

which the vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken later today.

CFTC REAUTHORIZATION ACT OF
2005

Mr. GOODLATTE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4473) to reauthorize and amend the Commodity Exchange Act to promote legal certainty, enhance competition, and reduce systemic risk in markets for futures and over-the-counter derivatives, and for other purposes.

The Clerk read as follows:

H.R. 4473

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 2005”.

TITLE I—GENERAL PROVISIONS

SEC. 101. COMMISSION AUTHORITY OVER AGREEMENTS, CONTRACTS OR TRANSACTIONS IN FOREIGN CURRENCY.

(a) IN GENERAL.—Section 2(c)(2) of the Commodity Exchange Act (7 U.S.C. 2(c)(2)) is amended by striking subparagraphs (B) and (C) and inserting the following:

“(B) AGREEMENTS, CONTRACTS, AND TRANSACTIONS IN RETAIL FOREIGN CURRENCY.—

“(i) This Act applies to, and the Commission shall have jurisdiction over, an agreement, contract, or transaction in foreign currency that—

“(I) is a contract of sale of a commodity for future delivery (or an option on such a contract) or an option (other than an option executed or traded on a national securities exchange registered pursuant to section 6(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78f(a))); and

“(II) is offered to, or entered into with, a person that is not an eligible contract participant, unless the counterparty, or the person offering to be the counterparty, of the person is—

“(aa) a financial institution;

“(bb)(AA) a broker or dealer registered under section 15(b) (except paragraph (11) thereof) or 15C of the Securities Exchange Act of 1934 (15 U.S.C. 78o(b), 78o-5); or

“(BB) an associated person of a broker or dealer registered under section 15(b) (except paragraph (11) thereof) or 15C of the Securities Exchange Act of 1934 (15 U.S.C. 78o(b), 78o-5) concerning the financial or securities activities of which the broker or dealer makes and keeps records under section 15C(b) or 17(h) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-5(b), 78q(h));

“(cc) a futures commission merchant registered under this Act (that is not also a person described in item (bb)), or an affiliated person of such a futures commission merchant (that is not also a person described in item (bb)) if such futures commission merchant makes and keeps records under section 4f(c)(2)(B) of this Act concerning the futures and other financial activities of such affiliated person;

“(dd) an insurance company described in section 1a(12)(A)(ii) of this Act, or a regulated subsidiary or affiliate of such an insurance company;

“(ee) a financial holding company (as defined in section 2 of the Bank Holding Company Act of 1956); or

“(ff) an investment bank holding company (as defined in section 17(i) of the Securities Exchange Act of 1934 (15 U.S.C. 78q(i))).

“(ii) Notwithstanding item (cc) of clause (i)(II) of this subparagraph, agreements, contracts, or transactions described in clause (i) of this subparagraph shall be subject to subsection (a)(1)(B) of this section and sections 4(b), 4b, 4c(b), 4o, 6(c) and 6(d) (except to the extent that sections 6(c) and 6(d) prohibit manipulation of the market price of any commodity in interstate commerce, or for future delivery on or subject to the rules of any market), 6c, 6d, 8(a), 13(a), and 13(b) if the agreements, contracts, or transactions are offered, or entered into, by a person that is registered as a futures commission merchant or an affiliated person of a futures commission merchant registered under this Act that is not also a person described in any of items (aa), (bb), (dd), (ee), or (ff) of clause (i) of this subparagraph.

“(iii)(I) Notwithstanding item (cc) of clause (i)(II), a particular person shall not participate in the solicitation or recommendation of any agreement, contract, or transaction described in clause (i) entered into with or to be entered into with a person described in such item, unless the particular person—

“(aa) is registered in such capacity as the Commission by rule, regulation, or order shall determine; and

“(bb) is a member of a futures association registered under section 17.

“(II) Subclause (I) shall not apply to—

“(aa) any person described in any of items (aa), (bb), (dd), (ee), or (ff) of subparagraph (B)(i)(II); or

“(bb) any such person’s associated persons.

“(C)(i)(I) This subparagraph shall apply to any agreement, contract, or transaction in foreign currency that is—

“(aa) offered to, or entered into with, a person that is not an eligible contract participant (except that this subparagraph shall not apply if the counterparty, or the person offering to be the counterparty, of the person that is not an eligible contract participant is a person described in any of items (aa), (bb), (dd), (ee), or (ff) of subparagraph (B)(i)(II)); and

“(bb) offered, or entered into, on a leveraged or margined basis, or financed by the offeror, the counterparty, or a person acting in concert with the offeror or counterparty on a similar basis.

“(II) Subclause (I) shall not apply to—

“(aa) a security that is not a security futures product; or

“(bb) a contract of sale that—

“(AA) results in actual delivery within 2 days; or

“(BB) creates an enforceable obligation to deliver between a seller and buyer that have the ability to deliver and accept delivery, respectively, in connection with their line of business.

“(ii)(I) Agreements, contracts, or transactions described in clause (i) of this subparagraph shall be subject to subsection (a)(1)(B) of this section and sections 4(b), 4b, 4c(b), 4o, 6(c) and 6(d) (except to the extent that sections 6(c) and 6(d) prohibit manipulation of the market price of any commodity in interstate commerce, or for future delivery on or subject to the rules of any market), 6c, 6d, 8(a), 13(a), and 13(b).

“(II) Subclause (I) of this clause shall not apply to—

“(aa) any person described in any of items (aa), (bb), (dd), (ee), or (ff) of subparagraph (B)(i)(II); or

“(bb) any such person’s associated persons.

“(iii)(I) A person shall not participate in the solicitation or recommendation of any agreement, contract, or transaction described in clause (i) of this subparagraph unless the person is registered in such capacity as the Commission by rule, regulation or order shall determine, and is a member of a

futures association registered under section 17.

“(II) Subclause (I) shall not apply to any person—

“(aa) any person described in any of items (aa), (bb), (dd), (ee), or (ff) of subparagraph (B)(i)(II); or

“(bb) any such person’s associated persons.

“(iv) Sections 4(b) and 4b shall apply to any agreement, contract, or transaction described in clause (i) of this subparagraph as if the agreement, contract, or transaction were a contract of sale of a commodity for future delivery.

“(v) This subparagraph shall not be construed to limit any jurisdiction that the Commission may otherwise have under any other provision of this Act over an agreement, contract, or transaction that is a contract of sale of a commodity for future delivery.

“(vi) This subparagraph shall not be construed to limit any jurisdiction that the Commission or the Securities and Exchange Commission may otherwise have under any other provision of this Act with respect to security futures products and persons effecting transactions in security futures products.”.

(b) EFFECTIVE DATE.—Clause (iii) of section 2(c)(2)(B) and clause (iii) of section 2(c)(2)(C) of the Commodity Exchange Act, as amended by subsection (a) of this section, shall be effective 120 days after the date of the enactment of this Act or such other time as the Commodity Futures Trading Commission shall determine.

SEC. 102. ANTIFRAUD AUTHORITY.

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

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(2) by striking “SEC. 4b.” and all that follows through the end of subsection (a) and inserting the following:

“SEC. 4b. CONTRACTS DESIGNED TO DEFAUD OR MISLEAD.

“(a) UNLAWFUL ACTIONS.—It shall be unlawful—

“(1) for any person, in or in connection with any order to make, or the making of, any contract of sale of any commodity in interstate commerce or for future delivery that is made, or to be made, on or subject to the rules of a designated contract market, for or on behalf of any other person; or

“(2) for any person, in or in connection with any order to make, or the making of, any contract of sale of any commodity for future delivery, or other agreement, contract, or transaction subject to paragraphs (1) and (2) of section 5a(g), that is made, or to be made, for or on behalf of, or with, any other person, other than on or subject to the rules of a designated contract market—

“(A) to cheat or defraud or attempt to cheat or defraud the other person;

“(B) willfully to make or cause to be made to the other person any false report or statement or willfully to enter or cause to be entered for the other person any false record;

“(C) willfully to deceive or attempt to deceive the other person by any means whatsoever in regard to any order or contract or the disposition or execution of any order or contract, or in regard to any act of agency performed, with respect to any order or contract for or, in the case of paragraph (2), with the other person; or

“(D)(i) to bucket an order if the order is represented by the person as an order to be executed, or is required to be executed, on or subject to the rules of a designated contract market; or

“(ii) to fill an order by offset against the order or orders of any other person, or willfully and knowingly and without the prior

consent of the other person to become the buyer in respect to any selling order of the other person, or become the seller in respect to any buying order of the other person, if the order is represented by the person as an order to be executed, or is required to be executed, on or subject to the rules of a designated contract market unless the order is executed in accordance with the rules of the designated contract market.

