alone obligation or pursuant to a new debtor in possession credit agreement would be obligations of Enron or obligations of Enron's nonutility subsidiaries (if a letter of credit is issued on behalf of such a subsidiary) and would not be guaranteed by Portland General or any other Enron subsidiary (other than a nonutility subsidiary on behalf of which a letter of credit is issued).

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,
Deputy Secretary.
[FR Doc. 04–10464 Filed 5–6–04; 8:45 am]
BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 33–8418; 34–49634/April 30, 2004]

Order Making Fiscal Year 2005 Annual Adjustments to the Fee Rates Applicable Under Section 6(b) of the Securities Act of 1933 and Sections 13(e), 14(g), 31(b) and 31(c) of the Securities Exchange Act of 1934

I. Background

The Commission collects fees under various provisions of the securities laws. Section 6(b) of the Securities Act of 1933 ("Securities Act") requires the Commission to collect fees from issuers on the registration of securities.[1] Section 13(e) of the Securities Exchange Act of 1934 ("Exchange Act") requires the Commission to collect fees on specified repurchases of securities.[2] Section 14(g) of the Exchange Act requires the Commission to collect fees on proxy solicitations and statements in corporate control transactions.[3] Finally, sections 31(b) and (c) of the Exchange Act require national securities exchanges and national securities associations, respectively, to pay fees on transactions in specified securities to the Commission.[4]

The Investor and Capital Markets Fee Relief Act ("Fee Relief Act")[5] amended section 6(b) of the Securities Act and sections 13(e), 14(g), and 31 of the Exchange Act to require the Commission to make annual

adjustments to the fee rates applicable under these sections for each of the fiscal years 2003 through 2011, and one final adjustment to fix the fee rates under these sections for fiscal year 2012 and beyond.[6]

II. Fiscal Year 2005 Annual Adjustment to the Fee Rates Applicable Under Section 6(b) of the Securities Act and Sections 13(e) and 14(g) of the Exchange Act

Paragraph 6(b)(5) of the Securities Act requires the Commission to make an annual adjustment to the fee rate applicable under paragraph 6(b) of the Securities Act in each of the fiscal years 2003 through 2011.[7] In those same fiscal years, paragraphs 13(e)(5) and 14(g)(5) of the Exchange Act require the Commission to adjust the fee rates under Sections 13(e) and 14(g) to a rate that is equal to the rate that is applicable under Section 6(b). In other words, the annual adjustment to the fee rate under section 6(b) of the Securities Act also sets the annual adjustment to the fee rates under sections 13(e) and 14(g) of the Exchange Act.

Paragraph 6(b)(5) sets forth the method for determining the annual adjustment to the fee rate under Section 6(b) for fiscal year 2005. Specifically, the Commission must adjust the fee rate under Section 6(b) to a "rate that, when applied to the baseline estimate of the aggregate maximum offering prices for [fiscal year 2005], is reasonably likely to produce aggregate fee collections under [Section 6(b)] that are equal to the target offsetting collection amount for [fiscal year 2005]." That is, the adjusted rate is determined by dividing the "target offsetting collection amount" for fiscal year 2005 by the "baseline estimate of the aggregate maximum offering prices" for fiscal year 2005.

Paragraph 6(b)(11)(A) specifies that the "target offsetting collection amount" for fiscal year 2005 is $570,000,000.[8]

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[6] *See* 15 U.S.C. 77f(b)(5), 77f(b)(6), 78m(e)(5), 78m(e)(6), 78n(g)(5), 78n(g)(6), 78ee(j)(1), and 78ee(j)(3). Paragraph 31(j)(2) of the Exchange Act, 15 U.S.C. 78ee(j)(2), also requires the Commission, in specified circumstances, to make a mid-year adjustment to the fee rates under Sections 31(b) and (c) of the Exchange Act in fiscal years 2002 through 2011.

[7] The annual adjustments are designed to adjust the fee rate in a given fiscal year so that, when applied to the aggregate maximum offering price at which securities are proposed to be offered for the fiscal year, it is reasonably likely to produce total fee collections under Section 6(b) equal to the "target offsetting collection amount" specified in Section 6(b)(11)(A) for that fiscal year.

[8] Congress determined the target offsetting collection amounts by applying reduced fee rates to the CBO's January 2001 projections of the aggregate maximum offering prices for fiscal years 2002 through 2011. In any fiscal year through fiscal year 2011, the annual adjustment mechanism will result

Paragraph 6(b)(11)(B) defines the "baseline estimate of the aggregate maximum offering price" for fiscal year 2005 as "the baseline estimate of the aggregate maximum offering price at which securities are proposed to be offered pursuant to registration statements filed with the Commission during [fiscal year 2005] as determined by the Commission, after consultation with the Congressional Budget Office and the Office of Management and Budget. * * *"

To make the baseline estimate of the aggregate maximum offering price for fiscal year 2005, the Commission is using the same methodology it developed in consultation with the Congressional Budget Office ("CBO") and Office of Management and Budget ("OMB") to project aggregate offering price for purposes of the fiscal year 2004 annual adjustment. Using this methodology, the Commission determines the "baseline estimate of the aggregate maximum offering price" for fiscal year 2005 to be $4,842,692,718,337.[9] Based on this estimate, the Commission calculates the annual adjustment for fiscal 2005 to be $117.70 per million. This adjusted fee rate applies to Section 6(b) of the Securities Act, as well as to sections 13(e) and 14(g) of the Exchange Act.

III. Fiscal Year 2005 Annual Adjustment to the Fee Rates Applicable Under Sections 31(b) and (c) of the Exchange Act

Section 31(b) of the Exchange Act requires each national securities exchange to pay the Commission a fee at a rate, as adjusted by our order pursuant to paragraph 31(j)(2), which currently is $23.40 per million of the aggregate dollar amount of sales of specified securities transacted on the exchange.[10] Similarly, Section 31(c) requires each national securities association to pay the Commission a fee at the same adjusted rate on the

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in additional fee rate reductions if the CBO's January 2001 projection of the aggregate maximum offering prices for the fiscal year proves to be too low, and fee rate increases if the CBO's January 2001 projection of the aggregate maximum offering prices for the fiscal year proves to be too high.

[9] Appendix A explains how we determined the "baseline estimate of the aggregate maximum offering price" for fiscal year 2005 using our methodology, and then shows the purely arithmetical process of calculating the fiscal year 2005 annual adjustment based on that estimate. The appendix includes the data used by the Commission in making its "baseline estimate of the aggregate maximum offering price" for fiscal year 2005.

[10] Order Making Fiscal 2004 Mid-Year Adjustment to the Fee Rates Applicable Under Sections 31(b) and (c) of the Securities Exchange Act of 1934, Rel. No. 34–49332 (February 27, 2004), 69 FR 10278 (March 4, 2004).

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[1] 15 U.S.C. 77f(b).

[2] 15 U.S.C. 78m(e).

