

110TH CONGRESS  
2D SESSION

# H. R. 6976

To amend the Commodity Exchange Act to bring greater transparency and accountability to commodity markets, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 18, 2008

Mrs. TAUSCHER (for herself, Mr. DAVIS of Alabama, and Mrs. MCCARTHY of New York) introduced the following bill; which was referred to the Committee on Agriculture

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## A BILL

To amend the Commodity Exchange Act to bring greater transparency and accountability to commodity markets, 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 “Preventing Manipula-  
5 tion in Commodity Markets Act of 2008”.

6 **SEC. 2. TABLE OF CONTENTS.**

7 The table of contents of this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.
- Sec. 3. Definition of energy commodity.
- Sec. 4. Speculative limits and transparency of off-shore trading.

- Sec. 5. Disaggregation of index funds and other data in energy and agriculture markets.
- Sec. 6. Detailed reporting from index traders and swap dealers.
- Sec. 7. Transparency and recordkeeping authorities.
- Sec. 8. Trading limits to prevent excessive speculation.
- Sec. 9. Modifications to core principles applicable to position limits for contracts in agricultural and energy commodities.
- Sec. 10. CFTC Administration.
- Sec. 11. Review of prior actions.
- Sec. 12. Review of over-the-counter markets.
- Sec. 13. Studies; reports.
- Sec. 14. Over-the-counter authority.
- Sec. 15. Expedited process.

1 **SEC. 3. DEFINITION OF ENERGY COMMODITY.**

2 (a) DEFINITION OF ENERGY COMMODITY.—Section  
 3 1a of the Commodity Exchange Act (7 U.S.C. 1a) is  
 4 amended—

5 (1) by redesignating paragraphs (13) through  
 6 (34) as paragraphs (14) through (35), respectively;  
 7 and

8 (2) by inserting after paragraph (12) the fol-  
 9 lowing:

10 “(13) ENERGY COMMODITY.—The term ‘energy  
 11 commodity’ means—

12 “(A) coal;

13 “(B) crude oil, gasoline, diesel fuel, jet  
 14 fuel, heating oil, and propane;

15 “(C) electricity;

16 “(D) natural gas; and

17 “(E) any other substance that is used as  
 18 a source of energy, as the Commission, in its  
 19 discretion, deems appropriate.”.

1 (b) CONFORMING AMENDMENTS.—

2 (1) Section 2(c)(2)(B)(i)(II)(cc) of the Com-  
3 modity Exchange Act (7 U.S.C.  
4 2(c)(2)(B)(i)(II)(cc)) is amended—

5 (A) in subitem (AA), by striking “section  
6 1a(20)” and inserting “section 1a(21)”; and

7 (B) in subitem (BB), by striking “section  
8 1a(20)” and inserting “section 1a(21)”.

9 (2) Section 13106(b)(1) of the Food, Conserva-  
10 tion, and Energy Act of 2008 is amended by striking  
11 “section 1a(32)” and inserting “section 1a”.

12 (3) Section 402 of the Legal Certainty for  
13 Bank Products Act of 2000 (7 U.S.C. 27) is amend-  
14 ed—

15 (A) in subsection (a)(7), by striking “sec-  
16 tion 1a(20)” and inserting “section 1a”; and

17 (B) in subsection (d)—

18 (i) in paragraph (1)(B), by striking  
19 “section 1a(33)” and inserting “section  
20 1a”; and

21 (ii) in paragraph (2)(D), by striking  
22 “section 1a(13)” and inserting “section  
23 1a”.