“(b) CLARIFICATION.—Subsection (a)(2) of this section shall not obligate any person, in or in connection with a transaction in a contract of sale of a commodity for future delivery, or other agreement, contract or transaction subject to paragraphs (1) and (2) of section 5a(g), with another person, to disclose to the other person nonpublic information that may be material to the market price, rate, or level of the commodity or transaction, except as necessary to make any statement made to the other person in or in connection with the transaction, not misleading in any material respect.”.

SEC. 103. PORTFOLIO MARGINING AND SECURITY INDEX ISSUES.

(a) The agencies represented on the President's Working Group on Financial Markets shall work to ensure that the Securities and Exchange Commission (SEC), the Commodity Futures Trading Commission (CFTC), or both, as appropriate, have taken the actions required under subsection (b).

(b) The SEC, the CFTC, or both, as appropriate, shall take action under their existing authorities to permit—

(1) by September 30, 2006, risk-based portfolio margining for security options and security futures products; and

(2) by June 30, 2006, the trading of futures on certain security indexes by resolving issues related to debt security indexes and foreign security indexes.

SEC. 104. AUTHORIZATION OF APPROPRIATIONS.

Section 12(d) of the Commodity Exchange Act (7 U.S.C. 16(d)) is amended to read as follows:

“(d) There are authorized to be appropriated such sums as are necessary to carry out this Act for each of the fiscal years 2006 through 2010.”

SEC. 105. TECHNICAL AND CONFORMING AMENDMENTS.

(a) Section 4a(e) of the Commodity Exchange Act (7 U.S.C. 6a(e)) is amended in the last proviso by striking “section 9(c)” and inserting “section 9(a)(5)”.

(b) Section 4f(c)(4)(B)(i) of such Act (7 U.S.C. 6f(c)(4)(B)(i)) is amended by striking “compiled” and inserting “complied”.

(c) Section 4k of such Act (7 U.S.C. 6k) is amended by redesignating the second paragraph (5) as paragraph (6).

(d) The Commodity Exchange Act is amended—

(1) by redesignating the first section 4p (7 U.S.C. 6o-1), as added by section 121 of the Commodity Futures Modernization Act of 2000, as section 4q; and

(2) by moving such section to after the second section 4p, as added by section 206 of Public Law 93-446.

(e) Subsections (a)(1) and (d)(1) of section 5c of such Act (7 U.S.C. 7a-2(a)(1), (d)(1)) are each amended by striking “5b(d)(2)” and inserting “5b(c)(2)”.

(f) Sections 5c(f) and 17(r) of such Act (7 U.S.C. 7a-2(f), 21(r)) are each amended by striking “4d(3)” and inserting “4d(c)”.

(g) Section 8(a)(1) of such Act (7 U.S.C. 12(a)(1)) is amended in the matter following subparagraph (B)—

(1) by striking “commenced” the 2nd place it appears; and

(2) by inserting “commenced” after “in a judicial proceeding”.

(h) Section 22(a)(2) of such Act (7 U.S.C. 25(a)(2)) is amended by striking “5b(b)(1)(E)” and inserting “5b(c)(2)(H)”.

TITLE II—NATURAL GAS PRICE TRANSPARENCY

SEC. 201. MARKET SURVEILLANCE.

(a) IN GENERAL.—The Commodity Futures Trading Commission (in this section referred to as the “Commission”) shall detect and deter manipulation and attempted manipulation and increase the transparency of the pricing of natural gas by conducting surveillance of trading in contracts for natural gas.

(b) CERTAIN EVENTS REQUIRED TO BE REVIEWED.—

(1) REQUIREMENT.—In the event of a significant and highly unusual change in the settlement price of any physically delivered natural gas futures contract traded on a contract market (within the meaning of section 5 of the Commodity Exchange Act) or derivatives transaction execution facility (within the meaning of section 5a of such Act), the Commission shall conduct a review of the factors that caused the price movement in order to determine if manipulation or attempted manipulation in violation of such Act has occurred.

(2) CERTAIN FACTORS REQUIRED TO BE CONSIDERED.—The Commission shall consider in its review, among other things and as appropriate to the circumstances, the following:

(A) Prices and price relationships in the futures and cash markets.

(B) Market information, and cash market supply and demand factors which may be relevant to the price event.

(C) Large futures and options market positions and large futures and options market transactions on the contract market or derivatives transaction execution facility.

(D) Any related contract, agreement or transaction in natural gas.

SEC. 202. REPORTING OF LARGE POSITIONS INVOLVING NATURAL GAS.

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

(1) in subsection (e), by striking the last sentence; and

(2) by adding at the end the following:

“(f) REPORTING OF LARGE POSITIONS INVOLVING NATURAL GAS.—

“(1) IN GENERAL.—The Commission, by rule, shall require any person holding, maintaining, or controlling any position in a contract of sale of natural gas for future delivery, or option thereon, on or subject to the rules of any contract market or derivatives transaction execution facility, at or in excess of such limits as the Commission may specify as reportable, to maintain for a period of 5 years and provide on request to the Commission, records of the person regarding the position and any related contract, agreement, or transaction in natural gas to which the person is a party.

“(2) NO DUPLICATE REPORTS.—Except as otherwise provided in this paragraph, the rules prescribed under paragraph (1) shall not apply to any position that otherwise is required to be reported to any agency of the United States if the report would otherwise satisfy the requirements under this subsection and the report of the position is available to the Commission at the request of the Commission. Notwithstanding the preceding sentence, any report of any such position to any agency of the United States shall constitute a statement, report, or document required for the purposes of section 9.

“(3) CRITERIA FOR RULES.—

“(A) IN GENERAL.—In prescribing rules required by paragraph (1), the Commission shall consider—

“(i) the purposes for monitoring large positions in any contract for future delivery of natural gas;

“(ii) the effect of the reporting requirements on the efficiency and liquidity of the

market for any agreement, contract, or transaction made in connection with any contract for the future delivery of natural gas; and

“(iii) the costs and burden on the persons that would be required to file the reports.

“(B) FREQUENCY.—The Commission shall require the provision of records under paragraph (1) only in circumstances where manipulation is suspected, except that the Commission may prescribe rules requiring regular or continuous reporting if the Commission finds that such reporting would help to deter or to detect manipulation in any market for any agreement, contract, or transaction made in connection with any contract for the future delivery of natural gas.

“(C) FILING REQUIREMENTS.—Records required to be provided under paragraph (1) shall be required to be filed with the Commission in accordance with such requirements regarding the form, timing, and manner of filing such reports, as the Commission may prescribe by rule.

“(5) OTHER RULES NOT AFFECTED.—This subsection shall not be interpreted to prohibit or impair the adoption by any board of trade licensed, designated, or registered by the Commission of any bylaw, rule, regulation, or resolution requiring reports of positions in any agreement, contract, or transaction made in connection with a contract of sale for future delivery of natural gas (including such a contract of sale), including any bylaw, rule, regulation, or resolution pertaining to filing or recordkeeping, which may be held by any person subject to the rules of the board of trade, except that any bylaw, rule, regulation, or resolution established by the board of trade shall not be inconsistent with any requirement prescribed by the Commission under this subsection.”.

SEC. 203. CRIMINAL AND CIVIL PENALTIES.

(a) ENFORCEMENT POWERS OF THE COMMISSION.—Section 6(c) of the Commodity Exchange Act (7 U.S.C. 9, 15) is amended in clause (3) of the 10th sentence—

(1) by inserting “(A)” after “assess such person”; and

(2) by inserting after “each such violation” the following: “or (B) in any case of manipulation of, or attempt to manipulate under section 9(a)(2), a civil penalty of not more than the greater of \$1,000,000 or triple the monetary gain to such person for each such violation.”.

(b) NONENFORCEMENT OF RULES OF GOVERNMENT OR OTHER VIOLATIONS.—Section 6b of such Act (7 U.S.C. 13a) is amended—

(1) in the 1st sentence, by inserting “, or, in any case of manipulation of, or an attempt to manipulate, the price of any commodity, a civil penalty of not more than \$1,000,000 for each such violation” before the period; and

(2) in the 2nd sentence, by inserting “, except that if the failure or refusal to obey or comply with the order involved any offense under section 9(a)(2), the registered entity, director, officer, agent, or employee shall be guilty of a felony and, on conviction, shall be subject to penalties under section 9(f)” before the period.

