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Cuellar
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Daines
Davis (CA)
Davis, Danny
Davis, Rodney
DeFazio
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DeSantis
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Frankel (FL)
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Gingrey (GA)
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Goodlatte
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Graves (MO)
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Green, Al
Green, Gene
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Jackson Lee
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Johnson (GA)
Johnson (OH)
Johnson, E. B.
Johnson, Sam
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Kelly (IL)
Kelly (PA)
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LoBiondo
Loebsack
Lofgren
Long
Lowenthal
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Lucas
Luetkemeyer
Lujan Grisham (NM)
Luján, Ben Ray (NM)
Lummis
Lynch
Maffei
Maloney, Carolyn
Maloney, Sean
Marchant
Massie
Matheson
Matsui
McCarthy (CA)
McCarthy (NY)
McCaul
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Peters (CA)
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Rokita
Rooney
Ros-Lehtinen
Ross
Rothfus
Roybal-Allard
Royce
Ruiz
Ruppersberger
Ryan (WI)
Salmon
Sánchez, Linda T.
Sanchez, Loretta
Sanford
Sarbanes
Scalise
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Scott (VA)
Scott, Austin
Scott, David
Sensenbrenner
Sessions
Sewell (AL)
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Smith (MO)
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Woodall
Yarmuth
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Yoho
Young (AK)
Young (IN)

NAYS—3

Amash
Duncan (SC)
Mulvaney

NOT VOTING—49

Bass
Brown (FL)
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Campbell
Cantor
Cárdenas
Carter
Cassidy
Cohen
Crawford
Deutch
Fitzpatrick
Forbes
Fortenberry
Graves (GA)
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Hall
Hanabusa
Hanna
Harper
Kingston
Lankford
Lee (CA)
Lipinski
Marino
McAllister
McKeon
Meehan
Meeks
Miller, Gary
Miller, George
Nunnelee
Pastor (AZ)
Peters (MI)
Polis
Pompeo
Rangel
Roby
Rohrabacher
Roskam
Runyan
Rush
Ryan (OH)
Serrano
Shea-Porter
Smith (WA)
Velázquez
Waxman
Williams

□ 1908

So (two-thirds being in the affirmative) the rules were suspended and the Senate amendment was concurred in.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 6, DOMESTIC PROSPERITY AND GLOBAL FREEDOM ACT; AND PROVIDING FOR CONSIDERATION OF H.R. 3301, NORTH AMERICAN ENERGY INFRASTRUCTURE ACT

Mr. BISHOP of Utah from the Committee on Rules, submitted a privileged report (Rept. No. 113–492) on the resolution (H. Res. 636) providing for consideration of the bill (H.R. 6) to provide for expedited approval of exportation of natural gas to World Trade Organization countries, and for other purposes; and providing for consideration of the bill (H.R. 3301) to require approval for the construction, connection, operation, or maintenance of oil or natural gas pipelines or electric transmission facilities at the national boundary of the United States for the import or export of oil, natural gas, or electricity to or from Canada or Mexico, and for other purposes, which was referred to the House Calendar and ordered to be printed.

GENERAL LEAVE

Mr. LUCAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 4413.

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

There was no objection.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 4413, CUSTOMER PROTECTION AND END USER RELIEF ACT

Mr. LUCAS. Mr. Speaker, I ask unanimous consent that in the enrollment of the bill, H.R. 4413, the Clerk is authorized to correct the table of contents, section numbers, punctuation, citations, cross references, and to make such other technical and conforming changes as may be necessary to reflect the actions of the House in amending this bill.

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

There was no objection.

CUSTOMER PROTECTION AND END USER RELIEF ACT

The SPEAKER pro tempore. Pursuant to House Resolution 629 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the state of the Union for the consideration of the bill, H.R. 4413.

The Chair appoints the gentleman from Utah (Mr. BISHOP) to preside over the Committee of the Whole.

□ 1911

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H.R. 4413) to reauthorize the Commodity Futures Trading Commission, to better protect futures customers, to provide end users with market certainty, to make basic reforms to ensure transparency and accountability at the Commission, to help farmers, ranchers, and end users manage risks to help keep consumer costs low, and for other purposes, with Mr. BISHOP of Utah in the chair.

The Clerk read the title of the bill.

The CHAIR. Pursuant to the rule, the bill is considered read the first time.

The gentleman from Oklahoma (Mr. LUCAS) and the gentleman from Minnesota (Mr. PETERSON) each will control 30 minutes.

The Chair recognizes the gentleman from Oklahoma.

Mr. LUCAS. Mr. Chairman, I yield myself as much time as I might consume.

Mr. Chairman, I rise today in strong support of H.R. 4413, the Customer Protection and End User Relief Act.

This is a bipartisan bill to reauthorize the Commodity Futures Trading Commission that I introduced along with my colleagues, Ranking Member COLLIN PETERSON and chairman and ranking member of the Subcommittee on General Farm Commodities and Risk Management, MIKE CONAWAY and DAVID SCOTT.

This bill is years in the making, and I want to thank my colleagues on both sides of the aisle for all of the hard work that they have put in to get us to this point.

Throughout this process, the committee, as well as the Subcommittee on General Farm Commodities and Risk Management, held numerous hearings, heard from a variety of stakeholders with a wide variety of perspectives.

We heard from end users representing farmers, ranchers, manufacturers, energy firms, and utilities. We heard testimony from every CFTC Commissioner and even foreign regulators. We also heard from exchanges, futures customers, and numerous other market participants.

Ultimately, we developed legislation to reauthorize and reform the CFTC in a way that would not only improve operations at the agency, but also protect customers from another market failure, as we saw with MF Global or PFGBEST.

Our efforts will also increase certainty in the marketplace and provide a more balanced approach to regulations impacting job creators.

I am proud to say this overwhelmingly bipartisan bill passed unanimously out of the Agriculture Committee by a voice vote.

First of all, H.R. 4413 will better protect farmers and ranchers who use the futures markets to manage their risk by cementing several new and existing protections into law.

These protections are designed to restore confidence in the marketplace following the failure of MF Global and PFGBEST, where customers, who thought their money was safely segregated, suffered severe financial loss due to the illegal use of their funds.

Such protections include requiring firms to calculate and report customer account balances electronically to regulators, requiring firms who become undercapitalized to immediately notify regulators, and imposing strict reporting and permission requirements before the movement of a customer's funds from one account to another.

Now, as for the reforms of the Commission, H.R. 4413 reauthorizes the appropriations to the agency through 2018. Furthermore, the bill strives to enhance the efficiency of the Commission operations and ensure all Commissioners' voices are heard in the regular order of a well-reasoned rulemaking process.

For example, H.R. 4413 closely follows an executive order issued by President Obama to improve the quality of cost-benefit analysis performed by the Commission prior to promulgating rules; requires division directors to serve at the pleasure of the entire Commission, rather than solely at the whim of the chairman; and clarifies the judicial review process of agency rules.

□ 1915

The Commission reform title also calls for the development of a much-needed strategic technology plan to enhance market surveillance and the interpretation of collected data.

Importantly, H.R. 4413 also provides much-needed relief to end users. Those are the market participants who account for only 10 percent of the swaps market and had nothing to do with the 2008 financial crisis, yet represent 94 percent of U.S. job creators, including farmers, ranchers, manufacturers, energy firms, and utilities.

Due to the consideration of the Dodd-Frank Act, Congress clearly intended to exempt end users from some of the most costly new regulations. However, the CFTC has narrowly interpreted the law, resulting in burdensome and often arbitrary compliance requirements which have negatively impacted end users by making it more difficult and costly to manage the risks associated with their businesses.

To address these concerns, H.R. 4413 includes provisions which relieve business owners from arbitrary and costly record-keeping requirements, allow businesses to continue successful fuel-hedging strategies, and prevent the physical delivery of commodities from being unnecessarily regulated as swaps.

H.R. 4413 provides help to America's job creators by including five carefully crafted measures designed to enhance market certainty, which have previously passed the House of Representatives Agriculture Committee and the United States House of Representatives, with overwhelming bipartisan support, three of which received over 400 votes in favor.

In closing, the Customer Protection and End User Relief Act is a wide-ranging, bipartisan CFTC reauthorization bill that provides a blueprint for the newly elected Chairman and Commissioners to use in making numerous improvements at the Commission, better protects futures customers, and reduces burdens on America's job creators. I urge each of my colleagues to join me in supporting this bipartisan legislation.

I reserve the balance of my time.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON AGRICULTURE,
Washington, DC, May 21, 2014.

Hon. BOB GOODLATTE,
Chairman, Committee on the Judiciary, House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter regarding H.R. 4413, the Customer Protection and End User Relief Act. As you noted, there are provisions of the bill that fall within the Rule X jurisdiction of the Committee on the Judiciary.

I appreciate your willingness to forgo action on H.R. 4413, and I agree that your decision should not prejudice the Committee on the Judiciary with respect to the appointment of conferees or its jurisdictional prerogatives on this or similar legislation.

I will also include a copy of our exchange of letters in the Congressional Record during floor debate.

Thank you for your courtesy in this matter and I look forward to continued cooperation between our respective committees.

Sincerely,

FRANK D. LUCAS,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
Washington, DC, May 22, 2014.

Hon. FRANK D. LUCAS,
Chairman, Committee on Agriculture, Longworth House Office Building, Washington, DC.

DEAR CHAIRMAN LUCAS, I am writing with respect to H.R. 4413, the ''Customer Protection and End User Relief Act,'' which the Committee on Agriculture ordered reported favorably on April 9, 2014. As a result of your having consulted with us on provisions in H.R. 4413 that fall within the Rule X jurisdiction of the Committee on the Judiciary, I agree to forego consideration of this bill so that it may proceed expeditiously to the House floor for consideration.

The Judiciary Committee takes this action with our mutual understanding that by foregoing consideration of H.R. 4413 at this time, we do not waive any jurisdiction over subject matter contained in this or similar legislation, and that our Committee will be appropriately consulted and involved as this bill or similar legislation moves forward so that we may address any remaining issues in our jurisdiction. Our Committee also reserves the right to seek appointment of an appropriate number of conferees to any House-Senate conference involving this or similar legislation, and asks that you support any such request.

I would appreciate a response to this letter confirming this understanding with respect to H.R. 4413, and would ask that a copy of our exchange of letters on this matter be included in the Congressional Record during Floor consideration of H.R. 4413.

Sincerely,

BOB GOODLATTE,
Chairman.

Mr. PETERSON. Mr. Chairman, I yield myself such time as I might consume.

The bill before us today is bipartisan, reasonable legislation to reauthorize the CFTC. I believe this bill strikes the necessary balance to actually become law.

The Dodd-Frank Act tasked the CFTC with implementing a variety of new regulations to better protect the derivative market participants, and while the Commission has made great progress, recent cases have demonstrated there is more work that needs to be done.

H.R. 4413 better protects farmers and ranchers who use the futures markets by cementing into law several new regulatory provisions that arose out of the MF Global bankruptcy and the fraud that occurred at Peregrine Financial. The bill requires electronic confirmation of customer fund account balances held at depository institutions and prohibits firms from moving customer funds from one account to another without regulators' knowledge. The bill also examines two issues that have recently gained notoriety: high-frequency trading and funding for the CFTC.

Michael Lewis' book ''Flash Boys'' has made high-frequency trading a hot topic. But what many people don't realize is that high-frequency trading in securities markets is very different from high-frequency trading in futures and other derivatives markets. This is why the bill directs the CFTC to thoroughly examine this practice and report back to Congress their findings.

And once we have a better understanding of high-frequency trading in the markets regulated by the CFTC, we can then determine if further legislative action is necessary.

The bill also directs GAO to examine CFTC's funding needs. There has been a lot of debate in the House about the agency's funding level and how the fund should be used. And I am not sure anybody really knows. So having an independent third party, like the GAO, look at this question will better inform the debate going forward.

As the chairman said, H.R. 4413 also provides some much-needed clarity to end users, agriculture and energy producers, and others who actually use the derivatives market to hedge against risk and did not cause the financial collapse. Congress never intended for these end users to be regulated in the same manner as financial entities, and H.R. 4413 makes that clear. The bill also incorporates legislation already passed by the House, with strong bipartisan support, including end user margin exemptions, indemnification requirements, and relief for municipal utilities.

I know Members have raised concerns about two particular provisions in this bill, the cost-benefit section and the cross-border section. The cost-benefit language mirrors President Obama's Executive Order 13563, which imposed cost-benefit assessment standards on all government departments. I didn't hear any complaints about increased workload when the executive order was issued. But there are some complaints about what is in this bill.

I guess because the executive order exempted cost-benefit standards from legal challenges, some have suggested that the financial industry will use this bill's new standards to challenge CFTC rulemaking. But, frankly, I think the financial industry will continue to sue the CFTC regardless of whether we change the cost-benefit standards or not. It is the industry's nature to fight regulation. We will also be considering some amendments to address these concerns, and I look forward to this debate tonight.

Finally, I have heard some fears that this bill gives some foreign interests an automatic exemption from U.S. swap rules. So let's be clear. The CFTC has adopted these cross-border provisions. The SEC has not. And what it says in this bill is, if they don't agree, then the current regulations stay in place. So the CFTC's cross-border guidance is going to continue to be effective and remain in place, and whatever cross-border rule the SEC finalizes next week will also be effective. And what it says in this bill is that if they can ever reconcile those two things, then there could be some changes in how the cross-border rule is administered.

But given the history of these two agencies, the chances of them actually coming together on this are probably slim to none. We have been waiting 14 years for joint rules regarding portfolio margining for products under their respective jurisdictions. So their record of cooperation is not good. And as I said, right now, the CFTC has rules. They say that if somebody is doing business in the U.S., they are going to have to come under U.S. law, and that is the way it is going to stay.

So, Mr. Chairman, this bill is not perfect. But if we waited for perfection, we would be waiting forever, and we wouldn't be able to vote for anything. This bill deserves our support so we can move the process along to the Senate and hopefully see a bill signed into law before the CFTC reauthorization expires in September.

I urge my colleagues to support H.R. 4413, and I reserve the balance of my time.

Mr. LUCAS. Mr. Chairman, I yield 4 minutes to the gentleman from the great State of Texas (Mr. HENSARLING), the chairman of the Financial Services Committee.

Mr. HENSARLING. I thank the gentleman for yielding and for his leadership on this bill.

Mr. Chairman, regrettably, our Nation is still faced with the weakest, slowest, nonrecovery recovery since the Great Depression. Tens of millions of our fellow countrymen remain unemployed and underemployed. And if you speak to practically any business—large, small, medium—they will tell you that the sheer weight in volume and complexity of regulation—especially Federal regulation—is perhaps the primary reason that they can't expand their business and that they can't create more jobs for those who need them.

As one small businessman in my district put it: ''The complexity of all the different rules and regulations that the government imposes is just incomprehensible confusion.''

Mr. Chairman, that is not the way we create jobs in America. Yet Washington continues to drown our small businesses and our job creators in so many regulations and red tape. We have got to change that.

The legislation before us, H.R. 4413, contains a number of measures that originated in the Financial Services Committee and have already passed the House with bipartisan support. For example, section 395 of the bill was originally introduced as H.R. 1256, bipartisan legislation sponsored by Mr. GARRETT of New Jersey and Mr. CARNEY of Delaware. It will simplify and rationalize the regulation of derivatives activity that occurs across U.S. and foreign markets today.

American companies obviously use derivatives to manage risk and to provide products and services to consumers at competitive prices, yet today they face the troubling prospect of having to comply with conflicting cross-border requirements from two Washington regulators, the CFTC and the SEC.

On the one hand, the Securities and Exchange Commission has issued a proposed rule that recognizes equivalent derivatives requirements in foreign countries as valid substitutes for U.S. regulation. On the other hand, the CFTC staff outside the formal rulemaking process has issued guidance that treats countries with well-established regulatory systems, including Canada, the U.K., Germany, and Japan, as rogue nations. The CFTC decided all on its own to inappropriately extend U.S. derivatives rules into foreign markets. It is no wonder that the CFTC's irresponsible guidance has been challenged in Federal court and routinely criticized by a number of our U.S. and European regulators.

This unapproved guidance will harm U.S. markets. It will harm consumers. It will harm job-seekers. It will harm our economy. It will result in higher costs on everything, from a John Deere tractor for a farmer in east Texas who wants to buy one to a cold six-pack for a worker in a mesquite factory who wants to finally rest after the day's end. It will even impact the price of an airline ticket for a grandmother in Garland as she tries to afford a trip to go visit the grandkids.

Mr. Chairman, farmers, workers, grandmothers, and, indeed, all Americans are already paying more for food, for gas, and for everything. Let's not let the CFTC add to their burden. The bill before us today, H.R. 4413, would help solve this case of government overreach by requiring U.S. regulators to issue one—one—clear rule to govern cross-border derivatives activities.

Let's bring some common sense back. Let's protect our consumers. Let's get America back to work. I urge my colleagues to support H.R. 4413.

Mr. PETERSON. Mr. Chairman, I am now pleased to yield 5 minutes to the gentlewoman from California (Ms. WATERS), the ranking member of the Financial Services Committee.

Ms. WATERS. I thank the gentleman from Minnesota for yielding.

Mr. Chairman, I rise in opposition to our H.R. 4413 legislation that would reauthorize the Commodity Futures Trading Commission. This measure addresses an important goal for this Congress: reauthorization of the CFTC, our regulator whose mission it is to ensure fair rules of the road for the majority of derivatives traded by U.S. firms.

I know that Representative PETERSON and Representative SCOTT, the ranking members of the committee and subcommittee respectively, have worked in good faith to improve this legislation and that they care deeply about making the CFTC work for farmers, manufacturers, and other businesses that use futures and derivatives. I thank them for their efforts.

However, I am concerned about provisions in the bill unrelated to the reauthorization of the Commission that I believe would undermine the CFTC's authority and hamstring its ability to

regulate a complex and important marketplace. Mr. Chairman, this legislation imposes heavy administrative burdens that will prevent, delay, or weaken CFTC's efforts to implement important reforms called for by the Dodd-Frank Wall Street Reform and Consumer Protection Act.

H.R. 4413 would also make it much more difficult for the CFTC and the SEC to regulate derivatives transactions involving foreign operations of U.S. banks. It does so by establishing hard-to-overturn exemptions that allow their operations to substitute Dodd-Frank rules in favor of more lenient foreign rules in foreign markets, despite the fact that the risks may come back to the United States.

□ 1930

These types of derivatives transactions contributed to the massive taxpayer bailout of AIG in 2008, created enormous losses to JPMorgan in the London Whale episode in 2012, and brought down the hedge fund Long-Term Capital Management in the 1990s. This bill makes the job of the CFTC and the SEC to police derivatives operations of large U.S. banks and their foreign affiliates much more difficult.

In addition, under the guise of cost-benefit analysis, the bill imposes heavy administrative hurdles and new litigation risk on the CFTC, significantly impairing the Commission's ability to do its job of regulating our derivatives markets.

Like other agencies, the CFTC already considers the costs and benefits pursuant to numerous existing laws, and unlike any other regulator, the CFTC goes even further, considering the protection of market participants and the public, the effect on futures markets, price discovery, sound risk management practices, and other public interest matters.

Even the courts have weighed in, finding that the CFTC has fulfilled its duty to consider the cost and benefits.

H.R. 4413 not only burdens an agency already facing limited funding with additional administrative burdens, but it also opens up new avenues for special interests to endlessly challenge the CFTC in court.

Former CFTC Chairman Gensler noted that, if this provision in H.R. 4413 is enacted, ''It may well be hard to get any rule out of the building.''

Together, these changes undermine the CFTC's ability to guard against some of the most complex and risky activities in our financial system, and it is all just part of a multifaceted Republican effort to undercut laws and regulations that protect consumers, investors, and the economy.

It also comes just a week after House Republicans proposed an appropriations measure that dangerously underfunds the CFTC at 22 percent below the President's request, a level which will lead to either agencywide closures or employee layoffs.

Mr. Chairman, we cannot continue to undercut and underfund Wall Street's top derivatives cop with the authority to ensure compliance with the law. This bill is widely opposed by the Obama administration, the AFL/CIO, broad coalition groups like Americans for Financial Reform and the Consumer Federation of America, as well as derivatives end users like the Petroleum Marketers Association of America.

So I would urge my colleagues to oppose this legislation. I insert in the RECORD the opposition, including the White House opposition to this legislation.

PUBLIC CITIZEN,
June 16, 2014.

DEAR REPRESENTATIVE: Public Citizen opposes H.R. 4413, ''The Customer Protection and End User Relief Act.'' Several provisions will severely undermine financial reform. These include:

Adding unworkable cost-benefit analysis requirements that will only empower industry interests to bring litigation that will delay or negate important rules and do nothing to improve Commodity Futures Trading Commission (CFTC) regulations.

Prohibiting the CFTC from supervising US swap operations overseas, which will invite riskier activity and raise the potential for more bailouts;

Eliminating the ability of the CFTC to require certain safety rules for swaps.

NEW COST-BENEFIT REQUIREMENTS DON'T PASS THE COST-BENEFIT TEST

Wall Street has exploited the courts to delay, dilute and even overturn needed reform laws intended to return the financial industry to safer practices. Instead of making the CFTC more effective and efficient by bolstering their authority and improving their standing vis a vis the courts, H.R. 4413 actually makes the CFTC even more vulnerable to Wall Street lawsuits. The net effect will be weaker rules that will take the CFTC longer to finalize and will be more prone to reversal in court. In sum, this legislation will significantly damage, not improve, the CFTC's ability to adopt strong financial reforms that protect consumers and the public.

H.R. 4413 patently ignores the fact that the CFTC takes their cost-benefit requirements very seriously. In September 2010, the CFTC's General Counsel and Acting Chief Economist directed staff to produce cost-benefit analyses in proposed rulemakings and conceptual cost-benefit analyses in adopting releases. This is above and beyond existing CFTC requirements. In a follow-up memo, rule-making teams were directed to ''incorporate the principles of Executive Order 13563'' when writing rules. This order applied cost-benefit analysis requirements for departments overseen by the President. In May 2012, the CFTC, in an unprecedented move, entered into a memorandum of understanding with the Office of Information and Regulatory Affairs (OIRA) where OIRA provides ''technical assistance'' to CFTC staff during implementation of the Dodd-Frank Act, ''particularly with respect'' to cost-benefit analysis.

Thus, the litany of additional cost-benefit analyses imposed by H.R. 4413 in no way improves the existing and extensive cost-benefit analysis practices at the CFTC. Rather the direct effect will be to convert the cost-benefit analyses the CFTC already conducts as a matter of best practice into numerous new legal grounds for Wall Street to challenge CFTC rules in court. Thus, the beneficiaries of these changes will be big Wall Street banks and their high-priced lawyers while the public pays the price of a far slower CFTC that must jump through even more hoops before putting common-sense Wall Street reforms in place.

EVADING US SUPERVISION

Some of the most dangerous financial practices by US firms leading to the financial crisis of 2008 were conducted overseas. AIG sold a form of bond insurance called credit default swaps from its London office, out of view of American supervisors. When AIG could not pay massive claims from bond defaults, taxpayers bailed out AIG's clients with $160 billion. More recently, JP Morgan's ''Whale'' transactions used US deposits for speculative derivatives trading in London, leading to a loss of more than $6 billion.

Section 359 nullifies the CFTC's rubric for overseeing American firms with foreign-based swaps business. Instead, it permits US firms to establish foreign-incorporated affiliates that would escape US supervision altogether. Already, certain US firms have begun to exploit a loophole in the CFTC's current rules to escape US supervision. This involves removing the guarantee of the US parent for the foreign-originated swap.

Permitting foreign supervision is misguided because foreign supervisors won't have the same motivation as US supervisors to enforce prudential rules since a failure would fall on US taxpayers. In fact, foreign governments would be incentivized to relax oversight so as to attract more traders and the associated income tax revenue they would generate. The financial sector provides more than 11 percent of total tax revenue for the United Kingdom. Not only does this legislation increase the chance for another US taxpayer bailout, it would sacrifice US tax revenue by incentivizing American firms to relocate their derivatives business abroad.

SAFETY MARGINS PROHIBITED

Unregulated swaps were at the heart of the financial crash, as derivatives dealers who failed to back up their swaps with adequate collateral spread financial contagion. This legislation removes some of the tools that the CFTC could use to promote safety. For example, H.R. 4413 prohibits the CFTC from requiring that end-users post margin collateral. The CFTC has declared that it would not require such margin, but it is important for the agency to retain this power if the market becomes unsafe in the future.

This is just one example of the flaws of this bill. There are many other sections that limit the ability of the CFTC to accomplish its mission of protecting investors and the public from misconduct in the $700 trillion swaps market. We believe Congress should be exploring ways to strengthen the agency, such as with self-funding and a larger budget, rather than working to undermine it.

