

110TH CONGRESS
2D SESSION

S. 3129

To amend the Commodity Exchange Act to prevent price manipulation and excessive speculation and to increase transparency with respect to energy trading on foreign exchanges conducted within the United States.

IN THE SENATE OF THE UNITED STATES

JUNE 12, 2008

Mr. LEVIN (for himself, Mrs. FEINSTEIN, Mr. DURBIN, Mr. DORGAN, and Mr. BINGAMAN) introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

A BILL

To amend the Commodity Exchange Act to prevent price manipulation and excessive speculation and to increase transparency with respect to energy trading on foreign exchanges conducted within the United States.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Close the London
5 Loophole Act of 2008”.

6 **SEC. 2. COMMISSION AUTHORITY OVER TRADERS.**

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

1 “(e) COMMISSION AUTHORITY OVER TRADERS.—

2 “(1) IN GENERAL.—Notwithstanding any other
3 provision of this section or any determination made
4 by the Commission to grant relief from the require-
5 ments of subsection (a) to become a designated con-
6 tract market, derivatives transaction execution facil-
7 ity, or other registered entity, in the case of a person
8 located within the United States, or otherwise sub-
9 ject to the jurisdiction of the Commission, trading
10 on a foreign board of trade, exchange, or market lo-
11 cated outside the United States (including the terri-
12 tories and or possessions of the United States), the
13 Commission shall have authority under this Act—

14 “(A) to apply and enforce section 9, in-
15 cluding provisions relating to manipulation or
16 attempted manipulation, the making of false
17 statements, and willful violations of this Act;

18 “(B) to require or direct the person to
19 limit, reduce, or liquidate any position to pre-
20 vent or reduce the threat of price manipulation,
21 excessive speculation, price distortion, or dis-
22 ruption of delivery or the cash settlement proc-
23 ess; and

1 “(C) to apply such recordkeeping require-
 2 ments as the Commission determines are nec-
 3 essary.

4 “(2) CONSULTATION.—Prior to the issuance of
 5 any order under paragraph (1) to reduce a position
 6 on a foreign board of trade, exchange, or market lo-
 7 cated outside the United States (including the terri-
 8 tories and possessions of the United States), the
 9 Commission shall consult with the foreign board of
 10 trade, exchange, or market and the appropriate reg-
 11 ulatory authority.

12 “(3) ADMINISTRATION.—Nothing in this sub-
 13 section limits any of the otherwise applicable au-
 14 thorities of the Commission.”.

15 **SEC. 3. SPECULATIVE LIMITS AND TRANSPARENCY FOR**
 16 **OFF-SHORE OIL TRADING.**

17 Section 4 of the Commodity Exchange Act (7 U.S.C.
 18 6) (as amended by section 2) is amended by adding at
 19 the end the following:

20 “(f) FOREIGN BOARDS OF TRADE.—

21 “(1) IN GENERAL.—In the case of any foreign
 22 board of trade for which the Commission has grant-
 23 ed or is considering an application to grant a board
 24 of trade located outside of the United States relief
 25 from the requirement of subsection (a) to become a

1 designated contract market, derivatives transaction
2 execution facility, or other registered entity, with re-
3 spect to an energy commodity that is physically de-
4 livered in the United States, prior to continuing to
5 or initially granting the relief, the Commission shall
6 determine that the foreign board of trade—

7 “(A) applies comparable principles or re-
8 quirements regarding the daily publication of
9 trading information and position limits or ac-
10 countability levels for speculators as apply to a
11 designated contract market, derivatives trans-
12 action execution facility, or other registered en-
13 tity trading energy commodities physically deliv-
14 ered in the United States; and

15 “(B) provides such information to the
16 Commission regarding the extent of speculative
17 and nonspeculative trading in the energy com-
18 modity that is comparable to the information
19 the Commission determines necessary to publish
20 a Commitment of Traders report for a des-
21 ignated contract market, derivatives transaction
22 execution facility, or other registered entity
23 trading energy commodities physically delivered
24 in the United States.

1 “(2) EXISTING FOREIGN BOARDS OF TRADE.—
2 During the period beginning 1 year after the date of
3 enactment of this subsection and ending 18 months
4 after the date of enactment of this subsection, the
5 Commission shall determine whether to continue to
6 grant relief in accordance with paragraph (1) to any
7 foreign board of trade for which the Commission
8 granted relief prior to the date of enactment of this
9 subsection.”.

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