

Stabenow #1

AMENDMENT NO. _____ Calendar No. _____

Purpose: To allow the Commodity Futures Trading Commission to assess and collect fees to recover costs.

IN THE SENATE OF THE UNITED STATES—114th Cong., 2d Sess.

S. _____

To reauthorize the Commodity Futures Trading Commission, to ensure protections of futures customers, to provide relief for farmers, ranchers, and end-users that manage risk to help keep consumer costs low, and for other purposes.

Referred to the Committee on _____ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by _____

Viz:

1 At the end of title II, add the following:

2 **SEC. 207. FEES TO RECOVER COSTS.**

3 (a) IN GENERAL.—The Commodity Exchange Act is
4 amended by inserting after section 10 (7 U.S.C. 17) the
5 following:

6 **“SEC. 11. FEES TO RECOVER COSTS.**

7 “(a) RECOVERY OF CERTAIN COSTS OF ANNUAL AP-
8 PROPRIATION.—

9 “(1) IN GENERAL.—Effective beginning Octo-
10 ber 1, 2016, so as to recover the costs to the Federal

1 Government of the annual appropriation to the Com-
2 mission by Congress, the Commission shall assess
3 and collect fees under this subsection.

4 “(2) REQUIREMENTS.—Subject to paragraph
5 (3), the Commission may—

6 “(A) assess fees to recover the costs of the
7 regulatory services provided by the Commission;
8 and

9 “(B) assess fees from registered entities
10 and persons registered under this Act.

11 “(3) SERVICE FEES.—The Commission may as-
12 sess fees to recover the costs of the following regu-
13 latory services provided by the Commission:

14 “(A) Designated contract market compli-
15 ance examinations.

16 “(B) Foreign board of trade registration
17 reviews.

18 “(C) Swap execution facility designation
19 reviews.

20 “(D) Swap data repository registration re-
21 views.

22 “(E) Designated contract market designa-
23 tion reviews.

24 “(F) Swap execution facility compliance
25 examinations.

1 “(G) Swap data repository compliance re-
2 views.

3 “(H) Designated contract market contract
4 review and approvals.

5 “(I) Swap execution facility contract re-
6 view and approvals.

7 “(J) Designated contract market contract
8 certification and rule reviews:

9 “(K) Swap execution facility contract cer-
10 tification and rule reviews.

11 “(L) Swap data repository rule reviews.

12 “(M) Reviews of mergers, transfers, and
13 other action requests from designated contract
14 markets, swap execution facilities, and swap
15 data repositories.

16 “(N) Designated self-regulatory organiza-
17 tion financial surveillance reviews.

18 “(O) Registered futures association compli-
19 ance program reviews.

20 “(P) Derivatives clearing organization re-
21 views.

22 “(Q) Futures commission merchant exami-
23 nations.

24 “(R) Registered foreign exchange dealer
25 examinations.

1 “(S) Swap dealer registration reviews.

2 “(T) Swap dealer examinations.

3 “(U) Other entity registration, reviews, or
4 examinations, or other regulatory services pro-
5 vided by the Commission.

6 “(4) FEE RATES.—Fees assessed shall—

7 “(A) be reasonably related to the cost to
8 the Commission of providing the services of the
9 Commission;

10 “(B) take into consideration the full-time
11 equivalent number of employees performing the
12 services, overhead costs, and other factors that
13 the Commission determines are necessary in the
14 public interest;

15 “(C) support market access for smaller
16 market participants hedging or mitigating com-
17 mercial or agricultural risk, including farmers
18 and ranchers; and

19 “(D) minimize negative impacts on market
20 liquidity and maintain the efficiency, competi-
21 tiveness, and financial integrity of futures and
22 swaps markets in the United States.

23 “(5) COLLECTION OF FEES.—The Commission
24 shall collect fees paid in accordance with paragraph

1 (2) in a manner and within such time as determined
2 by the Commission.

3 “(b) PUBLICATION.—Not later than 60 days after the
4 date on which a law providing a regular appropriation to
5 the Commission for a fiscal year is enacted, the Commis-
6 sion shall publish in the Federal Register—

7 “(1) notices of the fee rates for the fiscal year,
8 including any estimates or projections on which the
9 fees are based; and

10 “(2) a schedule of fees for the fiscal year, in-
11 cluding an explanation of the method used for calcu-
12 lating applicable fee rates.

13 “(c) DEPOSIT OF FEES.—

14 “(1) OFFSETTING COLLECTIONS.—Fees col-
15 lected under subsection (a) for any fiscal year—

16 “(A) shall be deposited and credited as off-
17 setting collections to the account providing ap-
18 propriations to the Commission; and

19 “(B) except as provided in subsection (e),
20 shall not be collected or available for obligation
21 for any fiscal year except to the extent provided
22 in advance in appropriation Acts.

23 “(2) GENERAL REVENUES PROHIBITED.—No
24 fees collected under subsection (a) shall be deposited
25 and credited as general revenue of the Treasury.

1 “(d) FEE ORDERS.—

2 “(1) ANNUAL ADJUSTMENT.—For each fiscal
3 year, the Commission shall by order set the fees ap-
4 plicable under subsection (a) for the fiscal year at
5 rates that are reasonably likely to produce aggregate
6 fee collections under this section that are equal to
7 the costs to the Federal Government of the annual
8 appropriation to the Commission by Congress.

9 “(2) MID-YEAR ADJUSTMENT.—

10 “(A) IN GENERAL.—For each fiscal year,
11 the Commission shall determine, not later than
12 March 1 of the fiscal year, whether, based on
13 the actual fees collected during the first 5
14 months of the fiscal year, the collections gen-
15 erated under the fee rates determined under
16 paragraph (1) for the fiscal year are reasonably
17 likely to be 10 percent (or more) greater or less
18 than the annual appropriation to the Commis-
19 sion for the fiscal year.

20 “(B) ADJUSTMENT.—

21 “(i) IN GENERAL.—If the Commission
22 makes an affirmative determination, the
23 Commission shall by order, not later than
24 March 1, adjust the fees for the fiscal year
25 to rates that are reasonably likely to

1 produce aggregate fee collections under
2 this section that are equal to the cost to
3 the Federal Government of the annual ap-
4 propriation to the Commission by Con-
5 gress.

6 “(ii) FACTORS.—The fee rates shall
7 be assessed based on the same factors de-
8 scribed in subsection (a).

9 “(e) LAPSE OF APPROPRIATION.—If on the first day
10 of a fiscal year a regular appropriation to the Commission
11 has not been enacted, the Commission shall continue to
12 collect (as offsetting collections) the fees and assessments
13 under subsection (a) at the rates in effect on September
14 30 of the preceding fiscal year, until 90 days after the
15 date a regular appropriation is enacted.”.

16 (b) CONFORMING AMENDMENTS.—

17 (1) Section 2(d) of the Commodity Exchange
18 Act (7 U.S.C. 2(d)) is amended by striking “and 9”
19 and inserting “9, and 11”.

20 (2) Section 4(c)(1)(A)(i)(I) of the Commodity
21 Exchange Act (7 U.S.C. 6(c)(1)(A)(i)(I)) is amended
22 by inserting “11,” after “8e,”.

23 (3) Section 15(a)(3) of the Commodity Ex-
24 change Act (7 U.S.C. 19(a)(3)) is amended by add-
25 ing at the end the following:

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“(D) An action under section 11.”