



H.R. 6604 – COMMODITY MARKETS TRANSPARENCY AND ACCOUNTABILITY ACT OF 2008

FLOOR SITUATION

H.R. 6604 is being considered on the floor under suspension of the rules and will require a two-thirds majority vote for passage. This legislation was introduced by Representative Collin Peterson (D-MN) on July 24, 2008. The House Committee on Agriculture approved the bill, by voice vote, on July 24, 2008.

H.R. 6604 is expected to be considered on the floor of the House on July 30, 2008.

SUMMARY

Speculative Limits and Transparency

H.R. 6604 prohibits the Commodity Futures Trade Commission (CFTC) from allowing a foreign board of trade to provide its members or participants located in the U.S. with access to the electronic trading and order matching system for energy and agricultural commodities, unless the board of the foreign board sets transparency requirements similar to those on U.S. exchanges.

Such requirements include providing the CFTC with information necessary to publish reports on aggregate trader positions in foreign commodities markets and notifying the CFTC of any change regarding the position limits that the foreign board of trade or foreign futures authority will adopt and enforce. These requirements will not take effect until 180 days after enactment.

Persons registered with the CFTC, or those exempt from registration by the CFTC, may not be held liable for violations of the provisions in H.R. 6604 if the person reasonably believes that the commodity transaction they are involved with is being made subject to the rules of a legally organized foreign board of trade and not determined by the CFTC to be in violation of the provisions of the CFTC.

Publication and Disaggregation of Index Funds in Energy and Agricultural Markets

The legislation requires the CFTC to publish weekly the number and total value of index and futures commodity transactions in energy and agricultural markets. Also to be published is information on speculative positions in futures markets.

Detailed Reporting From Index Traders and Swap Transactions

The bill requires that the CFTC place record keeping and reporting requirements on index traders and swap transaction dealers. Records and reports are to detail information related to their dealings in futures contracts markets, with foreign boards of trade, and electronic trading facilities. The CFTC is to issue proposed requirements within 60 days of enactment, and a final set of requirements within 120 days of enactment.

Trading Limits Preventing Excessive Speculation

The Commission is to establish limits on the positions that may be held by a single person with respect to the future sale of agriculture and energy commodities contracts traded on the open market, either through contract market, a derivatives transaction facility, or an electronic trading facility.

Within 150 days of enactment, the CFTC is to assemble and convene a 'Position Limit Agricultural Advisory Group' and a 'Position Limit Energy Group.' These groups are to consist of members from commercial short hedgers, commercial long-hedgers, non-commercial participants in futures and designated contract markets.



These groups are to submit advisory recommendations regarding position limits, and whether the limits should be administered by the CFTC or by the registered entity on which the commodity is listed. These advisory groups should report within 60 days of convening and annually thereafter.

CFTC Administration

As soon as possible after enactment, the CFTC is to appoint at least 100 full time employees (in addition to those already employed by the CFTC) whose purpose will be to increase public transparency of agriculture and energy futures markets and to help carry out the requirements implemented by H.R. 6604.

Review of Prior Actions

The bill requires the Commodity Futures Trading Commission to review, as appropriate, all actions taken by or on behalf of the Commission and any action taken pursuant to the Commodity Exchange Act by an exchange or other registered entity to ensure that such prior actions are in compliance with the provisions of this legislation.

Review of Over the Counter Markets

The bill requires the Commission to conduct a study to determine the effects of establishing position limits and the effects of establishing aggregate position limits for on-exchange and OTC transactions in physical-based commodities. It requires the Commission to hold at least two public hearings as a part of the fact gathering process in preparation for the report that they must submit to Congress within twelve months of the enactment of the bill.

Studies and Reports

The bill requires the Comptroller General to conduct a study of the international regime for regulating the trading of energy commodity futures and derivatives and report their results and recommendations within one year of enactment. In addition, the Comptroller General is required to study the effect of speculators on agriculture and energy futures markets and agriculture and energy prices to Congress within two years of the date of enactment.

