George W. Bush Presidential Library

Collection: Executive Clerk, Office of the

Series: Saunders, G. Timothy (Tim) - Bill Files

Folder Title: 01/16/2002 [H.R. 1088] [1]

Withdrawn/Redacted Material
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DOCUMENT NO.	FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
001	Letter	Re: H.R. 1088, the "Investor and Capital Markets Fee Relief Act" - To: POTUS - From: Harvey L. Pitt	3	12/26/2001	P5;
002	Statement	STATEMENT BY THE PRESIDENT	1	01/16/2002	P5;
003	Statement	STATEMENT BY THE PRESIDENT	1	N.D.	P5;
004	Statement	STATEMENT BY THE PRESIDENT	1	N.D.	P5;
005	Statement	STATEMENT BY THE PRESIDENT	1	01/15/2002	P5;
006	Statement	STATEMENT BY THE PRESIDENT	4	N.D.	P5;
007	Statement	STATEMENT BY THE PRESIDENT	4	N.D.	P5;

COLLECTION TITLE:
Executive Clerk, Office Of the
SERIES:
Saunders, G. Timothy (Tim) - Bill Files
FOLDER TITLE:
01/16/2002 [H.R. 1088] [1]
FRC ID:
782

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
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PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

Deed of Gift Restrictions

A. Closed by Executive Order 13526 governing access to national security information.
B. Closed by statute or by the agency which originated the document.
C. Closed in accordance with restrictions contained in donor's deed of gift.

Freedom of Information Act - [5 U.S.C. 552(b)]

b(1) National security classified information [(b)(1) of the FOIA]
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b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

Records Not Subject to FOIA

Court Sealed - The document is withheld under a court seal and is not subject to the Freedom of Information Act.

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 This document was prepared on Friday, August 14, 2015

THE PRESIDENT HAS SEEN
1 - 16 - 02

APPROVED
JAN 16 2002

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

'02 JAN 7 PM 10:25

THE DIRECTOR

January 7, 2002

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Enrolled Bill H.R 1088 - Investor and Capital Markets Fee Relief Act
Sponsors - Rep. Fossella (R) New York and 45 cosponsors

Last Day for Action

January 16, 2002 - Wednesday

Purpose

Reduces the rates of fees charged by the Securities and Exchange Commission (SEC) for securities transactions, and eliminates the general revenue component of such fees; also establishes for employees of the SEC pay parity with other financial regulatory agencies.

Agency Recommendations

Office of Management and Budget	Approval
Securities and Exchange Commission	Approval
Department of the Treasury	No objection (Informally)
Office of Personnel Management	No objection (Informally)

Discussion

Background. Section 31 of the Securities Act of 1933 (the Act) imposed fees on transactions of exchange-traded securities at a rate equal to 1/500th of 1 percent of the aggregate amount of sales. These fees were all to be collected as general revenue. The rate was increased in 1965 to 1/300th of 1 percent. Section 6(b) of the Act imposed fees on the registration of securities at a rate equal to 1/100th of 1 percent of the offering price. These fees were also collected as general revenue. This rate was increased in 1965 to 1/50th of 1 percent.

The 1983 Securities Exchange Act Amendments imposed fees on mergers, proxy solicitations, and other activities at a rate of 1/50th of 1 percent of the value of the securities involved. These fees were also collected as general revenue. In several appropriations acts in the 1990s, the registration fee rate was increased to 1/29th of 1 percent and all fees collected in excess of 1/50th of 1 percent were to be credited as offsetting collections for SEC appropriations.

The National Securities Markets Improvement Act of 1996 (NSMIA) reduced the fees to their current levels (specifics described below) in an effort, based on projections of securities market activities that total fee collections would fall, to allow the SEC to collect only enough fees to approximately equal the cost of running the SEC. (Due to surges in market activity in the last few years, fee collections have risen much higher than expected.) Under NSMIA, fee rates are scheduled to sharply decline in FY 2007.

Reduction in Fee Rates and Elimination of General Revenue Component. H.R. 1088 would reduce these three SEC-imposed fees and eliminate the portion of fee collections recorded as general revenues. The enrolled bill would continue to allow fees collected in excess of amounts needed to fund the SEC to offset discretionary spending under the jurisdiction of the Commerce, Justice, State Appropriations Subcommittees.

Transaction (Section 31) Fees. These fees are collected when securities are sold. The fees are intended to cover costs to the government of supervising and regulating securities markets and participants. Currently, the fee is $33.33 per $1 million traded through national securities exchanges (collected as general revenues), national securities associations (offsetting collections), and brokers and dealers (general revenues) through FY 2006. After FY 2006, the rate is set to decrease to $12.50 per $1 million in transactions. H.R. 1088 would reduce the fee to $15 per $1 million in FY 2002. After FY 2002, the SEC would set one transaction fee rate for all participants at the beginning of each fiscal year so that all transaction fees collected in that year equal a specified amount, the target offsetting amount. All of the fees would be recorded as offsetting collections. The enrolled bill would set these amounts as follows: $732 million for FY 2002; $849 million for FY 2003; $1,028 million for FY 2004; $1,220 million for FY 2005; $1,435 million for FY 2006; $881 million for FY 2007; $892 million for FY 2008; $1,023 million for FY 2009; $1,161 million for FY 2010; and $1,321 million for FY 2011. These fees would equal approximately $12 per $1 million in transactions through FY 2006. After FY 2006, they would equal approximately $7 per $1 million. A final adjustment in FY 2012 would occur to produce roughly the target amount for FY 2011 to be applied for transactions in all subsequent years. The SEC would be authorized to adjust the rates if the estimate of the aggregate dollar volume of sales for a particular fiscal year is "reasonably likely" to be 10 percent (or more) greater or less than the actual volume.

Registration (6(b)) Fees. These fees are paid by companies at the time of filing a registration for securities that are proposed to be offered (e.g., initial public offerings). The fees are currently set at $239 per $1 million of the maximum aggregate price of the securities, and will phase down to $200 per $1 million in FY 2006. After FY 2006, the fee is set to decrease to $67 per $1 million. Fees in excess of $200 per $1 million are counted as offsetting collections, and the remainder are collected as revenues. H.R. 1088 would set the fee at $92 per $1 million in FY 2002. After FY 2002, the SEC would set one transaction fee for all participants at the beginning of each fiscal year so that all transaction fees collected in that fiscal year equal a specified amount, the target offsetting amount. All of the fees would be recorded as offsetting collections. The enrolled bill would set these amounts as follows: $337 million for FY 2002; $435 million for FY 2003; $467 million for FY 2004; $570 million for FY 2005; $689 million for FY 2006; $214 million for FY 2007; $234 million for FY 2008; $284 million for FY 2009; $334 million for FY 2010; and $394 million for FY 2011, with a final rate adjustment in FY 2012 as with transaction fees above.

Merger/Tender Fees. Currently, companies pay these fees at a rate equal to $200 per $1 million of the value of securities proposed to be purchased as part of a merger at the time of filing. The fees are collected as revenues. H.R. 1088 would set these fees at $92 per $1 million in FY 2002. Thereafter, they would be adjusted to match the registration fee rate and they would be recorded as offsetting collections.

Other fees. Under the enrolled bill, fees on security futures transactions and transactions on options on security futures (excluding narrow-based security indices) would be reduced from $0.02 to $0.009 through FY 2006. They would be recorded as offsetting collections. After FY 2006, the fee would be further reduced to equal $0.0042 per transaction. In addition, the $100 fee for qualification of certain indentures under the Trust Indenture Act of 1939 would be eliminated.

"Pay Parity" for SEC Employees. H.R. 1088 would authorize the SEC to adjust the base rates of pay and other benefits for all of its employees to be comparable to the pay and benefits provided by certain other financial regulatory agencies. The other agencies are the Federal Deposit Insurance Corporation, the National Credit Union Administration, the Federal Housing Finance Board, the Farm Credit Administration, and Treasury's Office of the Comptroller of the Currency and Office of Thrift Supervision. Under current law, the SEC must follow the Civil Service's General Schedule for pay while the other agencies cited above may individually establish and adjust schedules of compensation and benefits. To implement the authority, the SEC would have to develop an implementation plan and submit a report to the House Financial Services and Government Reform Committees and the Senate Banking and Governmental Affairs Committees on the plan, including: evidence and supporting documentation and budget projections on costs and benefits resulting from the plan. (Approval of the plan would not be necessary before the SEC could implement it.)

Studies. H.R. 1088 would require the SEC to study the extent to which benefits of fee reductions are passed along to investors and submit a report on such study to Congress within two years of enactment. The enrolled bill would also require the General Accounting Office to study the impact and consequences of converting the SEC to a self-funded organization and submit a report on the study within 180 days of enactment to the House Financial Services and Government Reform Committees and the Senate Banking and Governmental Affairs Committees.

Administration Position to Date

The Administration strongly supported the fee reduction provisions of H.R. 1088, noting that current fee collections are far in excess of the SEC's budget, acting as a burden on investors and discouraging investment. The Administration opposed the bill's pay parity provisions because exempting individual agencies from government-wide personnel laws adversely affects the portability of Federal employees and fragments personnel systems.

Pay-As-You-Go Scoring

H.R. 1088 would affect receipts and direct spending; therefore it is subject to the pay-as-you-go requirements of the Budget Enforcement Act. OMB staff estimate that the reduction in fees would reduce revenues by $1.1 billion in FY 2002, $8.0 billion over FYs 2002-2006, and $13.3 billion over FYs 2002-2011. (These amounts are net of estimated increased corporate income tax collections, which are assumed to be 25 percent of the lost fee revenue.) The revenue effects included in this estimate capture only the revenue lost by eliminating the general revenue component of the fees. In fact, the fees credited to the Commerce, Justice, State Appropriations Subcommittees would increase versus OMB's baseline estimates by $133 million for FY 2002, $3.0 billion for FYs 2002-2006, and $6.1 billion for FYs 2002-2011. In scoring the revenue effect of the legislation, these additional fees are not counted because their collection is triggered by subsequent appropriations action.

Conclusion and Recommendations

The Securities and Exchange Commission recommends approval of H.R. 1088 because it will "provide meaningful securities fee relief to the nation's investors, those seeking to raise capital, and market participants, while assuring a full and stable long-term funding source" for the SEC. The SEC states that the pay parity provisions, if "appropriately funded," will help respond to the Commission's "staffing crisis" of recent years.

We join the SEC in recommending approval of H.R. 1088, which passed the House by a vote of 404-22 and the Senate by unanimous consent.

M. E. Daniels, Jr.

Mitchell E. Daniels, Jr.
Director

Enclosures

EXECUTIVE OFFICE OF THE PRESIDENT
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'02 JAN 7 PM10:25

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SS/ RM NO. 505304

WHITE HOUSE STAFFING MEMORANDUM

Date: 1-7-02 ACTION / CONCURRENCE / COMMENT DUE BY: 1-8-02, 4:00 PM

Subject: H.R. 1088, INVESTOR AND CAPITAL MARKETS FEE RELIEF ACT

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☑	☐	HUBBARD	☑	☐
CARD	☑	☐	HUGHES	☑	☐
BLAKEMAN	☐	☐	IRASTORZA	☐	☐
BOLTEN	☑	☐	JOHNSON	☐	☐
CALIO	☑	☐	LINDSEY	☑	☐
CONNAUGHTON	☐	☐	MIERS	☐	☑
DANIELS	☐	☑	RICE	☐	☐
FLEISCHER	☑	☐	RIDGE	☐	☐
GERSON	☐	☐	ROVE	☑	☐
GONZALES	☑	☐	SPELLINGS	☑	☐
HAGIN	☐	☐	CLERK	☐	☑
HAWKINS	☑	☐	______	☐	☐

REMARKS:
PLEASE SEND REMARKS TO STAFF SECRETARY, EXT. 62702, FAX 62215, NO LATER THAN 4:00 PM TUESDAY, 1-8-02. THANK YOU.

RESPONSE:

Harriet E. Miers
Assistant to the President
and Staff Secretary
Ext. 62702

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FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Statement	STATEMENT BY THE PRESIDENT	1	N.D.	P5;

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COLLECTION:
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SERIES:
Saunders, G. Timothy (Tim) - Bill Files
FOLDER TITLE:
01/16/2002 [H.R. 1088] [1]
FRC ID:
782
OA Num.:
733
NARA Num.:
1459

FOIA IDs and Segments:

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SS/ RM NO. ______________

WHITE HOUSE STAFFING MEMORANDUM

Date: 01-12-02 ACTION / CONCURRENCE / COMMENT DUE BY: 01-15-02 9:00 AM

Subject: STATEMENT REGARDING H.R. 1088—THE INVESTOR AND CAPITAL MARKETS FEE RELIEF ACT

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☑	☐	HAWKINS	☑	☐
CARD	☑	☐	HUBBARD	☐	☐
BARTLETT	☑	☐	HUGHES	☑	☐
BLAKEMAN	☐	☐	IRASTORZA	☐	☐
BOLTEN	☑	☐	JOHNSON	☐	☐
CALIO	☑	☐	LINDSEY	☑	☐
CONNAUGHTON	☐	☐	MIERS	☐	☑
DANIELS	☐	☑	RICE	☑	☐
FLEISCHER	☑	☐	RIDGE	☑	☐
GERSON	☐	☐	ROVE	☑	☐
GONZALES	☑	☐	SPELLINGS	☑	☐
HAGIN	☐	☐	CLERK	☐	☑
			______	☐	☐

REMARKS:

PLEASE FORWARD YOUR COMMENTS TO STAFF SECRETARY, X62702, NO LATER THAN 9:00 AM, TUESDAY, JANUARY 15, 2002, WITH A COPY TO JIM JUKES, X53458.