[3] 15 U.S.C. 78n(g).

[4] 15 U.S.C. 78ee(b) and (c). In addition, section 31(d) of the Exchange Act requires the Commission to collect assessments from national securities exchanges and national securities associations for round turn transactions on security futures. 15 U.S.C. 78ee(d).

[5] Pub. L. 107–123, 115 Stat. 2390 (2002).

aggregate dollar amount of sales of specified securities transacted by or through any member of the association otherwise than on an exchange. Paragraph 31(j)(1) requires the Commission to make annual adjustments to the fee rates applicable under Sections 31(b) and (c) for each of the fiscal years 2003 through 2011.[11]

Paragraph 31(j)(1) specifies the method for determining the annual adjustment for fiscal year 2005. Specifically, the Commission must adjust the rates under Sections 31(b) and (c) to a ''uniform adjusted rate that, when applied to the baseline estimate of the aggregate dollar amount of sales for [fiscal year 2005], is reasonably likely to produce aggregate fee collections under [Section 31] (including assessments collected under [Section 31(d)]) that are equal to the target offsetting collection amount for [fiscal year 2005].''

Paragraph 31(l)(1) specifies that the ''target offsetting collection amount'' for fiscal year 2005 is $1,220,000,000.[12] Paragraph 31(l)(2) defines the ''baseline estimate of the aggregate dollar amount of sales'' as ''the baseline estimate of the aggregate dollar amount of sales of securities * * * 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 [fiscal year 2005] as determined by the Commission, after consultation with the Congressional Budget Office and the Office of Management and Budget. * * *''

To make the baseline estimate of the aggregate dollar amount of sales for fiscal year 2005, the Commission is using the same methodology it developed in consultation with the CBO and OMB to project dollar volume for purposes of prior fee adjustments.[13]

Using this methodology, the Commission calculates the baseline estimate of the aggregate dollar amount of sales for fiscal year 2005 to be $37,902,443,515,254. Based on this estimate, and an estimated collection of $61,356 in assessments on securities futures transactions under section 31(d) in fiscal year 2005, the uniform adjusted rate is $32.90 per million.[14]

IV. Effective Dates of the Annual Adjustments

Subparagraph 6(b)(8)(A) of the Securities Act provides that the fiscal year 2005 annual adjustment to the fee rate applicable under section 6(b) of the Securities Act shall take effect on the later of October 1, 2004, or five days after the date on which a regular appropriation to the Commission for fiscal year 2005 is enacted.[15] Subparagraphs 13(e)(8)(A) and 14(g)(8)(A) of the Exchange Act provide for the same effective date for the annual adjustments to the fee rates applicable under sections 13(e) and 14(g) of the Exchange Act.[16]

Subparagraph 31(j)(4)(A) of the Exchange Act provides that the fiscal year 2005 annual adjustments to the fee rates applicable under sections 31(b) and (c) of the Exchange Act shall take effect on the later of October 1, 2004, or thirty days after the date on which a regular appropriation to the Commission for fiscal year 2005 is enacted.

V. Conclusion

Accordingly, pursuant to section 6(b) of the Securities Act and sections 13(e), 14(g) and 31 of the Exchange Act,[17]

It is hereby ordered that the fee rates applicable under section 6(b) of the Securities Act and sections 13(e) and 14(g) of the Exchange Act shall be $117.70 per million effective on the later of October 1, 2004, or five days after the date on which a regular appropriation to the Commission for fiscal year 2005 is enacted; and

It is further ordered that the fee rates applicable under sections 31(b) and (c) of the Exchange Act shall be $32.90 per million effective on the later of October

1, 2004, or thirty days after the date on which a regular appropriation to the Commission for fiscal year 2005 is enacted.

By the Commission.

Margaret H. McFarland,
Deputy Secretary.

Appendix A

With the passage of the Investor and Capital Markets Relief Act, Congress has established a target amount of monies to be collected from fees charged to issuers based on the value of their registrations. This appendix provides the formula for determining such fees, which the Commission adjusts annually. Congress has mandated that the Commission determine these fees based on the ''aggregate maximum offering prices,'' which measures the aggregate dollar amount of securities registered with the SEC over the course of the year. In order to maximize the likelihood that the amount of monies targeted by Congress will be collected, the fee rate must be set to reflect projected aggregate maximum offering prices. As a percentage, the fee rate equals the ratio of the target amounts of monies to the projected aggregate maximum offering prices.

For 2005, the Commission has estimated the aggregate maximum offering prices by projecting forward the trend established in the previous decade. More specifically, an ARIMA model was used to forecast the value of the aggregate maximum offering prices for months subsequent to March 2004, the last month for which the Commission has data on the aggregate maximum offering prices.

The following sections describe this process in detail.

A. Baseline Estimate of the Aggregate Maximum Offering Prices for Fiscal Year 2005

First, calculate the aggregate maximum offering prices (AMOP) for each month in the sample (March 1994–March 2004). Next, calculate the percentage change in the AMOP from month-to-month.

Model the monthly percentage change in AMOP as a first order moving average process. The moving average approach allows one to model the effect that an exceptionally high (or low) observation of AMOP tends to be followed by a more ''typical'' value of AMOP.

Use the estimated moving average model to forecast the monthly percent change in AMOP. These percent changes can then be applied to obtain forecasts of the total dollar value of registrations. The following is a more formal (mathematical) description of the procedure:

1. Begin with the monthly data for AMOP. The sample spans ten years, from March 1994 to March 2004. There are 4 months in the sample for which the data are omitted because of the impact of extraordinary events (*e.g.*, the 1995 government shutdown).

2. Divide each month's AMOP (column C) by the number of trading days in that month (column B) to obtain the average daily AMOP (AAMOP, column D).

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[11] The annual adjustments, as well as the mid-year adjustments required in specified circumstances under paragraph 31(j)(2) in fiscal years 2002 through 2011, are designed to adjust the fee rates in a given fiscal year so that, when applied to the aggregate dollar volume of sales for the fiscal year, they are reasonably likely to produce total fee collections under Section 31 equal to the ''target offsetting collection amount'' specified in Section 31(l)(1) for that fiscal year.

[12] Congress determined the target offsetting collection amounts by applying reduced fee rates to the CBO's January 2001 projections of dollar volume for fiscal years 2002 through 2011. In any fiscal year through fiscal year 2011, the annual and, in specified circumstances, mid-year adjustment mechanisms will result in additional fee rate reductions if the CBO's January 2001 projection of dollar volume for the fiscal year proves to be too low, and fee rate increases if the CBO's January 2001 projection of dollar volume for the fiscal year proves to be too high.

[13] Appendix B explains how we determined the ''baseline estimate of the aggregate dollar amount of sales'' for fiscal year 2005 using our methodology,

and then shows the purely arithmetical process of calculating the fiscal year 2005 annual adjustment based on that estimate. The appendix also includes the data used by the Commission in making its ''baseline estimate of the aggregate dollar amount of sales'' for fiscal year 2005.

