

The following item was added to the closed meeting held on Wednesday, April 24, 2002: an adjudicatory matter.

Commissioner Hunt, as duty officer, determined that Commission business required the above change and that no earlier notice thereof was possible.

For further information please contact the Office of the Secretary at (202) 942-7070.

Dated: April 29, 2002.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 02-10974 Filed 4-29-02; 4:53 pm]

BILLING CODE 8010-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 33-8095 and 34-45842/April 29, 2002]

### Order Making Fiscal 2003 Annual Adjustments to the Fee Rates Applicable Under Section 6(b) of the Securities Act of 1933 and Sections 13(e), 14(g), 31(b) and 31(c) the Securities Exchange Act of 1934

#### I. Background

The Commission collects fees under various provisions of the securities laws. Section 6(b) of the Securities Act of 1933 ("Securities Act") requires the Commission to collect fees from issuers on the registration of securities.<sup>1</sup> of the Securities Exchange Act of 1934 ("Exchange Act" requires the Commission to collect fees on certain repurchases of securities.<sup>2</sup> Section 14(g) of the Exchange Act requires the Commission to collect fees on proxy solicitations and statements in corporate control transactions.<sup>3</sup> Fiscally, sections 31(b) and (c) of the Exchange Act require the Commission to collect fees from national securities exchanges and national securities associations, respectively, on transactions.<sup>4</sup>

On January 16, 2002, the President signed the Investor and Capital Markets Fee Relief Act ("Fee Relief Act").<sup>5</sup> The Fee Relief Act reduced that fee rates applicable under section 6(b) of the Securities 13(e), 14(g), 31(b) and 31(c) of the Exchange Act. The Fee Relief Act also amended these sections to require the Commission to make annual adjustments to the fee rates applicable

under these sections for each of the fiscal years 2003 through 2011, and one final adjustments to fix the fee rates under these sections for fiscal year 2012 and beyond.<sup>6</sup>

#### II. Fiscal 2002 Annual Adjustment to the Fee Rates Applicable Under Section 6(b) of the Securities Act and Sections 13(e) and 14(g) of the Exchange Act

Paragraph 6(b)(2) of the Securities Act requires an issuer to pay to the Commission a fee at an initial rate of \$92 per million of the maximum aggregate offering price at which securities are proposed to be offered. This same fee rate applies to certain repurchases of securities under section 13(e) of the Exchange Act and proxy solicitations and statements in corporate control transactions under section 14(g) of the Exchange Act.

Paragraph 6(b)(5) of the Securities Act requires the Commission to make an annual adjustment to the fee rate applicable under paragraph 6(b)(2) of the Securities Act in each of the fiscal years 2003 through 2011.<sup>7</sup> In those same fiscal years, paragraphs 13(e)(5) and 14(g)(5) of the Exchange Act require the Commission to adjust the fee rates under Sections 13(e) and 14(g) to a rate that is equal to the rate that is applicable under Section 6(b). In other words, the annual adjustment to the fee rate under section 6(b) of the Securities Act also sets the annual adjustment to the fee rates under sections 13(e) and 14(g) of the Exchange Act.

Paragraph 6(b)(5) specifies the method for determining the annual adjustment to the fee rate Section 6(b) for fiscal 2003. Specifically, the Commission must adjust the fee rate under Section 6(b) to a "rate that, when applied to the baseline estimate of the aggregate maximum offering prices for [fiscal year 2003], is reasonable likely to produce aggregate fee collections under [Section 6(b)] that are equal to the target offsetting collection amount for [fiscal 2003]." That is, the adjusted rate is determined by dividing the "target offsetting collection amount" for fiscal 2003 by the "baseline estimate of the

aggregate maximum offering prices" for fiscal 2003.

Paragraph 6(b)(11)(A) specifies that the "target offsetting collection amount" for fiscal 2003 is \$435,000,000.<sup>8</sup> Paragraph 6(b)(11)(B) defines the "baseline estimate of the aggregate maximum offering price" for fiscal 2003 as 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 [fiscal 2003] as determined by the Commission, after consultation with the Congressional Budget Office and the Office of Management and Budget.

\* \* \*

Using a methodology developed in consultation with the Congressional Budget Office ("CBO") and Office of Management and Budget ("OMB"), the Commission determines the "baseline estimate of the aggregate maximum offering price" for fiscal 2003 to be \$5,379,329,602,021.<sup>9</sup> Based on this estimate, the Commission calculates the annual adjustment for fiscal 2003 to be \$80.90 per million. This adjusted fee rate applies to section 6(b) of the Securities Act, as well as to sections 13(e) and 14(g) of the Exchange Act.

#### III. Fiscal 2003 Annual Adjustment to the Fee Rates Applicable Under Sections 31(b) and (c) of the Exchange Act

Section 31(b) of the Exchange Act requires each national securities exchange to pay the Commission a fee at a rate, as adjusted by our order pursuant to paragraph 31(j)(2), of \$30.10 per million of the aggregate dollar amount of sales of certain securities transacted on the exchange.<sup>10</sup> Similarly, Section 31(c) requires each national securities association to pay the Commission a fee at the same adjusted rate on the aggregate dollar amount of

<sup>8</sup> Congress determined the target offsetting collection amounts by applying reduced fee rates to the CBO's January 2001 projection of the aggregate maximum offering prices for fiscal years 2002 through 2011. In any fiscal year through fiscal 2011, the annual adjustment mechanism will result in additional fee reductions if the CBO's January 2001 projection of the aggregate maximum offering prices for the fiscal year proves to be too low, and fee rate increases if the CBO's January 2001 projection of the aggregate maximum offering prices for the fiscal year proves to be too high.

<sup>9</sup> Appendix A explains how we determined the "baseline estimate of the aggregate maximum offering price" for fiscal 2003 using our methodology, and then shows the purely arithmetical process of calculating the fiscal 2003 annual adjustment based on that estimate. The appendix includes the data used by the Commission in making its "baseline estimate of the aggregate maximum offering price" for fiscal 2003.

<sup>10</sup> Exchange Act Release No. 45489 (March 1, 2002), 67 FR 10239 (March 6, 2002).

<sup>1</sup> 15 U.S.C. 77f(b).

<sup>2</sup> 15 U.S.C. 78m(e).

<sup>3</sup> 15 U.S.C. 78n(g).

<sup>4</sup> 15 U.S.C. 77ee(j)(1) and (j)(3). Section 31(d) of the Exchange Act also requires the Commission to collect assessments from national securities exchanges and national securities associations for round turn transactions on security futures.

<sup>5</sup> Pub. L. No. 107-123, 115 Stat. 2390 (2002).

<sup>6</sup> See 15 U.S.C. 77f(b)(5), 77f(b)(6), 78m(e)(5), 78m(e)(6), 78n(g)(6), 78n(g)(5) 78ee(j)(1), and 78ee(j)(3). Paragraph 31(j)(2) of the Exchange Act, 15 U.S.C. 78ee(j)(2), also requires the Commission, in certain circumstances, to make a mid-year adjustment to the fee rates under Sections 31(b) and (c) of the Exchange Act in fiscal 2002 through fiscal 2011.

<sup>7</sup> The annual adjustments are designed to adjust the fee rate in a given fiscal year so that, when applied to the aggregate maximum offering price at which securities are proposed to be offered for the fiscal year, it is reasonably likely to produce total fee collections under Section 6(b) equal to the "target offsetting collection amount" specified in Section 6(b)(11)(A) for that fiscal year.

sales of certain securities transacted by or through any member of the association otherwise than on an exchange. Section 31(j)(1) requires the Commission to make annual adjustments to the fee rates applicable under Sections 31(b) and (c) for each of the fiscal years 2003 through 2011.<sup>11</sup>

Paragraph 31(j)(1) specifies the method for determining the annual adjustment for fiscal 2003. Specifically, the Commission must adjust the rates under Sections 31(b) and (c) to a “uniform adjust rate that, when applied to the baseline estimate of the aggregate amount of sales for [fiscal 2003], is reasonably likely to produce aggregate fee collections under [Section 31] (including assessments collected under [Section 31(d)]) that are equal to the target offsetting collection amount for [fiscal 2003].”

Paragraph 31(1)(1) specifies that the “target offsetting collection amount” for fiscal 2003 is \$849,000,000.<sup>12</sup> Paragraph 31(1)(2) defines the “baseline estimate of the aggregate dollar amount of sales” as “the baseline estimate of the aggregate dollar amount of sales of securities \* \* \* 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 [fiscal 2003] as determined by the Commission, after consultation with the Congressional Budget Office and the Office of Management and Budget. \* \* \*”

To make the baseline estimate of the aggregate dollar amount of sales for fiscal year 2003, the Commission is using the same methodology it developed in consultation with the CBO and OMB for making projections of dollar volume for purposes of the fiscal 2002 mid-year adjustment.<sup>13</sup> Using this

methodology, the Commission calculates the baseline estimate of the aggregate dollar amount of sales for fiscal 2003 to be \$33,158,519,250,001. Based on this estimate, and an estimated collection of \$450,000 in assessments on securities futures products in fiscal 2003,<sup>14</sup> the uniform adjusted rate is \$25.20 per million.<sup>15</sup>

## VI. Effective Dates of the Annual Adjustments

Subparagraph 6(b)(8)(A) of the Securities Act provides that the fiscal 2003 annual adjustment to the fee rate applicable under section 6(b) of the Securities Act shall take effect on the later of October 1, 2002, or five days after the date on which a regular appropriation to the Commission for fiscal 2003 is enacted.<sup>16</sup> Subparagraphs 13(e)(8)(A) and 14(g)(8)(A) of the Exchange Act provide for the same effective date for the annual adjustment to the fee rates applicable under section 13(e) and 14(g) of the Exchange Act.<sup>17</sup>

Subparagraph 31(j)(4)(A) of the Exchange Act provides that the fiscal 2003 annual adjustments to the fee rates applicable under section 31(b) and (c) of the Exchange Act shall take effect on the later of October 1, 2002, or thirty days after the date on which a regular appropriation to the Commission for fiscal 2003 is enacted.

## V. Conclusion

Accordingly, pursuant to section 6(b) of the Securities Act and sections 13(e), 14(g) and 31(j) of the Exchange Act,<sup>18</sup>

*It is hereby ordered* that the fee rates applicable under section 6(b) of the Securities Act and sections 13(e) and 14(g) of the Exchange Act shall be \$80.90 per million effective on the later of October 1, 2002, or five days after the date on which a regular appropriation to the Commission for fiscal 2003 is enacted; and

*It is further ordered* that the fee rates applicable under sections 31(b) and (c) of the Exchange Act shall be \$25.20 per

million effective on the later of October 1, 2002, or thirty days after the date on which a regular appropriation to the Commission for fiscal 2003 is enacted.

By the Commission.