1 **SEC. 4. SPECULATIVE LIMITS AND TRANSPARENCY OF OFF-**  
2 **SHORE TRADING.**

3 (a) IN GENERAL.—Section 4 of the Commodity Ex-  
4 change Act (7 U.S.C. 6) is amended by adding at the end  
5 the following:

6 “(e) FOREIGN BOARDS OF TRADE.—

7 “(1) IN GENERAL.—The Commission may not  
8 permit a foreign board of trade to provide to the  
9 members of the foreign board of trade or other par-  
10 ticipants located in the United States direct access  
11 to the electronic trading and order matching system  
12 of the foreign board of trade with respect to an  
13 agreement, contract, or transaction in an energy or  
14 agricultural commodity that settles against any price  
15 (including the daily or final settlement price) of 1 or  
16 more contracts listed for trading on a registered en-  
17 tity, unless—

18 “(A) the foreign board of trade makes pub-  
19 lic daily trading information regarding the  
20 agreement, contract, or transaction that is com-  
21 parable to the daily trading information pub-  
22 lished by the registered entity for the 1 or more  
23 contracts against which the agreement, con-  
24 tract, or transaction traded on the foreign  
25 board of trade settles; and

1           “(B) the foreign board of trade (or the for-  
2           eign futures authority that oversees the foreign  
3           board of trade)—

4                   “(i) adopts position limits (including  
5                   related hedge exemption provisions) for the  
6                   agreement, contract, or transaction that  
7                   are comparable, taking into consideration  
8                   the relative sizes of the respective markets,  
9                   to the position limits (including related  
10                  hedge exemption provisions) adopted by  
11                  the registered entity for the 1 or more con-  
12                  tracts against which the agreement, con-  
13                  tract, or transaction traded on the foreign  
14                  board of trade settles;

15                  “(ii) has the authority to require or  
16                  direct market participants to limit, reduce,  
17                  or liquidate any position the foreign board  
18                  of trade (or the foreign futures authority  
19                  that oversees the foreign board of trade)  
20                  determines to be necessary to prevent or  
21                  reduce the threat of price manipulation,  
22                  excessive speculation as described in sec-  
23                  tion 4a, price distortion, or disruption of  
24                  delivery or the cash settlement process;

1           “(iii) agrees to promptly notify the  
2 Commission of any change regarding—

3           “(I) the information that the for-  
4 eign board of trade will make publicly  
5 available;

6           “(II) the position limits that the  
7 foreign board of trade or foreign fu-  
8 tures authority will adopt and enforce;

9           “(III) the position reductions re-  
10 quired to prevent manipulation, exces-  
11 sive speculation as described in sec-  
12 tion 4a, price distortion, or disruption  
13 of delivery or the cash settlement  
14 process; and

15           “(IV) any other area of interest  
16 expressed by the Commission to the  
17 foreign board of trade or foreign fu-  
18 tures authority;

19           “(iv) provides information to the  
20 Commission regarding large trader posi-  
21 tions in the agreement, contract, or trans-  
22 action that is comparable to the large trad-  
23 er position information collected by the  
24 Commission for the 1 or more contracts  
25 against which the agreement, contract, or

1 transaction traded on the foreign board of  
2 trade settles; and

3 “(v) provides the Commission with in-  
4 formation necessary to publish reports on  
5 aggregate trader positions for the agree-  
6 ment, contract, or transaction traded on  
7 the foreign board of trade that are com-  
8 parable to such reports for 1 or more con-  
9 tracts against which the agreement, con-  
10 tract, or transaction traded on the foreign  
11 board of trade settles.

12 “(2) EXISTING FOREIGN BOARDS OF TRADE.—  
13 Paragraph (1) shall not be effective with respect to  
14 any agreement, contract, or transaction in an energy  
15 commodity executed on a foreign board of trade to  
16 which the Commission had granted direct access  
17 permission before the date of the enactment of this  
18 subsection until the date that is 180 days after such  
19 date of enactment.”.

20 (b) LIABILITY OF REGISTERED PERSONS TRADING  
21 ON A FOREIGN BOARD OF TRADE.—

22 (1) Section 4(a) of such Act (7 U.S.C. 6(a)) is  
23 amended by inserting “or by subsection (f)” after  
24 “Unless exempted by the Commission pursuant to  
25 subsection (c)”.

1           (2) Section 4 of such Act (7 U.S.C. 6) is fur-  
2           ther amended by adding at the end the following:

3           “(f) A person registered with the Commission, or ex-  
4           empt from registration by the Commission, under this Act  
5           may not be found to have violated subsection (a) with re-  
6           spect to a transaction in, or in connection with, a contract  
7           of sale of a commodity for future delivery if the person  
8           has reason to believe the transaction and the contract is  
9           made on or subject to the rules of a board of trade that  
10          is legally organized under the laws of a foreign country,  
11          authorized to act as a board of trade by a foreign futures  
12          authority, subject to regulation by the foreign futures au-  
13          thority, and has not been determined by the Commission  
14          to be operating in violation of subsection (a).”.