[14] The calculation of the adjusted fee rate assumes that the current fee rate of $23.40 per million will apply through October 31st due to the operation of the effective date provision contained in subparagraph 31(j)(4)(A) of the Exchange Act.

[15] 15 U.S.C. 77f(b)(8)(A).

[16] 15 U.S.C. 78m(e)(8)(A) and 78n(g)(8)(A).

[17] 15 U.S.C. 77f(b), 78m(e), 78n(g), and 78ee(j).

3. For each month t, the natural logarithm of AAMOP is reported in column E.

4. Calculate the change in log(AAMOP) from the previous month as $\Delta_t = \log(\text{AAMOP}_t) - \log(\text{AAMOP}_{t-1})$. This approximates the percentage change.

5. Estimate the first order moving average model $\Delta_t = \alpha + \beta e_{t-1} + e_t$, where e_t denotes the forecast error for month t. The forecast error is simply the difference between the one-month ahead forecast and the actual realization of Δ_t. The forecast error is expressed as $e_t = \Delta_t - \beta_{t-1}$. The model can be estimated using standard commercially available software such as SAS or Eviews. Using least squares, the estimated parameter values are $\alpha = 0.01112$ and $\beta = 0.76742$.

6. For the month of April 2004, forecast $\Delta_{t\ =\ 4/04} = \alpha + \beta_{e\ =\ 3/04}$. For all subsequent months, forecast $\Delta_t = \alpha$.

7. Calculate forecasts of log(AAMOP). For example, the forecast of log(AAMOP) for June 2004 is given by $\text{FLAAMOP}_{t\ =\ 6/04} = \log(\text{AAMOP}_{t\ =\ 3/04}) + \Delta_{t\ =\ 4/04} + \Delta_{t\ =\ 5/04} + \Delta_{t\ =\ 6/04}$.

8. Under the assumption that e_t is normally distributed, the n-step ahead forecast of AAMOP is given by $\exp(\text{FLAAMOP}_t + \sigma_n^2/2)$, where σ_n denotes the standard error of the n-step ahead forecast.

9. For June 2004, this gives a forecast AAMOP of $16.8 Billion (Column I), and a forecast AMOP of $368.9 Billion (Column J).

10. Iterate this process through September 2005 to obtain a baseline estimate of the aggregate maximum offering prices for fiscal year 2005 of $4,842,692,718,337.

B. Using the Forecasts From A to Calculate the New Fee Rate

1. Using the data from Table A, estimate the aggregate maximum offering prices between 10/1/04 and 9/30/05 to be $4,842,692,718,337.

2. The rate necessary to collect the target $570,000,000 in fee revenues set by Congress is then calculated as: $570,000,000 ÷ $4,842,692,718,337 = 0.00011770 (or $117.70 per million.).

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Table A. Estimation of baseline of aggregate maximum offering prices .

Fee rate calculation.

a. Baseline estimate of the aggregate maximum offering prices, 10/1/04 to 9/30/05 ($Millions)	4,842,693
b. Implied fee rate ($570 Million / a)	$117.70

Data

(A) Month	(B) # of Trading Days in Month	(C) Aggregate Maximum Offering Prices, in $Millions	(D) Average Daily Aggregate Max. Offering Prices (AAMOP) in $Millions	(E) log(AAMOP)	(F) Change in AAMOP	(G) Forecast log(AAMOP)	(H) Standard Error	(I) Forecast AAMOP	(J) Forecast Aggregate Maximum Offering Prices, in $Millions
Mar-94	23	105,914	4,605	22.250					
Apr-94	19								
May-94	21	78,564	3,741	22.043					
Jun-94	22	94,814	4,310	22.184	0.141				
Jul-94	20	65,628	3,281	21.912	-0.273				
Aug-94	23	75,874	3,299	21.917	0.005				
Sep-94	21	139,422	6,639	22.616	0.699				
Oct-94	21	144,953	6,903	22.655	0.039				
Nov-94	21	73,625	3,506	21.978	-0.677				
Dec-94	21	74,903	3,567	21.995	0.017				
Jan-95	21	86,714	4,129	22.141	0.146				
Feb-95	19	102,999	5,421	22.414	0.272				
Mar-95	23	91,561	3,981	22.105	-0.309				
Apr-95	19	62,518	3,290	21.914	-0.190				
May-95	22	106,333	4,833	22.299	0.385				
Jun-95	22	117,557	5,344	22.399	0.100				
Jul-95	20	65,127	3,256	21.904	-0.495				
Aug-95	23	124,662	5,420	22.413	0.510				
Sep-95	20	131,774	6,589	22.609	0.195				
Oct-95	22	132,141	6,006	22.516	-0.093				
Nov-95	21	110,646	5,269	22.385	-0.131				
Dec-95	20								
Jan-96	22								
Feb-96	20								
Mar-96	21	117,780	5,609	22.448					
Apr-96	21	158,005	7,524	22.741	0.294				
May-96	22	142,452	6,475	22.591	-0.150				

Jun-96	20	122,598	6,130	22.536	-0.055
Jul-96	22	113,637	5,165	22.365	-0.171
Aug-96	22	128,154	5,825	22.485	0.120
Sep-96	20	108,763	5,438	22.417	-0.069
Oct-96	23	171,507	7,457	22.732	0.316
Nov-96	20	164,574	8,229	22.831	0.098
Dec-96	21	214,241	10,202	23.046	0.215
Jan-97	22	136,615	6,210	22.549	-0.496
Feb-97	19	317,624	16,717	23.540	0.990
Mar-97	20	140,809	7,040	22.675	-0.865
Apr-97	22	182,657	8,303	22.840	0.165
May-97	21	163,702	7,795	22.777	-0.063
Jun-97	21	162,111	7,720	22.767	-0.010
Jul-97	22	168,007	7,637	22.756	-0.011
Aug-97	21	153,705	7,319	22.714	-0.042
Sep-97	21	179,559	8,550	22.869	0.155
Oct-97	23	260,719	11,336	23.151	0.282
Nov-97	19	219,618	11,559	23.171	0.020
Dec-97	22	228,605	10,391	23.064	-0.106
Jan-98	20	228,030	11,402	23.157	0.093
Feb-98	19	250,266	13,172	23.301	0.144
Mar-98	22	378,185	17,190	23.568	0.266
Apr-98	21	242,310	11,539	23.169	-0.399
May-98	20	298,454	14,923	23.426	0.257
Jun-98	22	328,994	14,954	23.428	0.002
Jul-98	22	272,957	12,407	23.242	-0.187
Aug-98	21	392,104	18,672	23.650	0.409
Sep-98	21	325,144	15,483	23.463	-0.187
Oct-98	22	139,786	6,354	22.572	-0.891
Nov-98	20	269,065	13,453	23.322	0.750
Dec-98	22	248,596	11,300	23.148	-0.174
Jan-99	19	253,448	13,339	23.314	0.166
Feb-99	19	217,433	11,444	23.161	-0.153
Mar-99	23	415,145	18,050	23.616	0.456