**Margaret H. McFarland,**  
Deputy Secretary.

## Appendix A

### A. Baseline Estimate of the Aggregate Maximum Offering Prices for Fiscal Year 2003 Subject to Securities Act Section 6(b)

First, calculate the aggregate maximum offering prices (AMOP) for each month in the sample (March 1992–March 2002). Next, calculate the percentage change in the AMOP from month-to-month.

Model the monthly percentage change in AMOP as a first order moving average process. The moving average approach allows one to model the effect that an exceptionally high (or low) observation of AMOP tends to be followed by a more “typical” value of AMOP.

Use the estimated moving average model to forecast the monthly percent change in AMOP. These percent changes can then be applied to obtain forecasts of the monthly aggregate maximum offering prices. The following is a more formal (mathematical) description of the procedure:

1. Begin with the monthly data for AMOP. The sample spans ten years from March 1992 to March 2002. There are 6 months in the sample for which the data are not used because of the impact of extraordinary events (e.g., the 1995 government shutdown).

2. Divide each month's AMOP (column C) by the number of trading days in that month (column B) to obtain the average daily AMOP (AAMOP, column D).

3. For each month  $t$ , the natural logarithm of AAMOP is reported in column E.

4. Calculate the change in  $\log(\text{AAMOP})$  from the previous month as  $\Delta_t = \log(\text{AAMOP}_t) - \log(\text{AAMOP}_{t-1})$ . This approximates the percentage change.

5. Estimate the first order moving average model  $\Delta_t = \alpha + \beta\epsilon_{t-1} + \epsilon_t$ , where  $\epsilon_t$  denotes the forecast error for month  $t$ . The forecast error is simply the difference between the one-month ahead forecast and the actual realization of  $\Delta_t$ . The forecast error is expressed as  $\epsilon_t = \Delta_t - \alpha - \beta\epsilon_{t-1}$ . The model can be estimated using standard commercially available software such as SAS or Eviews. Using least squares, the estimated parameter values are  $\alpha = 0.01292$  and  $\beta = -0.78083$ .

6. For the month of April 2002, forecast  $\Delta_{t=4/02} = \alpha + \beta\epsilon_{t=3/02}$ . For all subsequent months, forecast  $\Delta_t = \alpha$ .

7. Calculate forecasts of  $\log(\text{AAMOP})$ . For example, the forecast of  $\log(\text{AAMOP})$  for June 2002 is given by  $\text{FLAAMOP}_{t=6/02} = \log(\text{AAMOP}_{t=3/02}) + \Delta_{t=4/02} + \Delta_{t=5/02} + \Delta_{t=6/02}$ .

8. Under the assumption that  $\epsilon_t$  is normally distributed, the  $n$ -step ahead forecast of AAMOP is given by  $\exp(\text{FLAAMOP}_t + \sigma_n^2/2)$ , where  $\sigma_n$  denotes the standard error of the  $n$ -step ahead forecast.

9. For June 2002, this gives a forecast AAMOP of \$18.5 Billion (Column I), and a forecast AMOP of \$369.9 Billion (Column J).

<sup>11</sup> The annual adjustments, as well as the mid-year adjustments required in certain circumstances under paragraph 31(j)(2) in fiscal 2002 through fiscal 2011, are designed to adjust the fee rates in a given fiscal year so that, when applied to the aggregate dollar volume of sales for the fiscal year, they are reasonably likely to produce total fee collections under Section 31 equal to the “target offsetting collection amount” specified in Section 31(l)(1) for that fiscal year.

<sup>12</sup> Congress determined the target offsetting collection amounts by applying reduced fee rates to the CBO's January 2001 projections of dollar volume for fiscal years 2002 through 2011. In any fiscal year through fiscal 2011, the annual and, in certain circumstances, mid-year adjustment mechanisms will result in additional fee rate reductions if the CBO's January 2001 projection of dollar volume for the fiscal year proves to be too low, and fee rate increases if the CBO's January 2001 projection of dollar volume for the fiscal year proves to be too high.

<sup>13</sup> Appendix B explains how we determined the “baseline estimate of the aggregate dollar amount of sales” for fiscal 2003 using our methodology, and

then shows the purely arithmetical process of calculating the fiscal 2003 annual adjustment based on that estimate. The appendix also includes the data used by the Commission in making its “baseline estimate of the aggregate dollar amount of sales” for fiscal 2003.

<sup>14</sup> This estimate is based on the CBO's August 2001 estimate of Section 31(d) collections in fiscal 2003, adjusted to reflect the Fee Relief Act's reduction in the Section 31(d) assessment.

<sup>15</sup> As explained in Appendix B, the calculation of the adjusted fee rate assumes that the current fee rate of \$30.10 per million will apply through October 31st due to the operation of the effective date provision contained in subparagraph 31(j)(4)(A) of the Exchange Act.

<sup>16</sup> 15 U.S.C. 77f(b)(8)(A).

<sup>17</sup> 15 U.S.C. 78m(e)(8)(A) and 78n(g)(8)(A).

<sup>18</sup> U.S.C. 77f(b), 78m(e), 78n(g), and 78ee(j).

10. Iterate this process through September 2003 to obtain a baseline estimate of the aggregate maximum offering prices for fiscal year 2003 of \$5,379,329,602,021.

*B. Using the Forecasts From A To Calculate the New Fee Rate.*

1. Using the data from Table A1, estimate the aggregate maximum offering prices between 10/1/02 and 9/30/03 to be \$5,379,329,602,021.

2. The rate necessary to collect the target \$435,000,000 in fee revenues is then calculated as:  $\$435,000,000 \div \$5,379,329,602,021 = 0.00008090$ .

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**Figure A1.**  
Aggregate Maximum Offering Prices Subject to Securities Act Section 6(b)  
(Dashed Line Indicates Forecast Values)

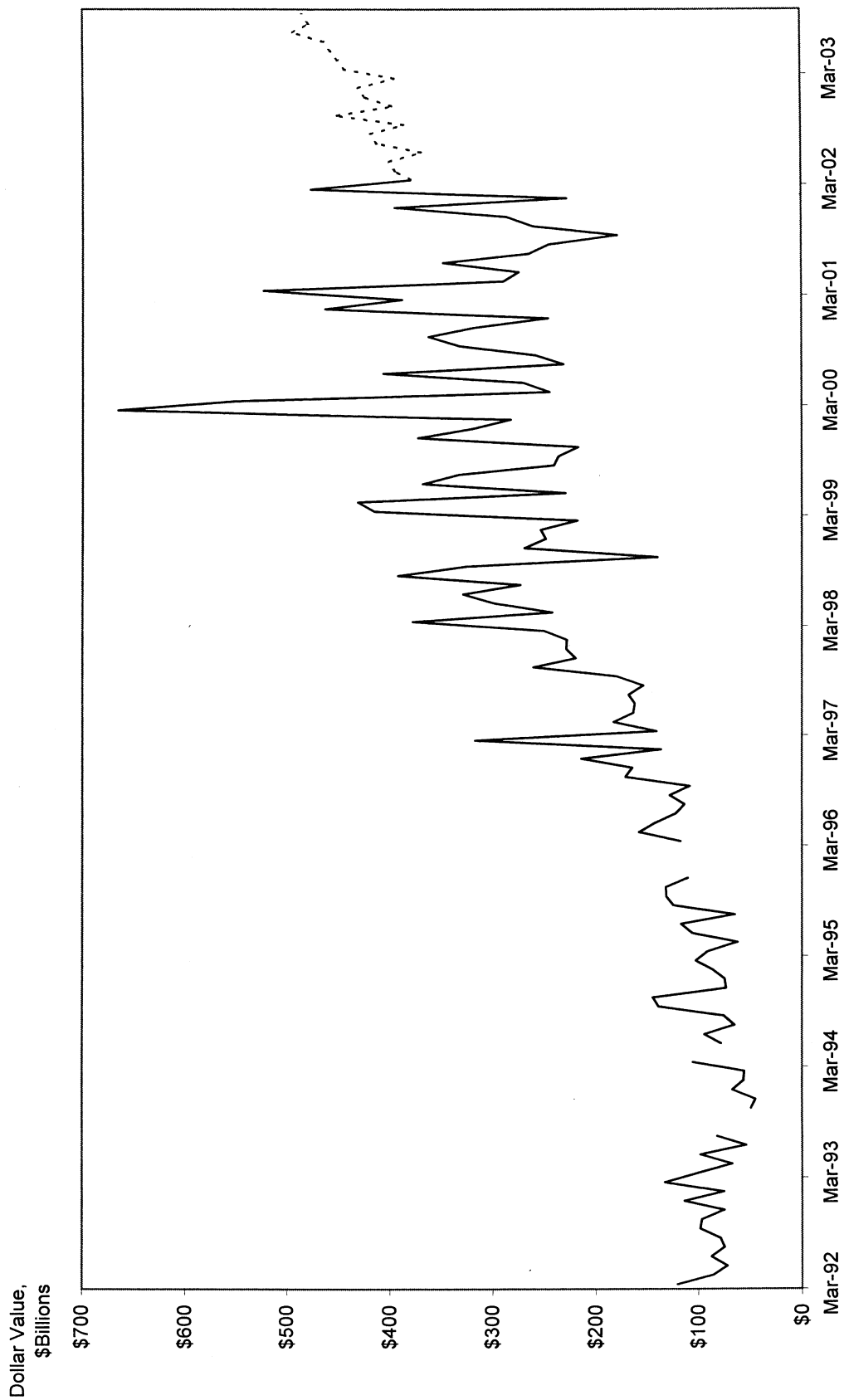


Table A1. Estimation of baseline of aggregate maximum offering prices .

