

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 6604
OFFERED BY MR. PETERSON OF MINNESOTA**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Commodity Markets
3 Transparency and Accountability Act of 2008”.

4 SEC. 2. TABLE OF CONTENTS.

5 The table of contents of this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.
- Sec. 3. Definition of energy commodity.
- Sec. 4. Speculative limits and transparency of off-shore trading.
- Sec. 5. Disaggregation of index funds and other data in energy and agriculture markets.
- Sec. 6. Detailed reporting from index traders and swap dealers.
- Sec. 7. Transparency and recordkeeping authorities.
- Sec. 8. Trading limits to prevent excessive speculation.
- Sec. 9. Modifications to core principles applicable to position limits for contracts in agricultural and energy commodities.
- Sec. 10. CFTC Administration.
- Sec. 11. Review of prior actions.
- Sec. 12. Review of over-the-counter markets.
- Sec. 13. Studies; reports.
- Sec. 14. Over-the-counter authority.
- Sec. 15. Expedited process.

6 SEC. 3. DEFINITION OF ENERGY COMMODITY.

7 (a) DEFINITION OF ENERGY COMMODITY.—Section
8 1a of the Commodity Exchange Act (7 U.S.C. 1a) is
9 amended—

1 (1) by redesignating paragraphs (13) through
2 (34) as paragraphs (14) through (35), respectively;
3 and

4 (2) by inserting after paragraph (12) the fol-
5 lowing:

6 “(13) ENERGY COMMODITY.—The term ‘energy
7 commodity’ means—

8 “(A) coal;

9 “(B) crude oil, gasoline, diesel fuel, jet
10 fuel, heating oil, and propane;

11 “(C) electricity;

12 “(D) natural gas; and

13 “(E) any other substance that is used as
14 a source of energy, as the Commission, in its
15 discretion, deems appropriate.”.

16 (b) CONFORMING AMENDMENTS.—

17 (1) Section 2(c)(2)(B)(i)(II)(cc) of the Com-
18 modity Exchange Act (7 U.S.C.
19 2(c)(2)(B)(i)(II)(cc)) is amended—

20 (A) in subitem (AA), by striking “section
21 1a(20)” and inserting “section 1a(21)”; and

22 (B) in subitem (BB), by striking “section
23 1a(20)” and inserting “section 1a(21)”.

1 (2) Section 13106(b)(1) of the Food, Conserva-
2 tion, and Energy Act of 2008 is amended by striking
3 “section 1a(32)” and inserting “section 1a”.

4 (3) Section 402 of the Legal Certainty for
5 Bank Products Act of 2000 (7 U.S.C. 27) is amend-
6 ed—

7 (A) in subsection (a)(7), by striking “sec-
8 tion 1a(20)” and inserting “section 1a”; and

9 (B) in subsection (d)—

10 (i) in paragraph (1)(B), by striking
11 “section 1a(33)” and inserting “section
12 1a”; and

13 (ii) in paragraph (2)(D), by striking
14 “section 1a(13)” and inserting “section
15 1a”.

16 **SEC. 4. SPECULATIVE LIMITS AND TRANSPARENCY OF OFF-**
17 **SHORE TRADING.**

18 (a) **IN GENERAL.**—Section 4 of the Commodity Ex-
19 change Act (7 U.S.C. 6) is amended by adding at the end
20 the following:

21 “(e) **FOREIGN BOARDS OF TRADE.**—

22 “(1) **IN GENERAL.**—The Commission may not
23 permit a foreign board of trade to provide to the
24 members of the foreign board of trade or other par-
25 ticipants located in the United States direct access

1 to the electronic trading and order matching system
2 of the foreign board of trade with respect to an
3 agreement, contract, or transaction in an energy or
4 agricultural commodity that settles against any price
5 (including the daily or final settlement price) of 1 or
6 more contracts listed for trading on a registered en-
7 tity, unless—

8 “(A) the foreign board of trade makes pub-
9 lic daily trading information regarding the
10 agreement, contract, or transaction that is com-
11 parable to the daily trading information pub-
12 lished by the registered entity for the 1 or more
13 contracts against which the agreement, con-
14 tract, or transaction traded on the foreign
15 board of trade settles; and