Over-the-Counter Authority

H.R. 6604 directs the Commission to require routine reporting of over-the-counter transactions in the agricultural or energy commodities that are fungible, or interchangeable, with contracts traded on Designated Contract Markets (DCMs), Exempt Commercial Markets (ECMs), and Significant Price Discovery Contracts (SPDCs). The Commission is required to assess every reported transaction and issue a finding on whether the transaction has the potential to disrupt liquidity or price discovery on a registered entity, cause a severe market disturbance in the underlying cash or futures market for an agricultural or energy commodity, or prevent or impair the price of a contract listed for trading on a registered entity from reflecting the forces of supply and demand. If the commission makes a finding that the transaction causes the aforementioned impacts, then the commission may establish positions on these transactions.

**Note: Over-the-Counter means the trading of commodities, contracts, or other instruments not listed on any exchange. OTC transactions can occur electronically or over the telephone.*

BACKGROUND

With the price of gas at \$3.93 per gallon as of July 30, 2008, the rise in the price of gasoline has caused debate over proposed energy policies. Contributing to the high price of gas are factors such as political instability and violence in oil producing regions as well as simple supply and demand, with increasing global demand for oil (most notably in developing countries such as China and India) and limited U.S. refining capabilities.



Oil is one of many commodities that is bought and sold through future contracts for its delivery and sale. Speculators purchase these contracts based on how they expect the market will perform in the future. Whether speculators made a profit on the settlement or sale of these contracts depends on the price of oil at the time it matures. Some critics argue that the increased number of investors in the oil commodities market is causing the price of oil to rise.

The Commodity Futures Trading Commission (CFTC) was created by Congress in 1974 as an agency to regulate commodity futures markets in the U.S. Today, the CFTC assures the economic efficacy of futures commodity markets by protecting market participants against fraudulent and abusive trading practices, and encouraging competitiveness and efficiency among investors. Oil futures are exchanged on the New York Mercantile Exchange (NYMEX), which is regulated by the CFTC along with all other U.S. commodities exchanges. Oil commodities are also traded on other international exchange markets such as those in London and Dubai.

On June 10, 2008, the CFTC announced that they will create an Interagency Task Force to study recent developments in futures commodity markets and the high price of tradable commodities, such as oil. Specifically, the commission will examine practices such as investor practices, supply and demand factors, as well as the effects that speculators have in commodity markets. The CFTC released a report on July 22, 2008, assessing fundamental market factors affecting the crude oil market. The report concludes that it was fundamental supply and demand offer the best explanation for the recent increases in crude oil prices.

On June 26, 2008, the House passed H.R. 6377 - Energy Markets Emergency Act of 2008, by a vote of 402-19 ([Roll no. 468](#)). H.R. 6377 directs the CFTC to immediately curb the role of excessive speculation in any contract market within its jurisdiction and control, or through which energy futures or swaps are traded.

Additionally, the legislation directs the CFTC to eliminate excessive speculation, price distortion, sudden or unreasonable fluctuations or unwarranted changes in prices, as well as any other unlawful activity that causes market disturbances which prevent the market from accurately reflecting the forces of supply and demand for energy commodities.

[CFTC – Glossary of Terms](#)

ADDITIONAL VIEWS

According to a July 30, 2008, Statement of Administration Policy addressing H.R. 6604, "The Administration is concerned about the current high price of oil and its effect on consumers and the economy. On the basis of these concerns, the President recently lifted an executive prohibition on drilling for oil and natural gas on the Outer Continental Shelf, and urged Congress to remove similar legislative barriers in order to increase domestic production of oil and gas. The President has also repeatedly urged congressional action to: (1) remove the prohibition on completing commercial oil shale leasing regulations to allow access to this promising resource; (2) allow exploration in the Arctic National Wildlife Refuge; and (3) streamline the permitting process for expansions and reconfigurations of refineries.

The Administration is strongly opposed to H.R. 6604, which offers poorly targeted short-term measures that do nothing to address the fundamentals of supply and demand that bear the primary responsibility for current high energy prices. The bill will hurt the competitiveness of American futures markets and place significant, unnecessary burdens on CFTC staff. The new and sometimes redundant authorities and studies in the bill will consume significant CFTC resources and will divert the agency from its core mission of promoting fair and efficient futures markets. If the bill were presented to the President in its current form, his senior advisors would recommend that he veto it."



LEGISLATIVE DIGEST

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[Full Statement of Administration Policy for H.R. 6604](#)

COST

The Congressional Budget Office did not have a cost estimate available for H.R. 6604 as of July 30, 2008.

STAFF CONTACT

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