(c) ACTION TO ENJOIN OR RESTRAIN VIOLATIONS.—Section 6c(d) of such Act (7 U.S.C. 13a-1(d)) is amended by striking “(d)” and all that follows through the end of the paragraph (1) and inserting the following:

“(d) CIVIL PENALTIES.—(1) In any action brought under this section, the Commission may seek and the court shall have jurisdiction to impose, on a proper showing, on any person found in the action to have committed any violation—

“(A) a civil penalty in the amount of not more than the greater of \$100,000 or triple the monetary gain to the person for each violation; or

“(B) in any case of manipulation of, or an attempt to manipulate, the price of any commodity, a civil penalty in the amount of not more than the greater of \$1,000,000 or triple the monetary gain to the person for each violation.”.

(d) VIOLATIONS GENERALLY.—Section 9(a) of such Act (7 U.S.C. 13(a)) is amended—

(1) by striking “(or \$500,000 in the case of a person who is an individual)”; and

(2) by striking “five years” and inserting “10 years”.

The SPEAKER pro tempore (Mr. TERRY). Pursuant to the rule, the gentleman from Virginia (Mr. GOODLATTE) and the gentleman from Minnesota (Mr. PETERSON) each will control 20 minutes.

The Chair recognizes the gentleman from Virginia.

□ 1545

Mr. GOODLATTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Committee on Agriculture brings to the House today H.R. 4473, a bill that, among other things, reauthorizes appropriations for the Commodity Futures Trading Commission through fiscal year 2010. The committee approved the bill last week by voice vote.

The committee began the reauthorization process early this year, holding 2 days of hearings in March when all witnesses supported CFTC reauthorization and testified favorably to the general success of the Commodity Futures Modernization Act of 2000. The CFMA brought legal certainty to the off-exchange derivatives industry and brought the exchange-traded regulatory program into an era when the futures pit is being replaced by electronic trading.

The bill the committee brings to the floor today contains remedies to the areas of concern outlined by then FTC chairman, Sharon Brown-Hruska, in her testimony before the Risk Management Subcommittee. With the assistance of the President's Working Group on Financial Markets, the committee has included the following provisions:

A change to the so-called Treasury amendment contained in section 2(c) of the Commodity Exchange Act to stop unscrupulous persons who write and market contracts in foreign currencies that are nothing more than schemes to defraud the general public; a final resolution to the outstanding issues on establishing risk-based portfolio margining systems for stock futures products and stock options; as well as moving forward on approval of trading on foreign debt indexes and foreign security indexes; of these two matters, the bill provides deadlines for action by the Securities and Exchange Commission and the CFTC; a clarification of the Commission's authority to bring anti-fraud actions in off-exchange principal-to-principal transactions under section 4(b) of the CEA; and a refinement of the CFTC's surveillance program to provide certainty to consumers that the CFTC is looking at

significant and highly unusual price moves in natural gas and additional information to the CFTC's large trader reporting system.

A number of end user and consumer groups have endorsed title II of the bill, which was originally drafted by my committee colleagues, the gentleman from Missouri (Mr. GRAVES) and the gentleman from Georgia (Mr. BARROW). These new provisions will codify the factors the CFTC will consider as they conduct surveillance of volatile markets in natural gas futures and option contracts. I believe this will go a long way to restore the public's trust and confidence that the price discovery mechanism for natural gas is subject only to the factors of supply and demand.

In conclusion, Mr. Speaker, this legislation makes the adjustments in the Commodity Exchange Act that will enable our markets to continue their efficient operations for price discovery and risk management. The legislation will provide additional tools for the CFTC and the self-regulatory organizations under its purview to police the markets and bring enforcement actions for fraudulent business practices aimed at the unsuspecting public. I urge my colleagues to adopt H.R. 4473.

Mr. Speaker, I reserve the balance of my time.

Mr. PETERSON of Minnesota. Mr. Speaker, I yield myself such time as I may consume, and I rise today in support of the bill before us.

I want to commend Chairman GOODLATTE for this fine work, and I also want to thank the subcommittee chairman (Mr. MORAN) and the ranking member (Mr. ETHERIDGE), who have done an excellent job in helping us put this bill together. In addition, Mr. GRAVES, Mr. BARROW and Mr. MARSHALL, all members of the committee, have worked very hard on important issues related to energy markets. I think the bill before us makes important progress thanks to their efforts.

Mr. Speaker, during hearings held in the Agriculture Committee, there was substantial discussion regarding the potential of the effects of the Zelener decision. In that case, the CFTC sought to use provisions of the Commodity Exchange Act to put an end to the deceptive sales practices being employed by one company in the marketing of retail foreign exchange contracts. The case was thrown out, however, because the defendant prevailed in court with his argument that the product he was offering was not technically a futures contract and, therefore, not the jurisdiction of the CFTC. The ruling was upheld in a Federal appeals court, and the Solicitor General declined to appeal the case to the Supreme Court.

Some of our witnesses who testified about the Zelener decision expressed concern that it will have far-reaching effects. Other witnesses were more concerned that a broad response to the decision would have harmful unintended consequences. The President's Working

Group on Financial Markets advised the Agriculture Committee to adopt a relatively modest response, and that is what is included in this bill.

Mr. Speaker, I believe the remedy included in this bill will restore the CFTC's ability to ensure that similar perpetrators of deceptive schemes involving foreign exchange trading can be policed effectively. However, because the scope of this fix is limited to foreign exchange contracts, we need to be prepared for the possibility that a similar problem will arise in other product areas.

Because the future in this area is so uncertain, we are counting on the CFTC to monitor developments carefully to determine whether or not in fact criminals are using the Zelener reasoning to avoid detection and prosecution. In their letter to the Agriculture Committee, the President's Working Group did not explain clearly why they are so sure that the modest fix is sufficient to solve the problem. Hopefully, the Working Group's members will join us in monitoring future cases and will be open to developing policy changes quickly that may be necessary to protect our Nation's investors.

Mr. Speaker, the futures industry is an important segment of our economy. Adequate regulation and investor protection must be balanced with the need to allow businesses to promote responsible innovations. Passage of the bill before us today will help us ensure that the Commodity Futures Trading Commission can continue to protect America's investors without excessively impeding progress. I urge passage of the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. GOODLATTE. Mr. Speaker, I would also like to thank the gentleman from Minnesota (Mr. PETERSON) for the cooperation from him and a number of others on his side of the aisle, and also the gentleman from North Carolina as well as my subcommittee chairman, the gentleman from Kansas (Mr. MORAN).

Mr. Speaker, I yield 5 minutes to the gentleman from Ohio (Mr. OXLEY), chairman of the Financial Services Committee, another individual who has played a critical part in bringing this legislation to the floor and thank him for his cooperation as well.

Mr. OXLEY. Mr. Speaker, let me thank the gentleman for yielding and thank him for his leadership on this critical issue.

I fully support title I of the legislation, particularly sections 101 and 103. These sections reflect legislative language that the President's Working Group proposed this past November clarifying the Commodity Futures Trading Commission's anti-fraud authority, mandating the application of risk-based portfolio margining to both options and single stock futures positions, resolving issues related to the definitions of narrow-based security indexes.

I am inserting the President's Working Group's November letter which proposed this language and the accompanying report language in the RECORD. These provisions will enhance the liquidity and competitiveness of our capital markets, all the while preserving investor protection. These provisions also reaffirm the intent of the CFMA, that is that regulatory parity applies to options and single-stock futures, and that the SEC and the CFTC jointly regulate single-stock futures.

I fully support the application of risk-based portfolio margining not only to options and single-stock futures, as this legislation so mandates, but also to all equities. Risk-based portfolio margining more accurately reflects economic exposure to the marketplace than does the traditional strategy-based margining methodology. Today's investors often use equity options and futures positions interchangeably, and a broader portfolio margining rule would more appropriately reflect these investors' economic risk. I urge the SEC to approve rules to permit portfolio margining for all equities in the same time frame, as this legislation calls for, with respect to options and single-stock futures.

Title II authorizes the CFTC to survey the trading of natural gas contracts to deter manipulation, and we are all familiar with that language. The reasoning behind this title is to combat perceived, and I say perceived, manipulation of prices in the trading of natural gas contracts. This legislation attempts to address deep-seated factors in our energy markets, namely supply-and-demand issues. However, it does so by revamping a derivatives policy that was well-negotiated and well-settled in 2000 under the Commodity Futures Modernization Act.

