

PROVIDING FOR CONSIDERATION OF THE BILL (H.R. 6604) TO AMEND THE
COMMODITY EXCHANGE ACT TO BRING GREATER TRANSPARENCY AND
ACCOUNTABILITY TO COMMODITY MARKETS, AND FOR OTHER PUR-
POSES

SEPTEMBER 17, 2008.—Referred to the House Calendar and ordered to be printed

Ms. SUTTON, from the Committee on Rules,
submitted the following

R E P O R T

[To accompany H. Res. 1449]

The Committee on Rules, having had under consideration House Resolution 1449, by a nonrecord vote, report the same to the House with the recommendation that the resolution be adopted.

SUMMARY OF PROVISIONS OF THE RESOLUTION

The resolution provides for consideration of H.R. 6604, the “Commodity Markets Transparency and Accountability Act of 2008”, under a closed rule. The resolution provides for one hour of debate equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture.

The resolution waives all points of order against consideration of the bill except those arising under clause 9 or 10 of rule XXI. The resolution provides that the amendment in the nature of a substitute printed in this report shall be considered as adopted and that the bill, as amended, shall be considered as read. The resolution waives all points of order against the bill, as amended. This waiver does not affect the point of order available under clause 9 of rule XXI (regarding earmark disclosure). The resolution provides one motion to recommit the bill. The resolution permits the Chair, during consideration of the bill, to postpone further consideration of it to a time designated by the Speaker.

EXPLANATION OF WAIVERS

Although the rule waives all points of order against consideration of the bill (except for those arising under clause 9 or 10 of rule XXI), and all points of order against the bill, as amended, the Committee is not aware of any points of order against the bill or its consideration. The waivers are prophylactic in nature.

COMMITTEE VOTES

The results of each record vote on an amendment or motion to report, together with the names of those voting for and against, are printed below:

Rules Committee record vote No. 598

Date: September 17, 2008.

Measure: H.R. 6604.

Motion by: Mr. Hastings (WA).

Summary of motion: To make in order and provide appropriate waivers for an amendment if offered by Rep. Boehner (OH), which would add, as a new title at the end of the bill, the text of H.R. 6566, the American Energy Act.

Results: Defeated 1-7.

Vote by Members: Matsui—Nay; Cardoza—Nay; Welch—Nay; Castor—Nay; Arcuri—Nay; Sutton—Nay; Hastings (WA)—Yea; Slaughter—Nay.

Rules Committee record vote No. 599

Date: September 17, 2008.

Measure: H.R. 6604.

Motion by: Mr. Hastings (WA).

Summary of motion: To make in order and provide appropriate waivers for an amendment if offered by Rep. Peterson (PA), which would add, as a new title at the end of the bill, the text of H.R. 6709, the National Conservation, Environment, and Energy Independence Act.

Results: Defeated 1-7.

Vote by Members: Matsui—Nay; Cardoza—Nay; Welch—Nay; Castor—Nay; Arcuri—Nay; Sutton—Nay; Hastings (WA)—Yea; Slaughter—Nay.

Rules Committee record vote No. 600

Date: September 17, 2008.

Measure: H.R. 6604.

Motion by: Mr. Hastings (WA).

Summary of motion: To make in order and provide appropriate waivers for an amendment in the nature of a substitute by Rep. Moran (KS), #2, which puts into statute recommendations the CFTC suggested would benefit from codification in its September 11, 2007, report titled: "Staff Report on Commodity Swap Dealers & Index Traders with Commission Recommendations."

Results: Defeated 1-7.

Vote by Members: Matsui—Nay; Cardoza—Nay; Welch—Nay; Castor—Nay; Arcuri—Nay; Sutton—Nay; Hastings (WA)—Yea; Slaughter—Nay.

SUMMARY OF THE AMENDMENT IN THE NATURE OF A SUBSTITUTE
CONSIDERED AS ADOPTED

The substitute: brings greater transparency to commodity and futures markets; brings improved price discovery and risk mitigation functions that will work to benefit producers, processors and consumers; toughens position limits on oil and other futures markets as a way to prevent potential price distortions caused by excessive

speculative trading; extends Commodity Futures Trading Commission (CFTC) oversight to previously exempt over-the-counter markets; and it calls for new full-time CFTC staff to improve enforcement, to prevent manipulation, and to prosecute fraud.

