

107TH CONGRESS  
2D SESSION

# H. R. 5149

To establish the Securities and Commodities Exchange Commission in order to combine the functions of the Commodity Futures Trading Commission and the Securities and Exchange Commission in a single independent regulatory commission, and for other purposes.

---

## IN THE HOUSE OF REPRESENTATIVES

JULY 17, 2002

Mr. LEACH introduced the following bill; which was referred to the Committee on Financial Services, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

---

## A BILL

To establish the Securities and Commodities Exchange Commission in order to combine the functions of the Commodity Futures Trading Commission and the Securities and Exchange Commission in a single independent regulatory 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 “Markets and Trading Reorganization and Reform Act”.

6 (b) TABLE OF CONTENTS.—

- Sec. 1. Short title; table of contents.
- Sec. 2. Purposes.
- Sec. 3. Definitions.

#### TITLE I—ESTABLISHMENT OF COMMISSION

- Sec. 101. Establishment.
- Sec. 102. Members: appointment; terms.
- Sec. 103. Organization of commission.
- Sec. 104. General Counsel.

#### TITLE II—TRANSFERS OF FUNCTIONS

- Sec. 201. Commodity Futures Trading Commission functions.
- Sec. 202. Securities and Exchange Commission.
- Sec. 203. Jurisdiction of margin authority with respect to securities.

#### TITLE III—FEDERAL FINANCIAL MARKETS COORDINATING COUNCIL

- Sec. 301. Establishment; membership.
- Sec. 302. Functions of the Council.
- Sec. 303. Staff; administrative support; expenses.

#### TITLE IV—ADMINISTRATIVE PROVISIONS

##### PART A—PERSONNEL PROVISIONS

- Sec. 401. Officers and employees.
- Sec. 402. Experts and consultants.

##### PART B—GENERAL ADMINISTRATIVE PROVISIONS

- Sec. 411. General authority.
- Sec. 412. Delegation.
- Sec. 413. Reorganization.
- Sec. 414. Rules.
- Sec. 415. Contracts.
- Sec. 416. Regional and field offices.
- Sec. 417. Use of facilities.
- Sec. 418. Working capital fund.
- Sec. 419. Funds transfer.
- Sec. 420. Seal of Commission.
- Sec. 421. Annual report.

#### TITLE V—TRANSITIONAL, SAVINGS, AND CONFORMING PROVISIONS

- Sec. 501. Transfer and allocation of appropriations and personnel.
- Sec. 502. Effect on personnel.
- Sec. 503. Agency terminations.
- Sec. 504. Incidental transfers.
- Sec. 505. Savings provisions.
- Sec. 506. Reference.
- Sec. 507. Amendments.
- Sec. 508. Transition.

## TITLE VI—EFFECTIVE DATE

Sec. 601. Effective date.

1 **SEC. 2. PURPOSES.**

2 The purposes of this Act are—

3 (1) to establish a single Federal regulatory body  
4 with jurisdiction over securities, options, futures,  
5 and related markets and instruments;

6 (2) to consolidate and revise the authority for  
7 setting margin requirements on all such instru-  
8 ments;

9 (3) to coordinate the regulation of all financial  
10 markets;

11 (4) to strengthen investor confidence in United  
12 States financial markets; and

13 (5) to ensure the competitiveness of those mar-  
14 kets.

15 **SEC. 3. DEFINITIONS.**

16 As used in this Act—

17 (1) the term “Commission” means the Securi-  
18 ties and Commodities Exchange Commission estab-  
19 lished by section 101 of this Act; and

20 (2) the term “function” includes any duty, obli-  
21 gation, power, authority, responsibility, right, privi-  
22 lege, activity, or program.

1     **TITLE I—ESTABLISHMENT OF**  
2                     **COMMISSION**

3     **SEC. 101. ESTABLISHMENT.**

4             There is established an independent regulatory com-  
5 mission to be known as the Securities and Commodities  
6 Exchange Commission.

7     **SEC. 102. MEMBERS: APPOINTMENT; TERMS.**

8             (a) COMPOSITION OF COMMISSION.—The Commis-  
9 sion shall be composed of five commissioners appointed by  
10 the President, by and with the advice and consent of the  
11 Senate. One of the commissioners shall be designated by  
12 the President as chairperson. Not more than 3 of such  
13 members shall be members of the same political party.  
14 Each Commissioner shall be selected solely on the basis  
15 of integrity and demonstrated knowledge of the operations  
16 of the markets subject to the jurisdiction of the Commis-  
17 sion.