The CFTC's General Counsel commented this past July that "the CFTC has reviewed this natural gas market several times during the last few years and each time has concluded that the volatility had been due to fundamentals such as tight supplies and other market forces and not due to any price manipulation." Federal Reserve Chairman Greenspan has weighed in similarly, stating that high natural gas prices "are the result of a lack of adequate liquified natural gas import facilities in the United States as well as a lack of adequate facilities abroad to produce liquified natural gas. They are not the result of weaknesses in the regulation of U.S. natural gas markets generally or futures exchanges specifically." And Chairman Greenspan was asked and testified such to our committee on at least two occasions.

This proposed new regulation of over-the-counter derivatives in natural gas may have unintended consequences, including detrimentally affecting the competition in our robust capital markets. I have asked my counterpart at the Committee on Agriculture to work with the Committee on Financial Services and the President's Working Group

to ensure that these provisions do not upset the intent of the Commodities Futures Modernization Act. The CFMA was the product of lengthy, and bipartisan congressional negotiations and reflected the President's Working Group's 1999 report.

It was decided then and reflected in the CONGRESSIONAL RECORD and most keenly in a report accompanying the CFMA by the House Banking and Financial Services Committee, one of the predecessor committees to the Committee on Financial Services, that legal certainty and regulatory relief for OTC derivatives was necessary. That committee stated that these products "have become essential to banks' risk-management strategies. These OTC derivative markets have become central to a wide range of banking activities."

I would like to work with the Committee on Agriculture as this legislation moves forward to ensure that the regulatory relief and legal certainty that the CFMA imposed upon the OTC derivative markets in 2000 remain in law.

Upon the introduction of this legislation last Thursday, my colleague, the gentleman from Massachusetts (Mr. FRANK), our ranking member, and I sent a letter to the members of the President's Working Group requesting their views on this title. I am inserting this correspondence in the RECORD and will share a few of their concerns.

Treasury Under Secretary for Domestic Finance, Randal Quarles stated that the provisions in title II "could result in unintended adverse consequences and undermine the regulatory relief and legal certainty that were so carefully crafted through the CFMA of 2000. They could have a significant and negative impact on the important risk-management function that these OTC markets perform in the U.S. economy."

Federal Reserve Chairman Alan Greenspan responded that the provisions of Title II are rather vague and could be construed as a broad expansion of the Commodity Futures Trading Commission's mandate. . . . The case for such a broad expansion of the Commission's mandate simply had not been made . . . [B]roadening recordkeeping and reporting requirements beyond futures contracts could impose substantial burdens on market participants that are unlikely to be outweighed by their benefits.

CFTC Chairman Reuben Jeffery reiterated that the CFTC already "has the necessary tools to oversee the markets it regulates."

It is my intent that if this legislation moves forward that the views of the President's Working Group will be taken into consideration. In the event of a House-Senate conference, the Committee on Financial Services will be represented. Our conferees will take into account the intent of the CFMA and the counsel of the President's Working Group.

I thank my colleagues for their time and their work on these important issues.

Mr. Speaker, as mentioned above, I include for the RECORD the President's Working Group's November letter with

the proposed language and the accompanying report language.

DEPARTMENT OF THE TREASURY,
Washington, DC, November 3, 2005.

Hon. MICHAEL G. OXLEY,
Chairman, Committee on Financial Services,
House of Representatives, Washington, DC.

DEAR CHAIRMAN OXLEY: As Chairman of the President's Working Group on Financial Markets (PWG) and on behalf of its members, I am enclosing a joint PWG letter which transmits legislative and report language that addresses the retail foreign currency fraud issues raised by the 7th Circuit's decision of last year in CFTC v. Zelener. The enclosed letter also transmits legislative language to establish statutory deadlines for the resolution of issues related to portfolio margining and certain security indexes. The PWG will continue to monitor the very recent events concerning Refco and its affiliates as the facts unfold to determine whether or not any measures may be needed to address any additional issues that the situation raises.

Sincerely,

JOHN W. SNOW,
Secretary of the Treasury.

DEPARTMENT OF THE TREASURY
BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM, U.S. SECURITIES AND EXCHANGE COMMISSION,
U.S. COMMODITY FUTURES TRADING COMMISSION.

Hon. MICHAEL G. OXLEY,
Chairman, Committee on Financial Services,
House of Representatives, Washington, DC.

Hon. BARNEY FRANK,
Ranking Member, Committee on Financial Services,
House of Representatives, Washington, DC.

DEAR CHAIRMAN OXLEY AND RANKING MEMBER FRANK: As representatives of the President's Working Group on Financial Markets (PWG) testified before the Senate Banking Committee on September 8, 2005, the PWG principals have reached agreement on an approach to address the retail foreign currency fraud issues raised by the 7th Circuit's decision of last year in CFTC v. Zelener. As promised, we are enclosing legislative and accompanying report language that would implement the PWG's agreement. This legislative language is supported by each member of the PWG and is drafted as an amendment to section 2(c)(2) of the Commodity Exchange Act (CEA).

The PWG's amendment confirms the CFTC's anti-fraud jurisdiction over retail foreign currency transactions similar to those that were involved in the Zelener case that are offered by persons not already regulated by another financial regulator. The amendment also would grant the CFTC authority to require certain persons involved in soliciting and recommending retail foreign currency futures and similar transactions to register with the CFTC, if such persons are not already regulated by another financial regulator. It is the view of the PWG that it is not necessary at this time to deal with anti-fraud jurisdiction over other products or instruments other than retail foreign currency as set forth in the attached proposed amendment.

In addition to retail foreign currency fraud issues, the PWG members have discussed the complex issues related to (1) the implementation of risk-based portfolio margining systems for security futures products and security options, and (2) resolution of definitional issues relating to narrow-based security indexes. As part of these discussions, the PWG is committed to resolving the portfolio margining system and narrow-based index issues within the time frames set forth below.

With regard to portfolio margining, the SEC has committed to approving self regulatory organization (SRO) rules that permit the use of a risk-based portfolio margining methodology to determine margin requirements for portfolios that include security futures products and for security options by June 30, 2006. In the event that the SEC does not approve such SRO rules, the SEC will promulgate rules to permit risk-based portfolio margining for security options by September 30, 2006, and the SEC and CFTC will do so jointly for security futures products by the same date.

With regard to futures on indexes composed of debt securities, the CFTC and SEC have committed to use joint authority to accommodate the trading of such products by excluding certain debt securities from the definition of "narrow-based security index" by June 30, 2006, and permit trading of futures based on such indexes. The CFTC and the SEC also have committed to resolve whether it is appropriate to exclude certain foreign security indexes from the definition of "narrow-based security index" by June 30, 2006.

We are enclosing legislative language that directs the PWG, working through its member agencies, to resolve these issues within the time periods described above. For both the portfolio margining and narrow-based index issues, the PWG will continue its efforts to resolve these important issues by meeting as appropriate and ensuring open and ongoing communication and discussion among the PWG members and staff. In addition, the PWG will continue to focus on developing a consistent approach to regulatory oversight of margin requirements. Thank you for the opportunity to provide input into your important work of reauthorizing the CFTC and related legislative issues. We look forward to working with your Committee and your counterparts in the Senate as this process moves forward.

Sincerely,

JOHN W. SNOW,
Secretary of the Treasury.

CHRISTOPHER COX,
Chairman, Securities and Exchange Commission.

ALAN GREENSPAN,
Chairman, Board of Governors of the Federal Reserve System.

REUBEN JEFFERY, III,
Chairman, Commodity Futures Trading Commission.

