

110TH CONGRESS
2D SESSION

H. R. 6921

To provide additional oversight and transparency to the commodity futures markets by authorizing greater resources and authority for the Commodity Futures Trading Commission, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 17, 2008

Mr. MORAN of Kansas introduced the following bill; which was referred to the Committee on Agriculture

A BILL

To provide additional oversight and transparency to the commodity futures markets by authorizing greater resources and authority for the Commodity Futures Trading Commission, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Commodity Prices
5 Oversight and Transparency Act of 2008”.

1 **SEC. 2. SENSE OF THE HOUSE ON ADDITIONAL FUNDING**
2 **FOR COMMISSION.**

3 (a) FINDINGS.—The House of Representatives finds
4 that—

5 (1) the Commodity Futures Trading Commis-
6 sion should further examine whether speculators are
7 manipulating futures market prices to cause artifi-
8 cial prices that do not reflect the legitimate forces
9 of supply and demand;

10 (2) the public is concerned that trades executed
11 on foreign boards of trade when linked to the prices
12 of contracts traded on U.S. registered entities may
13 need additional oversight;

14 (3) the exclusive Federal regulator of com-
15 modity futures markets, the Commodity Futures
16 Trading Commission, has staffing levels that have
17 dropped to the lowest levels in the 33-year history
18 of the Commission; and

19 (4) the acting Chairman of the Commission has
20 said publicly that an additional 100 employees are
21 needed in light of the inflow of trading volume.

22 (b) SENSE OF THE HOUSE.—It is the sense of the
23 House of Representatives that the President should imme-
24 diately send to Congress a request for additional appro-
25 priations for fiscal year 2008 for the Commodity Futures
26 Trading Commission in an amount that is sufficient—

1 (1) to help restore public confidence in com-
2 modity futures markets and Federal oversight of
3 those markets;

4 (2) to allow the Commission to reduce the po-
5 tential threat of market manipulation or congestion
6 by potential imposition of position limitations for
7 speculators should the Commission determine the
8 absence of position limitations for speculators is
9 causing an increase in the price of oil, gasoline, die-
10 sel, and other energy commodities;

11 (3) to significantly improve the information
12 technology capabilities of the Commission to help the
13 Commission effectively regulate the commodity fu-
14 tures markets; and

15 (4) to fund at least 100 new full-time positions
16 at the Commission to regulate commodity futures
17 market transactions and to enforce the Commodity
18 Exchange Act (7 U.S.C. 1 et seq.).

19 **SEC. 3. ADDITIONAL COMMISSION EMPLOYEES FOR IM-**
20 **PROVED ENFORCEMENT.**

21 Section 2(a)(7) of the Commodity Exchange Act (7
22 U.S.C. 2(a)(7)) is amended by adding at the end the fol-
23 lowing:

24 “(D) ADDITIONAL EMPLOYEES.—Contin-
25 gent on sufficient appropriations, as soon as

1 practicable after the date of enactment of this
2 subparagraph, the Commission shall appoint
3 additional full-time employees (in addition to
4 the employees employed by the Commission as
5 of the date of enactment of this subpara-
6 graph)—

7 “(i) to increase the public trans-
8 parency of operations in commodity fu-
9 tures markets;

10 “(ii) to improve the enforcement of
11 this Act in those markets; and

12 “(iii) to carry out such other duties as
13 are prescribed by the Commission.”.

14 **SEC. 4. ACCOUNTABILITY AND TRANSPARENCY FOR CON-**
15 **TRACTS TRADING ON FOREIGN BOARDS OF**
16 **TRADE.**

17 Section 4 of the Commodity Exchange Act (7 U.S.C.
18 6) is amended by adding at the end the following:

19 “(e) FOREIGN BOARDS OF TRADE.—

20 “(1) Whenever a foreign board of trade lists for
21 trading a contract of sale of a commodity for future
22 delivery (or related option) which, by its terms, set-
23 tles against the price of any contract or contracts
24 traded on a registered entity and the Commission
25 determines that it is necessary or appropriate to en-

1 hance and coordinate market surveillance and regu-
2 latory oversight with respect to trading on the reg-
3 istered entity and the foreign board of trade, the
4 Commission shall contact the foreign board of
5 trade's applicable foreign futures authority to dis-
6 cuss, adopt, and implement mutually acceptable, en-
7 hanced procedures and processes for preventing
8 market manipulation or congestion and ensuring co-
9 ordinated market surveillance.

10 “(2) Whenever a registered entity lists for trad-
11 ing a contract of sale of a commodity for future de-
12 livery (or related option) which, by its terms, settles
13 against the price of any contract or contracts in a
14 commodity traded on a foreign board of trade and
15 the foreign futures authority that regulates such for-
16 eign board of trade determines that it is necessary
17 or appropriate to enhance and coordinate market
18 surveillance and regulatory oversight with respect to
19 trading on the registered entity and the foreign
20 board of trade, the Commission shall cooperate with
21 any reasonable request from the foreign futures au-
22 thority to discuss, adopt, and implement mutually
23 acceptable, enhanced procedures and processes for
24 preventing market manipulation or congestion and
25 ensuring coordinated market surveillance.

