H. R. 6197

To reauthorize the Commodity Futures Trading Commission.

IN THE HOUSE OF REPRESENTATIVES

March 11, 2020

Mr. Peterson (for himself, Mr. David Scott of Georgia, Mr. Conaway, and Mr. Austin Scott of Georgia) introduced the following bill; which was referred to the Committee on Agriculture

A BILL

To reauthorize the Commodity Futures Trading Commission.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “CFTC Reauthorization Act of 2019”.

SECTION 2. TABLE OF CONTENTS.

The table of contents of this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—POLICY AMENDMENTS

Sec. 101. Foreign futures authority.
Sec. 102. Honors program.
Sec. 103. Advisory committee changes.
Sec. 104. Enhancement of Office of Minority and Women Inclusion at the Com-
mmission; internship program.
Sec. 105. Detailing and resource-sharing.
Sec. 106. Office of the Chief Economist.
Sec. 107. Equal consideration for holding companies.
Sec. 108. Exemption of qualified charitable organizations from regulation as
commodity pool operators.
Sec. 109. Digital commodity.
Sec. 110. System safeguards.
Sec. 111. Administration of swap execution facilities.
Sec. 112. Applicability of prohibitions on fraud and manipulation to activities
outside the United States.
Sec. 113. Privilege retention.
Sec. 114. Proprietary information.
Sec. 115. Authority to provide food and incidental assistance to foreign officials
hosted by the Commission.
Sec. 116. Extension of operations.
Sec. 117. Aiding and abetting.
Sec. 118. Modernization of authority of the Commission to conduct research,
development, demonstration, and information programs.
Sec. 119. Protecting customer property during commodity broker bankruptcy.
Sec. 120. Elimination of the double-sided confirmation requirement for swap
data repositories.
Sec. 121. Whistleblower protections for internal disclosures.
Sec. 122. Updating standards for natural persons to meet requirements for
qualified eligible persons.
Sec. 123. Government Accountability Office study on aluminum markets.
Sec. 124. Response to foreign regulatory authority.
Sec. 125. Affiliate conditions.

TITLE II—TECHNICAL CORRECTIONS

Sec. 201. Correction of references.
Sec. 202. Elimination of obsolete references to dealer options.
Sec. 203. Updated trade data publication requirement.
Sec. 204. Flexibility for all registered entities.
Sec. 205. Elimination of obsolete references to electronic trading facilities.
Sec. 206. Elimination of obsolete reference to alternative swap execution facili-
ties.
Sec. 207. Clarification of Commission authority over swaps trading.
Sec. 208. Elimination of obsolete reference to the Commodity Exchange Com-
misson.
Sec. 209. Elimination of obsolete references to derivative transaction execution
facilities.
Sec. 210. Elimination of obsolete references to exempt boards of trade.
Sec. 211. Elimination of completed reports.
Sec. 212. Miscellaneous corrections.
Sec. 213. Technical amendments to section 14(e).
Sec. 214. Technical clarifications for retail foreign currency.
Sec. 215. Miscellaneous swap technical corrections.
TITLE I—POLICY AMENDMENTS

SEC. 101. FOREIGN FUTURES AUTHORITY.

(a) In general.—Section 1a(26) of the Commodity Exchange Act (7 U.S.C. 1a(26)) is amended to read as follows:

“(26) FOREIGN FUTURES AUTHORITY.—The term ‘foreign futures authority’ means any foreign government, or any law enforcement authority, department, central bank, ministry, agency, governmental body, or regulatory organization empowered by a foreign government to administer, enforce, or prosecute a law, rule, or regulation relating to matters involving futures, options, swaps, or commodities, or any such authority, department, or agency of a political subdivision of a foreign government empowered to administer, enforce, or prosecute a law, rule, or regulation as it relates to such matters.”.

(b) Conforming amendment.—Section 12(f) of such Act (7 U.S.C. 16(f)) is amended—

(1) in paragraph (1)—

(A) by striking “futures or options” and inserting “futures, options, swaps, or commodities”; and
(B) by striking “administers or enforces” and inserting “administers, enforces, or prosecutes”; and
(2) in paragraph (2)(A), by striking “in futures and options” and inserting “in futures, options, swaps, or commodities”.

SEC. 102. HONORS PROGRAM.
(a) IN GENERAL.—Section 2(a)(7) of the Commodity Exchange Act (7 U.S.C. 2(a)(7)) is amended by adding at the end the following:

“(D) HONORS PROGRAM.—The Commission may establish the Honors Program under its appointment and compensation authorities.”.

(b) CONFORMING AMENDMENT.—Section 12(b)(1) of such Act (7 U.S.C. 16(b)(1)) is amended by adding at the end the following: “To clarify the Commission’s authority to establish the Honors Program under section 2(a)(7)(D), the Commission may coordinate with the Office of Personnel Management, as needed.”.

SEC. 103. ADVISORY COMMITTEE CHANGES.
(a) IN GENERAL.—Section 2(a)(15) of the Commodity Exchange Act (7 U.S.C. 2(a)(15)) is amended to read as follows:

“(15) ADVISORY COMMITTEES.—

“(A) Establishment.—
“(i) IN GENERAL.—The Commission shall establish advisory committees to serve as vehicles for discussion and communication on matters related to the regulatory activities of the Commission.

“(ii) MEMBERSHIP.—The Commission shall appoint to an advisory committee such members as the Commission finds appropriate to promote robust discussion of the subject matter before the advisory committee. In appointing members to an advisory committee, the Commission shall seek to include a wide diversity of opinion and represent a broad cross-section of interests, as applicable to the subject matter.

“(B) ACTIVITIES.—The activities of an advisory committee shall include the following:

“(i) to hold meetings at such intervals as necessary to carry out the functions of the advisory committee;

“(ii) to submit to the Commission such reports and recommendations to the Commission (including minority views, if any) as the advisory committee deems appropriate; and
“(iii) such activities as the Commission determines is appropriate.

“(C) Applicability of the Federal Advisory Committee Act.—An advisory committee established under this paragraph shall be subject to the Federal Advisory Committee Act.”.

(b) Existing Advisory Committees.—Notwithstanding section 2(a)(15) of the Commodity Exchange Act, the Commodity Futures Trading Commission may permit an advisory committee that, as of the date of the enactment of this Act, had a charter established by the Commission, or that was established under such section as in effect before such date of enactment, to continue to operate in accordance with the charter or in accordance with such predecessor section until the sponsor of the advisory committee is changed. After which such advisory committee will become subject to section 2(a)(15) of the Commodity Exchange Act.

SEC. 104. ENHANCEMENT OF OFFICE OF MINORITY AND WOMEN INCLUSION AT THE COMMISSION; INTERNSHIP PROGRAM.

(a) In General.—Section 2(a) of the Commodity Exchange Act (7 U.S.C. 2(a)) is amended by adding at the end the following:
“(16) Office of Minority and Women Inclusion.—Within 1 year after the date of the enactment of this paragraph, the Commission shall comply with section 342 of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

“(17) Annual Internship Program.—

“(A) In General.—The Executive Director shall establish a program to place an appropriate number of students attending qualified institutions in a semester-length internship within the Commission’s divisions and offices.

“(B) Funding.—The Commission shall set aside an appropriate percentage of the funds allocated to the office of the Chairman to enable the selected interns identified in subparagraph (A) to afford living expenses, including rent and a per-diem, in the metropolitan areas where the Director identifies internship opportunities.

“(C) Qualified Institution Defined.—In this paragraph, the term ‘qualified institution’ means—

“(i) an 1890 Institution (as defined in section 2 of the Agricultural Research, Ex-
tension, and Education Reform Act of 1998 (7 U.S.C. 7601));

“(ii) a 1994 Institution (as defined in section 532 of the Equity in Educational Land-Grant Status Act of 1994 (Public Law 103–382; 7 U.S.C. 301 note));

“(iii) an eligible institution (as defined in section 1489 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3361)); or

“(iv) a Hispanic-serving institution (as defined in section 1404 of the Food and Agriculture Act of 1977 (7 U.S.C. 3103)).”.


SEC. 105. DETAILING AND RESOURCE-SHARING.

Section 2(a) of the Commodity Exchange Act (7 U.S.C. 2(a)), as amended by section 104 of this Act, is amended by adding at the end the following:
“(18) Assistance from Federal Agencies.—

“(A) In general.—The Commission may accept any assistance, including services, funds, facilities, and other support services as determined by the Commission, to effectuate the purposes and provisions of this Act, from any department or agency of the United States that is authorized under other law to provide the assistance.

“(B) Detail flexibility.—When an employee from another department or agency is detailed to the Commission, the employee may be detailed on either a reimbursable or non-reimbursable basis, and such detail shall be without interruption or loss of civil service status or privilege.

“(19) Assistance from Foreign Governmental Entities.—

“(A) In general.—The Commission may—

“(i) accept details of officers or employees of a foreign futures authority or any department or agency of a foreign government, including a central bank or min-
istry, on a temporary basis as employees of
the Commission pursuant to section 12(b)
of this Act, or section 3101 or 3109 of
title 5, United States Code; and

“(ii) detail officers or employees of
the Commission to work on a temporary
basis for an entity described in clause (i).

“(B) Reciprocity and Reimbursement.—

“(i) Reciprocity Not Required.—
Assistance described in subparagraph (A)
need not be provided on a reciprocal basis.