We urge the House to reject H.R. 4413.

For more information, please contact Public Citizen's Congress Watch Advocates: Amit Narang, Regulatory Policy Advocate at anarang@citizen.org;, or Bartlett Naylor, Financial Policy Advocate, at bnaylor@citizen.org.

Sincerely,

AMIT NARANG.
BARTLETT NAYLOR.

CONSUMER FEDERATION OF AMERICA,
June 17, 2014.

Re Oppose H.R. 4413.

DEAR REPRESENTATIVE: We are writing on behalf of the Consumer Federation of America (CFA) to ask you to oppose ''The Customer Protection and End User Relief Act'' (H.R. 4413), which the House is expected to vote on this month. This legislation would hamstring the Commodity Futures Trading

Commission (CFTC) from effectively overseeing and regulating commodities and derivatives markets, leaving consumers exposed to fraud, manipulation, abusive practices and putting the safety and stability of the U.S. financial system at risk. This bill includes harmful provisions that are strikingly similar to other bills that have been brought to the House floor, which were clearly aimed at undermining the Dodd-Frank Act, and which the Obama Administration opposed. Please stand firm against these continuing attacks on financial reform by voting no on H.R. 4413.

First, this bill would impose an assortment of new, onerous cost-benefit analysis requirements on the CFTC which are likely to delay and obstruct agency action. Under the Commodity Exchange Act, the CFTC already has a statutory mandate to evaluate the costs and benefits of its actions in light of numerous considerations, including the protection of market participants and the public, efficiency, competitiveness, financial integrity, price discovery, and sound risk management practices. This bill would add six new considerations that the CFTC would have to evaluate, and require that a new Office of the Chief Economist provide qualitative and quantitative analysis to justify the agency's actions. Included in the new economic analysis regime is a requirement to evaluate the costs of complying with the proposed regulation, provide a methodology for quantifying the costs, assess available alternatives to direct regulation, and, determine whether, in choosing among alternative regulatory approaches, those alternatives maximize the net benefits, which likely will mean adopting an approach that best benefits industry. Essentially, the CFTC will be required to undertake an in-depth, burdensome economic analysis for each regulation it proposes and compare its proposal to every conceivable alternative. Such a framework likely will create insurmountable barriers that cripple the agency from putting forth rule proposals and finalizing them in a timely manner so as to effectively protect market participants and the overall economy.

The new cost-benefit analysis requirements also are likely to result in increasing opportunities to thwart CFTC regulations through legal challenges. The practical effect of the new heightened requirements will be that any time an industry participant objects to new rules, it will have several new bases for a lawsuit, and it will seek to defeat those rules by claiming that the agency did not undertake a proper economic analysis by considering, and then disposing of, all the possible theoretical alternatives. It is reasonable to believe that armed with such strong ammunition, industry-supported lawsuits seeking to dismantle any new regulations will be successful, a problem made worse by the agency's lack of funding to effectively defend against such suits.

The provisions in this bill that would apply to the CFTC reflect the same approach that the House took last year against the Securities and Exchange Commission (SEC) in H.R. 1062, the ''SEC Regulatory Accountability Act,'' for which the White House issued a Statement of Administration Policy (SAP). That bill also imposed numerous unnecessary cost-benefit analysis requirements to rulemakings by the SEC, in addition to the cost-benefit requirements that the SEC already has to undertake. Similar to H.R. 4413, H.R. 1062 required the SEC to separately analyze the costs and benefits of the entire set of ''available regulatory alternatives'' and make a determination whether a regulation imposed the ''least burden possible'' among all possible regulatory options. We urge you to oppose this renewed attempt to impose onerous, unnecessary cost-benefit analysis bills aimed at undermining financial regulators' ability to implement the Dodd-Frank Act.

This legislation also subverts the CFTC's authority to regulate foreign derivatives activities that have a direct and significant effect on U.S. commerce. As our nation has learned painfully and repeatedly from the collapses of Long Term Capital Management, AIG, and Lehman Bros., and from the recent JPMorgan London Whale trading debacle, even when derivatives contracts are booked through a foreign subsidiary of a U.S. financial institution, the risks of those derivatives often flow back to the U.S., threatening the U.S. economy and potentially putting U.S. taxpayers on the hook for any resulting losses. That is why Dodd-Frank gave the CFTC broad authority to regulate overseas derivatives when they put our national economic interests in peril. Pursuant to that cross-border framework, the CFTC allows a foreign host country's regulations to substitute for U.S. regulations only after the CFTC has made a finding that the foreign host country's regulations are comparable to U.S. rules. However, this bill would create a presumption that a foreign host country's regulations should apply unless the CFTC determines that those regulations are not ''broadly equivalent'' to U.S. regulations, and in each instance, requires the CFTC to submit a written report to Congress articulating the basis for the agency's determination. Switching the presumption will subjugate the CFTC's authority, with the default position allowing a foreign country's rules to apply, and then requiring the CFTC to prove why they should not apply. Combining the reversed presumption, required Congressional report, and overwhelming cost-benefit analysis requirements, the CFTC will be forced to overcome daunting and possibly insurmountable hurdles if this legislation is adopted. As a result of this legislation, the agency's ability to protect the U.S. economy from the dangers resulting from foreign derivatives transactions will be impaired.

The cross-border provisions in this bill are almost identical to the provisions of a bill that the House voted on last year, H.R. 1256, ''Swap Jurisdiction Certainty Act,'' for which the White House issued another SAP. We urge you to oppose this renewed attempt on the CFTC's ability to regulate cross-border derivatives.

Derivatives markets affect the U.S. economy in profound ways, and the risks that derivatives pose to the U.S. economy are well-known. The Dodd-Frank Act brought meaningful reforms to increase transparency and accountability in the derivatives markets and provided the CFTC the necessary authority to properly oversee and regulate the market. However, this legislation would put those reforms at risk and hamper the CFTC's ability to adequately protect consumers, market participants, and the U.S. economy. We cannot afford to suffer the grave consequences of another derivatives-laced financial crisis, but this legislation makes it more likely that we will. Accordingly, we urge you to oppose H.R. 4413.

Sincerely,

MICAH HAUPTMAN,
Financial Services Counsel.
BARBARA ROPER,
Director of Investor Protection.

BETTER MARKETS,
Washington, DC, June 19, 2014.

HOUSE CFTC REAUTHORIZATION BILL PROTECTS WALL STREET BANKS BY HANDCUFFING THE CFTC DERIVATIVES COPS ON THE WALL STREET BEAT AND DISMANTLING FINANCIAL REFORM

MEASURE DEFIES PUBLIC OPINION AND FAILS TO LEARN A LESSON FROM ERIC CANTOR'S LOSS

Dennis Kelleher, President and CEO of Better Markets, an independent nonprofit organization that promotes the public interest in the financial markets, made the following statement about the upcoming vote on H.R. 4413, the CFTC Reauthorization bill in the House of Representatives:

''Wall Street's political allies in the House of Representatives have filled the CFTC Reauthorization bill with Wall Street's wish list of deregulation provisions that put Americans at risk of another devastating financial crash. Reckless, high risk derivatives gambling by Wall Street's biggest banks was at the core of causing the 2008 financial crash, which is going to cost the U.S. more than $13 trillion. The CFTC are the derivatives cops on the Wall Street beat trying to prevent Wall Street from doing that again. This bill will handcuff those cops, kill essential derivatives reforms, roll back protections vital to every American, and make future financial crises and bailouts more likely.''

''For example, the bill will prohibit the CFTC from stopping Wall Street firms shifting their U.S. derivatives business overseas to avoid essential financial reform rules. As a result, when Wall Street's future overseas derivatives deals blow up, like AIG did in 2008, it will send the bill back to the American taxpayer. The Reauthorization bill will also impose numerous crippling burdens on the CFTC. While innocently named 'cost-benefit analysis,' these onerous, time-consuming provisions are really 'industry cost-only analysis,' which will require the CFTC to overweight industry's inflated cost claims and to discount the costs to the public of another derivatives-fueled financial crash and economic catastrophe. This legislation also has numerous other indefensible provisions that will prevent CFTC staff from doing their job to protect the American people from Wall Street's excesses.''

''Elected officials who support these provisions are ignoring the American people who do not want their representatives protecting Wall Street at their expense. Recently defeated Majority Leader Eric Cantor just learned that lesson the hard way. This was confirmed by a new national poll showing voters' disgust with Wall Street and its Washington enablers. Indeed, 89% of voters view government efforts to reign in Wall Street as 'poor' or 'only fair' and many think that's because Wall Street and Washington are in cahoots. The pro-Wall Street, anti-Main Street provisions in this Reauthorization bill are why voters believe this. Elected officials must stop protecting Wall Street banks and bankers' bonuses and get back to protecting the voters who elected them.''

STATEMENT OF ADMINISTRATION POLICY

H.R. 4413—CUSTOMER PROTECTION AND END USER RELIEF ACT

(REP. LUCAS, R–OKLAHOMA, JUNE 19, 2014)

The Administration is firmly committed to strengthening the Nation's financial system through the implementation of key reforms to safeguard derivatives markets and ensure a stronger and fairer financial system for investors and consumers. The full benefit to the Nation's citizens and the economy cannot be realized unless the entities charged with establishing and enforcing the rules of the road have the resources to do so.

The Administration strongly opposes the passage of H.R. 4413 because it undermines the efficient functioning of the Commodity Futures Trading Commission (CFTC) by imposing a number of organizational and procedural changes and offers no solution to address the persistent inadequacy of the agency's funding. The CFTC is one of only two Federal financial regulators funded through annual discretionary appropriations, and the funding the Congress has provided for it over the past four years has failed to keep pace with the increasing complexity of the Nation's financial markets. The enactment of the Dodd-Frank Wall Street Reform and Consumer Protection Act resulted in significant expansion of the CFTC's responsibilities. The proposed changes would hinder the CFTC's progress in successfully implementing these critical responsibilities and would unnecessarily disrupt the effective management and operation of the agency, without providing the more robust and reliable funding that the agency needs.

THE PETROLEUM MARKETERS ASSOCIATION OF AMERICA,
June 19, 2014.

Re The Customer Protection and End User Relief Act of 2014 (H.R. 4413).

HOUSE OF REPRESENTATIVES,
The Capitol Building,
Washington, DC.

DEAR REPRESENTATIVE: Tomorrow, the House will consider the ''Customer Protection and End User Relief Act'' (H.R. 4413), also known as the Commodity Futures Trading Commission (CFTC) Reauthorization Act. The bill would reauthorize the CFTC for five years and modify certain reforms included in the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010. Some of these changes would jeopardize rules designed to increase market transparency and stability and to prevent fraud, manipulation and excessive speculation in the commodity markets. Please vote ''no'' on H.R. 4413 unless amendments are passed to remove harmful provisions.

The Petroleum Marketers Association of America (PMAA) is a national federation of 48 state and regional trade associations representing over 8,000 independent petroleum marketers. These companies own 60,000 convenience store/gasoline stations and supply motor fuels such as gasoline and diesel fuel to an additional 40,000 stores. The New England Fuel Institute (NEFI) is the nation's largest independent home heating oil trade association, representing more than 1,000 home heating oil, kerosene and propane dealers and related services companies. Together, NEFI and PMAA members provide nearly all the gasoline, diesel fuel and heating oil sold in the U.S.

For decades, PMAA and NEFI members have used derivatives (i.e., futures, options and swaps) to protect their businesses and consumers from risk associated with the price of gasoline, diesel fuel, home heating oil and propane. They rely on these markets to communicate prices for these commodities that are reflective of supply and demand. For this reason, we have been supportive of the vigorous implementation and enforcement of derivative reforms included in Title VII of the Dodd-Frank Act. This law expands the authority of the CFTC to conduct oversight of previously unregulated over-the-counter and off-shore markets and strengthens rules designed to increase market transparency and prevent fraud, manipulation and excessive speculation.

We are pleased that H.R. 4413 includes reforms to address the MF Global crisis (Sections 102–106). Several of our members were affected by the collapse of the commodity brokerage firm in October of 2011 and we commend the Congress for acting on this issue. We also are pleased with the inclusion of studies on the impact of high frequency trading or HFT (Section 107) and the adequacy of CFTC resources (Section 213). We support the DeFazio Amendment (#16) to expand the HFT study to include the effect of such trading on market volatility.

Unfortunately, several provisions in this bill would jeopardize progress on vital new commodity trading rules. This includes Section 203, which would double the number of hurdles the CFTC must jump when considering the costs and benefits of any rule, regulation or order. This would stymie the rulemaking process and make it easier for opponents of reform to challenge these rules in court. We also oppose Section 212, which would shift responsibility for judicial review of CFTC rules and regulations from the U.S. District Court of the District of Columbia to the U.S. Court of Appeals. The Court of Appeals has a history of ruling in favor of large banks and other financial institutions. Therefore, we support respective amendments to remove these provisions from the bill and preserve existing law, Moore (#2) and Jackson Lee (#13).

Again, while we support consumer and end-user protections included in H.R. 4413, we cannot support this legislation unless Congress strikes provisions that would compromise progress on key reforms designed to protect market participants and the American public from fraud, manipulation and the reckless financial speculation that has straddled businesses and consumers with volatile energy prices and unhinged the market from real-world market fundamentals.

Thank you in advance for your consideration.

Sincerely,

DAN GILLIGAN,
President, PMAA.
MICHAEL C. TRUNZO,
President & CEO, NEFI.

Mr. LUCAS. Mr. Chairman, I wish to yield 2 minutes to the gentleman from North Carolina, Congressman HUDSON, who has crafted a key component of this major reform bill.

Mr. HUDSON. Mr. Chairman, I rise today to urge my colleagues to support H.R. 4413, which includes language from my bill, H.R. 3814, the Risk Management Certainty Act.

This bill would require CFTC Commissioners to partake in a formal rulemaking process before placing undue burdens on job creators. Without this critical piece of legislation, a misguided CFTC rule will automatically lump costly new regulations on public utilities, energy companies, and other end users that played no part in the financial crisis.

As the regulations currently stand, if a company does more than $8 billion worth of swap business per year, it must register with the CFTC as a swap dealer. Despite rules requiring a study to determine if the threshold is appropriately set, the CFTC is set to arbitrarily lower that level to $3 billion without a vote.

In today's world, where the cost of living continues to rise for millions of American families, we cannot afford for our Nation's job creators and energy providers to bear the brunt of yet another regulatory burden without a full and fair debate and a vote. This bill solves that problem and gives the public the ability to weigh in before a decision is made.

I remain committed to protecting consumers and reducing regulatory burdens on our job creators, and I urge my colleagues to join me in support of this legislation.

Mr. PETERSON. Mr. Chairman, I am now pleased to yield 6 minutes to the gentleman from Georgia (Mr. DAVID SCOTT), the ranking member of the relevant subcommittee.

Mr. DAVID SCOTT of Georgia. Mr. Chairman, we have before us perhaps the most important piece of legislation to add fluidity to a very complex, complicated financial arena in which we are in; and that is in the area of derivatives, swaps dealing, and dealing on the international stage as the world's number one economy—very complex, very complicated.

History has shown that the United States is a leader in the world, particularly in economic affairs. We are here today to deal with reauthorization of the CFTC at a time when we have just come out of a very serious economic downturn.

Now, I agree with my distinguished ranking member. We have worked very closely on this, and quite honestly, there is nobody in Congress that has the knowledge of financial services as does our ranking member. The ranking member and I have worked diligently to try to bring a serious bit of compromise to this area. She raises a good point.

Let me take a couple of her concerns, so I can share with you how we have addressed those. The first one is the cross border. The claim that we are opening up and doing business with foreign governments and foreign jurisdictions that have no regulations there and we acquire risk—here is what we are doing, and I want to make sure we are clear.

I serve on the Agriculture Committee as the ranking member on the Derivatives Subcommittee, and I serve on the Financial Services Committee. The very cross border that we are talking about has been debated, has been argued, and has been passed by this House in the form of H.R. 1256.

Now, here is what needs to be understood: we have minimized totally any risk of importation of damage to our economy with the exemption of the top nine—not all the foreign governments and not the foreign jurisdictions—we are exempting the top nine largest swap dealers who deal in derivatives of foreign jurisdictions, and it will be the CFTC, in conjunction and jointly through joint rulemaking with the SEC.

As Chairman Peterson pointed out, they are at loggerheads now. The first order of business is to get them to agree on a rule, and 270 days after that, that rule would go into effect, and immediately, the top five of those foreign jurisdictions that have rules and regulations that are equitable to ours—

which, again, will be determined jointly by the SEC and the CFTC—will go into effect.

One year after that, the remaining four will go into effect, so what we have here is a check and balance right there. They will determine that criteria. We put something else in there, as well, to address Ms. WATERS' very legitimate concern.

We said that: look, once the CFTC has done this jointly with the SEC, then what we will do is any one of those foreign jurisdictions who do not measure up to having the equal amount of robust regime on their regulations, they will disavow them, and within 30 days, they must send to the Congress of the United States—specifically to the House Financial Services Committee, the Senate Banking Committee, the House Agriculture Committee, and the Senate Agriculture Committee—the reason why. Stop right there. That back door is closed tight. There will be no seepage.

If these nine foreign countries that we work with—and, Mr. Chairman, you must realize that, historically, we are the leader, we have to show the way here, and we are not going to put in practice any way where there is any leakage that will come back to us that will be damaging to our system, it will be in the hands of where it needs to be, the regulators.

They will determine if their rules and regulations meet ours, and if they don't, they will let Congress know, and then they will not be allowed.

The other point, Mr. Chairman, is we have end users. This bill isn't just about banking. This bill is about farmers. This bill is about people who make things. We are the world's leading economy.

We don't do business just in the United States; we do them all around the world. If we don't put this in—this cross border in—we will be putting our business community on the international stage in a very disadvantaged competitive position. So I submit to my friend, Ms. WATERS, that we have certainly dealt with that.

Now, the cost-benefit analysis—first of all, Ms. WATERS should take credit for this because she really, on H.R. 1062, which was a mandate that we do, we changed that, thanks to you, and this is clearly an adjustment.

The CHAIR. The time of the gentleman has expired.

Mr. PETERSON. I yield the gentleman an additional 1 minute.

Mr. DAVID SCOTT of Georgia. We had a bill, H.R. 1062. Ms. WATERS was absolutely right because that bill mandated the benefit and the cost, and it was beneficial, in a way, to certain industries. I voted against that bill with Ms. WATERS.

I took Ms. WATERS' suggestion, and we went back, and we said that we can't mandate this. So what did we do with this bill? We simply said: let's consider how we can protect the market. Let's consider, let's assess how we can do that and not mandate it.

Again, as Mr. PETERSON has pointed out, we modeled this directly after what President Obama's executive order mandated, that you take a risk management assessment before you make the decisions.

Mr. LUCAS. Mr. Chairman, I wish to yield 2 minutes to the gentleman from Georgia (Mr. AUSTIN SCOTT), an outstanding Member who also has worked a key portion of this bill, and his legislation reflects it.

Mr. AUSTIN SCOTT of Georgia. Mr. Chairman, I also rise today in support of H.R. 4413, the Customer Protection and End User Relief Act.

This legislation clarifies congressional intent concerning end users under the Dodd-Frank law by providing a clear exemption for nonfinancial end users who qualify for the clearing exception under title 7 of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

Across the country, consumers and businesses alike are confronted with financial risks associated with their day-to-day operations. To manage these risks, they use over-the-counter derivatives to provide price certainty. Consumers, in turn, benefit from these risk management practices through greater stability in the day-to-day prices of the goods that we purchase.

By passing this legislation, Congress provides an exemption from clearing and margin requirements and, therefore, reduces the costs for businesses and individuals who are not financial institutions.

With this exemption, less than 10 percent of the capital involved in the derivatives market is relieved of burdensome regulations. This balance protects the consumer while providing a pro-growth environment for businesses, and we passed very similar legislation in the 112th Congress 370–24.

For this reason, I ask my colleagues to support H.R. 4413, so that we can provide businesses and individuals the tools necessary to manage day-to-day operational risk, while providing much-needed certainty to the American people.

Mr. PETERSON. Mr. Chairman, I am now pleased to yield 2 minutes to the gentlewoman from Connecticut (Ms. DELAURO).

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Ms. DELAURO. Mr. Chairman, I will include for the RECORD a document from the Institute for Agriculture and Trade Policy, and I rise in strong opposition to this bill. To cater to special interests, it deliberately weakens the essential regulatory and oversight functions of the Commodity Futures Trading Commission, and it fails to address the CFTC's biggest challenge—its flawed funding mechanism.

Simply put, this bill is a recipe for another disaster on Wall Street, like the one that caused the Great Recession. Americans want to see more accountability from big banks and oil speculators and fewer reckless transactions, market failures, and bailouts. That is what the CFTC's job is, to rein in gambling with risky derivatives on Wall Street and prevent undue speculation on oil.

Unfortunately, this bill goes in the wrong direction. It includes provisions that will make it harder for the CFTC to regulate derivatives transactions between the United States and foreign banks. It goes out of its way to impose new hurdles and litigation risks to prevent the Commission from doing its job. It fails to address the CFTC's flawed funding mechanism, hamstringing its ability to create fair and transparent derivatives and futures markets.

The CFTC is the only financial regulator that is completely dependent upon the general fund to provide for its operations. Every other financial regulator—SEC, FDIC, FHFA, the list goes on—collects user fees.

Fixing this structural flaw has been proposed by every President since Ronald Reagan. It is all the more important since Congress greatly expanded the CFTC's responsibilities 4 years ago in response to the bad behavior that precipitated a devastating financial crisis.

According to Acting Chairman Wetjen:

> The unfortunate reality is that, at current funding levels, the Commission is unable to adequately fulfill the mission given to it by Congress.

I submitted an amendment that would have addressed this flaw, yet the House majority refused to allow it to be heard.

We should not undermine the CFTC's ability to oversee risky market behaviors, protect consumers, and enforce the law. I urge a ''no'' vote.

INSTITUTE FOR AGRICULTURE AND TRADE POLICY,
June 16, 2014.

REPRESENTATIVE,
House of Representatives, Washington, DC.

DEAR REPRESENTATIVE, I write on behalf of the Institute for Agriculture and Trade Policy (IATP) a non-profit, non-governmental organization based in Minneapolis, MN to urge you to vote against H.R. 4413, ''Customer Protection and End User Relief Act.'' A vote for H.R. 4413 annuls or amends major portions of Title VII of the Dodd Frank Act Wall Street Reform and Consumer Protection Act (DFA) and per Title 1V's retro-active application to July 2010, makes regulations and guidance issued under the DFA authorities vulnerable to legal challenge by the regulated entities.

Furthermore, if enacted, H.R. 4413 would impede DFA Title VI implementation by, among other measures:

1) preventing the cross-border application of DFA authorized rules unless the Commodity Futures Trading Commission and the Securities Exchange Commission jointly determine that foreign jurisdiction rules are not ''broadly equivalent'' to DFA rules (Section 359);

2) micro-managing the CFTC Division Directors, Chief Economist and staff (Sections 204, 205 and 206);

3) micro-managing and possibly impeding CFTC enforcement activities (Section 209);

4) imposing cost-benefit analysis of each CFTC rule prior to implementation, and as

required of no other independent agency, under terms that would paralyze CFTC rulemaking that did not conform to industry demands (Section 203); and

5) by requiring that CFTC voluntary guidance to industry be subject to the same Administrative Procedures Act (APA) requirements as for legally binding rulemakings (Section 212).

IATP began to work on commodity derivatives issues in June 2008, when grain elevators stopped forward contracting with farmers and rural banks stopped loaning to elevators, due to extreme price volatility and price levels in commodity derivatives markets, which resulted from excessive speculation by financial institution. IATP has participated in the Commodity Markets Oversight Coalition (CMOC) since 2009, and the Derivatives Task Force of Americans for Financial Reform (AFR) since 2010. 1ATP has contributed to and signed on to numerous CMOC and AFR letters in support of Title VII of the DFA. IATP has submitted several comments on CFTC rulemaking, and on consultation papers of the International Organization of Securities Commissions, the Financial Stability Board, the European Securities and Markets Authority, and the European Commission's Directorate General for Internal Markets.

H.R. 4413 offers terrible trade-offs that no member of Congress should be forced to vote for. As H.R. 4413 is constructed, you can only vote for the widely agreed customer protections in Title 1, if, e.g. you also vote to require the CFTC Commissioners to vote on the length of a subpoena, the renewal of the subpoena and whether the Division of Enforcement has a ''legitimate purpose'' for each investigation it undertakes (Section 209). Title 1 could and should be proposed as a separate bill, for which you should be able to get sponsors from Republicans, as well as Democrats.