Apr-99	21	431,280	20,537	23.746	0.129
May-99	20	229,082	11,454	23.162	-0.584
Jun-99	22	367,943	16,725	23.540	0.379
Jul-99	21	332,623	15,839	23.486	-0.054
Aug-99	22	240,157	10,916	23.114	-0.372
Sep-99	21	236,011	11,239	23.143	0.029
Oct-99	21	216,883	10,328	23.058	-0.085
Nov-99	21	372,582	17,742	23.599	0.541
Dec-99	22	319,846	14,538	23.400	-0.199
Jan-00	20	282,165	14,108	23.370	-0.030
Feb-00	20	665,367	33,268	24.228	0.858
Mar-00	23	550,107	23,918	23.898	-0.330
Apr-00	19	244,510	12,869	23.278	-0.620
May-00	22	269,774	12,262	23.230	-0.048
Jun-00	22	406,409	18,473	23.640	0.410
Jul-00	20	230,894	11,545	23.169	-0.470
Aug-00	23	257,797	11,209	23.140	-0.030
Sep-00	20	332,120	16,606	23.533	0.393
Oct-00	22	362,493	16,477	23.525	-0.008
Nov-00	21	317,653	15,126	23.440	-0.086
Dec-00	20	246,006	12,300	23.233	-0.207
Jan-01	21	462,726	22,035	23.816	0.583
Feb-01	19	388,304	20,437	23.741	-0.075
Mar-01	22	523,443	23,793	23.893	0.152
Apr-01	20	289,212	14,461	23.395	-0.498
May-01	22	274,298	12,468	23.246	-0.148
Jun-01	21	348,268	16,584	23.532	0.285
Jul-01	21	264,590	12,600	23.257	-0.275
Aug-01	23	245,591	10,678	23.091	-0.165
Sep-01	15	178,524	11,902	23.200	0.108
Oct-01	23	260,719	11,336	23.151	-0.049
Nov-01	21	286,199	13,629	23.335	0.184
Dec-01	20	395,230	19,762	23.707	0.372
Jan-02	21	401,290	19,109	23.673	-0.034

Feb-02	19	476,837	25,097	23.946	0.273				
Mar-02	20	380,160	19,008	23.668	-0.278				
Apr-02	22	282,947	12,861	23.277	-0.391				
May-02	22	215,645	9,802	23.006	-0.272				
Jun-02	20	277,757	13,888	23.354	0.348				
Jul-02	22	208,638	9,484	22.973	-0.381				
Aug-02	22	265,750	12,080	23.215	0.242				
Sep-02	20	109,565	5,478	22.424	-0.791				
Oct-02	23	179,374	7,799	22.777	0.353				
Nov-02	20	243,590	12,179	23.223	0.446				
Dec-02	21	212,838	10,135	23.039	-0.184				
Jan-03	21	201,839	9,611	22.986	-0.053				
Feb-03	19	144,642	7,613	22.753	-0.233				
Mar-03	21	444,331	21,159	23.775	1.022				
Apr-03	21	142,373	6,780	22.637	-1.138				
May-03	21	328,792	15,657	23.474	0.837				
Jun-03	21	281,580	13,409	23.319	-0.155				
Jul-03	22	304,383	13,836	23.351	0.031				
Aug-03	21	328,351	15,636	23.473	0.122				
Sep-03	21	459,563	21,884	23.809	0.336				
Oct-03	23	285,039	12,393	23.240	-0.569				
Nov-03	19	257,779	13,567	23.331	0.091				
Dec-03	22	244,998	11,136	23.133	-0.197				
Jan-04	20	369,784	18,489	23.640	0.507				
Feb-04	19	221,517	11,659	23.179	-0.461				
Mar-04	23	448,543	19,502	23.694	0.514				
Apr-04	21					23.467	0.312	16,314	342,594
May-04	20					23.478	0.320	16,540	330,798
Jun-04	22					23.489	0.328	16,769	368,917
Jul-04	21					23.500	0.336	17,001	357,025
Aug-04	22					23.511	0.344	17,237	379,206
Sep-04	21					23.522	0.351	17,475	366,982
Oct-04	21					23.533	0.359	17,717	372,064
Nov-04	21					23.545	0.366	17,963	377,216

Dec-04	22					23.556	0.373	18,211	400,65
Jan-05	20					23.567	0.380	18,464	369,27
Feb-05	19					23.578	0.387	18,719	355,66
Mar-05	22					23.589	0.394	18,979	417,52
Apr-05	21					23.600	0.400	19,241	404,06
May-05	21					23.611	0.407	19,508	409,66
Jun-05	22					23.622	0.413	19,778	435,11
Jul-05	20					23.634	0.420	20,052	401,03
Aug-05	23					23.645	0.426	20,330	467,57
Sep-05	21					23.656	0.432	20,611	432,83

Figure A

Aggregate Maximum Offering Prices Subject to Securities Act Section 6(b)

(Dashed Line Indicates Forecast Values)