RESPONSE:

Harriet E. Miers
Assistant to the President
and Staff Secretary
Ext. 62702

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SS/ RM NO. 505304

WHITE HOUSE STAFFING MEMORANDUM

Date: 1-7-02 ACTION / CONCURRENCE / COMMENT DUE BY: 1-8-02, 4:00 PM

Subject: H.R. 1088, INVESTOR AND CAPITAL MARKETS FEE RELIEF ACT

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT [illegible]	☑	☐	HUBBARD N/C	☑	☐
CARD ok	☑	☐	HUGHES ok	☑	☐
BLAKEMAN	☐	☐	IRASTORZA	☐	☐
BOLTEN ok	☑	☐	JOHNSON	☐	☐
CALIO Signing Statement 1:15	☑	☐	LINDSEY ok	☑	☐
CONNAUGHTON	☐	☐	MIERS	☐	☑
DANIELS	☐	☑	RICE	☐	☐
FLEISCHER	☑	☐	RIDGE	☐	☐
GERSON	☐	☐	ROVE N/C	☑	☐
GONZALES	☑	☐	SPELLINGS ok	☑	☐
HAGIN	☐	☐	CLERK	☐	☑
HAWKINS (NC per phone)	☑	☐	______	☐	☐

REMARKS:
PLEASE SEND REMARKS TO STAFF SECRETARY, EXT. 62702, FAX 62215, NO LATER THAN 4:00 PM TUESDAY, 1-8-02. THANK YOU.

RESPONSE:

Harriet E. Miers
Assistant to the President
and Staff Secretary
Ext. 62702

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

'02 JAN 7 PM10:25

THE DIRECTOR

January 7, 2002

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Enrolled Bill H.R 1088 - Investor and Capital Markets Fee Relief Act
Sponsors - Rep. Fossella (R) New York and 45 cosponsors

Last Day for Action

January 16, 2002 - Wednesday

Purpose

Reduces the rates of fees charged by the Securities and Exchange Commission (SEC) for securities transactions, and eliminates the general revenue component of such fees; also establishes for employees of the SEC pay parity with other financial regulatory agencies.

Agency Recommendations

Office of Management and Budget	Approval
Securities and Exchange Commission	Approval
Department of the Treasury	No objection (Informally)
Office of Personnel Management	No objection (Informally)

Discussion

Background. Section 31 of the Securities Act of 1933 (the Act) imposed fees on transactions of exchange-traded securities at a rate equal to 1/500th of 1 percent of the aggregate amount of sales. These fees were all to be collected as general revenue. The rate was increased in 1965 to 1/300th of 1 percent. Section 6(b) of the Act imposed fees on the registration of securities at a rate equal to 1/100th of 1 percent of the offering price. These fees were also collected as general revenue. This rate was increased in 1965 to 1/50th of 1 percent.

The 1983 Securities Exchange Act Amendments imposed fees on mergers, proxy solicitations, and other activities at a rate of 1/50th of 1 percent of the value of the securities involved. These fees were also collected as general revenue. In several appropriations acts in the 1990s, the registration fee rate was increased to 1/29th of 1 percent and all fees collected in excess of 1/50th of 1 percent were to be credited as offsetting collections for SEC appropriations.

The National Securities Markets Improvement Act of 1996 (NSMIA) reduced the fees to their current levels (specifics described below) in an effort, based on projections of securities market activities that total fee collections would fall, to allow the SEC to collect only enough fees to approximately equal the cost of running the SEC. (Due to surges in market activity in the last few years, fee collections have risen much higher than expected.) Under NSMIA, fee rates are scheduled to sharply decline in FY 2007.

Reduction in Fee Rates and Elimination of General Revenue Component. H.R. 1088 would reduce these three SEC-imposed fees and eliminate the portion of fee collections recorded as general revenues. The enrolled bill would continue to allow fees collected in excess of amounts needed to fund the SEC to offset discretionary spending under the jurisdiction of the Commerce, Justice, State Appropriations Subcommittees.

Transaction (Section 31) Fees. These fees are collected when securities are sold. The fees are intended to cover costs to the government of supervising and regulating securities markets and participants. Currently, the fee is $33.33 per $1 million traded through national securities exchanges (collected as general revenues), national securities associations (offsetting collections), and brokers and dealers (general revenues) through FY 2006. After FY 2006, the rate is set to decrease to $12.50 per $1 million in transactions. H.R. 1088 would reduce the fee to $15 per $1 million in FY 2002. After FY 2002, the SEC would set one transaction fee rate for all participants at the beginning of each fiscal year so that all transaction fees collected in that year equal a specified amount, the target offsetting amount. All of the fees would be recorded as offsetting collections. The enrolled bill would set these amounts as follows: $732 million for FY 2002; $849 million for FY 2003; $1,028 million for FY 2004; $1,220 million for FY 2005; $1,435 million for FY 2006; $881 million for FY 2007; $892 million for FY 2008; $1,023 million for FY 2009; $1,161 million for FY 2010; and $1,321 million for FY 2011. These fees would equal approximately $12 per $1 million in transactions through FY 2006. After FY 2006, they would equal approximately $7 per $1 million. A final adjustment in FY 2012 would occur to produce roughly the target amount for FY 2011 to be applied for transactions in all subsequent years. The SEC would be authorized to adjust the rates if the estimate of the aggregate dollar volume of sales for a particular fiscal year is "reasonably likely" to be 10 percent (or more) greater or less than the actual volume.

Registration (6(b)) Fees. These fees are paid by companies at the time of filing a registration for securities that are proposed to be offered (e.g., initial public offerings). The fees are currently set at $239 per $1 million of the maximum aggregate price of the securities, and will phase down to $200 per $1 million in FY 2006. After FY 2006, the fee is set to decrease to $67 per $1 million. Fees in excess of $200 per $1 million are counted as offsetting collections, and the remainder are collected as revenues. H.R. 1088 would set the fee at $92 per $1 million in FY 2002. After FY 2002, the SEC would set one transaction fee for all participants at the beginning of each fiscal year so that all transaction fees collected in that fiscal year equal a specified amount, the target offsetting amount. All of the fees would be recorded as offsetting collections. The enrolled bill would set these amounts as follows: $337 million for FY 2002; $435 million for FY 2003; $467 million for FY 2004; $570 million for FY 2005; $689 million for FY 2006; $214 million for FY 2007; $234 million for FY 2008; $284 million for FY 2009; $334 million for FY 2010; and $394 million for FY 2011, with a final rate adjustment in FY 2012 as with transaction fees above.

Merger/Tender Fees. Currently, companies pay these fees at a rate equal to $200 per $1 million of the value of securities proposed to be purchased as part of a merger at the time of filing. The fees are collected as revenues. H.R. 1088 would set these fees at $92 per $1 million in FY 2002. Thereafter, they would be adjusted to match the registration fee rate and they would be recorded as offsetting collections.

Other fees. Under the enrolled bill, fees on security futures transactions and transactions on options on security futures (excluding narrow-based security indices) would be reduced from $0.02 to $0.009 through FY 2006. They would be recorded as offsetting collections. After FY 2006, the fee would be further reduced to equal $0.0042 per transaction. In addition, the $100 fee for qualification of certain indentures under the Trust Indenture Act of 1939 would be eliminated.

"Pay Parity" for SEC Employees. H.R. 1088 would authorize the SEC to adjust the base rates of pay and other benefits for all of its employees to be comparable to the pay and benefits provided by certain other financial regulatory agencies. The other agencies are the Federal Deposit Insurance Corporation, the National Credit Union Administration, the Federal Housing Finance Board, the Farm Credit Administration, and Treasury's Office of the Comptroller of the Currency and Office of Thrift Supervision. Under current law, the SEC must follow the Civil Service's General Schedule for pay while the other agencies cited above may individually establish and adjust schedules of compensation and benefits. To implement the authority, the SEC would have to develop an implementation plan and submit a report to the House Financial Services and Government Reform Committees and the Senate Banking and Governmental Affairs Committees on the plan, including: evidence and supporting documentation and budget projections on costs and benefits resulting from the plan. (Approval of the plan would not be necessary before the SEC could implement it.)

Studies. H.R. 1088 would require the SEC to study the extent to which benefits of fee reductions are passed along to investors and submit a report on such study to Congress within two years of enactment. The enrolled bill would also require the General Accounting Office to study the impact and consequences of converting the SEC to a self-funded organization and submit a report on the study within 180 days of enactment to the House Financial Services and Government Reform Committees and the Senate Banking and Governmental Affairs Committees.

Administration Position to Date

The Administration strongly supported the fee reduction provisions of H.R. 1088, noting that current fee collections are far in excess of the SEC's budget, acting as a burden on investors and discouraging investment. The Administration opposed the bill's pay parity provisions because exempting individual agencies from government-wide personnel laws adversely affects the portability of Federal employees and fragments personnel systems.

Pay-As-You-Go Scoring

H.R. 1088 would affect receipts and direct spending; therefore it is subject to the pay-as-you-go requirements of the Budget Enforcement Act. OMB staff estimate that the reduction in fees would reduce revenues by $1.1 billion in FY 2002, $8.0 billion over FYs 2002-2006, and $13.3 billion over FYs 2002-2011. (These amounts are net of estimated increased corporate income tax collections, which are assumed to be 25 percent of the lost fee revenue.) The revenue effects included in this estimate capture only the revenue lost by eliminating the general revenue component of the fees. In fact, the fees credited to the Commerce, Justice, State Appropriations Subcommittees would increase versus OMB's baseline estimates by $133 million for FY 2002, $3.0 billion for FYs 2002-2006, and $6.1 billion for FYs 2002-2011. In scoring the revenue effect of the legislation, these additional fees are not counted because their collection is triggered by subsequent appropriations action.

Conclusion and Recommendations

The Securities and Exchange Commission recommends approval of H.R. 1088 because it will "provide meaningful securities fee relief to the nation's investors, those seeking to raise capital, and market participants, while assuring a full and stable long-term funding source" for the SEC. The SEC states that the pay parity provisions, if "appropriately funded," will help respond to the Commission's "staffing crisis" of recent years.

We join the SEC in recommending approval of H.R. 1088, which passed the House by a vote of 404-22 and the Senate by unanimous consent.

M.E. Daniels, Jr.

Mitchell E. Daniels, Jr.
Director

Enclosures

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FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Letter	Re: H.R. 1088, the "Investor and Capital Markets Fee Relief Act" - To: POTUS - From: Harvey L. Pitt	3	12/26/2001	P5;

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WHITE HOUSE STAFFING MEMORANDUM

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Subject: H.R. 1088, INVESTOR AND CAPITAL MARKETS FEE RELIEF ACT

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CARD	☑	☐	HUGHES	☑	☐
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BOLTEN	☑	☐	JOHNSON	☐	☐
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CONNAUGHTON	☐	☐	MIERS	☐	☑
DANIELS	☐	☑	RICE	☐	☐
FLEISCHER	☑	☐	RIDGE	☐	☐
GERSON	☐	☐	ROVE	☑	☐
GONZALES	☑	☐	SPELLINGS	☑	☐
HAGIN	☐	☐	CLERK	☐	☑
HAWKINS	☑	☐	______	☐	☐

REMARKS:

PLEASE SEND REMARKS TO STAFF SECRETARY, EXT. 62702, FAX 62215, NO LATER THAN 4:00 PM TUESDAY, 1-8-02. THANK YOU.

RESPONSE:

Harriet E. Miers
Assistant to the President
and Staff Secretary
Ext. 62702

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

'02 JAN 7 PM10:25

THE DIRECTOR

January 7, 2002

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Enrolled Bill H.R 1088 - Investor and Capital Markets Fee Relief Act
Sponsors - Rep. Fossella (R) New York and 45 cosponsors

Last Day for Action

January 16, 2002 - Wednesday

Purpose

Reduces the rates of fees charged by the Securities and Exchange Commission (SEC) for securities transactions, and eliminates the general revenue component of such fees; also establishes for employees of the SEC pay parity with other financial regulatory agencies.