## Fee rate calculation.

|                                                                                                |           |
|------------------------------------------------------------------------------------------------|-----------|
| a. Baseline estimate of the aggregate maximum offering prices, 10/1/02 to 9/30/03 (\$Millions) | 5,379,330 |
| b. Implied fee rate (\$435 Million / a)                                                        | \$80.90   |

## Data

| (A)<br>Month | (B)<br># of Trading Days<br>in Month | (C)<br>Aggregate<br>Maximum Offering<br>Prices, in \$Millions | (D)<br>Average Daily<br>Aggregate Max.<br>Offering Prices<br>(AAMOP) in<br>\$Millions | (E)<br>log(AAMOP) | (F)<br>Change in<br>AAMOP | (G)<br>Forecast<br>log(AAMOP) | (H)<br>Standard Error | (I)<br>Forecast AAMOP | (J)<br>Forecast<br>Aggregate<br>Maximum Offering<br>Prices, in \$Millions |
|--------------|--------------------------------------|---------------------------------------------------------------|---------------------------------------------------------------------------------------|-------------------|---------------------------|-------------------------------|-----------------------|-----------------------|---------------------------------------------------------------------------|
| Mar-92       | 22                                   | 120,702                                                       | 5,486                                                                                 | 22.426            |                           |                               |                       |                       |                                                                           |
| Apr-92       | 21                                   | 85,953                                                        | 4,093                                                                                 | 22.133            | -0.293                    |                               |                       |                       |                                                                           |
| May-92       | 20                                   | 72,313                                                        | 3,616                                                                                 | 22.009            | -0.124                    |                               |                       |                       |                                                                           |
| Jun-92       | 22                                   | 88,083                                                        | 4,004                                                                                 | 22.111            | 0.102                     |                               |                       |                       |                                                                           |
| Jul-92       | 22                                   | 75,000                                                        | 3,409                                                                                 | 21.950            | -0.161                    |                               |                       |                       |                                                                           |
| Aug-92       | 21                                   | 79,182                                                        | 3,771                                                                                 | 22.050            | 0.101                     |                               |                       |                       |                                                                           |
| Sep-92       | 21                                   | 98,659                                                        | 4,698                                                                                 | 22.270            | 0.220                     |                               |                       |                       |                                                                           |
| Oct-92       | 22                                   | 97,136                                                        | 4,415                                                                                 | 22.208            | -0.062                    |                               |                       |                       |                                                                           |
| Nov-92       | 20                                   | 75,453                                                        | 3,773                                                                                 | 22.051            | -0.157                    |                               |                       |                       |                                                                           |
| Dec-92       | 22                                   | 114,268                                                       | 5,194                                                                                 | 22.371            | 0.320                     |                               |                       |                       |                                                                           |
| Jan-93       | 20                                   | 75,676                                                        | 3,784                                                                                 | 22.054            | -0.317                    |                               |                       |                       |                                                                           |
| Feb-93       | 19                                   | 133,440                                                       | 7,023                                                                                 | 22.672            | 0.618                     |                               |                       |                       |                                                                           |
| Mar-93       | 23                                   | 100,585                                                       | 4,373                                                                                 | 22.199            | -0.474                    |                               |                       |                       |                                                                           |
| Apr-93       | 21                                   | 67,712                                                        | 3,224                                                                                 | 21.894            | -0.305                    |                               |                       |                       |                                                                           |
| May-93       | 20                                   | 98,590                                                        | 4,929                                                                                 | 22.319            | 0.424                     |                               |                       |                       |                                                                           |
| Jun-93       | 22                                   | 54,357                                                        | 2,471                                                                                 | 21.628            | -0.691                    |                               |                       |                       |                                                                           |
| Jul-93       | 21                                   | 82,514                                                        | 3,929                                                                                 | 22.092            | 0.464                     |                               |                       |                       |                                                                           |
| Aug-93       | 22                                   |                                                               |                                                                                       |                   |                           |                               |                       |                       |                                                                           |
| Sep-93       | 21                                   |                                                               |                                                                                       |                   |                           |                               |                       |                       |                                                                           |
| Oct-93       | 21                                   | 49,664                                                        | 2,365                                                                                 | 21.584            |                           |                               |                       |                       |                                                                           |
| Nov-93       | 21                                   | 45,360                                                        | 2,160                                                                                 | 21.493            | -0.091                    |                               |                       |                       |                                                                           |
| Dec-93       | 22                                   | 67,717                                                        | 3,078                                                                                 | 21.848            | 0.354                     |                               |                       |                       |                                                                           |
| Jan-94       | 21                                   | 56,998                                                        | 2,714                                                                                 | 21.722            | -0.126                    |                               |                       |                       |                                                                           |
| Feb-94       | 19                                   | 56,104                                                        | 2,953                                                                                 | 21.806            | 0.084                     |                               |                       |                       |                                                                           |
| Mar-94       | 23                                   | 105,914                                                       | 4,605                                                                                 | 22.250            | 0.444                     |                               |                       |                       |                                                                           |
| Apr-94       | 19                                   |                                                               |                                                                                       |                   |                           |                               |                       |                       |                                                                           |
| May-94       | 21                                   | 78,564                                                        | 3,741                                                                                 | 22.043            |                           |                               |                       |                       |                                                                           |
| Jun-94       | 22                                   | 94,814                                                        | 4,310                                                                                 | 22.184            | 0.141                     |                               |                       |                       |                                                                           |
| Jul-94       | 20                                   | 65,628                                                        | 3,281                                                                                 | 21.912            | -0.273                    |                               |                       |                       |                                                                           |
| Aug-94       | 23                                   | 75,874                                                        | 3,299                                                                                 | 21.917            | 0.005                     |                               |                       |                       |                                                                           |
| Sep-94       | 21                                   | 139,422                                                       | 6,639                                                                                 | 22.616            | 0.699                     |                               |                       |                       |                                                                           |

| (A)<br>Month | (B)<br># of Trading Days<br>in Month | (C)<br>Aggregate<br>Maximum Offering<br>Prices, in \$Millions | (D)<br>Average Daily<br>Aggregate Max.<br>Offering Prices<br>(AAMOP) in<br>\$Millions | (E)<br>log(AAMOP) | (F)<br>Change in<br>AAMOP | (G)<br>Forecast<br>log(AAMOP) | (H)<br>Standard Error | (I)<br>Forecast AAMOP | (J)<br>Forecast<br>Aggregate<br>Maximum Offering<br>Prices, in \$Millions |
|--------------|--------------------------------------|---------------------------------------------------------------|---------------------------------------------------------------------------------------|-------------------|---------------------------|-------------------------------|-----------------------|-----------------------|---------------------------------------------------------------------------|
| Oct-94       | 21                                   | 144,953                                                       | 6,903                                                                                 | 22.655            | 0.039                     |                               |                       |                       |                                                                           |
| Nov-94       | 21                                   | 73,625                                                        | 3,506                                                                                 | 21.978            | -0.677                    |                               |                       |                       |                                                                           |
| Dec-94       | 21                                   | 74,903                                                        | 3,567                                                                                 | 21.995            | 0.017                     |                               |                       |                       |                                                                           |
| Jan-95       | 21                                   | 86,714                                                        | 4,129                                                                                 | 22.141            | 0.146                     |                               |                       |                       |                                                                           |
| Feb-95       | 19                                   | 102,999                                                       | 5,421                                                                                 | 22.414            | 0.272                     |                               |                       |                       |                                                                           |
| Mar-95       | 23                                   | 91,561                                                        | 3,981                                                                                 | 22.105            | -0.309                    |                               |                       |                       |                                                                           |
| Apr-95       | 19                                   | 62,518                                                        | 3,290                                                                                 | 21.914            | -0.190                    |                               |                       |                       |                                                                           |
| May-95       | 22                                   | 106,333                                                       | 4,833                                                                                 | 22.299            | 0.385                     |                               |                       |                       |                                                                           |
| Jun-95       | 22                                   | 117,557                                                       | 5,344                                                                                 | 22.399            | 0.100                     |                               |                       |                       |                                                                           |
| Jul-95       | 20                                   | 65,127                                                        | 3,256                                                                                 | 21.904            | -0.495                    |                               |                       |                       |                                                                           |
| Aug-95       | 23                                   | 124,662                                                       | 5,420                                                                                 | 22.413            | 0.510                     |                               |                       |                       |                                                                           |
| Sep-95       | 20                                   | 131,774                                                       | 6,589                                                                                 | 22.609            | 0.195                     |                               |                       |                       |                                                                           |
| Oct-95       | 22                                   | 132,141                                                       | 6,006                                                                                 | 22.516            | -0.093                    |                               |                       |                       |                                                                           |
| Nov-95       | 21                                   | 110,646                                                       | 5,269                                                                                 | 22.385            | -0.131                    |                               |                       |                       |                                                                           |
| Dec-95       | 20                                   |                                                               |                                                                                       |                   |                           |                               |                       |                       |                                                                           |
| Jan-96       | 22                                   |                                                               |                                                                                       |                   |                           |                               |                       |                       |                                                                           |
| Feb-96       | 20                                   |                                                               |                                                                                       |                   |                           |                               |                       |                       |                                                                           |
| Mar-96       | 21                                   | 117,780                                                       | 5,609                                                                                 | 22.448            |                           |                               |                       |                       |                                                                           |
| Apr-96       | 21                                   | 158,005                                                       | 7,524                                                                                 | 22.741            | 0.294                     |                               |                       |                       |                                                                           |
| May-96       | 22                                   | 142,452                                                       | 6,475                                                                                 | 22.591            | -0.150                    |                               |                       |                       |                                                                           |
| Jun-96       | 20                                   | 122,598                                                       | 6,130                                                                                 | 22.536            | -0.055                    |                               |                       |                       |                                                                           |
| Jul-96       | 22                                   | 113,637                                                       | 5,165                                                                                 | 22.365            | -0.171                    |                               |                       |                       |                                                                           |
| Aug-96       | 22                                   | 128,154                                                       | 5,825                                                                                 | 22.485            | 0.120                     |                               |                       |                       |                                                                           |
| Sep-96       | 20                                   | 108,763                                                       | 5,438                                                                                 | 22.417            | -0.069                    |                               |                       |                       |                                                                           |
| Oct-96       | 23                                   | 171,507                                                       | 7,457                                                                                 | 22.732            | 0.316                     |                               |                       |                       |                                                                           |
| Nov-96       | 20                                   | 164,574                                                       | 8,229                                                                                 | 22.831            | 0.098                     |                               |                       |                       |                                                                           |
| Dec-96       | 21                                   | 214,241                                                       | 10,202                                                                                | 23.046            | 0.215                     |                               |                       |                       |                                                                           |
| Jan-97       | 22                                   | 136,615                                                       | 6,210                                                                                 | 22.549            | -0.496                    |                               |                       |                       |                                                                           |
| Feb-97       | 19                                   | 317,624                                                       | 16,717                                                                                | 23.540            | 0.990                     |                               |                       |                       |                                                                           |
| Mar-97       | 20                                   | 140,809                                                       | 7,040                                                                                 | 22.675            | -0.865                    |                               |                       |                       |                                                                           |
| Apr-97       | 22                                   | 182,657                                                       | 8,303                                                                                 | 22.840            | 0.165                     |                               |                       |                       |                                                                           |
| May-97       | 21                                   | 163,702                                                       | 7,795                                                                                 | 22.777            | -0.063                    |                               |                       |                       |                                                                           |
| Jun-97       | 21                                   | 162,111                                                       | 7,720                                                                                 | 22.767            | -0.010                    |                               |                       |                       |                                                                           |
| Jul-97       | 22                                   | 168,007                                                       | 7,637                                                                                 | 22.756            | -0.011                    |                               |                       |                       |                                                                           |
| Aug-97       | 21                                   | 153,705                                                       | 7,319                                                                                 | 22.714            | -0.042                    |                               |                       |                       |                                                                           |
| Sep-97       | 21                                   | 179,559                                                       | 8,550                                                                                 | 22.869            | 0.155                     |                               |                       |                       |                                                                           |
| Oct-97       | 23                                   | 260,719                                                       | 11,336                                                                                | 23.151            | 0.282                     |                               |                       |                       |                                                                           |
| Nov-97       | 19                                   | 219,618                                                       | 11,559                                                                                | 23.171            | 0.020                     |                               |                       |                       |                                                                           |