October 2004
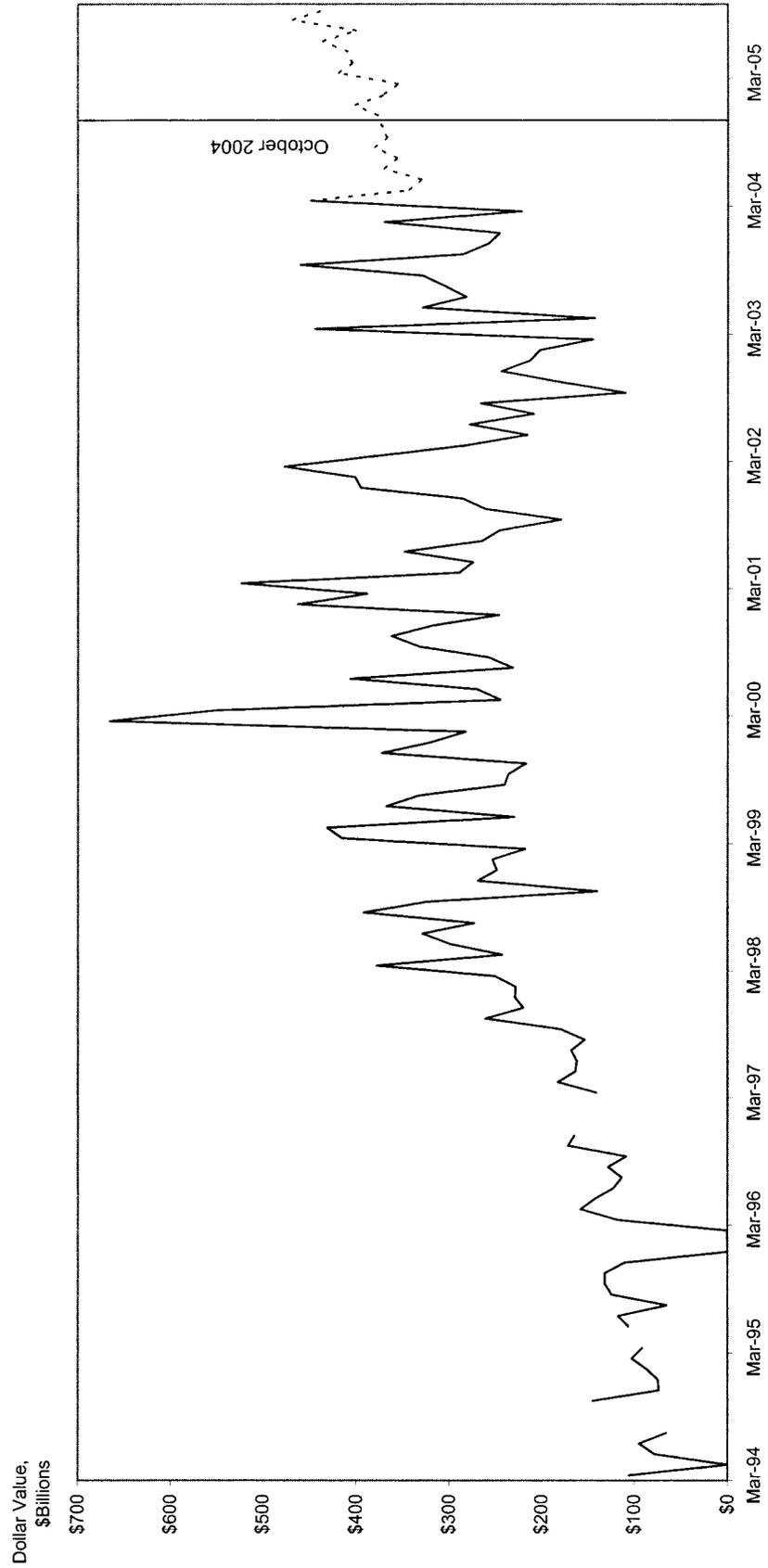
Appendix B

With the passage of the Investor and Capital Markets Relief Act, Congress has established a target amount of monies to be collected from fees charged to investors based on the value of their transactions. This appendix provides the formula for determining such fees, which the Commission adjusts annually, and may adjust semi-annually.[1] In order to maximize the likelihood that the amount of monies targeted by Congress will be collected, the fee rate must be set to reflect projected dollar transaction volume on the securities exchanges and the Nasdaq over the course of the year. As a percentage, the fee rate equals the ratio of the target amounts of monies to the projected dollar transaction volume.

For 2005, the Commission has estimated dollar transaction volume by projecting forward the trend established in the previous decade. More specifically, dollar transaction volume was forecasted for months subsequent to March 2004, the last month for which the Commission has data on transaction volume.

The following sections describe this process in detail.

A. Baseline Estimate of the Aggregate Dollar Amount of Sales for Fiscal Year 2005

First, calculate the average daily dollar amount of sales (ADS) for each month in the sample (March 1994–March 2004). The data obtained from the exchanges and the NASD are presented in Table B. The monthly aggregate dollar amount of sales (exchange plus Nasdaq) is contained in column E.

Next, calculate the change in the natural logarithm of ADS from month-to-month. The

[1] Congress requires that the Commission make a mid-year adjustment to the fee rate if 4 months into the fiscal year it determines that its forecasts of aggregate dollar volume are reasonably likely to be off by 10% or more.

average monthly percentage growth of ADS over the entire sample is 0.014 and the standard deviation 0.118. Assuming the monthly percentage change in ADS follows a random walk, calculating the expected monthly percentage growth rate for the full sample is straightforward. The expected monthly percentage growth rate of ADS is 2.2 percent.

Now, use the expected monthly percentage growth rate to forecast total dollar volume. For example, one can use the ADS for March 2004 ($114,370,494,465) to forecast ADS for April 2004 ($116,834,236,575 = $114,370,494,465 × 1.022)[2]. Multiply by the number of trading days in April 2004 (21) to obtain a forecast of the total dollar volume for the month ($2,453,518,968,084). Repeat the method to generate forecasts for subsequent months.

The forecasts for total dollar volume are in column I of Table A. The following is a more formal (mathematical) description of the procedure:

1. Divide each month's total dollar volume (column E) by the number of trading days in that month (column B) to obtain the average daily dollar volume (ADS, column F).

2. For each month t, calculate the change in ADS from the previous month as $\Delta_t = \log(ADS_t / ADS_{t-1})$, where log (x) denotes the natural logarithm of x.

3. Calculate the mean and standard deviation of the series $\{\Delta_1, \Delta_2, \ldots, \Delta_{120}\}$. These are given by $\sigma = 0.014$ and $\sigma = 0.118$, respectively.

4. Assume that the natural logarithm of ADS follows a random walk, so that Δ_s and Δ_t are statistically independent for any two months s and t.

5. Under the assumption that Δ_t is normally distributed, the expected value of ADS_t / ADS_{t-1} is given by $\exp(\mu + {}^2 2)$, or on average $ADS_t = 1.022 \times ADS_{t-1}$.

[2] The value 1.022 has been rounded. All computations are done with the unrounded value.

6. For April 2004, this gives a forecast ADS of $1.022 \times \$114,370,494,465 = \$116,834,236,575$. Multiply this figure by the 21 trading days in April 2004 to obtain a total dollar volume forecast of $2,453,518,968,084.

7. For May 2004, multiply the April 2004 ADS forecast by 1.022 to obtain a forecast ADS of $119,351,052,035. Multiply this figure by the 20 trading days in May 2004 to obtain a total dollar volume forecast of $2,387,021,040,703.

8. Repeat this procedure for subsequent months.

B. Using the Forecasts From A to Calculate the New Fee Rate

1. Use Table B to estimate fees collected for the period 10/1/04 through 10/31/04. The projected aggregate dollar amount of sales for this period is $2,788,214,479,378. Projected fee collections at the current fee rate of 0.0000234 are $65,244,219.

2. Estimate the amount of assessments on securities futures products collected during 10/1/04 and 9/30/05 to be $61,356 by projecting a 2.2% monthly increase from a base of $3,884 in March 2004.

3. Subtract the amounts $65,244,219 and $61,356 from the target offsetting collection amount set by Congress of $1,220,000,000 leaving $1,154,694,425 to be collected on dollar volume for the period 11/1/04 through 9/30/05.

4. Use Table B to estimate dollar volume for the period 11/1/04 through 9/30/05. The estimate is $35,114,229,035,876. Finally, compute the fee rate required to produce the additional $1,154,694,425 in revenue. This rate is $1,154,694,425 divided by $35,114,229,035,876 or .0000328839.