COMMODITY EXCHANGE ACT—FOREIGN CURRENCY AMENDMENTS

Section 2(c)(2) of the Commodity Exchange Act is amended by striking all of existing subparagraphs (B) and (C) and inserting instead the following:

"(B) Agreements, contracts, and transactions in retail foreign currency.—

"(i) This Act applies to, and the Commission shall have jurisdiction over, an agreement, contract, or transaction in foreign currency that—

"(I) is a contract of sale of a commodity for future delivery (or an option on such a contract) or an option (other than an option executed or traded on a national securities exchange registered pursuant to section 6(a) of the Securities Exchange Act of 1934 [15 U.S.C. 78f(a)]; and

"(II) is offered to, or entered into with, a person that is not an eligible contract participant, unless the counterparty, or the person offering to be the counterparty, of the person is—

"(aa) a financial institution;

"(bb)

"(AA) a broker or dealer registered under section 15(b) (except paragraph (11) thereof) or 15C of the Securities Exchange Act of 1934 (15 U.S.C. 78o(b), 78o-5); or

"(BB) an associated person of a broker or dealer registered under section 15(b) (except paragraph (11) thereof) or 15C of the Securities Exchange Act of 1934 (15 U.S.C. 78o(b), 78o-5) concerning the financial or securities activities of which the broker or dealer makes and keeps records under section 15C(b) or 17(h) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-5(b), 78q(h));

"(cc) a futures commission merchant registered under this Act (that is not also a person described in item (bb)), or an affiliated person of such a futures commission merchant (that is not also a person described in item (bb)) if such futures commission merchant makes and keeps records under Section 4f(c)(2)(B) of this Act concerning the futures and other financial activities of such affiliated person;

"(dd) an insurance company described in section 1a(12)(A)(ii) of this title, or a regulated subsidiary or affiliate of such an insurance company;

"(ee) a financial holding company (as defined in section 1841 of title 12); or

"(ff) an investment bank holding company (as defined in section 17(i) of the Securities Exchange Act of 1934 [15 U.S.C. 78q(i)]).

"(ii) Notwithstanding item (c) of subparagraph (B)(i)(II), agreements, contracts, or transactions described in subparagraph (B)(i) shall be subject to subsection (a)(1)(B) and sections 4(b), 4b, 4c(b), 4o, 6(c) and 6(d) (except to the extent that sections 6(c) and 6(d) prohibit manipulation of the market price of any commodity in interstate commerce, or for future delivery on or subject to the rules of any market), 6c, 6d, 8(a), 13(a), and 13(b) if such agreements, contracts, or transactions are offered, or entered into, by a person that is registered as a futures commission merchant or an affiliated person of a futures commission merchant registered under this Act that is not also a person described in any of items (aa), (bb), (dd), (ee), or (ff) of subparagraph (B)(i)(II).

"(iii) Notwithstanding item (cc) of subparagraph (B)(i)(II), any person who participates in the solicitation or recommendation of any agreement, contract, or transaction described in subparagraph (B)(i) entered into with or to be entered into with a person described in item (cc) of subparagraph (B)(i)(II) must be registered in such capacity as the Commission by rule, regulation or order shall determine and must be a member of a futures association registered under section 17 of the Act. This clause shall not apply to any person (i) described in any of items (aa), (bb), (dd), (ee), or (ff) of subparagraph (B)(i)(II) or (ii) its associated persons. This paragraph shall be effective 120 days from the date of enactment or such other time as the Commission shall determine.

"(C)(i) This subparagraph (C) shall apply to any agreement, contract or transaction in foreign currency that is—

"(I) offered to, or entered into with, a person that is not an eligible contract participant (except that subparagraph (C) shall not apply if the counterparty, or the person offering to be the counterparty, of the person that is not an eligible contract participant is a person described in any of items (aa), (bb), (dd), (ee), or (ff) of subparagraph (B)(i)(II)); and

"(II) offered, or entered into, on a leveraged or margined basis, or financed by the offeror, the counterparty, or a person acting in concert with the offeror or counterparty on a similar basis; "Provided, however, that subparagraph (C) shall not apply to—

"(aa) a security (as defined in section 1a(30)) that is not a security futures product (as defined in section 1a(32)); or

"(bb) a contract of sale that—

"(AA) results in actual delivery within two days; or

"(BB) creates an enforceable obligation to deliver between a seller and buyer that have the ability to deliver and accept delivery, respectively, in connection with their line of business.

"(ii) Agreements, contracts, or transactions described in subparagraph (C)(i) shall be subject to subsection (a)(1)(B) and sections 4(b), 4b, 4c(b), 4o, 6(c) and 6(d) (except to the extent that sections 6(c) and 6(d) prohibit manipulation of the market price of any commodity in interstate commerce, or for future delivery on or subject to the rules of any market), 6c, 6d, 8(a), 13(a), and 13(b). Provided, however, that this clause shall not apply to any person described in any of items (aa), (bb), (dd), (ee), or (ff) of subparagraph (B)(i)(II) or to such person's associated persons.

"(iii) Any person who participates in the solicitation or recommendation of any agreement, contract, or transaction described in subparagraph (C)(i) must be registered in such capacity as the Commission by rule, regulation or order shall determine and must be a member of a futures association registered under section 17 of the Act. This clause shall not apply to any person (i) described in any of items (aa), (bb), (dd), (ee), or (ff) of subparagraph (B)(i)(II) or (ii) its associated persons. This clause shall be effective 120 days from the date of enactment or such other time as the Commission shall determine.

"(iv) Sections 4(b) and 4b shall apply to any agreement, contract, or transaction described in subparagraph (C)(i) as though the agreement, contract, or transaction were a contract of sale of a commodity for future delivery.

"(v) Subparagraph (C) does not limit any jurisdiction that the Commission may otherwise have under any other provision of this Act over an agreement, contract, or transaction that is a contract of sale of a commodity for future delivery.

"(vi) Subparagraph (C) does not limit any jurisdiction that the Commission or the Securities and Exchange Commission may otherwise have under any other provision of this Act with respect to security futures products and persons effecting transactions in security futures products".

REPORT LANGUAGE TO ACCOMPANY PRESIDENT'S WORKING GROUP RETAIL FOREIGN EXCHANGE LEGISLATIVE LANGUAGE

The Committee notes that the term "line of business" in new subparagraph (C)(i)(II)(bb)(BB) refers to any legitimate line of business, not just a foreign exchange business.

SEC. XXX. PORTFOLIO MARGINING AND SECURITY INDEX ISSUES

(a) The agencies represented on the President's Working Group on Financial Markets shall work to ensure that the Securities and Exchange Commission (SEC), the Commodity Futures Trading Commission (CFTC), or both, as appropriate, have taken the actions required under subsection (b).

(b) The SEC, the CFTC, or both, as appropriate, shall take action under their existing authorities to permit—

(1) by September 30, 2006, risk-based portfolio margining for security options and security futures products; and

(2) by June 30, 2006, the trading of futures on certain security indexes by resolving issues related to debt security indexes and foreign security indexes.

DEPARTMENT OF THE TREASURY,
Washington, DC, December 12, 2005.

Hon. MICHAEL G. OXLEY,
Hon. BARNEY FRANK,
U.S. House of Representatives,
Washington, DC.

DEAR CHAIRMAN OXLEY AND RANKING MEMBER FRANK: I am replying on behalf of Secretary Snow to your letter of December 8, 2005, in which you requested our views on certain language that was recently approved by the House Committee on Agriculture in its "Commodity Futures Trading Commission Reauthorization Act of 2005." The bill contains language in Title II ("Natural Gas Price Transparency") that has not been reviewed previously by the Department of the Treasury or the President's Working Group on Financial Markets (PWG).

While the Treasury Department has had only a brief opportunity to review the natural gas provisions of the Agriculture Committee's bill, we have serious concerns with Title II that are similar to concerns that Treasury and other PWG members have expressed in the past regarding provisions that could affect over-the-counter (OTC) derivatives markets, including energy and natural gas markets.

The scope of Title II is broad, and its vague language could be construed to have implications for natural gas transactions in OTC markets. These provisions could result in unintended adverse consequences and undermine the regulatory relief and legal certainty that were so carefully crafted through the Commodity Futures Modernization Act of 2000 (CFMA). They could have a significant and negative impact on the important risk management function that these OTC markets perform in the U.S. economy.

In testimony before the Senate Banking Committee in September on the subject of the CFMA and recent market developments, I stated that major changes to the significant modernizations made by the CFMA were not warranted. Unless there were a clearly demonstrated need, Treasury continues to believe that legislation that would undo any of the modernizations made by the CFMA—in the area of legal certainty or otherwise—is not warranted.

Thank you very much for the opportunity to present our views on this important matter.

Sincerely,

RANDAL K. QUARLES,
Under Secretary for Domestic Finance.

BOARD OF GOVERNORS OF THE
FEDERAL RESERVE SYSTEM,
Washington, DC, December 13, 2005.