TEXT OF THE AMENDMENT IN THE NATURE OF A SUBSTITUTE
CONSIDERED AS ADOPTED

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Commodity Markets Transparency and Accountability Act of 2008”.

SEC. 2. TABLE OF CONTENTS.

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.

SEC. 3. DEFINITION OF ENERGY COMMODITY.

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

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

(2) by inserting after paragraph (12) the following:

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

“(A) coal;

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

“(C) electricity;

“(D) natural gas; and

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

(b) **CONFORMING AMENDMENTS.**—

(1) Section 2(c)(2)(B)(i)(II)(cc) of the Commodity Exchange Act (7 U.S.C. 2(c)(2)(B)(i)(II)(cc)) is amended—

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

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

(2) Section 13106(b)(1) of the Food, Conservation, and Energy Act of 2008 is amended by striking “section 1a(32)” and inserting “section 1a”.

(3) Section 402 of the Legal Certainty for Bank Products Act of 2000 (7 U.S.C. 27) is amended—

(A) in subsection (a)(7), by striking “section 1a(20)” and inserting “section 1a”; and

(B) in subsection (d)—

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

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

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

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

“(e) FOREIGN BOARDS OF TRADE.—

“(1) IN GENERAL.—The Commission may not permit a foreign board of trade to provide to the members of the foreign board of trade or other participants located in the United States direct access to the electronic trading and order matching system of the foreign board of trade with respect to an agreement, contract, or transaction in an energy or agricultural commodity that settles against any price (including the daily or final settlement price) of 1 or more contracts listed for trading on a registered entity, unless—

“(A) the foreign board of trade makes public daily trading information regarding the agreement, contract, or transaction that is comparable to the daily trading information published by the registered entity for the 1 or more contracts against which the agreement, contract, or transaction traded on the foreign board of trade settles; and

“(B) the foreign board of trade (or the foreign futures authority that oversees the foreign board of trade)—

“(i) adopts position limits (including related hedge exemption provisions) for the agreement, contract, or transaction that are comparable, taking into consideration the relative sizes of the respective markets, to the position limits (including related hedge exemption provisions) adopted by the registered entity for the 1 or more contracts against which the agreement, contract, or transaction traded on the foreign board of trade settles;

“(ii) has the authority to require or direct market participants to limit, reduce, or liquidate any position the foreign board of trade (or the foreign futures authority that oversees the foreign board of trade) determines to be necessary to prevent or reduce the threat of price manipulation, excessive speculation as described in section 4a, price distortion, or disruption of delivery or the cash settlement process;

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

“(I) the information that the foreign board of trade will make publicly available;

“(II) the position limits that the foreign board of trade or foreign futures authority will adopt and enforce;

“(III) the position reductions required to prevent manipulation, excessive speculation as described in section 4a, price distortion, or disruption of delivery or the cash settlement process; and

“(IV) any other area of interest expressed by the Commission to the foreign board of trade or foreign futures authority;

“(iv) provides information to the Commission regarding large trader positions in the agreement, contract, or transaction that is comparable to the large trader position information collected by the Commission for the 1 or more contracts against which the agreement, contract, or transaction traded on the foreign board of trade settles; and

“(v) provides the Commission with information necessary to publish reports on aggregate trader positions for the agreement, contract, or transaction traded on the foreign board of trade that are comparable to such reports for 1 or more contracts against which the agreement, contract, or transaction traded on the foreign board of trade settles.

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

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

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

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

“(f) A person registered with the Commission, or exempt from registration by the Commission, under this Act may not be found to have violated subsection (a) with respect to a transaction in, or in connection with, a contract of sale of a commodity for future delivery if the person has reason to believe the transaction and the contract is made on or subject to the rules of a board of trade that is legally organized under the laws of a foreign country, authorized to act as a board of trade by a foreign futures authority, subject to regulation by the foreign futures authority, and has not been determined by the Commission to be operating in violation of subsection (a).”.

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

“(5) A contract of sale of a commodity for future delivery traded or executed on or through the facilities of a board of trade, exchange, or market located outside the United States for purposes of section 4(a) shall not be void, voidable, or unenforceable, and a party to such a contract shall not be entitled to rescind or recover any payment made with respect to the

contract, based on the failure of the foreign board of trade to comply with any provision of this Act.”.