IATP also requests that you propose and vote for deletion or amendment of certain sections of the bill, because its passage is very likely. It is crucial that there be recorded votes on all amendments to or deletions of H.R. 4413. Here are IATP's top five priorities for deletions, since amendments may not be possible, given the short amount of time before the amendment deadline of Tuesday at 3 p.m. ET.

1. Section 359: This section (paragraph a) first requires the CFTC to issue rules jointly with the Securities Exchange Commission on the cross-border application of DFA rules. The CFTC has authority over about 96.5% of the gross notional value of the U.S. derivatives market, whereas the SEC has authority over 3.5% of this market. The SEC has authority over just one asset class of derivatives, equity-based derivatives. The House would give equal rulemaking authority with the CFTC to an agency that has historic competence and legal authority for only a small sliver of the derivatives market. This section further seeks to impede the CFTC's ability to apply DFA authorized rules to foreign affiliate swaps of U.S. swaps dealers that have a ''direct and significant'' impact on the U.S. economy (Sect. 722, DFA). It does so first by requiring that the CFTC's international memoranda of understanding (MoUs) with foreign market regulators comply with APA requirements for binding rulemaking (paragraph c). MoUs are not binding rules, but diplomatic agreements whose implementation and enforcement does not depend entirely on U.S. law or regulations. Here, again, H.R. 4413 seeks to micro-manage the CFTC's work, this time in negotiations with foreign governments.

Most perniciously, Section 359 grants a blanket exemption from compliance with DFA authorized derivatives rules for ''Countries or Administrative Regions Having Nine Largest Markets,'' [sic] unless the CFTC and SEC ''jointly determine that the regulatory requirements'' of these countries and regions are not ''broadly equivalent'' to U.S. regulatory requirements (paragraph d). Given the aforementioned huge disparity in the ''market share'' of the CFTC's and SEC's authority over the swaps market, this co-determination requirement is grotesque. Furthermore, taking into account the markets in the 28 member states of the European Union, plus the next eight largest market jurisdictions, Section 359 exempts more than 90 percent of the foreign swaps market from compliance with the cross-border application of the DFA. The seven largest U.S. bank holding companies have 4939 foreign subsidiaries and thousands of more affiliates. Trading losses by these subsidiaries and affiliates resulted in default cascades by their U.S. parent companies, saved from bankruptcy only by at least $19 trillion in emergency loans from the Federal Reserve Bank, plus $10 trillion to foreign central banks to bail out their banks with U.S. affiliates from 2007–2010. The regulatory regimes of the foreign jurisdictions to which the Fed loaned at ultra-low interest rates had been judged to be ''broadly equivalent'' during the Bush Administration.

2. Section 203: Cost Benefit Analysis. The CFTC, unlike other independent regulatory agencies, is required to do a cost-benefit analysis prior to each regulation it issues. This section does not operate consistently with Executive Order 13563, as House supporters claim, since 13563 applies only to non-independent agencies.Paragraph H requires the CFTC to tabulate the costs of compliance by ''all regulated entities,'' in effect requiring the CFTC to accept as fact the compliance costs claimed by the regulated entities. These claimed compliance costs often have been shown to be wildly overstated. Paragraph J requires that the CFTC demonstrate prior to implementation that each of the agency's regulatory approaches ''maximize net benefits.'' These two paragraphs alone should ensure that DFA authorized rules are not implemented unless they satisfy the cost-benefit demands of the regulated entities. Ex-ante cost-benefit analyses traditionally are done on the basis of econometric modeling, and not by the peculiar dependence on regulated entity claims featured in this section.

3. Section 209: Subpoena duration and renewal. This section authorizes the Commissioners to determine the length of a subpoena that the Division of Enforcement shall use to compel testimony and production of documents relative to an investigation. It will require the Commission to vote on whether the Division of Enforcement has a ''legitimate purpose'' for requesting the subpoena, what the duration of the subpoena will be and whether to renew the subpoena. Well-funded subjects of an investigation will be advised by their lawyers to delay complying with any subpoena in the event that a majority of Commissioners decides to override the Division of Enforcement and not renew a subpoena. It is one thing to disagree with an investigation. It is quite another for the House to vote for a section that would impede enforcement of the law.

4. Section 204: Division Directors. This section requires that each Division Director report to and be reviewed (''serve at the pleasure of'') by each Commissioner. In the event that the Commissioners disagree about any activity of a Division, the Division Director could be taking contradictory instructions from the Commissioners. Disagreements among Commissioners must be resolved among the Commissioners and not transmitted to Division Directors in the form of contradictory orders. This section offers a high degree of opportunity for one Commissioner to paralyze the work of the Commission. At best, the section ensures delay of DFA implementation through Commission micro-management of Division Directors and the staff (see also our Comments on Section 205 and 206).

5. Section 353: While the title of this section indicates that it would give ''relief'' from record-keeping to farmers and grain elevator participants in the derivatives market, the application in the exemption from record-keeping could and almost certainly will be applied to much larger participants in the derivatives markets. By requiring only a written record of the final agreement of swaps for participants in unregistered designated contract markets or swaps execution facilities, this section precludes the CFTC from seeking interim documentation of swaps transactions, including cell phone records if needed. This section makes constructing audit trails in investigations more difficult and otherwise limits enforcement activities.

Other sections that IATP believes you should consider for deletion from HR 4413 include:

Section 205: The Office of the Chief Economist. This section requires that the Chief Economist report to and be reviewed by each Commissioner. Our concerns are the same as those of Section 204.

Section 206: This proposal to require a seven day advance notice to review each and every staff letter and to allow the Commission to delay, review and revise staff letters, puts the Commission in charge of micromanaging the staff. Many of the staff no action letters that are the subject of the complaint in the House agricultural committee report on HR 4413 are the result of the need to reply to industry questions and complaints, and to postpone compliance by foreign affiliates of U.S. swaps dealers, as foreign jurisdiction rulemaking is delayed by industry opposition. A staff whose budget, personnel and computer infrastructure has been severely constrained by the House has operated as efficiently and effectively as their meager resources allow. This section is not an attempt to improve CFTC transparency and openness but another tactic to micro-manage the staff.

Section 211: Requires that CFTC voluntary guidance to industry be subject to the same Administrative Procedures Act (APA) requirements as legally binding rulemakings. This section represents the plaintiff's position in a court case involving the CFTC's guidance on the cross border application of DFA rules and would pre-empt the result of that case. If the House wishes to require that APA procedures for issuing guidance are the same as for rulemaking, it should amend the APA, rather than single out one agency for this peculiar pre-emption of a court ruling and unique application of the APA to one agency.

Section 212: This section allows plaintiffs to file a lawsuit in the District of Columbia or ''in the circuit where the party resides or has the principal place of business'' (paragraph a). If the CFTC were a self-financed regulatory agency or had a budget corresponding to its greatly expanded duties under the DFA, the extra costs of litigating outside the District of Columbia might not be a financial burden for agency. Given the House's budgetary expression of hostility to the CFTC, this section represents another tactic to increase the burden on the agency to defend the DFA in court.

Section 362: One of the advantages of trading Over the Counter is the delay in reporting, relative to the near real time reporting required of exchanges for futures and options

contracts. OTC traders take advantage of price, volatility and other information provided by the public and regulated markets while providing no information of their own, a huge competitive advantage. This section would allow traders of uncleared and ''illiquid swaps'' to delay reporting up to 30 days after a trade's execution, an eternity in financial markets, to protect the identity of individual traders. Because swaps can be structured to be illiquid, this section does not consider that the exemption from reporting in near real time could be part of a regulatory evasion strategy. If the industry wishes to petition the CFTC for a reporting exemption on illiquid swaps, let it do so. Legislators should not be involved in designing reporting exemptions.

Section 355: The asset class indiscriminate de minimis of $8 billion of swaps dealing before a swaps dealer is required to register with the CFTC and be subject to CFTC rules may be lowered only with a vote of the Commission. It is dangerous to remove the CFTC's regulatory discretion in determining the justification for a de minimis. Whereas $8 billion of interest swaps is a low de minimis relative to the more than $150 trillion annual gross notional value of interest rate swaps, an $8 billion de minimis is a very, very high de minimis for commodity swaps. Again, here is another section where the House is acting to micro-manage the CFTC's rulemaking discretion and authority.

In sum, notwithstanding Title I on customer protections and some sections of Title II and III, HR 4413 is a bill that reauthorizes the CFTC, only to impede it from carrying out its statutory duties. IATP urges you to vote against this bill and to vote to delete the aforementioned sections. I would be pleased to work with your staff on any amendments or deletions that you may wish to offer. Thank you for your consideration of our views on HR 4413.

Respectfully,

STEVE SUPPAN, PH.D.,
Senior Policy Analyst.

Mr. LUCAS. Mr. Chairman, I yield 4 minutes to the gentleman from Texas (Mr. CONAWAY), who not only has a key component of this bill, but in his role as chairman of the Subcommittee on General Farm Commodities and Risk Management carried the lion's share of the subcommittee hearing work and the day-to-day efforts that came to be known as H.R. 4413.

Mr. CONAWAY. Mr. Chairman, I would like to start by thanking the chairman of the committee, FRANK LUCAS, and our ranking member, COLLIN PETERSON, for the bipartisan tone that they have set on all of the work that we do in the Agriculture Committee. Under their leadership, we work together to examine the issues under our jurisdiction, and we work together to develop legislative solution to the problems we discover. Their leadership is reflected in the bill we have before us today.

Over the past 2 years, the General Farm Commodities and Risk Management Subcommittee has heard from two Commissioners, the exchanges and SROs, market participants, end users, and foreign regulators on a broad cross section of issues facing the CFTC. The testimony and questions that we heard formed the foundation of what has become the Customer Protection and End User Relief Act.

True to its name, the Customer Protection and End User Relief Act makes important progress in protecting Main Street. We strengthen safeguards against another MF Global or PFGBest and significantly reduce damage a failed FCM can inflict on its customers.

We also protect end users from being roped into registration, reporting, or regulatory requirements that are inappropriate for the level of risk they can impose on financial markets. It is clear that end users did not cause the financial crisis. They do not pose a systemic risk to the financial markets, and they should not be treated like financial entities.

As we drafted this reauthorization, we also examined the internal organization and processes of the Commission. Over the past 5 years, it has become clear that Dodd-Frank has fundamentally changed the role of the CFTC. The law has moved the Commission from a conferring, principles-based regulator to a more adversarial, rules-based regulator. As the Commission changes, so must the rules that Congress sets for its operation.

Today's legislation addresses these changes by making the CFTC more responsive and accountable to each Commissioner, and by ensuring that each Commissioner, not just the Chairman, is given a greater voice on Commission and staff activities. It also creates and defines the Office of Chief Economist to provide every Commissioner with objective economic data and analysis.

Finally, one of the most important changes this bill makes is to require a meaningful quantification of the costs and benefits of a rule when it is first proposed. This analysis, done by the chief economist, will strengthen the rulemaking process and will result in better regulations and safer markets. This small mandate on the economists at the CFTC will ensure that regulatory burdens are justified in the real world, not just in the pages of the Federal Register. Rules that reflect the impact of a proper cost-benefit analysis will be better accepted by those being regulated and may result in less acrimony during the rules-making process.

As I close, I would also like to thank my ranking member, DAVID SCOTT. Over the past year and a half, we have examined these CFTC issues together and collaborated on legislation and hearings. I am pleased with the fruits of our labor, and I couldn't ask for a better partner on our subcommittee.

The Customer Protection and End User Relief Act is a commonsense, bipartisan reform package. In it we protect customers and end users from overreach and make meaningful changes to the operation of the commission. I urge my colleagues to support passage of the bill.

Mr. PETERSON. Mr. Chairman, I am pleased to yield 2 minutes to the gentlewoman from New York (Mrs. CAROLYN B. MALONEY).

Mrs. CAROLYN B. MALONEY of New York. Mr. Chairman, I thank the gentleman for yielding and for his leadership in so many ways in this body.

I rise in opposition to H.R. 4413. This bill would impose unnecessary burdens on the CFTC and would restrict our financial regulators' ability to regulate cross-border derivatives.

Dodd-Frank brought the previously unregulated derivatives market out of the shadows and created a robust regulatory regime for derivatives. One of the core principles of this regulatory regime was that if the United States is ultimately bearing the risk on a derivative, then you have to comply with the Dodd-Frank rules.

One of the reasons that the U.S. markets are so strong is because investors have confidence in our markets and in our market participants. I am concerned that this bill, particularly in the cross-border area, could undermine that confidence.

For foreign derivatives entered into by a U.S. bank, the bank can only avoid complying with Dodd-Frank rules if they are already complying with regulations that are at least equivalent or stronger than Dodd-Frank rules. This bill, unfortunately, establishes a presumption that the derivatives rules in London and the EU are equivalent to Dodd-Frank, even though we know that is not true. The truth is London and the EU are well behind the United States on financial reform, and it may take many years for them to become equivalent to our rules. This is in my view a very real concern and presents an undue risk to the United States financial system and to our investors and to our taxpayers. This is why I cannot support this bill.

Mr. Chairman, I include for the RECORD two letters, one from Americans for Financial Reform and one from the Center For Progressive Reform.

AMERICANS FOR FINANCIAL REFORM,
Washington, DC, June 16, 2014.

DEAR REPRESENTATIVE, on behalf of Americans for Financial Reform, we are writing to express our opposition to HR 4413, ''The Customer Protection and End User Relief Act''. This legislation would have a severe negative impact on the Commodity Futures Trading Commission (CFTC) and its ability to police commodities and derivatives markets crucial to our economy. The new restrictions it places on CFTC rulemaking would require additional years of bureaucratic and legal red tape prior to agency action, even in areas where Congress has clearly directed the CFTC to act and where action is badly needed to protect the public interest.

This legislation also includes no provisions that address the CFTC's most fundamental problem—the lack of resources to accomplish its mission. Due to both the agency's new responsibilities under the Dodd-Frank Act for hundreds of trillions of dollars in previously unregulated derivatives markets, and the growth of the commodities markets the agency has traditionally regulated, the size of CFTC-regulated markets has increased roughly 15-fold over the last decade. But funding for the agency lags enormously behind. As CFTC commissioner Mark Wetjen recently stated, ''The unfortunate reality is

that, at current funding levels, the agency is unable to adequately fulfill the mission given to it by Congress: to prevent disruptions to market integrity, to protect customer assets, monitor and reduce the build-up of systemic risk, and ensure to the greatest degree possible that derivatives markets are free of fraud and manipulation''. The agency authorization process could and should be an opportunity to supplement appropriations with some form of agency self-funding. Self-funding mechanisms are used by all other financial regulatory agencies and have been endorsed by the Obama Administration.

Instead of addressing the pressing problem of funding, HR 4413 would instead load down the CFTC with additional mandates that would drain resources and act as a roadblock to necessary oversight and enforcement. HR 4413 would more than double the number of cost benefit analyses the agency must perform prior to taking any action. Since any of these analyses could serve as grounds for a lawsuit, this measure would greatly expand Wall Street's ability to dispute any agency action in court, tilting the regulatory playing field still further in their favor. The legislation would also create an initial presumption that CFTC rules did not apply to so-called 'cross-border' transactions, which include a vast number of transactions involving foreign subsidiaries of U.S. banks. The agency would have to perform a 'determination' (jointly with the Securities and Exchange Commission) each time it wanted to regulate such transactions. HR 4413 also includes additional internal process requirements for the CFTC that would also act as barriers to action. These additional requirements would affect everything from the supervision of key employees to the ability to respond to public requests for information.

In combination, these changes would greatly reduce the CFTC's capacity to effectively police Wall Street. HR 4413 also includes many additional changes. Some of them, such as amendments to indemnification requirements for swaps data repositories, are reasonable. Other changes—including (but not limited to) provisions that expand the definition of 'commercial end user' to include financial entities (Sections 321 and 352), exemptions for entities with billions of dollars in swaps business from 'swap dealer' oversight (Section 355), provisions that would permit marketing of complex institutional commodity pools to retail investors (Section 357), and provisions that weaken limits on commodity market speculation (Section 358)—raise serious questions of their own.

But even before considering these issues, the major new restrictions on the agency created by the cost-benefit and cross-border provisions of this bill mean that supporting needed derivatives regulation requires opposing this legislation.

PROVISIONS RELATED TO COST BENEFIT ANALYSIS AND JUDICIAL REVIEW

The CFTC already has a statutory requirement to consider the costs and benefits of its actions, and to evaluate these costs and benefits as applied to a long list of considerations, including market efficiency, price discovery, and protection of the public. Section 203 of HR 4413 would massively expand this requirement. The section would more than double than number of different factors the CFTC must evaluate in any rulemaking, order, or guidance, and change the standard of evaluation from consideration of costs and benefits to a more extensive and burdensome 'reasoned determination' of costs and benefits. The section also includes a particularly sweeping mandate that would require the agency to determine whether an action 'maximizes net benefits' compared to all possible regulatory alternatives. This requirement alone, which seems to require comparison of any actual regulation to a potentially vast number of theoretical alternatives, could be read to require dozens of additional agency analyses.

Some of this cost-benefit language does replicate cost-benefit instructions from the Office of Management and Budget that already applies to agencies within the executive branch, although not to independent financial regulatory agencies like the CFTC. In addition to this extension of reach, a crucial difference is that since HR 4413 would add this language in statute, each and every additional instruction regarding cost-benefit analysis could become grounds for a Wall Street lawsuit against a CFTC rule. The extensive new cost-benefit requirements in Section 203 amount to a roadmap for industry interests to tie up regulations in endless litigation, delays, and red tape. With critical rulemakings to implement new requirements like position limits to control commodity price manipulation still incomplete almost four years after they became law, the addition of new barriers to action would be dramatic movement in the wrong direction.

Heightening the effect of the new cost-benefit provisions are new internal process requirements in Section 204 of the legislation. Section 204 would apparently change the CFTC's internal structure so that the entire five-member Commission directly supervised the activities of all key division directors. These key employees would 'serve at the pleasure' of the entire Commission, 'report directly' to the entire Commission, and perform duties as prescribed by the entire Commission. Currently, as in other Federal agencies supervised by a multi-member Commission, the Chair of the CFTC supervises the employees of the Commission. Giving direct control of all employee activities to an entire five-member Commission is a recipe for endless delay and bureaucratic red tape. Currently, individual Commissioners are able to hire their own personal staff and express their views on Commission activities through the voting process. Should this legislation pass, any individual Commissioner, even if their views were in the minority, could interfere directly with the activities of Commission staff in implementing the law.

PROVISIONS RELATING TO INTERNATIONAL DERIVATIVES MARKETS

Section 359 of the bill contains sweeping new restrictions on the ability of the CFTC to properly oversee derivatives transactions conducted through foreign subsidiaries of U.S. banks, even when such transactions have a direct and significant connection to the U.S. economy. We need only look at the example of J.P Morgan's 'London Whale' transactions, or the London derivatives transactions of AIG Financial Products which resulted in the largest bailout in U.S. history, to see that derivatives transactions conducted through nominally overseas entities can have a profound impact on the U.S. economy. Over half of Wall Street derivatives transactions are currently booked in nominally foreign subsidiaries, and it is very likely that more could easily be transacted in this way if there was an incentive to do so to avoid regulation.

Section 359 of the bill, mirroring the 'Swaps Jurisdiction Certainty Act', controversial legislation which recently passed the House on a 301 to 124 vote, would create a presumption that U.S. rules would not govern transactions booked in major foreign jurisdictions. The legislation would force U.S. regulators to accept foreign rules for derivatives transactions booked by U.S. banks in any of the nine largest global financial markets. The CFTC could overturn this presumption that foreign rules would apply, but only through a complex procedure involving a joint determination with the Securities and Exchange Commission that foreign rules were not 'broadly equivalent' to U.S. rules, supported by an official report to Congress. Furthermore, any rules governing these cross-border derivatives would have to be identical between the SEC and the CFTC, despite the fact that these agencies regulate very different parts of the derivatives markets and have differing jurisdictional authority under the Dodd-Frank Act.

The drastic new limitations placed on CFTC jurisdiction over cross-border derivatives would have a profound impact on the ability of U.S. regulators to properly oversee derivatives transactions. It would effectively overturn a key provision in Section 722 of the Dodd Frank Act that gives the CFTC jurisdiction over all swaps transactions that have a 'direct and significant' effect on the U.S. economy. This provision of Dodd-Frank was put in place precisely to ensure that the trillions of dollars in swaps booked in offshore subsidiaries would be properly regulated and would not endanger the U.S. economy.

As mentioned above, this legislation also includes numerous other provisions targeted at various areas of CFTC regulation. Some of these provisions would take positive steps, while others could roll back financial protection in troubling ways. But even before considering these and other provisions positive or negative, the major new burdens the cost-benefit and international derivatives provisions of this bill place on the basic ability of the CFTC to do its job create overwhelming reasons to reject this legislation as currently written.

We urge you to vote against HR 4413 and preserve the CFTC's capacity to properly regulate crucial futures and derivatives markets. Thank you for your consideration. For more information please contact AFR's Policy Director, Marcus Stanley.

Sincerely,

AMERICANS FOR FININCIAL REFORM.

CENTER FOR PROGRESSIVE REFORM,
Washington, DC, June 23, 2014.

DEAR REPRESENTATIVE, We, the undersigned, are Member Scholars with the Center for Progressive Reform (CPR), a research and education organization working to protect health, safety, and the environment. Collectively, we have several decades of experience in studying, writing about, and teaching administrative law in law schools across the United States. Based on this experience, we are submitting these comments with regard to Amendment 17 for H.R. 4413, the Consumer Protection and End-User Relief Act. This Amendment would change the standard of judicial review that courts would conduct for the cost-benefit analyses that the Commodity Futures Trading Commission (CFTC) would have to undertake for their rules under the bill from the ''arbitrary and capricious'' standard to the ''abuse of discretion'' standard.

This amendment appears to be based on a misunderstanding that the ''abuse of discretion'' standard is more lenient than the ''arbitrary and capricious'' standard. For all practical purposes, though, the two standards of review are identical in how they have been applied by reviewing courts. The real problem with this aspect of H.R. 4413 is that it permits judicial review of the CFTC's cost-benefit analyses at all. In reality, judicial review of these analyses is highly unusual and would therefore invite unnecessary unpredictability into the rulemaking process, which is probably why the authors of the judicial review provision in the Unfunded Mandates Reform Act, 2 U.S.C. 1571, chose to preclude judicial review of the cost-benefit analysis itself and instead required that it be

made part of the entire rulemaking record considered by the court in any judicial review of a rule.

We thank you for taking these views under consideration.

Sincerely,

WILLIAM FUNK,
Robert E. Jones Professor of Advocacy and Ethics, Lewis & Clark Law School.
RICHARD MURPHY,
AT&T Professor of Law, Texas Tech University.
THOMAS O. MCGARITY,
Joe R. and Teresa Lozano Long, Endowed Chair in Administrative Law, University of Texas School of Law.

FOLLOWING ARE THE PARTNERS OF AMERICANS FOR FINANCIAL REFORM

All the organizations support the overall principles of AFR and are working for an accountable, fair and secure financial system. Not all of these organizations work on all of the issues covered by the coalition or have signed on to every statement.

AARP, A New Way Forward, AFL-CIO, AFSCME, Alliance For Justice, American Income Life Insurance, American Sustainable Business Council, Americans for Democratic Action, Inc., Americans United for Change, Campaign for America's Future, Campaign Money.

Center for Digital Democracy, Center for Economic and Policy Research, Center for Economic Progress, Center for Media and Democracy, Center for Responsible Lending, Center for Justice and Democracy, Center of Concern.

Center for Effective Government, Change to Win, Clean Yield Asset Management, Coastal Enterprises Inc., Color of Change, Common Cause, Communications Workers of America, Community Development Transportation Lending Services, Consumer Action, Consumer Association Council.

Consumers for Auto Safety and Reliability, Consumer Federation of America, Consumer Watchdog, Consumers Union, Corporation for Enterprise Development, CREDO Mobile, CTW Investment Group, Demos, Economic Policy Institute, Essential Action, Green America.

Greenlining Institute, Good Business International, HNMA Funding Company, Home Actions, Housing Counseling Services, Home Defender's League, Information Press, Institute for Agriculture and Trade Policy, Institute for Global Communications, Institute for Policy Studies: Global Economy Project, International Brotherhood of Teamsters, Institute of Women's Policy Research, Krull & Company.

Laborers' International Union of North America, Lawyers' Committee for Civil Rights Under Law, Main Street Alliance, Move On, NAACP, NASCAT, National Association of Consumer Advocates, National Association of Neighborhoods, National Community Reinvestment Coalition, National Consumer Law Center (on behalf of its low-income clients), National Consumers League, National Council of La Raza.