5. Consistent with the system requirements of the exchanges and the NASD, round the result to the seventh decimal point, yielding a rate of .0000329 (or $32.90 per million).

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Table B. Estimation of baseline of the aggregate dollar amount of sales.
(Methodology developed in consultation with the Office of Management and Budget and the Congressional Budget Office.)

Fee rate calculation.

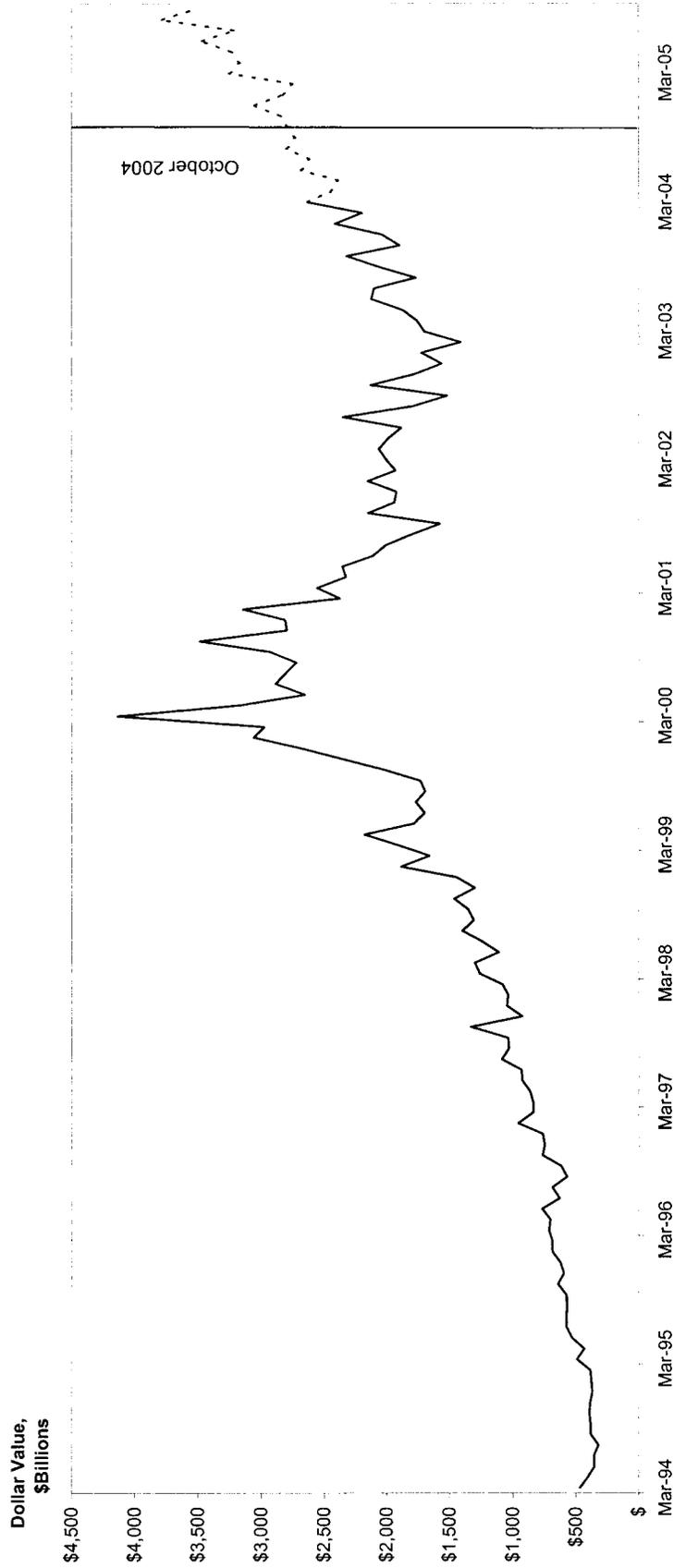|	
a. Baseline estimate of the aggregate dollar amount of sales, 10/1/04 to 10/31/04 ($Millions)	2,788,214
b. Baseline estimate of the aggregate dollar amount of sales, 11/1/04 to 9/30/05 ($Millions)	35,114,229
c. Estimated collections in assessments on securities futures products in FY 2005 ($Millions)	0.061
d. Implied fee rate (($1,220,000,000 - 0.0000234*a - c)/b)	$32.9

Data

(A) Month	(B) # of Trading Days in Month	(C) Exchange-Listed Dollar Amount of Sales	(D) Nasdaq Dollar Amount of Sales	(E) Aggregate Dollar Amount of Sales	(F) Average Daily Dollar Amount of Sales (ADS)	(G) Change in LN of ADS	(H) Forecast ADS	(I) Forecast Aggregate Dollar Amount of Sales
Mar-94	23	316,713,498,173	151,177,373,000	467,890,871,173	20,343,081,355	-		
Apr-94	19	289,365,151,226	114,834,515,000	404,199,666,226	21,273,666,643	0.045		
May-94	21	241,278,516,490	112,318,747,000	353,597,263,490	16,837,964,928	-0.234		
Jun-94	22	245,067,967,632	112,555,736,000	357,623,703,632	16,255,622,892	-0.035		
Jul-94	20	221,511,138,952	100,563,525,000	322,074,663,952	16,103,733,198	-0.009		
Aug-94	23	255,511,795,450	127,675,353,000	383,187,148,450	16,660,310,802	0.034		
Sep-94	21	273,589,300,476	111,984,539,000	385,573,839,476	18,360,659,023	0.097		
Oct-94	21	266,363,537,805	129,089,800,000	395,453,337,805	18,831,111,324	0.025		
Nov-94	21	267,314,618,799	121,827,668,000	389,142,286,799	18,530,585,086	-0.016		
Dec-94	21	265,184,891,948	106,839,641,000	372,024,532,948	17,715,453,950	-0.045		
Jan-95	21	253,958,524,771	125,092,685,000	379,051,209,771	18,050,057,608	0.019		
Feb-95	19	263,486,075,035	125,574,811,000	389,060,886,035	20,476,888,739	0.126		
Mar-95	23	330,806,034,718	161,066,575,000	491,872,609,718	21,385,765,640	0.043		
Apr-95	19	285,586,213,818	149,741,420,000	435,327,633,818	22,911,980,727	0.069		
May-95	22	340,254,177,379	191,600,883,000	531,855,060,379	24,175,230,017	0.054		
Jun-95	22	376,703,055,609	197,629,158,000	574,332,213,609	26,106,009,710	0.077		
Jul-95	20	346,809,496,831	229,239,839,000	576,049,335,831	28,802,466,792	0.098		
Aug-95	23	327,435,391,060	243,203,335,000	570,638,726,060	24,810,379,394	-0.149		
Sep-95	20	352,176,019,676	225,957,920,000	578,133,939,676	28,906,696,984	0.153		
Oct-95	22	386,892,948,035	255,297,230,000	642,190,178,035	29,190,462,638	0.010		
Nov-95	21	340,868,134,565	255,556,416,000	596,424,550,565	28,401,169,075	-0.027		
Dec-95	20	386,356,222,037	238,254,219,000	624,610,441,037	31,230,522,052	0.095		
Jan-96	22	412,342,988,854	275,256,103,000	687,599,091,854	31,254,504,175	0.001		
Feb-96	20	432,110,721,273	255,121,750,000	687,232,471,273	34,361,623,564	0.095		
Mar-96	21	462,522,216,093	252,313,904,000	714,836,120,093	34,039,815,243	-0.009		
Apr-96	21	419,529,647,022	284,880,671,000	704,410,318,022	33,543,348,477	-0.015		
May-96	22	444,864,509,489	323,514,998,000	768,379,507,489	34,926,341,250	0.040		
Jun-96	20	364,047,300,223	267,051,480,000	631,098,780,223	31,554,939,011	-0.102		
Jul-96	22	405,998,331,384	282,430,397,000	688,428,728,384	31,292,214,927	-0.008		
Aug-96	22	347,207,351,036	222,902,421,000	570,109,772,036	25,914,080,547	-0.189		

