

113TH CONGRESS  
1ST SESSION

# H. R. 3012

To establish the Securities and Derivatives Commission in order to combine the functions of the Commodity Futures Trading Commission and the Securities and Exchange Commission in a single independent regulatory commission.

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## IN THE HOUSE OF REPRESENTATIVES

AUGUST 2, 2013

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

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## A BILL

To establish the Securities and Derivatives Commission in order to combine the functions of the Commodity Futures Trading Commission and the Securities and Exchange Commission in a single independent regulatory commission.

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

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Markets and Trading Reorganization Act”.

1 (b) TABLE OF CONTENTS.—The table of contents of  
 2 this Act is as follows:

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

#### TITLE I—ESTABLISHMENT OF COMMISSION

- Sec. 101. Establishment.
- Sec. 102. Members; appointment; terms.
- Sec. 103. Organization of Commission.

#### TITLE II—TRANSFERS OF FUNCTIONS

- Sec. 201. Commodity Futures Trading Commission functions.
- Sec. 202. Securities and Exchange Commission functions.

#### TITLE III—ADMINISTRATIVE PROVISIONS

- Sec. 301. Personnel provisions.
- Sec. 302. General administrative provisions.

#### TITLE IV—FEE AND FUNDING AUTHORITY

- Sec. 401. Funding authority of the Commission.

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

- Sec. 501. Savings provisions.
- Sec. 502. Reference.
- Sec. 503. Amendments.

#### TITLE VI—EFFECTIVE DATE

- Sec. 601. Effective date.

### 3 **SEC. 2. PURPOSES.**

4 The purposes of this Act are—

- 5 (1) to establish a single Federal regulatory body
- 6 with jurisdiction over securities, derivatives, options,
- 7 futures, and related markets and instruments;
- 8 (2) to coordinate the regulation of relevant fi-
- 9 nancial markets;
- 10 (3) to strengthen investor confidence in United
- 11 States financial markets; and

1           (4) to ensure the efficiency and competitiveness  
2           of those markets.

3 **SEC. 3. DEFINITION.**

4           As used in this Act, the term “Commission”, other  
5 than where expressly referring to the Securities and Ex-  
6 change Commission or the Commodity Futures Trading  
7 Commission, means the Securities and Derivatives Com-  
8 mission established by section 101 of this Act.

9           **TITLE I—ESTABLISHMENT OF**  
10           **COMMISSION**

11 **SEC. 101. ESTABLISHMENT.**

12           There is established an independent regulatory com-  
13 mission to be known as the Securities and Derivatives  
14 Commission.

15 **SEC. 102. MEMBERS; APPOINTMENT; TERMS.**

16           (a) COMPOSITION OF COMMISSION.—The Commis-  
17 sion shall be composed of 5 commissioners appointed by  
18 the President, by and with the advice and consent of the  
19 Senate. One of the commissioners shall be designated by  
20 the President as chairperson. Not more than three of such  
21 commissioners shall be members of the same political  
22 party. Each commissioner shall be selected solely on the  
23 basis of integrity and demonstrated knowledge of the oper-  
24 ations of the markets subject to the jurisdiction of the  
25 Commission.

1 (b) QUALIFICATIONS.—In appointing commissioners  
2 under subsection (a), the President shall—

3 (1) select persons who each have demonstrated  
4 knowledge of securities, futures, swaps, or other de-  
5 rivatives, the regulation of such instruments, or the  
6 markets for agricultural or other types of commod-  
7 ities underlying transactions subject to the oversight  
8 of the Commission under this Act; and

9 (2) seek to ensure that the demonstrated knowl-  
10 edge of the commissioners is balanced with respect  
11 to such areas, with at least one commissioner having  
12 knowledge of the agricultural commodities market.

13 (c) TERMS.—Each commissioner shall be appointed  
14 for a term of 5 years, except that a commissioner may  
15 continue to serve after the expiration of such term until  
16 a successor is appointed and has qualified.

17 (1) The terms of office of the commissioners  
18 first taking office after the enactment of this Act  
19 shall expire, as designated by the President at the  
20 time of their appointment—

21 (A) one at the end of 1 year;

22 (B) two at the end of 3 years; and

23 (C) two at the end of 5 years.

24 (2) Any commissioner appointed to fill a va-  
25 cancy occurring prior to the expiration of the term

1 for which the predecessor was appointed shall be ap-  
2 pointed for the remainder of such term.