Hon. MICHAEL G. OXLEY,
Chairman, Committee on Financial Services,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: You have asked for my views on Title II of the CFTC Reauthorization Act of 2005, which relates to transparency of the pricing of natural gas, and has not been reviewed by the President's Working Group on Financial Markets. Natural gas prices in the United States have been higher and more volatile than natural gas prices abroad in recent years, and these price movements have weakened the competitive position of industries that are heavily dependent on natural gas. However, these developments are the result of a lack of adequate liquefied natural gas import facilities in the United States, as well as a lack of adequate facilities abroad to produce liquefied natural gas. Title II does not affect those market fundamentals and, therefore, will not lower natural gas prices or reduce price volatility.

The provisions of Title II are rather vague and could be construed as a broad expansion of the Commodity Futures Trading Commis-

sion's mandate. Specifically, the legislation requires the Commission to conduct surveillance of trading in contracts for natural gas, which could be read to require surveillance of cash markets and over-the-counter derivatives, as well as the exchange-traded markets that the Commission currently oversees. The case for such a broad expansion of the Commission's mandate simply has not been made.

The legislation also directs the Commission to require persons that hold large positions in natural gas futures contracts on an exchange to keep records and submit reports on those contracts, as well as on any related contracts to which the person is a party. The Commission already has broad authority under existing law to require records and reports on futures contracts, so there does not appear to be a need for additional statutory provisions with regard to that authority. Potentially broadening recordkeeping and reporting requirements beyond futures contracts could impose substantial burdens on market participants that are unlikely to be outweighed by their benefits.

Sincerely,

ALAN GREENSPAN,
Chairman.

U.S. COMMODITY FUTURES
TRADING COMMISSION,
Washington, DC, December 13, 2005.

Hon. MICHAEL G. OXLEY,
Chairman, Committee on Financial Services,
House of Representatives, Rayburn House Office
Building, Washington, DC.

Hon. BARNEY FRANK,
Ranking Member, Committee on Financial Services,
House of Representatives, Rayburn
House Office Building, Washington, DC.

DEAR CHAIRMAN OXLEY AND RANKING MEMBER FRANK: Thank you for your letter of December 8 requesting the views of the Members of the President's Working Group on Financial Markets (PWG) regarding the proposed CFTC Reauthorization Act of 2005 (the "Reauthorization Act"). In reporting this bill, the House Agriculture Committee has taken a significant step forward in the process of Congressional reauthorization of the Commodity Exchange Act (CEA).

Thank you for this opportunity to share views on this important legislation. As a member of the PWG, I am supportive of the provisions of the proposed Reauthorization Act that address the issues of retail foreign currency transactions, risk-based portfolio margining for security options and security futures products, and trading of futures on certain debt security and foreign security indexes. These provisions incorporate legislative language on these issues that the PWG submitted to Congress on November 3, 2005. Mindful of the deadlines that would be established if the Reauthorization Act is enacted, staff from the PWG agencies has continued to work on the risk-based portfolio margining and security index issues during the weeks since November 3.

The amendment included in the Reauthorization Act to Section 4b of the CEA, the CFTC's primary anti-fraud provision, incorporates consensus legislative language of the CFTC and industry representatives. It provides an important clarification of the CFTC's anti-fraud authority with respect to off-exchange, principal-to-principal transactions.

We are aware that our PWG colleagues have expressed concern that the proposed natural gas provisions in the Reauthorization Act could be construed to have negative implications on the risk management functions of over-the-counter markets. Our understanding is that these provisions are intended to be narrow in scope and ensure that there is appropriate surveillance in the event

of a significant and highly unusual price movement in any physically delivered natural gas futures contract traded on a contract market or derivatives transaction execution facility. The CFTC has stated on many occasions that it has the necessary tools to oversee the markets it regulates, but appreciates the bi-partisan effort by the House Agriculture Committee to address consumer concerns over volatility in the natural gas markets. We will work to ensure that these provisions maintain legal certainty and avoid unintended consequences.

As the legislative process moves forward on CEA reauthorization, we stand ready to work with you and Chairmen Goodlatte, Chambliss, and Shelby, and the respective Committees, to ensure a successful resolution of these issues.

Sincerely,

REUBEN JEFFERY, III.

U.S. SECURITIES AND
EXCHANGE COMMISSION,
Washington, DC, December 14, 2005.

Hon. MICHAEL G. OXLEY,
Chairman, Committee on Financial Services,
House of Representatives, Rayburn House
Office Building, Washington, DC.

DEAR CHAIRMAN OXLEY: Thank you for your December 8, 2005 letter asking for the views of the members of the President's Working Group on Financial Markets on the CFTC Reauthorization Act of 2005.

I applaud the fact that Title I of the CFTC Reauthorization Act includes language carefully considered and agreed to by the members of the President's Working Group (PWG) that was transmitted to you and other Members of Congress last month on November 3, 2005. That consensus language addresses issues involving retail foreign currency fraud, portfolio margining for security options and security futures products, and debt security indexes and foreign security indexes.

Title II of the CFTC Reauthorization Act includes provisions that would, among other things:

Require reviews by the Commodity Futures Trading Commission (CFTC) of the factors that cause significant and highly unusual changes in the settlement price of any physically delivered natural gas futures contract traded on a contract market or derivatives transaction execution facility;

Require CFTC rulemaking requiring record-keeping and reporting of large positions in natural gas;

Expand CFTC enforcement powers to include criminal and civil penalties for manipulation or attempted manipulation of the price of any commodity.

Unfortunately, there is not enough time between now and the scheduled House consideration of the CFTC Reauthorization Act for the PWG to review and provide you with a reaction to the language in Title II of the proposed legislation. I would note, however, that the PWG has provided comments in the past expressing concerns with other legislative proposals to increase the regulation of over-the-counter derivatives markets.

Although the provisions in Title II do not appear to affect the Commission or the securities markets directly, the Commission has historically been supportive of the development of a robust over-the-counter derivatives market that is free from unnecessary regulatory requirements.

Thank you for bringing this legislation to my attention. I appreciate the opportunity to work with you on this and other matters that affect our Nation's securities markets.

Sincerely,

CHRISTOPHER COX,
Chairman.

Mr. PETERSON of Minnesota. Mr. Speaker, I am pleased to yield 5 minutes to the distinguished gentleman from North Carolina (Mr. ETHERIDGE), the ranking member of the Risk Management Subcommittee, who along with Chairman MORAN provided outstanding work and leadership on bringing this legislation to the floor.

Mr. ETHERIDGE. Mr. Speaker, I thank the gentleman for yielding me this time.

This has been a long day coming, but today, this body will vote, and I trust pass, H.R. 4473, a bill that will reauthorize the Commodity Futures Trading Commission. I want to applaud the chairman for his hard work, our ranking member of the full committee, as well as my colleague Mr. MORAN for his hard work, who is chairman of the subcommittee that has jurisdiction over the CFTC for their hard work in making this possible.

I would be remiss if I did not thank the members of our staff who worked hard to help get all the details done.

I also want to add my appreciation to Mr. BARROW, Mr. MARSHALL and Mr. GRAVES for their efforts to bring attention to rising natural gas prices. The provisions in this bill will go a long way to bringing greater transparency to this important market as a result of their actions.

Some people believe that H.R. 4473 does too much. They would have preferred a simple two-line bill that reauthorized the CFTC for 5 years and nothing more. However, it is important that we use the CFTC reauthorization to review the Commodity Exchange Act and the reform enacted in 2000 through the Commodity Futures Modernization Act.

□ 1600

That is because the futures industry impacts our lives every single day. Derivatives trading provides customers with forums for price discovery and price hedging for a wide variety of commodities and financial instruments.

We are talking about a trillion-dollar-plus industry that impacts the price of corn, wheat and soybeans that goes into our food products, the price of meat at the grocery store, the price of gas at the pump, the price of energy to heat our homes, the interest rates we pay on our credit cards, the interest we pay on our mortgages, the price of metals that make up the products that we buy, and many other things that we use every single day.

The issues affecting futures trading are often complex and esoteric. However, it is important that we work through these tough issues if we want to maintain a healthy and vibrant derivatives industry.

I am one of those who believes we should have done more with this bill. I am concerned what we left undone today could come back to haunt us tomorrow, and you have heard talk of the Zelener decision, so I will not go into

that. I hope years from now we are not hearing stories of fraud being perpetuated upon the American people through contracts for oil, natural gas, gold, or platinum that act like futures, but remain outside the CFTC's jurisdiction, because we chose to limit this bill's reach to foreign exchange products as recommended by the working group.

I hope we are not seeing an industry still waiting for risk-based margining on security futures or a broad-based security index definition that allows them to compete with foreign exchanges offering similar products.