15          (c) CONTRACT ENFORCEMENT FOR FOREIGN FU-  
16          TURES CONTRACTS.—Section 22(a) of such Act (7 U.S.C.  
17          25(a)) is amended by adding at the end the following:

18                 “(5) A contract of sale of a commodity for fu-  
19                 ture delivery traded or executed on or through the  
20                 facilities of a board of trade, exchange, or market lo-  
21                 cated outside the United States for purposes of sec-  
22                 tion 4(a) shall not be void, voidable, or unenforce-  
23                 able, and a party to such a contract shall not be en-  
24                 titled to rescind or recover any payment made with  
25                 respect to the contract, based on the failure of the



1 foreign board of trade to comply with any provision  
2 of this Act.”.

3 **SEC. 5. DISAGGREGATION OF INDEX FUNDS AND OTHER**  
4 **DATA IN ENERGY AND AGRICULTURE MAR-**  
5 **KETS.**

6 Section 4 of the Commodity Exchange Act (7 U.S.C.  
7 6), as amended by section 4 of this Act, is amended by  
8 adding at the end the following:

9 “(g) DISAGGREGATION OF INDEX FUNDS AND  
10 OTHER DATA IN ENERGY AND AGRICULTURE MAR-  
11 KETS.—Subject to section 8 and beginning within 30 days  
12 of the issuance of the final rule required by section 4h,  
13 the Commission shall disaggregate and make public week-  
14 ly—

15 “(1) the number of positions and total value of  
16 index funds and other passive, long-only and short-  
17 only positions (as defined by the Commission) in all  
18 energy and agricultural markets to the extent such  
19 information is available; and

20 “(2) data on speculative positions relative to  
21 bona fide physical hedgers in those markets to the  
22 extent such information is available.”.

1 **SEC. 6. DETAILED REPORTING FROM INDEX TRADERS AND**  
2 **SWAP DEALERS.**

3 Section 4 of the Commodity Exchange Act (7 U.S.C.  
4 6), as amended by sections 4 and 5 of this Act, is amended  
5 by adding at the end the following:

6 “(h) INDEX TRADERS AND SWAP DEALERS REPORT-  
7 ING.—The Commission shall issue a proposed rule defin-  
8 ing and classifying index traders and swap dealers (as  
9 those terms are defined by the Commission) for purposes  
10 of data reporting requirements and setting routine de-  
11 tailed reporting requirements for such entities in des-  
12 ignated contract markets, derivatives transaction execu-  
13 tion facilities, foreign boards of trade subject to section  
14 4(e), and electronic trading facilities with respect to sig-  
15 nificant price discovery contracts with respect to exempt  
16 and agricultural commodities not later than 60 days after  
17 the date of the enactment of this subsection, and issue  
18 a final rule within 120 days after such date of enact-  
19 ment.”.

20 **SEC. 7. TRANSPARENCY AND RECORDKEEPING AUTHORI-**  
21 **TIES.**

22 (a) IN GENERAL.—Section 4g(a) of the Commodity  
23 Exchange Act (7 U.S.C. 6g(a)) is amended—

24 (1) by inserting “a” before “futures commission  
25 merchant”; and

1           (2) by inserting “and transactions and positions  
2 traded pursuant to subsection (g), (h)(1), or (h)(2)  
3 of section 2, or any exemption issued by the Com-  
4 mission by rule, regulation or order,” after “United  
5 States or elsewhere,”.