| (A)<br>Month | (B)<br># of Trading Days<br>in Month | (C)<br>Aggregate<br>Maximum Offering<br>Prices, in \$Millions | (D)<br>Average Daily<br>Aggregate Max.<br>Offering Prices<br>(AAMOP) in<br>\$Millions | (E)<br>log(AAMOP) | (F)<br>Change in<br>AAMOP | (G)<br>Forecast<br>log(AAMOP) | (H)<br>Standard Error | (I)<br>Forecast AAMOP | (J)<br>Forecast<br>Aggregate<br>Maximum Offering<br>Prices, in \$Millions |
|--------------|--------------------------------------|---------------------------------------------------------------|---------------------------------------------------------------------------------------|-------------------|---------------------------|-------------------------------|-----------------------|-----------------------|---------------------------------------------------------------------------|
| Dec-97       | 22                                   | 228,605                                                       | 10,391                                                                                | 23.064            | -0.106                    |                               |                       |                       |                                                                           |
| Jan-98       | 20                                   | 228,030                                                       | 11,402                                                                                | 23.157            | 0.093                     |                               |                       |                       |                                                                           |
| Feb-98       | 19                                   | 250,266                                                       | 13,172                                                                                | 23.301            | 0.144                     |                               |                       |                       |                                                                           |
| Mar-98       | 22                                   | 378,185                                                       | 17,190                                                                                | 23.568            | 0.266                     |                               |                       |                       |                                                                           |
| Apr-98       | 21                                   | 242,310                                                       | 11,539                                                                                | 23.169            | -0.399                    |                               |                       |                       |                                                                           |
| May-98       | 20                                   | 298,454                                                       | 14,923                                                                                | 23.426            | 0.257                     |                               |                       |                       |                                                                           |
| Jun-98       | 22                                   | 328,994                                                       | 14,954                                                                                | 23.428            | 0.002                     |                               |                       |                       |                                                                           |
| Jul-98       | 22                                   | 272,957                                                       | 12,407                                                                                | 23.242            | -0.187                    |                               |                       |                       |                                                                           |
| Aug-98       | 21                                   | 392,104                                                       | 18,672                                                                                | 23.650            | 0.409                     |                               |                       |                       |                                                                           |
| Sep-98       | 21                                   | 325,144                                                       | 15,483                                                                                | 23.463            | -0.187                    |                               |                       |                       |                                                                           |
| Oct-98       | 22                                   | 139,786                                                       | 6,354                                                                                 | 22.572            | -0.891                    |                               |                       |                       |                                                                           |
| Nov-98       | 20                                   | 269,065                                                       | 13,453                                                                                | 23.322            | 0.750                     |                               |                       |                       |                                                                           |
| Dec-98       | 22                                   | 248,596                                                       | 11,300                                                                                | 23.148            | -0.174                    |                               |                       |                       |                                                                           |
| Jan-99       | 19                                   | 253,448                                                       | 13,339                                                                                | 23.314            | 0.166                     |                               |                       |                       |                                                                           |
| Feb-99       | 19                                   | 217,433                                                       | 11,444                                                                                | 23.161            | -0.153                    |                               |                       |                       |                                                                           |
| Mar-99       | 23                                   | 415,145                                                       | 18,050                                                                                | 23.616            | 0.456                     |                               |                       |                       |                                                                           |
| Apr-99       | 21                                   | 431,280                                                       | 20,537                                                                                | 23.746            | 0.129                     |                               |                       |                       |                                                                           |
| May-99       | 20                                   | 229,082                                                       | 11,454                                                                                | 23.162            | -0.584                    |                               |                       |                       |                                                                           |
| Jun-99       | 22                                   | 367,943                                                       | 16,725                                                                                | 23.540            | 0.379                     |                               |                       |                       |                                                                           |
| Jul-99       | 21                                   | 332,623                                                       | 15,839                                                                                | 23.486            | -0.054                    |                               |                       |                       |                                                                           |
| Aug-99       | 22                                   | 240,157                                                       | 10,916                                                                                | 23.114            | -0.372                    |                               |                       |                       |                                                                           |
| Sep-99       | 21                                   | 236,011                                                       | 11,239                                                                                | 23.143            | 0.029                     |                               |                       |                       |                                                                           |
| Oct-99       | 21                                   | 216,883                                                       | 10,328                                                                                | 23.058            | -0.085                    |                               |                       |                       |                                                                           |
| Nov-99       | 21                                   | 372,582                                                       | 17,742                                                                                | 23.599            | 0.541                     |                               |                       |                       |                                                                           |
| Dec-99       | 22                                   | 319,846                                                       | 14,538                                                                                | 23.400            | -0.199                    |                               |                       |                       |                                                                           |
| Jan-00       | 20                                   | 282,165                                                       | 14,108                                                                                | 23.370            | -0.030                    |                               |                       |                       |                                                                           |
| Feb-00       | 20                                   | 665,367                                                       | 33,268                                                                                | 24.228            | 0.858                     |                               |                       |                       |                                                                           |
| Mar-00       | 23                                   | 550,107                                                       | 23,918                                                                                | 23.898            | -0.330                    |                               |                       |                       |                                                                           |
| Apr-00       | 19                                   | 244,510                                                       | 12,869                                                                                | 23.278            | -0.620                    |                               |                       |                       |                                                                           |
| May-00       | 22                                   | 269,774                                                       | 12,262                                                                                | 23.230            | -0.048                    |                               |                       |                       |                                                                           |
| Jun-00       | 22                                   | 406,409                                                       | 18,473                                                                                | 23.640            | 0.410                     |                               |                       |                       |                                                                           |
| Jul-00       | 20                                   | 230,894                                                       | 11,545                                                                                | 23.169            | -0.470                    |                               |                       |                       |                                                                           |
| Aug-00       | 23                                   | 257,797                                                       | 11,209                                                                                | 23.140            | -0.030                    |                               |                       |                       |                                                                           |
| Sep-00       | 20                                   | 332,120                                                       | 16,606                                                                                | 23.533            | 0.393                     |                               |                       |                       |                                                                           |
| Oct-00       | 22                                   | 362,493                                                       | 16,477                                                                                | 23.525            | -0.008                    |                               |                       |                       |                                                                           |
| Nov-00       | 21                                   | 317,653                                                       | 15,126                                                                                | 23.440            | -0.086                    |                               |                       |                       |                                                                           |
| Dec-00       | 20                                   | 246,006                                                       | 12,300                                                                                | 23.233            | -0.207                    |                               |                       |                       |                                                                           |
| Jan-01       | 21                                   | 462,726                                                       | 22,035                                                                                | 23.816            | 0.583                     |                               |                       |                       |                                                                           |

| (A)<br>Month | (B)<br># of Trading Days<br>in Month | (C)<br>Aggregate<br>Maximum Offering<br>Prices, in \$Millions | (D)<br>Average Daily<br>Aggregate Max.<br>Offering Prices<br>(AAMOP), in<br>\$Millions | (E)<br>log(AAMOP) | (F)<br>Change in<br>AAMOP | (G)<br>Forecast<br>log(AAMOP) | (H)<br>Standard Error | (I)<br>Forecast AAMOP | (J)<br>Forecast<br>Aggregate<br>Maximum Offering<br>Prices, in \$Millions |
|--------------|--------------------------------------|---------------------------------------------------------------|----------------------------------------------------------------------------------------|-------------------|---------------------------|-------------------------------|-----------------------|-----------------------|---------------------------------------------------------------------------|
| Feb-01       | 19                                   | 388,304                                                       | 20,437                                                                                 | 23.741            | -0.075                    |                               |                       |                       |                                                                           |
| Mar-01       | 22                                   | 523,443                                                       | 23,793                                                                                 | 23.893            | 0.152                     |                               |                       |                       |                                                                           |
| Apr-01       | 20                                   | 289,212                                                       | 14,481                                                                                 | 23.395            | -0.498                    |                               |                       |                       |                                                                           |
| May-01       | 22                                   | 274,298                                                       | 12,488                                                                                 | 23.246            | -0.148                    |                               |                       |                       |                                                                           |
| Jun-01       | 21                                   | 348,268                                                       | 16,584                                                                                 | 23.532            | 0.285                     |                               |                       |                       |                                                                           |
| Jul-01       | 21                                   | 264,590                                                       | 12,600                                                                                 | 23.257            | -0.275                    |                               |                       |                       |                                                                           |
| Aug-01       | 23                                   | 245,591                                                       | 10,678                                                                                 | 23.091            | -0.165                    |                               |                       |                       |                                                                           |
| Sep-01       | 15                                   | 178,524                                                       | 11,902                                                                                 | 23.200            | 0.108                     |                               |                       |                       |                                                                           |
| Oct-01       | 23                                   | 260,719                                                       | 11,336                                                                                 | 23.151            | -0.049                    |                               |                       |                       |                                                                           |
| Nov-01       | 21                                   | 286,199                                                       | 13,629                                                                                 | 23.335            | 0.184                     |                               |                       |                       |                                                                           |
| Dec-01       | 20                                   | 395,230                                                       | 19,762                                                                                 | 23.707            | 0.372                     |                               |                       |                       |                                                                           |
| Jan-02       | 21                                   | 227,893                                                       | 10,852                                                                                 | 23.108            | -0.599                    |                               |                       |                       |                                                                           |
| Feb-02       | 19                                   | 476,837                                                       | 25,097                                                                                 | 23.946            | 0.838                     |                               |                       |                       |                                                                           |
| Mar-02       | 20                                   | 380,160                                                       | 19,008                                                                                 | 23.668            | -0.278                    |                               |                       |                       |                                                                           |
| Apr-02       | 22                                   |                                                               |                                                                                        |                   |                           | 23.568                        | 0.292                 | 17,947                | 394,841                                                                   |
| May-02       | 22                                   |                                                               |                                                                                        |                   |                           | 23.581                        | 0.299                 | 18,218                | 400,794                                                                   |
| Jun-02       | 20                                   |                                                               |                                                                                        |                   |                           | 23.594                        | 0.305                 | 18,493                | 369,852                                                                   |
| Jul-02       | 22                                   |                                                               |                                                                                        |                   |                           | 23.607                        | 0.312                 | 18,771                | 412,971                                                                   |
| Aug-02       | 22                                   |                                                               |                                                                                        |                   |                           | 23.620                        | 0.319                 | 19,054                | 419,198                                                                   |
| Sep-02       | 20                                   |                                                               |                                                                                        |                   |                           | 23.633                        | 0.325                 | 19,342                | 386,835                                                                   |
| Oct-02       | 23                                   |                                                               |                                                                                        |                   |                           | 23.646                        | 0.331                 | 19,633                | 451,567                                                                   |
| Nov-02       | 20                                   |                                                               |                                                                                        |                   |                           | 23.659                        | 0.337                 | 19,929                | 398,587                                                                   |
| Dec-02       | 21                                   |                                                               |                                                                                        |                   |                           | 23.672                        | 0.343                 | 20,230                | 424,827                                                                   |
| Jan-03       | 21                                   |                                                               |                                                                                        |                   |                           | 23.684                        | 0.349                 | 20,535                | 431,232                                                                   |
| Feb-03       | 19                                   |                                                               |                                                                                        |                   |                           | 23.697                        | 0.355                 | 20,844                | 396,045                                                                   |
| Mar-03       | 21                                   |                                                               |                                                                                        |                   |                           | 23.710                        | 0.361                 | 21,159                | 444,333                                                                   |
| Apr-03       | 21                                   |                                                               |                                                                                        |                   |                           | 23.723                        | 0.366                 | 21,478                | 451,033                                                                   |
| May-03       | 21                                   |                                                               |                                                                                        |                   |                           | 23.736                        | 0.372                 | 21,802                | 457,833                                                                   |
| Jun-03       | 21                                   |                                                               |                                                                                        |                   |                           | 23.749                        | 0.377                 | 22,130                | 464,736                                                                   |
| Jul-03       | 22                                   |                                                               |                                                                                        |                   |                           | 23.762                        | 0.383                 | 22,464                | 494,207                                                                   |
| Aug-03       | 21                                   |                                                               |                                                                                        |                   |                           | 23.775                        | 0.388                 | 22,803                | 478,855                                                                   |
| Sep-03       | 21                                   |                                                               |                                                                                        |                   |                           | 23.788                        | 0.393                 | 23,146                | 486,075                                                                   |