Sep-96	20	361,752,600,688	255,491,281,000	617,243,881,688	30,862,194,084	0.175
Oct-96	23	450,138,412,454	314,131,029,000	764,269,441,454	33,229,106,150	0.074
Nov-96	20	468,499,807,419	279,994,893,000	748,494,700,419	37,424,735,021	0.119
Dec-96	21	475,791,378,753	288,688,118,000	764,479,496,753	36,403,785,560	-0.028
Jan-97	22	578,613,348,586	378,819,289,000	957,432,637,586	43,519,665,345	0.179
Feb-97	19	500,101,991,446	337,072,192,000	837,174,183,446	44,061,799,129	0.012
Mar-97	20	526,670,517,788	312,522,211,000	839,192,728,788	41,959,636,439	-0.049
Apr-97	22	541,016,966,315	321,782,247,000	862,799,213,315	39,218,146,060	-0.068
May-97	21	560,712,670,647	365,021,182,000	925,733,852,647	44,082,564,412	0.117
Jun-97	21	590,497,004,859	339,912,081,000	930,409,085,859	44,305,194,565	0.005
Jul-97	22	665,142,486,898	420,540,220,000	1,085,682,706,898	49,349,213,950	0.108
Aug-97	21	646,260,997,751	385,083,141,000	1,031,344,138,751	49,111,625,655	-0.005
Sep-97	21	636,729,800,602	399,730,444,000	1,036,460,244,602	49,355,249,743	0.005
Oct-97	23	795,309,593,718	534,343,839,000	1,329,653,432,718	57,811,018,814	0.158
Nov-97	19	614,656,941,587	311,360,937,000	926,017,878,587	48,737,783,084	-0.171
Dec-97	22	670,717,275,199	375,503,531,000	1,046,220,806,199	47,555,491,191	-0.025
Jan-98	20	662,635,021,902	375,290,271,000	1,037,925,292,902	51,896,264,645	0.087
Feb-98	19	672,828,859,396	408,876,474,000	1,081,705,333,396	56,931,859,652	0.093
Mar-98	22	795,132,023,467	464,862,662,000	1,259,994,685,467	57,272,485,703	0.006
Apr-98	21	819,690,018,253	478,804,341,000	1,298,494,359,253	61,833,064,726	0.077
May-98	20	717,931,027,995	392,290,631,000	1,110,221,658,995	55,511,082,950	-0.108
Jun-98	22	778,892,937,913	464,886,854,000	1,243,779,791,913	56,535,445,087	0.018
Jul-98	22	837,582,352,748	561,429,081,000	1,399,011,433,748	63,591,428,807	0.118
Aug-98	21	812,804,954,442	494,696,509,000	1,307,501,463,442	62,261,974,450	-0.021
Sep-98	21	899,449,779,083	452,978,456,000	1,352,428,235,083	64,401,344,528	0.034
Oct-98	22	941,206,761,926	519,628,635,672	1,460,835,397,598	66,401,608,982	0.031
Nov-98	20	763,668,070,478	534,735,697,587	1,298,403,768,065	64,920,188,403	-0.023
Dec-98	22	832,619,360,060	610,078,427,246	1,442,697,787,306	65,577,172,150	0.010
Jan-99	19	1,002,792,782,534	881,762,273,376	1,884,555,055,910	99,187,108,206	0.414
Feb-99	19	884,236,683,650	771,821,519,115	1,656,058,202,765	87,160,958,040	-0.129
Mar-99	23	1,063,644,002,718	845,323,661,356	1,908,967,664,074	82,998,594,090	-0.049
Apr-99	21	1,202,755,130,954	974,846,639,668	2,177,601,770,622	103,695,322,411	0.223
May-99	20	1,055,752,423,736	728,648,483,251	1,784,400,906,987	89,220,045,349	-0.150
Jun-99	22	968,672,852,262	728,666,375,241	1,697,339,227,503	77,151,783,068	-0.145
Jul-99	21	971,377,415,431	795,657,683,556	1,767,035,098,986	84,144,528,523	0.087
Aug-99	22	910,143,257,265	782,763,893,461	1,692,907,150,726	76,950,325,033	-0.089
Sep-99	21	887,751,464,814	842,754,416,364	1,730,505,881,178	82,405,041,961	0.068
Oct-99	21	1,078,637,908,317	938,836,857,225	2,017,474,765,542	96,070,226,931	0.153
Nov-99	21	1,129,374,113,398	1,218,999,895,936	2,348,374,009,334	111,827,333,778	0.152
Dec-99	22	1,214,245,992,515	1,472,542,539,476	2,686,788,531,991	122,126,751,454	0.088