6           (b) REPORTS OF DEALS EQUAL TO OR IN EXCESS  
7 OF TRADING LIMITS.—Section 4i of such Act (7 U.S.C.  
8 6i) is amended—

9           (1) in the first sentence—

10           (A) by inserting “(a)” before “It shall”;

11           and

12           (B) by inserting “in the United States or  
13 elsewhere, and of transactions and positions in  
14 any such commodity entered into pursuant to  
15 subsection (g), (h)(1), or (h)(2) of section 2, or  
16 any exemption issued by the Commission by  
17 rule, regulation or order” before “, and of cash  
18 or spot”; and

19           (2) by striking all that follows the 1st sentence  
20 and inserting the following:

21           “(b) With respect to agricultural and energy com-  
22 modities, upon special call by the Commission, any person  
23 shall provide to the Commission, in a form and manner  
24 and within the period specified in the special call, books  
25 and records of all transactions and positions traded on or

1 subject to the rules of any board of trade or electronic  
2 trading facility in the United States or elsewhere, or pur-  
3 suant to subsection (g), (h)(1), or (h)(2) of section 2, or  
4 any exemption issued by the Commission by rule, regula-  
5 tion, or order, as the Commission may determine appro-  
6 priate to deter and prevent price manipulation or any  
7 other disruption to market integrity or to diminish, elimi-  
8 nate, or prevent excessive speculation as described in sec-  
9 tion 4a(a).

10 “(c) Such books and records described in subsections  
11 (a) and (b) shall show complete details concerning all such  
12 transactions, positions, inventories, and commitments, in-  
13 cluding the names and addresses of all persons having any  
14 interest therein, shall be kept for a period of 5 years, and  
15 shall be open at all times to inspection by any representa-  
16 tive of the Commission or the Department of Justice. For  
17 the purposes of this section, the futures and cash or spot  
18 transactions and positions of any person shall include such  
19 transactions and positions of any persons directly or indi-  
20 rectly controlled by the person.”.

21 (c) CONFORMING AMENDMENTS.—

22 (1) Section 2(g) of such Act (7 U.S.C. 2(g)) is  
23 amended—

24 (A) by inserting “4g(a), 4i,” before “5a  
25 (to”;

1 (B) by inserting “, and the regulations of  
2 the Commission pursuant to section 4c(b) re-  
3 quiring reporting in connection with commodity  
4 option transactions,” before “shall apply”.

5 (2) Section 2(h)(2)(A) of such Act (7 U.S.C.  
6 2(h)(2)(A)) is amended to read as follows:

7 “(A) sections 4g(a), 4i, 5b, and  
8 12(e)(2)(B), and the regulations of the Com-  
9 mission pursuant to section 4c(b) requiring re-  
10 porting in connection with commodity option  
11 transactions;”.

12 **SEC. 8. TRADING LIMITS TO PREVENT EXCESSIVE SPECU-**  
13 **LATION.**

14 Section 4a of the Commodity Exchange Act (7 U.S.C.  
15 6a) is amended—

16 (1) in subsection (a)—

17 (A) by inserting “(1)” after “(a)”; and

18 (B) by adding after and below the end the  
19 following:

20 “(2) In accordance with the standards set forth in  
21 paragraph (1) of this subsection and consistent with the  
22 good faith exception cited in subsection (b)(2), with re-  
23 spect to agricultural commodities enumerated in section  
24 1a(4) and energy commodities, the Commission, within 60  
25 days after the date of the enactment of this paragraph,

1 shall by rule, regulation, or order establish limits on the  
2 amount of positions that may be held by any person with  
3 respect to contracts of sale for future delivery or with re-  
4 spect to options on such contracts or commodities traded  
5 on or subject to the rules of a contract market or deriva-  
6 tives transaction execution facility, or on an electronic  
7 trading facility as a significant price discovery contract.

8       “(3) In establishing the limits required in paragraph  
9 (2), the Commission shall set limits—

10           “(A) on the number of positions that may be  
11 held by any person for the spot month, each other  
12 month, and the aggregate number of positions that  
13 may be held by any person for all months;

14           “(B) to the maximum extent practicable, in its  
15 discretion—

16               “(i) to diminish, eliminate, or prevent ex-  
17 cessive speculation as described under this sec-  
18 tion;

19               “(ii) to deter and prevent market manipu-  
20 lation, squeezes, and corners;

21               “(iii) to ensure sufficient market liquidity  
22 for bona fide hedgers; and

23               “(iv) to ensure that the price discovery  
24 function of the underlying market is not dis-  
25 rupted; and

1           “(C) to the maximum extent practicable, in its  
2           discretion, take into account the total number of po-  
3           sitions in fungible agreements, contracts, or trans-  
4           actions that a person can hold in agricultural and  
5           energy commodities in other markets.