**APPENDIX B***A. Baseline Estimate of the Aggregate Dollar Amount of Sales Subject to Exchange Act Sections 31(b) and 31(c)*

First, calculate the average daily dollar amount of sales (ADS) for each month in the sample (March 1992–March 2002). The data obtained from the exchanges and Nasdaq are presented in Table B1. The monthly aggregate dollar amount of sales (exchange plus Nasdaq) is contained in column E.

Next, calculate the percentage change in the ADS from month-to-month. The average monthly percentage growth of ADS over the entire sample is 0.017 and the standard deviation is 0.111.

Assuming the monthly percentage change in ADS follows a random walk, calculating the expected monthly percentage growth rate for the full sample is straightforward. The expected monthly percentage growth rate of ADS is 2.4 percent.

Now, use the expected monthly percentage growth rate to forecast the aggregate dollar amount of sales. For example, one can use the ADS for March 2002 (\$97,678,101,212) to forecast ADS for April 2002 ( $\$100,007,442,449 = \$97,678,101,212 \times 1.024$ ). Multiply by the number of trading days in April 2002 (22) to obtain a forecast of the aggregate dollar amount of sales for the month (\$2,200,163,733,884). Repeat the method to generate forecasts for subsequent months.

The forecasts for aggregate dollar amount of sales are in column I of Table B1. The following is a more formal (mathematical) description of the procedure:

1. Divide each month's aggregate dollar amount of sales (column E) by the number of trading days in that month (column B) to obtain the average daily dollar volume (ADS, column F).

2. For each month  $t$ , calculate the change in ADS from the previous month as  $\Delta_t = \log(\text{ADS}_{t-1})$ , where  $\log(x)$  denotes the natural logarithm of  $x$ .

3. Calculate the mean and standard deviation of the series  $\{\Delta_1, \Delta_2, \dots, \Delta_{120}\}$ . These are given by  $\mu = 0.017$  and  $\sigma = 0.111$ , respectively.

4. Assume that the natural logarithm of ADS follows a random walk, so that  $\Delta_s$  and  $\Delta_t$  are statistically independent for any two months  $s$  and  $t$ .

Under the assumption that  $\Delta_t$  is normally distributed, the expected value of  $\text{ADS}_t/\text{ADS}_{t-1}$  is given by  $\exp(\mu + \sigma^2/2)$ , or on average  $\text{ADS}_t = 1.024 \times \text{ADS}_{t-1}$ .

6. For April 2002, this gives a forecast ADS of  $1.024 \times \$97,678,101,212 = \$100,007,442,449$ . Multiply this figure by the 22 trading days in April 2002 to obtain an aggregate dollar amount of sales forecast of \$2,200,163,733,884.

7. For May 2002, multiply the April 2002 ADS forecast by 1.024 to obtain a forecast ADS of \$102,392,331,762. Multiply this figure by the 22 trading days in May 2002 to obtain an aggregate dollar amount of sales forecast of \$2,252,631,298,774.

8. Repeat this procedure for subsequent months.

*B. Using the Forecasts From A To Calculate the New Fee Rate*

1. Use Table B1 to estimate fees collected for the period 10/1/02 through 10/31/02. The projected aggregate dollar amount of sales for this period is \$2,649,542,136,536. Projected fee collections at the current fee rate of 0.00003010 are \$79,751,218.

2. Assume collections of \$450,000 in assessments on securities futures products in fiscal 2003. This estimate is based on the CBO's August 2001 estimate of Section 31(d) collections in fiscal 2003, adjusted to reflect the Fee Relief Act's reduction in the Section 31(d) assessments.

3. Subtract the amounts \$79,751,218 and \$450,000 from the target offsetting collection amount of \$849,000,000, leaving \$768,798,782 to be collected on dollar volume for the period 11/1/02 through 9/30/03.

4. Use Table B1 to estimate dollar volume for the period 11/1/02 through 9/30/03. The estimate is \$30,508,977,113,465. Finally, compute the fee rate required to produce the additional \$768,798,782 in revenue. This rate is \$768,798,782 divided by \$30,508,977,113,465 or 0.0000251991.

5. Consistent with the system requirements of the exchanges and the NASD, round the result to the seventh decimal point, yielding a rate of \$25.20 per million.

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**Figure B1.**  
Aggregate Dollar Amount of Sales Subject to Exchange Act Sections 31(b) and 31(c)  
(Dashed Line Indicates Forecast Values)

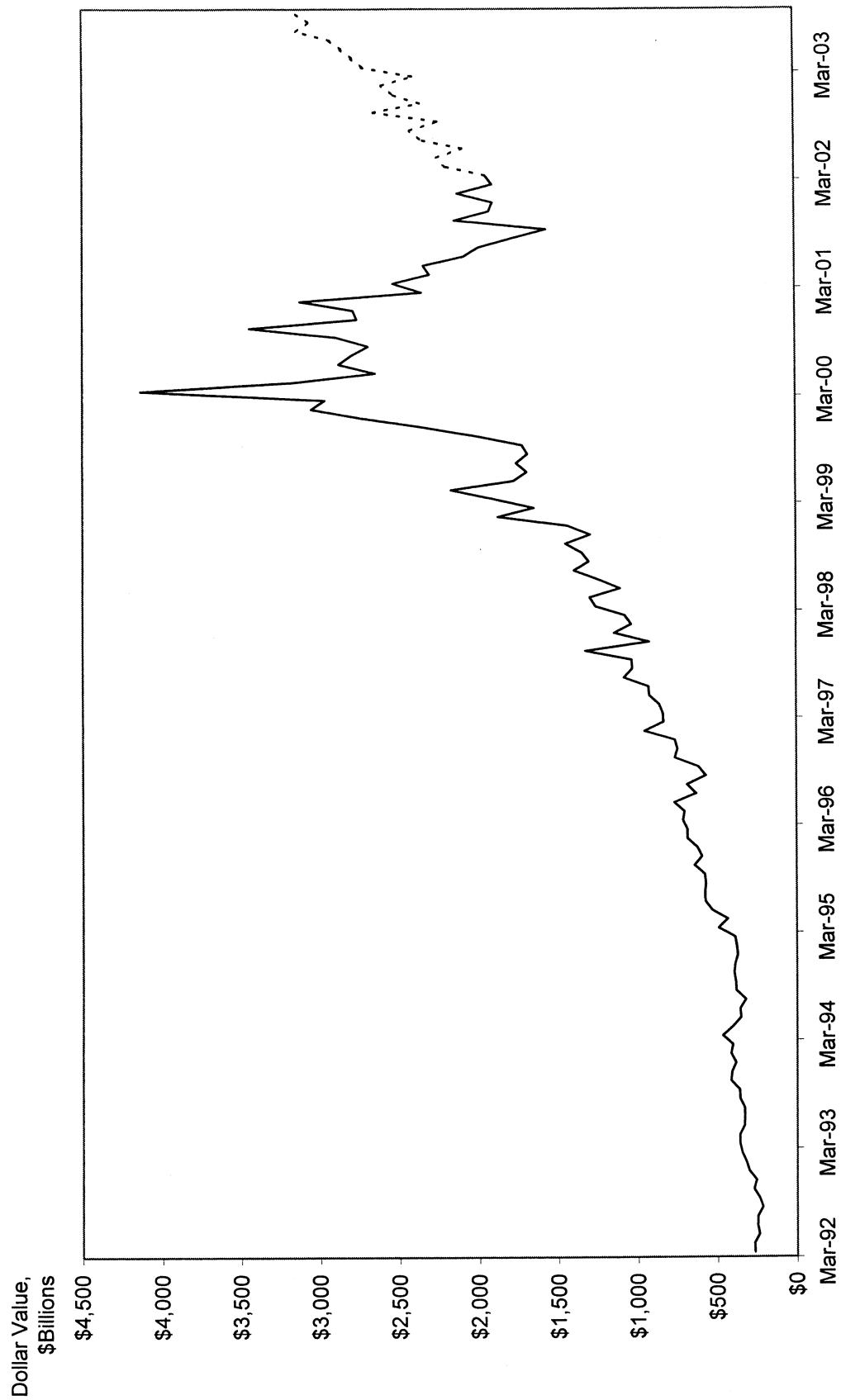


Table B1. Estimation of baseline of the aggregate dollar amount of sales.