18            (b) TERMS.—Each commissioner shall be appointed  
19 for a term of 5 years, except that—

20                (1) a commissioner may continue to serve after  
21 the expiration of such term until a successor is ap-  
22 pointed and has qualified, but may not continue to  
23 so serve beyond the expiration of the next session of  
24 Congress beginning after the expiration of such  
25 term;

1           (2) the terms of office of the commissioners  
2       first taking office after the enactment of this Act  
3       shall expire, as designated by the President at the  
4       time of their appointment—

5                   (A) 1 at the end of 1 year;

6                   (B) 2 at the end of 3 years; and

7                   (C) 2 at the end of 5 years; and

8           (3) any member appointed to fill a vacancy oc-  
9       curring prior to the expiration of the term for which  
10      the predecessor was appointed shall be appointed for  
11      the remainder of such term.

12      (c) CONFLICTS OF INTEREST.—

13           (1) IN GENERAL.—No commissioner shall en-  
14      gage in any other business, vocation, or employment  
15      than that of serving as commissioner, nor shall any  
16      commissioner participate, directly or indirectly, in  
17      any market operations or transactions of a character  
18      subject to regulation by the Commission pursuant to  
19      this title.

20           (2) REIMBURSEMENT FOR TRAVEL.—Notwith-  
21      standing any other provision of law, in accordance  
22      with regulations which the Commission shall pre-  
23      scribe to prevent conflicts of interest, the Commis-  
24      sion may accept payment and reimbursement, in  
25      cash or in kind, from non-Federal agencies, organi-

1 zations, and individuals for travel, subsistence, and  
2 other necessary expenses incurred by Commission  
3 members and employees in attending meetings and  
4 conferences concerning the functions or activities of  
5 the Commission. Any payment or reimbursement ac-  
6 cepted shall be credited to the appropriated funds of  
7 the Commission. The amount of travel, subsistence,  
8 and other necessary expenses for members and em-  
9 ployees paid or reimbursed under this subsection  
10 may exceed per diem amounts established in official  
11 travel regulations, but the Commission may include  
12 in its regulations under this subsection a limitation  
13 on such amounts.

14 (d) FEES.—Notwithstanding any other provision of  
15 law, whenever any fee is required to be paid to the Com-  
16 mission pursuant to any provision of the securities laws  
17 or any other law, the Commission may provide by rule that  
18 such fee shall be paid in a manner other than in cash.

19 **SEC. 103. ORGANIZATION OF COMMISSION.**

20 The Commission shall establish the principal divi-  
21 sions and subdivisions of the Commission, except that the  
22 Commission shall establish a separate division with re-  
23 sponsibility for functions relating to markets in physical  
24 commodities.

1 **SEC. 104. GENERAL COUNSEL.**

2       There shall be in the Commission an Office of Gen-  
3 eral Counsel, headed by a General Counsel appointed by  
4 the President, by and with the advice and consent of the  
5 Senate.

6                   **TITLE II—TRANSFERS OF**  
7                   **FUNCTIONS**

8 **SEC. 201. COMMODITY FUTURES TRADING COMMISSION**  
9                   **FUNCTIONS.**

10       There are transferred to the Commission all functions  
11 of the Commodity Futures Trading Commission and of  
12 any officer or component of the Commodity Futures Trad-  
13 ing Commission.

14 **SEC. 202. SECURITIES AND EXCHANGE COMMISSION.**

15       There are transferred to the Commission all functions  
16 of the Security and Exchange Commission and of any offi-  
17 cer or component of the Securities and Exchange Commis-  
18 sion.

19 **SEC. 203. JURISDICTION OF MARGIN AUTHORITY WITH RE-**  
20                   **SPECT TO SECURITIES.**

21       There is transferred to the Commission the functions  
22 of the Board of Governors of the Federal Reserve System  
23 under section 7 of the Securities Exchange Act of 1934.

1 **TITLE III—FEDERAL FINANCIAL**  
2 **MARKETS COORDINATING**  
3 **COUNCIL**

4 **SEC. 301. ESTABLISHMENT; MEMBERSHIP.**

5 (a) ESTABLISHMENT.—There is established in the ex-  
6 ecutive branch a council to be known as the Federal Fi-  
7 nancial Markets Coordinating Council.