Jan-00	20	1,298,320,930,164	1,759,510,466,949	3,057,831,397,113	152,891,569,856	0.225
Feb-00	20	1,242,939,925,885	1,730,179,962,177	2,973,119,888,063	148,655,994,403	-0.028
Mar-00	23	1,674,957,313,287	2,460,195,052,947	4,135,152,366,234	179,789,233,315	0.190
Apr-00	19	1,435,035,900,103	1,739,658,625,584	3,174,694,525,687	167,089,185,562	-0.073
May-00	22	1,275,173,133,440	1,374,100,073,878	2,649,273,207,318	120,421,509,424	-0.328
Jun-00	22	1,288,821,230,447	1,594,692,767,334	2,883,513,997,781	131,068,818,081	0.085
Jul-00	20	1,210,411,492,966	1,594,341,902,395	2,804,753,395,361	140,237,669,768	0.068
Aug-00	23	1,212,084,264,128	1,508,704,131,703	2,720,788,395,832	118,295,147,645	-0.170
Sep-00	20	1,266,743,469,149	1,663,445,339,863	2,930,188,809,012	146,509,440,451	0.214
Oct-00	22	1,520,695,416,929	1,965,230,890,799	3,485,926,307,727	158,451,195,806	0.078
Nov-00	21	1,293,925,005,931	1,501,853,870,956	2,795,778,876,887	133,132,327,471	-0.174
Dec-00	20	1,372,200,223,377	1,437,717,126,473	2,809,917,349,851	140,495,867,493	0.054
Jan-01	21	1,553,316,868,836	1,590,184,256,408	3,143,501,125,244	149,690,529,774	0.063
Feb-01	19	1,229,720,673,393	1,142,699,849,893	2,372,420,523,286	124,864,238,068	-0.181
Mar-01	22	1,459,253,562,636	1,095,165,522,477	2,554,419,085,113	116,109,958,414	-0.073
Apr-01	20	1,320,145,219,933	1,004,204,287,812	2,324,349,507,745	116,217,475,387	0.001
May-01	22	1,321,526,084,016	1,031,653,304,287	2,353,179,388,303	106,962,699,468	-0.083
Jun-01	21	1,247,283,258,199	864,638,855,037	2,111,922,113,236	100,567,719,678	-0.062
Jul-01	21	1,242,431,937,109	761,952,097,446	2,004,384,034,554	95,446,858,788	-0.052
Aug-01	23	1,126,055,224,969	677,510,112,826	1,803,565,337,795	78,415,884,252	-0.197
Sep-01	15	1,047,626,761,645	525,858,184,738	1,573,484,946,383	104,898,996,426	0.291
Oct-01	23	1,349,118,916,636	798,119,956,408	2,147,238,873,044	93,358,211,871	-0.117
Nov-01	21	1,172,054,711,429	767,372,506,089	1,939,427,217,518	92,353,677,025	-0.011
Dec-01	20	1,163,934,125,870	757,164,612,243	1,921,098,738,113	96,054,936,906	0.039
Jan-02	21	1,295,560,129,211	853,683,183,221	2,149,243,312,432	102,344,919,640	0.063
Feb-02	19	1,265,596,423,330	663,234,172,254	1,928,830,595,585	101,517,399,768	-0.008
Mar-02	20	1,391,686,235,846	610,530,138,668	2,002,216,374,514	100,110,818,726	-0.014
Apr-02	22	1,425,803,762,869	636,298,103,636	2,062,101,866,506	93,731,903,023	-0.066
May-02	22	1,389,712,534,140	596,147,222,417	1,985,859,756,557	90,266,352,571	-0.038
Jun-02	20	1,346,347,183,249	535,838,197,360	1,882,185,380,609	94,109,269,030	0.042
Jul-02	22	1,785,869,953,351	563,694,536,838	2,349,564,490,189	106,798,385,918	0.126
Aug-02	22	1,366,263,208,686	427,166,695,393	1,793,429,904,079	81,519,541,095	-0.270
Sep-02	20	1,142,597,400,966	376,346,966,238	1,518,944,367,204	75,947,218,360	-0.071
Oct-02	23	1,598,092,211,882	529,782,736,090	2,127,874,947,972	92,516,302,086	0.197
Nov-02	20	1,282,210,858,888	498,605,599,233	1,780,816,458,122	89,040,822,906	-0.038
Dec-02	21	1,145,194,968,127	415,897,247,519	1,561,092,215,646	74,337,724,555	-0.180
Jan-03	21	1,248,793,946,741	474,904,883,673	1,723,698,830,414	82,080,896,686	0.099
Feb-03	19	1,070,048,068,849	341,674,336,507	1,411,722,405,357	74,301,179,229	-0.100
Mar-03	21	1,293,340,642,585	406,242,999,932	1,699,583,642,517	80,932,554,406	0.085
Apr-03	21	1,310,080,563,238	449,316,319,231	1,759,396,882,469	83,780,803,927	0.035

Month								
May-03	21	1,451,830,957,154	419,562,973,291	1,871,393,930,445	89,113,996,688	0.062		
Jun-03	21	1,656,129,355,959	466,098,458,761	2,122,227,814,720	101,058,467,368	0.126		
Jul-03	22	1,622,749,852,799	478,067,675,641	2,100,817,528,440	95,491,705,838	-0.057		
Aug-03	21	1,407,923,702,993	358,605,215,318	1,766,528,918,312	84,120,424,681	-0.127		
Sep-03	21	1,615,383,245,929	448,201,176,011	2,063,584,421,939	98,265,924,854	0.155		
Oct-03	23	1,828,085,746,139	490,992,492,650	2,319,078,238,789	100,829,488,643	0.026		
Nov-03	19	1,538,248,661,152	358,360,077,946	1,896,608,739,098	99,821,512,584	-0.010		
Dec-03	22	1,692,590,388,413	344,449,615,057	2,037,040,003,469	92,592,727,430	-0.075		
Jan-04	20	1,929,842,015,739	482,284,281,048	2,412,126,296,786	120,606,314,839	0.264		
Feb-04	19	1,840,581,043,697	355,213,320,825	2,195,794,364,522	115,568,124,449	-0.043		
Mar-04	23	2,060,077,787,798	570,443,584,895	2,630,521,372,693	114,370,494,465	-0.010		
Apr-04	21						116,834,236,575	2,453,518,968,084
May-04	20						119,351,052,035	2,387,021,040,703
Jun-04	22						121,922,084,138	2,682,285,851,026
Jul-04	21						124,548,500,805	2,615,518,516,899
Aug-04	22						127,231,495,118	2,799,092,892,592
Sep-04	21						129,972,285,859	2,729,418,003,041
Oct-04	21						132,772,118,066	2,788,214,479,378
Nov-04	21						135,632,263,595	2,848,277,535,485
Dec-04	22						138,554,021,701	3,048,188,477,426
Jan-05	20						141,538,719,629	2,830,774,392,582
Feb-05	19						144,587,713,213	2,747,166,551,049
Mar-05	22						147,702,387,495	3,249,452,524,889
Apr-05	21						150,884,157,353	3,168,567,304,405
May-05	21						154,134,468,143	3,236,823,831,007
Jun-05	22						157,454,796,359	3,464,005,519,902
Jul-05	20						160,846,650,299	3,216,933,005,988
Aug-05	23						164,311,570,754	3,779,166,127,344
Sep-05	21						167,851,131,705	3,524,873,765,799

Figure B.

Aggregate Dollar Amount of Sales Subject to Exchange Act Sections 31(b) and 31(c)[1]
Methodology Developed in Consultation With OMB and CBO
(Dashed Line Indicates Forecast Values)

October 2004

Dollar Value,
$Billions

$4,500
$4,000
$3,500
$3,000
$2,500
$2,000
$1,500
$1,000
$500
$

Mar-94 Mar-95 Mar-96 Mar-97 Mar-98 Mar-99 Mar-00 Mar-01 Mar-02 Mar-03 Mar-04 Mar-05

[1]Forecasted line is not smooth because the number of trading days varies by month.

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