## Fee rate calculation.

|                                                                                                |            |
|------------------------------------------------------------------------------------------------|------------|
| a. Baseline estimate of the aggregate dollar amount of sales, 10/1/02 to 10/31/02 (\$Millions) | 2,649,542  |
| b. Baseline estimate of the aggregate dollar amount of sales, 11/1/02 to 9/30/03 (\$Millions)  | 30,508,977 |
| c. Assumed collections in assessments on securities futures products in FY 2003 (\$Millions)   | 0.450      |
| d. Implied fee rate $((\$849,000,000 - 0.00003010^*a - c) / b)$                                | \$25.20    |

## Data

| (A)<br>Month | (B)<br># of Trading Days in Month | (C)<br>Exchange-Listed Dollar Amount of Sales | (D)<br>Nasdaq Dollar Amount of Sales | (E)<br>Aggregate Dollar Amount of Sales | (F)<br>Average Daily Dollar Amount of Sales (ADS) | (G)<br>Change in ADS | (H)<br>Forecast ADS | (I)<br>Forecast Aggregate Dollar Amount of Sales |
|--------------|-----------------------------------|-----------------------------------------------|--------------------------------------|-----------------------------------------|---------------------------------------------------|----------------------|---------------------|--------------------------------------------------|
| Mar-92       | 22                                | 194,253,583,139                               | 73,399,584,000                       | 267,653,167,139                         | 12,166,053,052                                    | -                    |                     |                                                  |
| Apr-92       | 21                                | 192,682,981,517                               | 78,144,178,000                       | 270,827,159,517                         | 12,896,531,406                                    | 0.058                |                     |                                                  |
| May-92       | 20                                | 182,587,885,066                               | 57,295,555,000                       | 239,883,440,066                         | 11,994,172,003                                    | -0.073               |                     |                                                  |
| Jun-92       | 22                                | 185,877,632,937                               | 64,635,401,000                       | 250,513,033,937                         | 11,386,956,088                                    | -0.052               |                     |                                                  |
| Jul-92       | 22                                | 185,749,381,610                               | 63,154,356,000                       | 248,903,737,610                         | 11,313,806,255                                    | -0.006               |                     |                                                  |
| Aug-92       | 21                                | 163,201,786,258                               | 53,571,296,000                       | 216,773,082,258                         | 10,322,527,727                                    | -0.092               |                     |                                                  |
| Sep-92       | 21                                | 170,931,544,317                               | 65,871,407,000                       | 236,802,951,317                         | 11,276,331,015                                    | 0.088                |                     |                                                  |
| Oct-92       | 22                                | 197,058,901,056                               | 75,795,245,000                       | 272,854,146,056                         | 12,402,461,184                                    | 0.095                |                     |                                                  |
| Nov-92       | 20                                | 176,284,430,042                               | 80,748,933,000                       | 257,033,363,042                         | 12,851,668,152                                    | 0.036                |                     |                                                  |
| Dec-92       | 22                                | 213,194,085,523                               | 89,348,602,000                       | 302,542,687,523                         | 13,751,940,342                                    | 0.068                |                     |                                                  |
| Jan-93       | 20                                | 212,344,305,792                               | 107,992,636,000                      | 320,336,941,792                         | 16,016,847,090                                    | 0.152                |                     |                                                  |
| Feb-93       | 19                                | 238,758,759,740                               | 107,865,220,000                      | 346,623,979,740                         | 18,243,367,355                                    | 0.130                |                     |                                                  |
| Mar-93       | 23                                | 254,153,083,005                               | 104,714,261,000                      | 358,867,344,005                         | 15,602,928,000                                    | -0.156               |                     |                                                  |
| Apr-93       | 21                                | 259,894,323,029                               | 101,842,746,000                      | 361,737,069,029                         | 17,225,574,716                                    | 0.099                |                     |                                                  |
| May-93       | 20                                | 228,370,238,902                               | 103,225,212,000                      | 331,595,450,902                         | 16,579,772,545                                    | -0.038               |                     |                                                  |
| Jun-93       | 22                                | 223,269,586,987                               | 105,819,661,000                      | 329,089,247,987                         | 14,958,602,181                                    | -0.103               |                     |                                                  |
| Jul-93       | 21                                | 228,189,513,167                               | 101,802,827,000                      | 329,992,340,167                         | 15,713,920,960                                    | 0.049                |                     |                                                  |
| Aug-93       | 22                                | 240,087,999,028                               | 117,600,923,000                      | 357,688,922,028                         | 16,258,587,365                                    | 0.034                |                     |                                                  |
| Sep-93       | 21                                | 243,134,952,411                               | 117,640,918,000                      | 360,775,870,411                         | 17,179,803,353                                    | 0.055                |                     |                                                  |
| Oct-93       | 21                                | 275,653,273,040                               | 139,364,838,000                      | 415,018,111,040                         | 19,762,767,192                                    | 0.140                |                     |                                                  |
| Nov-93       | 21                                | 280,909,537,581                               | 127,345,828,000                      | 408,255,365,581                         | 19,440,731,694                                    | -0.016               |                     |                                                  |
| Dec-93       | 22                                | 268,471,426,906                               | 114,885,343,000                      | 383,356,769,906                         | 17,425,307,723                                    | -0.109               |                     |                                                  |
| Jan-94       | 21                                | 277,615,393,351                               | 137,551,072,000                      | 415,166,465,351                         | 19,769,831,683                                    | 0.126                |                     |                                                  |
| Feb-94       | 19                                | 281,053,587,314                               | 122,882,920,000                      | 403,936,507,314                         | 21,259,816,174                                    | 0.073                |                     |                                                  |
| Mar-94       | 23                                | 316,713,498,173                               | 151,177,373,000                      | 467,890,871,173                         | 20,343,081,355                                    | -0.044               |                     |                                                  |
| Apr-94       | 19                                | 289,365,151,226                               | 114,834,515,000                      | 404,199,666,226                         | 21,273,666,643                                    | 0.045                |                     |                                                  |
| May-94       | 21                                | 241,278,516,490                               | 112,318,747,000                      | 353,597,263,490                         | 16,837,964,928                                    | -0.234               |                     |                                                  |
| Jun-94       | 22                                | 245,067,967,632                               | 112,555,736,000                      | 357,623,703,632                         | 16,255,622,892                                    | -0.035               |                     |                                                  |
| Jul-94       | 20                                | 221,511,138,952                               | 100,563,525,000                      | 322,074,663,952                         | 16,103,733,198                                    | -0.009               |                     |                                                  |

| (A)<br>Month | (B)<br># of Trading Days in<br>Month | (C)<br>Exchange-Listed<br>Dollar Amount of<br>Sales | (D)<br>Nasdaq Dollar<br>Amount of Sales | (E)<br>Aggregate Dollar<br>Amount of Sales | (F)<br>Average Daily Dollar<br>Amount of Sales<br>(ADS) | (G)<br>Change in ADS | (H)<br>Forecast ADS | (I)<br>Forecast Aggregate<br>Dollar Amount of<br>Sales |
|--------------|--------------------------------------|-----------------------------------------------------|-----------------------------------------|--------------------------------------------|---------------------------------------------------------|----------------------|---------------------|--------------------------------------------------------|
| Aug-94       | 23                                   | 255,511,795,450                                     | 127,675,353,000                         | 383,187,148,450                            | 16,660,310,802                                          | 0.034                |                     |                                                        |
| Sep-94       | 21                                   | 273,589,300,476                                     | 111,984,539,000                         | 385,573,839,476                            | 18,360,659,023                                          | 0.097                |                     |                                                        |
| Oct-94       | 21                                   | 266,363,537,805                                     | 129,089,800,000                         | 395,453,337,805                            | 18,831,111,324                                          | 0.025                |                     |                                                        |
| Nov-94       | 21                                   | 267,314,618,799                                     | 121,827,668,000                         | 389,142,286,799                            | 18,530,585,086                                          | -0.016               |                     |                                                        |
| Dec-94       | 21                                   | 265,184,891,948                                     | 106,839,641,000                         | 372,024,532,948                            | 17,715,453,950                                          | -0.045               |                     |                                                        |
| Jan-95       | 21                                   | 253,958,524,771                                     | 125,092,685,000                         | 379,051,209,771                            | 18,050,057,608                                          | 0.019                |                     |                                                        |
| Feb-95       | 19                                   | 263,486,075,035                                     | 125,574,811,000                         | 389,060,886,035                            | 20,476,888,739                                          | 0.126                |                     |                                                        |
| Mar-95       | 23                                   | 330,806,034,718                                     | 161,066,575,000                         | 491,872,609,718                            | 21,385,765,640                                          | 0.043                |                     |                                                        |
| Apr-95       | 19                                   | 285,586,213,818                                     | 149,741,420,000                         | 435,327,633,818                            | 22,911,980,727                                          | 0.069                |                     |                                                        |
| May-95       | 22                                   | 340,254,177,379                                     | 191,600,883,000                         | 531,855,060,379                            | 24,175,230,017                                          | 0.054                |                     |                                                        |
| Jun-95       | 22                                   | 376,703,055,609                                     | 197,629,158,000                         | 574,332,213,609                            | 26,106,009,710                                          | 0.077                |                     |                                                        |
| Jul-95       | 20                                   | 346,809,496,831                                     | 229,239,839,000                         | 576,049,335,831                            | 28,802,466,792                                          | 0.098                |                     |                                                        |
| Aug-95       | 23                                   | 327,435,391,060                                     | 243,203,335,000                         | 570,638,726,060                            | 24,810,379,394                                          | -0.149               |                     |                                                        |
| Sep-95       | 20                                   | 352,176,019,676                                     | 225,957,920,000                         | 578,133,939,676                            | 28,906,696,984                                          | 0.153                |                     |                                                        |
| Oct-95       | 22                                   | 386,892,948,035                                     | 255,297,230,000                         | 642,190,178,035                            | 29,190,462,638                                          | 0.010                |                     |                                                        |
| Nov-95       | 21                                   | 340,868,134,565                                     | 255,556,416,000                         | 596,424,550,565                            | 28,401,169,075                                          | -0.027               |                     |                                                        |
| Dec-95       | 20                                   | 386,356,222,037                                     | 238,254,219,000                         | 624,610,441,037                            | 31,230,522,052                                          | 0.095                |                     |                                                        |
| Jan-96       | 22                                   | 412,342,988,854                                     | 275,256,103,000                         | 687,599,091,854                            | 31,254,504,175                                          | 0.001                |                     |                                                        |
| Feb-96       | 20                                   | 432,110,721,273                                     | 255,121,750,000                         | 687,232,471,273                            | 34,361,623,564                                          | 0.095                |                     |                                                        |
| Mar-96       | 21                                   | 462,522,216,093                                     | 252,313,904,000                         | 714,836,120,093                            | 34,039,815,243                                          | -0.009               |                     |                                                        |
| Apr-96       | 21                                   | 419,529,647,022                                     | 284,880,671,000                         | 704,410,318,022                            | 33,543,348,477                                          | -0.015               |                     |                                                        |
| May-96       | 22                                   | 444,864,509,489                                     | 323,514,998,000                         | 768,379,507,489                            | 34,926,341,250                                          | 0.040                |                     |                                                        |
| Jun-96       | 20                                   | 364,047,300,223                                     | 267,051,480,000                         | 631,098,780,223                            | 31,554,939,011                                          | -0.102               |                     |                                                        |
| Jul-96       | 22                                   | 405,998,331,384                                     | 282,430,397,000                         | 688,428,728,384                            | 31,292,214,927                                          | -0.008               |                     |                                                        |
| Aug-96       | 22                                   | 347,207,351,036                                     | 222,902,421,000                         | 570,109,772,036                            | 25,914,080,547                                          | -0.189               |                     |                                                        |
| Sep-96       | 20                                   | 361,752,600,688                                     | 255,491,281,000                         | 617,243,881,688                            | 30,862,194,084                                          | 0.175                |                     |                                                        |
| Oct-96       | 23                                   | 450,138,412,454                                     | 314,131,029,000                         | 764,269,441,454                            | 33,229,106,150                                          | 0.074                |                     |                                                        |
| Nov-96       | 20                                   | 468,499,807,419                                     | 279,994,893,000                         | 748,494,700,419                            | 37,424,735,021                                          | 0.119                |                     |                                                        |
| Dec-96       | 21                                   | 475,791,378,753                                     | 288,688,118,000                         | 764,479,496,753                            | 36,403,785,560                                          | -0.028               |                     |                                                        |
| Jan-97       | 22                                   | 578,613,348,586                                     | 378,819,289,000                         | 957,432,637,586                            | 43,519,665,345                                          | 0.179                |                     |                                                        |
| Feb-97       | 19                                   | 500,101,991,446                                     | 337,072,192,000                         | 837,174,183,446                            | 44,061,799,129                                          | 0.012                |                     |                                                        |
| Mar-97       | 20                                   | 526,670,517,788                                     | 312,522,211,000                         | 839,192,728,788                            | 41,959,636,439                                          | -0.049               |                     |                                                        |
| Apr-97       | 22                                   | 541,016,966,315                                     | 321,782,247,000                         | 862,799,213,315                            | 39,218,146,060                                          | -0.068               |                     |                                                        |
| May-97       | 21                                   | 560,712,670,647                                     | 365,021,182,000                         | 925,733,852,647                            | 44,082,564,412                                          | 0.117                |                     |                                                        |
| Jun-97       | 21                                   | 590,497,004,859                                     | 339,912,081,000                         | 930,409,085,859                            | 44,305,194,565                                          | 0.005                |                     |                                                        |
| Jul-97       | 22                                   | 665,142,486,898                                     | 420,540,220,000                         | 1,085,682,706,898                          | 49,349,213,950                                          | 0.108                |                     |                                                        |
| Aug-97       | 21                                   | 646,260,997,751                                     | 385,083,141,000                         | 1,031,344,138,751                          | 49,111,625,655                                          | -0.005               |                     |                                                        |
| Sep-97       | 21                                   | 636,729,800,602                                     | 399,730,444,000                         | 1,036,460,244,602                          | 49,355,249,743                                          | 0.005                |                     |                                                        |

