

APPORTIONMENT OF INCOME FOR COMBINED REPORTING GROUPS WITH FINANCIAL AND
NON-FINANCIAL MEMBERS
BACKGROUND

Subsequent to the first Interested Parties Meeting (IPM) held on December 4, 2014, staff researched other states rules and found the following:

20 states do not have this distortion issue because either those states do not impose a corporate income tax (Nevada, South Dakota, Washington, Wyoming) or do not require combined reporting (Alabama, Arkansas, Delaware, Florida, Georgia, Iowa, Kentucky, Louisiana, Maryland, Mississippi, Missouri, New Jersey, Pennsylvania, South Carolina, Tennessee, and Virginia).

20 states either include in the sales factor security sales at net gain or exclude from the sales factor any security sales gross receipts (Colorado, Connecticut, Idaho, Illinois, Indiana, Kansas, Massachusetts, Michigan, Minnesota, Nebraska, New Hampshire, New Mexico, New York, North Carolina, North Dakota, Ohio, Oregon, Rhode Island, Utah, Wisconsin).

9 other states may face the same issue as California does when security broker-dealers and banks are included in the same combined reporting group (Alaska, Arizona, Hawaii, Maine, Montana, Oklahoma, Texas, Vermont, and West Virginia). However, it appears California is the only major state that has not addressed this issue by statute, regulation, or adjudication. Among the 9 states, 3 major states, Illinois, Massachusetts, and New York, which are the most similar states to California, provide rules as follow:

- Illinois: includes in the sales factor a dealer's net gains from intangible personal property. 35 ILCS § 5/304(a)(3)(C-5)(iii); 86 Ill. Admin. Code § 100.3380(c)(5).
- Massachusetts: definition of "sales" excludes gross receipts from the sale of securities. Mass. G.L. ch. 63, § 38(f); 830 CMR 63.38.1(9)(a)3.
- New York: N.Y. Tax Law § 210-A.5(a) includes in the sales factor net gain from financial transactions, and §210-A.5(b)(3) includes in the sales factor "primary spread" from the underwriting activities of a registered securities dealer.