3 **SEC. 103. ORGANIZATION OF COMMISSION.**

4 (a) **REQUIRED DIVISIONS.**—The Commission shall  
5 establish the principal divisions and subdivisions of the  
6 Commission, including, at a minimum, the following three  
7 divisions:

8 (1) A Markets and Trading Division with over-  
9 sight of market conduct and utilities, the conduct of  
10 market professionals, and self-regulatory organiza-  
11 tions with regard to such market professionals, in-  
12 cluding related examination functions.

13 (2) An Issuers and Financial Disclosures Divi-  
14 sion with oversight of the issuance of securities, in-  
15 cluding investment companies and related rules and  
16 examinations.

17 (3) An Enforcement Division responsible for the  
18 enforcement of all rules of the Commission.

19 (b) **OTHER OFFICES.**—The Commission may estab-  
20 lish such other offices as it determines useful in the con-  
21 duct of the Commission's affairs.

1           **TITLE II—TRANSFERS OF**  
2                                   **FUNCTIONS**

3 **SEC. 201. COMMODITY FUTURES TRADING COMMISSION**  
4                                   **FUNCTIONS.**

5           There are transferred to the Commission all functions  
6 of the Commodity Futures Trading Commission and of  
7 any officer or component of the Commodity Futures Trad-  
8 ing Commission.

9 **SEC. 202. SECURITIES AND EXCHANGE COMMISSION FUNC-**  
10                                   **TIONS.**

11           There are transferred to the Commission all functions  
12 of the Securities and Exchange Commission and of any  
13 officer or component of the Securities and Exchange Com-  
14 mission.

15           **TITLE III—ADMINISTRATIVE**  
16                                   **PROVISIONS**

17 **SEC. 301. PERSONNEL PROVISIONS.**

18           (a) APPOINTMENT AND COMPENSATION.—The Com-  
19 mission may appoint and fix the compensation of such of-  
20 ficers and employees as may be necessary to carry out the  
21 functions of the Commission. Except as otherwise provided  
22 by law, such officers and employees shall be appointed in  
23 accordance with the civil service laws and the compensa-  
24 tion of such employees shall be fixed in accordance with  
25 section 4802 of title 5, United States Code. The Commis-

1 sion shall, in accordance with such section, adjust the com-  
2 pensation of employees so that the compensation of em-  
3 ployees transferred from the Commodity Futures Trading  
4 Commission pursuant to subsection (b) and the compensa-  
5 tion of employees transferred from the Securities and Ex-  
6 change Commission under such subsection are aligned. In  
7 making such an adjustment, the Commission shall not re-  
8 duce the compensation of any employee.

9 (b) TRANSFER OF EMPLOYEES.—

10 (1) IN GENERAL.—All employees of the Com-  
11 modity Futures Trading Commission and the Securi-  
12 ties and Exchange Commission shall be transferred  
13 to the Commission. Each employee to be transferred  
14 under this subsection shall be transferred not later  
15 than 90 days after the effective date set forth in sec-  
16 tion 601.

17 (2) EMPLOYEE STATUS AND FUNCTIONS.—

18 (A) STATUS.—The transfer of employees  
19 under this section shall not affect the status of  
20 the transferred employees as employees of an  
21 agency of the United States under any provi-  
22 sion of law. Each transferred employee shall be  
23 placed in a position at the Commission with the  
24 same status and tenure as the transferred em-

1           employee held on the day before the date on which  
2           the employee was transferred.

3           (B) FUNCTIONS.—To the extent prac-  
4           ticable, each transferred employee shall be  
5           placed in a position at the Commission respon-  
6           sible for the same functions and duties as the  
7           transferred employee had on the day before the  
8           date on which the employee was transferred, in  
9           accordance with the expertise and preferences  
10          of the transferred employee.

11          (3) PERSONNEL ACTIONS LIMITED.—

12           (A) PROTECTION.—Except as provided in  
13           subparagraph (B), each transferred employee  
14           shall not, during the 3-year period beginning on  
15           the transfer date, be involuntarily separated, or  
16           involuntarily reassigned outside his or her local-  
17           ity pay area.

18           (B) EXCEPTIONS.—Subparagraph (A) does  
19           not limit the right of the Commission to—

20                   (i) separate an employee for cause or  
21                   for unacceptable performance;

22                   (ii) terminate an appointment to a po-  
23                   sition excepted from the competitive service  
24                   because of its confidential policy-making,



1 policy-determining, or policy-advocating  
2 character; or

3 (iii) reassign an employee outside such  
4 employee's locality pay area when the  
5 Commission determines that the reassign-  
6 ment is necessary for the efficient oper-  
7 ation of the Commission.