8 (b) MEMBERSHIP.—The Council shall be composed of  
9 the heads of the following agencies or their designees for  
10 this purpose:

11 (1) The Board of Governors of the Federal Re-  
12 serve System.

13 (2) The Comptroller of the Currency.

14 (3) The Secretary of the Treasury.

15 (4) The Securities and Commodities Exchange  
16 Commission.

17 (5) The Office of Thrift Supervision.

18 (6) The Federal Deposit Insurance Corporation.

19 (c) CHAIRPERSON.—The Council shall elect 1 of its  
20 members to serve as chairperson.

21 **SEC. 302. FUNCTIONS OF THE COUNCIL.**

22 The Federal Financial Markets Coordinating Council  
23 shall—



1           (1) serve as a facility for the coordination of  
2           the regulatory operations of each of the agencies  
3           represented on the Council;

4           (2) meet bimonthly and at the call of the chair  
5           to discuss issues relating to the safety and effective-  
6           ness of the financial services industry and other  
7           issues relating to those regulatory operations;

8           (3) establish an advisory committee of not more  
9           than 5 members representative of the futures, com-  
10          modities, options, and securities exchanges and the  
11          banking industry to meet no less than 4 times annu-  
12          ally; and

13          (4) report biennially to the Congress on its  
14          functions and activities, including in the first such  
15          report such recommendations for legislative action  
16          as it considers appropriate.

17 **SEC. 303. STAFF; ADMINISTRATIVE SUPPORT; EXPENSES.**

18          (a) STAFF; ADMINISTRATIVE SUPPORT.—The Com-  
19          mission and each agency represented on the Council shall  
20          provide to the Council such personnel and administrative  
21          support as the Council may require to carry out its func-  
22          tions under this title.

23          (b) EXPENSES.—There are authorized to be appro-  
24          priated such sums as may be necessary for the expenses  
25          of the Commission in carrying out this title. Funds appro-

1 priated under this subsection may be available to reim-  
 2 burse agencies for personnel detailed to the Council and  
 3 for administrative support provided under subsection (a).

## 4 **TITLE IV—ADMINISTRATIVE** 5 **PROVISIONS**

### 6 **PART A—PERSONNEL PROVISIONS**

#### 7 **SEC. 401. OFFICERS AND EMPLOYEES.**

8 (a) APPOINTMENT AND COMPENSATION.—The Com-  
 9 mission may appoint and fix the compensation of such of-  
 10 ficers and employees, including attorneys, as may be nec-  
 11 essary to carry out the functions of the Commission. Ex-  
 12 cept as otherwise provided by law, such officers and em-  
 13 ployees shall be appointed in accordance with the civil  
 14 service laws and their compensation fixed in accordance  
 15 with title 5 of the United States Code.

16 (b) SPECIAL PROVISIONS.—

17 (1) CONTINUITY OF SUPERGRADE POSITIONS.—

18 At the request of the Commission, the Director of  
 19 the Office of Personnel Management shall, under  
 20 section 5108 of title 5, United States Code, provide  
 21 for the establishment in each of the grade levels GS-  
 22 16, GS-17, and GS-18 of a number of positions in  
 23 the Commission equal to the number of positions in  
 24 that grade level which were used primarily for the  
 25 performance of functions and offices transferred

1 under this Act and which were assigned and filled on  
2 the day before the effective date of this Act.

3 (2) CONTINUITY OF PROFESSIONAL AND TECH-  
4 NICAL POSITIONS.—At the request of the Commis-  
5 sion, the Director of the Office of Personnel Man-  
6 agement shall, under section 3104 of title 5, United  
7 States Code, provide for the establishment in the  
8 Commission of a number of professional and tech-  
9 nical positions outside of the General Schedule equal  
10 to the number of such positions which were used pri-  
11 marily for the performance of functions and offices  
12 transferred under this Act and which were assigned  
13 and filled on the day before the effective date of this  
14 Act.

15 (3) APPOINTMENTS TO SPECIAL POSITIONS.—  
16 Appointments to positions provided for under this  
17 subsection may be made without regard to the provi-  
18 sions of section 3324 of title 5 of the United States  
19 Code, if the individual appointed in such position is  
20 an individual who is transferred in connection with  
21 the transfer of functions and offices under this Act  
22 and, on the day preceding the effective date of this  
23 Act, holds a position and has duties comparable to  
24 those of the position to which appointed hereunder.