16 “(B) the foreign board of trade (or the for-
17 eign futures authority that oversees the foreign
18 board of trade)—

19 “(i) adopts position limits (including
20 related hedge exemption provisions) for the
21 agreement, contract, or transaction that
22 are comparable, taking into consideration
23 the relative sizes of the respective markets,
24 to the position limits (including related
25 hedge exemption provisions) adopted by

1 the registered entity for the 1 or more con-
2 tracts against which the agreement, con-
3 tract, or transaction traded on the foreign
4 board of trade settles;

5 “(ii) has the authority to require or
6 direct market participants to limit, reduce,
7 or liquidate any position the foreign board
8 of trade (or the foreign futures authority
9 that oversees the foreign board of trade)
10 determines to be necessary to prevent or
11 reduce the threat of price manipulation,
12 excessive speculation as described in sec-
13 tion 4a, price distortion, or disruption of
14 delivery or the cash settlement process;

15 “(iii) agrees to promptly notify the
16 Commission of any change regarding—

17 “(I) the information that the for-
18 eign board of trade will make publicly
19 available;

20 “(II) the position limits that the
21 foreign board of trade or foreign fu-
22 tures authority will adopt and enforce;

23 “(III) the position reductions re-
24 quired to prevent manipulation, exces-
25 sive speculation as described in sec-

1 tion 4a, price distortion, or disruption
2 of delivery or the cash settlement
3 process; and

4 “(IV) any other area of interest
5 expressed by the Commission to the
6 foreign board of trade or foreign fu-
7 tures authority;

8 “(iv) provides information to the
9 Commission regarding large trader posi-
10 tions in the agreement, contract, or trans-
11 action that is comparable to the large trad-
12 er position information collected by the
13 Commission for the 1 or more contracts
14 against which the agreement, contract, or
15 transaction traded on the foreign board of
16 trade settles; and

17 “(v) provides the Commission with in-
18 formation necessary to publish reports on
19 aggregate trader positions for the agree-
20 ment, contract, or transaction traded on
21 the foreign board of trade that are com-
22 parable to such reports for 1 or more con-
23 tracts against which the agreement, con-
24 tract, or transaction traded on the foreign
25 board of trade settles.

1 “(2) EXISTING FOREIGN BOARDS OF TRADE.—
2 Paragraph (1) shall not be effective with respect to
3 any agreement, contract, or transaction in an energy
4 commodity executed on a foreign board of trade to
5 which the Commission had granted direct access
6 permission before the date of the enactment of this
7 subsection until the date that is 180 days after such
8 date of enactment.”.

9 (b) LIABILITY OF REGISTERED PERSONS TRADING
10 ON A FOREIGN BOARD OF TRADE.—

11 (1) Section 4(a) of such Act (7 U.S.C. 6(a)) is
12 amended by inserting “or by subsection (f)” after
13 “Unless exempted by the Commission pursuant to
14 subsection (c)”.

15 (2) Section 4 of such Act (7 U.S.C. 6) is fur-
16 ther amended by adding at the end the following:

17 “(f) A person registered with the Commission, or ex-
18 empt from registration by the Commission, under this Act
19 may not be found to have violated subsection (a) with re-
20 spect to a transaction in, or in connection with, a contract
21 of sale of a commodity for future delivery if the person
22 has reason to believe the transaction and the contract is
23 made on or subject to the rules of a board of trade that
24 is legally organized under the laws of a foreign country,
25 authorized to act as a board of trade by a foreign futures

1 authority, subject to regulation by the foreign futures au-
2 thority, and has not been determined by the Commission
3 to be operating in violation of subsection (a).”.