8 (4) PAY.—

9 (A) PROTECTION.—

10 (i) IN GENERAL.—Except as provided  
11 in clause (ii), each transferred employee  
12 shall, during the 3-year period beginning  
13 on the designated transfer date, receive  
14 pay at a rate equal to not less than the  
15 basic rate of pay (including any geographic  
16 differential) that the employee received  
17 during the pay period immediately pre-  
18 ceding the date of transfer.

19 (ii) LIMITATION.—Notwithstanding  
20 clause (i), if the employee was receiving a  
21 higher rate of basic pay on a temporary  
22 basis (because of a temporary assignment,  
23 temporary promotion, or other temporary  
24 action) immediately before the date of  
25 transfer, the Commission may reduce the

1 rate of basic pay on the date on which the  
2 rate would have been reduced but for the  
3 transfer, and the protected rate for the re-  
4 mainder of the 3-year period shall be the  
5 reduced rate that would have applied, but  
6 for the transfer.

7 (B) EXCEPTIONS.—Subparagraph (A) does  
8 not limit the right of the Commission to reduce  
9 the rate of basic pay of a transferred em-  
10 ployee—

11 (i) for cause or for unacceptable per-  
12 formance; or

13 (ii) with the consent of the employee.

14 (C) PROTECTION ONLY WHILE EM-  
15 PLOYED.—Subparagraph (A) applies to a trans-  
16 ferred employee only while that employee re-  
17 mains employed by the Commission.

18 (D) PAY INCREASES PERMITTED.—Sub-  
19 paragraph (A) does not limit the authority of  
20 the Commission to increase the pay of a trans-  
21 ferred employee.

22 **SEC. 302. GENERAL ADMINISTRATIVE PROVISIONS.**

23 (a) GENERAL AUTHORITY.—In carrying out any  
24 function transferred by this Act, the Commission, or any  
25 officer or employee of the Commission, may exercise any

1 authority available by law with respect to such function  
2 to the official or agency from which such function is trans-  
3 ferred, and the actions of the Commission, or any officer  
4 or employee of the Commission in exercising such author-  
5 ity shall have the same force and effect as when exercised  
6 by such official or agency.

7 (b) RULES.—The Commission may prescribe such  
8 rules and regulations as the Commission determines nec-  
9 essary or appropriate to administer and manage the func-  
10 tions of the Commission.

11 (c) CONTRACTS.—The Commission may make, enter  
12 into, and perform such contracts, grants, leases, coopera-  
13 tive agreements, or other similar transactions with Fed-  
14 eral or other public agencies (including State and local  
15 governments) and private organizations and persons, and  
16 make such payments, by way of advance or reimburse-  
17 ment, as the Commission may determine necessary or ap-  
18 propriate to carry out functions of the Commission.

19 (d) REGIONAL AND FIELD OFFICES.—The Commis-  
20 sion may establish, alter, discontinue, or maintain such  
21 regional or other field offices as the Commission may find  
22 necessary or appropriate to perform functions of the Com-  
23 mission.

24 (e) RESERVE FUND.—The Commission may obligate  
25 amounts in the Reserve Fund established under section

1 4(i) of the Securities Exchange Act of 1934 (15 U.S.C.  
2 78d(i)), not to exceed a total of \$100,000,000 in any 1  
3 fiscal year, as the Commission determines is necessary to  
4 carry out the functions of the Commission, including those  
5 transferred by title II of this Act. Any amounts in the  
6 reserve fund shall remain available until expended. Not  
7 later than 10 days after the date on which the Commission  
8 obligates amounts under this subsection, the Commission  
9 shall notify Congress of the date, amount, and purpose  
10 of the obligation.

11 **TITLE IV—FEE AND FUNDING**  
12 **AUTHORITY**

13 **SEC. 401. FUNDING AUTHORITY OF THE COMMISSION.**

14 (a) COMMODITY FUTURES TRADING COMMISSION.—

15 Section 12 of the Commodity Exchange Act (7 U.S.C. 16)  
16 is amended—

17 (1) in subsection (b)(1), by striking “and as  
18 may be from time to time appropriated for by Con-  
19 gress”;

20 (2) by striking subsection (d); and

21 (3) in subsection (f)(3), by striking “Any pay-  
22 ment or reimbursement accepted shall be considered  
23 a reimbursement to the appropriated funds of the  
24 Commission.” and inserting “Such payments or re-

1       imbursements shall be available to the Commission  
2       without further appropriation.”.