National Council of Women's Organizations, National Fair Housing Alliance, National Federation of Community Development Credit Unions, National Housing Resource Center, National Housing Trust, National Housing Trust Community Development Fund, National NeighborWorks Association, National Nurses United, National People's Action, National Urban League, Next Step, OpenTheGovernment.org.

Opportunity Finance Network, Partners for the Common Good, PICO National Network, Progress Now Action, Progressive States Network, Poverty and Race Research Action Council, Public Citizen, Sargent Shriver Center on Poverty Law, SEIU, State Voices, Taxpayer's for Common Sense.

The Association for Housing and Neighborhood Development, The Fuel Savers Club, The Leadership Conference on Civil and Human Rights, The Seminal, TICAS, U.S. Public Interest Research Group, UNITE HERE, United Food and Commercial Workers, United States Student Association.

USAction, Veris Wealth Partners, Western States Center, We the People Now, Woodstock Institute, World Privacy Forum, UNET, Union Plus, Unitarian Universalist for a Just Economic Community.

LIST OF STATE AND LOCAL PARTNERS

Alaska PIRG, Arizona PIRG, Arizona Advocacy Network, Arizonans For Responsible Lending, Association for Neighborhood and Housing Development NY, Audubon Partnership for Economic Development LDC, New York NY, BAC Funding Consortium Inc., Miami FL, Beech Capital Venture Corporation, Philadelphia PA, California PIRG, California Reinvestment Coalition, Century Housing Corporation, Culver City CA, CHANGER NY.

Chautauqua Home Rehabilitation and Improvement Corporation (NY), Chicago Community Loan Fund, Chicago IL, Chicago Community Ventures, Chicago IL, Chicago Consumer Coalition, Citizen Potawatomi CDC, Shawnee OK, Colorado PIRG, Coalition on Homeless Housing in Ohio, Community Capital Fund, Bridgeport CT, Community Capital of Maryland, Baltimore MD, Community Development Financial Institution of the Tohono O'odham Nation, Sells AZ, Community Redevelopment Loan and Investment Fund, Atlanta GA, Community Reinvestment Association of North Carolina.

Community Resource Group, Fayetteville A, Connecticut PIRG, Consumer Assistance Council, Cooper Square Committee (NYC), Cooperative Fund of New England, Wilmington NC, Corporacion de Desarrollo Economico de Ceiba, Ceiba PR, Delta Foundation, Inc., Greenville MS, Economic Opportunity Fund (EOF), Philadelphia PA, Empire Justice Center NY, Empowering and Strengthening Ohio's People (ESOP), Cleveland OH, Enterprises, Inc., Berea KY, Fair Housing Contact Service OH, Federation of Appalachian Housing.

Fitness and Praise Youth Development, Inc., Baton Rouge LA, Florida Consumer Action Network, Florida PIRG, Funding Partners for Housing Solutions, Ft. Collins CO, Georgia PIRG, Grow Iowa Foundation, Greenfield IA, Homewise, Inc., Santa Fe NM, Idaho Nevada CDFI, Pocatello ID, Idaho Chapter, National Association of Social Workers, Illinois PIRG, Impact Capital, Seattle WA, Indiana PIRG, Iowa PIRG.

Iowa Citizens for Community Improvement, JobStart Chautauqua, Inc., Mayville NY, La Casa Federal Credit Union, Newark NJ, Low Income Investment Fund, San Francisco CA, Long Island Housing Services NY, MaineStream Finance, Bangor ME, Maryland PIRG, Massachusetts Consumers Coalition, MASSPIRG, Massachusetts Fair Housing Center, Michigan PIRG, Midland Community Development Corporation, Midland TX.

Midwest Minnesota Community Development Corporation, Detroit Lakes MN, Mile High Community Loan Fund, Denver CO, Missouri PIRG, Mortgage Recovery Service Center of L.A., Montana Community Development Corporation, Missoula MT, Montana PIRG, New Economy Project, New Hampshire PIRG, New Jersey Community Capital, Trenton NJ, New Jersey Citizen Action, New Jersey PIRG, New Mexico PIRG, New York PIRG.

New York City Aids Housing Network, New Yorkers for Responsible Lending, NOAH Community Development Fund, Inc., Boston MA, Nonprofit Finance Fund, New York NY, Nonprofits Assistance Fund, Minneapolis MN, North Carolina PIRG, Northside Community Development Fund, Pittsburgh PA, Ohio Capital Corporation for Housing, Columbus OH, Ohio PIRG, OligarchyUSA, Oregon State PIRG, Our Oregon.

PennPIRG, Piedmont Housing Alliance, Charlottesville VA, Michigan PIRG, Rocky Mountain Peace and Justice Center, CO, Rhode Island PIRG, Rural Community Assistance Corporation, West Sacramento CA, Rural Organizing Project OR, San Francisco Municipal Transportation Authority, Seattle Economic Development Fund, Community Capital Development, TexPIRG, The Fair Housing Council of Central New York.

The Loan Fund, Albuquerque NM, Third Reconstruction Institute NC, Vermont PIRG, Village Capital Corporation, Cleveland OH, Virginia Citizens Consumer Council, Virginia Poverty Law Center, War on Poverty—Florida, WashPIRG, Westchester Residential Opportunities Inc., Wigamig Owners Loan Fund, Inc., Lac du Flambeau WI, WISPIRG.

SMALL BUSINESSES

Blu, Bowden-Gill Environmental, Community MedPAC, Diversified Environmental Planning, Hayden & Craig, PLLC, Mid City Animal Hospital, Phoenix AZ, UNET.

Mr. LUCAS. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. LAMALFA) whose good work as a freestanding bill passed unanimously in this body.

Mr. LAMALFA. Mr. Chairman, I thank the chairman of the committee, Mr. LUCAS, for his help and support, as well as the big picture bill, H.R. 4413, which is a necessary and reasonable approach to the modest reforms that are needed to the overall legislation.

This measure includes badly needed reforms and policy changes that are necessary for the CFTC to run more efficiently, stabilize the commodities industry, and ensure continued growth in our agricultural sector.

The U.S. needs regulatory relief for end users and certainty for our markets. That is why I am pleased to report that my legislation, H.R. 1038, which the chairman mentioned, which passed the House on June 12, 2013, with unanimous support, is included in this bill.

H.R. 1038, the Public Power Risk Management Act, is a targeted reform that protects over 47 million Americans from unnecessary electricity and natural gas rate increases. These 47 million Americans are ratepayers of over 2,000 publicly owned utilities who use swaps and energy futures to manage their risks and stabilize costs.

Unfortunately, the Dodd-Frank Act, which was intended to make reforms to our Nation's financial industry, has inadvertently restricted public utilities' access to natural gas, electricity, and other energy futures.

For example, in my own district, the city of Redding's municipal utility believes that limitations to hedging options in the future will increase the

costs to their customers. This unintended consequence of Dodd-Frank is negatively impacting utilities in many congressional districts across the U.S. The impact of this limitation means fewer sources of energy for publicly owned utilities, which translates into higher costs for millions of American ratepayers.

H.R. 4413 will bring relief to commodity end users, utility ratepayers, and the greater agriculture community, a vital asset to our Nation. Let's keep this country and our ag community growing and doing business by passing this commonsense piece of legislation.

Mr. PETERSON. Mr. Chairman, I yield 30 seconds to the gentleman from Georgia (Mr. DAVID SCOTT).

Mr. DAVID SCOTT of Georgia. Mr. Chairman, I just wanted to clarify one point made by the gentlelady from New York, and I just pointed out to her, she was clear in her statement, and I am reading from the actual bill here where it says that:

> Or other foreign jurisdiction as jointly determined by the Commission, shall be exempt from the United States swaps requirements in accordance with the schedule unless the Commission jointly determines that the regulatory requirements of the country or administrative region or other foreign jurisdiction are not broadly equivalent to the United States.

I just wanted to clear that up.

Mr. LUCAS. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois (Mr. RODNEY DAVIS), who has a major component in this overall legislation.

Mr. RODNEY DAVIS of Illinois. Mr. Chairman, I rise today in support of H.R. 4413, and I would like to thank my colleagues, especially Chairman LUCAS, for his leadership on this very important issue; Ranking Member PETERSON for his leadership; and also the subcommittee chairman, Mr. CONAWAY.

I am supportive of this bill because it provides relief to consumers, especially to our farmers and manufacturers. This bill also includes language that I developed that addresses regulations that could directly increase prices for consumers back home in Illinois and throughout this great country.

In crafting rules to implement Dodd-Frank, the CFTC imposed a real-time reporting requirement on all swaps markets. This has had a negative and unintended consequence on end users. This real-time reporting requirement has made it easier for market participants in certain sparsely traded markets to be exposed. And when these participants are exposed, it allows for others to take advantage of their positions and increase their costs of doing business for future trades.

These rarely traded swaps are used by only a handful of companies with excellent credit ratings to provide long-term protection against price fluctuations for commodities such as oil and jet fuel. The CFTC has long recognized the danger of disclosing counterparty identities in thinly traded markets. This bipartisan, commonsense language is needed to help reinforce that long-standing policy.

As a member of the Agriculture Committee, I am pleased that we are reauthorizing this bill because it will provide relief to end users like farmers and manufacturers, and keep costs low for anyone wanting to travel by air, and all consumers. I support this legislation.

Mr. PETERSON. Mr. Chairman, I am pleased to yield 2 minutes to the gentleman from Maryland (Mr. SARBANES).

Mr. SARBANES. Mr. Chairman, I thank the ranking member for yielding.

Mr. Chairman, I wanted to come down and rise in opposition to this bill, and I wanted to get on the RECORD because I predict that there will come a time when there will be another financial crisis, and people will look back and they will say: Where were you when the CFTC reauthorization came up?

Six years ago, our economy and the lives of millions of Americans was thrown into a tailspin by a devastating financial crisis, spurred in large part by reckless behavior on Wall Street and a lack of transparency of and oversight over the global financial systems' derivatives market.

So we acted. Congress acted. We took steps. We passed Dodd-Frank. We strengthen the rules of the road. We brought derivatives markets out of the shadows, allowing regulators to better assess and reduce systemic risk, all working towards the goal of decreasing the chances of another financial crisis.

The problem is the opponents of reform did not give up. Over the past several years, the fight for meaningful financial reform has in large part now migrated to the regulatory agencies overseeing the implementation of Dodd-Frank, and now we return to the legislative arena with H.R. 4413, which represents in my view a dangerous attack on the authority and efficacy of the Commodity Futures Trading Commission.

□ 2000

It erects an assortment of redundant hoops for regulators to jump through, empowers courts to unilaterally undercut the CFTC oversight, and dramatically reduces CFTC's ability to regulate overseas derivatives.

The forces opposing strong oversight of our financial markets have the luxury of existing in a political system that too often gives voices to the wealthy at the expense of the rest of America.

The only way we would pass this legislation is if we were suffering from collective amnesia, if we had completely forgotten what happened in 2008 and 2009 and were sleepwalking through our oversight responsibilities. We need to wake up and protect the American people from another financial crisis. I urge opposition to the bill.

I yield back the balance of my time.

Mr. LUCAS. Mr. Chairman, might I inquire how much time remains for both sides?

The CHAIR. The gentleman from Oklahoma (Mr. LUCAS) has 11 minutes remaining. The gentleman from Minnesota (Mr. PETERSON) has 5 minutes remaining.

Mr. LUCAS. Mr. Chairman, I would note to my colleague, I have no additional speakers and would reserve the balance of my time to close.

Mr. PETERSON. Mr. Chairman, we have no other speakers on our side either.

In closing, I want to thank the chairman, Mr. LUCAS, and Congressman CONAWAY and Congressman SCOTT for their work on this bill, along with Members on both sides of the aisle for their work and their support.

I also want to thank the Agriculture Committee staff, especially Clark Ogilvie, who did all our work on Dodd-Frank and did the work on this bill. He has been working on these issues for a long time and I think is seen as one of the most knowledgeable—if not the most knowledgeable—staffers around. I want everybody to give him a round of applause and also announce that tomorrow he is leaving to become the chief of staff at the CFTC, so it is pretty good timing. We would like to thank Mr. Ogilvie for his work.

With that, I urge support of H.R. 4413 and yield back the balance of my time.

Mr. LUCAS. Mr. Chairman, I yield myself what time I might consume.

Mr. Chairman, I would like to remind all of my colleagues that once again the House Agriculture Committee, in the tradition of the House Agriculture Committee, has worked very diligently to address issues that are of great impact on rural America and on our national economy. In that tradition of bipartisanship—call it nonpartisanship if you want—Mr. PETERSON and I, Mr. CONAWAY, Mr. SCOTT have worked in full committee and subcommittee together to craft what is a reasonable, logical set of proposals to address some real issues out there.

Any of you who have observed this process know that the committee is not timid in trying to do the right thing; and we have a track record of however long it takes, however hard it is, to do the right thing.

Now, some will say this piece of legislation may or may not have an impact on the decisionmaking process in some other body. I would just note to you, we have identified, through all of the hearings and all the testimony and all the input from within government and without government, that there are some things that need to be done. With this piece of legislation, we will encourage progress on those issues.

I urge all of my colleagues, vote for H.R. 4413. Move the process along; help us get ultimately to a product that will address these problems. This is a rather substantial impact on the national economy. If we don't do the things that we are proposing in the Agriculture Committee that we do, harm will be done, job creation will be impacted,

every consumer and every working person will feel the effects negatively. So pass the bill. Pass the bill.

With that, Mr. Chairman, I yield back the balance of my time.

The CHAIR. All time for general debate has expired.

Pursuant to the rule, the bill shall be considered for amendment under the 5-minute rule.

It shall be in order to consider as an original bill for the purpose of amendment under the 5-minute rule an amendment in the nature of a substitute consisting of the text of Rules Committee Print 113–47. That amendment in the nature of a substitute shall be considered as read.

The text of the amendment in the nature of a substitute is as follows:

H.R. 4413

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 ''Customer Protection and End-User Relief Act''.

SEC. 2. TABLE OF CONTENTS.

The table of contents of this Act is as follows:

TITLE I—CUSTOMER PROTECTIONS

SEC. 101. SHORT TITLE.

This title may be cited as the ''Futures Customer Protection Act''.

SEC. 102. ENHANCED PROTECTIONS FOR FUTURES CUSTOMERS.

Section 17 of the Commodity Exchange Act (7 U.S.C. 21) is amended by adding at the end the following:

''(s) A registered futures association shall—

''(1) require each member of the association that is a futures commission merchant to maintain written policies and procedures regarding the maintenance of—

''(A) the residual interest of the member, as described in section 1.23 of title 17, Code of Federal Regulations, in any customer segregated funds account of the member, as identified in section 1.20 of such title, and in any foreign futures and foreign options customer secured amount funds account of the member, as identified in section 30.7 of such title; and

''(B) the residual interest of the member, as described in section 22.2(e)(4) of such title, in any cleared swaps customer collateral account of the member, as identified in section 22.2 of such title; and

''(2) establish rules to govern the withdrawal, transfer or disbursement by any member of the association, that is a futures commission merchant, of the member's residual interest in customer segregated funds as provided in such section 1.20, in foreign futures and foreign options customer secured amount funds, identified as provided in such section 30.7, and from a cleared swaps customer collateral, identified as provided in such section 22.2.''.

SEC. 103. ELECTRONIC CONFIRMATION OF CUSTOMER FUNDS.

Section 17 of the Commodity Exchange Act (7 U.S.C. 21), as amended by section 102 of this Act, is amended by adding at the end the following:

''(t) A registered futures association shall require any member of the association that is a futures commission merchant to—

''(1) use an electronic system or systems to report financial and operational information to the association, including information related to customer segregated funds, foreign futures and foreign options customer secured amount funds accounts, and cleared swaps customer collateral, in accordance with such terms, conditions, documentation standards, and regular time intervals as are established by the association;

''(2) instruct each depository, including any bank, trust company, derivatives clearing organization, or futures commission merchant, holding customer segregated funds under section 1.20 of title 17, Code of Federal Regulations, foreign futures and foreign options customer secured amount funds under section 30.7 of such title, or cleared swap customer funds under section 22.2 of such title, to report balances in the futures commission merchant's section 1.20 customer segregated funds, section 30.7 foreign futures and foreign options customer secured amount funds, and section 22.2 cleared swap customer funds, to the registered futures association or another party designated by the registered futures association, in the form, manner, and interval prescribed by the registered futures association; and

''(3) hold section 1.20 customer segregated funds, section 30.7 foreign futures and foreign options customer secured amount funds and section 22.2 cleared swaps customer funds in a depository that reports the balances in these accounts of the futures commission merchant held at the depository to the registered futures association or another party designated by the registered futures association in the form, manner, and interval prescribed by the registered futures association.''.

SEC. 104. NOTICE AND CERTIFICATIONS PROVIDING ADDITIONAL CUSTOMER PROTECTIONS.

Section 17 of the Commodity Exchange Act (7 U.S.C. 21), as amended by sections 102 and 103 of this Act, is amended by adding at the end the following:

''(u) A futures commission merchant that has adjusted net capital in an amount less than the amount required by regulations established by the Commission or a self-regulatory organization of which the futures commission merchant is a member shall immediately notify the Commission and the self-regulatory organization of this occurrence.

''(v) A futures commission merchant that does not hold a sufficient amount of funds in segregated accounts for futures customers under section 1.20 of title 17, Code of Federal Regulations, in foreign futures and foreign options secured amount accounts for foreign futures and foreign options secured amount customers under section 30.7 of such title, or in segregated accounts for cleared swap customers under section 22.2 of such title, as required by regulations established by the Commission or a self-regulatory organization of which the futures commission merchant is a member, shall immediately notify the Commission and the self-regulatory organization of this occurrence.

''(w) Within such time period established by the Commission after the end of each fiscal year, a futures commission merchant shall file with the Commission a report from the chief compliance officer of the futures commission merchant containing an assessment of the internal compliance programs of the futures commission merchant.''.

SEC. 105. FUTURES COMMISSION MERCHANT COMPLIANCE.

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

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B);

(2) by inserting ''(1)'' before ''It shall be unlawful''; and

(3) by adding at the end the following new paragraph:

''(2) Any rules or regulations requiring a futures commission merchant to maintain a residual interest in accounts held for the benefit of customers in amounts at least sufficient to exceed the sum of all uncollected margin deficits of such customers shall provide that a futures commission merchant shall meet its residual interest requirement as of the end of each business day calculated as of the close of business on the previous business day.''.

(b) CONFORMING AMENDMENT.—Section 4d(h) of the Commodity Exchange Act (7 U.S.C. 6d(h)) is amended by striking ''Notwithstanding subsection (a)(2)'' and inserting ''Notwithstanding subsection (a)(1)(B)''.

SEC. 106. CERTAINTY FOR FUTURES CUSTOMERS AND MARKET PARTICIPANTS.

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

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

(2) by striking the period at the end of paragraph (5) and inserting ''; and''; and

(3) by adding at the end the following:

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

SEC. 107. STUDY ON HIGH-FREQUENCY TRADING.

(a) IN GENERAL.—Not later than one year after the date of the enactment of this Act, the Commodity Futures Trading Commission shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report examining the effect of the practice commonly referred to as high-frequency trading on markets under its jurisdiction.

(b) SPECIFIC AREAS EXAMINED IN REPORT.—In preparing the report submitted under subsection (a), the Commission shall particularly examine each of the following areas:

(1) The technology, personnel, or other resources the Commission may require for purposes of monitoring the effect of high-frequency trading.

(2) The role such trading plays in providing market liquidity.

(3) Whether the technology creates discrepancies in the marketplace between market participants.

(4) Whether the existing authority of the Commission with respect to such trading is sufficient to meet the Commission's mission to—

(A) protect market participants and the public from fraud, manipulation, abusive practices, and systemic risk related to derivatives; and

(B) foster transparent, open, competitive, and financially sound markets.

TITLE II—COMMODITY FUTURES TRADING COMMISSION REFORMS

SEC. 201. SHORT TITLE.

This title may be cited as the ''Commodity Futures Trading Commission Reform Act''.

SEC. 202. EXTENSION OF OPERATIONS.

Section 12(d) of the Commodity Exchange Act (7 U.S.C. 16(d)) is amended by striking ''2013'' and inserting ''2018''.

SEC. 203. CONSIDERATION BY THE COMMODITY FUTURES TRADING COMMISSION OF THE COSTS AND BENEFITS OF ITS REGULATIONS AND ORDERS.

Section 15(a) of the Commodity Exchange Act (7 U.S.C. 19(a)) is amended by striking paragraphs (1) and (2) and inserting the following:

''(1) IN GENERAL.—Before promulgating a regulation under this Act or issuing an order (except as provided in paragraph (3)), the Commission, through the Office of the Chief Economist, shall assess and publish in the regulation or order the costs and benefits, both qualitative and quantitative, of the proposed regulation or order, and the proposed regulation or order shall state its statutory justification.

''(2) CONSIDERATIONS.—In making a reasoned determination of the costs and the benefits, the Commission shall evaluate—

''(A) considerations of protection of market participants and the public;

''(B) considerations of the efficiency, competitiveness, and financial integrity of futures and swaps markets;

''(C) considerations of the impact on market liquidity in the futures and swaps markets;

''(D) considerations of price discovery;

''(E) considerations of sound risk management practices;

''(F) available alternatives to direct regulation;

''(G) the degree and nature of the risks posed by various activities within the scope of its jurisdiction;

''(H) the costs of complying with the proposed regulation or order by all regulated entities, including a methodology for quantifying the costs (recognizing that some costs are difficult to quantify);

''(I) whether the proposed regulation or order is inconsistent, incompatible, or duplicative of other Federal regulations or orders;

''(J) whether, in choosing among alternative regulatory approaches, those approaches maximize net benefits (including potential economic and other benefits, distributive impacts, and equity); and

''(K) other public interest considerations.''.

SEC. 204. DIVISION DIRECTORS.

Section 2(a)(6)(C) of the Commodity Exchange Act (7 U.S.C. 2(a)(6)(C)) is amended by inserting '', and the heads of the units shall serve at the pleasure of the Commission, report directly to the Commission, and perform such functions and duties as the Commission may prescribe'' before the period.

SEC. 205. OFFICE OF THE CHIEF ECONOMIST.

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

''(17) OFFICE OF THE CHIEF ECONOMIST.—

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

''(B) HEAD.—The Office of the Chief Economist shall be headed by the Chief Economist, who shall be appointed by the Commission and serve at the pleasure of the Commission.

''(C) FUNCTIONS.—The Chief Economist shall report directly to the Commission and perform such functions and duties as the Commission may prescribe.

''(D) PROFESSIONAL STAFF.—The Commission shall appoint such other economists as may be necessary to assist the Chief Economist in performing such economic analysis, regulatory cost-benefit analysis, or research as the Commission may direct.''.

(b) CONFORMING AMENDMENT.—Section 2(a)(6)(A) of such Act (7 U.S.C. 2(a)(6)(A)) is amended by striking ''(4) and (5)'' and inserting ''(4), (5), and (17)''.

SEC. 206. PROCEDURES GOVERNING ACTIONS TAKEN WITHOUT A COMMISSION VOTE.

Section 2(a)(12) of the Commodity Exchange Act (7 U.S.C. 2(a)(12)) is amended—

(1) by striking ''(12) The'' and inserting the following:

''(12) RULES AND REGULATIONS.—

''(A) IN GENERAL.—Subject to the other provisions of this paragraph, the''; and

(2) by adding after and below the end the following new subparagraph:

''(B) NOTICE TO COMMISSION.—The Commission shall develop and publish internal procedures governing the issuance by any division or office of the Commission of any response to a formal, written request or petition from any member of the public for an exemptive, a no-action, or an interpretive letter and such procedures shall provide that the Commission be provided with the final version of the matter to be issued with sufficient notice to thoroughly review the matter prior to its issuance.''.

SEC. 207. STRATEGIC TECHNOLOGY PLAN.

Section 2(a) of the Commodity Exchange Act (7 U.S.C. 2(a)), as amended by section 204(a) of this Act, is amended by adding at the end the following:

''(18) STRATEGIC TECHNOLOGY PLAN.—

''(A) IN GENERAL.—Every 5 years, the Commission shall develop and submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a detailed plan focused on the acquisition and use of technology by the Commission.

''(B) CONTENTS.—The plan shall—

''(i) include for each related division or office a detailed technology strategy focused on market surveillance and risk detection, market data collection, aggregation, interpretation, standardization, harmonization, normalization, validation, streamlining or other data analytic processes, and internal management and protection of data collected by the Commission, including a detailed accounting of how the funds provided for technology will be used and the priorities that will apply in the use of the funds; and

''(ii) set forth annual goals to be accomplished and annual budgets needed to accomplish the goals.''.