| (A)<br>Month | (B)<br># of Trading Days in<br>Month | (C)<br>Exchange-Listed<br>Dollar Amount of<br>Sales | (D)<br>Nasdaq Dollar<br>Amount of Sales | (E)<br>Aggregate Dollar<br>Amount of Sales | (F)<br>Average Daily Dollar<br>Amount of Sales<br>(ADS) | (G)<br>Change in ADS | (H)<br>Forecast ADS | (I)<br>Forecast Aggregate<br>Dollar Amount of<br>Sales |
|--------------|--------------------------------------|-----------------------------------------------------|-----------------------------------------|--------------------------------------------|---------------------------------------------------------|----------------------|---------------------|--------------------------------------------------------|
| Oct-97       | 23                                   | 795,309,593,718                                     | 534,343,839,000                         | 1,329,653,432,718                          | 57,811,018,814                                          | 0.158                |                     |                                                        |
| Nov-97       | 19                                   | 614,656,941,587                                     | 311,360,937,000                         | 926,017,878,587                            | 48,737,783,084                                          | -0.171               |                     |                                                        |
| Dec-97       | 22                                   | 771,801,485,199                                     | 375,503,531,000                         | 1,147,305,016,199                          | 52,150,228,009                                          | 0.068                |                     |                                                        |
| Jan-98       | 20                                   | 664,267,640,263                                     | 375,290,271,000                         | 1,039,557,911,263                          | 51,977,895,563                                          | -0.003               |                     |                                                        |
| Feb-98       | 19                                   | 672,565,048,157                                     | 408,876,474,000                         | 1,081,441,522,157                          | 56,917,974,850                                          | 0.091                |                     |                                                        |
| Mar-98       | 22                                   | 798,277,192,905                                     | 484,862,662,000                         | 1,283,139,854,905                          | 57,415,447,950                                          | 0.009                |                     |                                                        |
| Apr-98       | 21                                   | 821,022,063,854                                     | 478,804,341,000                         | 1,299,826,404,854                          | 61,896,495,469                                          | 0.075                |                     |                                                        |
| May-98       | 20                                   | 717,711,593,246                                     | 392,290,631,000                         | 1,110,002,224,246                          | 55,500,111,212                                          | -0.109               |                     |                                                        |
| Jun-98       | 22                                   | 781,193,541,641                                     | 484,886,854,000                         | 1,246,080,395,641                          | 56,640,017,984                                          | 0.020                |                     |                                                        |
| Jul-98       | 22                                   | 839,132,005,554                                     | 561,429,081,000                         | 1,400,561,086,554                          | 63,661,867,571                                          | 0.117                |                     |                                                        |
| Aug-98       | 21                                   | 811,893,940,585                                     | 494,696,509,000                         | 1,306,590,449,585                          | 62,218,592,837                                          | -0.023               |                     |                                                        |
| Sep-98       | 21                                   | 899,363,115,702                                     | 452,978,456,000                         | 1,352,341,571,702                          | 64,397,217,700                                          | 0.034                |                     |                                                        |
| Oct-98       | 22                                   | 934,874,788,951                                     | 519,628,635,672                         | 1,454,503,424,623                          | 66,113,792,028                                          | 0.026                |                     |                                                        |
| Nov-98       | 20                                   | 761,843,293,678                                     | 534,735,697,587                         | 1,296,578,991,265                          | 64,828,949,563                                          | -0.020               |                     |                                                        |
| Dec-98       | 22                                   | 831,906,512,838                                     | 610,078,427,246                         | 1,441,984,940,084                          | 65,544,770,004                                          | 0.011                |                     |                                                        |
| Jan-99       | 19                                   | 999,043,017,550                                     | 881,762,273,376                         | 1,880,805,290,926                          | 98,989,752,154                                          | 0.412                |                     |                                                        |
| Feb-99       | 19                                   | 881,206,542,866                                     | 771,821,519,115                         | 1,653,028,061,981                          | 87,001,476,946                                          | -0.129               |                     |                                                        |
| Mar-99       | 23                                   | 1,064,559,310,307                                   | 845,323,661,356                         | 1,909,882,971,663                          | 83,038,390,072                                          | -0.047               |                     |                                                        |
| Apr-99       | 21                                   | 1,200,826,668,871                                   | 974,846,639,668                         | 2,175,673,308,539                          | 103,603,490,883                                         | 0.221                |                     |                                                        |
| May-99       | 20                                   | 1,052,642,277,388                                   | 728,648,483,251                         | 1,781,290,760,639                          | 89,064,538,032                                          | -0.151               |                     |                                                        |
| Jun-99       | 22                                   | 968,355,845,707                                     | 728,666,375,241                         | 1,697,022,220,948                          | 77,137,373,679                                          | -0.144               |                     |                                                        |
| Jul-99       | 21                                   | 968,729,547,313                                     | 795,657,683,556                         | 1,764,387,230,869                          | 84,018,439,565                                          | 0.085                |                     |                                                        |
| Aug-99       | 22                                   | 909,861,580,448                                     | 782,763,893,461                         | 1,692,625,473,909                          | 76,937,521,541                                          | -0.088               |                     |                                                        |
| Sep-99       | 21                                   | 886,209,235,286                                     | 842,754,416,364                         | 1,728,963,651,650                          | 82,331,602,460                                          | 0.068                |                     |                                                        |
| Oct-99       | 21                                   | 1,075,832,673,611                                   | 938,836,857,225                         | 2,014,669,530,836                          | 95,936,644,326                                          | 0.153                |                     |                                                        |
| Nov-99       | 21                                   | 1,125,441,492,744                                   | 1,218,999,895,936                       | 2,344,441,388,681                          | 111,640,066,128                                         | 0.152                |                     |                                                        |
| Dec-99       | 22                                   | 1,260,244,827,356                                   | 1,472,542,539,476                       | 2,732,787,366,832                          | 124,217,607,583                                         | 0.107                |                     |                                                        |
| Jan-00       | 20                                   | 1,293,751,986,296                                   | 1,759,510,466,949                       | 3,053,262,453,245                          | 152,663,122,662                                         | 0.206                |                     |                                                        |
| Feb-00       | 20                                   | 1,237,324,279,941                                   | 1,730,179,962,177                       | 2,967,504,242,118                          | 148,375,212,106                                         | -0.028               |                     |                                                        |
| Mar-00       | 23                                   | 1,675,729,644,521                                   | 2,460,195,052,947                       | 4,135,924,697,468                          | 179,822,812,933                                         | 0.192                |                     |                                                        |
| Apr-00       | 19                                   | 1,429,668,149,369                                   | 1,739,658,625,584                       | 3,169,326,774,953                          | 166,806,672,366                                         | -0.075               |                     |                                                        |
| May-00       | 22                                   | 1,273,774,500,287                                   | 1,374,100,073,878                       | 2,647,874,574,166                          | 120,357,935,189                                         | -0.326               |                     |                                                        |
| Jun-00       | 22                                   | 1,283,603,525,223                                   | 1,594,692,767,334                       | 2,878,296,292,557                          | 130,831,649,662                                         | 0.083                |                     |                                                        |
| Jul-00       | 20                                   | 1,203,862,111,445                                   | 1,594,341,902,395                       | 2,798,204,013,840                          | 139,910,200,692                                         | 0.067                |                     |                                                        |
| Aug-00       | 23                                   | 1,211,624,989,972                                   | 1,481,001,529,902                       | 2,692,626,519,874                          | 117,070,718,255                                         | -0.178               |                     |                                                        |
| Sep-00       | 20                                   | 1,261,317,634,976                                   | 1,631,936,332,356                       | 2,893,253,967,332                          | 144,662,698,367                                         | 0.212                |                     |                                                        |
| Oct-00       | 22                                   | 1,517,440,783,915                                   | 1,925,128,263,471                       | 3,442,569,047,386                          | 156,480,411,245                                         | 0.079                |                     |                                                        |
| Nov-00       | 21                                   | 1,290,090,415,114                                   | 1,473,929,732,217                       | 2,764,020,147,331                          | 131,620,007,016                                         | -0.173               |                     |                                                        |