SEC. 5. DISAGGREGATION OF INDEX FUNDS AND OTHER DATA IN ENERGY AND AGRICULTURE MARKETS.

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

“(g) DISAGGREGATION OF INDEX FUNDS AND OTHER DATA IN ENERGY AND AGRICULTURE MARKETS.—Subject to section 8 and beginning within 30 days of the issuance of the final rule required by section 4(h), the Commission shall disaggregate and make public weekly—

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

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

SEC. 6. DETAILED REPORTING FROM INDEX TRADERS AND SWAP DEALERS.

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

“(h) INDEX TRADERS AND SWAP DEALERS REPORTING.—The Commission shall issue a proposed rule defining and classifying index traders and swap dealers (as those terms are defined by the Commission) for purposes of data reporting requirements and setting routine detailed reporting requirements for such entities in designated contract markets, derivatives transaction execution facilities, foreign boards of trade subject to section 4(e), and electronic trading facilities with respect to significant price discovery contracts with respect to exempt and agricultural commodities not later than 60 days after the date of the enactment of this subsection, and issue a final rule within 120 days after such date of enactment.”.

SEC. 7. TRANSPARENCY AND RECORDKEEPING AUTHORITIES.

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

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

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

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

(1) in the first sentence—

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

(B) by inserting “in the United States or elsewhere, and of transactions and positions in any such commodity entered into pursuant to subsection (g), (h)(1), or (h)(2) of section 2, or any exemption issued by the Commission by

rule, regulation or order” before “, and of cash or spot”;
and

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

“(b) With respect to agricultural and energy commodities, upon special call by the Commission, any person shall provide to the Commission, in a form and manner and within the period specified in the special call, books and records of all transactions and positions traded on or subject to the rules of any board of trade or electronic trading facility in the United States or elsewhere, or pursuant to subsection (g), (h)(1), or (h)(2) of section 2, or any exemption issued by the Commission by rule, regulation, or order, as the Commission may determine appropriate to deter and prevent price manipulation or any other disruption to market integrity or to diminish, eliminate, or prevent excessive speculation as described in section 4a(a).

“(c) Such books and records described in subsections (a) and (b) shall show complete details concerning all such transactions, positions, inventories, and commitments, including the names and addresses of all persons having any interest therein, shall be kept for a period of 5 years, and shall be open at all times to inspection by any representative of the Commission or the Department of Justice. For the purposes of this section, the futures and cash or spot transactions and positions of any person shall include such transactions and positions of any persons directly or indirectly controlled by the person.”.

(c) CONFORMING AMENDMENTS.—

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

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

(B) by inserting “, and the regulations of the Commission pursuant to section 4i(b) requiring reporting in connection with commodity option transactions,” before “shall apply”.

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

“(A) sections 4g(a), 4i, 5b and 12(e)(2)(B), and the regulations of the Commission pursuant to section 4i(b) requiring reporting in connection with commodity option transactions;”.

SEC. 8. TRADING LIMITS TO PREVENT EXCESSIVE SPECULATION.

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

(1) in subsection (a)—

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

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

“(2) In accordance with the standards set forth in paragraph (1) of this subsection and consistent with the good faith exception cited in subsection (b)(2), with respect to agricultural commodities enumerated in section 1a(4) and energy commodities, the Commission, within 60 days after the date of the enactment of this paragraph, shall by rule, regulation, or order establish limits on the amount of positions, other than bona fide hedge positions, that may be held by any person with respect to contracts of sale for future delivery or with respect to options on such contracts or commodities traded on or subject to the rules of a contract market or derivatives trans-

action execution facility, or on an electronic trading facility as a significant price discovery contract.

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

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

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

“(i) to diminish, eliminate, or prevent excessive speculation as described under this section;

“(ii) to deter and prevent market manipulation, squeezes, and corners;

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

“(iv) to ensure that the price discovery function of the underlying market is not disrupted; and

“(C) to the maximum extent practicable, in its discretion, take into account the total number of positions in fungible agreements, contracts, or transactions that a person can hold in agricultural and energy commodities in other markets.

