of implementing the bill, H.R. 1975 would increase the cost of an existing mandate on private entities (including national securities exchanges and associations) required to pay those fees. The amount of fees collected would depend on the level of future appropriations. Based on information from the SEC, CBO estimates that the incremental cost of the mandate, if any, would fall well below the annual threshold for private-sector mandates established in UMRA (\$154 million in 2015, adjusted annually for inflation).

Estimate prepared by: Federal Costs: Susan Willie; Impact on State, Local, and Tribal Governments: Melissa Merrell; Impact on the Private Sector: Logan Smith.

Estimate approved by: H. Samuel Papenfuss, Deputy 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.

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 the section 102(b)(3) of the Congressional Accountability Act.

EARMARK IDENTIFICATION

H.R. 1975 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.

DUPLICATION OF FEDERAL PROGRAMS

Pursuant to section 3(g) of H. Res. 5, 114th Cong. (2015), the Committee states that no provision of H.R. 1975 establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

DISCLOSURE OF DIRECTED RULEMAKING

Pursuant to section 3(i) of H. Res. 5, 114th Cong. (2015), the Committee states that H.R. 1975 contains no directed rulemaking.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

This section cites H.R. 1975 as the “Securities and Exchange Commission Overpayment Credit Act.”

Section 2. Refunding or crediting overpayment of Section 31 fees

This section requires the SEC to allow SROs to offset previous Section 31 overpayments against future Section 31 fees, under a 10-year statute of limitations.

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 (new matter is printed in italic and existing law in which no change is proposed is shown in roman):

SECURITIES EXCHANGE ACT OF 1934

* * * * *

TITLE I—REGULATION OF SECURITIES EXCHANGES

* * * * *

SEC. 31. TRANSACTION FEES.

(a) RECOVERY OF COSTS OF ANNUAL APPROPRIATION.—The Commission shall, in accordance with this section, collect transaction

fees and assessments that are designed to recover the costs to the Government of the annual appropriation to the Commission by Congress.

(b) EXCHANGE-TRADED SECURITIES.—Subject to subsection (j), each national securities exchange shall pay to the Commission a fee at a rate equal to \$15 per \$1,000,000 of the aggregate dollar amount of sales of securities (other than bonds, debentures, other evidences of indebtedness, security futures products, and options on securities indexes (excluding a narrow-based security index)) transacted on such national securities exchange.

(c) OFF-EXCHANGE TRADES OF EXCHANGE REGISTERED AND LAST-SALE-REPORTED SECURITIES.—Subject to subsection (j), each national securities association shall pay to the Commission a fee at a rate equal to \$15 per \$1,000,000 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, other evidences of indebtedness, security futures products, and options on securities indexes (excluding a narrow-based security index)) registered on a national securities exchange or subject to prompt last sale reporting pursuant to the rules of the Commission or a registered national securities association.

(d) ASSESSMENTS ON SECURITY FUTURES TRANSACTIONS.—Each national securities exchange and national securities association shall pay to the Commission an assessment equal to \$0.009 for each round turn transaction (treated as including one purchase and one sale of a contract of sale for future delivery) on a security future traded on such national securities exchange or by or through any member of such association otherwise than on a national securities exchange, except that for fiscal year 2007 and each succeeding fiscal year such assessment shall be equal to \$0.0042 for each such transaction.

(e) DATES FOR PAYMENTS.—The fees and assessments required by subsections (b), (c), and (d) of this section shall be paid—

(1) on or before March 15, with respect to transactions and sales occurring during the period beginning on the preceding September 1 and ending at the close of the preceding December 31; and

(2) on or before September 25, with respect to transactions and sales occurring during the period beginning on the preceding January 1 and ending at the close of the preceding August 31.

(f) EXEMPTIONS.—The Commission, by rule, may exempt any sale of securities or any class of sales of securities from any fee or assessment imposed by this section, if the Commission finds that such exemption is consistent with the public interest, the equal regulation of markets and brokers and dealers, and the development of a national market system.

(g) PUBLICATION.—The Commission shall publish in the Federal Register notices of the fee or assessment rates applicable under this section for each fiscal year not later than 30 days after the date on which an Act making a regular appropriation to the Commission for such fiscal year is enacted, together with any estimates or projections on which such fees are based.

(h) PRO RATA APPLICATION.—The rates per \$1,000,000 required by this section shall be applied pro rata to amounts and balances of less than \$1,000,000.

(i) DEPOSIT OF FEES.—

(1) OFFSETTING COLLECTIONS.—Fees collected pursuant to subsections (b), (c), and (d) for any fiscal year—

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

(B) except as provided in subsection (k), shall not be collected for any fiscal year except to the extent provided in advance in appropriation Acts.