Agency Recommendations

Office of Management and Budget	Approval
Securities and Exchange Commission	Approval
Department of the Treasury	No objection (Informally)
Office of Personnel Management	No objection (Informally)

Discussion

Background. Section 31 of the Securities Act of 1933 (the Act) imposed fees on transactions of exchange-traded securities at a rate equal to 1/500th of 1 percent of the aggregate amount of sales. These fees were all to be collected as general revenue. The rate was increased in 1965 to 1/300th of 1 percent. Section 6(b) of the Act imposed fees on the registration of securities at a rate equal to 1/100th of 1 percent of the offering price. These fees were also collected as general revenue. This rate was increased in 1965 to 1/50th of 1 percent.

The 1983 Securities Exchange Act Amendments imposed fees on mergers, proxy solicitations, and other activities at a rate of 1/50th of 1 percent of the value of the securities involved. These fees were also collected as general revenue. In several appropriations acts in the 1990s, the registration fee rate was increased to 1/29th of 1 percent and all fees collected in excess of 1/50th of 1 percent were to be credited as offsetting collections for SEC appropriations.

The National Securities Markets Improvement Act of 1996 (NSMIA) reduced the fees to their current levels (specifics described below) in an effort, based on projections of securities market activities that total fee collections would fall, to allow the SEC to collect only enough fees to approximately equal the cost of running the SEC. (Due to surges in market activity in the last few years, fee collections have risen much higher than expected.) Under NSMIA, fee rates are scheduled to sharply decline in FY 2007.

Reduction in Fee Rates and Elimination of General Revenue Component. H.R. 1088 would reduce these three SEC-imposed fees and eliminate the portion of fee collections recorded as general revenues. The enrolled bill would continue to allow fees collected in excess of amounts needed to fund the SEC to offset discretionary spending under the jurisdiction of the Commerce, Justice, State Appropriations Subcommittees.

Transaction (Section 31) Fees. These fees are collected when securities are sold. The fees are intended to cover costs to the government of supervising and regulating securities markets and participants. Currently, the fee is $33.33 per $1 million traded through national securities exchanges (collected as general revenues), national securities associations (offsetting collections), and brokers and dealers (general revenues) through FY 2006. After FY 2006, the rate is set to decrease to $12.50 per $1 million in transactions. H.R. 1088 would reduce the fee to $15 per $1 million in FY 2002. After FY 2002, the SEC would set one transaction fee rate for all participants at the beginning of each fiscal year so that all transaction fees collected in that year equal a specified amount, the target offsetting amount. All of the fees would be recorded as offsetting collections. The enrolled bill would set these amounts as follows: $732 million for FY 2002; $849 million for FY 2003; $1,028 million for FY 2004; $1,220 million for FY 2005; $1,435 million for FY 2006; $881 million for FY 2007; $892 million for FY 2008; $1,023 million for FY 2009; $1,161 million for FY 2010; and $1,321 million for FY 2011. These fees would equal approximately $12 per $1 million in transactions through FY 2006. After FY 2006, they would equal approximately $7 per $1 million. A final adjustment in FY 2012 would occur to produce roughly the target amount for FY 2011 to be applied for transactions in all subsequent years. The SEC would be authorized to adjust the rates if the estimate of the aggregate dollar volume of sales for a particular fiscal year is "reasonably likely" to be 10 percent (or more) greater or less than the actual volume.

Registration (6(b)) Fees. These fees are paid by companies at the time of filing a registration for securities that are proposed to be offered (e.g., initial public offerings). The fees are currently set at $239 per $1 million of the maximum aggregate price of the securities, and will phase down to $200 per $1 million in FY 2006. After FY 2006, the fee is set to decrease to $67 per $1 million. Fees in excess of $200 per $1 million are counted as offsetting collections, and the remainder are collected as revenues. H.R. 1088 would set the fee at $92 per $1 million in FY 2002. After FY 2002, the SEC would set one transaction fee for all participants at the beginning of each fiscal year so that all transaction fees collected in that fiscal year equal a specified amount, the target offsetting amount. All of the fees would be recorded as offsetting collections. The enrolled bill would set these amounts as follows: $337 million for FY 2002; $435 million for FY 2003; $467 million for FY 2004; $570 million for FY 2005; $689 million for FY 2006; $214 million for FY 2007; $234 million for FY 2008; $284 million for FY 2009; $334 million for FY 2010; and $394 million for FY 2011, with a final rate adjustment in FY 2012 as with transaction fees above.

Merger/Tender Fees. Currently, companies pay these fees at a rate equal to $200 per $1 million of the value of securities proposed to be purchased as part of a merger at the time of filing. The fees are collected as revenues. H.R. 1088 would set these fees at $92 per $1 million in FY 2002. Thereafter, they would be adjusted to match the registration fee rate and they would be recorded as offsetting collections.

Other fees. Under the enrolled bill, fees on security futures transactions and transactions on options on security futures (excluding narrow-based security indices) would be reduced from $0.02 to $0.009 through FY 2006. They would be recorded as offsetting collections. After FY 2006, the fee would be further reduced to equal $0.0042 per transaction. In addition, the $100 fee for qualification of certain indentures under the Trust Indenture Act of 1939 would be eliminated.

"Pay Parity" for SEC Employees. H.R. 1088 would authorize the SEC to adjust the base rates of pay and other benefits for all of its employees to be comparable to the pay and benefits provided by certain other financial regulatory agencies. The other agencies are the Federal Deposit Insurance Corporation, the National Credit Union Administration, the Federal Housing Finance Board, the Farm Credit Administration, and Treasury's Office of the Comptroller of the Currency and Office of Thrift Supervision. Under current law, the SEC must follow the Civil Service's General Schedule for pay while the other agencies cited above may individually establish and adjust schedules of compensation and benefits. To implement the authority, the SEC would have to develop an implementation plan and submit a report to the House Financial Services and Government Reform Committees and the Senate Banking and Governmental Affairs Committees on the plan, including: evidence and supporting documentation and budget projections on costs and benefits resulting from the plan. (Approval of the plan would not be necessary before the SEC could implement it.)

Studies. H.R. 1088 would require the SEC to study the extent to which benefits of fee reductions are passed along to investors and submit a report on such study to Congress within two years of enactment. The enrolled bill would also require the General Accounting Office to study the impact and consequences of converting the SEC to a self-funded organization and submit a report on the study within 180 days of enactment to the House Financial Services and Government Reform Committees and the Senate Banking and Governmental Affairs Committees.

Administration Position to Date

The Administration strongly supported the fee reduction provisions of H.R. 1088, noting that current fee collections are far in excess of the SEC's budget, acting as a burden on investors and discouraging investment. The Administration opposed the bill's pay parity provisions because exempting individual agencies from government-wide personnel laws adversely affects the portability of Federal employees and fragments personnel systems.

Pay-As-You-Go Scoring

H.R. 1088 would affect receipts and direct spending; therefore it is subject to the pay-as-you-go requirements of the Budget Enforcement Act. OMB staff estimate that the reduction in fees would reduce revenues by $1.1 billion in FY 2002, $8.0 billion over FYs 2002-2006, and $13.3 billion over FYs 2002-2011. (These amounts are net of estimated increased corporate income tax collections, which are assumed to be 25 percent of the lost fee revenue.) The revenue effects included in this estimate capture only the revenue lost by eliminating the general revenue component of the fees. In fact, the fees credited to the Commerce, Justice, State Appropriations Subcommittees would increase versus OMB's baseline estimates by $133 million for FY 2002, $3.0 billion for FYs 2002-2006, and $6.1 billion for FYs 2002-2011. In scoring the revenue effect of the legislation, these additional fees are not counted because their collection is triggered by subsequent appropriations action.

Conclusion and Recommendations

The Securities and Exchange Commission recommends approval of H.R. 1088 because it will "provide meaningful securities fee relief to the nation's investors, those seeking to raise capital, and market participants, while assuring a full and stable long-term funding source" for the SEC. The SEC states that the pay parity provisions, if "appropriately funded," will help respond to the Commission's "staffing crisis" of recent years.

We join the SEC in recommending approval of H.R. 1088, which passed the House by a vote of 404-22 and the Senate by unanimous consent.

M. E. Daniels, Jr.

Mitchell E. Daniels, Jr.
Director

Enclosures

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FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Letter	Re: H.R. 1088, the "Investor and Capital Markets Fee Relief Act" - To: POTUS - From: Harvey L. Pitt	3	12/26/2001	P5;

This marker identifies the original location of the withdrawn item listed above. For a complete list of items withdrawn from this folder, see the Withdrawal/Redaction Sheet at the front of the folder.

COLLECTION:
Executive Clerk, Office Of the

SERIES:
Saunders, G. Timothy (Tim) - Bill Files

FOLDER TITLE:
01/16/2002 [H.R. 1088] [1]

FRC ID:
782

OA Num.:
733

NARA Num.:
1459

FOIA IDs and Segments:

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advise between the President and his advisors, or between such advisors [a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

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b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

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Memo to the Record

Date: 11/21/2016

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Series: Saunders, G. Timothy (Tim) – Bill Files

Folder Title: 01/16//2002 [H.R. 1088] [1]

RE: 107th Congress 1st Session House of Representatives REPT. 107–52 Part 1

A copy of the report entitled "Investor and Capital Markets Fee Relief Act" is included at this location in this folder. It was not scanned. It can be viewed at https://www.congress.gov/107/crpt/hrpt52/CRPT-107hrpt52-pt1.pdf. If this link is broken, please contact the George W. Bush Presidential Library archives for additional information regarding this item.

One Hundred Seventh Congress of the United States of America

AT THE FIRST SESSION

Begun and held at the City of Washington on Wednesday, the third day of January, two thousand and one

An Act

To amend the Securities Exchange Act of 1934 to reduce fees collected by the Securities and Exchange Commission, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Investor and Capital Markets Fee Relief Act".

SEC. 2. IMMEDIATE TRANSACTION FEE REDUCTIONS.

Section 31 of the Securities Exchange Act of 1934 (15 U.S.C. 78ee) is amended—

(1) by striking "1/300 of one percent" each place it appears in subsections (b) and (d) and inserting "$15 per $1,000,000";

(2) by striking "and security futures products" each place it appears in such subsections and inserting "security futures products, and options on securities indexes (excluding a narrow-based security index)";

(3) in the first sentence of subsection (b), by striking ", except that" and all that follows through the end of such sentence and inserting a period;

(4) in paragraph (1) of subsection (d), by striking ", except that" and all that follows through the end of such paragraph and inserting a period;

(5) in subsection (e), by striking "$0.02" and inserting "$0.009"; and

(6) by adding at the end the following new subsection:

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

SEC. 3. REVISION OF SECURITIES TRANSACTION FEE PROVISIONS; ADDITIONAL FEE REDUCTIONS.

(a) POOLING AND ALLOCATION OF COLLECTIONS.—Section 31 of the Securities Exchange Act of 1934 (15 U.S.C. 78ee) is further amended—

(1) in subsection (b)—

(A) by striking "Every" and inserting "Subject to subsection (j), each"; and

(B) by striking the last sentence;

(2) by striking subsection (c);

(3) in subsection (d)—

(A) by striking paragraphs (2) and (3);

(B) by striking the following:

"(d) OFF-EXCHANGE TRADES OF LAST-SALE-REPORTED SECURITIES.—

"(1) COVERED TRANSACTIONS.—Each national securities" and inserting the following:

"(c) OFF-EXCHANGE TRADES OF EXCHANGE REGISTERED AND LAST-SALE-REPORTED SECURITIES.—Subject to subsection (j), each national securities";

(C) by inserting "registered on a national securities exchange or" after "narrow-based security index))" (as added by section 2(2)); and

(D) by striking ", excluding any sales for which a fee is paid under subsection (c)";

(4) in subsection (e), by striking "except that for fiscal year 2007" and all that follows through the end of such subsection and inserting the following: "except that for fiscal year 2007 and each succeeding fiscal year such assessment shall be equal to $0.0042 for each such transaction.";

(5) in subsection (f), by striking "DATES FOR PAYMENT OF FEES.—The fees required" and inserting "DATES FOR PAYMENTS.—The fees and assessments required";

(6) by redesignating subsections (e) through (i) (as added by section 2(5)) as subsections (d) through (h), respectively;

(7) by adding at the end the following new subsection:

"(i) DEPOSIT OF FEES.—

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

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

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

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

(b) ADDITIONAL REDUCTIONS OF FEES.—

(1) AMENDMENT.—Section 31 of the Securities Exchange Act of 1934 (15 U.S.C. 78ee) is further amended by adding after subsection (i) (as added by subsection (a)(7)) the following new subsections:

"(j) RECAPTURE OF PROJECTION WINDFALLS FOR FURTHER RATE REDUCTIONS.—

"(1) ANNUAL ADJUSTMENT.—For each of the fiscal years 2003 through 2011, the Commission shall by order adjust each of the rates applicable under subsections (b) and (c) for such fiscal year to a uniform adjusted rate that, when applied to the baseline estimate of the aggregate dollar amount of sales for such fiscal year, is reasonably likely to produce aggregate fee collections under this section (including assessments collected under subsection (d)) that are equal to the target offsetting collection amount for such fiscal year.