However, we should not let the perfect become the enemy of the good. This bill remains a good piece of legislation. I intend to support this plan because I believe it is time to move forward. We do not need this legislation unresolved any longer. It is time to pass it and send it to the Senate. I urge my colleagues to vote for H.R. 4473.

Mr. GOODLATTE. Mr. Speaker, I yield 2 minutes to the gentleman from Kansas (Mr. MORAN), the chairman of the Commodities Subcommittee.

Mr. MORAN of Kansas. Mr. Speaker, I thank the gentleman from Virginia and the gentleman from Minnesota for their efforts in regards to this piece of legislation, and especially thank Mr. ETHERIDGE, my ranking member.

The Subcommittee on General Farm Commodities and Risk Management has jurisdiction over the Commodities Futures Trading Commission; and our work product, together with the full committee, is here before the House today for its consideration. I would assure my colleagues in the House that our committee has taken extraordinary steps to make certain that we provide oversight, review, and understanding of what is transpiring at the Commodity Futures Trading Commission since the passage of the Commodity Futures Modernization Act in 2000.

Mr. Speaker, I actually believe that the Commodity Futures Modernization Act of 2000 was one of the most successful pieces of legislation that has been passed by Congress in my time here. What we learned in the hearings and oversight in the reauthorization effort was that it is working well. With only a couple of changes, a couple of additions to this legislation, we bring this modernization act back to the floor for approval again today.

We made a change to deal with what is known as the Zelener case to make certain that the CFTC has jurisdiction over foreign exchange contracts. A court determined CFTC did not have jurisdiction. We have now made that clear. We need to continue to keep our eye on other commodities other than foreign exchange to make certain that if similar circumstances arise to the foreign currency problem that Congress acts. And we also continue to find frustration with the inability of the Securities and Exchange Commission and others to come together to develop

the protocols necessary for single stock futures to be traded on markets in the United States. I think there is great opportunity for expansion of this market if we can come together on uniform responsibility for margins between the CFTC and the SEC.

This legislation establishes a firm deadline by which we expect that response to be concluded. So I urge passage of this bill and thank my colleagues for their efforts.

Mr. PETERSON of Minnesota. Mr. Speaker, I yield 2 minutes to the gentlewoman from South Dakota (Ms. HERSETH), one of our more valuable members of the Committee on Agriculture.

Ms. HERSETH. Mr. Speaker, I am pleased to rise today in support of H.R. 4473, the CFTC Reauthorization Act of 2005. As a resident of a farm State and a member of the Committee on Agriculture, I understand the critical role that futures exchanges play in the marketing of agricultural commodities. They are indispensable in providing price discovery and market transparency for producers and commodity users alike. That said, futures markets cannot perform these functions if they are being manipulated. Futures markets must be effectively regulated in order to ensure their integrity and protect the well-being of small investors. This bill strikes that balance.

Five years ago, Congress undertook a major overhaul of the Commodity Exchange Act, which my colleagues who have already risen in support of took a lead. By most accounts, the reforms adopted at that time have worked well, but there have been some issues that have arisen since the bill passed. I believe today's legislation makes important improvements to the act while maintaining a good balance between the competing goals of promoting robust futures exchanges and protecting market participants.

One provision of this bill that is particularly important is language on energy derivatives. This legislation would increase recordkeeping requirements on entities that hold large quantities of natural gas contracts, and give the CFTC access to these records so it can better investigate and prevent market manipulation. The bill also raises civil and criminal penalties for energy price manipulation. In light of today's high natural gas prices, this authority is needed.

Because of the balance that it strikes and because of the provisions that it leaves alone, I strongly support this legislation and urge my colleagues to vote "yes" on this important bill.

Mr. GOODLATTE. Mr. Speaker, I yield 3 minutes to the gentleman from Oklahoma (Mr. LUCAS).

Mr. LUCAS. Mr. Speaker, I rise today to urge my colleagues to support H.R. 4473. It has been 5 years since this body last passed legislation aimed at reauthorizing the CFTC, which has jurisdiction over futures and options markets.

The Ag Committee has jurisdiction over futures and options because the derivatives were first developed on agricultural products, or commodities as they are commonly called. These innovative products are now predominantly traded on other financial products, such as interest rates and foreign currencies.

The CFTC implemented the Commodity Futures Modernization Act of 2000 in a very straightforward and responsible manner. Yes, there have been a few bumps in the road, but overall CFMA has been very successful.

What issues brought us to the point in 2000 that a major rewrite of the futures laws and passage of CFMA was required? The U.S. futures markets were quickly losing ground to foreign exchanges in the late 1990s due to heavy-handed regulation and antiquated business models. The over-the-counter markets were coming to grips with the fact that they did not have a high enough degree of legal certainty to ensure that their swap products would not be challenged in court as illegal off-exchange futures. And, finally, some foreign exchanges were beginning to seriously encourage the development of single stock futures products.

The futures markets, and other agricultural commodities, were deregulated to allow them to compete with foreign exchanges in both open outcry and electronically traded arenas. The OTC markets were given legal certainty, and the single stock futures guidelines were set in place.

Fast forward to 2005, what has happened? The domestic futures and options exchanges have been reinvigorated. The OTC market is thriving, and a few issues have come to light. The President's working group, consisting of the Federal Reserve, Treasury, the SEC and the CFTC, have weighed in on the Zelener case which found that the CFTC did not have adequate authority to stop certain fraudulent activities regarding retail currency transactions. H.R. 4473 will authorize the CFTC to stop those unscrupulous actors.

The natural gas markets have become an arena of intense scrutiny over the last few years. There is unprecedented demand for natural gas and still a fairly captive supply in the U.S., and indeed the world. It will take time for the energy bill that we recently passed to increase supply, and we are most likely in a period of relatively high natural gas prices. The CFTC does have fairly broad authority under the CFMA to investigate the natural gas markets. It is a very fine line for Congress and the CFTC to decide how much to regulate a market without creating excessive regulatory burden or causing it to become inefficient or allowing another country to become the leader of trading in that commodity.

As a member of both the Agriculture and Financial Services Committees, I know how seriously the two chairmen take their responsibilities. I also know

that fair and appropriately applied regulation is necessary. I encourage my colleagues to vote "yes" on H.R. 4473.

Mr. PETERSON of Minnesota. Mr. Speaker, I reserve the balance of my time.

Mr. GOODLATTE. Mr. Speaker, I yield 1½ minutes to the gentleman from Missouri (Mr. GRAVES).

Mr. GRAVES. Mr. Speaker, I rise in support of H.R. 4473, the reauthorization of the Commodity Futures Exchange Act, and I want to thank the chairman for the opportunity to speak on this very important issue.

Last week we passed an amendment out of the Committee on Agriculture markup by a voice vote that addressed prices and market manipulation in the natural gas markets. I am glad to report that the measure had very broad bipartisan support, and I want to thank the chairman for working with me on this very important issue.

The amendment that the chairman and I introduced, along with other members of the committee, addresses volatility in the natural gas market. This amendment seeks to ensure that market manipulation is not creating some of the price spikes that we are seeing today in that natural gas market. Through increased transparency, penalties and oversight, this goal is going to be achieved.

Energy prices right now are at a high. Most solutions being discussed are in the long term. Today's bill includes a provision that can provide some short-term relief by ensuring Americans, consumers, that market manipulation is not going to continue and will not be a contributing factor in the price of natural gas.

It is the farmers, it is the senior citizens, manufacturers, and consumers that I had in mind when I introduced this measure last spring. The price of natural gas is almost double what it was when I first brought this issue to my colleagues' attention. It is my hope that H.R. 4473 will bring some stability to the natural gas market and limit losses associated with extreme natural gas prices and price spikes.

Mr. Speaker, I encourage my colleagues to support this important measure and pass it on the floor.

Mr. GOODLATTE. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. BOEHNER), the vice chairman of the Committee on Agriculture.

Mr. BOEHNER. Mr. Speaker, I congratulate both the gentleman from Virginia and the ranking member, Mr. PETERSON, for a job well done on the Commodity Exchange Act reauthorization. This is a very important bill for the futures markets in our country. The work that was done in 2000 clearly has paid significant dividends. The Commodity Futures Modernization Act is working and it is working well. I think what we have seen over the last 5 years is nothing short of a firestorm of innovation in these markets.

Between 2000 and 2004, the volumes of futures and options contracts traded on

exchanges has increased from 600 million contracts a year to more than 1.6 billion contracts per year. I think the futures industry is stronger today as a result of the Commodity Futures Modernization Act because it has allowed those markets to function without the heavy hand of government, as heavy as it used to be.