6           “(4)(A) Not later than 150 days after the date of  
7           the enactment of this paragraph, the Commission shall  
8           convene a Position Limit Agricultural Advisory Group and  
9           a Position Limit Energy Group, each group consisting of  
10          representatives from—

11           “(i) 5 predominantly commercial short hedgers  
12          of the actual physical commodity for future delivery;

13           “(ii) 5 predominantly commercial long hedgers  
14          of the actual physical commodity for future delivery;

15           “(iii) 4 non-commercial participants in markets  
16          for commodities for future delivery; and

17           “(iv) each designated contract market or de-  
18          rivatives transaction execution facility upon which a  
19          contract in the commodity for future delivery is  
20          traded, and each electronic trading facility that has  
21          a significant price discovery contract in the com-  
22          modity.

23           “(B) Not later than 60 days after the date on which  
24          the advisory groups are convened under subparagraph (A),  
25          and annually thereafter, the advisory groups shall submit

1 to the Commission advisory recommendations regarding  
2 the position limits to be established in paragraph (2) and  
3 a recommendation as to whether the position limits should  
4 be administered directly by the Commission, or by the reg-  
5 istered entity on which the commodity is listed (with en-  
6 forcement by both the registered entity and the Commis-  
7 sion).”; and

8 (2) in subsection (c)—

9 (A) by inserting “(1)” after “(c)”; and

10 (B) by adding after and below the end the  
11 following:

12 “(2) With respect to agricultural and energy com-  
13 modities, for the purposes of contracts of sale for future  
14 delivery and options on such contracts or commodities, a  
15 bona fide hedging transaction or position is a transaction  
16 or position that—

17 “(A)(i) represents a substitute for transactions  
18 to be made or positions to be taken at a later time;

19 “(ii) is economically appropriate to the reduc-  
20 tion of risks in the conduct and management of a  
21 commercial or other enterprise; and

22 “(iii) arises from the potential change in the  
23 value of—

24 “(I) assets that a person owns, produces,  
25 manufactures, processes, or merchandises or



1 anticipates owning, producing, manufacturing,  
2 processing, or merchandising;

3 “(II) liabilities that a person owns or an-  
4 ticipates incurring; or

5 “(III) services that a person provides, pur-  
6 chases, or anticipates providing or purchasing;  
7 or

8 “(B) reduces risks attendant to a position re-  
9 sulting from a transaction that—

10 “(i) was executed pursuant to subsection  
11 (d), (g), (h)(1), or (h)(2) of section 2, or an ex-  
12 emption issued by the Commission by rule, reg-  
13 ulation or order; and

14 “(ii) would qualify as a bona fide hedging  
15 transaction pursuant to paragraph (2)(A) of  
16 this subsection.”.

17 **SEC. 9. MODIFICATIONS TO CORE PRINCIPLES APPLICABLE**  
18 **TO POSITION LIMITS FOR CONTRACTS IN AG-**  
19 **RICULTURAL AND ENERGY COMMODITIES.**

20 (a) **CONTRACTS TRADED ON CONTRACT MARKETS.—**  
21 Section 5(d)(5) of the Commodity Exchange Act (7 U.S.C.  
22 7(d)(5)) is amended by striking all that follows “adopt”  
23 and inserting “, for speculators, position limitations with  
24 respect to agricultural commodities enumerated in section  
25 1a(4) or energy commodities, and position limitations or

1 position accountability with respect to other commodities,  
2 where necessary and appropriate.”.

3 (b) **CONTRACTS TRADED ON DERIVATIVES TRANS-**  
4 **ACTION EXECUTION FACILITIES.**—Section 5a(d)(4) of  
5 such Act (7 U.S.C. 7a(d)(4)) is amended by striking all  
6 that follows “adopt” and inserting “, for speculators, posi-  
7 tion limitations with respect to energy commodities, and  
8 position limitations or position accountability with respect  
9 to other commodities, where necessary and appropriate for  
10 a contract, agreement or transaction with an underlying  
11 commodity that has a physically deliverable supply.”.