"(2) MID-YEAR ADJUSTMENT.—For each of the fiscal years 2002 through 2011, the Commission shall determine, by March 1 of such fiscal year, whether, based on the actual aggregate dollar volume of sales during the first 5 months of such fiscal year, the baseline estimate of the aggregate dollar volume of sales used under paragraph (1) for such fiscal year (or $48,800,000,000,000 in the case of fiscal year 2002) is reasonably likely to be 10 percent (or more) greater or less than the actual aggregate dollar volume of sales for such fiscal year. If the Commission so determines, the Commission shall by order, no later than such March 1, adjust each of the rates applicable under subsections (b) and (c) for such fiscal year to a uniform adjusted rate that, when applied to the revised estimate of the aggregate dollar amount of sales for the remainder of such fiscal year, is reasonably likely to produce aggregate fee collections under this section (including fees collected during such 5-month period and assessments collected under subsection (d)) that are equal to the target offsetting collection amount for such fiscal year. In making such revised estimate, the Commission shall, after consultation with the Congressional Budget Office and the Office of Management and Budget, use the same methodology required by subsection (l)(2).

"(3) FINAL RATE ADJUSTMENT.—For fiscal year 2012 and all of the succeeding fiscal years, the Commission shall by order adjust each of the rates applicable under subsections (b) and (c) for all of such fiscal years to a uniform adjusted rate that, when applied to the baseline estimate of the aggregate dollar amount of sales for fiscal year 2012, is reasonably likely to produce aggregate fee collections under this section in fiscal year 2012 (including assessments collected under subsection (d)) equal to the target offsetting collection amount for fiscal year 2011.

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

"(A) an adjusted rate prescribed under paragraph (1) shall take effect on the later of—

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

"(ii) thirty days after the date on which a regular appropriation to the Commission for such fiscal year is enacted;

"(B) an adjusted rate prescribed under paragraph (2) shall take effect on April 1 of the fiscal year to which such rate applies; and

"(C) an adjusted rate prescribed under paragraph (3) shall take effect on the later of—

"(i) the first day of fiscal year 2012; or

"(ii) thirty days after the date on which a regular appropriation to the Commission for fiscal year 2012 is enacted.

"(k) LAPSE OF APPROPRIATION.—If on the first day of a fiscal year a regular appropriation to the Commission has not been enacted, the Commission shall continue to collect (as offsetting collections) the fees and assessments under subsections (b), (c), and (d) at the rate in effect during the preceding fiscal year, until 30 days after the date such a regular appropriation is enacted.

"(l) DEFINITIONS.—For purposes of this section:

"(1) TARGET OFFSETTING COLLECTION AMOUNT.—The target offsetting collection amount for each of the fiscal years 2002 through 2011 is determined according to the following table:

"Fiscal year:	Target offsetting collection amount
2002	$732,000,000
2003	$849,000,000
2004	$1,028,000,000
2005	$1,220,000,000
2006	$1,435,000,000
2007	$881,000,000
2008	$892,000,000
2009	$1,023,000,000
2010	$1,161,000,000
2011	$1,321,000,000

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

(2) CONFORMING AMENDMENT.—Section 31(g) of such Act (as redesignated by subsection (a)(6) of this section) is amended by inserting before the period at the end the following: "not later than April 30 of the fiscal year preceding the fiscal year to which such rate applies, together with any estimates or projections on which such fees are based".

SEC. 4. REDUCTION OF REGISTRATION FEES.

Section 6(b) of the Securities Act of 1933 (15 U.S.C. 77f(b)) is amended by striking paragraphs (2) through (5) and inserting the following:

"(2) FEE PAYMENT REQUIRED.—At the time of filing a registration statement, the applicant shall pay to the Commission a fee at a rate that shall be equal to $92 per $1,000,000 of the maximum aggregate price at which such securities are proposed to be offered, except that during fiscal year 2003 and any succeeding fiscal year such fee shall be adjusted pursuant to paragraph (5) or (6).

"(3) OFFSETTING COLLECTIONS.—Fees collected pursuant to this subsection for any fiscal year—

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

"(B) except as provided in paragraph (9), shall not be collected for any fiscal year except to the extent provided in advance in appropriation Acts.

"(4) GENERAL REVENUES PROHIBITED.—No fees collected pursuant to this subsection for fiscal year 2002 or any succeeding fiscal year shall be deposited and credited as general revenue of the Treasury.

"(5) ANNUAL ADJUSTMENT.—For each of the fiscal years 2003 through 2011, the Commission shall by order adjust the rate required by paragraph (2) for such fiscal year to a rate that, when applied to the baseline estimate of the aggregate maximum offering prices for such fiscal year, is reasonably likely to produce aggregate fee collections under this subsection that are equal to the target offsetting collection amount for such fiscal year.

"(6) FINAL RATE ADJUSTMENT.—For fiscal year 2012 and all of the succeeding fiscal years, the Commission shall by order adjust the rate required by paragraph (2) for all of such fiscal years to a rate that, when applied to the baseline estimate of the aggregate maximum offering prices for fiscal year 2012, is reasonably likely to produce aggregate fee collections under this subsection in fiscal year 2012 equal to the target offsetting collection amount for fiscal year 2011.

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

"(8) REVIEW AND EFFECTIVE DATE.—In exercising its authority under this subsection, the Commission shall not be required to comply with the provisions of section 553 of title 5, United States Code. An adjusted rate prescribed under paragraph (5) or (6) and published under paragraph (10) shall not be subject to judicial review. Subject to paragraphs (3)(B) and (9)—

"(A) an adjusted rate prescribed under paragraph (5) shall take effect on the later of—

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

"(ii) five days after the date on which a regular appropriation to the Commission for such fiscal year is enacted; and

"(B) an adjusted rate prescribed under paragraph (6) shall take effect on the later of—

"(i) the first day of fiscal year 2012; or

"(ii) five days after the date on which a regular appropriation to the Commission for fiscal year 2012 is enacted.

"(9) LAPSE OF APPROPRIATION.—If on the first day of a fiscal year a regular appropriation to the Commission has not been enacted, the Commission shall continue to collect fees (as offsetting collections) under this subsection at the rate in effect during the preceding fiscal year, until 5 days after the date such a regular appropriation is enacted.

"(10) PUBLICATION.—The Commission shall publish in the Federal Register notices of the rate applicable under this subsection and under sections 13(e) and 14(g) for each fiscal year not later than April 30 of the fiscal year preceding the fiscal year to which such rate applies, together with any estimates or projections on which such rate is based.

"(11) DEFINITIONS.—For purposes of this subsection:

"(A) TARGET OFFSETTING COLLECTION AMOUNT.—The target offsetting collection amount for each of the fiscal years 2002 through 2011 is determined according to the following table:

"Fiscal year:	Target offsetting collection amount
2002	$377,000,000
2003	$435,000,000
2004	$467,000,000
2005	$570,000,000
2006	$689,000,000
2007	$214,000,000
2008	$234,000,000
2009	$284,000,000
2010	$334,000,000
2011	$394,000,000

"(B) BASELINE ESTIMATE OF THE AGGREGATE MAXIMUM OFFERING PRICES.—The baseline estimate of the aggregate maximum offering prices for any fiscal year is 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 such fiscal year as determined by the Commission, after consultation with the Congressional Budget Office and the Office of Management and Budget, using the methodology required for projections pursuant to section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985.".

SEC. 5. FEES FOR STOCK REPURCHASE STATEMENTS.

Section 13(e) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(e)) is amended—

(1) in paragraph (3), by striking "a fee of 1/50 of 1 per centum of the value of securities proposed to be purchased" and inserting "a fee at a rate that, subject to paragraphs (5) and (6), is equal to $92 per $1,000,000 of the value of securities proposed to be purchased";

(2) by inserting after paragraph (3) the following new paragraphs:

"(4) OFFSETTING COLLECTIONS.—Fees collected pursuant to this subsection for any fiscal year shall be deposited and credited as offsetting collections to the account providing appropriations to the Commission, and, except as provided in paragraph (9), shall not be collected for any fiscal year except to the extent provided in advance in appropriation Acts. No fees collected pursuant to this subsection for fiscal year 2002 or any succeeding fiscal year shall be deposited and credited as general revenue of the Treasury.

"(5) ANNUAL ADJUSTMENT.—For each of the fiscal years 2003 through 2011, the Commission shall by order adjust the rate required by paragraph (3) for such fiscal year to a rate that is equal to the rate (expressed in dollars per million) that is applicable under section 6(b) of the Securities Act of 1933 for such fiscal year.

"(6) FINAL RATE ADJUSTMENT.—For fiscal year 2012 and all of the succeeding fiscal years, the Commission shall by order adjust the rate required by paragraph (3) for all of such fiscal years to a rate that is equal to the rate (expressed in dollars per million) that is applicable under section 6(b) of the Securities Act of 1933 for all of such fiscal years.

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

"(8) REVIEW AND EFFECTIVE DATE.—In exercising its authority under this subsection, the Commission shall not be required to comply with the provisions of section 553 of title 5, United States Code. An adjusted rate prescribed under paragraph (5) or (6) and published under paragraph (10) shall not be subject to judicial review. Subject to paragraphs (4) and (9)—

"(A) an adjusted rate prescribed under paragraph (5) shall take effect on the later of—

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

"(ii) five days after the date on which a regular appropriation to the Commission for such fiscal year is enacted; and

"(B) an adjusted rate prescribed under paragraph (6) shall take effect on the later of—

"(i) the first day of fiscal year 2012; or

"(ii) five days after the date on which a regular appropriation to the Commission for fiscal year 2012 is enacted.

"(9) LAPSE OF APPROPRIATION.—If on the first day of a fiscal year a regular appropriation to the Commission has not been enacted, the Commission shall continue to collect fees (as offsetting collections) under this subsection at the rate in effect during the preceding fiscal year, until 5 days after the date such a regular appropriation is enacted.

"(10) PUBLICATION.—The rate applicable under this subsection for each fiscal year is published pursuant to section 6(b)(10) of the Securities Act of 1933.".

SEC. 6. FEES FOR PROXY SOLICITATIONS AND STATEMENTS IN CORPORATE CONTROL TRANSACTIONS.

Section 14(g) of the Securities Exchange Act of 1934 (15 U.S.C. 78n(g)) is amended—

(1) in paragraphs (1) and (3), by striking "a fee of 1/50 of 1 per centum of" each place it appears and inserting "a fee at a rate that, subject to paragraphs (5) and (6), is equal to $92 per $1,000,000 of";

(2) by redesignating paragraph (4) as paragraph (11); and

(3) by inserting after paragraph (3) the following new paragraphs:

"(4) OFFSETTING COLLECTIONS.—Fees collected pursuant to this subsection for any fiscal year shall be deposited and credited as offsetting collections to the account providing appropriations to the Commission, and, except as provided in paragraph (9), shall not be collected for any fiscal year except to the extent provided in advance in appropriation Acts. No fees collected pursuant to this subsection for fiscal year 2002 or any succeeding fiscal year shall be deposited and credited as general revenue of the Treasury.

"(5) ANNUAL ADJUSTMENT.—For each of the fiscal years 2003 through 2011, the Commission shall by order adjust each of the rates required by paragraphs (1) and (3) for such fiscal year to a rate that is equal to the rate (expressed in dollars per million) that is applicable under section 6(b) of the Securities Act of 1933 for such fiscal year.

"(6) FINAL RATE ADJUSTMENT.—For fiscal year 2012 and all of the succeeding fiscal years, the Commission shall by order adjust each of the rates required by paragraphs (1) and (3) for all of such fiscal years to a rate that is equal to the rate (expressed in dollars per million) that is applicable under section 6(b) of the Securities Act of 1933 for all of such fiscal years.

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

"(8) REVIEW AND EFFECTIVE DATE.—In exercising its authority under this subsection, the Commission shall not be required to comply with the provisions of section 553 of title 5, United States Code. An adjusted rate prescribed under paragraph (5) or (6) and published under paragraph (10) shall not be subject to judicial review. Subject to paragraphs (4) and (9)—

"(A) an adjusted rate prescribed under paragraph (5) shall take effect on the later of—

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

"(ii) five days after the date on which a regular appropriation to the Commission for such fiscal year is enacted; and

"(B) an adjusted rate prescribed under paragraph (6) shall take effect on the later of—

"(i) the first day of fiscal year 2012; or

"(ii) five days after the date on which a regular appropriation to the Commission for fiscal year 2012 is enacted.

"(9) LAPSE OF APPROPRIATION.—If on the first day of a fiscal year a regular appropriation to the Commission has not been enacted, the Commission shall continue to collect fees (as offsetting collections) under this subsection at the rate in effect during the preceding fiscal year, until 5 days after the date such a regular appropriation is enacted.