SEC. 208. INTERNAL RISK CONTROLS.

(a) IN GENERAL.—Section 2(a)(12) of the Commodity Exchange Act (7 U.S.C. 2(a)(12)), as amended by section 206 of this Act, is amended by adding at the end the following:

''(C) INTERNAL RISK CONTROLS.—The Commission, in consultation with the Chief Economist, shall develop comprehensive internal risk control mechanisms to safeguard and govern the storage of all market data by the Commission, all market data sharing agreements of the Commission, and all academic research performed at the Commission using market data.''.

(b) REPORTS TO THE CONGRESS.—

(1) CONTENT.—The Commission shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate 2 reports on the progress made in implementing the internal risk controls provided for in section 2(a)(12)(C) of the Commodity Exchange Act.

(2) TIMING.—The Commission shall submit the 1st report required by paragraph (1) within 60 days after the date of the enactment of this Act, and the 2nd such report within 120 days after such date of enactment.

SEC. 209. SUBPOENA DURATION AND RENEWAL.

Section 6(c)(5) of the Commodity Exchange Act (7 U.S.C. 9(5)) is amended—

(1) by striking ''(5) SUBPOENA.—For'' and inserting the following:

''(5) SUBPOENA.—

''(A) IN GENERAL.—For''; and

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

''(B) CONTENT OF ORDER.—An order of the Commission authorizing the issuance of a subpoena in an investigation shall state in good faith—

''(i) the legitimate purpose of the investigation; and

''(ii) the information sought by any subpoena order that will be reasonably relevant to that purpose.

''(C) DURATION AND RENEWAL.—An order issued under this paragraph shall not be for an indefinite duration and may be renewed only by Commission action.''.

SEC. 210. IMPLEMENTATION PLAN FOR COMMISSION RULEMAKINGS.

Section 2(a)(12) of the Commodity Exchange Act (7 U.S.C. 2(a)(12)), as amended by sections 206 and 208(a) of this Act, is amended by adding at the end the following:

''(D) REQUIREMENT TO PUBLISH IMPLEMENTATION PLAN FOR COMMISSION RULES.—The Commission shall direct its staff to develop and publish in any proposed rule a plan for—

''(i) when and for how long the proposed rule will be subject to public comment; and

''(ii) by when compliance with the final rule will be required.''.

SEC. 211. APPLICABILITY OF NOTICE AND COMMENT REQUIREMENTS OF THE ADMINISTRATIVE PROCEDURE ACT TO GUIDANCE VOTED ON BY THE COMMISSION.

Section 2(a)(12) of the Commodity Exchange Act (7 U.S.C. 2(a)(12)), as amended by sections 206, 208(a), and 210 of this Act, is amended by adding at the end the following:

''(E) APPLICABILITY OF NOTICE AND COMMENT RULES TO GUIDANCE VOTED ON BY THE COMMISSION.—The notice and comment requirements of chapter 5 of title 5, United States Code, shall also apply with respect to any guidance issued by the Commission.''.

SEC. 212. JUDICIAL REVIEW OF COMMISSION RULES.

The Commodity Exchange Act (7 U.S.C. 1 et seq.) is amended by adding at the end the following:

''SEC. 24. JUDICIAL REVIEW OF COMMISSION RULES.

''(a) A person adversely affected by a rule of the Commission promulgated under this Act may obtain review of the rule in the United States Court of Appeals for the District of Columbia Circuit or the United States Court of Appeals for the circuit where the party resides or has the principal place of business, by filing in the court, within 60 days after publication in the Federal Register of the entry of the rule, a written petition requesting that the rule be set aside.

''(b) A copy of the petition shall be transmitted forthwith by the clerk of the court to an officer designated by the Commission for that purpose. Thereupon the Commission shall file in the court the record on which the rule complained of is entered, as provided in section 2112 of title 28, United States Code, and the Federal Rules of Appellate Procedure.

''(c) On the filing of the petition, the court has jurisdiction, which becomes exclusive on the filing of the record, to affirm and enforce or to set aside the rule.

''(d) The court shall affirm and enforce the rule unless the Commission's action in promulgating the rule is found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law; contrary to constitutional right, power, privilege, or immunity; in excess of statutory jurisdiction, authority, or limitations, or short of statutory right; or without observance of procedure required by law.''.

SEC. 213. GAO STUDY ON ADEQUACY OF CFTC RESOURCES.

(a) STUDY.—The Comptroller General of the United States shall conduct a study of the resources of the Commodity Futures Trading Commission that—

(1) assesses whether the resources of the Commission are sufficient to enable the Commission to effectively carry out the duties of the Commission; and

(2) examines the prior expenditures of the Commission on hardware, software, and analytical processes designed to protect customers in the areas of—

(A) market surveillance and risk detection; and

(B) market data collection, aggregation, interpretation, standardization, harmonization, normalization, validation, and streamlining or other data analytic processes.

(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that contains the results of the study.

SEC. 214. DISCLOSURE OF REQUIRED DATA OF OTHER REGISTERED ENTITIES.

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

''(j) DISCLOSURE OF REQUIRED DATA OF OTHER REGISTERED ENTITIES.—

''(1) Except as provided in this subsection, the Commission may not be compelled to disclose any proprietary information provided to the Commission, except that nothing in this subsection—

''(A) authorizes the Commission to withhold information from Congress, upon an agreement of confidentiality; or

''(B) prevents the Commission from—

''(i) complying with a request for information from any other Federal department or agency, any State or political subdivision thereof, or any foreign government or any department, agency, or political subdivision thereof requesting the report or information for purposes within the scope of its jurisdiction, upon an agreement of confidentiality to protect the information in a manner consistent with this paragraph and subsection (e); or

''(ii) a disclosure made pursuant to a court order in connection with an administrative or judicial proceeding brought under this Act, in any receivership proceeding involving a receiver appointed in a judicial proceeding brought under this Act, or in any bankruptcy proceeding in which the Commission has intervened or in which the Commission has the right to appear and be heard under title 11 of the United States Code.

''(2) Any proprietary information of a commodity trading advisor or commodity pool operator ascertained by the Commission in connection with Form CPO-PQR, Form CTA-PR, and any successor forms thereto, shall be subject to the same limitations on public disclosure, as any facts ascertained during an investigation, as provided by subsection (a); provided, however, that the Commission shall not be precluded from publishing aggregate information compiled from such forms, to the extent such aggregate information does not identify any individual person or firm, or such person's proprietary information.

''(3) For purposes of section 552 of title 5, United States Code, this subsection, and the information contemplated herein, shall be considered a statute described in subsection (b)(3)(B) of such section 552.

''(4) For purposes of the definition of proprietary information in paragraph (5), the records and reports of any client account or commodity pool to which a commodity trading advisor or commodity pool operator registered under this title provides services that are filed with the Commission on Form CPO-PQR, CTA-PR, and any successor forms thereto, shall be deemed to be the records and reports of the commodity trading advisor or commodity pool operator, respectively.

''(5) For purposes of this section, proprietary information of a commodity trading advisor or commodity pool operator includes sensitive, nonpublic information regarding—

''(A) the commodity trading advisor, commodity pool operator or the trading strategies of the commodity trading advisor or commodity pool operator;

''(B) analytical or research methodologies of a commodity trading advisor or commodity pool operator;

''(C) trading data of a commodity trading advisor or commodity pool operator; and

''(D) computer hardware or software containing intellectual property of a commodity trading advisor or commodity pool operator;''.

TITLE III—END-USER RELIEF

SEC. 301. SHORT TITLE.

This title may be cited as the ''End-User Relief and Market Certainty Act''.

Subtitle A—End-User Exemption From Margin Requirements

SEC. 311. END-USER MARGIN REQUIREMENTS.

(a) COMMODITY EXCHANGE ACT AMENDMENT.—Section 4s(e) of the Commodity Exchange Act (7 U.S.C. 6s(e)) is amended by adding at the end the following new paragraph:

''(4) APPLICABILITY WITH RESPECT TO COUNTERPARTIES.—The requirements of paragraphs (2)(A)(ii) and (2)(B)(ii), including the initial and variation margin requirements imposed by rules adopted pursuant to paragraphs (2)(A)(ii) and (2)(B)(ii), shall not apply to a swap in which a counterparty qualifies for an exception under section 2(h)(7)(A), or an exemption issued under section 4(c)(1) from the requirements of section 2(h)(1)(A) for cooperative entities as defined in such exemption, or satisfies the criteria in section 2(h)(7)(D).''.

(b) SECURITIES EXCHANGE ACT OF 1934 AMENDMENT.—Section 15F(e) of the Securities Exchange Act of 1934 (15 U.S.C. 78o–10(e)) is amended by adding at the end the following new paragraph:

''(4) APPLICABILITY WITH RESPECT TO COUNTERPARTIES.—The requirements of paragraphs (2)(A)(ii) and (2)(B)(ii) shall not apply to a security-based swap in which a counterparty qualifies for an exception under section 3C(g)(1) or satisfies the criteria in section 3C(g)(4).''.

SEC. 312. IMPLEMENTATION.

The amendment made to the Commodity Exchange Act by this subtitle shall be implemented—

(1) without regard to—

(A) chapter 35 of title 44, United States Code; and

(B) the notice and comment provisions of section 553 of title 5, United States Code;

(2) through the promulgation of an interim final rule, pursuant to which public comment will be sought before a final rule is issued; and

(3) such that paragraph (1) shall apply solely to changes to rules and regulations, or proposed rules and regulations, that are limited to and directly a consequence of the amendment.

Subtitle B—Inter-Affiliate Swaps

SEC. 321. TREATMENT OF AFFILIATE TRANSACTIONS.

(a) IN GENERAL.—

(1) COMMODITY EXCHANGE ACT AMENDMENT.—Section 2(h)(7)(D)(i) of the Commodity Exchange Act (7 U.S.C. 2(h)(7)(D)(i)) is amended to read as follows:

''(i) IN GENERAL.—An affiliate of a person that qualifies for an exception under subparagraph (A) (including affiliate entities predominantly engaged in providing financing for the purchase of the merchandise or manufactured goods of the person) may qualify for the exception only if the affiliate enters into the swap to hedge or mitigate the commercial risk of the person or other affiliate of the person that is not a financial entity, provided that if the transfer of commercial risk is addressed by entering into a swap with a swap dealer or major swap participant, an appropriate credit support measure or other mechanism is utilized.''.

(2) SECURITIES EXCHANGE ACT OF 1934 AMENDMENT.—Section 3C(g)(4)(A) of the Securities Exchange Act of 1934 (15 U.S.C. 78c–3(g)(4)(A)) is amended to read as follows:

''(A) IN GENERAL.—An affiliate of a person that qualifies for an exception under paragraph (1) (including affiliate entities predominantly engaged in providing financing for the purchase of the merchandise or manufactured goods of the person) may qualify for the exception only if the affiliate enters into the security-based swap to hedge or mitigate the commercial risk of the person or other affiliate of the person that is not a financial entity, provided that if the transfer of commercial risk is addressed by entering into a security-based swap with a security-based swap dealer or major security-based swap participant, an appropriate credit support measure or other mechanism is utilized.''.

(b) APPLICABILITY OF CREDIT SUPPORT MEASURE REQUIREMENT.—Notwithstanding section 371 of this Act, the requirements in section 2(h)(7)(D)(i) of the Commodity Exchange Act and section 3C(g)(4)(A) of the Securities Exchange Act of 1934, as amended by subsection (a), requiring that a credit support measure or other mechanism be utilized if the transfer of commercial risk referred to in such sections is

addressed by entering into a swap with a swap dealer or major swap participant or a security-based swap with a security-based swap dealer or major security-based swap participant, as appropriate, shall not apply with respect to swaps or security-based swaps, as appropriate, entered into before the date of the enactment of this Act.

Subtitle C—Indemnification Requirements Related to Swap Data Repositories

SEC. 331. INDEMNIFICATION REQUIREMENTS.

(a) DERIVATIVES CLEARING ORGANIZATIONS.—Section 5b(k)(5) of the Commodity Exchange Act (7 U.S.C. 7a–1(k)(5)) is amended to read as follows:

''(5) CONFIDENTIALITY AGREEMENT.—Before the Commission may share information with any entity described in paragraph (4), the Commission shall receive a written agreement from each entity stating that the entity shall abide by the confidentiality requirements described in section 8 relating to the information on swap transactions that is provided.''.

(b) SWAP DATA REPOSITORIES.—Section 21(d) of such Act (7 U.S.C. 24a(d)) is amended to read as follows:

''(d) CONFIDENTIALITY AGREEMENT.—Before the swap data repository may share information with any entity described in subsection (c)(7), the swap data repository shall receive a written agreement from each entity stating that the entity shall abide by the confidentiality requirements described in section 8 relating to the information on swap transactions that is provided.''.

(c) SECURITY-BASED SWAP DATA REPOSITORIES.—Section 13(n)(5)(H) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(n)(5)(H)) is amended to read as follows:

''(H) CONFIDENTIALITY AGREEMENT.—Before the security-based swap data repository may share information with any entity described in subparagraph (G), the security-based swap data repository shall receive a written agreement from each entity stating that the entity shall abide by the confidentiality requirements described in section 24 relating to the information on security-based swap transactions that is provided.''.

Subtitle D—Relief for Municipal Utilities

SEC. 341. TRANSACTIONS WITH UTILITY SPECIAL ENTITIES.

Section 1a(49) of the Commodity Exchange Act (7 U.S.C. 1a(49)) is amended by adding at the end the following:

''(E) CERTAIN TRANSACTIONS WITH A UTILITY SPECIAL ENTITY.—

''(i) Transactions in utility operations-related swaps shall be reported pursuant to section 4r.

''(ii) In making a determination to exempt pursuant to subparagraph (D), the Commission shall treat a utility operations-related swap entered into with a utility special entity, as defined in section 4s(h)(2)(D), as if it were entered into with an entity that is not a special entity, as defined in section 4s(h)(2)(C).''.

SEC. 342. UTILITY SPECIAL ENTITY DEFINED.

Section 4s(h)(2) of the Commodity Exchange Act (7 U.S.C. 6s(h)(2)) is amended by adding at the end the following:

''(D) UTILITY SPECIAL ENTITY.—For purposes of this Act, the term 'utility special entity' means a special entity, or any instrumentality, department, or corporation of or established by a State or political subdivision of a State, that—

''(i) owns or operates an electric or natural gas facility or an electric or natural gas operation;

''(ii) supplies natural gas and or electric energy to another utility special entity;

''(iii) has public service obligations under Federal, State, or local law or regulation to deliver electric energy or natural gas service to customers; or

''(iv) is a Federal power marketing agency, as defined in section 3 of the Federal Power Act.''.

SEC. 343. UTILITY OPERATIONS-RELATED SWAP.

(a) SWAP FURTHER DEFINED.—Section 1a(47)(A)(iii) of the Commodity Exchange Act (7 U.S.C. 1a(47)(A)(iii)) is amended—

(1) by striking ''and'' at the end of subclause (XXI);

(2) by adding ''and'' at the end of subclause (XXII); and

(3) by adding at the end the following:

''(XXIII) a utility operations-related swap;''.

(b) UTILITY OPERATIONS-RELATED SWAP DEFINED.—Section 1a of such Act (7 U.S.C. 1a) is amended by adding at the end the following:

''(52) UTILITY OPERATIONS-RELATED SWAP.—The term 'utility operations-related swap' means a swap that—

''(A) is entered into to hedge or mitigate a commercial risk;

''(B) is not a contract, agreement, or transaction based on, derived on, or referencing—

''(i) an interest rate, credit, equity, or currency asset class; or

''(ii) a metal, agricultural commodity, or crude oil or gasoline commodity of any grade, except as used as fuel for electric energy generation; and

''(C) is associated with—

''(i) the generation, production, purchase, or sale of natural gas or electric energy, the supply of natural gas or electric energy to a utility, or the delivery of natural gas or electric energy service to utility customers;

''(ii) all fuel supply for the facilities or operations of a utility;

''(iii) compliance with an electric system reliability obligation;

''(iv) compliance with an energy, energy efficiency, conservation, or renewable energy or environmental statute, regulation, or government order applicable to a utility; or

''(v) any other electric energy or natural gas swap to which a utility is a party.''.

Subtitle E—End-User Regulatory Relief

SEC. 351. END-USERS NOT TREATED AS FINANCIAL ENTITIES.

(a) IN GENERAL.—Section 2(h)(7)(C)(iii) of the Commodity Exchange Act (7 U.S.C. 2(h)(7)(C)(iii)) is amended to read as follows:

''(iii) LIMITATION.—Such definition shall not include an entity—

''(I) whose primary business is providing financing, and who uses derivatives for the purpose of hedging underlying commercial risks related to interest rate and foreign currency exposures, 90 percent or more of which arise from financing that facilitates the purchase or lease of products, 90 percent or more of which are manufactured by the parent company or another subsidiary of the parent company; or

''(II) who is not supervised by a prudential regulator, and is not described in any of subclauses (I) through (VII) of clause (i), and—

''(aa) is a commercial market participant and is considered a financial entity under clause (i)(VIII) because the entity predominantly engages in physical delivery contracts; or

''(bb) enters into swaps, contracts for future delivery, and other derivatives on behalf of, or to hedge or mitigate the commercial risk of, whether directly or in the aggregate, affiliates that are not so supervised or described.''.

(b) COMMERCIAL MARKET PARTICIPANT DEFINED.—

(1) IN GENERAL.—Section 1a of such Act (7 U.S.C. 1a), as amended by section 343(b) of this Act, is amended by redesignating paragraphs (8) through (52) as paragraphs (9) through (53), respectively, and by inserting after paragraph (6) the following:

''(7) COMMERCIAL MARKET PARTICIPANT.—The term 'commercial market participant' means any producer, processor, merchant, or commercial user of an exempt or agricultural commodity, or the products or byproducts of such a commodity.''.

(2) CONFORMING AMENDMENTS.—

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

(i) in subparagraph (A) of paragraph (18) (as so redesignated by paragraph (1) of this subsection), in the matter preceding clause (i), by striking ''(18)(A)'' and inserting ''(19)(A)''; and

(ii) in subparagraph (A)(vii) of paragraph (19) (as so redesignated by paragraph (1) of this subsection), in the matter following subclause (III), by striking ''(17)(A)'' and inserting ''(18)(A)''.

(B) Section 4(c)(1)(A)(i)(I) of such Act (7 U.S.C. 6(c)(1)(A)(i)(I)) is amended by striking ''(7), paragraph (18)(A)(vii)(III), paragraphs (23), (24), (31), (32), (38), (39), (41), (42), (46), (47), (48), and (49)'' and inserting ''(8), paragraph (19)(A)(vii)(III), paragraphs (24), (25), (32), (33), (39), (40), (42), (43), (47), (48), (49), and (50)''.

(C) Section 4q(a)(1) of such Act (7 U.S.C. 6o–1(a)(1)) is amended by striking ''1a(9)'' and inserting ''1a(10)''.

(D) Section 4s(f)(1)(D) of such Act (7 U.S.C. 6s(f)(1)(D)) is amended by striking ''1a(47)(A)(v)'' and inserting ''1a(48)(A)(v)''.

(E) Section 4s(h)(5)(A)(i) of such Act (7 U.S.C. 6s(h)(5)(A)(i)) is amended by striking ''1a(18)'' and inserting ''1a(19)''.

(F) Section 4t(b)(1)(C) of such Act (7 U.S.C. 6t(b)(1)(C)) is amended by striking ''1a(47)(A)(v)'' and inserting ''1a(48)(A)(v)''.

(G) Section 5(d)(23) of such Act (7 U.S.C. 7(d)(23)) is amended by striking ''1a(47)(A)(v)'' and inserting ''1a(48)(A)(v)''.

(H) Section 5(e)(1) of such Act (7 U.S.C. 7(e)(1)) is amended by striking ''1a(9)'' and inserting ''1a(10)''.

(I) Section 5b(k)(3)(A) of such Act (7 U.S.C. 7a–1(k)(3)(A)) is amended by striking ''1a(47)(A)(v)'' and inserting ''1a(48)(A)(v)''.

(J) Section 5c(c)(4)(B) of such Act (7 U.S.C. 7a–2(c)(4)(B)) is amended by striking ''1a(10)'' and inserting ''1a(11)''.

(K) Section 5h(f)(10)(A)(iii) of such Act (7 U.S.C. 7b–3(f)(10)(A)(iii)) is amended by striking ''1a(47)(A)(v)'' and inserting ''1a(48)(A)(v)''.

(L) Section 21(f)(4)(C) of such Act (7 U.S.C. 24a(f)(4)(C)) is amended by striking ''1a(48)'' and inserting ''1a(49)''.

SEC. 352. REPORTING OF ILLIQUID SWAPS SO AS TO NOT DISADVANTAGE CERTAIN NON-FINANCIAL END-USERS.

Section 2(a)(13) of the Commodity Exchange Act (7 U.S.C. 2(a)(13)) is amended—

(1) in subparagraph (C), by striking ''The Commission'' and inserting ''Except as provided in subparagraph (D), the Commission''; and

(2) by redesignating subparagraphs (D) through (G) as subparagraphs (E) through (H), respectively, and inserting after subparagraph (C) the following:

''(D) REQUIREMENTS FOR SWAP TRANSACTIONS IN ILLIQUID MARKETS.—Notwithstanding subparagraph (C):

''(i) The Commission shall provide by rule for the public reporting of swap transactions, including price and volume data, in illiquid markets that are not cleared and entered into by a non-financial entity that is hedging or mitigating commercial risk in accordance with subsection (h)(7)(A).

''(ii) The Commission shall ensure that the swap transaction information referred to in clause (i) of this subparagraph is available to the public no sooner than 30 days after the swap transaction has been executed or at such later date as the Commission determines appropriate to protect the identity of participants and positions in illiquid markets and to prevent the elimination or reduction of market liquidity.

''(iii) In this subparagraph, the term 'illiquid markets' means any market in which the volume and frequency of trading in swaps is at such a level as to allow identification of individual market participants.''.

SEC. 353. RELIEF FOR GRAIN ELEVATOR OPERATORS, FARMERS, AGRICULTURAL COUNTERPARTIES, AND COMMERCIAL MARKET PARTICIPANTS.

The Commodity Exchange Act (7 U.S.C. 1 et seq.) is amended by inserting after section 4t the following:

''SEC. 4u. RECORDKEEPING REQUIREMENTS APPLICABLE TO NON-REGISTERED MEMBERS OF CERTAIN REGISTERED ENTITIES.

''Except as provided in section 4(a)(3), a member of a designated contract market or a swap execution facility that is not registered with the Commission and not required to be registered with the Commission in any capacity shall satisfy the recordkeeping requirements of this Act and any recordkeeping rule, order, or regulation under this Act by maintaining a written record of each transaction in a contract for future delivery, option on a future, swap, swaption, trade option, or related cash or forward transaction. The written record shall be sufficient if it includes the final agreement between the parties and the material economic terms of the transaction and is identifiable and searchable by transaction.''.

SEC. 354. RELIEF FOR END-USERS WHO USE PHYSICAL CONTRACTS WITH VOLUMETRIC OPTIONALITY.

Section 1a(47)(B)(ii) of the Commodity Exchange Act (7 U.S.C. 1a(47)(B)(ii)) is amended to read as follows:

''(ii) any purchase or sale of a nonfinancial commodity or security for deferred shipment or delivery, so long as the transaction is intended to be physically settled, including any standalone or embedded option—

''(I) for which exercise results in a physical delivery obligation;

''(II) that cannot be severed or marketed separately from the overall transaction for the purpose of financial settlement; and

''(III) for which both parties are commercial market participants;''.

SEC. 355. COMMISSION VOTE REQUIRED BEFORE AUTOMATIC CHANGE OF SWAP DEALER DE MINIMIS LEVEL.

Section 1a(49)(D) of the Commodity Exchange Act (7 U.S.C. 1a(49)(D)) is amended—

(1) by striking all that precedes ''shall exempt'' and inserting the following:

''(D) DE MINIMIS EXCEPTION.—

''(i) IN GENERAL.—The Commission''; and

(2) by adding after and below the end the following new clause:

''(ii) SPECIAL RULE.—The de minimis quantity of swap dealing as described in clause (i) that is currently set at a quantity of $8,000,000,000 shall only be amended or reduced through a new affirmative action of the Commission undertaken by rule or regulation.''.

SEC. 356. CAPITAL REQUIREMENTS FOR NON-BANK SWAP DEALERS.