3       (b) SECURITIES AND EXCHANGE COMMISSION.—Sec-  
4       tion 31 of the Securities Exchange Act of 1934 (15 U.S.C.  
5       78ee) is amended—

6               (1) in subsection (a)—

7                       (A) in the heading for such subsection, by  
8                       striking “RECOVERY OF COSTS OF ANNUAL AP-  
9                       PROPRIATION” and inserting “IN GENERAL”;  
10                      and

11                     (B) by striking “recover the costs to the  
12                     Government of the annual appropriation to the  
13                     Commission by Congress” and inserting “cover  
14                     the costs to the Commission for the supervision  
15                     and regulation of securities markets and securi-  
16                     ties professionals, and use such fees and assess-  
17                     ments without further appropriation”;

18               (2) by striking subsection (i);

19               (3) in subsection (j)—

20                     (A) by striking “regular appropriation to  
21                     the Commission by Congress” each place such  
22                     term appears and inserting “target offsetting  
23                     collection amount”; and

24                     (B) by amending paragraph (4)(A) to read  
25                     as follows:

1           “(A) ANNUAL ADJUSTMENT.—An adjusted  
2           rate prescribed under paragraph (1) shall take  
3           effect on the first day of the fiscal year to  
4           which such rate applies.”; and  
5           (4) by striking subsection (k).

6 **TITLE V—TRANSITIONAL, SAV-**  
7 **INGS, AND CONFORMING**  
8 **PROVISIONS**

9 **SEC. 501. SAVINGS PROVISIONS.**

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

13           (1) which have been issued, made, granted, or  
14           allowed to become effective by the President, the Se-  
15 curities and Exchange Commission, or the Com-  
16 modity Futures Trading Commission, or any compo-  
17 nent thereof, or by a court of competent jurisdiction,  
18           in the performance of functions which are trans-  
19           ferred under this Act to the Commission, and

20           (2) which are in effect at the time this Act  
21           takes effect,

22 shall continue in effect according to their terms until  
23 modified, terminated, superseded, set aside, or revoked in  
24 accordance with the law by the President, the Commission,

1 or other authorized official, a court of competent jurisdic-  
2 tion, or by operation of law.

3 (b) CONTINUITY OF PROCEEDINGS.—

4 (1) IN GENERAL.—The provisions of this Act  
5 shall not affect any proceedings, including notices of  
6 proposed rulemaking, or any application for any li-  
7 cense, permit, certificate, or financial assistance  
8 pending on the effective date of this Act before ei-  
9 ther the Securities and Exchange Commission or the  
10 Commodity Futures Trading Commission, or any  
11 component thereof, functions of which are trans-  
12 ferred by this Act. Such proceedings and applica-  
13 tions, to the extent that they relate to functions so  
14 transferred, shall be continued. Orders shall be  
15 issued in such proceedings, appeals shall be taken  
16 therefrom, and payments shall be made pursuant to  
17 such orders, as if this Act had not been enacted and  
18 orders issued in any such proceedings shall continue  
19 in effect until modified, terminated, superseded, or  
20 revoked by the Commission, by a court of competent  
21 jurisdiction, or by operation of law. Nothing in this  
22 subsection shall be construed to prohibit the dis-  
23 continuance or modification of any such proceeding  
24 under the same terms and conditions and to the  
25 same extent that such proceeding could have been

1 discontinued or modified if this Act had not been en-  
2 acted.

3 (2) REGULATIONS CONCERNING TRANSFERS.—

4 The Commission may prescribe regulations providing  
5 for the orderly transfer of proceedings continued  
6 under paragraph (1) to the Commission.

7 (c) PENDING LITIGATION.—Except as provided in  
8 subsection (e)—

9 (1) the provisions of this Act shall not affect  
10 suits commenced prior to the effective date of this  
11 Act; and

12 (2) in all such suits, proceedings shall be had,  
13 appeals taken, and judgments rendered in the same  
14 manner and effect as if this Act had not been en-  
15 acted.

16 (d) NONABATEMENT.—No suit, action, or other pro-  
17 ceeding commenced by or against any officer in the official  
18 capacity of such individual as an officer of the Securities  
19 and Exchange Commission or the Commodity Futures  
20 Trading Commission, or any component thereof, functions  
21 of which are transferred by this Act, shall abate by reason  
22 of the enactment of this Act. No cause of action by or  
23 against any department or agency, functions of which are  
24 transferred by this Act, or by or against any officer there-



1 of in the official capacity of such officer shall abate by  
2 reason of the enactment of this Act.