"(10) PUBLICATION.—The rate applicable under this subsection for each fiscal year is published pursuant to section 6(b)(10) of the Securities Act of 1933.".

SEC. 7. TRUST INDENTURE ACT FEE.

Section 307(b) of the Trust Indenture Act of 1939 (15 U.S.C. 77ggg(b)) is amended by striking "Commission, but, in the case" and all that follows and inserting "Commission.".

SEC. 8. COMPARABILITY PROVISIONS.

(a) COMMISSION DEMONSTRATION PROJECT.—Subpart C of part III of title 5, United States Code, is amended by adding at the end the following:

"CHAPTER 48—AGENCY PERSONNEL DEMONSTRATION PROJECT

"§ 4801. Nonapplicability of chapter 47

"Chapter 47 shall not apply to this chapter.

"§ 4802. Securities and Exchange Commission

"(a) In this section, the term 'Commission' means the Securities and Exchange Commission.

"(b) The Commission may appoint and fix the compensation of such officers, attorneys, economists, examiners, and other employees as may be necessary for carrying out its functions under the securities laws as defined under section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c).

"(c) Rates of basic pay for all employees of the Commission may be set and adjusted by the Commission without regard to the provisions of chapter 51 or subchapter III of chapter 53.

"(d) The Commission may provide additional compensation and benefits to employees of the Commission if the same type of compensation or benefits are then being provided by any agency referred to under section 1206 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833b) or, if not then being provided, could be provided by such an agency under applicable provisions of law, rule, or regulation. In setting and adjusting the total amount of compensation and benefits for employees, the Commission shall consult with, and seek to maintain comparability with, the agencies referred to under section 1206 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833b).

"(e) The Commission shall consult with the Office of Personnel Management in the implementation of this section.

"(f) This section shall be administered consistent with merit system principles.".

(b) EMPLOYEES REPRESENTED BY LABOR ORGANIZATIONS.—To the extent that any employee of the Securities and Exchange Commission is represented by a labor organization with exclusive recognition in accordance with chapter 71 of title 5, United States Code, no reduction in base pay of such employee shall be made by reason of enactment of this section (including the amendments made by this section).

(c) IMPLEMENTATION PLAN AND REPORT.—

(1) IMPLEMENTATION PLAN.—

(A) IN GENERAL.—The Securities and Exchange Commission shall develop a plan to implement section 4802 of title 5, United States Code, as added by this section.

(B) INCLUSION IN ANNUAL PERFORMANCE PLAN AND REPORT.—The Securities and Exchange Commission shall include—

(i) the plan developed under this paragraph in the annual program performance plan submitted under section 1115 of title 31, United States Code; and

(ii) the effects of implementing the plan developed under this paragraph in the annual program performance report submitted under section 1116 of title 31, United States Code.

(2) IMPLEMENTATION REPORT.—

(A) IN GENERAL.—Before implementing the plan developed under paragraph (1), the Securities and Exchange Commission shall submit a report to the Committee on Governmental Affairs and the Committee on Banking, Housing, and Urban Affairs of the Senate, the Committee on Government Reform and the Committee on Financial Services of the House of Representatives, and the Office of Personnel Management on the details of the plan.

(B) CONTENT.—The report under this paragraph shall include—

(i) evidence and supporting documentation justifying the plan; and

(ii) budgeting projections on costs and benefits resulting from the plan.

(d) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) AMENDMENTS TO TITLE 5, UNITED STATES CODE.—

(A) The table of chapters for part III of title 5, United States Code, is amended by adding at the end of subpart C the following:

"48. Agency Personnel Demonstration Project .... 4801.".

(B) Section 3132(a)(1) of title 5, United States Code, is amended—

(i) in subparagraph (C), by striking "or" after the semicolon;

(ii) in subparagraph (D), by inserting "or" after the semicolon; and

(iii) by adding at the end the following:

"(E) the Securities and Exchange Commission;".

(C) Section 5373(a) of title 5, United States Code, is amended—

(i) in paragraph (2), by striking "or" after the semicolon;

(ii) in paragraph (3), by striking the period and inserting "; or"; and

(iii) by adding at the end the following:

"(4) section 4802.".

(2) AMENDMENT TO SECURITIES EXCHANGE ACT OF 1934.—Section 4(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78d(b)) is amended by striking paragraphs (1) and (2) and inserting the following:

"(1) APPOINTMENT AND COMPENSATION.—The Commission shall appoint and compensate officers, attorneys, economists, examiners, and other employees in accordance with section 4802 of title 5, United States Code.

"(2) REPORTING OF INFORMATION.—In establishing and adjusting schedules of compensation and benefits for officers, attorneys, economists, examiners, and other employees of the Commission under applicable provisions of law, the Commission shall inform the heads of the agencies referred to under section 1206 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833b) and Congress of such compensation and benefits and shall seek to maintain comparability with such agencies regarding compensation and benefits.".

(3) AMENDMENT TO FIRREA OF 1989.—Section 1206 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833b) is amended by striking "the Thrift Depositor Protection Oversight Board of the Resolution Trust Corporation".

SEC. 9. STUDY OF THE EFFECT OF FEE REDUCTIONS.

(a) STUDY.—The Office of Economic Analysis of the Securities and Exchange Commission (hereinafter referred to as the "Office") shall conduct a study of the extent to which the benefits of reductions in fees effected as a result of this Act are passed on to investors.

(b) FACTORS FOR CONSIDERATION.—In conducting the study under subsection (a), the Office shall—

(1) consider the various elements of the securities industry directly and indirectly benefiting from the fee reductions, including purchasers and sellers of securities, members of national securities exchanges, issuers, broker-dealers, underwriters, participants in investment companies, retirement programs, and others;

(2) consider the impact on different types of investors, such as individual equity holders, individual investment company shareholders, businesses, and other types of investors;

(3) include in the interpretation of the term "investor" shareholders of entities subject to the fee reductions; and

(4) consider the economic benefits to investors flowing from the fee reductions to include such factors as market efficiency, expansion of investment opportunities, and enhanced liquidity and capital formation.

(c) REPORT TO CONGRESS.—Not later than 2 years after the date of the enactment of this Act, the Securities and Exchange Commission shall submit to the Congress the report prepared by the Office on the findings of the study conducted under subsection (a).

SEC. 10. STUDY OF CONVERSION TO SELF-FUNDING.

(a) GAO STUDY REQUIRED.—The Comptroller General shall conduct a study of the impact, implications, and consequences of converting the Securities and Exchange Commission to a self-funded basis. Such study shall include analysis of the following issues:

(1) SEC OPERATIONS.—The impact of such conversion on the Commission's operations, including staff quality, recruitment, and retention.

(2) CONGRESSIONAL OVERSIGHT.—The implications for congressional oversight of the Commission, including whether imposing annual expenditure limitations would be beneficial to such oversight.

(3) FEES.—The likely consequences of the conversion on the rates, collection procedures, and predictability of fees collected by the Commission.

(4) APPROPRIATIONS.—The methods by which the conversion may be accomplished without reducing the availability of offsetting collections for appropriations.

(5) OTHER MATTERS.—Such other impacts, implications, and consequences as the Comptroller General may consider relevant

to congressional consideration of the question of such conversion.

(b) SUBMISSION OF REPORT.—The Comptroller General shall submit to the Committees on Financial Services and Government Reform of the House of Representatives and the Committees on Banking, Housing, and Urban Affairs and Governmental Affairs of the Senate a report on the study required by subsection (a) no later than 180 days after the date of the enactment of this Act.

(c) DEFINITION.—For the purposes of this section, the term "self-funded basis" means that—

(1) an agency is authorized to deposit the receipts of its collections in the Treasury of the United States, or in a depository institution, but such deposits are not treated as Government funds or appropriated monies, and are available for the salaries and other expenses of the Commission and its employees without annual appropriation or apportionment; and

(2) the agency is authorized to employ and fix the salaries and other compensation of its officers and employees, and such salaries and other compensation are paid without regard to the provisions of other laws applicable to officers and employees of the United States.

SEC. 11. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsections (b) and (c), the amendments made by this Act shall take effect on October 1, 2001.

(b) IMMEDIATE TRANSACTION FEE REDUCTIONS.—The amendments made by section 2 shall take effect on the later of—

(1) the first day of fiscal year 2002; or

(2) thirty days after the date on which a regular appropriation to the Commission for such fiscal year is enacted.

(c) ADDITIONAL EXCEPTIONS.—The authorities provided by section 6(b)(9) of the Securities Act of 1933 and sections 13(e)(9), 14(g)(9), and 31(k) of the Securities Exchange Act of 1934, as so designated by this Act, shall not apply until October 1, 2002.

Speaker of the House of Representatives.

Vice President of the United States and
President of the Senate.

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

THE DIRECTOR

January 7, 2002

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MEMORANDUM FOR THE PRESIDENT

SUBJECT: Enrolled Bill H.R 1088 - Investor and Capital Markets Fee Relief Act
Sponsors - Rep. Fossella (R) New York and 45 cosponsors

Last Day for Action

January 16, 2002 - Wednesday

Purpose

Reduces the rates of fees charged by the Securities and Exchange Commission (SEC) for securities transactions, and eliminates the general revenue component of such fees; also establishes for employees of the SEC pay parity with other financial regulatory agencies.

Agency Recommendations

Office of Management and Budget	Approval
Securities and Exchange Commission	Approval
Department of the Treasury	No objection (Informally)
Office of Personnel Management	No objection (Informally)

Discussion

Background. Section 31 of the Securities Act of 1933 (the Act) imposed fees on transactions of exchange-traded securities at a rate equal to 1/500th of 1 percent of the aggregate amount of sales. These fees were all to be collected as general revenue. The rate was increased in 1965 to 1/300th of 1 percent. Section 6(b) of the Act imposed fees on the registration of securities at a rate equal to 1/100th of 1 percent of the offering price. These fees were also collected as general revenue. This rate was increased in 1965 to 1/50th of 1 percent.

The 1983 Securities Exchange Act Amendments imposed fees on mergers, proxy solicitations, and other activities at a rate of 1/50th of 1 percent of the value of the securities involved. These fees were also collected as general revenue. In several appropriations acts in the 1990s, the registration fee rate was increased to 1/29th of 1 percent and all fees collected in excess of 1/50th of 1 percent were to be credited as offsetting collections for SEC appropriations.

The National Securities Markets Improvement Act of 1996 (NSMIA) reduced the fees to their current levels (specifics described below) in an effort, based on projections of securities market activities that total fee collections would fall, to allow the SEC to collect only enough fees to approximately equal the cost of running the SEC. (Due to surges in market activity in the last few years, fee collections have risen much higher than expected.) Under NSMIA, fee rates are scheduled to sharply decline in FY 2007.

Reduction in Fee Rates and Elimination of General Revenue Component. H.R. 1088 would reduce these three SEC-imposed fees and eliminate the portion of fee collections recorded as general revenues. The enrolled bill would continue to allow fees collected in excess of amounts needed to fund the SEC to offset discretionary spending under the jurisdiction of the Commerce, Justice, State Appropriations Subcommittees.

Transaction (Section 31) Fees. These fees are collected when securities are sold. The fees are intended to cover costs to the government of supervising and regulating securities markets and participants. Currently, the fee is $33.33 per $1 million traded through national securities exchanges (collected as general revenues), national securities associations (offsetting collections), and brokers and dealers (general revenues) through FY 2006. After FY 2006, the rate is set to decrease to $12.50 per $1 million in transactions. H.R. 1088 would reduce the fee to $15 per $1 million in FY 2002. After FY 2002, the SEC would set one transaction fee rate for all participants at the beginning of each fiscal year so that all transaction fees collected in that year equal a specified amount, the target offsetting amount. All of the fees would be recorded as offsetting collections. The enrolled bill would set these amounts as follows: $732 million for FY 2002; $849 million for FY 2003; $1,028 million for FY 2004; $1,220 million for FY 2005; $1,435 million for FY 2006; $881 million for FY 2007; $892 million for FY 2008; $1,023 million for FY 2009; $1,161 million for FY 2010; and $1,321 million for FY 2011. These fees would equal approximately $12 per $1 million in transactions through FY 2006. After FY 2006, they would equal approximately $7 per $1 million. A final adjustment in FY 2012 would occur to produce roughly the target amount for FY 2011 to be applied for transactions in all subsequent years. The SEC would be authorized to adjust the rates if the estimate of the aggregate dollar volume of sales for a particular fiscal year is "reasonably likely" to be 10 percent (or more) greater or less than the actual volume.