“(ii) Reimbursement.—

“(I) In General.—The Commis-
sion may provide and accept assist-
ance described in subparagraph (A)
on a reimbursable or non-reimburs-
able basis, only in accordance with a
written agreement between the Com-
misson and the respective foreign
governmental entity.

“(II) Form.—A reimbursement
to or from the Commission may be
made in cash or in kind. The Commiss-
sion shall credit a reimbursement re-
ceived from a foreign governmental entity to the appropriate Commission appropriation, fund, or account.

“(C) STANDARDS OF CONDUCT.—An officer or employee detailed under subparagraph (A)(i) shall be subject to the provisions of law relating to ethics, conflicts of interest, or corruption, and to any other statute governing the standards of conduct for Commission employees that are applicable to the type of appointment.

“(D) LIMITATION.—An officer or employee detailed under subparagraph (A)(i) may not hold any management position at the Commission.”.

SEC. 106. OFFICE OF THE CHIEF ECONOMIST.

(a) IN GENERAL.—Section 2(a) of the Commodity Exchange Act, as amended by sections 104 and 105 of this Act, is amended by adding at the end the following:

“(20) OFFICE OF THE CHIEF ECONOMIST.—

“(A) ESTABLISHMENT.—There is established in the Commission the Office of the Chief Economist.

“(B) HEAD.—The Office of the Chief Economist shall be headed by the Chief Economist.
“(C) FUNCTIONS.—The Chief Economist shall serve as economic advisor to the Commission and perform functions such as economic analysis, regulatory cost-benefit analysis, and research.

“(D) PROFESSIONAL STAFF.—

“(i) IN GENERAL.—The Commission shall appoint such other economists and any related positions as may be necessary for the Office of the Chief Economist—

“(I) in accordance with the statutes, rules, and regulations governing appointments in the excepted service; and

“(II) notwithstanding any statutes, rules, and regulations governing appointments in the competitive service.

“(ii) RULE OF CONSTRUCTION.—The appointment of a candidate to a position under authority of this subsection shall not be considered to cause such position to be converted from the competitive service to the excepted service.”.
(b) CONFORMING AMENDMENT.—Section 15(a) of such Act (7 U.S.C. 19(a)) is amended—

(1) in paragraph (1), by inserting “, after coordinating with the Office of the Chief Economist,” before “shall”;

(2) in paragraph (2)(B), by striking “futures markets” and inserting “markets under the jurisdiction of the Commission”;

(3) in paragraph (2), by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F); and

(4) in paragraph (2), by inserting after subparagraph (C) the following:

“(D) considerations of market liquidity;”.

SEC. 107. EQUAL CONSIDERATION FOR HOLDING COMPANIES.

Section 2(h)(7)(C)(ii) of the Commodity Exchange Act (7 U.S.C. 2(h)(7)(C)(ii)) is amended—

(1) in the matter before subclause (I), by striking “unions, including—” and inserting “unions, bank holding companies, and savings and loan holding companies, including—”;

(2) in subclause (II), by striking “or” at the end;
(3) in subclause (III), by striking the period at the end and inserting a semicolon; and

(4) by adding at the end the following:

“(IV) bank holding companies (as defined in section 2 of the Bank Holding Company Act of 1956) that have aggregated assets, including the assets of their subsidiaries, of $10,000,000,000 or less; and

“(V) savings and loan holding companies (as defined in section 10 of the Home Owners’ Loan Act of 1933) that have aggregated assets, including the assets of their subsidiaries, of $10,000,000,000 or less.”.

SEC. 108. EXEMPTION OF QUALIFIED CHARITABLE ORGANIZATIONS FROM REGULATION AS COMMODITY POOL OPERATORS.

Section 4m of the Commodity Exchange Act (7 U.S.C. 6m) is amended to read as follows:
SEC. 4m. USE OF MAILS OR OTHER MEANS OR INSTRUMENTALITIES OF INTERSTATE COMMERCE BY COMMODITY TRADING ADVISORS AND COMMODITY POOL OPERATORS.

(a) Prohibition.—It shall be unlawful for any commodity trading advisor or commodity pool operator, unless registered under this Act, to make use of the mails or any means or instrumentality of interstate commerce in connection with business as the commodity trading advisor or commodity pool operator.

(b) Exceptions.—

(1) In general.—Subsection (a) shall not apply to a commodity trading advisor whose commodity trading advice is solely incidental to the conduct of that person’s business, and who is a—

(A) dealer, processor, broker, or seller in cash market transactions of any commodity specifically set forth in section 2(a) of this Act before the enactment of the Commodity Futures Trading Commission Act of 1974 (or products thereof); or

(B) nonprofit, voluntary membership, general farm organization, that provides advice on the sale or purchase of any commodity specifically set forth in section 2(a) of this Act be-

“(2) CHARITABLE ORGANIZATION.—Subsection (a) shall not apply to any commodity trading advisor or commodity pool operator that is—

“(A) a charitable organization, as defined in section 3(c)(10)(D) of the Investment Company Act of 1940 (15 U.S.C. 80a–3(c)(10)(D)), or a trustee, director, officer, employee, or volunteer of such a charitable organization acting within the scope of the employment or duties of the person with the organization, whose advisory or pool activities are conducted only on behalf of, or with respect to, 1 or more of—

“(i) any such charitable organization;

or

“(ii) an investment trust, syndicate, or similar form of enterprise excluded from the definition of ‘investment company’ pursuant to section 3(c)(10) of the Investment Company Act of 1940 (15 U.S.C. 80a–3(c)(10)), or the trustees, administrators, settlers (or potential settlers), or beneficiaries of the foregoing; or
“(B) any plan, company, or account described in section 3(c)(14) of the Investment Company Act of 1940 (15 U.S.C. 80a–3(c)(14)), any person or entity who establishes or maintains such a plan, company, or account, or any trustee, director, officer, employee, or volunteer for any of the foregoing plans, persons, or entities acting within the scope of the employment or duties of the person with the organization, whose advisory or pool activities are conducted only on behalf of, or with respect to, any investment trust, syndicate, or similar form of enterprise excluded from the definition of ‘investment company’ pursuant to section 3(c)(14) of the Investment Company Act of 1940 (15 U.S.C. 80a–3(c)(14)).

“(3) SMALL COMMODITY TRADING ADVISORS.—
Subsection (a) shall not apply to any commodity trading advisor who, during the course of the preceding 12 months, has not furnished commodity trading advice to more than 15 persons and who does not hold themselves out generally to the public as a commodity trading advisor.

“(4) SEC-REGISTERED.—
“(A) In General.—Subsection (a) shall not apply to any commodity trading advisor that is registered with the Securities and Exchange Commission as an investment adviser whose business does not consist primarily of acting as a commodity trading advisor and that does not act as a commodity trading advisor to any commodity pool that is primarily engaged in trading commodity interests.

“(B) Engaged Primarily.—For purposes of this paragraph, a commodity trading advisor or a commodity pool shall be considered to be ‘engaged primarily’ in the business of being a commodity trading advisor or commodity pool if it is or holds itself out to the public as being engaged primarily, or proposes to engage primarily, in the business of advising on commodity interests or investing, reinvesting, owning, holding, or trading in commodity interests, respectively.

“(C) Commodity Interests.—For purposes of this paragraph, commodity interests shall include contracts of sale of a commodity for future delivery, options on such contracts, security futures, swaps, leverage contracts, for-
eign exchange, spot and forward contracts on
physical commodities, and any monies held in
an account used for trading commodity inter-
ests.

“(5) SUBJECT TO PROCEEDINGS.—A person de-
scribed in paragraphs (1) and (2) shall be subject to
proceedings under section 14.

“(c) RELATIONSHIP TO OTHER LAW.—Nothing in
this Act shall relieve any person of any obligation or duty,
or affect the availability of any right or remedy available
to the Securities and Exchange Commission or any private
party arising under the Securities Act of 1933 (15 U.S.C.
77a et seq.) or the Securities Exchange Act of 1934 (15
U.S.C. 78a et seq.) governing the issuance, offer, pur-
chase, or sale of securities of a commodity pool, or of per-
sons engaged in transactions with respect to the securities,
or reporting by a commodity pool.

“(d) DISCLOSURE CONCERNING EXEMPTED CHARI-
TABLE ORGANIZATIONS.—A commodity trading advisor or
commodity pool operator that is an organization or person
described in subsection (b)(2)(A) of this section to or of
any investment trust, syndicate, or similar form of enter-
prise excluded from the definition of ‘investment company’
pursuant to section 3(c)(10)(B) of the Investment Com-
pany Act of 1940 (15 U.S.C. 80a–3(c)(10)(B)) shall pro-
vide disclosure in accordance with section 7(e) of that Act (15 U.S.C. 80a–7(e)).”.

SEC. 109. DIGITAL COMMODITY.