(a) COMMODITY EXCHANGE ACT.—Section 4s(e) of the Commodity Exchange Act (7 U.S.C. 6s(e)) is amended—

(1) in paragraph (2)(B), by striking ''shall'' and inserting the following: ''and the Securities and Exchange Commission, in consultation with the prudential regulators, shall jointly''; and

(2) in paragraph (3)(D)—

(A) in clause (ii), by striking ''shall, to the maximum extent practicable,'' and inserting ''shall''; and

(B) by adding at the end the following:

''(iii) FINANCIAL MODELS.—To the extent that swap dealers and major swap participants that are banks are permitted to use financial models approved by the prudential regulators or the Securities and Exchange Commission to calculate minimum capital requirements and minimum initial and variation margin requirements, including the use of non-cash collateral, the Commission shall, in consultation with the prudential regulators and the Securities and Exchange Commission, permit the use of comparable financial models by swap dealers and major swap participants that are not banks.''.

(b) SECURITIES EXCHANGE ACT OF 1934.—Section 15F(e) of the Securities Exchange Act of 1934 (15 U.S.C. 78o–10(e)) is amended—

(1) in paragraph (2)(B), by striking ''shall'' and inserting the following: ''and the Commodity Futures Trading Commission, in consultation with the prudential regulators, shall jointly''; and

(2) in paragraph (3)(D)—

(A) in clause (ii), by striking ''shall, to the maximum extent practicable,'' and inserting ''shall''; and

(B) by adding at the end the following:

''(iii) FINANCIAL MODELS.—To the extent that security-based swap dealers and major security-based swap participants that are banks are permitted to use financial models approved by the prudential regulators or the Commodity Futures Trading Commission to calculate minimum capital requirements and minimum initial and variation margin requirements, including the use of non-cash collateral, the Commission shall, in consultation with the Commodity Futures Trading Commission, permit the use of comparable financial models by security-based swap dealers and major security-based swap participants that are not banks.''.

SEC. 357. HARMONIZATION WITH THE JUMPSTART OUR BUSINESS STARTUPS ACT.

Within 90 days after the date of the enactment of this Act, the Commodity Futures Trading Commission shall—

(1) revise section 4.7(b) of title 17, Code of Federal Regulations, in the matter preceding paragraph (1), to read as follows:

''(b) Relief available to commodity pool operators. Upon filing the notice required by paragraph (d) of this section, and subject to compliance with the conditions specified in paragraph (d) of this section, any registered commodity pool operator who sells participations in a pool solely to qualified eligible persons in an offering which qualifies for exemption from the registration requirements of the Securities Act pursuant to section 4(2) of that Act or pursuant to Regulation S, 17 CFR 230.901 et seq., and any bank registered as a commodity pool operator in connection with a pool that is a collective trust fund whose securities are exempt from registration under the Securities Act pursuant to section 3(a)(2) of that Act and are sold solely to qualified eligible persons, may claim any or all of the following relief with respect to such pool:''; and

(2) revise section 4.13(a)(3)(i) of such title to read as follows:

''(i) Interests in the pool are exempt from registration under the Securities Act of 1933, and such interests are offered and sold pursuant to section 4 of the Securities Act of 1933 and the regulations thereunder;''.

SEC. 358. BONA FIDE HEDGE DEFINED TO PROTECT END-USER RISK MANAGEMENT NEEDS.

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

(1) in paragraph (1)—

(A) by striking ''may'' and inserting ''shall''; and

(B) by striking ''future for which'' and inserting ''future, to be determined by the Commission, for which either an appropriate swap is available or'';

(2) in paragraph (2)—

(A) in the matter preceding subparagraph (A), by striking ''subsection (a)(2)'' and all that follows through ''position as'' and inserting ''paragraphs (2) and (5) of subsection (a) for swaps, contracts of sale for future delivery, or options on the contracts or commodities, a bona fide hedging transaction or position is''; and

(B) in subparagraph (A)(ii), by striking ''of risks'' and inserting ''or management of current or anticipated risks''; and

(3) by adding at the end the following:

''(3) The Commission may further define, by rule or regulation, what constitutes a bona fide hedging transaction, provided that the rule or regulation is consistent with the requirements of subparagraphs (A) and (B) of paragraph (2).''.

SEC. 359. CROSS-BORDER REGULATION OF DERIVATIVES TRANSACTIONS.

(a) JOINT RULEMAKING REQUIRED.—

(1) IN GENERAL.—Not later than 270 days after the date of enactment of this Act, the Securities and Exchange Commission and the Commodity Futures Trading Commission shall jointly issue rules setting forth the application of United States swaps requirements of the Securities Exchange Act of 1934 and the Commodity Exchange Act relating to cross-border swaps and security-based swaps transactions involving U.S. persons or non-U.S. persons.

(2) CONSTRUCTION.—The rules required under paragraph (1) shall be identical, notwithstanding any difference in the authorities granted the Commissions in section 30(c) of the Securities Exchange Act of 1934 (15 U.S.C. 78dd(c)) and section 2(i) of the Commodity Exchange Act (7 U.S.C. 2(i)), respectively, except to the extent necessary to accommodate differences in other underlying statutory requirements under such Acts, and the rules thereunder.

(b) CONSIDERATIONS.—The Commissions shall jointly issue rules that address—

(1) the nature of the connections to the United States that require a non-U.S. person to register as a swap dealer, major swap participant, security-based swap dealer, or major security-based swap participant under each Commission's respective Acts and the regulations issued under such Acts;

(2) which of the United States swaps requirements shall apply to the swap and security-based swap activities of non-U.S. persons, U.S. persons, and their branches, agencies, subsidiaries, and affiliates outside of the United States and the extent to which such requirements shall apply; and

(3) the circumstances under which a non-U.S. person in compliance with the regulatory requirements of a foreign jurisdiction shall be exempt from United States swaps requirements.

(c) RULE IN ACCORDANCE WITH APA REQUIRED.—No guidance, memorandum of understanding, or any such other agreement may satisfy the requirement to issue a joint rule from the Commissions in accordance with section 553 of title 5, United States Code.

(d) GENERAL APPLICATION TO COUNTRIES OR ADMINISTRATIVE REGIONS HAVING NINE LARGEST MARKETS.—

(1) GENERAL APPLICATION.—In issuing rules under this section, the Commissions shall provide that a non-U.S. person in compliance with the swaps regulatory requirements of a country or administrative region that has one of the nine largest combined swap and security-based swap markets by notional amount in the calendar year preceding issuance of such rules, or other foreign jurisdiction as jointly determined by the Commissions, shall be exempt from United States swaps requirements in accordance with the schedule set forth in paragraph (2), unless the Commissions jointly determine that the regulatory requirements of such country or administrative region or other foreign jurisdiction are not broadly equivalent to United States swaps requirements.

(2) EFFECTIVE DATE SCHEDULE.—The exemption described in paragraph (1) and set forth under the rules required by this section shall apply to persons or transactions relating to or involving—

(A) countries or administrative regions described in such paragraph, or any other foreign jurisdiction as jointly determined by the Commissions, accounting for the five largest combined swap and security-based swap markets by notional amount in the calendar year preceding issuance of such rules, on the date on which final rules are issued under this section; and

(B) the remaining countries or administrative regions described in such paragraph, and any other foreign jurisdiction as jointly determined by the Commissions, 1 year after the date on which such rules are issued.

(3) CRITERIA.—In such rules, the Commissions shall jointly establish criteria for determining that one or more categories of regulatory requirements of a country or administrative region

described in paragraph (1) or other foreign jurisdiction is not broadly equivalent to United States swaps requirements and shall jointly determine the appropriate application of certain United States swap requirements to persons or transactions relating to or involving such country or administrative region or other foreign jurisdiction. Such criteria shall include the scope and objectives of the regulatory requirements of a country or administrative region described in paragraph (1) or other foreign jurisdiction as well as the effectiveness of the supervisory compliance program administered, and the enforcement authority exercised, by such country or administrative region or other foreign jurisdiction, and such other factors as the Commissions, by rule, jointly determine to be necessary or appropriate in the public interest.

(4) REQUIRED ASSESSMENT.—Beginning on the date on which final rules are issued under this section, the Commissions shall begin to jointly assess the regulatory requirements of countries or administrative regions described in paragraph (1), as the Commissions jointly determine appropriate, in accordance with the criteria established pursuant to this subsection, to determine if one or more categories of regulatory requirements of such a country or administrative region or other foreign jurisdiction is not broadly equivalent to United States swaps requirements.

(e) REPORT TO CONGRESS.—If the Commissions make the joint determination described in subsection (d)(1) that the regulatory requirements of a country or administrative region described in such subsection or other foreign jurisdiction are not broadly equivalent to United States swaps requirements, the Commissions shall articulate the basis for such a determination in a written report transmitted to the Committee on Financial Services and the Committee on Agriculture of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs and the Committee on Agriculture, Nutrition, and Forestry of the Senate within 30 days of the determination. The determination shall not be effective until the transmission of such report.

(f) DEFINITIONS.—As used in this Act and for purposes of the rules issued pursuant to this Act, the following definitions apply:

(1) The term ''U.S. person''—

(A) means—

(i) any natural person resident in the United States;

(ii) any partnership, corporation, trust, or other legal person organized or incorporated under the laws of the United States or having its principal place of business in the United States;

(iii) any account (whether discretionary or non-discretionary) of a U.S. person; and

(iv) any other person as the Commissions may further jointly define to more effectively carry out the purposes of this Act; and

(B) does not include the International Monetary Fund, the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, the African Development Bank, the United Nations, their agencies and pension plans, and any other similar international organizations and their agencies and pension plans.

(2) The term ''United States swaps requirements'' means the provisions relating to swaps and security-based swaps contained in the Commodity Exchange Act (7 U.S.C. 1a et seq.) and the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) that were added by title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act (15 U.S.C. 8301 et seq.) and any rules or regulations prescribed by the Securities and Exchange Commission and the Commodity Futures Trading Commission pursuant to such provisions.

(g) CONFORMING AMENDMENTS.—

(1) SECURITIES EXCHANGE ACT OF 1934.—Section 36(c) of the Securities Exchange Act of 1934 (15 U.S.C. 78mm(c)) is amended by inserting ''or except as necessary to effectuate the purposes of the Customer Protection and End-User Relief Act,'' after ''to grant exemptions,''.

(2) COMMODITY EXCHANGE ACT.—Section 4(c)(1)(A) of the Commodity Exchange Act (7 U.S.C. 6(c)(1)(A)) is amended by inserting ''or except as necessary to effectuate the purposes of the Customer Protection and End-User Relief Act,'' after ''to grant exemptions,''.

SEC. 360. REPORT ON FOREIGN BOARDS OF TRADE.

Within 1 year after the date of the enactment of this Act, the Commodity Futures Trading Commission shall prepare and submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a written report reviewing the standards and rules of foreign boards of trade related to the physical delivery of base metals, including warehousing facilities, as compared to the standards and rules for domestic designated contract markets and related warehouses for base metals.

Subtitle F—Effective Date

SEC. 371. EFFECTIVE DATE.

Except as otherwise provided in this title, the amendments made by this title shall take effect as if enacted on July 21, 2010.

The CHAIR. No amendment to that amendment in the nature of a substitute shall be in order except those printed in House Report 113–476. Each such amendment may be offered only in the order printed in the report, by a Member designated in the report, shall be considered read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

AMENDMENT NO. 1 OFFERED BY MR. DEFAZIO

The CHAIR. It is now in order to consider amendment No. 1 printed in House Report 113–476.

Mr. DEFAZIO. Mr. Chair, I have an amendment at the desk.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 10, after line 12, insert the following:

(5) Whether such trading increases market volatility, including short term market swings.

The CHAIR. Pursuant to House Resolution 629, the gentleman from Oregon (Mr. DEFAZIO) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Oregon.

Mr. DEFAZIO. Mr. Chair, the ranking member mentioned earlier that there is a section in the bill of merit which would require four studies: whether the technology and personnel needed to monitor the effect of high-frequency trading are accurate; the role it plays in providing liquidity; whether it creates discrepancies between market participants—I would recommend people read ''Flash Boys'' if they want the answer to that question—and whether the CFTC's existing authority is sufficient with regard to high-frequency trading.

Those all have great merit. We should have the answers, but I have one additional request, which would be to examine whether high-frequency trading increases market volatility. CFTC already did one study. They found that there were 27,000 contracts traded during a 14-second period during the flash crash, but they came to no conclusion regarding how or what role they may have played in the flash crash. I think that we should further investigate this.

With that, I yield back the balance of my time.

Mr. LUCAS. Mr. Chairman, I claim the time in opposition to the gentleman's amendment.

The CHAIR. The gentleman from Oklahoma is recognized for 5 minutes.

Mr. LUCAS. Mr. Chairman, I yield myself such time as I might consume.

Although it is my understanding that the substance of the gentleman from Oregon's amendment would be broadly addressed within the existing language of section 107, I certainly see no problem with ensuring that his concerns are addressed more specifically. Therefore, I will suggest to my colleague from Oregon, let's accept your amendment.

With that, Mr. Chairman, I yield back the balance of my time.

The CHAIR. The question is on the amendment offered by the gentleman from Oregon (Mr. DEFAZIO).

The amendment was agreed to.

AMENDMENT NO. 2 OFFERED BY MS. JACKSON LEE

The CHAIR. It is now in order to consider amendment No. 2 printed in House Report 113–476.

Ms. JACKSON LEE. Mr. Chair, I have an amendment at the desk.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 10, after line 12, insert the following:

SEC. _____. REPORT ON ENTITIES REGULATED BY THE CFTC.

Not later than 2 years after the date of the enactment of this Act, the Commodity Futures Trading Commission shall submit to the Committees on Agriculture, Financial Services, and the Judiciary of the House of Representatives and the Committees on Agriculture, Nutrition, and Forestry, Banking, Housing, and Urban Affairs, and the Judiciary of the Senate a report examining the number of entities regulated by the Commodity Futures Trading Commission, and with respect to those entities, their size, practice models, and assets under management, and those rendered defunct via bankruptcy or obsolescence.

The CHAIR. Pursuant to House Resolution 629, the gentlewoman from Texas (Ms. JACKSON LEE) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from Texas.

Ms. JACKSON LEE. Mr. Chair, I thank the chairman very much. I thank the chairman and the ranking member of the committee and knowing how hard they have worked. I hope that this discussion today will emphasize a commitment to transparency and a commitment to consumers and a commitment to making the legislation responsive to consumers. So I thank you for the opportunity.

This legislation is to reauthorize and improve the operations of the Commodity Futures Trading Commission as well as address concerns from customers from another failure such as the MF Global and Peregrine Financial. It is a product of a multiyear process that included hearings and perspectives from market participants, end users, futures customers, and the CFTC.

The Jackson Lee amendment only seeks to improve this bill. If passed, it would require a study that will provide very basic information about firms regulated by the Commodity Futures Trading Commission. The amendment simply requires the CFTC to do a report examining the number of entities regulated by them, the entity's size, practice models, and assets under management.

We must be quick to acknowledge that the dramatic failures of not just MF Global but several other venerated firms, such Bear Stearns, speak loudly to requiring more information for the consumer.

This amendment would also provide more insight as to how the industry works. My amendment gives 2 years for the agency to complete the first study. That is a very long time. Again, the report provides more information for the very consumers that we are trying to protect. That is more than enough time for the staff of the CFTC to comply with the amendment.

In that span of 2 years, a lot of things can change, but the gist of the amendment is to provide more transparency for the investors, as many on this floor have already spoken of. It is critical that investors know what is going on, particularly small investors who are not privy to the information that many of the larger entities are made aware.

My amendment, again, basic information via an agency study, much of which the Commission already has, and I am merely seeking to have it.

Let me just share just one aspect of this and then conclude. More importantly, in my conclusion, many of the residents of the 18th Congressional District have invested in homes, stocks, and education, to see it all flittered away because someone on Wall Street—France or Houston, even—pushed the wrong button generating a contra-trade when they meant to bid in the other direction. This is not what Americans want to see. This is a regulated entity. Transparency is viable.

Let me show you a letter that was sent from the trustee of MF Global to some poor person who, after 5 years, got their few dollars after this major bankruptcy.

Enclosed with this mailing is a check from the trustee in payment of your allowed customer claim.

They got it 5 years later.

With this check the full net equity value, as established in the Bankruptcy Court, of your segregated property, the amount related to your trading on domestic exchanges or ''4(d) Property,'' will have been distributed to you. Your former account number at MF Global appears on the check.

Please cash this check as soon as possible.

That is another frightening thing. You better hurry up and get the $25 or $40 that came.

To ensure proper and prompt processing.

I will include the letter for the RECORD here.

EPIQ BANKRUPTCY SOLUTIONS, LLC
FDR Station, New York, NY, April 28, 2014.

Re In re MF Global Inc., Case No. (MG) SIPA.

DEAR CLAIMANT: Enclosed with this mailing is a check from James W. Giddens, Trustee for the SIPA liquidation of MF Global Inc., in payment of your allowed customer claim in the SIPA proceeding. With this check the full net equity value, as established in the Bankruptcy Court, of your segregated property (i.e., the amount related to your trading on domestic exchanges or ''4d Property''), will have been distributed to you. Your former account number at MF Global Inc. appears on the check.

Please cash this check as promptly as possible. To ensure proper and prompt processing, please be sure to properly endorse the check by signing your name and/or account number in the appropriate location on the reverse side of the check. If you have any questions, please feel free to contact one of my representatives at 1–888–236–0808 (inside the United States) or 1–503–597–5173 (outside the United States).

Very truly yours,

JAMES W. GIDDENS,
Trustee for the SIPA
Liquidation of MF Global Inc.

Ms. JACKSON LEE. Mr. Chairman, and to my colleagues I believe that this is an important asset or aspect of helping to have more information for our consumers.

I reserve the balance of my time.

Mr. Chair, I thank you for this opportunity to briefly explain my amendment. It is simple and makes a significant improvement to the bill.

This bipartisan legislation to reauthorize and improve the operations of the Commodity Futures Trading Commission (CFTC), as well as address concerns relating to protecting customers from another failure such as MF Global and Peregrine Financial.

It is the product of a multi-year process that included hearing perspectives from market participants, end-users, futures customers, and the CFTC.

The Jackson Lee amendment only seeks to improve this bill. If passed it would require a study that will provide very basic information about firms regulated by the Commodity Futures Trading Commission.

The amendment simply requires the CFTC to do a report examining the number of entities regulated by them, the entity's size, practice models, and assets under management.

We must be quick to acknowledge the dramatic failures of not just MF Global and Peregrine but several other venerated firms such as Bear Stearns.

This amendment would also provide more insight as to how industry works.

The language of the Jackson Lee amendment gives two years for the agency to complete the first one.

That is more than enough time for the staff at the CFTC to comply with this amendment.

In that span of two years a lot of things could change but the gist of the amendment is to provide more transparency for investors.

It also asks that those firms rendered defunct like MF Global be included in the report.

It is critical that investors know what is going on—particularly smaller investors who are not privy to the information that many of the larger entities are made aware.

The MF Global bankruptcy hurt investors and potential investors. It is critical that firms increase their transparency and disclose information which consumers may use to make informed investment decisions.

The Jackson Lee amendment asks very basic information of these firms via an agency study—much of which the Commission may already keep account of—and I am merely seeking to have it in a report.

Again, the amendment simply requires the CFTC to do a report examining the number of entities regulated by them, the entity's size, practice models, and assets under management. It also asks that those firms rendered defunct like MF Global be included in the report.

And more importantly, many of the residents of the 18th District of Texas have invested in homes, stocks, and education—and to see it all flittered away because someone on Wall Street, France, or Houston even, pushed the wrong button, generating a contra-trade when they meant to bet in the other direction—is not what Americans want to see.

I urge my colleagues to vote for transparency, fairness and openness by supporting the Jackson Lee Amendment.

Mr. LUCAS. Mr. Chair, I claim the time in opposition to the amendment.

The CHAIR. The gentleman from Oklahoma is recognized for 5 minutes.

Mr. LUCAS. Mr. Chair, in a time of economic uncertainty, tight fiscal budgets, I advise against the use of valuable Commission time and resources on a study with some ambiguous terms and no clear practical use.

H.R. 4413 already includes carefully crafted requirements for studies on the pertinent issues of agency funding and on the effects of high-frequency trading. So I respectfully urge my colleagues to join me in opposing this amendment.

With that, I reserve the balance of my time.

Ms. JACKSON LEE. Mr. Chairman, I thank the gentleman, and I certainly thank the chairman for his comments.

Right now the Veterans' Affairs Committee is meeting to find out more information on the dastardly knowledge of so many veterans who may have died on a secret list. I would imagine that they would have wanted, some years back, to have investigated, studied, and gotten more information about how veterans are treated in the veterans hospital.

I respectfully disagree with my friend and colleague. I do not think that this is a waste of the energy of this agency and I don't think we have enough information. Anytime I can stand on this floor and err on the side of the customer, the consumer, and stand up here and show a letter that is the ultimate result of a bankruptcy because the consumers didn't have all the information that they needed—and all we

are asking is over a 2-year period give us the number of entities, the size, practice models, and the assets under the management—I don't believe that that is too much.

Investigating precise issues is not giving the consumer a portfolio of knowledge. I disagree with my good friend, and I ask my colleagues to support the Jackson Lee amendment.

The CHAIR. The time of the gentlewoman has expired.

Mr. LUCAS. Mr. Chairman, I yield back the balance of my time.

The CHAIR. The question is on the amendment offered by the gentlewoman from Texas (Ms. JACKSON LEE).

The question was taken; and the Chair announced that the noes appeared to have it.

Ms. JACKSON LEE. Mr. Chair, I demand a recorded vote.

The CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentlewoman from Texas will be postponed.

AMENDMENT NO. 3 OFFERED BY MS. DELBENE

The CHAIR. It is now in order to consider amendment No. 3 printed in House Report 113–476.

Ms. DELBENE. Mr. Chair, I have an amendment at the desk.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 11, strike lines 5 through 7 and insert the following:

Section 15(a) of the Commodity Exchange Act (7 U.S.C. 19(a)) is amended—

(1) by striking paragraphs (1) and (2) and inserting the following:

Page 12, line 22, strike the last period and insert ''; and''.

Page 12, after line 22, insert the following:

(2) by adding at the end the following:

''(4) JUDICIAL REVIEW.—Notwithstanding section 24(d), a court shall affirm a Commission assessment of costs and benefits under this subsection, unless the court finds the assessment to be an abuse of discretion.''.

The CHAIR. Pursuant to House Resolution 629, the gentlewoman from Washington (Ms. DELBENE) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from Washington.

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Ms. DELBENE. Mr. Chair, I would like to thank Chairman LUCAS and Ranking Member PETERSON, as well as Subcommittee Chairman CONAWAY and Ranking Member SCOTT, for their work on this very important bill.

I would also like to thank Congressmen GIBSON and VARGAS for cosponsoring this amendment. This amendment is the only bipartisan amendment we are considering today. It is straightforward and will provide needed clarity.

This amendment simply states that a court shall affirm the CFTC's assessment of the costs and benefits of a rule. This would have the practical impact of limiting the ability of individuals and firms to challenge the CFTC in court, in an attempt to stop a rule from being implemented based on the cost-benefit analysis.

The amendment also provides for an exception in the case of an abuse of discretion by the Commission. If no such abuse occurs, a court must uphold the CFTC's assessment.

At a time when the CFTC is still implementing a litany of rules, including a number of crucial rules required by the passage of Dodd-Frank, we should not be inhibiting the CFTC's progress and adding to their workload, especially when the agency is already struggling with insufficient resources for the task at hand.

To be clear, the CFTC is already required to consider the costs and benefits of its actions and regulations. It just does not provide a formal analysis of the costs and benefits.

If we are going to mandate that the CFTC provide a formal cost-benefit analysis when developing regulations, which can be time consuming, we should trust their analysis and not let the rules get tied up in costly and time-consuming litigation.

Why go through such a rigorous process, like a cost-benefit analysis, and expend all of the time and energy that goes with it, if the end result can be easily derailed by a lawsuit filed at the eleventh hour.

I firmly believe that this amendment improves this bill to reauthorize a critical Federal regulator, and I urge my colleagues to support this bipartisan amendment.

I reserve the balance of my time.

Mr. LUCAS. Mr. Chairman, I rise in opposition to the amendment.

The CHAIR. The gentleman from Oklahoma is recognized for 5 minutes.

Mr. LUCAS. Mr. Chairman, this amendment sponsored by the gentlewoman from Washington and her cosponsors, the gentlemen from New York and California—all valued Members of the House Agriculture Committee—builds on the enhancements of the cost-benefit analysis required in this bill by preserving the court's ability to review the Commission rules or orders.

