

107TH CONGRESS
2^D 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 ccurring 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 requirements 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.

○