(a) Requirements Applicable to Boards of Trade.—Section 5(d)(4) of such Act (7 U.S.C. 7(d)(4)) is amended—

(1) by striking all that precedes “board of trade” and inserting the following:

“(4) Prevention of Market Disruption.—

“(A) In general.—The”;

(2) by redesignating each of subparagraphs (A) and (B) as clauses (i) and (ii), respectively, and moving each of such provisions 2 ems to the right; and

(3) by adding after and below the end the following:

“(B) Digital Commodity.—With regard to a contract on the contract market that references a digital commodity available on a cash market, the Commission shall adopt rules detailing the content and availability of trade and trader data and other information the board of trade must be able to access from the referenced cash markets and data sources in order to comply with this paragraph.”.
(b) Requirements Applicable to Swap Execution Facilities.—Section 5h(f)(4) of such Act (7 U.S.C. 7b–3(f)(4)) is amended—

(1) by striking all that precedes “swap execution facility shall” and inserting the following:

“(4) Monitoring of Trading and Trade Processing.—

“(A) In General.—The”;

(2) by redesignating each of clauses (i) and (ii) of subparagraph (A) as subclauses (I) and (II), respectively, and moving each of such provisions 2 ems to the right;

(3) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively, and moving each of such provisions 2 ems to the right; and

(4) by adding after and below the end the following:

“(B) Digital Commodity.—With regard to a swap on the swap execution facility that references a digital commodity available on a cash market, the Commission shall adopt rules detailing the content and availability of trade and trader data and other information the swap execution facility must be able to access from
the referenced cash markets and data sources in order to comply with this paragraph.”.

SEC. 110. SYSTEM SAFEGUARDS.

(a) CONTRACT MARKETS.—Section 5(d)(20) of the Commodity Exchange Act (7 U.S.C. 7(d)(20)) is amended—

(1) in subparagraph (A), by striking “through” and all that follows and inserting “through—

“(i) the implementation of appropriate controls and procedures; and

“(ii) the development and operation of automated systems that—

“(I) are reliable, secure, and resilient;

“(II) have adequate scalable capacity; and

“(III) maintain the confidentiality, integrity, and availability of the data they contain;”; and

(2) in subparagraph (C), by striking “tests to” and all that follows and inserting “tests to—

“(i) verify the reliability, security, resilience, and capacity of the board of trade’s automated systems;
“(ii) verify the confidentiality, integrity, and availability of the data contained in those systems; and

“(iii) verify that backup resources are sufficient to ensure continued order processing and trade matching, price reporting, market surveillance, and maintenance of a comprehensive and accurate audit trail.”.

(b) CLEARINGHOUSES.—Section 5b(c)(2)(I) of such Act (7 U.S.C. 7a–1(c)(2)(I)) is amended—

(1) in clause (i), by striking “through the” and all that follows and inserting “through the—

“(I) implementation of appropriate controls and procedures; and

“(II) development and operation of automated systems that—

“(aa) are reliable, secure, and resilient;

“(bb) have adequate scalable capacity; and

“(cc) maintain the confidentiality, integrity, and availability of the data that they contain;”;

(2) in clause (ii), by striking “allows” and inserting “allow”; and
(3) in clause (iii), by striking “tests to” and all that follows and inserting “tests to—

“(I) verify the reliability, security, resilience, and capacity of the derivatives clearing organization’s automated systems;

“(II) verify the confidentiality, integrity, and availability of the data contained in those systems; and

“(III) verify that the backup resources of the derivatives clearing organization are sufficient to ensure daily processing, clearing, and settlement.”.

(c) Swap Execution Facilities.—Section 5h(f)(14) of such Act (7 U.S.C. 7b–3(f)(14)) is amended—

(1) in subparagraph (A), by striking “through” and all that follows and inserting “through—

“(i) the implementation of appropriate controls and procedures; and

“(ii) the development and operation of automated systems that—

“(I) are reliable, secure, and resilient;
“(II) have adequate scalable capacity; and

“(III) maintain the confidentiality, integrity, and availability of the data they contain;”; and

(2) in subparagraph (C), by striking “tests to” and all that follows and inserting “tests to—

“(i) verify the reliability, security, resilience, and capacity of the swap execution facility’s automated systems;

“(ii) verify the confidentiality, integrity, and availability of the data contained in those systems; and

“(iii) verify that backup resources are sufficient to ensure continued order processing and trade matching, price reporting, market surveillance, and maintenance of a comprehensive and accurate audit trail.”.

(d) Swap Data Repositories.—Section 21(f) of such Act (7 U.S.C. 24a(f)) is amended by redesignating paragraph (4) as paragraph (5) and inserting after paragraph (3) the following:

“(4) System safeguards.—Each swap data repository shall—
“(A) establish and maintain a program of risk analysis and oversight to identify and minimize sources of operational risk, through—

“(i) the implementation of appropriate controls and procedures; and

“(ii) the development and operation of automated systems that—

“(I) are reliable, secure, and resilient;

“(II) have adequate scalable capacity; and

“(III) maintain the confidentiality, integrity, and availability of the data they contain;

“(B) establish and maintain emergency procedures, backup facilities, and a plan for disaster recovery that allow for—

“(i) the timely recovery and resumption of operations; and

“(ii) the fulfillment of the responsibilities and obligations of the swap data repository; and

“(C) periodically conduct tests to—
“(i) verify the reliability, security, resilience, and capacity of the automated systems of the swap data repository;

“(ii) verify the confidentiality, integrity, and availability of the data contained in those systems; and

“(iii) verify that backup resources are sufficient to ensure continued fulfillment of all duties and obligations of the swap data repository established by this Act or the regulations of the Commission.”.

SEC. 111. ADMINISTRATION OF SWAP EXECUTION FACILITIES.

Section 5h of the Commodity Exchange Act (7 U.S.C. 7b–3) is amended—

(1) in subsection (f)(8), by striking all that follows “cooperation with the Commission” and inserting “and other registered entities, as is necessary and appropriate, to facilitate the liquidation or transfer of open positions in any swap, or to suspend or curtail trading in a swap”; and

(2) in subsection (f)(15)—

(A) in subparagraph (A), by adding at the end the following: “The individual may also
perform other responsibilities for the swap execution facility, if—

“(i) there are no conflicts of interest between the other responsibilities and the duties and obligations of the chief compliance officer under this Act and the regulations thereto; and

“(ii) the other responsibilities do not limit the ability of the chief compliance officer to carry out the responsibilities of the chief compliance officer.”;

(B) in subparagraph (B)—

(i) by striking clauses (iii) through (v) and inserting the following:

“(iii) establish and administer—

“(I) policies and procedures, in consultation with the board of the facility, a body performing a function similar to that of a board, or the senior officer of the facility, that are reasonably designed, as determined by the Commission, to resolve any conflicts of interest that may arise;
“(II) the policies and procedures required to be established pursuant to this section; and

“(III) policies and procedures that reasonably ensure, as determined by the Commission, compliance with this Act and the rules and regulations issued under this Act, including rules prescribed by the Commission pursuant to this section; and’’; and

(ii) by redesignating clause (vi) as clause (iv);

(C) in subparagraph (C), by striking “(B)(vi)” and inserting “(B)(iv)”;

(D) in subparagraph (D)—

(i) in clause (i), by striking “and sign”; and

(ii) in clause (ii)—

(I) in the matter preceding subclause (I), by inserting “or senior officer” after “officer”; and

(II) in subclause (II), by inserting “materially” before “accurate”.

•HR 6197 IH
SEC. 112. APPLICABILITY OF PROHIBITIONS ON FRAUD
AND MANIPULATION TO ACTIVITIES OUTSIDE
THE UNITED STATES.

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

“(h) APPLICABILITY TO ACTIVITIES OUTSIDE THE UNITED STATES.—

“(1) APPLICABILITY.—The provisions of this Act prohibiting fraud, manipulation, attempted fraud, and attempted manipulation, and providing for enforcement by the Commission or the United States of such prohibitions (including sections 4b, 4c(a)(1)–(4), 4c(a)(7), 4c(b), 4o, 4s(h)(1), 4s(h)(4), 6(c), 6(e)(1)–(3), 6e, 9(a), 9(c), 9(d), and 9(e), including any rule or regulation promulgated thereunder), shall apply to activities outside the United States where such activities, independently or in conjunction with activities in the United States, have or would have a reasonably foreseeable substantial effect within the United States.

“(2) EFFECT ON OTHER AUTHORITY.—Nothing in this subsection affects the application or interpretation of, or liability under, any other provision of this Act, including section 22.”
SEC. 113. PRIVILEGE RETENTION.

Section 8 of the Commodity Exchange Act (7 U.S.C. 12) is amended—

(1) by striking subsection (e) and inserting the following:

“(e) DISCLOSURE AUTHORITIES.—

“(1) IN GENERAL.—

“(A) PREVIOUSLY DISCLOSED.—The Commission may disclose and make public, where such information has previously been disclosed publicly in accordance with the provisions of this section, the names and addresses of all traders on the boards of trade on the commodity markets with respect to whom the Commission has information, and any other information in the possession of the Commission relating to the amount of commodities purchased or sold by each such trader.

“(B) CONGRESSIONAL ACCESS.—Upon the request of any committee of either House of Congress, acting within the scope of its jurisdiction, the Commission shall furnish to the committee the names and addresses of all traders on the boards of trade with respect to whom the Commission has information, and any other information in the possession of the Commission relating to the amount of commodities purchased or sold by each such trader.
relating to the amount of any commodity pur-
chased or sold by each such trader.

“(2) DOMESTIC AGENCIES.—

“(A) IN GENERAL.—Upon the request of
any department or agency of the Government of
the United States, acting within the scope of its
jurisdiction, the Commission may furnish to the
department or agency any information in the
possession of the Commission obtained in con-
nection with the administration of this Act.

“(B) CONDITIONS.—Any information fur-
nished under this paragraph to any Federal de-
partment or agency shall not be disclosed by
the department or agency except in any action
or proceeding under the laws of the United
States to which the department or agency, the
Commission, or the United States is a party.