12 (c) **SIGNIFICANT PRICE DISCOVERY CONTRACTS.**—  
13 Section 2(h)(7)(C)(ii)(IV) of such Act (7 U.S.C.  
14 2(h)(7)(C)(ii)(IV)) is amended by striking “where nec-  
15 essary” and all that follows through “in significant price  
16 discovery contracts” and inserting “for speculators, posi-  
17 tion limitations with respect to significant price discovery  
18 contracts in energy commodities, and position limitations  
19 or position accountability with respect to significant price  
20 discovery contracts in other commodities”.

21 **SEC. 10. CFTC ADMINISTRATION.**

22 (a) **ADDITIONAL COMMODITY FUTURES TRADING**  
23 **COMMISSION EMPLOYEES FOR IMPROVED ENFORCE-**  
24 **MENT.**—Section 2(a)(7) of the Commodity Exchange Act

1 (7 U.S.C. 2(a)(7)) is amended by adding at the end the  
2 following:

3           “(D) ADDITIONAL EMPLOYEES.—As soon  
4 as practicable after the date of the enactment  
5 of this subparagraph, subject to appropriations,  
6 the Commission shall appoint at least 100 full-  
7 time employees (in addition to the employees  
8 employed by the Commission as of the date of  
9 the enactment of this subparagraph)—

10           “(i) to increase the public trans-  
11 parency of operations in agriculture and  
12 energy markets;

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

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

17       (b) INSPECTOR GENERAL OF COMMODITY FUTURES  
18 TRADING COMMISSION.—

19           (1) ELEVATION OF OFFICE.—

20           (A) INCLUSION OF CFTC IN DEFINITION OF  
21 ESTABLISHMENT.—Section 11(2) of the Inspec-  
22 tor General Act of 1878 (5 U.S.C. App.) is  
23 amended by striking “or the Export-Import  
24 Bank,” and inserting “, the Export-Import

1 Bank, or the Commodity Futures Trading  
2 Commission,”.

3 (B) EXCLUSION OF CFTC FROM DEFINI-  
4 TION OF DESIGNATED FEDERAL ENTITY.—Sec-  
5 tion 8G(a)(2) of such Act (5 U.S.C. App.) is  
6 amended by striking “the Commodity Futures  
7 Trading Commission,”.

8 (2) TRANSITION.—Until such time as the In-  
9 spector General of the Commodity Futures Trading  
10 Commission is appointed in accordance with section  
11 3 of the Inspector General Act of 1978, the Office  
12 of Inspector General of the Commission shall con-  
13 tinue in effect as provided in such Act before the  
14 date of the enactment of this Act.

15 **SEC. 11. REVIEW OF PRIOR ACTIONS.**

16 Notwithstanding any other provision of the Com-  
17 modity Exchange Act, the Commodity Futures Trading  
18 Commission shall review, as appropriate, all regulations,  
19 rules, exemptions, exclusions, guidance, no action letters,  
20 orders, other actions taken by or on behalf of the Commis-  
21 sion, and any action taken pursuant to the Commodity  
22 Exchange Act by an exchange, self-regulatory organiza-  
23 tion, or any other registered entity, that are currently in  
24 effect, to ensure that such prior actions are in compliance  
25 with the provisions of this Act.

1 **SEC. 12. REVIEW OF OVER-THE-COUNTER MARKETS.**

2 (a) **STUDY.**—The Commodity Futures Trading Com-  
3 mission shall conduct a study—

4 (1) to determine the efficacy, practicality, and  
5 consequences of establishing position limits for  
6 agreements, contracts, or transactions conducted in  
7 reliance on sections 2(g) and 2(h) of the Commodity  
8 Exchange Act and of any exemption issued by the  
9 Commission by rule, regulation or order, as a means  
10 to deter and prevent price manipulation or any other  
11 disruption to market integrity or to diminish, elimi-  
12 nate, or prevent excessive speculation as described in  
13 section 4a of such Act for physical-based commod-  
14 ities; and

15 (2) to determine the efficacy, practicality, and  
16 consequences of establishing aggregate position lim-  
17 its for similar agreements, contracts, or transactions  
18 for physical-based commodities traded—

19 (A) on designated contract markets;

20 (B) on derivatives transaction execution fa-  
21 cilities; and

22 (C) in reliance on such sections 2(g) and  
23 2(h) and of any exemption issued by the Com-  
24 mission by rule, regulation or order.