Registration (6(b)) Fees. These fees are paid by companies at the time of filing a registration for securities that are proposed to be offered (e.g., initial public offerings). The fees are currently set at $239 per $1 million of the maximum aggregate price of the securities, and will phase down to $200 per $1 million in FY 2006. After FY 2006, the fee is set to decrease to $67 per $1 million. Fees in excess of $200 per $1 million are counted as offsetting collections, and the remainder are collected as revenues. H.R. 1088 would set the fee at $92 per $1 million in FY 2002. After FY 2002, the SEC would set one transaction fee for all participants at the beginning of each fiscal year so that all transaction fees collected in that fiscal year equal a specified amount, the target offsetting amount. All of the fees would be recorded as offsetting collections. The enrolled bill would set these amounts as follows: $337 million for FY 2002; $435 million for FY 2003; $467 million for FY 2004; $570 million for FY 2005; $689 million for FY 2006; $214 million for FY 2007; $234 million for FY 2008; $284 million for FY 2009; $334 million for FY 2010; and $394 million for FY 2011, with a final rate adjustment in FY 2012 as with transaction fees above.

Merger/Tender Fees. Currently, companies pay these fees at a rate equal to $200 per $1 million of the value of securities proposed to be purchased as part of a merger at the time of filing. The fees are collected as revenues. H.R. 1088 would set these fees at $92 per $1 million in FY 2002. Thereafter, they would be adjusted to match the registration fee rate and they would be recorded as offsetting collections.

Other fees. Under the enrolled bill, fees on security futures transactions and transactions on options on security futures (excluding narrow-based security indices) would be reduced from $0.02 to $0.009 through FY 2006. They would be recorded as offsetting collections. After FY 2006, the fee would be further reduced to equal $0.0042 per transaction. In addition, the $100 fee for qualification of certain indentures under the Trust Indenture Act of 1939 would be eliminated.

"Pay Parity" for SEC Employees. H.R. 1088 would authorize the SEC to adjust the base rates of pay and other benefits for all of its employees to be comparable to the pay and benefits provided by certain other financial regulatory agencies. The other agencies are the Federal Deposit Insurance Corporation, the National Credit Union Administration, the Federal Housing Finance Board, the Farm Credit Administration, and Treasury's Office of the Comptroller of the Currency and Office of Thrift Supervision. Under current law, the SEC must follow the Civil Service's General Schedule for pay while the other agencies cited above may individually establish and adjust schedules of compensation and benefits. To implement the authority, the SEC would have to develop an implementation plan and submit a report to the House Financial Services and Government Reform Committees and the Senate Banking and Governmental Affairs Committees on the plan, including: evidence and supporting documentation and budget projections on costs and benefits resulting from the plan. (Approval of the plan would not be necessary before the SEC could implement it.)

Studies. H.R. 1088 would require the SEC to study the extent to which benefits of fee reductions are passed along to investors and submit a report on such study to Congress within two years of enactment. The enrolled bill would also require the General Accounting Office to study the impact and consequences of converting the SEC to a self-funded organization and submit a report on the study within 180 days of enactment to the House Financial Services and Government Reform Committees and the Senate Banking and Governmental Affairs Committees.

Administration Position to Date

The Administration strongly supported the fee reduction provisions of H.R. 1088, noting that current fee collections are far in excess of the SEC's budget, acting as a burden on investors and discouraging investment. The Administration opposed the bill's pay parity provisions because exempting individual agencies from government-wide personnel laws adversely affects the portability of Federal employees and fragments personnel systems.

Pay-As-You-Go Scoring

H.R. 1088 would affect receipts and direct spending; therefore it is subject to the pay-as-you-go requirements of the Budget Enforcement Act. OMB staff estimate that the reduction in fees would reduce revenues by $1.1 billion in FY 2002, $8.0 billion over FYs 2002-2006, and $13.3 billion over FYs 2002-2011. (These amounts are net of estimated increased corporate income tax collections, which are assumed to be 25 percent of the lost fee revenue.) The revenue effects included in this estimate capture only the revenue lost by eliminating the general revenue component of the fees. In fact, the fees credited to the Commerce, Justice, State Appropriations Subcommittees would increase versus OMB's baseline estimates by $133 million for FY 2002, $3.0 billion for FYs 2002-2006, and $6.1 billion for FYs 2002-2011. In scoring the revenue effect of the legislation, these additional fees are not counted because their collection is triggered by subsequent appropriations action.

Conclusion and Recommendations

The Securities and Exchange Commission recommends approval of H.R. 1088 because it will "provide meaningful securities fee relief to the nation's investors, those seeking to raise capital, and market participants, while assuring a full and stable long-term funding source" for the SEC. The SEC states that the pay parity provisions, if "appropriately funded," will help respond to the Commission's "staffing crisis" of recent years.

We join the SEC in recommending approval of H.R. 1088, which passed the House by a vote of 404-22 and the Senate by unanimous consent.

M. E. Daniels, Jr.

Mitchell E. Daniels, Jr.
Director

Enclosures

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

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THE DIRECTOR

January 7, 2002

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Enrolled Bill H.R 1088 - Investor and Capital Markets Fee Relief Act
Sponsors - Rep. Fossella (R) New York and 45 cosponsors

Last Day for Action

January 16, 2002 - Wednesday

Purpose

Reduces the rates of fees charged by the Securities and Exchange Commission (SEC) for securities transactions, and eliminates the general revenue component of such fees; also establishes for employees of the SEC pay parity with other financial regulatory agencies.

Agency Recommendations

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Securities and Exchange Commission	Approval
Department of the Treasury	No objection (Informally)
Office of Personnel Management	No objection (Informally)

Discussion

Background. Section 31 of the Securities Act of 1933 (the Act) imposed fees on transactions of exchange-traded securities at a rate equal to 1/500th of 1 percent of the aggregate amount of sales. These fees were all to be collected as general revenue. The rate was increased in 1965 to 1/300th of 1 percent. Section 6(b) of the Act imposed fees on the registration of securities at a rate equal to 1/100th of 1 percent of the offering price. These fees were also collected as general revenue. This rate was increased in 1965 to 1/50th of 1 percent.

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The National Securities Markets Improvement Act of 1996 (NSMIA) reduced the fees to their current levels (specifics described below) in an effort, based on projections of securities market activities that total fee collections would fall, to allow the SEC to collect only enough fees to approximately equal the cost of running the SEC. (Due to surges in market activity in the last few years, fee collections have risen much higher than expected.) Under NSMIA, fee rates are scheduled to sharply decline in FY 2007.

Reduction in Fee Rates and Elimination of General Revenue Component. H.R. 1088 would reduce these three SEC-imposed fees and eliminate the portion of fee collections recorded as general revenues. The enrolled bill would continue to allow fees collected in excess of amounts needed to fund the SEC to offset discretionary spending under the jurisdiction of the Commerce, Justice, State Appropriations Subcommittees.

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Registration (6(b)) Fees. These fees are paid by companies at the time of filing a registration for securities that are proposed to be offered (e.g., initial public offerings). The fees are currently set at $239 per $1 million of the maximum aggregate price of the securities, and will phase down to $200 per $1 million in FY 2006. After FY 2006, the fee is set to decrease to $67 per $1 million. Fees in excess of $200 per $1 million are counted as offsetting collections, and the remainder are collected as revenues. H.R. 1088 would set the fee at $92 per $1 million in FY 2002. After FY 2002, the SEC would set one transaction fee for all participants at the beginning of each fiscal year so that all transaction fees collected in that fiscal year equal a specified amount, the target offsetting amount. All of the fees would be recorded as offsetting collections. The enrolled bill would set these amounts as follows: $337 million for FY 2002; $435 million for FY 2003; $467 million for FY 2004; $570 million for FY 2005; $689 million for FY 2006; $214 million for FY 2007; $234 million for FY 2008; $284 million for FY 2009; $334 million for FY 2010; and $394 million for FY 2011, with a final rate adjustment in FY 2012 as with transaction fees above.

Merger/Tender Fees. Currently, companies pay these fees at a rate equal to $200 per $1 million of the value of securities proposed to be purchased as part of a merger at the time of filing. The fees are collected as revenues. H.R. 1088 would set these fees at $92 per $1 million in FY 2002. Thereafter, they would be adjusted to match the registration fee rate and they would be recorded as offsetting collections.

Other fees. Under the enrolled bill, fees on security futures transactions and transactions on options on security futures (excluding narrow-based security indices) would be reduced from $0.02 to $0.009 through FY 2006. They would be recorded as offsetting collections. After FY 2006, the fee would be further reduced to equal $0.0042 per transaction. In addition, the $100 fee for qualification of certain indentures under the Trust Indenture Act of 1939 would be eliminated.

"Pay Parity" for SEC Employees. H.R. 1088 would authorize the SEC to adjust the base rates of pay and other benefits for all of its employees to be comparable to the pay and benefits provided by certain other financial regulatory agencies. The other agencies are the Federal Deposit Insurance Corporation, the National Credit Union Administration, the Federal Housing Finance Board, the Farm Credit Administration, and Treasury's Office of the Comptroller of the Currency and Office of Thrift Supervision. Under current law, the SEC must follow the Civil Service's General Schedule for pay while the other agencies cited above may individually establish and adjust schedules of compensation and benefits. To implement the authority, the SEC would have to develop an implementation plan and submit a report to the House Financial Services and Government Reform Committees and the Senate Banking and Governmental Affairs Committees on the plan, including: evidence and supporting documentation and budget projections on costs and benefits resulting from the plan. (Approval of the plan would not be necessary before the SEC could implement it.)

Studies. H.R. 1088 would require the SEC to study the extent to which benefits of fee reductions are passed along to investors and submit a report on such study to Congress within two years of enactment. The enrolled bill would also require the General Accounting Office to study the impact and consequences of converting the SEC to a self-funded organization and submit a report on the study within 180 days of enactment to the House Financial Services and Government Reform Committees and the Senate Banking and Governmental Affairs Committees.

Administration Position to Date

The Administration strongly supported the fee reduction provisions of H.R. 1088, noting that current fee collections are far in excess of the SEC's budget, acting as a burden on investors and discouraging investment. The Administration opposed the bill's pay parity provisions because exempting individual agencies from government-wide personnel laws adversely affects the portability of Federal employees and fragments personnel systems.

Pay-As-You-Go Scoring

H.R. 1088 would affect receipts and direct spending; therefore it is subject to the pay-as-you-go requirements of the Budget Enforcement Act. OMB staff estimate that the reduction in fees would reduce revenues by $1.1 billion in FY 2002, $8.0 billion over FYs 2002-2006, and $13.3 billion over FYs 2002-2011. (These amounts are net of estimated increased corporate income tax collections, which are assumed to be 25 percent of the lost fee revenue.) The revenue effects included in this estimate capture only the revenue lost by eliminating the general revenue component of the fees. In fact, the fees credited to the Commerce, Justice, State Appropriations Subcommittees would increase versus OMB's baseline estimates by $133 million for FY 2002, $3.0 billion for FYs 2002-2006, and $6.1 billion for FYs 2002-2011. In scoring the revenue effect of the legislation, these additional fees are not counted because their collection is triggered by subsequent appropriations action.

Conclusion and Recommendations

The Securities and Exchange Commission recommends approval of H.R. 1088 because it will "provide meaningful securities fee relief to the nation's investors, those seeking to raise capital, and market participants, while assuring a full and stable long-term funding source" for the SEC. The SEC states that the pay parity provisions, if "appropriately funded," will help respond to the Commission's "staffing crisis" of recent years.

We join the SEC in recommending approval of H.R. 1088, which passed the House by a vote of 404-22 and the Senate by unanimous consent.

M. E. Daniels, Jr.

Mitchell E. Daniels, Jr.
Director

Enclosures

****
*** TX REPORT ***
****

TRANSMISSION OK

TX/RX NO	1494
CONNECTION TEL	66212
CONNECTION ID	
ST. TIME	01/08 01:30
USAGE T	04'01
PGS. SENT	8
RESULT	OK

SS/ RM NO. 505304

WHITE HOUSE STAFFING MEMORANDUM

Date: 1-7-02 ACTION / CONCURRENCE / COMMENT DUE BY: 1-8-02, 4:00 PM

Subject: H.R. 1088, INVESTOR AND CAPITAL MARKETS FEE RELIEF ACT

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☑	☐	HUBBARD	☑	☐
CARD	☑	☐	HUGHES	☑	☐
BLAKEMAN	☐	☐	IRASTORZA	☐	☐
BOLTEN	☑	☐	JOHNSON	☐	☐
CALIO	☑	☐	LINDSEY	☑	☐
CONNAUGHTON	☐	☐	MIERS	☐	☑
DANIELS	☐	☑	RICE	☐	☐
FLEISCHER	☑	☐	RIDGE	☐	☐
GERSON	☐	☐	ROVE	☑	☐
GONZALES	☑	☐	SPELLINGS	☑	☐
HAGIN	☐	☐	CLERK	☐	☑
HAWKINS	☑	☐	__________	☐	☐

REMARKS:
PLEASE SEND REMARKS TO STAFF SECRETARY, EXT. 62702, FAX 62215, NO LATER THAN 4:00 PM TUESDAY, 1-8-02. THANK YOU.