“(C) FEDERAL RESERVE BANKS.—In this
paragraph, the term ‘agency’ includes the Fed-
eral Reserve Banks.

“(3) STATE AGENCIES.—

“(A) IN GENERAL.—Upon the request of
any department or agency of any State or any
political subdivision thereof, acting within the
scope of its jurisdiction, the Commission may
furnish to the department, agency, or political subdivision any information in the possession of the Commission obtained in connection with the administration of this Act.

“(B) CONDITIONS.—Any information furnished to any department or agency of any State or political subdivision thereof shall not be disclosed by the department or agency except in connection with an adjudicatory action or proceeding under this Act or the laws of the State or political subdivision to which the State, political subdivision, department, or agency is a party.

“(4) FOREIGN AGENCIES.—

“(A) IN GENERAL.—Upon the request of any foreign futures authority, or any department, central bank, ministry, or agency of any foreign government or any political subdivision thereof, acting within the scope of its jurisdiction, the Commission may furnish to the foreign futures authority, department, central bank, ministry, agency of any foreign government, or any political subdivision thereof, any information in the possession of the Commission ob-
tained in connection with the administration of this Act.

“(B) CONDITIONS.—The Commission shall not furnish any information to a foreign futures authority or to a department, central bank, ministry, or agency of a foreign government or political subdivision thereof, unless the Commission is satisfied that the information will not be disclosed by the foreign futures authority, department, central bank, ministry, or agency of any foreign government or any political subdivision thereof, except in connection with an adjudicatory action or proceeding under the laws of the foreign government or political subdivision to which the foreign government, political subdivision, department, agency, central bank, ministry, or foreign futures authority is a party.”;

(2) by redesignating subsections (h) and (i) as subsections (i) and (j), respectively; and

(3) by inserting after subsection (g) the following:

“(h) SHARING PRIVILEGED INFORMATION WITH OTHER AUTHORITIES.—

“(1) PRIVILEGE DEFINITION.—The term ‘privilege’ includes any applicable work-product privilege,
attorney-client privilege, governmental privilege, or other privilege recognized under Federal, State, or foreign law.

“(2) Privileged information provided by the Commission.—The Commission shall not be considered to have waived any privilege by transferring information to or permitting that information to be used in accordance with section 8a(6) or paragraphs (2), (3), and (4) of subsection (e) of this section.

“(3) Nondisclosure of privileged information provided to the Commission.—The Commission shall not be compelled to disclose privileged information obtained from any foreign futures authority if the authority has in good faith determined and represented to the Commission that the information is privileged, except as provided for in subsection (a)(1).

“(4) Nonwaiver of privileged information provided to the Commission.—

“(A) In general.—The entities listed in paragraphs (2), (3), and (4) of subsection (e) and section 8(a)(6) shall not be considered to have waived any privilege by transferring infor-
mation to or permitting information to be used by the Commission.

“(B) Exception.—Subparagraph (A) shall not apply to an entity listed in section 8a(6) with respect to information obtained by the Commission in an investigation relating to or in any action against the entity.

“(5) Rule of Construction.—Nothing in this subsection shall authorize the Commission to withhold information from the Congress or prevent the Commission from complying with an order of a court of the United States in an action commenced by the United States or the Commission.”.

SEC. 114. PROPRIETARY INFORMATION.

Section 8 of the Commodity Exchange Act (7 U.S.C. 12), as amended by section 113 of this Act, is amended by adding at the end the following:

“(k) Proprietary Information.—

“(1) In general.—For any proprietary information provided to the Commission, the Commission may, in its discretion, after notice and comment, adopt rules and regulations to apply any of the provisions of this section to such information it obtains or receives, as it deems necessary, to the extent such
information is not already covered by the provisions of this section.

“(2) Policies.—With regard to proprietary information it obtains or receives, the Commission shall adopt policies, as determined by the Commission, after notice and comment, to—

“(A) address circumstances when the Commission requests proprietary information;

“(B) safeguard the information, taking into consideration the level of sensitivity of the information;

“(C) limit access to the information to appropriate staff, as determined by the Commission; and

“(D) protect the information from unlawful use or disclosure.

“(3) Sharing.—To the extent the Commission adopts rules or regulations, pursuant to paragraph (1), regarding the sharing of such proprietary information with other governmental entities, the Commission shall receive assurances that such other governmental entity shall maintain sufficient safeguards consistent with—
“(A) policies that achieve the objectives of subparagraphs (B), (C), and (D) of paragraph (2) of this subsection; and

“(B) the limitations set forth in paragraphs (2), (3), and (4) of subsection (e) concerning the confidentiality of any such information received.”.

SEC. 115. AUTHORITY TO PROVIDE FOOD AND INCIDENTAL ASSISTANCE TO FOREIGN OFFICIALS HOSTED BY THE COMMISSION.

Section 12(b) of the Commodity Exchange Act (7 U.S.C. 16(b)) is amended by adding at the end the following:

“(5) The Commission may incur expenses for consultations and meetings hosted by the Commission with foreign governmental and other regulatory officials to exchange views concerning derivatives matters, such expenses to include necessary logistic and administrative expenses, including—

“(A) meals;

“(B) local travel and transportation; and

“(C) related incidental expenses.”.
SEC. 116. EXTENSION OF OPERATIONS.

Section 12(d) of the Commodity Exchange Act (7 U.S.C. 16(d)) is amended by striking “2008 through 2013” and inserting “2020 through 2025”.

SEC. 117. AIDING AND ABETTING.

Section 13(a) of the Commodity Exchange Act (7 U.S.C. 13c(a)) is amended—

(1) by inserting “or recklessly provides substantial assistance to,” after “commission of,”; and

(2) by inserting “, or who by recklessly providing substantial assistance to another,” before “causes an act”.

SEC. 118. MODERNIZATION OF AUTHORITY OF THE COMMISSION TO CONDUCT RESEARCH, DEVELOPMENT, DEMONSTRATION, AND INFORMATION PROGRAMS.

Section 18 of the Commodity Exchange Act (7 U.S.C. 22) is amended to read as follows:

“SEC. 18. RESEARCH AND DEVELOPMENT PROGRAMS.

“(a) PROGRAMS.—The Commission, as part of its ongoing operations, shall establish and maintain research, development, demonstration, and information programs that further the purposes of this Act, including programs that—

“(1) facilitate the understanding by the Commission of emerging technologies, technological ad-
vances, and innovations and their potential application to and effect on the transactions and markets under the jurisdiction of the Commission, and associated implications for cybersecurity, data security, and systemic risk;

“(2) provide an environment where emerging technologies, technological advances, and innovations may be explored by the Commission with developers and potential users to evaluate potential effects on the Commission and the markets under the jurisdiction of the Commission;

“(3) identify areas where the Commission should adapt its administration of this Act in light of emerging technologies, technological advances, and innovations to benefit the markets under the jurisdiction of the Commission; and

“(4) develop educational and other informational materials for dissemination and use among producers, market-users, and the general public regarding—

“(A) derivatives;

“(B) emerging technologies, technological advances, and innovations in markets under the jurisdiction of the Commission; and
“(C) applicable requirements of this Act and the regulations prescribed under this Act with regard to the subjects described in subparagraphs (A) and (B).

“(b) Research and Development Plan.—

“(1) In general.—The Commission may, after notice and comment, adopt a research and development plan for a program established under subsection (a).

“(2) Conditions.—A research and development plan adopted pursuant to paragraph (1) shall identify—

“(A) specific areas of interest to the Commission;

“(B) potential activities the Commission will undertake to investigate an area of interest; and

“(C) how the authority described in subsection (c) will be utilized in the program.

“(c) Other Transaction Authority.—

“(1) In general.—Notwithstanding the Office of Federal Procurement Policy Act of 1974 and the Competition in Contracting Act, the Commission may enter into and perform a transaction (other than a standard contract) for the purpose of aiding
or facilitating the programs and activities under subsection (a).

“(2) CONDITIONS.—The Commission may enter into a transaction under this subsection only if—

“(A) the transaction is used only in furtherance of a research and development plan established under subsection (b);

“(B) the Commission endeavored to use a competitive process, where appropriate, when determining the parties to the transaction; and

“(C) using a standard contract to do so is either not feasible or not appropriate.

“(3) POLICIES.—The Commission shall, after notice and comment, establish and publish written policies setting forth the manner and criteria for utilizing the authority provided by this subsection.

“(d) GIFT ACCEPTANCE AUTHORITY.—

“(1) IN GENERAL.—The Commission may accept and use, on behalf of the United States, any non-monetary gift of a provision of access, use of facilities, personal property, or services, that is related to—

“(A) sharing of research, data, or other information;

“(B) public presentations; or
“(C) non-commercially available services or systems.

“(2) CONDITIONS.—

“(A) IN GENERAL.—A gift may be accepted pursuant to this subsection only if it is in furtherance of a research and development plan established under subsection (b).

“(B) LIMITATIONS.—The Commission may not accept a gift if—

“(i) conditions inconsistent with applicable laws or regulations apply to the gift;

“(ii) the gift is conditioned on, or will require, the expenditure of appropriated funds not available to the Commission;

“(iii) using a standard contract or other transaction authority under subsection (c) to acquire the gift is either feasible or appropriate; or

“(iv) acceptance of the gift would—

“(I) reflect unfavorably on the ability of the Commission to carry out its responsibilities or official duties in a fair and objective manner, or compromise the integrity or the appearance of the integrity of its programs
or any official involved in its programs; or

“(II) give the endorsement or the appearance of the endorsement by the Commission or Commission staff of the products, services, activities, or policies of the donor.