4 (c) CONTRACT ENFORCEMENT FOR FOREIGN FU-
5 TURES CONTRACTS.—Section 22(a) of such Act (7 U.S.C.
6 25(a)) is amended by adding at the end the following:

7 “(5) A contract of sale of a commodity for fu-
8 ture delivery traded or executed on or through the
9 facilities of a board of trade, exchange, or market lo-
10 cated outside the United States for purposes of sec-
11 tion 4(a) shall not be void, voidable, or unenforce-
12 able, and a party to such a contract shall not be en-
13 titled to rescind or recover any payment made with
14 respect to the contract, based on the failure of the
15 foreign board of trade to comply with any provision
16 of this Act.”.

17 **SEC. 5. DISAGGREGATION OF INDEX FUNDS AND OTHER**
18 **DATA IN ENERGY AND AGRICULTURE MAR-**
19 **KETS.**

20 Section 4 of the Commodity Exchange Act (7 U.S.C.
21 6), as amended by section 4 of this Act, is amended by
22 adding at the end the following:

23 “(g) DISAGGREGATION OF INDEX FUNDS AND
24 OTHER DATA IN ENERGY AND AGRICULTURE MAR-
25 KETS.—Subject to section 8 and beginning within 30 days

1 of the issuance of the final rule required by section 4(h),
2 the Commission shall disaggregate and make public week-
3 ly—

4 “(1) the number of positions and total value of
5 index funds and other passive, long-only and short-
6 only positions (as defined by the Commission) in all
7 energy and agricultural markets to the extent such
8 information is available; and

9 “(2) data on speculative positions relative to
10 bona fide physical hedgers in those markets to the
11 extent such information is available.”.

12 **SEC. 6. DETAILED REPORTING FROM INDEX TRADERS AND**
13 **SWAP DEALERS.**

14 Section 4 of the Commodity Exchange Act (7 U.S.C.
15 6), as amended by sections 4 and 5 of this Act, is amended
16 by adding at the end the following:

17 “(h) INDEX TRADERS AND SWAP DEALERS REPORT-
18 ING.—The Commission shall issue a proposed rule defin-
19 ing and classifying index traders and swap dealers (as
20 those terms are defined by the Commission) for purposes
21 of data reporting requirements and setting routine de-
22 tailed reporting requirements for such entities in des-
23 igned contract markets, derivatives transaction execu-
24 tion facilities, foreign boards of trade subject to section
25 4(e), and electronic trading facilities with respect to sig-

1 nificant price discovery contracts with respect to exempt
2 and agricultural commodities not later than 60 days after
3 the date of the enactment of this subsection, and issue
4 a final rule within 120 days after such date of enact-
5 ment.”.

6 **SEC. 7. TRANSPARENCY AND RECORDKEEPING AUTHORI-**
7 **TIES.**

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

10 (1) by inserting “a” before “futures commission
11 merchant”; and

12 (2) by inserting “and transactions and positions
13 traded pursuant to subsection (g), (h)(1), or (h)(2)
14 of section 2, or any exemption issued by the Com-
15 mission by rule, regulation or order,” after “United
16 States or elsewhere,”.

17 (b) REPORTS OF DEALS EQUAL TO OR IN EXCESS
18 OF TRADING LIMITS.—Section 4i of such Act (7 U.S.C.
19 6i) is amended—

20 (1) in the first sentence—

21 (A) by inserting “(a)” before “It shall”;

22 and

23 (B) by inserting “in the United States or
24 elsewhere, and of transactions and positions in
25 any such commodity entered into pursuant to

1 subsection (g), (h)(1), or (h)(2) of section 2, or
2 any exemption issued by the Commission by
3 rule, regulation or order” before “, and of cash
4 or spot”; and

5 (2) by striking all that follows the 1st sentence
6 and inserting the following:

7 “(b) With respect to agricultural and energy com-
8 modities, upon special call by the Commission, any person
9 shall provide to the Commission, in a form and manner
10 and within the period specified in the special call, books
11 and records of all transactions and positions traded on or
12 subject to the rules of any board of trade or electronic
13 trading facility in the United States or elsewhere, or pur-
14 suant to subsection (g), (h)(1), or (h)(2) of section 2, or
15 any exemption issued by the Commission by rule, regula-
16 tion, or order, as the Commission may determine appro-
17 priate to deter and prevent price manipulation or any
18 other disruption to market integrity or to diminish, elimi-
19 nate, or prevent excessive speculation as described in sec-
20 tion 4a(a).