SS/ RM NO. 505304

WHITE HOUSE STAFFING MEMORANDUM

Date: 1-7-02 ACTION / CONCURRENCE / COMMENT DUE BY: 1-8-02, 4:00 PM

Subject: H.R. 1088, INVESTOR AND CAPITAL MARKETS FEE RELIEF ACT

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CALIO	☑	☐	LINDSEY	☑	☐
CONNAUGHTON	☐	☐	MIERS	☐	☑
DANIELS	☐	☑	RICE	☐	☐
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GERSON	☐	☐	ROVE	☑	☐
GONZALES	☑	☐	SPELLINGS	☑	☐
HAGIN	☐	☐	CLERK	☐	☑
HAWKINS	☑	☐	______	☐	☐

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RESPONSE:

Harriet E. Miers
Assistant to the President
and Staff Secretary
Ext. 62702

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

'02 JAN 7 PM 10:25

THE DIRECTOR

January 7, 2002

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Enrolled Bill H.R 1088 - Investor and Capital Markets Fee Relief Act
Sponsors - Rep. Fossella (R) New York and 45 cosponsors

Last Day for Action

January 16, 2002 - Wednesday

Purpose

Reduces the rates of fees charged by the Securities and Exchange Commission (SEC) for securities transactions, and eliminates the general revenue component of such fees; also establishes for employees of the SEC pay parity with other financial regulatory agencies.

Agency Recommendations

Office of Management and Budget	Approval
Securities and Exchange Commission	Approval
Department of the Treasury	No objection (Informally)
Office of Personnel Management	No objection (Informally)

Discussion

Background. Section 31 of the Securities Act of 1933 (the Act) imposed fees on transactions of exchange-traded securities at a rate equal to 1/500th of 1 percent of the aggregate amount of sales. These fees were all to be collected as general revenue. The rate was increased in 1965 to 1/300th of 1 percent. Section 6(b) of the Act imposed fees on the registration of securities at a rate equal to 1/100th of 1 percent of the offering price. These fees were also collected as general revenue. This rate was increased in 1965 to 1/50th of 1 percent.

The 1983 Securities Exchange Act Amendments imposed fees on mergers, proxy solicitations, and other activities at a rate of 1/50th of 1 percent of the value of the securities involved. These fees were also collected as general revenue. In several appropriations acts in the 1990s, the registration fee rate was increased to 1/29th of 1 percent and all fees collected in excess of 1/50th of 1 percent were to be credited as offsetting collections for SEC appropriations.

The National Securities Markets Improvement Act of 1996 (NSMIA) reduced the fees to their current levels (specifics described below) in an effort, based on projections of securities market activities that total fee collections would fall, to allow the SEC to collect only enough fees to approximately equal the cost of running the SEC. (Due to surges in market activity in the last few years, fee collections have risen much higher than expected.) Under NSMIA, fee rates are scheduled to sharply decline in FY 2007.

Reduction in Fee Rates and Elimination of General Revenue Component. H.R. 1088 would reduce these three SEC-imposed fees and eliminate the portion of fee collections recorded as general revenues. The enrolled bill would continue to allow fees collected in excess of amounts needed to fund the SEC to offset discretionary spending under the jurisdiction of the Commerce, Justice, State Appropriations Subcommittees.

Transaction (Section 31) Fees. These fees are collected when securities are sold. The fees are intended to cover costs to the government of supervising and regulating securities markets and participants. Currently, the fee is $33.33 per $1 million traded through national securities exchanges (collected as general revenues), national securities associations (offsetting collections), and brokers and dealers (general revenues) through FY 2006. After FY 2006, the rate is set to decrease to $12.50 per $1 million in transactions. H.R. 1088 would reduce the fee to $15 per $1 million in FY 2002. After FY 2002, the SEC would set one transaction fee rate for all participants at the beginning of each fiscal year so that all transaction fees collected in that year equal a specified amount, the target offsetting amount. All of the fees would be recorded as offsetting collections. The enrolled bill would set these amounts as follows: $732 million for FY 2002; $849 million for FY 2003; $1,028 million for FY 2004; $1,220 million for FY 2005; $1,435 million for FY 2006; $881 million for FY 2007; $892 million for FY 2008; $1,023 million for FY 2009; $1,161 million for FY 2010; and $1,321 million for FY 2011. These fees would equal approximately $12 per $1 million in transactions through FY 2006. After FY 2006, they would equal approximately $7 per $1 million. A final adjustment in FY 2012 would occur to produce roughly the target amount for FY 2011 to be applied for transactions in all subsequent years. The SEC would be authorized to adjust the rates if the estimate of the aggregate dollar volume of sales for a particular fiscal year is "reasonably likely" to be 10 percent (or more) greater or less than the actual volume.

Registration (6(b)) Fees. These fees are paid by companies at the time of filing a registration for securities that are proposed to be offered (e.g., initial public offerings). The fees are currently set at $239 per $1 million of the maximum aggregate price of the securities, and will phase down to $200 per $1 million in FY 2006. After FY 2006, the fee is set to decrease to $67 per $1 million. Fees in excess of $200 per $1 million are counted as offsetting collections, and the remainder are collected as revenues. H.R. 1088 would set the fee at $92 per $1 million in FY 2002. After FY 2002, the SEC would set one transaction fee for all participants at the beginning of each fiscal year so that all transaction fees collected in that fiscal year equal a specified amount, the target offsetting amount. All of the fees would be recorded as offsetting collections. The enrolled bill would set these amounts as follows: $337 million for FY 2002; $435 million for FY 2003; $467 million for FY 2004; $570 million for FY 2005; $689 million for FY 2006; $214 million for FY 2007; $234 million for FY 2008; $284 million for FY 2009; $334 million for FY 2010; and $394 million for FY 2011, with a final rate adjustment in FY 2012 as with transaction fees above.

Merger/Tender Fees. Currently, companies pay these fees at a rate equal to $200 per $1 million of the value of securities proposed to be purchased as part of a merger at the time of filing. The fees are collected as revenues. H.R. 1088 would set these fees at $92 per $1 million in FY 2002. Thereafter, they would be adjusted to match the registration fee rate and they would be recorded as offsetting collections.

Other fees. Under the enrolled bill, fees on security futures transactions and transactions on options on security futures (excluding narrow-based security indices) would be reduced from $0.02 to $0.009 through FY 2006. They would be recorded as offsetting collections. After FY 2006, the fee would be further reduced to equal $0.0042 per transaction. In addition, the $100 fee for qualification of certain indentures under the Trust Indenture Act of 1939 would be eliminated.

"Pay Parity" for SEC Employees. H.R. 1088 would authorize the SEC to adjust the base rates of pay and other benefits for all of its employees to be comparable to the pay and benefits provided by certain other financial regulatory agencies. The other agencies are the Federal Deposit Insurance Corporation, the National Credit Union Administration, the Federal Housing Finance Board, the Farm Credit Administration, and Treasury's Office of the Comptroller of the Currency and Office of Thrift Supervision. Under current law, the SEC must follow the Civil Service's General Schedule for pay while the other agencies cited above may individually establish and adjust schedules of compensation and benefits. To implement the authority, the SEC would have to develop an implementation plan and submit a report to the House Financial Services and Government Reform Committees and the Senate Banking and Governmental Affairs Committees on the plan, including: evidence and supporting documentation and budget projections on costs and benefits resulting from the plan. (Approval of the plan would not be necessary before the SEC could implement it.)

Studies. H.R. 1088 would require the SEC to study the extent to which benefits of fee reductions are passed along to investors and submit a report on such study to Congress within two years of enactment. The enrolled bill would also require the General Accounting Office to study the impact and consequences of converting the SEC to a self-funded organization and submit a report on the study within 180 days of enactment to the House Financial Services and Government Reform Committees and the Senate Banking and Governmental Affairs Committees.

Administration Position to Date

The Administration strongly supported the fee reduction provisions of H.R. 1088, noting that current fee collections are far in excess of the SEC's budget, acting as a burden on investors and discouraging investment. The Administration opposed the bill's pay parity provisions because exempting individual agencies from government-wide personnel laws adversely affects the portability of Federal employees and fragments personnel systems.

Pay-As-You-Go Scoring

H.R. 1088 would affect receipts and direct spending; therefore it is subject to the pay-as-you-go requirements of the Budget Enforcement Act. OMB staff estimate that the reduction in fees would reduce revenues by $1.1 billion in FY 2002, $8.0 billion over FYs 2002-2006, and $13.3 billion over FYs 2002-2011. (These amounts are net of estimated increased corporate income tax collections, which are assumed to be 25 percent of the lost fee revenue.) The revenue effects included in this estimate capture only the revenue lost by eliminating the general revenue component of the fees. In fact, the fees credited to the Commerce, Justice, State Appropriations Subcommittees would increase versus OMB's baseline estimates by $133 million for FY 2002, $3.0 billion for FYs 2002-2006, and $6.1 billion for FYs 2002-2011. In scoring the revenue effect of the legislation, these additional fees are not counted because their collection is triggered by subsequent appropriations action.

Conclusion and Recommendations

The Securities and Exchange Commission recommends approval of H.R. 1088 because it will "provide meaningful securities fee relief to the nation's investors, those seeking to raise capital, and market participants, while assuring a full and stable long-term funding source" for the SEC. The SEC states that the pay parity provisions, if "appropriately funded," will help respond to the Commission's "staffing crisis" of recent years.

We join the SEC in recommending approval of H.R. 1088, which passed the House by a vote of 404-22 and the Senate by unanimous consent.

M. E. Daniels, Jr.

Mitchell E. Daniels, Jr.
Director

Enclosures

Withdrawal Marker
The George W. Bush Library

FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Letter	Re: H.R. 1088, the "Investor and Capital Markets Fee Relief Act" - To: POTUS - From: Harvey L. Pitt	3	12/26/2001	P5;

This marker identifies the original location of the withdrawn item listed above. For a complete list of items withdrawn from this folder, see the Withdrawal/Redaction Sheet at the front of the folder.

COLLECTION:
Executive Clerk, Office Of the
SERIES:
Saunders, G. Timothy (Tim) - Bill Files
FOLDER TITLE:
01/16/2002 [H.R. 1088] [1]
FRC ID:
782
OA Num.:
733
NARA Num.:
1459

FOIA IDs and Segments:

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advise between the President and his advisors, or between such advisors [a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

Deed of Gift Restrictions

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B. Closed by statute or by the agency which originated the document.
C. Closed in accordance with restrictions contained in donor's deed of gift.

Freedom of Information Act - [5 U.S.C. 552(b)]

b(1) National security classified information [(b)(1) of the FOIA]
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b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

Records Not Subject to FOIA

Court Sealed - The document is withheld under a court seal and is not subject to the Freedom of Information Act.

This Document was withdrawn on 8/14/2015 by AW.

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*** TX REPORT ***
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TRANSMISSION OK

TX/RX NO	1493
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CONNECTION ID	
ST. TIME	01/08 01:26
USAGE T	04'03
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RESULT	OK

SS/ RM NO. 505304

WHITE HOUSE STAFFING MEMORANDUM

Date: 1-7-02 ACTION / CONCURRENCE / COMMENT DUE BY: 1-8-02, 4:00 PM

Subject: H.R. 1088, INVESTOR AND CAPITAL MARKETS FEE RELIEF ACT

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☑	☐	HUBBARD	☑	☐
CARD	☑	☐	HUGHES	☑	☐
BLAKEMAN	☐	☐	IRASTORZA	☐	☐
BOLTEN	☑	☐	JOHNSON	☐	☐
CALIO	☑	☐	LINDSEY	☑	☐
CONNAUGHTON	☐	☐	MIERS	☐	☑
DANIELS	☐	☑	RICE	☐	☐
FLEISCHER	☑	☐	RIDGE	☐	☐
GERSON	☐	☐	ROVE	☑	☐
GONZALES	☑	☐	SPELLINGS	☑	☐
HAGIN	☐	☐	CLERK	☐	☑
HAWKINS	☑	☐	____________	☐	☐

REMARKS:
PLEASE SEND REMARKS TO STAFF SECRETARY, EXT. 62702, FAX 62215, NO LATER THAN 4:00 PM TUESDAY, 1-8-02. THANK YOU.