1           (4) TERMINATION OF SPECIAL AUTHORITY.—

2           The authority under this subsection with respect to  
3           any position shall terminate when the person first  
4           appointed to fill such position ceases to hold such  
5           position.

6           (5) TECHNICAL PROVISION.—For purposes of  
7           section 414(a)(3)(A) of the Civil Service Reform Act  
8           of 1978, an individual appointed under this sub-  
9           section shall be deemed to occupy the same position  
10          as the individual occupied on the day preceding the  
11          effective date of this Act.

12          (c) ADDITIONAL TECHNICAL AND PROFESSIONAL  
13 POSITIONS.—The Commission may appoint, without re-  
14 gard to the provisions of title 5, United States Code, gov-  
15 erning appointment in the competitive service, up to 100  
16 technical or professional employees of the Commission and  
17 may compensate employees so appointed without regard  
18 to the provisions of chapter 51 and subchapter III of chap-  
19 ter 53 of such title relating to classification and General  
20 Schedule pay rates. The rate of basic compensation for  
21 such employees shall not be equal to or in excess of the  
22 minimum rate of pay currently paid for GS–16 of the Gen-  
23 eral Schedule under section 5332 of such title.

24          (d) LIMITED-TERM APPOINTEES.—Notwithstanding  
25 any other provision of law, the Director of the Office of

1 Personnel Management shall establish positions within the  
2 Senior Executive Service for 10 limited-term appointees.  
3 The Commission shall appoint individuals to such posi-  
4 tions as provided by section 3394 of title 5, United States  
5 Code. Such positions shall expire on the later of 3 years  
6 after the effective date of this Act or 3 years after the  
7 initial appointment to each position. Positions in effect  
8 under this subsection shall be taken into account in apply-  
9 ing the limitations on positions prescribed under section  
10 3134(e) and section 5108 of such title.

11 **SEC. 402. EXPERTS AND CONSULTANTS.**

12 The Commission may as provided in appropriation  
13 Acts obtain the services of experts and consultants in ac-  
14 cordance with the provisions of section 3109 of title 5,  
15 United States Code, and may compensate such experts  
16 and consultants at rates not to exceed the daily rate pre-  
17 scribed for GS-18 of the General Schedule under section  
18 5332 of such title.

19 **PART B—GENERAL ADMINISTRATIVE**  
20 **PROVISIONS**

21 **SEC. 411. GENERAL AUTHORITY.**

22 In carrying out any function transferred by this Act,  
23 the Commission, or any officer or employee of the Com-  
24 mission, may exercise any authority available by law (in-  
25 cluding appropriation Acts) with respect to such function

1 to the official or agency from which such function is trans-  
2 ferred, and the actions of the Commission in exercising  
3 such authority shall have the same force and effect as  
4 when exercised by such official or agency.

5 **SEC. 412. DELEGATION.**

6 Exception as otherwise provided in this Act, the Com-  
7 mission may delegate any function to such officers and  
8 employees of the Commission as the Commission may des-  
9 ignate, and may authorize such successive redelegations  
10 of such functions within the Commission as may be nec-  
11 essary or appropriate. No delegation of functions by the  
12 Commission under this section or under any other provi-  
13 sion of this Act shall relieve the Commission of responsi-  
14 bility for the administration of such functions.

15 **SEC. 413. REORGANIZATION.**

16 The Commission may allocate or reallocate functions  
17 among the officers of the Commission, and to establish,  
18 consolidate, alter, or discontinue such organizational enti-  
19 ties within the Commission as may be necessary or appro-  
20 priate.

21 **SEC. 414. RULES.**

22 The Commission may prescribe such rules and regu-  
23 lations as the Commission determines necessary or appro-  
24 priate to administer and manage the functions of the Com-  
25 mission.

1   **SEC. 415. CONTRACTS.**

2           (a) IN GENERAL.—Subject to the provisions of the  
3 Federal Property and Administrative Services Act of  
4 1949, the Commission may make, enter into, and perform  
5 such contracts, grants, leases, cooperative agreements, or  
6 other similar transactions with Federal or other public  
7 agencies (including State and local governments) and pri-  
8 vate organizations and persons, and to make such pay-  
9 ments, by way of advance or reimbursement, as the Com-  
10 mission may determine necessary or appropriate to carry  
11 out functions of the Commission.

12          (b) APPROPRIATIONS REQUIRED.—Notwithstanding  
13 any other provision of this Act, no authority to enter into  
14 contracts or to make payments under this title shall be  
15 effective except to such extent or in such amounts as are  
16 provided in advance under appropriation Acts.