21 “(c) Such books and records described in subsections
22 (a) and (b) shall show complete details concerning all such
23 transactions, positions, inventories, and commitments, in-
24 cluding the names and addresses of all persons having any
25 interest therein, shall be kept for a period of 5 years, and

1 shall be open at all times to inspection by any representa-
2 tive of the Commission or the Department of Justice. For
3 the purposes of this section, the futures and cash or spot
4 transactions and positions of any person shall include such
5 transactions and positions of any persons directly or indi-
6 rectly controlled by the person.”.

7 (c) CONFORMING AMENDMENTS.—

8 (1) Section 2(g) of such Act (7 U.S.C. 2(g)) is
9 amended—

10 (A) by inserting “4g(a), 4i,” before “5a
11 (to”;

12 (B) by inserting “, and the regulations of
13 the Commission pursuant to section 4i(b) re-
14 quiring reporting in connection with commodity
15 option transactions,” before “shall apply”.

16 (2) Section 2(h)(2)(A) of such Act (7 U.S.C.
17 2(h)(2)(A)) is amended to read as follows:

18 “(A) sections 4g(a), 4i, 5b and
19 12(e)(2)(B), and the regulations of the Com-
20 mission pursuant to section 4i(b) requiring re-
21 porting in connection with commodity option
22 transactions;”.

1 **SEC. 8. TRADING LIMITS TO PREVENT EXCESSIVE SPECU-**
2 **LATION.**

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

5 (1) in subsection (a)—

6 (A) by inserting “(1)” after “(a)”; and

7 (B) by adding after and below the end the
8 following:

9 “(2) In accordance with the standards set forth in
10 paragraph (1) of this subsection and consistent with the
11 good faith exception cited in subsection (b)(2), with re-
12 spect to agricultural commodities enumerated in section
13 1a(4) and energy commodities, the Commission, within 60
14 days after the date of the enactment of this paragraph,
15 shall by rule, regulation, or order establish limits on the
16 amount of positions, other than bona fide hedge positions,
17 that may be held by any person with respect to contracts
18 of sale for future delivery or with respect to options on
19 such contracts or commodities traded on or subject to the
20 rules of a contract market or derivatives transaction exe-
21 cution facility, or on an electronic trading facility as a sig-
22 nificant price discovery contract.

23 “(3) In establishing the limits required in paragraph
24 (2), the Commission shall set limits—

25 “(A) on the number of positions that may be
26 held by any person for the spot month, each other

1 month, and the aggregate number of positions that
2 may be held by any person for all months;

3 “(B) to the maximum extent practicable, in its
4 discretion—

5 “(i) to diminish, eliminate, or prevent ex-
6 cessive speculation as described under this sec-
7 tion;

8 “(ii) to deter and prevent market manipu-
9 lation, squeezes, and corners;

10 “(iii) to ensure sufficient market liquidity
11 for bona fide hedgers; and

12 “(iv) to ensure that the price discovery
13 function of the underlying market is not dis-
14 rupted; and

15 “(C) to the maximum extent practicable, in its
16 discretion, take into account the total number of po-
17 sitions in fungible agreements, contracts, or trans-
18 actions that a person can hold in agricultural and
19 energy commodities in other markets.

20 “(4)(A) Not later than 150 days after the date of
21 the enactment of this paragraph, the Commission shall
22 convene a Position Limit Agricultural Advisory Group and
23 a Position Limit Energy Group, each group consisting of
24 representatives from—

1 “(i) 7 predominantly commercial short hedgers
2 of the actual physical commodity for future delivery;

3 “(ii) 7 predominantly commercial long hedgers
4 of the actual physical commodity for future delivery;

5 “(iii) 4 non-commercial participants in markets
6 for commodities for future delivery; and

7 “(iv) each designated contract market or de-
8 rivatives transaction execution facility upon which a
9 contract in the commodity for future delivery is
10 traded, and each electronic trading facility that has
11 a significant price discovery contract in the com-
12 modity.