I congratulate the sponsors of this amendment. Once again, the House Ag Committee proves that working in a bipartisan manner is possible and productive. This is the type of cooperation I think our friends back home would want to see and demand.

With that, I urge its adoption, and I yield back the balance of my time.

Ms. DELBENE. Mr. Chair, I yield as much time as he may consume to the gentleman from Georgia (Mr. DAVID SCOTT), the subcommittee ranking member.

Mr. DAVID SCOTT of Georgia. Mr. Chair, I thank Ms. DELBENE.

Ms. DELBENE, Mr. GIBSON, and Mr. VARGAS are all hardworking members, Democrats and Republicans, on the Ag Committee. I think this shows you how wonderful the legislative process can be. I certainly want to recognize our ranking member who brought this concern in her opening remarks.

This helps to tighten and, I think, make a better bill. What it will do is that it will address the concerns that Ms. WATERS raised, and that would be that improved cost-benefits provision would lead to unnecessary litigation.

What Ms. DELBENE, Mr. VARGAS, and Mr. GIBSON have done with their language is it definitely narrows the potential avenues for litigation on the CFTC's cost-benefit analysis, but still allows the consideration of the points of analysis to take place.

I want to commend Ms. DELBENE, Mr. GIBSON, and Mr. VARGAS for a very good amendment.

Ms. DELBENE. I yield back the balance of my time.

The CHAIR. The question is on the amendment offered by the gentlewoman from Washington (Ms. DELBENE).

The amendment was agreed to.

AMENDMENT NO. 4 OFFERED BY MS. WATERS

The CHAIR. It is now in order to consider amendment No. 4 printed in House Report 113–476.

Ms. WATERS. Mr. Chair, I have an amendment at the desk.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 11, strike lines 5 through 7 and insert the following:

Section 15(a) of the Commodity Exchange Act (7 U.S.C. 19(a)) is amended—

(1) by striking paragraphs (1) and (2) and inserting the following:

Page 12, line 22, strike the last period and insert ''; and''.

Page 12, after line 22, insert the following:

(2) by adding at the end the following:

''(4) JUDICIAL REVIEW.—This subsection is intended only to improve the internal management of the Commission and any estimate, analysis, statement, description or report prepared under this subsection, and any compliance or noncompliance with the provisions of this subsection, and any determination concerning the applicability of the provisions of this subsection shall not be subject to judicial review. No provision of this subsection shall be construed to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any person.''.

The CHAIR. Pursuant to House Resolution 629, the gentlewoman from California (Ms. WATERS) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from California.

Ms. WATERS. Mr. Chairman, I urge support for this amendment to ensure that the Commodities Futures Trading Commission can adequately regulate our financial markets and address some of the very practices that so seriously harmed our economy just a few years ago.

This amendment modestly improves the onerous cost-benefit considerations included in this bill, a provision that would open the Commission up to expensive legal challenges.

It does so by adding in language from the President's executive order on cost-

benefit analysis that prohibits judicial review. The bill's sponsors cite this order as the model of good analysis and incorporate many provisions of that order in this legislation.

However, the measure before us today inconsistently omits the order's prohibition on judicial review, thereby subjecting the CFTC's most cost-benefit considerations to increase litigation risk—risk that no other agency complying with the executive order has faced.

My amendment would correct this oversight and prevent special interest groups from using the cost-benefit provision as a club to delay, weaken, or kill financial reform.

My colleagues—Representative DELBENE, Representative GIBSON, and Representative VARGAS—share my concerns and have proposed an amendment that would establish a heightened standard of judicial review.

While I support this amendment, it does not go far enough, in my view, to fix the problem. I believe that judicial review with regard to the heightened cost-benefit provisions in the underlying bill should be prohibited entirely.

Make no mistake, even if the amendment offered previously by my colleagues on judicial review—or, for that matter, my amendment—is adopted, the bill would still impose heavy administrative hurdles on the CFTC.

The Commission is already required to consider the costs and benefits when promulgating rules and issuing orders pursuant to the Paperwork Reduction Act, the Congressional Review Act, and the Regulatory Flexibility Act, as other agencies do.

Unlike any other financial regulator, the CFTC is also already bound by the Commodity Exchange Act to consider the impact of their rules on the full range of market stakeholders.

The courts have weighed in as well, finding that the CFTC has fulfilled its duty to consider the costs and benefits, as in the rule related to commodity pool operators.

The CFTC will still have to expand resources to comply with this provision that Republicans are unwilling to provide. Instead, the CFTC will have to take funds from examinations and enforcement to pay for redundant economic analysis.

Mr. Chairman, this is a commonsense amendment that will simply prevent our Nation's top directives cop from spending excessive time and resources fighting off superfluous legal challenges and would make the underlying bill consistent with the President's executive order.

I urge my colleagues to support this amendment, and I reserve the balance of my time.

Mr. CONAWAY. Mr. Chairman, I rise in opposition to the amendment.

The CHAIR. The gentleman from Texas is recognized for 5 minutes.

Mr. CONAWAY. Mr. Chairman, I think it is very dangerous to require the regulated community to follow rules or regulations that have not been properly considered.

A cost-benefit analysis is an essential requirement for any rule or order. Only after a regulator considers the costs of imposing a rule and then compares that cost to the anticipated benefits can a rule be properly analyzed.

Far too often, regulators at the CFTC ignore cost or important cost factors, so that their regulatory agenda can be implemented unimpeded.

The ability of the regulated committee to ask a court to review the cost-benefit analysis of a rule or order is an essential deterrent to such a practice.

The threat of litigation forces regulators to make sure they properly consider costs and attest that the regulation achieves the goal set out in the law passed by Congress in the most cost-efficient manner.

Striking the ability of a court to review the cost-benefit analysis of a CFTC regulation would vitiate the carefully negotiated bipartisan compromise just offered by Ms. DELBENE.

It seems odd on the logic that you would support the DelBene amendment, which improves judicial review and narrows its scope, and then categorically oppose judicial review.

I think her amendment, allowing courts to determine if a cost-benefit analysis of a CFTC-promulgated rule or regulation is an abuse of the Commission's discretion, is a measured approach that will lead to a sound and effective policy.

We have also got an indication from the IG, the inspector general, that throughout the entire Dodd-Frank regulatory process, which the CFTC put in place some 60 rules, that generally speaking—according to the IG, generally speaking, it appears that CFTC employees did not consider quantifying costs when conducting cost-benefit analysis for the definitions as indicated. It took a very cavalier approach to the process.

We think that, based on the testimony we have heard from many of the regulated, the CFTC did a very poor job on the front end of estimating the cost of what all of these rules that they were putting in place with respect to Dodd-Frank would be and, therefore, did not consider them properly, and the benefits were far less than the cost imposed.

With that, I respectfully urge my colleagues to defeat this amendment, and I reserve the balance of my time.

Ms. WATERS. May I inquire as to how much time I have remaining on this amendment?

The CHAIR. The gentlewoman from California has 1½ minutes remaining.

Ms. WATERS. Thank you very much, Mr. Chairman.

I just want to make clear my opposition to anything other than preventing judicial review on cost-benefit analysis.

Again, I am very appreciative to my colleagues who also share my concerns and, again, have proposed an amendment that would establish a heightened standard of judicial review, and I support that amendment.

I do not want anyone to be confused that I believe that that amendment would solve the problem. I still think that, if that amendment is adopted, the bill would still impose heavy administrative hurdles on the CFTC.

This is not about simply reauthorization at any cost with anything in the bill. This is about having a CFTC that really works, that is not burdened with the kind of cost-benefit analysis that we have seen burdening other of our agencies that have tried to do their job, including the SEC.

I would ask my friends who are listening to differentiate between that amendment of my colleagues, who are addressing this concern in their way, and my amendment that would prevent judicial review altogether.

I yield back the balance of my time.

Mr. CONAWAY. Mr. Chair, I, too, agree with the gentlewoman that we all want a very effective CFTC.

Reauthorizing the agency ought to be a part of looking at its operations. Given the work that it did and didn't do during the Dodd-Frank regulatory scheme that put in place 60 new rules, we don't believe that the cost-benefit rules that were in place under section 15(a) were properly used and did not generate the benefits that the impact of a properly vetted cost-benefit analysis would have on each and every rule.

With that, I urge my colleagues to vote against the amendment, and I yield back the balance of my time.

The CHAIR. The question is on the amendment offered by the gentlewoman from California (Ms. WATERS).

The question was taken; and the Chair announced that the noes appeared to have it.

Ms. WATERS. Mr. Chair, I demand a recorded vote.

The CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentlewoman from California will be postponed.

AMENDMENT NO. 5 OFFERED BY MS. MOORE

The CHAIR. It is now in order to consider amendment No. 5 printed in House Report 113–476.

Ms. MOORE. Mr. Chair, I have an amendment at the desk.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 11, strike line 1 and all that follows through page 12, line 22, and insert the following:

SEC. _____. SENSE OF THE CONGRESS.

It is the sense of the Congress that the Commodity Futures Trading Commission is required by law to consider the costs and benefits when promulgating rules and issuing orders, and is held accountable to this requirement by our courts. Current law requires the Commission to conduct economic analyses pursuant to the Paperwork Reduction Act, the Congressional Review Act, and the Regulatory Flexibility Act, as

other agencies do. Unlike any other financial regulator, the Commission is also bound by the Commodity Exchange Act to consider the protection of market participants and the public; the efficiency, competitiveness, and financial integrity of futures markets; price discovery; sound risk management practices; and other public interest considerations. Notably, the Federal courts hold the Commission accountable and vacate rulemaking that does not meet statutory requirements, as demonstrated by the ruling by a United States district court on the Commission's rule on commodity position limits.

The CHAIR. Pursuant to House Resolution 629, the gentlewoman from Wisconsin (Ms. MOORE) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from Wisconsin.

Ms. MOORE. Mr. Chair, my amendment is really rather straightforward. It preserves the ability of the Commodities Futures Trading Commission to regulate derivatives markets, while maintaining the reasonable cost-benefit provisions that are already in the law.

Just to give you a little history, Mr. Chair, as we know, unregulated derivatives transactions precipitated the 2008 financial crisis, which this country is still struggling to recover.

Section 203 is not something, as I have heard earlier in this debate, that will just make it more facile for manufacturers or for end users or farmers.

It is a Trojan horse designed to deregulate derivatives markets by providing Wall Street favorable terms and means to sue to overturn laws and regulations, not on substance, not even on congressional intent, but by challenging economic studies in court.

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Regulatory gaps in derivatives regulation will put taxpayers back on the hook for Wall Street excesses.

Mr. Chairman, I will enter into the RECORD an analysis that I did. It was posted in The Huffington Post: ''GOP 'Cost-Benefit' Bill Benefits Wall Street and Costs Americans.''

[From the Huffpost Politics, May 17, 2013]

GOP 'COST-BENEFIT' BILL BENEFITS WALL STREET AND COSTS AMERICANS

(By Rep. Gwen Moore)

Republicans again have it all wrong on the substance and politics as they bring to the House floor the SEC Regulatory Accountability Act, or the so-called SEC ''cost-benefit'' bill. Despite the innocuous name of the bill, Americans should not be fooled. The bill seeks to not only undo Dodd-Frank, but all financial market regulation past, present, and future. It is a bad bill for American taxpayers and for free market capitalism.

By requiring an overly stringent and arbitrary accounting of ''costs'' to industry, the bill makes it impossible to properly regulate markets. It seeks to eviscerate the mission of the Securities and Exchange Commission (SEC) to protect investors and would functionally subordinate all government oversight and regulation, including by the elected Congress, to industry interests. The bill functions as a one-way ratchet to make deregulation an irresistible gravity, while making regulation of even the worst industry practices a nearly impossible hurdle.

The circumstances of the financial crisis have utterly discredited the Ayn Rand-inspired deregulatory zeal that the proponents of this bill insist on advancing. It is a model that does not work and that led to economic calamity and pain. Instead, the supporters of this bill are hoping that rhetoric can mask reality.

Securities law already directs the SEC ''to consider'' the cost-benefit of rulemakings. President Obama also directs the SEC to conduct cost-benefit analysis of rulemakings. I support the cost-benefit analysis mandates already contained in federal securities law and President Obama's executive order. So what does the SEC Regulatory Accountability Act add? As former SEC Chairman Arthur Levitt explains in the New York Times, the bill subjects the SEC to an impossibly subjective review of all regulations. This bill was transparently designed to allow each regulation to be challenged in court by industry, but not by consumer advocates.

The primary mission of the SEC is investor protection. The bill undermines that mission by permitting industry to sue the government in order to overturn regulations. Even when Congress passes laws to protect investors, like Dodd-Frank, the SEC would be constrained in issuing rules under this bill by the mandate to prioritize even tertiary costs to industry over investor protection, or any other priority Congress sets, such as constraints on systemic risks. In other words, it creates a government for industry over the People.

The bill is clearly bad for consumer protection and taxpayers as it ushers in a new world where Wall Street functionally decides the rules, and it is caveat emptor for financial services end-users. However, it is not even good for industry in the broader sense. It would mean that rulemakings would take even longer, as the SEC struggled to meet the impossibly subjective economic cost-benefit standard to stave off the coming court battle over competing economic impact projections. The ink would not be dry on a SEC rule before the race to the courthouse door to challenge the regulations would begin. Presumably, the most powerful industry participants would challenge the rules in the way that achieves their narrow interest, which may be to the detriment of investors or other less-affluent market participants. In this way, the most powerful industry interests would be able to not only use the courts to undo consumer protections, but to also seek competitive advantage over competitors.

In Congress, I hear a lot from the financial industry about ''uncertainty.'' There would never be certainty in securities markets if this bill were to ever become law. However, my primary concern is not for industry. It is for the People. The bill would eventually degrade consumer protection in financial markets until no investor could have faith in U.S. financial markets. The bill would allow firms and markets to operate unchecked. The industry with the best lawyers would reign, regardless of business model, practices, or any other market consideration. Congress would be powerless to help. This legislation rejects the lessons of the financial crisis and statutorily mandates the mistakes that led to it, with the taxpayers on the hook.

Page 19, beginning on line 15, strike ''United States Court of Appeals for the District of Columbia Circuit or the United States Court of Appeals for the circuit'' and insert ''United States District Court for the District of Columbia or the United States District Court for the district''.

Ms. MOORE. I can tell you that among the requirements of this new section 203 is a mandate for regulators to consider ''available alternatives to direct regulation.''

Alternatives to regulation? What are we talking about here?

As a Member of Congress—and all of us who are accountable to voters—we should not be comfortable passing laws only to have regulators not implement them because Wall Street hedge funds or swap dealers object to a cost study issued with the regulation.

The Wolf of Wall Street should not get a veto over regulations because he can produce a self-serving study that a regulation may burden him in some way.

Mr. Chairman, how much time do I have remaining?

The CHAIR. The gentlewoman from Wisconsin has 2½ minutes remaining.

Ms. MOORE. Mr. Chairman, I reserve the balance of my time.

Mr. CONAWAY. Mr. Chairman, I rise in opposition to the amendment.

The CHAIR. The gentleman from Texas is recognized for 5 minutes.

Mr. CONAWAY. Mr. Chairman, we have already talked at length about the benefits of cost-benefit analysis, and section 203 would bring the discipline necessary to the agency for them to consider the costs and benefits when prescribing a new rule or regulation.

The gentlelady's remarks would be much more in line if she were strictly asking to strike the section, but she is asking for a sense of Congress. Why would we need a sense of Congress based on her arguments that CFTC doesn't need this issue at all? I would understand her arguments a lot better if she would have simply asked for a strike.

I am going to oppose the gentlewoman's amendment because her amendment is a stalking horse, because it would simply replace the bipartisan, well-crafted consideration for the new cost-benefit analysis for the CFTC with a sense of Congress. That, in my view, would gut and negate the value of having the agency actually go through, as they propose a rule, to determine what will be the cost and what will be the benefits.

We are always going to have regulations. God started us off with 10. We are going to have regulations, but they ought to make sense, they ought to regulate the minimum amount needed to regulate, and when the usefulness goes away, they should expire as well.

So as an agency conducts that process, taking into consideration the cost and benefits is an appropriate step as they put together regulations. It doesn't mean that the cost-benefit analysis will control in every instance, but it does allow for a better sense that those who are being regulated here have their voices heard during the process. And then if the agency has done a proper cost-benefit analysis, those who are regulated will stand a better chance of voluntarily complying with those new rules, we will have less

acrimony during the process, and perhaps even less litigation if the agency would use a proper cost-benefit analysis and reflect the impact of that analysis in the rules.

With that, I will oppose the amendment, and I reserve the balance of my time.

Ms. MOORE. Mr. Chairman, those bipartisan groups who do not learn from history are doomed to repeat it. We, on a bipartisan basis, didn't regulate these derivatives, and we will, unfortunately, learn our lesson.

I yield such time as she may consume to the gentlewoman from California (Ms. WATERS), ranking member of the Financial Services Committee.

Ms. WATERS. Thank you very much for yielding additional time to me to talk about cost-benefit analysis.

I think the gentlelady has made a real case for what we are dealing with here.

First of all, we know—and I guess we all agree—that prior to the meltdown that we had that caused the recession in this country, we did not have the kind of oversight that we needed on derivatives.

We worked very hard to bring about transparency. We worked very hard to get a handle on the role that derivatives played in this meltdown we had that caused us almost to go into a depression. And here we are trying to implement the reforms, trying very hard to protect the American public and those ends users that have been talked about so much today.

Cost-benefit analysis is just another way that has been injected into this whole attempt to regulate that would place unreasonable burdens on the CFTC and basically prohibit them from doing their job.

In offering this amendment, the gentlelady has made it very clear, and she has added additional support to what we have been talking about today relative to cost-benefit analysis. And so I hope that not only the information we have presented, but the information that she has presented is enough to have people understand what we need to do in order to protect the CFTC's ability to do its job and to carry out its mission.

Ms. MOORE. Section 203 takes us back to the day before AIG melted down. We are moving backwards in time and not forward with strengthening our economy.

With that, I yield back the balance of my time.

Mr. CONAWAY. Mr. Chairman, throughout the debate on this bill—in committee, in subcommittee—we have made the point over and over that this is simply a prospective change to the rules for the Commission. It has absolutely nothing to do with the rules that are already in place. The 60-some odd rules that are in place to protect under Dodd-Frank are unaffected by this change to the CFTC's rules and cost-benefit analysis.

In the future, if Congress decides on a massive law change, as they did with Dodd-Frank—one side of the House decided that—and the CFTC has to go through this, at that point in time these rules come into effect. But title VII to Dodd-Frank and all the changes that were made at the CFTC are in place.

So this is not going backwards. It is not looking backwards. This is simply a prospective change to the way the CFTC should operate going forward. They should have been operating under this rule anyway, but they weren't. The rules were antiquated. There were not enough teeth in them. So Chairman Gensler and others took advantage of it.

This will close that loophole and future chairmen will have to abide by a rational cost-benefit analysis program that will improve the regulations.

With that, Mr. Chairman, I urge my colleagues to oppose the amendment, and I yield back the balance of my time.

The CHAIR. The question is on the amendment offered by the gentlewoman from Wisconsin (Ms. MOORE).

The question was taken; and the Chair announced that the noes appeared to have it.

Ms. MOORE. Mr. Chairman, I demand a recorded vote.

The CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentlewoman from Wisconsin will be postponed.

AMENDMENT NO. 6 OFFERED BY MS. JACKSON LEE

The CHAIR. It is now in order to consider amendment No. 6 printed in House Report 113–476.

Ms. JACKSON LEE. Mr. Chairman, I have an amendment at the desk.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 19, beginning on line 15, strike ''United States Court of Appeals for the District of Columbia Circuit or the United States Court of Appeals for the circuit'' and insert ''United States District Court for the District of Columbia or the United States District Court for the district''.

The CHAIR. Pursuant to House Resolution 629, the gentlewoman from Texas (Ms. JACKSON LEE) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from Texas.

Ms. JACKSON LEE. Mr. Chairman, again, I thank the chairman and ranking member of the Financial Services Committee.

My amendment is simple. It would preserve existing law where a legal challenge to a CFTC regulation is reviewed first by the district court. And then, following an opinion by a district court judge, an appeal, if any, is taken to the court of appeals.

Let me, first of all, refer my colleagues to the joint report by the Agriculture Committee where specifically it says that the general review provisions of the APA would apply, requiring parties seeking to challenge CFTC rules to file a claim before a U.S. district court.

And it goes on to give those particular details. Then it goes on to indicate that to follow the review provisions of the APA—this going into a district court—the CFTC's general counsel indicated that he would not object to a change.

I would make the argument that it is not the general counsel but it is the individual consumer who should have the opportunity in a district court—either in their district or in the District of Columbia—to be able to make a record and to ensure that all of the facts of the issue dealing with the rule are fully vetted. And that will happen if you have the opportunity to go first to the district court.

Preserving existing law where a legal challenge to a CFTC regulation is reviewed first by the district court and then followed by an opinion by a district court judge gives the opportunity for a full briefing—a robust record that can be developed along the legal issue and fact issues, and also it reduces the ability of the industry to undermine important Dodd-Frank derivatives.

In my earlier statement on the floor, I indicated that many of the little guys are in the commodities. Dealing with that, they need the opportunities to have, in essence, the double-check on rules that may impact their business.

With respect to Dodd-Frank and this authorizing legislation, let us not throw the baby out with the bath water.

We all remember the dark days of September and October of 2008. The financial markets needed to be bailed out. I do not want to see that repeated.

So, again, the amendment is simple. It goes back to existing law. I cannot imagine that the general counsel would oppose existing law. The statement says he didn't mind. But, again, didn't mind closing down further opportunities for consumers to have a record made on something that they may be opposing?

So I would ask my colleagues to support the Jackson Lee amendment, and I reserve the balance of my time.

Mr. Chair, I wish to thank the Chair and Ranking Member for their work on this bill. We all know that the Agriculture Committee is one of the hardest working—and also has one of the most diverse missions in Congress. I thank you for this opportunity to briefly explain my amendment. It is simple and makes a significant improvement to the bill.

My amendment modifies Section 212 on judicial review that on page 19, lines 15 through 17 strikes ''United States Court of Appeals for the District of Columbia Circuit or the United States Court of Appeals for the circuit,'' and replaces with ''United States District Court for the District of Columbia or the United States Court for the district.

Doing so would preserve existing law, where a legal challenge to a CFTC regulation is reviewed first by the district court, and then following an opinion by a district court judge, an appeal, if any, is taken in the court of appeals.

This process provides for a more robust development of legal issues and a broader record in any appeal, reducing the ease of industry to undermine important Dodd-Frank derivatives rulemakings.

With respect to Dodd-Frank and this authorizing legislation, Mr. Chairman, let us not throw out the baby with the bath water. We all remember the dark days of September and October 2008 when the financial markets needed to be bailed out. I do not want to repeat that.

And more importantly, many of the residents of the 18th District of Texas have invested in homes, stocks, and education—and to see it all flittered away because someone on Wall Street, France, or Houston even, pushed the wrong button, generating a contra-trade when they meant to bet in the other direction—is not what Americans want to see.

I urge my colleagues to vote for fairness and judicial economy, and preserve existing law by supporting the Jackson Lee Amendment.

Mr. LUCAS. Mr. Chairman, I claim the time in opposition to the amendment.

The CHAIR. The gentleman from Oklahoma is recognized for 5 minutes.

Mr. LUCAS. Mr. Chairman, I yield myself such time as I may consume.

In crafting the Consumer Protection and End User Relief Act, I worked closely with Ranking Member PETERSON to ensure that judicial review of CFTC rules would be on the same footing as a review of security laws from the SEC, the Securities and Exchange Commission.

The current disparity between security laws and the Commodity Exchange Act has resulted in confusion in the past, as aggrieved parties were unsure of where to go to seek review of CFTC rules.

Quite simply, I urge my colleagues to vote against what I fear is a regressive amendment.

With that, I reserve the balance of my time.

Ms. JACKSON LEE. Mr. Chairman, how much time do I have remaining?

The CHAIR. The gentlewoman from Texas has 2 minutes remaining.

Ms. JACKSON LEE. I appreciate the chairman's commentary about the SEC. I am well aware that the SEC has driven itself to utilizing the Court of Appeals.

I would make the argument that there is a smaller investor that tends to engage in commodities, and, therefore, transparency and the opportunity to create a record is far more important in commodities.

I would also make the point that my amendment is supported by the Commodity Markets Oversight Coalition, which is asking for us to continue with existing law.

They, of course, include Airlines for America, American Baker's Association, California Black Farmers, California Independent Oil Marketers Association, Colorado Petroleum Marketers Association, Florida Petroleum Market Marketers Association, Maine Energy Marketers Association, the National Association of Oil and Energy Service Professionals, National Family Farm Coalition, among others, which I will include in the RECORD.