3 (e) SUBSTITUTION OF PARTIES.—If, before the date  
4 on which this Act takes effect, the Securities and Ex-  
5 change Commission or the Commodity Futures Trading  
6 Commission, or any component thereof, or officer thereof  
7 in the official capacity of such officer, is a party to a suit,  
8 and under this Act any function of such department, agen-  
9 cy, or officer is transferred to the Commission or any  
10 other official of the Commission, then such suit shall be  
11 continued with the Commission or other appropriate offi-  
12 cial of the Commission substituted or added as a party.

13 (f) JUDICIAL REVIEW AS REQUIRED BY EXISTING  
14 LAW.—Orders and actions of the Commission in the exer-  
15 cise of functions transferred under this Act shall be sub-  
16 ject to judicial review to the same extent and in the same  
17 manner as if such orders and actions had been by the  
18 agency or office, or part thereof, exercising such functions  
19 immediately preceding their transfer. Any statutory re-  
20 quirements relating to notice, hearings, action upon the  
21 record, or administrative review that apply to any function  
22 transferred by this Act shall apply to the exercise of such  
23 function by the Commission.

1 **SEC. 502. REFERENCE.**

2 Any reference in any other Federal law to the Securi-  
3 ties and Exchange Commission or the Commodity Futures  
4 Trading Commission shall be deemed a reference to the  
5 Securities and Derivatives Commission established by this  
6 Act.

7 **SEC. 503. AMENDMENTS.**

8 (a) EXECUTIVE SCHEDULE SALARIES.—

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

11 (A) by striking “Chairman, Securities and  
12 Exchange Commission.” and inserting “Chair-  
13 person, Securities and Derivatives Commis-  
14 sion.”; and

15 (B) by striking “Chairman, Commodity  
16 Futures Trading Commission.”.

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

19 (A) by striking “Members, Securities and  
20 Exchange Commission” and inserting “Mem-  
21 bers, Securities and Derivatives Commission”;  
22 and

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

25 (b) CONFORMING AMENDMENTS.—

1           (1) SECURITIES EXCHANGE ACT.—Sections 4(a)  
2 of the Securities Exchange Act of 1934 (15 U.S.C.  
3 78d(a)) is amended—

4           (A) by striking “There is hereby estab-  
5 lished a Securities and Exchange Commission  
6 (hereinafter referred to as the ‘Commission’) to  
7 be composed of five commissioners to be ap-  
8 pointed by the President by and with the advice  
9 and consent of the Senate. Not more than three  
10 of such commissioners shall be members of the  
11 same political party, and in making appoint-  
12 ments members of different political parties  
13 shall be appointed alternately as nearly as may  
14 be practicable.”; and

15           (B) by striking “Each commissioner shall  
16 hold office for a term of five years and until his  
17 successor is appointed and has qualified, except  
18 that he shall not so continue to serve beyond  
19 the expiration of the next session of Congress  
20 subsequent to the expiration of said fixed term  
21 of office, and except (1) any commissioner ap-  
22 pointed to fill a vacancy occurring prior to the  
23 expiration of the term for which his predecessor  
24 was appointed shall be appointed for the re-  
25 mainder of such term, and (2) the terms of of-

1           fice of the commissioners first taking office  
2           after the enactment of this title shall expire as  
3           designated by the President at the time of nom-  
4           ination, one at the end of one year, one at the  
5           end of two years, one at the end of three years,  
6           one at the end of four years, and one at the end  
7           of five years, after the date of the enactment of  
8           this title.”.

9           (2) COMMODITY EXCHANGE ACT.—Section 2(a)  
10          of the Commodity Exchange Act (7 U.S.C. 2a) is  
11          amended by striking paragraphs (2), (3), and (4).

12          (3) DODD-FRANK.—Section 111(b)(1) of the  
13          Dodd-Frank Wall Street Reform and Consumer Pro-  
14          tection Act (12 U.S.C. 5321(b)(1)) is amended—

15                 (A) by amending subparagraph (E) to read  
16                 as follows:

17                         “(E) the Chairperson of the Securities and  
18                         Derivatives Commission;”;

19                 (B) by striking subparagraph (G); and

20                 (C) by redesignating subparagraphs (H),  
21                 (I), and (J) as subparagraphs (G), (H), and  
22                 (I), respectively.

1       **TITLE VI—EFFECTIVE DATE**

2   **SEC. 601. EFFECTIVE DATE.**

3       The provisions of this Act shall take effect 1 year  
4 after the date of enactment of this Act, except that the  
5 President may nominate and the Senate confirm Commis-  
6 sioners prior to such date.

○