17   **SEC. 416. REGIONAL AND FIELD OFFICES.**

18          The Commission may establish, alter, discontinue, or  
19 maintain such regional or other field offices as the Com-  
20 mission may find necessary or appropriate to perform  
21 functions of the Commission.

22   **SEC. 417. USE OF FACILITIES.**

23          (a) USE BY COMMISSION.—With their consent, the  
24 Commission may, with or without reimbursement, use the  
25 research, equipment, services, and facilities of any agency  
26 or instrumentality of the United States, of any State or

1 political subdivision thereof, or of any foreign government,  
2 in carrying out any function of the Commission.

3 (b) USE BY OTHERS.—The Commission may permit  
4 public and private agencies, corporations, associations, or-  
5 ganizations, or individuals to use any real property, or any  
6 facilities, structures, or other improvements thereon,  
7 under the custody and control of the Commission for Com-  
8 mission purposes. The Commission shall permit the use  
9 of such property, facilities, structures, or improvements  
10 under such terms and rates and for such period as may  
11 be in the public interest, except that the periods of such  
12 uses may not exceed five years. The Commission may re-  
13 quire permittees under this section to recondition and  
14 maintain, at their own expense, the real property, facili-  
15 ties, structures, and improvements used by such permit-  
16 tees to a standard satisfactory to the Commission. This  
17 subsection shall not apply to excess property as defined  
18 in section 3(e) of the Federal Property and Administrative  
19 Services Act of 1949.

20 (c) PROCEEDS FROM REIMBURSEMENTS.—Proceeds  
21 from reimbursements under this section may be credited  
22 to the appropriation of funds that bear or will bear all  
23 or part of the cost of such equipment or facilities provided  
24 or to refund excess sums when necessary.



1 (d) TITLE TO PROPERTY.—Any interest in real prop-  
2 erty acquired pursuant to this Act shall be acquired in  
3 the name of the United States Government.

4 **SEC. 418. WORKING CAPITAL FUND.**

5 (a) AUTHORITY AND USE.—The Commission, with  
6 the approval of the Director of the Office of Management  
7 and Budget, may establish for the Commission a working  
8 capital fund, to be available without fiscal year limitation,  
9 for expenses necessary for the maintenance and operation  
10 of such common administrative services as the Commis-  
11 sion shall find to be desirable in the interests of economy  
12 and efficiency, including such services as—

13 (1) a central supply service for stationery and  
14 other supplies and equipment for which adequate  
15 stocks may be maintained to meet in whole or in  
16 part the requirements of the Commission and its  
17 components;

18 (2) central messenger, mail, telephone, and  
19 other communications services;

20 (3) office space, central services for document  
21 reproduction, and for graphics and visual aids; and

22 (4) a central library service.

23 (b) CONTENTS AND MANAGEMENT OF FUND.—The  
24 capital of the fund shall consist of any appropriations  
25 made for the purpose of providing working capital and the

1 fair and reasonable value of such stocks of supplies, equip-  
2 ment, and other assets and inventories on order as the  
3 Commission may transfer to the fund, less the related li-  
4 abilities and unpaid obligations. Such funds shall be reim-  
5 bursed in advance from available funds of agencies and  
6 offices in the Commission, or from other sources, for sup-  
7 plies and services at rates that will approximate the ex-  
8 pense of operation, including the accrual of annual leave  
9 and the depreciation of equipment. The fund shall also be  
10 credited with receipts from sale or exchange of property  
11 and receipts in payment for loss or damage to property  
12 owned by the fund. There shall be covered into the Treas-  
13 ury as miscellaneous receipts any surplus of the fund (all  
14 assets, liabilities, and prior losses considered) above the  
15 amounts transferred or appropriated to establish and  
16 maintain such fund. There shall be transferred to the fund  
17 the stocks of supplies, equipment, other assets, liabilities,  
18 and unpaid obligations relating to the services which the  
19 Commission determines, with the approval of the Director  
20 of the Office of Management and Budget, will be per-  
21 formed.

22 **SEC. 419. FUNDS TRANSFER.**

23       The Commission may, when authorized in an appro-  
24 priation Act in any fiscal year, transfer funds from 1 ap-  
25 propriation to another within the Commission, except that

1 no appropriation for any fiscal year shall be either in-  
2 creased or decreased pursuant to this section by more than  
3 5 percent and no such transfer shall result in increasing  
4 any such appropriation above the amount authorized to  
5 be appropriated therefor.