13 “(B) Not later than 60 days after the date on which
14 the advisory groups are convened under subparagraph (A),
15 and annually thereafter, the advisory groups shall submit
16 to the Commission advisory recommendations regarding
17 the position limits to be established in paragraph (2) and
18 a recommendation as to whether the position limits should
19 be administered directly by the Commission, or by the reg-
20 istered entity on which the commodity is listed (with en-
21 forcement by both the registered entity and the Commis-
22 sion).”; and

23 (2) in subsection (c)—

24 (A) by inserting “(1)” after “(c)”; and

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

3 “(2) With respect to agricultural and energy com-
4 modities, for the purposes of contracts of sale for future
5 delivery and options on such contracts or commodities, the
6 Commission shall define what constitutes a bona fide
7 hedging transaction or position as a transaction or posi-
8 tion that—

9 “(A)(i) represents a substitute for transactions
10 to be made or positions to be taken at a later time
11 in a physical marketing channel;

12 “(ii) is economically appropriate to the reduc-
13 tion of risks in the conduct and management of a
14 commercial enterprise; and

15 “(iii) arises from the potential change in the
16 value of—

17 “(I) assets that a person owns, produces,
18 manufactures, processes, or merchandises or
19 anticipates owning, producing, manufacturing,
20 processing, or merchandising;

21 “(II) liabilities that a person owns or an-
22 ticipates incurring; or

23 “(III) services that a person provides, pur-
24 chases, or anticipates providing or purchasing;
25 or

1 tion limitations with respect to energy commodities, and
2 position limitations or position accountability with respect
3 to other commodities, where necessary and appropriate for
4 a contract, agreement or transaction with an underlying
5 commodity that has a physically deliverable supply.”.

6 (c) SIGNIFICANT PRICE DISCOVERY CONTRACTS.—
7 Section 2(h)(7)(C)(ii)(IV) of such Act (7 U.S.C.
8 2(h)(7)(C)(ii)(IV)) is amended by striking “where nec-
9 essary” and all that follows through “in significant price
10 discovery contracts” and inserting “for speculators, posi-
11 tion limitations with respect to significant price discovery
12 contracts in energy commodities, and position limitations
13 or position accountability with respect to significant price
14 discovery contracts in other commodities”.

15 **SEC. 10. CFTC ADMINISTRATION.**

16 Section 2(a)(7) of the Commodity Exchange Act (7
17 U.S.C. 2(a)(7)) is amended by adding at the end the fol-
18 lowing:

19 “(D) ADDITIONAL EMPLOYEES.—As soon
20 as practicable after the date of the enactment
21 of this subparagraph, subject to appropriations,
22 the Commission shall appoint at least 100 full-
23 time employees (in addition to the employees
24 employed by the Commission as of the date of
25 the enactment of this subparagraph)—

1 “(i) to increase the public trans-
2 parency of operations in agriculture and
3 energy markets;

4 “(ii) to improve the enforcement of
5 this Act in those markets; and

6 “(iii) to carry out such other duties as
7 are prescribed by the Commission.”.

8 **SEC. 11. REVIEW OF PRIOR ACTIONS.**

9 Notwithstanding any other provision of the Com-
10 modity Exchange Act, the Commodity Futures Trading
11 Commission shall review, as appropriate, all regulations,
12 rules, exemptions, exclusions, guidance, no action letters,
13 orders, other actions taken by or on behalf of the Commis-
14 sion, and any action taken pursuant to the Commodity
15 Exchange Act by an exchange, self-regulatory organiza-
16 tion, or any other registered entity, that are currently in
17 effect, to ensure that such prior actions are in compliance
18 with the provisions of this Act.

