

113TH CONGRESS
1ST SESSION

H. R. 785

To prevent excessive speculation in energy commodities, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 15, 2013

Mr. MARKEY (for himself, Ms. DELAURO, Ms. BORDALLO, Ms. BROWN of Florida, Mr. CAPUANO, Ms. EDWARDS, Mr. GRIJALVA, Mr. HOLT, Ms. LEE of California, Mr. MICHAUD, Mr. MORAN, Mr. PASCRELL, Ms. SCHAKOWSKY, Mr. SCOTT of Virginia, Ms. SLAUGHTER, Ms. SPEIER, Mr. TIERNEY, and Mr. WATT) introduced the following bill; which was referred to the Committee on Agriculture

A BILL

To prevent excessive speculation in energy commodities, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Halt Index Trading
5 of Energy Commodities (HITEC) Act”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds the following:

1 (1) Investment in our commodities markets has
2 grown dramatically in recent years. While the vol-
3 ume of futures contracts traded in the United States
4 was only 630,000,000 in 1998, that volume
5 ballooned to over 3,200,000,000 in 2007.

6 (2) According to testimony provided to the
7 Committee on Natural Resources of the House of
8 Representatives, this growth in volume has been ac-
9 companied by a huge increase in the percentage of
10 commodity futures contracts owned by speculators.
11 While physical hedgers used to account for 70 per-
12 cent of futures contracts and speculators accounted
13 for just 30 percent, those numbers have reversed,
14 and speculators now possess 70 percent of all open
15 commodity futures contracts.

16 (3) Almost all of this increase in speculation
17 has been caused by a surge in trading of commodity
18 index funds.

19 (4) Commodity index trading is investing in
20 funds or other financial products which are indexed
21 to changes in value of various commodities traded on
22 commodity markets in the United States. These
23 funds can be tied to a basket of different commod-
24 ities or just to a single commodity.

1 (5) Investment in funds tied to these indexes
2 has grown enormously in the last 2 decades. Accord-
3 ing to the Commodity Futures Trading Commission,
4 a partial tally of net long positions in United States
5 markets in these indexes reached to over
6 \$160,000,000,000 in February 2012, and net long
7 positions in West Texas Intermediate Crude Oil
8 reached to over \$39,000,000,000. Many of the inves-
9 tors in these funds are institutional clients, such as
10 pension funds and universities.

11 (6) The vast majority of investors in commodity
12 index funds do not use the commodities involved.
13 These investors are only interested in profiting from
14 a rise in value of the commodities and must sell
15 their interests in the commodities before the futures
16 contracts they own close. This practice, known as
17 rolling, causes hundreds of billions of dollars of addi-
18 tional trading to flow through our commodities mar-
19 kets each month, artificially increasing the volatility
20 of our markets and driving up prices for many of
21 our commodities, including crude oil.

22 (7) Because our commodities markets are tied
23 to the actual retail prices of our commodities, the
24 artificial and excessive levels of speculation have sig-
25 nificantly increased the retail prices our citizens pay

1 for their commodities. In the case of oil, excessive
2 speculation may have added nearly \$1.00 to the per
3 gallon price of gasoline.

4 (8) As sharp increases in energy costs reduce
5 economic growth, these commodity index funds are
6 creating a weight on the overall economy, threat-
7 ening to delay our Nation's full recovery from the
8 2008 financial crisis and recession.

9 (9) Thus, commodity index funds hurt economic
10 growth and consumer's wallets.

11 (10) In the Dodd-Frank Wall Street Reform
12 Act, Congress ordered the Commodity Futures
13 Trading Commission to limit the number of posi-
14 tions that a person or a class of persons may hold
15 in the commodities markets. Congress has taken ini-
16 tial steps to set boundaries on commodity trading,
17 but more must be done to address the role of com-
18modity index funds in the energy commodity mar-
19kets.

20 (11) Because oil prices have been at elevated
21 levels for much of the last year, Congress believes
22 the situation is an emergency and warrants imme-
23diate action to ban commodity index trading in en-
24ergy commodities.

1 **SEC. 3. PREVENTION OF EXCESSIVE SPECULATION IN EN-**
2 **ERGY COMMODITIES.**

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

5 “(h)(1)(A) It shall be unlawful for a commodity index
6 fund to engage in a transaction involving an energy com-
7 modity if any person investing in the fund is an excluded
8 investor.

9 “(B) It shall be unlawful for an energy commodity
10 index fund to accept an investment from a person who
11 is an excluded investor.

12 “(C) Beginning 2 years after the date of the enact-
13 ment of this subsection, it shall be unlawful for a com-
14 modity index fund to hold an investment in an energy
15 commodity if any person investing in the fund is an ex-
16 cluded investor.

17 “(2) In this subsection:

18 “(A) The term ‘commodity index fund’ means a
19 fund that consists principally of swaps involving, or
20 contracts of sale for future delivery of, more than 1
21 commodity, the value or level of which is based, in
22 whole or in part, on the value or level of more than
23 1 commodity, and that transfers, as between the
24 parties to the transaction, in whole or in part, the
25 financial risk associated with a future change in any
26 such value or level.

1 “(B) The term ‘energy commodity index fund’
2 means a commodity index fund that consists prin-
3 cipally of swaps involving, or contracts of sale for fu-
4 ture delivery of, more than 1 energy commodity.

5 “(C) The term ‘energy commodity’ means crude
6 oil, natural gas, or any other product (other than an
7 agricultural commodity) that is produced or refined,
8 in whole or in part, from crude oil or natural gas
9 and that may be used as fuel for a power source of
10 any kind, but does not include electricity.

11 “(D) The term ‘excluded investor’ means a per-
12 son with respect to whom there is no position in at
13 least 1 energy commodity which, if held by the per-
14 son, would be considered a bona fide hedging posi-
15 tion (within the meaning of section 4a(c)(1)).

16 “(E) The term ‘swap’ shall have the meaning
17 the term would have if the provisions of title VII of
18 the Dodd-Frank Wall Street Reform and Consumer
19 Protection Act defining, and authorizing further def-
20 inition of, the term were in effect.”.

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