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

“(i) 7 predominantly commercial short hedgers of the actual physical commodity for future delivery;

“(ii) 7 predominantly commercial long hedgers of the actual physical commodity for future delivery;

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

“(iv) each designated contract market or derivatives transaction execution facility upon which a contract in the commodity for future delivery is traded, and each electronic trading facility that has a significant price discovery contract in the commodity.

“(B) Not later than 60 days after the date on which the advisory groups are convened under subparagraph (A), and annually thereafter, the advisory groups shall submit to the Commission advisory recommendations regarding the position limits to be established in paragraph (2) and a recommendation as to whether the position limits should be administered directly by the Commission, or by the registered entity on which the commodity is listed (with enforcement by both the registered entity and the Commission).”; and

(2) in subsection (c)—

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

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

“(2) With respect to agricultural and energy commodities, for the purposes of contracts of sale for future delivery and options on such contracts or commodities, the Commission shall define what constitutes a bona fide hedging transaction or position as a transaction or position that—

“(A)(i) represents a substitute for transactions to be made or positions to be taken at a later time in a physical marketing channel;

“(ii) is economically appropriate to the reduction of risks in the conduct and management of a commercial enterprise; and
 “(iii) arises from the potential change in the value of—

“(I) assets that a person owns, produces, manufactures, processes, or merchandises or anticipates owning, producing, manufacturing, processing, or merchandising;

“(II) liabilities that a person owns or anticipates incurring; or

“(III) services that a person provides, purchases, or anticipates providing or purchasing; or

“(B) reduces risks attendant to a position resulting from a transaction that—

“(i) was executed pursuant to subsection (g), (h)(1), or (h)(2) of section 2, or an exemption issued by the Commission by rule, regulation or order; and

“(ii) was executed opposite a counterparty for which the transaction would qualify as a bona fide hedging transaction pursuant to paragraph (2)(A) of this subsection.”.

SEC. 9. MODIFICATIONS TO CORE PRINCIPLES APPLICABLE TO POSITION LIMITS FOR CONTRACTS IN AGRICULTURAL AND ENERGY COMMODITIES.

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

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

(c) **SIGNIFICANT PRICE DISCOVERY CONTRACTS.**—Section 2(h)(7)(C)(ii)(IV) of such Act (7 U.S.C. 2(h)(7)(C)(ii)(IV)) is amended by striking “where necessary” and all that follows through “in significant price discovery contracts” and inserting “for speculators, position limitations with respect to significant price discovery contracts in energy commodities, and position limitations or position accountability with respect to significant price discovery contracts in other commodities”.

SEC. 10. CFTC ADMINISTRATION.

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) **ADDITIONAL EMPLOYEES.**—As soon as practicable after the date of the enactment of this subparagraph, subject to appropriations, the Commission shall appoint at least 100 full-time employees (in addition to the employees employed by the Commission as of the date of the enactment of this subparagraph)—

“(i) to increase the public transparency of operations in agriculture and energy markets;

- “(ii) to improve the enforcement of this Act in those markets; and
- “(iii) to carry out such other duties as are prescribed by the Commission.”.

SEC. 11. REVIEW OF PRIOR ACTIONS.

Notwithstanding any other provision of the Commodity Exchange Act, the Commodity Futures Trading Commission shall review, as appropriate, all regulations, rules, exemptions, exclusions, guidance, no action letters, orders, other actions taken by or on behalf of the Commission, and any action taken pursuant to the Commodity Exchange Act by an exchange, self-regulatory organization, or any other registered entity, that are currently in effect, to ensure that such prior actions are in compliance with the provisions of this Act.

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

(a) **STUDY.**—The Commodity Futures Trading Commission shall conduct a study—

(1) to determine the efficacy, practicality, and consequences of establishing limits on the amount of positions, other than bona fide hedge positions, that may be held by any person with respect to agreements, contracts, or transactions involving an agricultural or energy commodity, conducted in reliance on sections 2(g) and 2(h) of the Commodity Exchange Act and of any exemption issued by the Commission by rule, regulation or order, that are fungible (as defined by the Commission) with agreements, contracts, or transactions traded on or subject to the rules of any board of trade or of any electronic trading facility with respect to a significant price discovery contract, as a means to deter and prevent price manipulation or any other disruption to market integrity or to diminish, eliminate, or prevent excessive speculation as described in section 4a of such Act for physical-based agricultural or energy commodities; and

(2) to determine the efficacy, practicality, and consequences of establishing aggregate position limits for similar agreements, contracts, or transactions for physical-based agricultural or energy commodities traded—

(A) on designated contract markets;

(B) on derivatives transaction execution facilities; and

(C) in reliance on such sections 2(g) and 2(h) and of any exemption issued by the Commission by rule, regulation or order.