“(C) SOLICITATION PROHIBITION.—

“(i) IN GENERAL.—Except as provided in clause (ii), no gift may be solicited by any Commissioner, employee of, or contractor at the Commission.

“(ii) EXCEPTION.—A Commissioner or employee of the Commission may solicit only for a gift described in paragraph (1)(B).

“(D) DURATION.—To the extent applicable, the Commission shall return any gift accepted pursuant to this subsection within 90 days after accepting the gift.

“(E) RULES.—The Commission shall, after notice and comment, establish and publish written rules setting forth the manner and criteria to be used in determining whether a gift meets the conditions of this paragraph.
“(3) DISCLOSURE.—Within 30 days after accepting a gift pursuant to this subsection, the Commission shall publish in the Federal Register a notice detailing—

“(A) the source of the gift;

“(B) the nature of the gift;

“(C) whether the gift was solicited pursuant to paragraph (2)(C)(ii), and if so, by whom; and

“(D) how the gift meets the conditions set forth in paragraph (2).

“(4) SUNSET.—The authority provided in this subsection may not be exercised on or after October 1, 2025.

“(e) ANNUAL REPORT.—Not later than 60 days after the end of each fiscal year, the Commission shall submit to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives a report on all transactions entered into under subsection (c) and all gifts accepted under subsection (d) in the fiscal year, which shall include the following:

“(1) A brief description of the subject of each such transaction or gift, with an explanation of—
“(A) its potential utility to the Commission or the markets regulated by the Commission;

“(B) how it fulfills the goals and objectives of the research and development plan estab-
lished under subsection (b); and

“(C) the status of all related projects.

“(2) The information required to be published pursuant to subsection (d)(3).

“(3) A description of all sums expended by the Commission in connection with a transaction entered into under subsection (c), and, if readily ascertain-
able, the value of any gift accepted under subsection (d).”.

SEC. 119. PROTECTING CUSTOMER PROPERTY DURING COMMODITY BROKER BANKRUPTCY.

Section 20(a) of the Commodity Exchange Act (7 U.S.C. 24(a)) is amended—

(1) by striking “and” at the end of paragraph (4);

(2) by striking the period at the end of para-
graph (5) and inserting “; and”; and

(3) by adding at the end the following:

“(6) that cash, securities, or other property of
the estate of a commodity broker, including the trading or operating accounts of the commodity
broker and commodities held in inventory by the commodity broker, shall, subject to any otherwise unavoidable security interest, or otherwise unavoidable contractual offset or netting rights of creditors (including rights set forth in a rule or bylaw of a derivatives clearing organization or a clearing agency) in respect of such property, be included in customer property, but only to the extent that the property that is otherwise customer property is insufficient to satisfy the net equity claims of public customers (as such term may be defined by the Commission by rule or regulation) of the commodity broker.”.

SEC. 120. ELIMINATION OF THE DOUBLE-SIDED CONFIRMATION REQUIREMENT FOR SWAP DATA REPOSITORIES.

Section 21(c)(2) of the Commodity Exchange Act (7 U.S.C. 24a(c)(2)) is amended to read as follows:

“(2) confirm with any counterparty to the swap, as determined by the Commission, the accuracy of the data that was submitted, and the counterparty shall comply with the rules or procedures of a swap data repository to confirm the accuracy of the data;”.
SEC. 121. WHISTLEBLOWER PROTECTIONS FOR INTERNAL DISCLOSURES.

(a) INTERNAL REPORTING.—Section 23 of the Commodity Exchange Act (7 U.S.C. 26) is amended—

(1) in subsection (a)(7)—

(A) by striking “The term” and inserting the following:

“(A) IN GENERAL.—The term”; and

(B) by adding at the end the following:

“(B) SPECIAL RULE.—Solely for the purposes of subsection (h)(1), the term ‘whistleblower’ includes any individual who takes, or 2 or more individuals acting jointly who take, an action described in subsection (h)(1)(A).”; and

(2) in subsection (h)(1)(A)—

(A) in clause (i), by striking “or” at the end;

(B) in clause (ii), by striking the period at the end and inserting “; or”; and

(C) by adding at the end the following:

“(iii) in providing information regarding any conduct that the whistleblower reasonably believes constitutes a violation of any law, rule, or regulation subject to the jurisdiction of the Commission to—
“(I) a person with supervisory authority over the whistleblower at the employer of the whistleblower, if that employer is an entity registered with, or required to be registered with, the Commission, a self-regulatory organization, or a State securities commission or office performing like functions; or

“(II) another individual working for the employer described in subclause (I) who the whistleblower reasonably believes has the authority—

“(aa) to investigate, discover, or terminate the misconduct; or

“(bb) to take any other action to address the misconduct.”.

(b) CLAIMS PROCESSING.—

(1) IN GENERAL.—Section 23(b) of the Commodity Exchange Act (7 U.S.C. 26) is amended by adding at the end the following:

“(3) TIMELY PROCESSING OF CLAIMS.—

“(A) INITIAL DISPOSITION.—
“(i) IN GENERAL.—Except as pro-
vided in subparagraph (B), and subject to
clause (ii), the Commission shall make an
initial disposition with respect to a claim
submitted by a whistleblower for an award
under this section (referred to in this para-
graph as an ‘award claim’) not later than
1 year after the deadline established by the
Commission, by rule, for the whistleblower
to file the award claim.

“(ii) MULTIPLE ACTIONS.—If a cov-
ered judicial or administrative action in-
volves 1 or more related actions, the re-
quirement under clause (i) shall apply with
respect to the latest deadline with respect
to the actions.

“(B) EXCEPTIONS.—

“(i) INITIAL EXTENSION.—If the Di-
rector of the Division of Enforcement of
the Commission (referred to in this para-
graph as the ‘Director’), or the designee of
the Director, determines that an award
claim is sufficiently complex or involves
more than 1 whistleblower, or if other good
cause exists such that the Commission can-
not reasonably satisfy the requirement under subparagraph (A), the Director or the designee, as applicable, after providing notice to the Chairman of the Commission (referred to in this paragraph as the ‘Chairman’), may extend the deadline with respect to the satisfaction of that subparagraph by not more than 180 days.

“(ii) ADDITIONAL EXTENSIONS.—If, after providing an extension under clause (i), the Director, or the designee of the Director, determines that the Commission cannot reasonably satisfy the requirement under subparagraph (A) with respect to an award claim, as extended under that clause, the Director or the designee, as applicable, after providing notice to the Chairman, may extend the period in which the Commission may satisfy subparagraph (A) by 1 additional 180-day period.

“(iii) NOTICE TO WHISTLEBLOWER REQUIRED.—If the Director, or the designee of the Director, exercises authority under clause (i) or (ii), the Director or the designee, as applicable, shall submit to the
whistleblower who filed the award claim that is subject to that action by the Director or the designee a written notification of that action by the Director or the designee.

“(C) APPLICABILITY.—This paragraph shall apply only to an award claim that is timely submitted under a deadline established by the Commission after the date of enactment of this paragraph.”.

(2) RULES.—The Commodity Futures Trading Commission may issue any rules that are necessary to carry out paragraph (3) of section 23(b) of the Commodity Exchange Act (7 U.S.C. 26(b)) (as added by paragraph (1)).

(c) CFTC WHISTLEBLOWER PROGRAM EDUCATION INITIATIVES.—Section 23(g)(2) of the Commodity Exchange Act (7 U.S.C. 26(g)(2)) is amended—

(1) in subparagraph (A), by striking “and” at the end;

(2) in subparagraph (B), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:

“(C) the funding of initiatives designed to educate stakeholders regarding the incentives and protections available under this section, in-
including the benefits of those incentives and prote-

tions.”.

(d) DEPOSITS INTO CFTC CUSTOMER PROTECTION

FUND.—Section 23(g)(3)(A) of the Commodity Exchange
Act (7 U.S.C. 26(g)(3)(A)) is amended by striking
“$100,000,000” and inserting “$150,000,000”.

(e) AVAILABILITY OF CERTAIN CFTC INFORMATION

TO GOVERNMENT AGENCIES.—Section 23(h)(2)(C) of the
Commodity Exchange Act (7 U.S.C. 26(h)(2)(C)) is
amended—

(1) in clause (i)—

(A) in subclause (II), by striking “jurisdic-
tion;” and inserting the following: “jurisdiction,
including—

“(aa) the Federal Trade

Commission;

“(bb) the Internal Revenue

Service; and

“(cc) the Department of

State;”; and

(B) in subclause (VI), by inserting “or
other foreign law enforcement authority” before
the period at the end; and

(2) in clause (ii)—
(A) by striking “Each” and inserting the following:

“(I) IN GENERAL.—Each’’;

(B) in subclause (I) (as so designated), by inserting “subclauses (I) through (V) of” before “clause (i)”; and

(C) by adding at the end the following:

“(II) FOREIGN AUTHORITIES.—
An entity described in subclause (VI) of clause (i) shall maintain information described in that clause in accordance with such assurances of confidentiality as the Commission determines appropriate.”.