| (A)<br>Month | (B)<br># of Trading Days in<br>Month | (C)<br>Exchange-Listed<br>Dollar Amount of<br>Sales | (D)<br>Nasdaq Dollar<br>Amount of Sales | (E)<br>Aggregate Dollar<br>Amount of Sales | (F)<br>Average Daily Dollar<br>Amount of Sales<br>(ADS) | (G)<br>Change in ADS | (H)<br>Forecast ADS | (I)<br>Forecast Aggregate<br>Dollar Amount of<br>Sales |
|--------------|--------------------------------------|-----------------------------------------------------|-----------------------------------------|--------------------------------------------|---------------------------------------------------------|----------------------|---------------------|--------------------------------------------------------|
| Dec-00       | 20                                   | 1,367,739,635,585                                   | 1,419,735,645,693                       | 2,787,475,281,277                          | 139,373,764,064                                         | 0.057                |                     |                                                        |
| Jan-01       | 21                                   | 1,547,342,195,603                                   | 1,573,412,629,080                       | 3,120,754,824,684                          | 148,607,372,604                                         | 0.064                |                     |                                                        |
| Feb-01       | 19                                   | 1,223,669,742,059                                   | 1,130,494,302,446                       | 2,354,164,044,505                          | 123,903,370,763                                         | -0.182               |                     |                                                        |
| Mar-01       | 22                                   | 1,454,524,518,242                                   | 1,080,912,409,264                       | 2,535,436,927,506                          | 115,247,133,068                                         | -0.072               |                     |                                                        |
| Apr-01       | 20                                   | 1,312,755,897,784                                   | 991,843,272,797                         | 2,304,599,170,581                          | 115,229,958,529                                         | 0.000                |                     |                                                        |
| May-01       | 22                                   | 1,320,141,835,270                                   | 1,023,175,979,663                       | 2,343,317,814,933                          | 106,514,446,133                                         | -0.079               |                     |                                                        |
| Jun-01       | 21                                   | 1,241,534,765,814                                   | 847,846,047,529                         | 2,089,380,813,344                          | 99,494,324,445                                          | -0.068               |                     |                                                        |
| Jul-01       | 21                                   | 1,240,991,028,539                                   | 757,402,982,130                         | 1,998,394,010,669                          | 95,161,619,556                                          | -0.045               |                     |                                                        |
| Aug-01       | 23                                   | 1,120,517,678,311                                   | 689,526,933,547                         | 1,790,044,611,858                          | 77,828,026,603                                          | -0.201               |                     |                                                        |
| Sep-01       | 15                                   | 1,051,262,586,362                                   | 519,060,855,910                         | 1,570,323,442,271                          | 104,688,229,485                                         | 0.296                |                     |                                                        |
| Oct-01       | 23                                   | 1,361,192,584,564                                   | 787,768,976,829                         | 2,148,961,561,392                          | 93,433,111,365                                          | -0.114               |                     |                                                        |
| Nov-01       | 21                                   | 1,174,815,213,621                                   | 757,448,489,572                         | 1,932,263,703,193                          | 92,012,557,295                                          | -0.015               |                     |                                                        |
| Dec-01       | 20                                   | 1,170,796,337,781                                   | 738,526,447,576                         | 1,909,322,785,357                          | 95,466,139,268                                          | 0.037                |                     |                                                        |
| Jan-02       | 21                                   | 1,285,936,279,811                                   | 842,154,952,554                         | 2,128,091,232,365                          | 101,337,677,732                                         | 0.060                |                     |                                                        |
| Feb-02       | 19                                   | 1,259,357,745,469                                   | 651,569,612,254                         | 1,910,927,357,723                          | 100,575,124,091                                         | -0.008               |                     |                                                        |
| Mar-02       | 20                                   | 1,349,168,451,576                                   | 604,393,572,668                         | 1,953,562,024,244                          | 97,678,101,212                                          | -0.029               |                     |                                                        |
| Apr-02       | 22                                   |                                                     |                                         |                                            |                                                         |                      | 100,007,442,449     | 2,200,163,733,884                                      |
| May-02       | 22                                   |                                                     |                                         |                                            |                                                         |                      | 102,392,331,762     | 2,252,631,298,774                                      |
| Jun-02       | 20                                   |                                                     |                                         |                                            |                                                         |                      | 104,834,093,813     | 2,096,681,876,266                                      |
| Jul-02       | 22                                   |                                                     |                                         |                                            |                                                         |                      | 107,334,084,853     | 2,361,349,866,758                                      |
| Aug-02       | 22                                   |                                                     |                                         |                                            |                                                         |                      | 109,893,693,474     | 2,417,661,256,431                                      |
| Sep-02       | 20                                   |                                                     |                                         |                                            |                                                         |                      | 112,514,341,385     | 2,250,286,827,705                                      |
| Oct-02       | 23                                   |                                                     |                                         |                                            |                                                         |                      | 115,197,484,197     | 2,649,542,136,536                                      |
| Nov-02       | 20                                   |                                                     |                                         |                                            |                                                         |                      | 117,944,612,233     | 2,358,892,244,666                                      |
| Dec-02       | 21                                   |                                                     |                                         |                                            |                                                         |                      | 120,757,251,357     | 2,535,902,278,490                                      |
| Jan-03       | 21                                   |                                                     |                                         |                                            |                                                         |                      | 123,636,963,818     | 2,596,376,240,179                                      |
| Feb-03       | 19                                   |                                                     |                                         |                                            |                                                         |                      | 126,585,349,123     | 2,405,121,633,341                                      |
| Mar-03       | 21                                   |                                                     |                                         |                                            |                                                         |                      | 129,604,044,922     | 2,721,684,943,354                                      |
| Apr-03       | 21                                   |                                                     |                                         |                                            |                                                         |                      | 132,694,727,916     | 2,786,589,286,233                                      |
| May-03       | 21                                   |                                                     |                                         |                                            |                                                         |                      | 135,859,114,793     | 2,853,041,410,658                                      |
| Jun-03       | 21                                   |                                                     |                                         |                                            |                                                         |                      | 139,098,963,179     | 2,921,078,226,756                                      |
| Jul-03       | 22                                   |                                                     |                                         |                                            |                                                         |                      | 142,416,072,612     | 3,133,153,597,470                                      |
| Aug-03       | 21                                   |                                                     |                                         |                                            |                                                         |                      | 145,812,285,547     | 3,062,057,996,483                                      |
| Sep-03       | 21                                   |                                                     |                                         |                                            |                                                         |                      | 149,289,488,373     | 3,135,079,255,835                                      |

[FR Doc. 02-10932 Filed 4-29-02; 2:49 pm]

BILLING CODE 8010-01-C

## SECURITIES AND EXCHANGE COMMISSION

[File No. 500-1]

### In the Matter of Investco, Inc.; Order of Suspension of Trading

April 29, 2002.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Investco, Inc. ("Investco") because of questions regarding the accuracy of assertions by Investco, and by others, in press releases to investors concerning, among other things: (1) The company's assets, (2) the company's business combinations, (3) the company's current financial condition, and (4) a tender offer for Investco's outstanding shares.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above listed company.

Therefore, it is ordered, pursuant to section 12(k) of the Securities Exchange Act of 1934, that trading in the above listed company is suspended for the period from 9:30 a.m. EDT, April 29, 2002 through 11:59 p.m. EDT, on May 10, 2002.

By the Commission.

Margaret H. McFarland,  
Deputy Secretary.

[FR Doc. 02-10960 Filed 4-29-02; 4:48 pm]

BILLING CODE 8010-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-45828; File No. SR-Amex-2002-30]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Thereto by the American Stock Exchange LLC Relating to an Increase to 2,000 Contracts for the Two Near Term Expiration Months and to 1,000 Contracts for All Other Expiration Months in the Maximum Permissible Number of Nasdaq-100 Tracking Stock (QQQ) Option Contracts Executable through AUTO-EX

April 25, 2002.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934

("Act"),<sup>1</sup> and Rule 19b-4)<sup>2</sup> thereunder, notice is hereby given that on April 12, 2002, the American Stock Exchange LLC ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. On April 17, 2002, the Exchange filed Amendment No. 1 to the proposed rule change.<sup>3</sup> The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Commentary .02 to Exchange Rule 933 to increase to 2,000 contracts for the two near term expiration months, and to 1,000 contracts for all other expiration months, the maximum permissible number of Nasdaq-100 Tracking Stock ("QQQ") option contracts in an order that can be executed through the Exchange's automatic execution system ("AUTO-EX").

Below is the text of the proposed rule change. Proposed new language is *italicized*; proposed deleted language is [bracketed].

\* \* \* \* \*

#### Automatic Execution of Options Orders Rule 933

(a)-(b) No change.

#### Commentary

.01 No change

.02 Auto-Ex eligible orders must be market or marketable limit orders for two hundred fifty or fewer contracts for series subject to Auto-Ex except in the case of options on the Nasdaq-100 Tracking Stock (QQQ) which is limited to [five hundred] 2,000 or fewer contracts *in the first two (2) near term expiration months and 1,000 or fewer contract for all other expiration months*. Contract limits will be established on a case by case

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> See letter from Jeffrey P. Burns, Assistant General Counsel, Amex, to Nancy Sanow, Assistant Director, Division of Market Regulation, Commission, dated April 11, 2002 ("Amendment No. 1"). In Amendment No. 1, the Amex amended its initial filing to include a representation that the Amex was trading up to 500 contracts in QQQ option contracts as of April 5, 2002 (*see infra* note 8) prior to the immediate effectiveness of this filing on April 12, 2002; to include the rule text being amended; and to request that the filing be re-characterized as a "noncontroversial" rule change under Rule 19b-4(f)(6) of the Act, 17 CFR 240.19b-4(f)(6).

basis for an individual option class or for all option classes upon the approval of two Floor Governors or Senior Floor Officials. Notice concerning applicable size and types of Auto-Ex eligible orders will be provided to members periodically via Exchange circulars and/or posted on the Exchange's web site.

.03 No change.

\* \* \* \* \*

#### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

##### A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

On March 22, 2002, the Commission granted approval to an Exchange proposal to increase to 250 contracts the maximum permissible number of equity and index option contracts in an order that can be executed through AUTO-EX.<sup>4</sup> At the same time, the Commission also approved similar proposals filed by the Philadelphia Stock Exchange, Inc. ("Phlx") and the Pacific Exchange, Inc. ("PCX"), although in the case of the Phlx proposal, the increase to 250 contracts was limited to options on the QQQ.<sup>5</sup>

In the interim, the Chicago Board Options Exchange, Inc. ("CBOE"), on April 4, 2002, in various press reports indicated that, effective immediately, orders in the QQQ options of up to 500 contracts were eligible for instantaneous execution on the CBOE's Retail Automated Execution System ("RAES"). Previously, the maximum order size for QQQ options on the CBOE was 100 contracts. The Exchange represents that the ability of the CBOE to increase its RAES-eligible size to 500 contracts is

<sup>4</sup> See Securities Exchange Act Release No. 45628 (March 22, 2002), 67 FR 15262 (March 29, 2002).

<sup>5</sup> See Securities Exchange Act Release Nos. 45629 (March 22, 2002), 67 FR 15271 (March 29, 2002) (order approving File No. SR-Phlx-2001-89); and 45641 (March 25, 2002), 67 FR 15445 (April 1, 2002) (order approving File No. SR-PCX-2001-48).