25 (b) **PUBLIC HEARINGS.**—The Commission shall pro-  
26 vide for not less than 2 public hearings to take testimony,

1 on the record, as part of the fact- gathering process in  
2 preparation of the report.

3 (c) REPORT AND RECOMMENDATIONS.—Not less  
4 than 12 months after the date of the enactment of this  
5 section, the Commission shall provide to the Committee  
6 on Agriculture of the House of Representatives and the  
7 Committee on Agriculture, Nutrition, and Forestry of the  
8 Senate a report that—

9 (1) describes the results of the study; and

10 (2) provides recommendations on any actions  
11 necessary to deter and prevent price manipulation or  
12 any other disruption to market integrity or to dimin-  
13 ish, eliminate, or prevent excessive speculation as de-  
14 scribed in section 4a of the Commodity Exchange  
15 Act for physical-based commodities, including—

16 (A) any additional statutory authority that  
17 the Commission determines to be necessary to  
18 implement the recommendations; and

19 (B) a description of the resources that the  
20 Commission considers to be necessary to imple-  
21 ment the recommendations.

22 **SEC. 13. STUDIES; REPORTS.**

23 (a) STUDY RELATING TO INTERNATIONAL REGULA-  
24 TION OF ENERGY COMMODITY MARKETS.—

1           (1) IN GENERAL.—The Comptroller General of  
2 the United States shall conduct a study of the inter-  
3 national regime for regulating the trading of energy  
4 commodity futures and derivatives.

5           (2) ANALYSIS.—The study shall include an  
6 analysis of, at a minimum—

7           (A) key common features and differences  
8 among countries in the regulation of energy  
9 commodity trading, including with respect to  
10 market oversight and enforcement standards  
11 and activities;

12           (B) variations among countries with re-  
13 spect to the use of position limits, position ac-  
14 countability levels, or other thresholds to detect  
15 and prevent price manipulation, excessive spec-  
16 ulation as described in section 4a of the Com-  
17 modity Exchange Act, or other unfair trading  
18 practices;

19           (C) variations in practices regarding the  
20 differentiation of commercial and noncommer-  
21 cial trading;

22           (D) agreements and practices for sharing  
23 market and trading data among futures au-  
24 thorities and between futures authorities and

1 the entities that the futures authorities oversee;  
2 and

3 (E) agreements and practices for facili-  
4 tating international cooperation on market over-  
5 sight, compliance, and enforcement.

6 (3) REPORT.—Not later than 1 year after the  
7 date of the enactment of this Act, the Comptroller  
8 General shall submit to the Committee on Agri-  
9 culture of the House of Representatives and the  
10 Committee on Agriculture, Nutrition, and Forestry  
11 of the Senate a report that—

12 (A) describes the results of the study;

13 (B) addresses whether there is excessive  
14 speculation, and if so, the effects of any such  
15 speculation and energy price volatility on energy  
16 futures; and

17 (C) provides recommendations to improve  
18 openness, transparency, and other necessary  
19 elements of a properly functioning market in a  
20 manner that protects consumers in the United  
21 States.

22 (b) STUDY RELATING TO EFFECTS OF SPECULATORS  
23 ON AGRICULTURE AND ENERGY FUTURES MARKETS AND  
24 AGRICULTURE AND ENERGY PRICES.—



1           (1) STUDY.—The Comptroller General of the  
2 United States shall conduct a study of the effects of  
3 speculators on agriculture and energy futures mar-  
4 kets and agriculture and energy prices.