SEC. 122. UPDATING STANDARDS FOR NATURAL PERSONS TO MEET REQUIREMENTS FOR QUALIFIED ELIGIBLE PERSONS.

(a) IN GENERAL.—Within 1 year after the date of the enactment of this section, the Commodity Futures Trading Commission shall adopt a rule to update its regulations governing the requirements for natural persons to be qualified eligible persons who must satisfy portfolio requirements, for the purposes of providing relief to commodity trading advisors and commodity pool operators in their dealings with qualified eligible persons pursuant to

•HR 6197 IH
section 4.7 of title 17, Code of Federal Regulations, so
that a natural person, to be a qualified eligible person who
must satisfy the portfolio requirement, must meet the re-
quirement of paragraph (1) and the requirement of para-
graph (2):

(1) MEANS.—The requirement of this para-
graph is that the person must have—

(A) an individual net worth, or joint net
worth with the spouse, if any, of the person, at
the time of the opening of an exempt account
or purchase of 1 or more participation units in
an exempt commodity pool, to qualify the per-
son as an accredited investor, as defined in sec-
tion 230.501(a)(5) of title 17, Code of Federal
Regulations, as if that regulation were amended
by striking “$1,000,000” and inserting
“$5,000,000”; or

(B) individual income, or joint income with
the spouse, if any, of the person, in excess of
$500,000 in each of the 2 most recent years,
and have a reasonable expectation of reaching
the same income level in the current year.

(2) PORTFOLIO.—The requirement of this para-
graph is that the person must meet a portfolio re-
quirement under section 4.7(a)(1)(v) of title 17,
Code of Federal Regulations, as if that regulation were amended—

(A) by striking “$2,000,000” and inserting

“$5,000,000”;

(B) by striking “$200,000” and inserting

“$500,000”;

(C) by striking “$1,000,000” and inserting

“2,500,000”; and

(D) by striking “$100,000” and inserting

“$250,000”.

(b) Inflation.—In adopting a rule pursuant to subsection (a), the Commission shall—

(1) include provisions providing for adjusting

the dollar amounts referred to in subsection (a) for

inflation every three years to the nearest $1,000 to

reflect the change in the Consumer Price Index for

All Urban Consumers published by the Bureau of

Labor Statistics; and

(2) allow any natural person who meets the re-

quirements of a qualified eligible person and is a

participant in a commodity pool or the customer of

a commodity trading advisor provided relief under

section 4.7 of title 17, Code of Federal Regulations,

before the date of any adjustment in such require-

ments established pursuant to this rule to remain a
qualified eligible person, notwithstanding such ad-
justments established pursuant to this rule, if—

(A) the natural person continues to meet
the requirements of qualified eligible persons
pursuant to section 4.7 of title 17, Code of Fed-
eral Regulations, as in effect before the date of
any adjustment in such requirements estab-
lished pursuant to this rule; and

(B) the natural person does not—

(i) sell all shares of its participation in
such exempt commodity pool;

(ii) withdraw all assets from any ac-
count managed by such exempt commodity
trading advisor;

(iii) purchase any new shares of par-
ticipation in such exempt commodity pool;

or

(iv) contribute additional assets to
any account managed by such exempt com-
modity trading advisor.

SEC. 123. GOVERNMENT ACCOUNTABILITY OFFICE STUDY
ON ALUMINUM MARKETS.

(a) STUDY.—The Comptroller General of the United
States shall conduct a study of—
(1) the aluminum markets in the United States and globally, in general;

(2) the effectiveness and efficiency of the markets for purchasers of aluminum;

(3) what factors and policies influence the supply, demand, and movement of aluminum around the world; and

(4) the effectiveness of government oversight over the markets.

(b) REPORT.—Within 180 days after the date of the enactment of this Act, the Comptroller General shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a written report that contains the results of the study required by subsection (a).

SEC. 124. RESPONSE TO FOREIGN REGULATORY AUTHORITY.

Where a foreign authority seeks to assert direct supervisory authority over derivatives clearing organizations domiciled in the United States, the Commodity Futures Trading Commission should review the appropriateness of the exemptions granted to foreign entities, including clearinghouses, under the jurisdiction of the foreign authority.
SEC. 125. AFFILIATE CONDITIONS.

Section 2(h)(7)(D)(iv) of the Commodity Exchange Act (7 U.S.C. 2(h)(7)(D)(iv)) is amended—

(1) in subclause (I), by striking “risk; and” and inserting “risk, unless the affiliate can demonstrate to the Commission, as determined by the Commission, that—

“(aa) the affiliate has utilized the exception in clause (i) only to hedge or mitigate commercial risk; and

“(bb) the affiliate complies, as a financial entity, with the obligations of the affiliate with respect to any swap for which the exception in clause (i) is not exercised; and”; and

(2) in subclause (II), by striking “neither the affiliate nor any person affiliated with the affiliate that is not a financial entity” and inserting “neither the affiliate that qualifies for the exception in clause (i) nor any person affiliated with the affiliate, that is directly or indirectly wholly- or majority-owned by the same ultimate parent, and that enters into swaps with the affiliate”.

•HR 6197 IH
TITLE II—TECHNICAL CORRECTIONS

SEC. 201. CORRECTION OF REFERENCES.

(a) Section 2(h)(8)(A)(ii) of the Commodity Exchange Act (7 U.S.C. 2(h)(8)(A)(ii)) is amended by striking “5h(f) of this Act” and inserting “5h(g)”.

(b) Section 5c(c)(5)(C)(i) of such Act (7 U.S.C. 7a–2(c)(5)(C)(i)) is amended by striking “1a(2)(i))” and inserting “1a(19)(i))”.

(c) Section 23(f) of such Act (7 U.S.C. 26(f)) is amended by striking “section 7064” and inserting “section 706”.

SEC. 202. ELIMINATION OF OBSOLETE REFERENCES TO DEALER OPTIONS.

(a) IN GENERAL.—Section 4e of the Commodity Exchange Act (7 U.S.C. 6e) is amended by striking subsections (d) and (e) and redesignating subsections (f) and (g) as subsections (d) and (e), respectively.

(b) CONFORMING AMENDMENTS.—

(1) Section 2(d) of such Act (7 U.S.C. 2(d)) is amended by striking “(g) of” and inserting “(e) of”.

(2) Section 4f(a)(4)(A)(i) of such Act (7 U.S.C. 6f(a)(4)(A)(i)) is amended by striking “, (d), (e), and (g)” and inserting “and (e)”.

•HR 6197 IH
(3) Section 4k(5)(A) of such Act (7 U.S.C. 6k(5)(A)) is amended by striking “, (d), (e), and (g)” and inserting “and (e)”.

(4) Section 5f(b)(1)(A) of such Act (7 U.S.C. 7b–1(b)(1)(A)) is amended by striking “, (e), and (g)” and inserting “and (e)”.

(5) Section 9(a)(2) of such Act (7 U.S.C. 13(a)(2)) is amended by striking “through (e) of subsection” and inserting “through (e) of section”.

SEC. 203. UPDATED TRADE DATA PUBLICATION REQUIREMENT.

Section 4g(e) of the Commodity Exchange Act (7 U.S.C. 6g(e)) is amended by striking “the exchange” and inserting “each designated contract market and swap execution facility”.

SEC. 204. FLEXIBILITY FOR ALL REGISTERED ENTITIES.

(a) Section 5c(b) of the Commodity Exchange Act (7 U.S.C. 7a–2(b)) is amended by striking “contract market, derivatives transaction execution facility, or electronic trading facility” each place it appears and inserting “registered entity”.

(b) Section 5c(b)(1) of such Act (7 U.S.C. 7a–2(b)(1)) is amended—

(1) by striking “(1) IN GENERAL.—A” and inserting the following:
“(1) Delegation.—

“(A) In general.—A’;

(2) by striking “with respect to a significant price discovery contract”; and

(3) by adding after and below the end the following:

“(B) Swaps.—In addition to the authority described in subparagraph (A), a registered entity may also comply with any applicable core principle, as it applies to swaps, through delegation of any relevant function to a registered national securities association.”.

SEC. 205. ELIMINATION OF OBSOLETE REFERENCES TO ELECTRONIC TRADING FACILITIES.

(a) Section 1a(18)(A)(x) of the Commodity Exchange Act (7 U.S.C. 1a(18)(A)(x)) is amended by striking “(other than an electronic trading facility with respect to a significant price discovery contract)”.

(b) Section 1a(40) of such Act (7 U.S.C. 1a(40)) is amended—

(1) by adding “and” at the end of subparagraph (D); and

(2) by striking all that follows “section 21” and inserting a period.
(c) Section 4a(e) of such Act (7 U.S.C. 6a(e)) is amended—

(1) in the first sentence—

(A) by striking “or by any electronic trading facility’’;

(B) by striking “or on an electronic trading facility”; and

(C) by striking “or electronic trading facility’’ each place it appears; and

(2) in the second sentence, by striking “or electronic trading facility with respect to a significant price discovery contract”.

(d) Section 4g(a) of such Act (7 U.S.C. 6g(a)) is amended by striking “any significant price discovery contract traded or executed on an electronic trading facility or”.

(e) Section 4i of such Act (7 U.S.C. 6i) is amended—

(1) by striking ‘‘, or any significant price discovery contract traded or executed on an electronic trading facility’’; and

(2) by striking “or electronic trading facility’’.