(2) GENERAL REVENUES PROHIBITED.—No fees collected pursuant to subsections (b), (c), and (d) for fiscal year 2002 or any succeeding fiscal year shall be deposited and credited as general revenue of the Treasury.

(j) ADJUSTMENTS TO FEE RATES.—

(1) ANNUAL ADJUSTMENT.—Subject to subsections (i)(1)(B) and (k), for each fiscal year, the Commission shall by order adjust each of the rates applicable under subsections (b) and (c) for such fiscal year to a uniform adjusted rate that, when applied to the baseline estimate of the aggregate dollar amount of sales for such fiscal year, is reasonably likely to produce aggregate fee collections under this section (including assessments collected under subsection (d) of this section) that are equal to the regular appropriation to the Commission by Congress for such fiscal year.

(2) MID-YEAR ADJUSTMENT.—Subject to subsections (i)(1)(B) and (k), for each fiscal year, the Commission shall determine, by March 1 of such fiscal year, whether, based on the actual aggregate dollar volume of sales during the first 5 months of such fiscal year, the baseline estimate of the aggregate dollar volume of sales used under paragraph (1) for such fiscal year is reasonably likely to be 10 percent (or more) greater or less than the actual aggregate dollar volume of sales for such fiscal year. If the Commission so determines, the Commission shall by order, no later than March 1, adjust each of the rates applicable under subsections (b) and (c) for such fiscal year to a uniform adjusted rate that, when applied to the revised estimate of the aggregate dollar amount of sales for the remainder of such fiscal year, is reasonably likely to produce aggregate fee collections under this section (including fees collected during such five-month period and assessments collected under subsection (d) of this section) that are equal to the regular appropriation to the Commission by Congress for such fiscal year. In making such revised estimate, the Commission shall, after consultation with the Congressional Budget Office and the Office of Management and Budget, use the same methodology required by subsection (1).

(3) REVIEW.—In exercising its authority under this subsection, the Commission shall not be required to comply with the provisions of section 553 of title 5, United States Code. An adjusted rate prescribed under paragraph (1) or (2) and published under subsection (g) shall not be subject to judicial review.

(4) EFFECTIVE DATE.—

(A) ANNUAL ADJUSTMENT.—Subject to subsections (i)(1)(B) and (k), an adjusted rate prescribed under paragraph (1) shall take effect on the later of—

(i) the first day of the fiscal year to which such rate applies; or

(ii) 60 days after the date on which an Act making a regular appropriation to the Commission for such fiscal year is enacted.

(B) MID-YEAR ADJUSTMENT.—An adjusted rate prescribed under paragraph (2) shall take effect on April 1 of the fiscal year to which such rate applies.

(k) 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 (as offsetting collections) the fees and assessments under subsections (b), (c), and (d) at the rate in effect during the preceding fiscal year, until 60 days after the date such a regular appropriation is enacted.

(l) BASELINE ESTIMATE OF THE AGGREGATE DOLLAR AMOUNT OF SALES.—The baseline estimate of the aggregate dollar amount of sales for any fiscal year is the baseline estimate of the aggregate dollar amount of sales of securities (other than bonds, debentures, other evidences of indebtedness, security futures products, and options on securities indexes (excluding a narrow-based security index)) to be transacted on each national securities exchange and by or through any member of each national securities association (otherwise than on a national securities exchange) during such fiscal year as determined by the Commission, after consultation with the Congressional Budget Office and the Office of Management and Budget, using the methodology required for making projections pursuant to section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985.

(m) TRANSMITTAL OF COMMISSION BUDGET REQUESTS.—

(1) BUDGET REQUIRED.—For fiscal year 2012, and each fiscal year thereafter, the Commission shall prepare and submit a budget to the President. Whenever the Commission submits a budget estimate or request to the President or the Office of Management and Budget, the Commission shall concurrently transmit copies of the estimate or request to the Committee on Appropriations of the Senate, the Committee on Appropriations of the House of Representatives, the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Financial Services of the House of Representatives.

(2) SUBMISSION TO CONGRESS.—The President shall submit each budget submitted under paragraph (1) to Congress, in unaltered form, together with the annual budget for the Administration submitted by the President.

(3) CONTENTS.—The Commission shall include in each budget submitted under paragraph (1)—

(A) an itemization of the amount of funds necessary to carry out the functions of the Commission.

(B) an amount to be designated as contingency funding to be used by the Commission to address unanticipated needs; and

(C) a designation of any activities of the Commission for which multi-year budget authority would be suitable.

(n) *OVERPAYMENT.*—*If a national securities exchange or national securities association pays to the Commission an amount in excess of fees and assessments due under this section and informs the Commission of such amount paid in excess within 10 years of the date of the payment, the Commission shall offset future fees and assessments due by such exchange or association in an amount equal to such excess amount.*

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