

assessments on round turn transactions in security futures products during all of fiscal 2003. Using the methodology referenced in part II above, the Commission estimates that the aggregate dollar volume of sales for the remainder of fiscal 2003 following the effective date of the new rate will be \$11,505,683,278,185. Based on these estimates, the uniform adjusted rate is \$46.80 per million of the aggregate dollar amount of sales of securities.<sup>14</sup>

The Commission recognizes that this fee rate is higher than the fee rate in effect prior to the enactment of the Fee Relief Act. However, this higher fee rate is a direct consequence of the decline in dollar volume in fiscal 2003 compared to the CBO's January 2001 projection of dollar volume for fiscal 2003. The recent decline in dollar volume for securities transactions subject to section 31 fees is illustrated in Appendix A.

#### IV. Effective Date of the Uniform Adjusted Rate

Section 31(j)(4)(B) of the Exchange Act provides that a mid-year adjustment shall take effect on April 1 of the fiscal year in which such rate applies. Therefore, the exchanges and the national securities association that are subject to section 31 fees must pay fees under sections 31(b) and (c) at the uniform adjusted rate of \$46.80 per million for sales of securities transacted on April 1, 2003, and thereafter until the annual adjustment for fiscal 2004 is effective.<sup>15</sup>

(continued) dollar volume of sales of securities subject to section 31 through March 21, 2003, and a rate of \$25.20 for the period from March 22, 2003, to March 31, 2003. Because the Commission's 2003 appropriations act was not enacted prior to the end of fiscal year 2002, Exchange Act section 31(k), the "Lapse of Appropriation" provision, provided that the fee rate in use at the end of fiscal year 2002, \$30.10 per million, remains in effect until 30 days after the Commission's regular appropriation for fiscal year 2003 was enacted. *See also* 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) of the Securities Exchange Act of 1934, Rel. No. 34-45842 (April 29, 2002), 67 FR 22126 (May 2, 2002). The Commission's regular appropriation for fiscal year 2003 was enacted on February 20, 2003, and the \$25.20 rate goes into effect 30 days later, by operation of the statute. *See* Exchange Act section 31(j)(4)(A)(ii).

<sup>14</sup> The calculation is as follows: (\$849,000,000 - \$311,031,169 - \$22,100) / \$11,505,683,278,185 = \$0.000046755. Consistent with the system requirements of the exchanges and the NASD, the Commission rounds this result to the seventh decimal point, yielding a rate of \$46.80 per million.

<sup>15</sup> Section 31(j)(1) and section 31(g) of the Exchange Act require the Commission to issue an

#### V. Conclusion

Accordingly, pursuant to section 31 of the Exchange Act,<sup>16</sup>

*It is hereby ordered* that each of the fee rates under sections 31(b) and (c) of the Exchange Act shall be \$46.80 per \$1,000,000 of the aggregate dollar amount of sales of securities subject to these sections effective April 1, 2003.

By the Commission.

**Margaret H. McFarland,**

*Deputy Secretary.*

#### Appendix A

##### A. Baseline Estimate of the Aggregate Dollar Amount of Sales

First, calculate the average daily dollar amount of sales (ADS) for each month in the sample (January 1993—January 2003). The data obtained from the exchanges and Nasdaq are presented in Table A. The monthly aggregate dollar amount of sales (exchange plus Nasdaq) is contained in column E.

Next, calculate the change in the natural logarithm of ADS from month-to-month. The average monthly change in the logarithm of ADS over the entire sample is 0.014 and the standard deviation 0.116. Assume the monthly percentage change in ADS follows a random walk. The expected monthly percentage growth rate of ADS is 2.0 percent.

Now, use the expected monthly percentage growth rate to forecast total dollar volume. For example, one can use the ADS for January 2003 (\$80,998,598,695) to forecast ADS for February 2003 (\$82,654,487,385 = \$80,998,598,695 × 1.020).<sup>1</sup> Multiply by the number of trading days in February 2003 (19) to obtain a forecast of the total dollar volume forecast for the month (\$1,570,435,260,311). Repeat the method to generate forecasts for subsequent months.

The forecasts for total dollar volume are in column I of Table A. The following is a more formal (mathematical) description of the procedure:

1. Divide each month's total dollar volume (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  $\Delta_t = \log(\text{ADS}_t / \text{ADS}_{t-1})$ , where  $\log(x)$  denotes the natural logarithm of  $x$ .

3. Calculate the mean and standard deviation of the series  $\{\Delta_1, \Delta_2, \dots, \Delta_{120}\}$ .

order no later than April 30, 2003, adjusting the fee rates applicable under sections 31(b) and (c) for fiscal 2004. These fee rates for fiscal 2004 will be effective on the later of October 1, 2003, or 30 days after the enactment of the Commission's regular appropriation for fiscal 2004.

<sup>16</sup> 15 U.S.C. 78ee.

<sup>1</sup> The value 1.020 has been rounded. All computations are done with the unrounded value.

These are given by  $\mu = 0.014$  and  $\sigma = 0.116$ , 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  $t$ .

5. 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  $\text{ADS}_t = 1.020 \times \text{ADS}_{t-1}$ .

6. For February 2003, this gives a forecast ADS of  $1.020 \times \$80,998,598,695 = \$82,654,487,385$ . Multiply this figure by the 19 trading days in February 2003 to obtain a total dollar volume forecast of \$1,570,435,260,311.

7. For March 2003, multiply the February 2003 ADS forecast by 1.020 to obtain a forecast ADS of \$84,344,228,109. Multiply this figure by the 21 trading days in March 2003 to obtain a total dollar volume forecast of \$1,771,228,790,287.

8. Repeat this procedure for subsequent months.

##### B. Using the Forecasts from A To Calculate the New Fee Rate

1. Using the data from Table A, determine the actual and projected aggregate dollar volume of sales between 10/1/02 and 3/21/03 to be \$9,909,578,791,175. (Allocate the projected aggregate dollar volume in March 2003 based on the number of trading days in the periods—15 trading days during 3/1/03 and 3/21/03, and 6 trading days during 3/22/03 and 3/31/03.) Multiply this amount by the fee rate of \$30.10 per million dollars in sales during this period and get an estimate of \$298,278,322 in actual and projected fees collected during 10/1/02 and 3/21/03. Determine the projected aggregate dollar volume of sales between 3/22/03 and 3/31/03 to be \$506,065,368,653. Multiply this amount by the fee rate of \$25.20 per million dollars in sales during this period and get an estimate of \$12,752,847 in projected fees collected during 3/22/03 and 3/31/03.

2. Estimate the amount of assessments on securities futures products collected during 10/1/02 and 9/30/03 to be \$22,100 by summing the amounts collected through January of \$4,747 with projections of a 2% monthly increase in subsequent months.

3. Using the data from Table A, determine the projected aggregate dollar volume of sales between 4/1/03 and 9/30/03 to be \$11,505,683,278,185.

4. The rate necessary to collect the target \$849,000,000 in fee revenues is then calculated as:  $(\$849,000,000 - \$298,278,322 - \$12,752,847 - \$22,100) \div \$11,505,683,278,185 = .000046755$ .

5. Consistent with the system requirements of the exchanges and the NASD, round the rate to the seventh decimal point, yielding a rate of .0000468 (or \$46.80 per million).