(f) Section 6(b) of such Act (7 U.S.C. 8(b)) is amended by striking “or electronic trading facility’’ each place it appears.
(g) Section 12(e)(2) of such Act (7 U.S.C. 16(e)(2)) is amended by striking “in the case of—” and all that follows and inserting “in the case of an agreement, contract, or transaction that is excluded from this Act under section 2(c) or 2(f) of this Act or title IV of the Commodity Futures Modernization Act of 2000, or exempted under section 4(e) of this Act (regardless of whether any such agreement, contract, or transaction is otherwise subject to this Act).”.

SEC. 206. ELIMINATION OF OBSOLETE REFERENCE TO ALTERNATIVE SWAP EXECUTION FACILITIES.

Section 5h(h) of the Commodity Exchange Act (7 U.S.C. 7b–3(h)) is amended by striking “alternative” before “swap”.

SEC. 207. CLARIFICATION OF COMMISSION AUTHORITY OVER SWAPS TRADING.

Section 8a of the Commodity Exchange Act (7 U.S.C. 12a) is amended—

(1) in paragraph (7)—

(A) by inserting “the protection of swaps traders and to assure fair dealing in swaps, for” after “appropriate for”;

(B) in subparagraph (A), by inserting “swaps or” after “conditions in”; and
(C) in subparagraph (B), by inserting “or swaps” after “future delivery”; and
(2) in paragraph (9)—
(A) by inserting “swap or” after “or liquidation of any”; and
(B) by inserting “swap or” after “margin levels on any”.

SEC. 208. ELIMINATION OF OBSOLETE REFERENCE TO THE COMMODITY EXCHANGE COMMISSION.

Section 13(c) of the Commodity Exchange Act (7 U.S.C. 13c(c)) is amended by striking “or the Commission”.

SEC. 209. ELIMINATION OF OBSOLETE REFERENCES TO DERIVATIVE TRANSACTION EXECUTION FACILITIES.

(a) Section 1a(12)(B)(vi) of the Commodity Exchange Act (7 U.S.C. 1a(12)(B)(vi)) is amended by striking “derivatives transaction execution facility” and inserting “swap execution facility”.
(b) Section 1a(34) of such Act (7 U.S.C. 1a(34)) is amended—
(1) in the heading, by striking “; MEMBER OF
A DERIVATIVES TRANSACTION EXECUTION FACILITY”; and
(2) by striking “or derivatives transaction execution facility” each place it appears.

(c) Section 1a(35)(B)(iii)(I) of such Act (7 U.S.C. 1a(35)(B)(iii)(I)) is amended by striking “or registered derivatives transaction execution facility”.

(d) Section 2(a)(1)(C)(ii) of such Act (7 U.S.C. 2(a)(1)(C)(ii)) is amended—

(1) by striking “, or register a derivatives transaction execution facility that trades or executes,”;

(2) by striking “, and no derivatives transaction execution facility shall trade or execute such contracts of sale (or options on such contracts) for future delivery”; and

(3) by striking “or the derivatives transaction execution facility,”.

(e) Section 2(a)(1)(C)(v)(I) of such Act (7 U.S.C. 2(a)(1)(C)(v)(I)) is amended by striking “, or any derivatives transaction execution facility on which such contract or option is traded,”.

(f) Section 2(a)(1)(C)(v)(II) of such Act (7 U.S.C. 2(a)(1)(C)(v)(II)) is amended by striking “or derivatives transaction execution facility” each place it appears.
(g) Section 2(a)(1)(C)(v)(V) of such Act (7 U.S.C. 2(a)(1)(C)(v)(V)) is amended by striking “or registered derivatives transaction execution facility”.

(h) Section 2(a)(1)(D)(i) of such Act (7 U.S.C. 2(a)(1)(D)(i)) is amended in the matter preceding sub-clause (I)—

(1) by striking “in, or register a derivatives transaction execution facility”; and

(2) by striking “, or registered as a derivatives transaction execution facility for,”.

(i) Section 2(a)(1)(D)(i)(IV) of such Act (7 U.S.C. 2(a)(1)(D)(i)(IV)) is amended by striking “registered derivatives transaction execution facility,” each place it appears.

(j) Section 2(a)(1)(D)(ii)(I) of such Act (7 U.S.C. 2(a)(1)(D)(ii)(I)) is amended to read as follows:

“(I) the transaction is conducted on or subject to the rules of a board of trade that has been designated by the Commission as a contract market in such security futures product;”.

(k) Section 2(a)(1)(D)(ii)(II) of such Act (7 U.S.C. 2(a)(1)(D)(ii)(II)) is amended by striking “or registered derivatives transaction execution facility”.

VerDate Sep 11 2014 22:20 Mar 20, 2020 Jkt 099200 PO 00000 Frm 00067 Fmt 6652 Sfmt 6201 E:\BILLS\H6197.IH H6197pbinns on DSKJLVW7X2PROD with BILLS
(l) Section 2(a)(1)(D)(ii)(III) of such Act (7 U.S.C. 2(a)(1)(D)(ii)(III)) is amended by striking “or registered derivatives transaction execution facility member”.

(m) Section 2(a)(9)(B)(ii) of such Act (7 U.S.C. 2(a)(9)(B)(ii)) is amended—

(1) by striking “or registration” each place it appears;

(2) by striking “or derivatives transaction execution facility” each place it appears;

(3) by striking “or register”;

(4) by striking “, registering,”; and

(5) by striking “registration,”.

(n) Section 2(c)(2) of such Act (7 U.S.C. 2(c)(2)) is amended by striking “or a derivatives transaction execution facility” each place it appears.

(o) Section 4(a) of such Act (7 U.S.C. 6(a)) is amended—

(1) by striking “or derivatives transaction execution facility” each place it appears; and

(2) in paragraph (1), by striking “or registered”.

(p) Section 4(c)(1) of such Act (7 U.S.C. 6(c)(1)) is amended—

(1) by striking “or registered”; and
(2) by striking “or derivatives transaction execution facility”.

(q) Section 4a(a)(1) of such Act (7 U.S.C. 6a(a)(1)) is amended—

(1) by striking “or derivatives transaction execution facilities”; and

(2) by striking “or derivatives transaction execution facility”.

(r) Section 4a(e) of such Act (7 U.S.C. 6a(e)) is amended—

(1) by striking “, derivatives transaction execution facility,” each place it appears; and

(2) by striking “or derivatives transaction execution facility”.

(s) Section 4e(e) of such Act (7 U.S.C. 6e(g)), as so redesignated by section 202(a) of this Act, is amended by striking “or derivatives transaction execution facility” each place it appears.

(t) Section 4d of such Act (7 U.S.C. 6d) is amended by striking “or derivatives transaction execution facility” each place it appears.

(u) Section 4e of such Act (7 U.S.C. 6e) is amended by striking “or derivatives transaction execution facility”.
(v) Section 4f(a) of such Act (7 U.S.C. 6f(a)) is amended by striking “or registered derivatives transaction execution facility”.

(w) Section 4f(b) of such Act (7 U.S.C. 6f(b)) is amended by striking “or derivatives transaction execution facility” each place it appears.

(x) Section 4i of such Act (7 U.S.C. 6i) is amended by striking “or derivatives transaction execution facility”.

(y) Section 4j of such Act (7 U.S.C. 6j) is amended—

(1) in the heading by striking “AND REGISTERED DERIVATIVES TRANSACTION EXECUTION FACILITIES”;

(2) in subsection (a), by striking “and registered derivatives transaction execution facility”;

(3) in subsection (b), by striking “or registered derivatives transaction execution facility”; and

(4) in subsection (c), by striking “or registered derivatives transaction execution facility members”.

(z) Section 4k of such Act (7 U.S.C. 6k) is amended by striking “or registered derivatives transaction execution facility”.

(aa) Section 4l of such Act (7 U.S.C. 6l) is amended by striking “or derivatives transaction execution facilities” each place it appears.
(bb) Section 4p(a) of such Act (7 U.S.C. 6p(a)) is amended by striking “, or derivatives transaction execution facilities”.

(cc) Section 4p(b) of such Act (7 U.S.C. 6p(b)) is amended by striking “derivatives transaction execution facility,”.

(dd) Section 5(e) of such Act (7 U.S.C. 7(e)) is amended—

(1) by striking “(e)” and all that follows through “a contract for” and inserting the following:

“(e) CURRENT AGRICULTURAL COMMODITIES.—A contract for”; and

(2) by striking paragraph (2).

(ee) Section 5e(b) of such Act (7 U.S.C. 7a–2(b)) is amended by striking “, derivatives transaction execution facility,” each place it appears.

(ff) Section 5e(f) of such Act (7 U.S.C. 7a–2(f)) is amended by striking “and registered derivatives transaction execution facility”.

(gg) Section 5e(f)(1) of such Act (7 U.S.C. 7a–2(f)(1)) is amended by striking “or registered derivatives transaction execution facility”.

(hh) Section 6 of such Act (7 U.S.C. 8) is amended—

(1) in subsection (a), by striking “or registered”;
(2) by striking “or derivatives transaction execution facility” each place it appears; and

(3) by striking “or registration” each place it appears.

(ii) Section 6a(a) of such Act (7 U.S.C. 10a(a)) is amended—

(1) by striking “or registered”; 

(2) by striking “or a derivatives transaction execution facility”; and 

(3) by inserting “shall” before “exclude” the first place it appears.

(jj) Section 6a(b) of such Act (7 U.S.C. 10a(b)) is amended—

(1) by striking “or registered”; and 

(2) by striking “or a derivatives transaction execution facility”.