6 **SEC. 420. SEAL OF COMMISSION.**

7 The Commission shall cause a seal of office to be  
8 made for the Commission of such design as the Commis-  
9 sion shall approve. Judicial notice shall be taken of such  
10 seal.

11 **SEC. 421. ANNUAL REPORT.**

12 (a) CONTENTS.—The Commission shall, as soon as  
13 practicable after the close of each fiscal year, make a sin-  
14 gle, comprehensive report to the President for trans-  
15 mission to the Congress on the activities of the Commis-  
16 sion during such fiscal year. The report shall include a  
17 statement of goals, priorities, and plans for the Commis-  
18 sion together with an assessment of the progress made  
19 toward—

20 (1) the attainment of such goals, priorities, and  
21 plans; and

22 (2) the more effective and efficient management  
23 of the Commission and the coordination of its func-  
24 tions;

1 accompanied where necessary by recommendations for  
2 proposed legislation for the achievement of such objectives.

3 (b) CONTRACTING-OUT ESTIMATE.—The report re-  
4 quired by subsection (a) shall also include an estimate of  
5 the extent of the non-Federal personnel employed pursu-  
6 ant to contracts entered into by the Commission under  
7 section 415 or under any other authority (including any  
8 subcontract thereunder), the number of such contracts  
9 and subcontracts pursuant to which non-Federal per-  
10 sonnel are employed, and the total cost of those contracts  
11 and subcontracts.

12 **TITLE V—TRANSITIONAL, SAV-**  
13 **INGS, AND CONFORMING**  
14 **PROVISIONS**

15 **SEC. 501. TRANSFER AND ALLOCATION OF APPROPRIA-**  
16 **TIONS AND PERSONNEL.**

17 (a) IN GENERAL.—Except as otherwise provided in  
18 this Act, the personnel employed in connection with, and  
19 the assets, liabilities, contracts, property, records, and un-  
20 expended balance of appropriations, authorizations, alloca-  
21 tions, and other funds employed, held, used, arising from,  
22 available to, or to be made available in connection with  
23 the functions and offices, or portions thereof transferred  
24 by this Act, subject to section 202 of the Budget and Ac-  
25 counting Procedures Act of 1950, shall be transferred to

1 the Commission for appropriate allocation. Unexpended  
2 funds transferred pursuant to this subsection shall be used  
3 only for the purposes for which the funds were originally  
4 authorized and appropriated.

5 (b) EXCEPTION.—Positions expressly specified by  
6 statute or reorganization plan to carry out functions or  
7 offices transferred by this Act, personnel occupying those  
8 positions on the effective date of this Act, and personnel  
9 authorized to receive compensation in such positions at the  
10 rate prescribed for offices and positions at level IV or V  
11 of the Executive Schedule (5 U.S.C. 5315–5316) on the  
12 effective date of this Act, shall be subject to the provisions  
13 of section 503.

14 **SEC. 502. EFFECT ON PERSONNEL.**

15 (a) PROTECTION AGAINST REDUCTION IN GRADE OR  
16 COMPENSATION.—Except as otherwise provided in this  
17 Act, the transfer pursuant to this title of full-time per-  
18 sonnel (except special Government employees) and part-  
19 time personnel holding permanent positions shall not  
20 cause any such employee to be separated or reduced in  
21 grade or compensation for 1 year after the date of transfer  
22 to the Commission.

23 (b) EXECUTIVE LEVEL APPOINTEES.—Any person  
24 who, on the day preceding the effective date of this Act,  
25 held a position compensated in accordance with the Execu-

1 tive Schedule prescribed in chapter 53 of title 5, United  
2 States Code, and who, without a break in service, is ap-  
3 pointed in the Commission to a position having duties  
4 comparable to the duties performed immediately preceding  
5 such appointment shall continue to be compensated in  
6 such new position at not less than the rate provided for  
7 such previous position, for the duration of the service of  
8 such person in such new position.

9 **SEC. 503. AGENCY TERMINATIONS.**

10 (a) **TERMINATED AGENCIES.**—On the effective date  
11 of this Act, the following entities shall terminate:

12 (1) The Commodity Futures Trading Commis-  
13 sion.

14 (2) The Securities and Exchange Commission.