National Grange, New Jersey Citizen Action Oil Group, New Mexico Petroleum Marketers Association, North Dakota Petroleum Marketers Association, Oil Heat Council of New Hampshire, Petroleum Marketers and Convenience Stores of Iowa, Public Citizen, Ranchers-Cattlemen Action Legal Fund, Wyoming Petroleum Marketers Association, to name just a few, who clearly just ask for a simple request: when there is a need to challenge the rules, allow a full record to be made at the district court level. Commodities is not in the same vain as the SEC.

I would argue that there is need for greater highlight in information, and that the Jackson Lee amendment should be accepted for that kind of transparency and treating small investors fairly and giving them the opportunity to fully pursue their position when it comes to a particular rule.

I would ask my colleagues to support the amendment, and I yield back the balance of my time.

COMMODITY MARKETER OVERNIGHT COALITION

Supporting organizations: Airlines for America; American Baker's Association; American Feed Industry Association; American Public Power Association; American Trucking Associations; California Black Farmers & Agriculturalists Association; California Independent Oil Marketers Association; California Service Station and Automotive Repair Association; Colorado Petroleum Marketers Association; Connecticut Energy Marketers Association; Consumer Federation of America; Florida Petroleum Marketers Association; Fuel Merchants Association of New Jersey; Gasoline & Automotive Service Dealers of America; Institute for Agriculture and Trade Policy; Louisiana Oil Marketers & Convenience Store Association; Maine Energy Marketers Association; Montana Petroleum Marketers & Convenience Store Association; NAFA Fleet Management Association; National Association of Oil & Energy Service Professionals.

National Association of Shell Marketers; National Family Farm Coalition; National Farmers Union; National Grange; National Latino Farmers & Ranchers Trade Association; New England Fuel Institute; New Jersey Citizen Action Oil Group; New Mexico Petroleum Marketers Association; New York Oil Heating Association; North Dakota Petroleum Marketers Association; North Dakota Retail Association; Ohio Petroleum Marketers & Convenience Store Association; Oil Heat Council of New Hampshire.

Oil Heat Institute of Long Island; Oil Heat Institute of Rhode Island; Organization for Competitive Markets; Petroleum Marketers & Convenience Store Association Kansas; Petroleum Marketers & Convenience Stores of Iowa; Petroleum Marketers Association of America; Public Citizen; Ranchers-Cattlemen Action Legal Fund (R-CALF) USA; Utah Petroleum Marketers and Retailers Association; Vermont Fuel Dealers Association; West Virginia Oil Marketers and Grocers Association; Wyoming Petroleum Marketers Association.

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Mr. LUCAS. Mr. Chairman, I yield myself whatever time I might consume.

Once again, I respectfully ask my colleagues to vote against what I am concerned is a regressive amendment.

With that, I yield back the balance of my time.

The CHAIR. The question is on the amendment offered by the gentlewoman from Texas (Ms. JACKSON LEE).

The question was taken; and the Chair announced that the noes appeared to have it.

Ms. JACKSON LEE. Mr. Chairman, I demand a recorded vote.

The CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentlewoman from Texas will be postponed.

AMENDMENT NO. 7 OFFERED BY MR. FINCHER

The CHAIR. It is now in order to consider amendment No. 7 printed in House Report 113–476.

Mr. FINCHER. Mr. Chairman, I have an amendment at the desk.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 24, after line 21, insert the following:

SEC. ____. GAO STUDY ON COMMISSION LEASES.

(a) The Comptroller General of the United States shall, in consultation with the Commodity Futures Trading Commission Inspector General, conduct a study and publish a report regarding achieving efficiencies in leasing and rental costs at the Commodity Futures Trading Commission.

(b) The report shall be published within 90 days after the date of the enactment of this Act regarding achieving efficiencies in leasing and rental costs of buildings occupied by the Commodity Futures Trading Commission, and shall include recommendations to the Chairman of the Commodity Futures Trading Commission and the congressional committees of jurisdiction regarding the following:

(1) Average occupancy rates and leasing costs of buildings across the Federal Government compared to those currently in effect with respect to buildings and locations occupied by the Commodity Futures Trading Commission;

(2) Changes to leasing authority that could achieve efficiencies, including the revocation of independent leasing authority and transfer of authority to the Administrator of General Services;

(3) The recommendations and responses contained in the report by the Commodity Futures Trading Commission Inspector General, dated June 4, 2014.

(4) Other related recommendations that would achieve efficiencies in leasing and rental costs of buildings currently occupied by the Commodity Futures Trading Commission.

(5) Is the Commodity Futures Trading Commission violating any laws, including the Anti-Deficiency Act, by entering into these leases, particularly those with more than 5-year terms, and if so, how they can avoid violating Federal law in the future.

(c) The Chairman of the Commodity Futures Trading Commission shall report to the congressional committees of jurisdiction within 60 days after receipt of the report as to whether the Chairman accepts or rejects each of the recommendations of the Comptroller General, and an explanation for each decision.

The CHAIR. Pursuant to House Resolution 629, the gentleman from Tennessee (Mr. FINCHER) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Tennessee.

Mr. FINCHER. Mr. Chairman, my amendment to H.R. 4413 simply requires the Comptroller General of the United States to conduct a study of the efficiencies in leasing and rental costs at the Commodity Futures Trading Commission.

The study would determine if the CFTC is violating any laws, including the Antideficiency Act, by entering into these leases, particularly those with more than 5-year terms and, if so, how it can avoid violating Federal law in the future.

In a recent report from the inspector general of the Commodity Futures Trading Commission, we found that the CFTC is currently using just one-third of its Kansas City regional office.

The CFTC is paying approximately $44,000 per month, meaning that, over the 10-year life of the lease, the CFTC will pay $5.3 million, with $3.6 million dedicated to vacant office space.

However, in this letter from the inspector general, we found that this is not limited to just the Kansas City office. In fact, over the life of the CFTC's current leases, more than $200 million will be spent with approximately $64 million dedicated to vacant office spaces.

This is simply outrageous, and it is the latest example of government waste of taxpayer money. In fact, the CFTC management, in its May 14 response to the inspector general, agreed that there is excess vacant space.

However, the CFTC argued the lease of so many vacant offices was a justifiable expense because future funding increases are within the ''realm of possibility.''

Mr. Chairman, Congress has appropriated approximately 66 percent of the CFTC's budget request. Let's just look over the last few years. In fiscal year 2012 and in fiscal year 2013, the CFTC requested $308 million and received $205 million. In fiscal year 2014, the CFTC requested $315 million and received $215 million.

I agree with the inspector general that the realm of possibility is not the standard taxpayers expect when the government deals with their money.

Mr. Chairman, is it really too much to ask agencies that are spending millions on rent to actually need and use this space?

The inspector general hit the nail on the head when he stated that:

> The CFTC and the public are better served by the risk of a temporary shortage of space than a 100 percent certainty of spending substantial taxpayer dollars on the leases of vacant spaces.

It is just common sense that, if you can't afford it, you don't buy it. For these reasons, I urge my colleagues to vote for this amendment and ensure that the CFTC stops relying on the realm of possibility as justification for wasting taxpayer dollars on empty office spaces.

With that, I reserve the balance of my time.

Mr. PETERSON. Mr. Chairman, I claim the time in opposition.

The CHAIR. The gentleman from Minnesota is recognized for 5 minutes.

Mr. PETERSON. In opposition, I want to say that I have no opposition to this amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. FINCHER. Mr. Chairman, I urge the support of the amendment, and I yield back the balance of my time.

The CHAIR. The question is on the amendment offered by the gentleman from Tennessee (Mr. FINCHER).

The amendment was agreed to.

AMENDMENT NO. 8 OFFERED BY MR. GARRETT

The CHAIR. It is now in order to consider amendment No. 8 printed in House Report 113–476.

Mr. GARRETT. Mr. Chairman, I have an amendment at the desk.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 55, after line 2, insert the following:

SEC. _____. TREATMENT OF CERTAIN FUNDS.

(a) AMENDMENT TO THE DEFINITION OF COMMODITY POOL OPERATOR.—Section 1a(11) of the Commodity Exchange Act (7 U.S.C. 1a(11)) is amended by adding at the end the following:

''(C)(i) The term 'commodity pool operator' does not include a person who serves as an investment adviser to an investment company registered pursuant to section 8 of the Investment Company Act of 1940 or a subsidiary of such a company, if the investment company or subsidiary invests, reinvests, owns, holds, or trades in commodity interests limited to only financial commodity interests.

''(ii) For purposes of this subparagraph only, the term 'financial commodity interest' means a futures contract, an option on a futures contract, or a swap, involving a commodity that is not an exempt commodity or an agricultural commodity, including any index of financial commodity interests, whether cash settled or involving physical delivery.

''(iii) For purposes of this subparagraph only, the term 'commodity' does not include a security issued by a real estate investment trust, business development company, or issuer of asset-backed securities, including any index of such securities.''.

(b) AMENDMENT TO THE DEFINITION OF COMMODITY TRADING ADVISOR.—Section 1a(12) of such Act (7 U.S.C. 1a(12)) is amended by adding at the end the following:

''(E) The term 'commodity trading advisor' does not include a person who serves as an investment adviser to an investment company registered pursuant to section 8 of the Investment Company Act of 1940 or a subsidiary of such a company, if the commodity trading advice relates only to a financial commodity interest, as defined in paragraph (11)(C)(ii) of this section. For purposes of this subparagraph only, the term 'commodity' does not include a security issued by a real estate investment trust, business development company, or issuer of asset-backed securities, including any index of such securities.''.

The CHAIR. Pursuant to House Resolution 629, the gentleman from New Jersey (Mr. GARRETT) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from New Jersey.

Mr. GARRETT. Mr. Chairman, I rise today to offer an amendment to H.R. 4413, the Customer Protection and End User Relief Act.

This amendment seeks to address duplicative and overburdensome regulatory and registration requirements being faced by pensioners, savers, retirees, endowments, municipalities, and many other investors.

Registered investment companies, RICs, play a critical role in the U.S. financial savings and retirement landscape. Millions of retirees, pensioners, and other savers across the country seek access to RICs to invest their hard-earned money and savings to invest for retirement, college tuition, or a first home.

Currently, all RICs are registered with and are primarily regulated by the SEC and have to comply with an extensive set of rules and requirements, including the oversight of their derivatives holdings.

Back in 2012, the Commodity Futures Trading Commission, the CFTC, acting on its own initiative and without any direction from Congress, significantly narrowed a longstanding exclusion from the commodity pool operator, CPO, registration for ''otherwise regulated entities,'' but only for RICs, which are comprehensively regulated by SEC and typically do not resemble traditional commodity pools.

Because all RICs are currently registered with and are regulated by the SEC, the CFTC's rules change needlessly forces fund companies that manage literally thousands of funds, representing literally millions of U.S. pensioners, savers, and retirees to do what? To pay for costly and duplicative registration requirements.

You see, even without registration, the CFTC still has enforcement authority over all commodity contracts. This amendment would not, in any way, change the extent to which all commodity transactions are subject to the transaction level requirements of regulation, such as reporting, such as clearing, such as trading, and even margin. This amendment simply eliminates the duplicative regulatory and registration costs faced by these funds.

Also, by more appropriately tailoring the CFTC's regulatory reach, this amendment has the added benefit of ensuring that the CFTC has actually even more funds and resources available to do what? To implement Dodd-Frank and enforce the new swaps regulatory regime.

This will help the agency prioritize, even better, their current workload and even reduce the need for a significant increase in the agency's budget during these challenging fiscal times.

Mr. Chairman, at a time when millions of American households are approaching retirement and their investment returns are significantly reduced because of the Federal Reserve's low interest rate policies, it is very important that government public policy

minimize the regulatory costs of investment for our retirees, for our pensioners, and for our savers.

We must strike the right balance between ensuring investors have the ability to earn adequate returns on their investments with the appropriate regulatory oversight of our financial markets.

Please help restore this balance and protect investors by voting ''yes'' for the Garrett amendment to H.R. 4413.

I reserve the balance of my time.

Mr. PETERSON. Mr. Chairman, I claim the time in opposition.

The CHAIR. The gentleman from Minnesota is recognized for 5 minutes.

Mr. PETERSON. Mr. Chairman, as one great American said: now, we are going to hear the rest of the story.

This is a situation where industry lost in court, and now, they are coming to Congress to try to accomplish what they couldn't do through the court system, so I rise in opposition.

From President Reagan's time to President Clinton's, the CFTC has—on its own accord—exempted registered investment companies, RICs, from having to register as commodity pool operators or as commodity trade advisers with the CFTC, provided they meet two conditions: one, that the commodity futures activity occurring in the funds they managed was below a set threshold; and, two, that they did not market to retail customers as a commodity pool or investment vehicle for commodity futures or commodity options.

During the first term of the second Bush administration, the CFTC eliminated both the threshold and the retail marketing restriction. These steps allowed investment companies unlimited access to commodity futures markets without any CFTC oversight and were opposed by the National Futures Association, the frontline regulator for the CFTC.

In 2010, the National Futures Association petitioned the CFTC to reconsider the broad exemption for registration given for RICs. From that request and following the passage of the Dodd-Frank Act, giving the Commission new jurisdiction over swaps, the CFTC reconsidered its exemption for RICs and reinstituted the thresholds for trading activity and retail marketing conditions that would trigger registration with the CFTC.

Not surprisingly, the Investment Company Institute, which represents these funds and the Chamber of Commerce, then sued the CFTC. The Federal district court ruled in favor of the CFTC, and the court ruled for the agency in summary judgment.

The funds appealed, and the U.S. Court of Appeals upheld the ruling in favor of the CFTC. After the CFTC won its case, the Commission set up a harmonization regime versus SEC rules for the registered trading advisers who were involved in this. If the CFTC and SEC rules conflict, the RIC can defer to the SEC rules.

Despite that accomodation by the Commission, its having lost both the regulation and the litigation, the financial community is here now with this legislation.

The Garrett amendment attempts to accomplish what the financial industry could not achieve in the courts. The amendment would permanently remove the CFTC's jurisdiction over RICs registered with the SEC, regardless of how big they play in the futures or swaps market and regardless of their reach to retail customers.

The amendment's supporters will say that this only applies to investments in futures, options on futures, and swaps in financial commodities, as opposed to agriculture or energy commodities; but I would remind the Members that it was financial swaps, like credit default swaps, that contributed to the financial collapse in 2008. It wasn't energy or agriculture swaps.

The SEC failed in its oversight in 2008. I don't want to have to rely on them to keep an eye on financial instruments, and I don't want to have a repeat of the Bernie Madoff scandal, but, this time, in futures.

The CFTC has gone out of its way to accommodate industry concerns over duplicative oversight through its substituted compliance regime. Given their past bad behavior, I don't think we should rely on one agency to keep an eye on these guys, so I urge you to defeat this amendment.

Mr. GARRETT. Will the gentleman yield?

Mr. PETERSON. I yield to the gentleman from New Jersey.

Mr. GARRETT. Your last sentence was that you do not wish to rely on just one entity—presumably the SEC—in the enforcement of these contracts and so on and so forth.

Mr. PETERSON. It is only in certain circumstances.

Mr. GARRETT. Right, but we do nothing in this amendment to take away from the CFTC their enforcement authority. They retain that.

All that has changed is the registration requirement. The CFTC and the SEC retain both their mutual and harmonious, if you will, enforcement authorities under all of the contracts that are respective to these provisions. That is not taken away.

We just say: Why duplicate the effort as far as registration requirements? I just wanted to clarify that point.

Mr. PETERSON. I think there is more to it than that.

Mr. GARRETT. No.

Mr. PETERSON. They wouldn't go through all of this to try to get the CFTC to do what they wanted, then go through the courts, and then come here with legislation, if this were just some minor registration issue, no.

Mr. GARRETT. Actually, yes, they would.

The CHAIR. The gentleman from Minnesota controls the time, and his time has expired.

The gentleman from New Jersey has 1½ minutes remaining.

Mr. GARRETT. Great. I would like to hear from our chairman.

Before that, Mr. Chairman, I yield 1 minute to the gentleman from Georgia (Mr. DAVID SCOTT).

Mr. DAVID SCOTT of Georgia. This is a very interesting debate in listening to it, but I think the simple point here, Mr. Chairman, is that, number one, this just deals with the registration. Prior to 2012, the SEC handled all of the RICs.

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Now, we have caught up in the middle of this millions and millions of pensioners, retirees, people who are getting into the golden years of their lives.

My hope is that we can pass this amendment. It only deals with registration. The ranking member has brought up some interesting points. That is why we do have the courts to settle those.

I think here, tonight, we need to think of what this simple amendment does is stop duplicative areas within registration and gives a better hand for our retirees today.

Mr. GARRETT. I thank the gentleman from Georgia for his support for this legislation and for the amendment.

I yield now the remainder of my time to the chairman of the committee, and congratulate him for his great work on the underlying legislation before us today.

Mr. LUCAS. Mr. Chairman, I thank the gentleman from New Jersey.

I would simply note: let's cut to the point here. The CFTC, when finalizing the rules for registered investment companies, deferred almost entirely to the SEC to regulate them, so this amendment is in line with what the CFTC has already done.

I urge my colleagues to support the commonsense amendment. Let's just do what is reflected here, and I thank the gentleman for his input.

Mr. GARRETT. Mr. Chairman, I yield back the balance of my time.

The CHAIR. The question is on the amendment offered by the gentleman from New Jersey (Mr. GARRETT).

The question was taken; and the Chair announced that the ayes appeared to have it.

Mr. PETERSON. Mr. Chairman, I demand a recorded vote.

The CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from New Jersey will be postponed.

Mr. LUCAS. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. CONAWAY) having assumed the chair, Mr. BISHOP of Utah, Chair of the Committee of the Whole House on the state of the Union, reported that that Committee, having had under consideration the bill (H.R. 4413) to reauthorize the Commodity Futures Trading Commission, to better protect futures customers, to provide end users with market certainty, to make basic reforms to

ensure transparency and accountability at the Commission, to help farmers, ranchers, and end users manage risks to help keep consumer costs low, and for other purposes, had come to no resolution thereon.

GENERAL LEAVE

Mr. LUCAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on H.R. 4413.

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

There was no objection.

PROTECTING FARMERS FROM THE EPA

(Mr. THOMPSON of Pennsylvania asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THOMPSON of Pennsylvania. Mr. Speaker, last Friday, on June 20, members of the Pennsylvania congressional delegation joined together to protect Pennsylvania farmers by fighting back against another regulatory overreach by the Environmental Protection Agency.

I, along with Senator PAT TOOMEY and U.S. Representatives SCOTT PERRY, LOU BARLETTA, and BILL SHUSTER, filed a brief with the U.S. Court of Appeals for the Third Circuit in Philadelphia, in a case that centers on the proper scope of the EPA's authority under the Clean Water Act and the Chesapeake Bay watershed.

Over the past decade, regional and State-led conservation efforts have substantially reduced agriculture's ecological footprint within the watershed. Today, farmers continue to improve land management practices and remain the best stewards of our natural resources, which their livelihoods are dependent upon.

Despite these success stories, the EPA is seeking to seize, for the Federal Government, powers traditionally held by the States and impose an unconscionable economic burden on farmers and taxpayers.

Mr. Speaker, the EPA has continued a foolish and impractical pursuit to put forth oppressive mandates that threaten the economic livelihood of our local farms and businesses. It is abuse of power that cannot and will not be tolerated.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. FITZPATRICK (at the request of Mr. CANTOR) for today on account of travel delays.

ADJOURNMENT

Mr. THOMPSON of Pennsylvania. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 4 minutes p.m.), under its previous order, the House adjourned until tomorrow, Tuesday, June 24, 2014, at 10 a.m. for morning-hour debate.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XIV, executive communications were taken from the Speaker's table and referred as follows:

6084. A letter from the Acting Under Secretary, Department of Defense, transmitting authorization of Colonel David S. Nahom and Colonel Stephen C. Williams, United States Air Force, to wear the authorized insignia of the grade of brigadier general; to the Committee on Armed Services.

6085. A letter from the Acting Under Secretary, Department of Defense, transmitting authorization of Major General Anthony J. Rock, United States Air Force, to wear the authorized insignia of the grade of lieutenant general; to the Committee on Armed Services.

6086. A letter from the Senior Procurement Executive, GSA, General Services Administration, transmitting the Administration's final rule — Federal Acquisition Regulation; Contractor Comment Period, Past Performance Evaluations [FAC 2005-74; FAR Case 2012-028; Item IV; Docket No. 2012-0028, Sequence 1] (RIN: 9000-AM40) received June 2, 2014, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

6087. A letter from the Senior Procurement Executive, GSA, General Services Administration, transmitting the Administration's final rule — Federal Acquisition Regulation; Defense Base Act [FAC 2005-74; FAR Case 2012-016; Item V; Docket No. 2012-0016, Sequence 1] (RIN: 9000-AM50) received June 2, 2014, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

6088. A letter from the Assistant Secretary for Legislative Affairs, Department of the Treasury, transmitting the annual report of the National Advisory Council on International Monetary and Financial Policies; to the Committee on Financial Services.

6089. A letter from the Secretary, Department of Health and Human Services, transmitting a report entitled ''HHS Secretary's Efforts to Improve Children's Health Care Quality in Medicaid and CHIP''; to the Committee on Energy and Commerce.

6090. A letter from the Secretary, Department of the Treasury, transmitting as required by section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), a six-month periodic report on the national emergency with respect to North Korea that was declared in Executive Order 13466 of June 26, 2008; to the Committee on Foreign Affairs.

6091. A letter from the Secretary, Department of the Treasury, transmitting as required by section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), and pursuant to Executive Order 13313 of July 31, 2003, a six-month periodic report on the national emergency with respect to the Western Balkans that was declared in Executive Order 13219 of June 26, 2001; to the Committee on Foreign Affairs.

6092. A letter from the Secretary, Department of the Treasury, transmitting as required by section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Economic Powers Act, 50 U.S.C. 1703(c), a six-month periodic report on the national emergency blocking property of the government of the Russian Federation relating to the disposition of the highly enriched uranium extracted from nuclear weapons that was declared in Executive Order 13617 of June 25, 2012; to the Committee on Foreign Affairs.

6093. A letter from the Associate General Counsel for General Law, Department of Homeland Security, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

6094. A letter from the Secretary, Department of Labor, transmitting pursuant to Title II, Section 203, of the Notification and Federal Employee Antidiscrimination and Retaliation Act (No FEAR Act), the Department's annual report for FY 2013; to the Committee on Oversight and Government Reform.

6095. A letter from the Director, Environmental Protection Agency, transmitting the Agency's annual report for FY 2013 prepared in accordance with Section 203 of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act), Public Law 107-174; to the Committee on Oversight and Government Reform.

6096. A letter from the Executive Director, Interstate Commission on the Potomac River Basin, transmitting the Commission's audited Seventy-Third Financial Statement for the period of October 1, 2012 to September 30, 2013 pursuant to the Federal Managers' Financial Integrity Act and the Inspector General Act of 1978, as amended; to the Committee on Oversight and Government Reform.

6097. A letter from the Acting Director, Office of National Drug Control Policy, transmitting the Office's report entitled, ''The Fiscal Year 2013 Accounting of Drug Control Funds and the Fiscal Year 2013 Performance Summary Report''; to the Committee on Oversight and Government Reform.

6098. A letter from the Acting Commissioner, Social Security Administration, transmitting the semiannual report on the activities of the Office of Inspector General for the period October 1, 2013 through March 31, 2014; to the Committee on Oversight and Government Reform.

6099. A letter from the Director, Office of Surface Mining, Department of the Interior, transmitting the Department's final rule — Utah Regulatory Program [STATS No. UT-049-FOR; Docket ID No.: OSM-2012-0015; S1D1SSS08011000SX066A00067F144S180110; S2D2SSS08011000SX066A00033F14XS501520] received June 3, 2014, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

6100. A letter from the Director, Office of Surface Mining, Department of the Interior, transmitting the Department's final rule — North Dakota Regulatory Program [STATS No. ND-053-FOR; Docket ID No.: OSM-2012-0006; S1D1SSS08011000SX066A00067F144S180110; S2D2SSS08011000SX066A00033F14SX501520] received June 3, 2014, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

6101. A letter from the Deputy Assistant Administrator for Regulatory Programs, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries Off West Coast States; Pacific Coast Groundfish Fishery Management Plan; Commercial Groundfish Fishery Management Measures; Rockfish Conservation Area Boundaries for Vessels Using Bottom Trawl Gear [Docket No.: 130808694-4318-02] (RIN: 06488-BD37) received May 19, 2014, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.