SS/ RM NO. 505304

WHITE HOUSE STAFFING MEMORANDUM

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Subject: H.R. 1088, INVESTOR AND CAPITAL MARKETS FEE RELIEF ACT

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☑	☐	HUBBARD	☑	☐
CARD	☑	☐	HUGHES	☑	☐
BLAKEMAN	☐	☐	IRASTORZA	☐	☐
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CONNAUGHTON	☐	☐	MIERS	☐	☑
DANIELS	☐	☑	RICE	☐	☐
FLEISCHER	☑	☐	RIDGE	☐	☐
GERSON	☐	☐	ROVE	☑	☐
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HAGIN	☐	☐	CLERK	☐	☑
HAWKINS	☑	☐	____________	☐	☐

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RESPONSE:

Harriet E. Miers
Assistant to the President
and Staff Secretary
Ext. 62702

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

'02 JAN 7 PM10:25

THE DIRECTOR

January 7, 2002

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Enrolled Bill H.R 1088 - Investor and Capital Markets Fee Relief Act
Sponsors - Rep. Fossella (R) New York and 45 cosponsors

Last Day for Action

January 16, 2002 - Wednesday

Purpose

Reduces the rates of fees charged by the Securities and Exchange Commission (SEC) for securities transactions, and eliminates the general revenue component of such fees; also establishes for employees of the SEC pay parity with other financial regulatory agencies.

Agency Recommendations

Office of Management and Budget	Approval
Securities and Exchange Commission	Approval
Department of the Treasury	No objection (Informally)
Office of Personnel Management	No objection (Informally)

Discussion

Background. Section 31 of the Securities Act of 1933 (the Act) imposed fees on transactions of exchange-traded securities at a rate equal to 1/500th of 1 percent of the aggregate amount of sales. These fees were all to be collected as general revenue. The rate was increased in 1965 to 1/300th of 1 percent. Section 6(b) of the Act imposed fees on the registration of securities at a rate equal to 1/100th of 1 percent of the offering price. These fees were also collected as general revenue. This rate was increased in 1965 to 1/50th of 1 percent.

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<u>Administration Position to Date</u>

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M. E. Daniels, Jr.

Mitchell E. Daniels, Jr.
Director

Enclosures

Withdrawal Marker
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FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Letter	Re: H.R. 1088, the "Investor and Capital Markets Fee Relief Act" - To: POTUS - From: Harvey L. Pitt	3	12/26/2001	P5;

This marker identifies the original location of the withdrawn item listed above. For a complete list of items withdrawn from this folder, see the Withdrawal/Redaction Sheet at the front of the folder.

COLLECTION:
Executive Clerk, Office Of the
SERIES:
Saunders, G. Timothy (Tim) - Bill Files
FOLDER TITLE:
01/16/2002 [H.R. 1088] [1]
FRC ID:
782
OA Num.:
733
NARA Num.:
1459

FOIA IDs and Segments:

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

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P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
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PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

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Freedom of Information Act - [5 U.S.C. 552(b)]

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Records Not Subject to FOIA

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WHITE HOUSE STAFFING MEMORANDUM

Date: 1-7-02 ACTION / CONCURRENCE / COMMENT DUE BY: 1-8-02, 4:00 PM

Subject: H.R. 1088, INVESTOR AND CAPITAL MARKETS FEE RELIEF ACT

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☑	☐	HUBBARD	☑	☐
CARD	☑	☐	HUGHES	☑	☐
BLAKEMAN	☐	☐	IRASTORZA	☐	☐
BOLTEN	☑	☐	JOHNSON	☐	☐
CALIO	☑	☐	LINDSEY	☑	☐
CONNAUGHTON	☐	☐	MIERS	☐	☑
DANIELS	☐	☑	RICE	☐	☐
FLEISCHER	☑	☐	RIDGE	☐	☐
GERSON	☐	☐	ROVE	☑	☐
GONZALES	☑	☐	SPELLINGS	☑	☐
HAGIN	☐	☐	CLERK	☐	☑
HAWKINS	☑	☐	______	☐	☐

REMARKS:
PLEASE SEND REMARKS TO STAFF SECRETARY, EXT. 62702, FAX 62215, NO LATER THAN 4:00 PM TUESDAY, 1-8-02. THANK YOU.

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RESPONSE:

Harriet E. Miers
Assistant to the President
and Staff Secretary
Ext. 62702

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

'02 JAN 7 PM10:25

THE DIRECTOR

January 7, 2002

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Enrolled Bill H.R 1088 - Investor and Capital Markets Fee Relief Act
Sponsors - Rep. Fossella (R) New York and 45 cosponsors

Last Day for Action

January 16, 2002 - Wednesday

Purpose

Reduces the rates of fees charged by the Securities and Exchange Commission (SEC) for securities transactions, and eliminates the general revenue component of such fees; also establishes for employees of the SEC pay parity with other financial regulatory agencies.

Agency Recommendations

Office of Management and Budget	Approval
Securities and Exchange Commission	Approval
Department of the Treasury	No objection (Informally)
Office of Personnel Management	No objection (Informally)

Discussion

Background. Section 31 of the Securities Act of 1933 (the Act) imposed fees on transactions of exchange-traded securities at a rate equal to 1/500th of 1 percent of the aggregate amount of sales. These fees were all to be collected as general revenue. The rate was increased in 1965 to 1/300th of 1 percent. Section 6(b) of the Act imposed fees on the registration of securities at a rate equal to 1/100th of 1 percent of the offering price. These fees were also collected as general revenue. This rate was increased in 1965 to 1/50th of 1 percent.

The 1983 Securities Exchange Act Amendments imposed fees on mergers, proxy solicitations, and other activities at a rate of 1/50th of 1 percent of the value of the securities involved. These fees were also collected as general revenue. In several appropriations acts in the 1990s, the registration fee rate was increased to 1/29th of 1 percent and all fees collected in excess of 1/50th of 1 percent were to be credited as offsetting collections for SEC appropriations.

The National Securities Markets Improvement Act of 1996 (NSMIA) reduced the fees to their current levels (specifics described below) in an effort, based on projections of securities market activities that total fee collections would fall, to allow the SEC to collect only enough fees to approximately equal the cost of running the SEC. (Due to surges in market activity in the last few years, fee collections have risen much higher than expected.) Under NSMIA, fee rates are scheduled to sharply decline in FY 2007.

Reduction in Fee Rates and Elimination of General Revenue Component. H.R. 1088 would reduce these three SEC-imposed fees and eliminate the portion of fee collections recorded as general revenues. The enrolled bill would continue to allow fees collected in excess of amounts needed to fund the SEC to offset discretionary spending under the jurisdiction of the Commerce, Justice, State Appropriations Subcommittees.

Transaction (Section 31) Fees. These fees are collected when securities are sold. The fees are intended to cover costs to the government of supervising and regulating securities markets and participants. Currently, the fee is $33.33 per $1 million traded through national securities exchanges (collected as general revenues), national securities associations (offsetting collections), and brokers and dealers (general revenues) through FY 2006. After FY 2006, the rate is set to decrease to $12.50 per $1 million in transactions. H.R. 1088 would reduce the fee to $15 per $1 million in FY 2002. After FY 2002, the SEC would set one transaction fee rate for all participants at the beginning of each fiscal year so that all transaction fees collected in that year equal a specified amount, the target offsetting amount. All of the fees would be recorded as offsetting collections. The enrolled bill would set these amounts as follows: $732 million for FY 2002; $849 million for FY 2003; $1,028 million for FY 2004; $1,220 million for FY 2005; $1,435 million for FY 2006; $881 million for FY 2007; $892 million for FY 2008; $1,023 million for FY 2009; $1,161 million for FY 2010; and $1,321 million for FY 2011. These fees would equal approximately $12 per $1 million in transactions through FY 2006. After FY 2006, they would equal approximately $7 per $1 million. A final adjustment in FY 2012 would occur to produce roughly the target amount for FY 2011 to be applied for transactions in all subsequent years. The SEC would be authorized to adjust the rates if the estimate of the aggregate dollar volume of sales for a particular fiscal year is "reasonably likely" to be 10 percent (or more) greater or less than the actual volume.

Registration (6(b)) Fees. These fees are paid by companies at the time of filing a registration for securities that are proposed to be offered (e.g., initial public offerings). The fees are currently set at $239 per $1 million of the maximum aggregate price of the securities, and will phase down to $200 per $1 million in FY 2006. After FY 2006, the fee is set to decrease to $67 per $1 million. Fees in excess of $200 per $1 million are counted as offsetting collections, and the remainder are collected as revenues. H.R. 1088 would set the fee at $92 per $1 million in FY 2002. After FY 2002, the SEC would set one transaction fee for all participants at the beginning of each fiscal year so that all transaction fees collected in that fiscal year equal a specified amount, the target offsetting amount. All of the fees would be recorded as offsetting collections. The enrolled bill would set these amounts as follows: $337 million for FY 2002; $435 million for FY 2003; $467 million for FY 2004; $570 million for FY 2005; $689 million for FY 2006; $214 million for FY 2007; $234 million for FY 2008; $284 million for FY 2009; $334 million for FY 2010; and $394 million for FY 2011, with a final rate adjustment in FY 2012 as with transaction fees above.

Merger/Tender Fees. Currently, companies pay these fees at a rate equal to $200 per $1 million of the value of securities proposed to be purchased as part of a merger at the time of filing. The fees are collected as revenues. H.R. 1088 would set these fees at $92 per $1 million in FY 2002. Thereafter, they would be adjusted to match the registration fee rate and they would be recorded as offsetting collections.

Other fees. Under the enrolled bill, fees on security futures transactions and transactions on options on security futures (excluding narrow-based security indices) would be reduced from $0.02 to $0.009 through FY 2006. They would be recorded as offsetting collections. After FY 2006, the fee would be further reduced to equal $0.0042 per transaction. In addition, the $100 fee for qualification of certain indentures under the Trust Indenture Act of 1939 would be eliminated.

"Pay Parity" for SEC Employees. H.R. 1088 would authorize the SEC to adjust the base rates of pay and other benefits for all of its employees to be comparable to the pay and benefits provided by certain other financial regulatory agencies. The other agencies are the Federal Deposit Insurance Corporation, the National Credit Union Administration, the Federal Housing Finance Board, the Farm Credit Administration, and Treasury's Office of the Comptroller of the Currency and Office of Thrift Supervision. Under current law, the SEC must follow the Civil Service's General Schedule for pay while the other agencies cited above may individually establish and adjust schedules of compensation and benefits. To implement the authority, the SEC would have to develop an implementation plan and submit a report to the House Financial Services and Government Reform Committees and the Senate Banking and Governmental Affairs Committees on the plan, including: evidence and supporting documentation and budget projections on costs and benefits resulting from the plan. (Approval of the plan would not be necessary before the SEC could implement it.)

Studies. H.R. 1088 would require the SEC to study the extent to which benefits of fee reductions are passed along to investors and submit a report on such study to Congress within two years of enactment. The enrolled bill would also require the General Accounting Office to study the impact and consequences of converting the SEC to a self-funded organization and submit a report on the study within 180 days of enactment to the House Financial Services and Government Reform Committees and the Senate Banking and Governmental Affairs Committees.

Administration Position to Date

The Administration strongly supported the fee reduction provisions of H.R. 1088, noting that current fee collections are far in excess of the SEC's budget, acting as a burden on investors and discouraging investment. The Administration opposed the bill's pay parity provisions because exempting individual agencies from government-wide personnel laws adversely affects the portability of Federal employees and fragments personnel systems.

Pay-As-You-Go Scoring

H.R. 1088 would affect receipts and direct spending; therefore it is subject to the pay-as-you-go requirements of the Budget Enforcement Act. OMB staff estimate that the reduction in fees would reduce revenues by $1.1 billion in FY 2002, $8.0 billion over FYs 2002-2006, and $13.3 billion over FYs 2002-2011. (These amounts are net of estimated increased corporate income tax collections, which are assumed to be 25 percent of the lost fee revenue.) The revenue effects included in this estimate capture only the revenue lost by eliminating the general revenue component of the fees. In fact, the fees credited to the Commerce, Justice, State Appropriations Subcommittees would increase versus OMB's baseline estimates by $133 million for FY 2002, $3.0 billion for FYs 2002-2006, and $6.1 billion for FYs 2002-2011. In scoring the revenue effect of the legislation, these additional fees are not counted because their collection is triggered by subsequent appropriations action.

Conclusion and Recommendations

The Securities and Exchange Commission recommends approval of H.R. 1088 because it will "provide meaningful securities fee relief to the nation's investors, those seeking to raise capital, and market participants, while assuring a full and stable long-term funding source" for the SEC. The SEC states that the pay parity provisions, if "appropriately funded," will help respond to the Commission's "staffing crisis" of recent years.

We join the SEC in recommending approval of H.R. 1088, which passed the House by a vote of 404-22 and the Senate by unanimous consent.

M. E. Daniels, Jr.

Mitchell E. Daniels, Jr.
Director

Enclosures

Withdrawal Marker
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FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Letter	Re: H.R. 1088, the "Investor and Capital Markets Fee Relief Act" - To: POTUS - From: Harvey L. Pitt	3	12/26/2001	P5;

This marker identifies the original location of the withdrawn item listed above. For a complete list of items withdrawn from this folder, see the Withdrawal/Redaction Sheet at the front of the folder.

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RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advise between the President and his advisors, or between such advisors [a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

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