15 (b) **TERMINATED POSITIONS.**—Each position which  
16 was expressly authorized by law, or the incumbent of  
17 which was authorized to receive compensation at the rate  
18 prescribed for level III, IV, or V of the Executive Schedule  
19 (5 U.S.C. 5315–5316), in an office terminated pursuant  
20 to this Act shall also terminate.

21 **SEC. 504. INCIDENTAL TRANSFERS.**

22 (a) **GENERAL AUTHORITY OF OMB.**—The Director  
23 of the Office of Management and Budget, at such time  
24 or times as the Director shall provide, shall make such  
25 determinations as may be necessary with regard to the

1 functions, offices, or portions thereof transferred by this  
2 Act, and to make such additional incidental dispositions  
3 of personnel, assets, liabilities, grants, contracts, property,  
4 records, and unexpended balances of appropriations, au-  
5 thorizations, allocations, and other funds held, used, aris-  
6 ing from, available to, or to be made available in connec-  
7 tion with such functions, offices, or portions thereof, as  
8 may be necessary to carry out the provisions of this Act.  
9 The Director shall provide for the termination of the af-  
10 fairs of all entities terminated by this Act and for such  
11 further measures and dispositions as may be necessary to  
12 effectuate the purposes of this Act.

13 (b) SES POSITIONS.—After consultation with the Di-  
14 rector of the Office of Personnel Management, the Direc-  
15 tor of the Office of Management and Budget may, at such  
16 time as the Director of the Office of Management and  
17 Budget provides, to make such determinations as may be  
18 necessary with regard to the transfer of positions within  
19 the Senior Executive Service in connection with functions  
20 and offices transferred by this Act.

21 **SEC. 505. SAVINGS PROVISIONS.**

22 (a) CONTINUITY OF LEGAL INSTRUMENTS.—All or-  
23 ders, determinations, rules, regulations, permits, grants,  
24 contracts, certificates, licenses, and privileges—

1           (1) which have been issued, made, granted, or  
2           allowed to become effective by the President, any  
3           Federal department or agency or official thereof, or  
4           by a court of competent jurisdiction, in the perform-  
5           ance of functions which are transferred under this  
6           Act to the Commission, and

7           (2) which are in effect at the time this Act  
8           takes effect,  
9           shall continue in effect according to their terms until  
10          modified, terminated, superseded, set aside, or revoked in  
11          accordance with the law by the President, the Commission,  
12          or other authorized official, a court of competent jurisdic-  
13          tion, or by operation of law.

14          (b) CONTINUITY OF PROCEEDINGS.—

15               (1) IN GENERAL.—The provisions of this Act  
16               shall not affect any proceedings, including notices of  
17               proposed rulemaking, or any application for any li-  
18               cense, permit, certificate, or financial assistance  
19               pending on the effective date of this Act before any  
20               department, agency, commission, or component  
21               thereof, functions of which are transferred by this  
22               Act; but such proceedings and applications, to the  
23               extent that they relate to functions so transferred,  
24               shall be continued. Orders shall be issued in such  
25               proceedings, appeals shall be taken therefrom, and



1        payments shall be made pursuant to such orders, as  
2        if this Act had not been enacted; and orders issued  
3        in any such proceedings shall continue in effect until  
4        modified, terminated, superseded, or revoked by the  
5        Commission, by a court of competent jurisdiction, or  
6        by operation of law. Nothing in this subsection shall  
7        be deemed to prohibit the discontinuance or modi-  
8        fication of any such proceeding under the same  
9        terms and conditions and to the same extent that  
10       such proceeding could have been discontinued or  
11       modified if this Act had not been enacted.

12            (2) REGULATIONS CONCERNING TRANSFERS.—

13        The Commission may prescribe regulations providing  
14        for the orderly transfer of proceedings continued  
15        under paragraph (1) to the Commission.

16        (c) PENDING LITIGATION.—Except as provided in  
17       subsection (e)—

18            (1) the provisions of this Act shall not affect  
19        suits commenced prior to the effective date of this  
20        Act, and

21            (2) in all such suits, proceedings shall be had,  
22        appeals taken, and judgments rendered in the same  
23        manner and effect as if this Act had not been en-  
24        acted.

1       (d) NONABATEMENT.—No suit, action, or other pro-  
2 ceeding commenced by or against any officer in the official  
3 capacity of such individual as an officer of any department  
4 or agency, functions of which are transferred by this Act,  
5 shall abate by reason of the enactment of this Act. No  
6 cause of action by or against any department or agency,  
7 functions of which are transferred by this Act, or by or  
8 against any officer thereof in the official capacity of such  
9 officer shall abate by reason of the enactment of this Act.