1 “(3) When it is determined necessary or appro-
2 priate to enhance and coordinate market surveillance
3 and regulatory oversight under paragraphs (1) or
4 (2) of this subsection, the Commission shall discuss
5 with the applicable foreign futures authority wheth-
6 er, among other processes for preventing market ma-
7 nipulation or congestion and ensuring coordinated
8 market surveillance to be agreed to by the Commis-
9 sion and the foreign futures authority, it is nec-
10 essary and appropriate to provide for—

11 “(A) a foreign board of trade or registered
12 entity to make public daily information on set-
13 tlement prices, volume, open interest, and open-
14 ing and closing ranges for the agreement, con-
15 tract or transaction that is comparable to the
16 daily trading information made public for the
17 contract against which it settles;

18 “(B) position limitations (including provi-
19 sions allowing for exemptions for bona fide
20 hedging transactions or positions) or position
21 accountability for speculators for the agree-
22 ment, contract, or transaction that are com-
23 parable to the position limitations (including
24 provisions allowing for exemptions for bona fide
25 hedging transactions or positions) or position

1 accountability for the contract or contracts
2 against which it settles;

3 “(C) the foreign board of trade (or its for-
4 eign futures authority) or registered entity to
5 provide information to the Commission or for-
6 eign futures authority regarding large trader
7 positions in the agreement, contract, or trans-
8 action that is comparable to the large trader
9 position information collected by the foreign fu-
10 tures authority or Commission for the contract
11 or contracts against which it settles; or

12 “(D) the foreign board of trade or reg-
13 istered entity to provide information to the
14 Commission or foreign futures authority regard-
15 ing the extent of trading by bona fide hedgers
16 and other types of traders in the agreement,
17 contract, or transaction that is comparable to
18 the information collected by the foreign futures
19 authority or Commission for the contract or
20 contracts against which it settles.”.

21 **SEC. 5. LIABILITY OF REGISTERED PERSONS TRADING ON A**
22 **FOREIGN BOARD OF TRADE.**

23 (a) Section 4(a) of the Commodity Exchange Act (7
24 U.S.C. 6(a)) is amended by inserting “or by subsection

1 (f)” after the phrase “Unless exempted by the Commission
2 pursuant to subsection (c)”.

3 (b) Section 4 of the Commodity Exchange Act (7
4 U.S.C. 6) is further amended by adding at the end the
5 following:

6 “(f) No person registered with the Commission, or
7 exempt from registration by the Commission, under this
8 Act may be found to violate subsection (a) if such person
9 has reason to believe the contract of sale of a commodity
10 for future delivery is made on or subject to the rules of
11 a board of trade that is legally organized under the laws
12 of a foreign country, authorized to act as a board of trade
13 by a foreign futures authority, subject to regulation by
14 such foreign futures authority, and has not been deter-
15 mined by the Commission to be operating in violation of
16 subsection (a).”.

17 **SEC. 6. CONTRACT ENFORCEMENT FOR FOREIGN FUTURES**
18 **CONTRACTS.**

19 Section 22(a) of the Commodity Exchange Act (7
20 U.S.C. 25(a)) is amended by adding at the end the fol-
21 lowing:

22 “(5) No contract of sale of a commodity for fu-
23 ture delivery traded or executed on or through the
24 facilities of a board of trade, exchange, or market lo-
25 cated outside the United States for purposes of sec-

1 tion 4(a) shall be void, voidable, or unenforceable
2 and no party to such contract shall be entitled to re-
3 scind or recover any payments made with respect to
4 such contract based upon the failure of the foreign
5 board of trade to comply with any provision of this
6 Act.”.

7 **SEC. 7. DISAGGREGATION OF INDEX FUNDS AND OTHER**
8 **DATA IN COMMODITY MARKETS.**

9 Section 4 of the Commodity Exchange Act (7 U.S.C.
10 6) is further amended by adding at the end the following:

11 “(g) INDEX TRADERS AND SWAP DEALERS;
12 DISAGGREGATION OF INDEX FUNDS.—

13 “(1) REPORTING.—The Commission shall—

14 “(A) issue a proposed rule regarding rou-
15 tine reporting requirements for index traders
16 and swap dealers (as those terms are defined by
17 the Commission) in futures markets for exempt
18 and agricultural commodities not later than 180
19 days after the date of enactment of this sub-
20 section, and issue a final rule regarding such
21 reporting not later than 270 days after the date
22 of enactment of this subsection; and

23 “(B) subject to the provisions of section 8,
24 disaggregate and make public monthly informa-
25 tion on the positions and value of index funds

1 and other passive positions (as that term is de-
2 fined by the Commission) where such positions
3 are material to a commodity futures or options
4 markets.

5 “(2) REPORT.—The Commission shall, at such
6 intervals as the Commission determines necessary to
7 provide current information and recommendations
8 that will further congressional oversight of the fu-
9 tures markets, submit a report to the Committee on
10 Agriculture of the House of Representatives and the
11 Committee on Agriculture, Nutrition, and Forestry
12 of the Senate regarding—

13 “(A) the scope of commodity index trading
14 in the futures market;

15 “(B) whether, and if so how, classification
16 of index traders and swap dealers in the future
17 markets can be improved for published Com-
18 mission reports and other regulatory purposes;
19 and

20 “(C) whether, based on review of the trad-
21 ing practices for index traders in the futures
22 markets—

23 “(i) index trading activity is adversely
24 affecting the price discovery process in the
25 futures markets; and

1 “(ii) different practices and controls
2 should be required to protect the price dis-
3 covery process.”.

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