I think the bill before us makes some changes to that act. Clearly, in the Zelener case, which has been talked about, I think we take a practical approach to solving the Zelener problem.

Secondly, it follows through on promises made on CFMA by setting a date certain for risk-based portfolio margining for single stock futures and for a definition of broad-based securities indexes.

Now, my colleague before me, Mr. GRAVES, talked about the issue of natural gas. This provision is included in the bill, and it is there because we are hearing from farmers and consumers about the high cost of natural gas. Unfortunately, the provision would not lower the cost of fertilizer or heating oil or natural, and it may have the reverse effect. I have concerns about the language there. I think it is very intrusive and could be overly far reaching. I would hope as this bill goes to conference that my colleagues will take a close look at the natural gas provisions so we do not overreach like we did back in the 1990s.

Mr. GOODLATTE. Mr. Speaker, I yield 1½ minutes to the gentleman from Pennsylvania (Ms. HART).

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Ms. HART. Mr. Speaker, I also appreciate the opportunity to speak on behalf of the reauthorization of the Commodity Exchange Act. I appreciate the hard work of the gentleman from Missouri (Mr. GRAVES) and especially Chairman GOODLATTE for making sure that this language was included. Very important to a number of us who live in the Northeast, this bill will provide the Commodity Futures Trading Commission with the necessary tools to ensure against market manipulation in the trading of natural gas futures, which could lead to higher prices.

With this cold winter arriving in my district in western Pennsylvania, this issue is especially important to many of the residents in my district who rely on natural gas for heat. Higher heating costs because of the rise in the price of natural gas are already impacting many of my constituents. This legislation will ensure that natural gas traders are not able to gain profits through manipulation of prices on the backs of these individuals.

The price of natural gas is also important to the many manufacturers located in and around my district. This issue translates also into job stability. Unfortunately, many of these manufacturers are already being squeezed by other issues, and the high cost of natural gas is just a contributing factor to their financial problems.

I recently met with many glass manufacturers in Western Pennsylvania, and they explained to me some of the challenges they are facing. Kopp Glass in Pittsburgh, for example, has seen their natural gas cost rise by 83 percent over the last year, eating into the company's profits by 50 percent and also eating into their opportunities to grow their business.

General Shale Products, a brick manufacturer, has announced they are going to close after 40 years of operation because of high natural gas prices. A steel manufacturer has recently asked us to do something about it.

This bill will ensure that the Commodity Futures Trading Commission has the tools it needs to find and prosecute market manipulators.

Mr. GOODLATTE. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey (Mr. GARRETT).

Mr. GARRETT of New Jersey. Mr. Speaker, I rise in support of H.R. 4473, the Commodity Trading Commission Reauthorization Act. And I support the underlying bill, and I salute the chairman's efforts to reauthorize the CFTC. But I do have a little concern with the specific section of the bill dealing with natural gas price transparency. Title II of the bill contains new regulatory burdens on the trading of natural gas, such as future contracts, over-the-counter transactions and cash market purchases. While these provisions will place unwarranted and open-ended regulatory burdens on legitimate business activities, they will in no way reduce volatility or lower the price of natural gas. See, the Commission currently has full authority now to examine and oversee the futures market and to request complete trading information from any participant in the futures market if it suspects price manipulation is occurring.

But the bill now, with that provision, would shift the regulatory intervention away from fraud manipulation to an undefined standard that is not based upon law but is based upon legitimate movements in natural gas prices. I would just urge the conferees, when this bill goes to conference, not to add any new missions to the responsibility and take away from the core responsibilities of the CFTC.

Mr. PETERSON of Minnesota. Mr. Speaker, I have no further speakers, and I yield back the balance of my time.

Mr. GOODLATTE. Mr. Speaker, I yield myself the balance of the time.

Mr. Speaker, the natural gas language contained in the committee bill makes two changes to the CFTC's current regulatory program to detect and deter manipulation or attempted manipulation.

First, upon a finding that there has been a significant and highly unusual change in the market price of natural gas, the CFTC is required to determine what had caused that price change.

Second, persons with futures or option positions in natural gas are re-

quired to keep records of those trades and other related transactions and to submit those records to the CFTC upon request.

In the committee's view, and in my view, this is a reasonable compromise that does not add significant new costs to transactions in natural gas, whether futures or options contracts or other transactions used in over-the-counter strategies of most of the major firms involved in the natural gas markets on a daily basis.

This new recordkeeping requirement is the only part of the legislation that imposes any new regulatory mechanism. The CFTC is not required to impose itself into any new market arena and will not as a result of this legislation. The bill requirements are unobtrusive, contain no burdensome new costs and will be used sparingly.

We have seen over the years, over the course of the last half year, an energy sector that is under great stress. And the price response to that stress has been of great concern to all of us. This bill does nothing to add to that stress, and it should be adopted today.

I urge my colleagues to support this legislation.

Mr. POMBO. Mr. Speaker, I rise today to contribute to the debate on H.R. 4473 which is currently under consideration. Title II of the bill creates new regulatory authority for the Commodity Futures Trading Commission (CFTC) to investigate suspected manipulation of the natural gas futures markets.

Currently, the price of natural gas in the United States is floating at a high near \$14 MMBtu. When compared to most nations around the world, this amount is four, five, even fourteen times higher than some developing countries! I am encouraged by the attempt of some of my colleagues to correct this serious problem, but I have serious concerns with the manner by which we address this issue in legislation.

As Federal Reserve Chairman Alan Greenspan has made very clear in a recent letter to Chairman MIKE OXLEY, the fundamental problem of natural gas price spikes is a shortage of supply. The only way this can be solved, and Chairman Greenspan appears to agree, is through increased production domestically and less barriers to liquefied natural gas imports. When the supply increases, natural gas prices will most certainly fall.

While I will support passage of H.R. 4473, I believe Title II is a misguided approach that will not ultimately result in lower prices for natural gas. Sadly, some Members of Congress who support Title II of this bill have consistently opposed additional domestic production of energy supplies. They may believe that by voting for this legislation today, they will receive further cover for their positions, when in fact these Members' positions have led to our nation's high energy prices.

Mr. GOODLATTE. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. TERRY). The question is on the motion offered by the gentleman from Virginia (Mr. GOODLATTE) that the House suspend the rules and pass the bill, H.R. 4473.

The question was taken; and (two-thirds having voted in favor thereof)

the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GOODLATTE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

ESTABLISHING THE TASK FORCE ON OCEAN POLICY

Mr. HASTINGS of Washington. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 599) establishing the Task Force on Ocean Policy.

The Clerk read as follows:

H. RES. 599

Whereas the House of Representatives is in need of a Task Force on Ocean Policy to review the final report of the United States Commission on Ocean Policy, entitled "An Ocean Blueprint for the 21st Century", which affects the jurisdiction of several committees of the House, including the Committee on Resources, the Committee on Science, the Committee on Transportation and Infrastructure, and the Committee on International Relations: Now, therefore, be it

Resolved,

SECTION 1. ESTABLISHMENT.

There is hereby established a Task Force on Ocean Policy.

SEC. 2. COMPOSITION.

The task force shall be composed of 12 members appointed by the Speaker, of whom 5 shall be appointed on the recommendation of the Minority leader. The Speaker shall designate one member as chairman. A vacancy in the membership of the task force shall be filled in the same manner as the original appointment.

SEC. 3. JURISDICTION.

The task force may develop recommendations and report to the House on the final report of the United States Commission on Ocean Policy, making recommendations for a national ocean policy, entitled "An Ocean Blueprint for the 21st Century".

SEC. 4. PROCEDURE.

(a) Except as provided in paragraphs (1) and (2), rule XI shall apply to the task force to the extent not inconsistent with this resolution.

(1) Clause 1(b) and clause 2(m)(1)(B) of rule XI shall not apply to the task force.

(2) The task force is not required to adopt written rules to implement the provisions of clause 4 of rule XI.

(b) Clause 10(b) of rule X shall not apply to the task force.

SEC. 5. STAFF; FUNDING.

(a) The chairman may employ and fix the compensation of such staff as the chairman considers necessary to carry out this resolution. To the greatest extent practicable, the task force shall utilize the services of staff of employing entities of the House. At the request of the chairman, staff of employing entities of the House or a joint committee may be detailed to the task force to carry out this resolution and shall be deemed to be staff of the task force.