

112TH CONGRESS  
1ST SESSION

# H. R. 3665

To require the Commodity Futures Trading Commission to impose fees and assessments to recover the cost of appropriations to the Commission.

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## IN THE HOUSE OF REPRESENTATIVES

DECEMBER 14, 2011

Ms. DELAURO (for herself, Mr. WELCH, and Mr. BOSWELL) introduced the following bill; which was referred to the Committee on Agriculture

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## A BILL

To require the Commodity Futures Trading Commission to impose fees and assessments to recover the cost of appropriations to the Commission.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Wall Street Account-  
5 ability through Sustainable Funding Act”.

1 **SEC. 2. REQUIREMENT THAT THE COMMODITY FUTURES**  
2 **TRADING COMMISSION IMPOSE FEES AND AS-**  
3 **SESSMENTS TO RECOVER THE COST OF AP-**  
4 **PROPRIATIONS TO THE COMMISSION.**

5 Section 12 of the Commodity Exchange Act (7 U.S.C.  
6 16) is amended by adding at the end the following:

7 “(i) RECOVERY OF COSTS OF ANNUAL APPROPRIA-  
8 TIONS.—

9 “(1) IMPOSITION OF FEES.—

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

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

23 “(C) MID-YEAR ADJUSTMENT.—

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

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

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

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

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

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

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

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

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

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

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

24                  “(i) PAYMENT OF FEES.—

1           “(I) CLEARED TRANSACTIONS.—

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

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

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

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

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

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

18          “(3) DEPOSIT OF FEES.—

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

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

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

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

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