10       (e) SUBSTITUTION OF PARTIES.—If, before the date  
11 on which this Act takes effect, any department or agency,  
12 or officer thereof in the official capacity of such officer,  
13 is a party to a suit, and under this Act any function of  
14 such department, agency, or officer is transferred to the  
15 Commission or any other official of the Commission, then  
16 such suit shall be continued with the Commission or other  
17 appropriate official of the Commission substituted or  
18 added as a party.

19       (f) JUDICIAL REVIEW AS REQUIRED BY EXISTING  
20 LAW.—Orders and actions of the Commission in the exer-  
21 cise of functions transferred under this Act shall be sub-  
22 ject to judicial review to the same extent and in the same  
23 manner as if such orders and actions had been by the  
24 agency or office, or part thereof, exercising such functions  
25 immediately preceding their transfer. Any statutory re-

1 quirements relating to notice, hearings, action upon the  
2 record, or administrative review that apply to any function  
3 transferred by this Act shall apply to the exercise of such  
4 function by the Commission.

5 **SEC. 506. REFERENCE.**

6 With respect to any function transferred by this Act  
7 and exercised on or after the effective date of this Act,  
8 reference in any other Federal law to any department,  
9 commission, or agency or any officer or office the func-  
10 tions of which are so transferred shall be deemed to refer  
11 to the Commission, other official, or component of the  
12 Commission to which this Act transfers such functions.

13 **SEC. 507. AMENDMENTS.**

14 (a) EXECUTIVE SCHEDULE SALARIES.—

15 (1) CHAIRPERSON.—Section 5314 of title 5,  
16 United States Code, is amended—

17 (A) by striking “Chairman, Securities and  
18 Exchange Commission.” and inserting “Chair-  
19 person, Securities and Commodities Exchange  
20 Commission.”; and

21 (B) by striking “Chairman, Commodity  
22 Futures Trading Commission.”.

23 (2) MEMBERS.—Section 5315 of title 5, United  
24 States Code, is amended—

1 (A) by striking “Members, Securities and  
2 Exchange Commission” and inserting “Mem-  
3 bers, Securities and Commodities Exchange  
4 Commission”; and

5 (B) by striking “Members, Commodity Fu-  
6 tures Trading Commission.”.

7 (b) CONFORMING AMENDMENTS.—

8 (1) SECURITIES EXCHANGE ACT.—Sections 4  
9 and 35 of the Securities Exchange Act of 1934 are  
10 repealed.

11 (2) COMMODITY EXCHANGE ACT.—Section 2(a)  
12 of the Commodity Exchange Act is amended by  
13 striking paragraphs (2), (3), and (4).

14 **SEC. 508. TRANSITION.**

15 With the consent of the appropriate department or  
16 agency head concerned, the Commission may utilize the  
17 services of such officers, employees, and other personnel  
18 of the departments and agencies from which functions or  
19 offices have been transferred to the Commission, and  
20 funds appropriated to such functions or offices for such  
21 period of time as may reasonably be needed to facilitate  
22 the orderly implementation of this Act.

# 1       **TITLE VI—EFFECTIVE DATE**

## 2   **SEC. 601. EFFECTIVE DATE.**

3       (a) IN GENERAL.—The provisions of this Act shall  
4 take effect 180 days after the first Commissioner takes  
5 office, or on any later date on or before October 1, 2003,  
6 as the President may prescribe and publish in the Federal  
7 Register, except that at any time on or after the date of  
8 enactment of this Act—

9           (1) any of the officers provided for in title II  
10       of this Act may be nominated and appointed, as pro-  
11       vided in such title; and

12           (2) the Commission may prescribe regulations  
13       pursuant to section 505(b)(2) of this Act.

14       (b) TRANSITION EXPENSES.—Funds available to any  
15 department or agency (or any official department or agen-  
16 cy or any official or component thereof), the functions or  
17 offices of which are transferred to the Commission by this  
18 Act, may, with the approval of the Director of the Office  
19 of Management and Budget, be used to pay the compensa-  
20 tion and expenses of any officer appointed pursuant to this  
21 title and other transitional and planning expenses associ-  
22 ated with the establishment of the Commission or transfer  
23 of functions or offices thereto until such time as funds  
24 for such purposes are otherwise available.

○