(b) **PUBLIC HEARINGS.**—The Commission shall provide for not less than 2 public hearings to take testimony, on the record, as part of the fact-gathering process in preparation of the report.

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

(1) describes the results of the study; and

(2) provides recommendations on any actions necessary to deter and prevent price manipulation or any other disruption to market integrity or to diminish, eliminate, or prevent exces-

sive speculation as described in section 4a of the Commodity Exchange Act for physical-based commodities, including—

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

(B) a description of the resources that the Commission considers to be necessary to implement the recommendations.

SEC. 13. STUDIES; REPORTS.

(a) **STUDY RELATING TO INTERNATIONAL REGULATION OF ENERGY COMMODITY MARKETS.—**

(1) **IN GENERAL.—**The Comptroller General of the United States shall conduct a study of the international regime for regulating the trading of energy commodity futures and derivatives.

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

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

(B) variations among countries with respect to the use of position limits, position accountability levels, or other thresholds to detect and prevent price manipulation, excessive speculation as described in section 4a of the Commodity Exchange Act, or other unfair trading practices;

(C) variations in practices regarding the differentiation of commercial and noncommercial trading;

(D) agreements and practices for sharing market and trading data among futures authorities and between futures authorities and the entities that the futures authorities oversee; and

(E) agreements and practices for facilitating international cooperation on market oversight, compliance, and enforcement.

(3) **REPORT.—**Not later than 1 year 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 report that—

(A) describes the results of the study;

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

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

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

(1) **STUDY.—**The Commodity Futures Trading Commission shall conduct a study of the effects of speculators on agriculture and energy futures markets and agriculture and energy prices.

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

(A) the effect of increased amounts of capital in agriculture and energy futures markets;

(B) the impact of the roll-over of positions by index fund traders and swap dealers on agriculture and energy futures markets and agriculture and energy prices; and

(C) the extent to which each factor described in subparagraphs (A) and (B) and speculators—

(i) affect—

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

(II) risk management functions; and

(ii) contribute to economically efficient price discovery.

(3) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Commodity Futures Trading Commission shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes the results of the study.

SEC. 14. OVER-THE-COUNTER AUTHORITY.

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

“(j) OVER-THE-COUNTER AUTHORITY.—

“(1) Within 60 days after the date of the enactment of this subsection, the Commission shall, by rule, regulation, or order, require routine reporting as it deems in its discretion appropriate, on not less than a monthly basis, of agreements, contracts, or transactions, with regard to an agricultural or energy commodity, entered into in reliance on subsection (g), (h)(1), or (h)(2) of section 2, or any exemption issued by the Commission by rule, regulation, or order that are fungible (as defined by the Commission) with agreements, contracts, or transactions traded on or subject to the rules of any board of trade or of any electronic trading facility with respect to a significant price discovery contract.

“(2) Notwithstanding subsections (g), (h)(1), and (h)(2) of section 2, and any exemption issued by the Commission by rule, regulation, or order, the Commission shall assess and issue a finding on whether the agreements, contracts, or transactions reported pursuant to paragraph (1), alone or in conjunction with other similar agreements, contracts, or transactions, have the potential to—

“(A) disrupt the liquidity or price discovery function on a registered entity;

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

“(C) prevent or otherwise impair the price of a contract listed for trading on a registered entity from reflecting the forces of supply and demand in any market for an agricultural commodity enumerated in section 1a(4) or an energy commodity.

“(3) If the Commission makes a finding pursuant to paragraph (2) of this subsection, the Commission may, in its discretion, utilize its authority under section 8a(9) to impose position limits (including, as appropriate and in its discretion, related hedge exemption provisions for bona fide hedging comparable to bona fide hedge provisions of section 4a(c)(2)) on agreements, contracts, or transactions involved, and take corrective actions to enforce the limits.”.

(b) CONFORMING AMENDMENTS.—

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

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

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

SEC. 15. EXPEDITED PROCESS.

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