5           (2) ANALYSIS.—The study shall include an  
6 analysis of, at a minimum—

7           (A) the effect of increased amounts of cap-  
8 ital in agriculture and energy futures markets;

9           (B) the impact of the roll-over of positions  
10 by index fund traders and swap dealers on agri-  
11 culture and energy futures markets and agri-  
12 culture and energy prices; and

13           (C) the extent to which each factor de-  
14 scribed in subparagraphs (A) and (B) and spec-  
15 ulators—

16           (i) affect—

17           (I) the pricing of agriculture and  
18 energy commodities; and

19           (II) risk management functions;  
20 and

21           (ii) contribute to economically efficient  
22 price discovery.

23           (3) REPORT.—Not later than 2 years after the  
24 date of the enactment of this Act, the Comptroller  
25 General shall submit to the Committee on Agri-

1 culture of the House of Representatives and the  
2 Committee on Agriculture, Nutrition, and Forestry  
3 of the Senate a report that describes the results of  
4 the study.

5 **SEC. 14. OVER-THE-COUNTER AUTHORITY.**

6 (a) IN GENERAL.—Section 2 of the Commodity Ex-  
7 change Act (7 U.S.C. 2) is amended by adding at the end  
8 the following:

9 “(j) OVER-THE-COUNTER AUTHORITY.—

10 “(1) Within 60 days after the date of the enact-  
11 ment of this subsection, the Commission shall, by  
12 rule, regulation, or order, require routine reporting  
13 as it deems in its discretion appropriate, on not less  
14 than a monthly basis, of agreements, contracts, or  
15 transactions, with regard to an agricultural or en-  
16 ergy commodity, entered into in reliance on sub-  
17 section (g), (h)(1), or (h)(2) of section 2, or any ex-  
18 emption issued by the Commission by rule, regula-  
19 tion, or order that are fungible (as defined by the  
20 Commission) with agreements, contracts, or trans-  
21 actions traded on or subject to the rules of any  
22 board of trade or of any electronic trading facility  
23 with respect to a significant price discovery contract.

24 “(2) Notwithstanding subsections (g), (h)(1),  
25 and (h)(2) of section 2, and any exemption issued by

1 the Commission by rule, regulation, or order, the  
2 Commission shall assess and issue a finding on  
3 whether the agreements, contracts, or transactions  
4 reported pursuant to paragraph (1), alone or in con-  
5 junction with other similar agreements, contracts, or  
6 transactions, have the potential to—

7 “(A) disrupt the liquidity or price dis-  
8 covery function on a registered entity;

9 “(B) cause a severe market disturbance in  
10 the underlying cash or futures market for an  
11 agricultural or energy commodity; or

12 “(C) prevent or otherwise impair the price  
13 of a contract listed for trading on a registered  
14 entity from reflecting the forces of supply and  
15 demand in any market for an agricultural com-  
16 modity enumerated in section 1a(4) or an en-  
17 ergy commodity.

18 “(3) If the Commission makes a finding pursu-  
19 ant to paragraph (2) of this subsection, the Commis-  
20 sion may, in its discretion, utilize its authority under  
21 section 8a(9) to impose position limits for specu-  
22 lators on the agreements, contracts, or transactions  
23 involved and take corrective actions to enforce the  
24 limits.”.

25 (b) CONFORMING AMENDMENTS.—

1           (1) Section 2(g) of such Act (7 U.S.C. 2(g)) is  
2 amended by inserting “subsection (j) of this section,  
3 and” after “(other than”.

4           (2) Section 2(h)(2)(A) of such Act (7 U.S.C.  
5 2(h)(2)(A)) is amended by inserting “subsection (j)  
6 of this section and” before “sections”.

7           (3) Section 8a(9) of such Act (7 U.S.C.  
8 12a(a)(9)) is amended by inserting after “of the  
9 Commission’s action” the following: “, and to fix  
10 and enforce limits to agreements, contracts, or  
11 transaction subject to section 2(j)(1) pursuant to a  
12 finding made under section 2(j)(2)”.

13 **SEC. 15. EXPEDITED PROCESS.**

14           The Commodity Futures Trading Commission may  
15 use emergency and expedited procedures (including any  
16 administrative or other procedure as appropriate) to carry  
17 out this Act if, in its discretion, it deems it necessary to  
18 do so.

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