(kk) Section 6d(1) of such Act (7 U.S.C. 13a–2(1)) is amended by striking “derivatives transaction execution facility,”.

SEC. 210. ELIMINATION OF OBSOLETE REFERENCES TO EXEMPT BOARDS OF TRADE.

(a) Section 1a(18)(A)(x) of the Commodity Exchange Act (7 U.S.C. 1a(18)(A)(x)) is amended by striking “or an exempt board of trade”.

•HR 6197 IH
(b) Section 12(e)(1)(B)(i) of such Act (7 U.S.C. 16(e)(1)(B)(i)) is amended by striking “or exempt board of trade”.

SEC. 211. ELIMINATION OF COMPLETED REPORTS.
(a) Section 23(h)(2)(C) of the Commodity Exchange Act (7 U.S.C. 26(h)(2)(C)) is amended by striking clause (iii).
(b) Section 26 of the Futures Trading Act of 1978 (7 U.S.C. 16a) is amended by striking subsection (b) and redesignating subsection (c) as subsection (b).

SEC. 212. MISCELLANEOUS CORRECTIONS.
(a) Section 1a(12)(A)(i)(II) of the Commodity Exchange Act (7 U.S.C. 1a(12)(A)(i)(II)) is amended by adding at the end a semicolon.
(b) Section 2(a)(1)(C)(ii)(III) of such Act (7 U.S.C. 2(a)(1)(C)(ii)(III)) is amended by moving the provision 2 ems to the right.
(c) Section 2(a)(1)(C)(iii) of such Act (7 U.S.C. 2(a)(1)(C)(iii)) is amended by moving the provision 2 ems to the right.
(d) Section 2(a)(1)(C)(iv) of such Act (7 U.S.C. 2(a)(1)(C)(iv)) is amended by striking “under or” and inserting “under”.
(e) Section 2(a)(1)(C)(v) of such Act (7 U.S.C.
2(a)(1)(C)(v)) is amended by moving the provision 2 ems
to the right.

(f) Section 2(a)(1)(C)(v)(VI) of such Act (7 U.S.C.
2(a)(1)(C)(v)(VI)) is amended by striking “III” and in-
serting “(III)”.

(g) Section 2(e)(1) of such Act (7 U.S.C. 2(e)(1)) is
amended by striking the second comma.

(h) Section 4(c)(3)(H) of such Act (7 U.S.C.
6(c)(3)(H)) is amended by striking “state” and inserting
“State”.

(i) Section 4e(e) of such Act (7 U.S.C. 6e(e)) is
amended to read as follows:

“(c) The Commission shall issue regulations to con-
tinue to permit the trading of options on contract markets
under such terms and conditions that the Commission
from time to time may prescribe.”.

(j) Section 4d(b) of such Act (7 U.S.C. 6d(b)) is
amended by striking “paragraph (2) of this section” and
inserting “subsection (a)(2)”.

(k) Section 4f(c)(3)(A) of such Act (7 U.S.C.
6f(c)(3)(A)) is amended by striking the first comma.

(l) Section 4f(c)(4)(A) of such Act (7 U.S.C.
6f(c)(4)(A)) is amended by striking “in developing” and
inserting “In developing”.

•HR 6197 IH
(m) Section 4f(c)(4)(B) of such Act (7 U.S.C. 6f(e)(4)(B)) is amended by striking “1817(a)” and inserting “1817(a))”.

(n) Section 5 of such Act (7 U.S.C. 7) is amended by redesignating subsections (c) through (e) as subsections (b) through (d), respectively.

(o) Section 5b of such Act (7 U.S.C. 7a–1) is amended by redesignating subsection (k) as subsection (j).

(p) Section 5f(b)(1) of such Act (7 U.S.C. 7b–1(b)(1)) is amended by striking “section 5f” and inserting “this section”.

(q) Section 6(a) of such Act (7 U.S.C. 8(a)) is amended by striking “the the” and inserting “the”.

(r) Section 8a of such Act (7 U.S.C. 12a) is amended in each of paragraphs (2)(E) and (3)(B) by striking “Investors” and inserting “Investor”.

(s) Section 12(b)(4) of such Act (7 U.S.C. 16(b)(4)) is amended by moving the provision 2 ems to the left.

(t) Section 14(a)(2) of such Act (7 U.S.C. 18(a)(2)) is amended by moving the margin of the provision 2 ems to the left.

(u) Section 17(b)(9)(D) of such Act (7 U.S.C. 21(b)(9)(D)) is amended by striking the semicolon and inserting a period.
(v) Section 17(b)(10)(C)(ii) of such Act (7 U.S.C. 21(b)(10)(C)(ii)) is amended by striking “and” at the end.

(w) Section 17(b)(11) of such Act (7 U.S.C. 21(b)(11)) is amended by striking the period and inserting a semicolon.

(x) Section 17(b)(12) of such Act (7 U.S.C. 21(b)(12)) is amended—

(1) by striking “(A)”; and

(2) by striking the period and inserting “; and”.

(y) Section 17(b)(13) of such Act (7 U.S.C. 21(b)(13)) is amended by striking “A” and inserting “a”.

(z) Section 17 of such Act (7 U.S.C. 21) is amended by redesignating subsection (q), as added by section 233(5) of Public Law 97–444, and subsection (r) as subsections (r) and (s), respectively.

(aa) Section 22(b)(3) of such Act (7 U.S.C. 25(b)(3)) is amended by striking “of registered” and inserting “of a registered”.

(bb) Section 22(b)(4) of such Act (7 U.S.C. 25(b)(4)) is amended by inserting a comma after “entity”.

SEC. 213. TECHNICAL AMENDMENTS TO SECTION 14(e).

Section 14(e) of the Commodity Exchange Act (7 U.S.C. 18(e)) is amended—

(1) by inserting “(1)” after “(e)”;
(2) in the 1st sentence—

(A) by inserting “final” after “Any”;

(B) by striking “hereunder” and inserting “under this section”; and

(C) by striking “the appellee” and inserting “an appellee”; 

(3) in the 2nd sentence—

(A) by striking “Such appeal” and inserting “If the order requires the petitioner to pay reparation, or upholds a prior order requiring such a payment, the petition for review”;

(B) by striking “appellant” each place it appears and inserting “petitioner”;

(C) by striking “for the appellee, if the appellee shall prevail” and inserting “as set forth below”; 

(4) in the 4th sentence, by striking “The” and inserting “An”; and

(5) in the 5th sentence—

(A) by inserting “participates in the proceedings before the Court of Appeals through counsel and” before “prevails”; and

(B) by striking “his” and inserting “the appellee’s”; and
(6) by adding after and below the end the following:

“(2) In paragraph (1), the term ‘appellee’ means a party to a proceeding before the Commission under this section in whose favor the Commission ruled in an order that is the subject of a petition for review under paragraph (1) and whose interests are adverse to those of the petitioner.”.

SEC. 214. TECHNICAL CLARIFICATIONS FOR RETAIL FOREIGN CURRENCY.

Section 2(c)(2) of the Commodity Exchange Act (7 U.S.C. 2(c)(2)) is amended—

(1) in subparagraph (B)—

(A) in clause (i)(II), by redesignating item (ff) as item (ee);

(B) by striking “(gg)” each place it appears and inserting “(ee)”;

(C) in clause (iii), by striking “(ee), or (ff) of clause (i)(II) of this subparagraph” and inserting “or (dd) of clause (i)(II)”;

(D) in clause (iv)—

(i) in each of subclauses (I) and (II), by striking “(ee), or (ff)” each place it appears and inserting “or (dd)”;

VerDate Sep 11 2014 22:20 Mar 20, 2020 Jkt 099200 PO 00000 Frm 00078 Fmt 6652 Sfmt 6201 E:\BILLS\H6197.IH H6197pbinns on DSKJLVW7X2PROD with BILLS
(ii) in subclause (I)(bb), by inserting “, or otherwise act as a commodity trading advisor with respect to any agreement, contract, or transaction described in clause (i)” before the semicolon; and

(iii) in subclause (IV)(aa), by striking “(ff)” and inserting “(dd)”;

(2) in subparagraph (C)—

(A) by striking “(ee), or (ff)” each place it appears and inserting “or (dd)”;

(B) in clause (iii)—

(i) in subclause (I)(bb), by inserting “, or otherwise act as a commodity trading advisor with respect to any agreement, contract, or transaction described in clause (i)” before the semicolon; and

(ii) in subclause (IV)(aa), by striking “item (aa) through (ff)” and inserting “items (aa) through (dd)”;

(3) in subparagraph (E)(ii)(I), by inserting “or (C)(i)(I)” after “(B)(i)(I)”.
SEC. 215. MISCELLANEOUS SWAP TECHNICAL CORRECTIONS.

(a) Section 6b of the Commodity Exchange Act (7 U.S.C. 13a) is amended by inserting “or section 5h” after “sections 5 through 5c”.

(b) Section 8a of such Act (7 U.S.C. 12a) is amended—

(1) in paragraph (7)(A), by inserting “or swap contracts” after “contracts of sale”; and

(2) in paragraph (9), by striking “futures contract” and inserting “contract of sale for future delivery or swap contract” each place it occurs.

(c) Section 15(b) of such Act (7 U.S.C. 19(b)) is amended by striking “contract market” and inserting “registered entity”.

○