19 **SEC. 12. REVIEW OF OVER-THE-COUNTER MARKETS.**

20 (a) **STUDY.**—The Commodity Futures Trading Com-
21 mission shall conduct a study—

22 (1) to determine the efficacy, practicality, and
23 consequences of establishing limits on the amount of
24 positions, other than bona fide hedge positions, that
25 may be held by any person with respect to agree-

1 ments, contracts, or transactions involving an agri-
2 cultural or energy commodity, conducted in reliance
3 on sections 2(g) and 2(h) of the Commodity Ex-
4 change Act and of any exemption issued by the
5 Commission by rule, regulation or order, that are
6 fungible (as defined by the Commission) with agree-
7 ments, contracts, or transactions traded on or sub-
8 ject to the rules of any board of trade or of any elec-
9 tronic trading facility with respect to a significant
10 price discovery contract, as a means to deter and
11 prevent price manipulation or any other disruption
12 to market integrity or to diminish, eliminate, or pre-
13 vent excessive speculation as described in section 4a
14 of such Act for physical-based agricultural or energy
15 commodities; and

16 (2) to determine the efficacy, practicality, and
17 consequences of establishing aggregate position lim-
18 its for similar agreements, contracts, or transactions
19 for physical-based agricultural or energy commod-
20 ities traded—

21 (A) on designated contract markets;

22 (B) on derivatives transaction execution fa-
23 cilities; and

1 (C) in reliance on such sections 2(g) and
2 2(h) and of any exemption issued by the Com-
3 mission by rule, regulation or order.

4 (b) PUBLIC HEARINGS.—The Commission shall pro-
5 vide for not less than 2 public hearings to take testimony,
6 on the record, as part of the fact- gathering process in
7 preparation of the report.

8 (c) REPORT AND RECOMMENDATIONS.—Not less
9 than 12 months after the date of the enactment of this
10 section, the Commission shall provide to the Committee
11 on Agriculture of the House of Representatives and the
12 Committee on Agriculture, Nutrition, and Forestry of the
13 Senate a report that—

14 (1) describes the results of the study; and

15 (2) provides recommendations on any actions
16 necessary to deter and prevent price manipulation or
17 any other disruption to market integrity or to dimin-
18 ish, eliminate, or prevent excessive speculation as de-
19 scribed in section 4a of the Commodity Exchange
20 Act for physical-based commodities, including—

21 (A) any additional statutory authority that
22 the Commission determines to be necessary to
23 implement the recommendations; and

1 (B) a description of the resources that the
2 Commission considers to be necessary to imple-
3 ment the recommendations.

4 **SEC. 13. STUDIES; REPORTS.**

5 (a) STUDY RELATING TO INTERNATIONAL REGULA-
6 TION OF ENERGY COMMODITY MARKETS.—

7 (1) IN GENERAL.—The Comptroller General of
8 the United States shall conduct a study of the inter-
9 national regime for regulating the trading of energy
10 commodity futures and derivatives.

11 (2) ANALYSIS.—The study shall include an
12 analysis of, at a minimum—

13 (A) key common features and differences
14 among countries in the regulation of energy
15 commodity trading, including with respect to
16 market oversight and enforcement standards
17 and activities;

18 (B) variations among countries with re-
19 spect to the use of position limits, position ac-
20 countability levels, or other thresholds to detect
21 and prevent price manipulation, excessive spec-
22 ulation as described in section 4a of the Com-
23 modity Exchange Act, or other unfair trading
24 practices;

1 (C) variations in practices regarding the
2 differentiation of commercial and noncommer-
3 cial trading;

4 (D) agreements and practices for sharing
5 market and trading data among futures au-
6 thorities and between futures authorities and
7 the entities that the futures authorities oversee;
8 and

9 (E) agreements and practices for facili-
10 tating international cooperation on market over-
11 sight, compliance, and enforcement.

12 (3) REPORT.—Not later than 1 year after the
13 date of the enactment of this Act, the Comptroller
14 General shall submit to the Committee on Agri-
15 culture of the House of Representatives and the
16 Committee on Agriculture, Nutrition, and Forestry
17 of the Senate a report that—

18 (A) describes the results of the study;

19 (B) addresses whether there is excessive
20 speculation, and if so, the effects of any such
21 speculation and energy price volatility on energy
22 futures; and

23 (C) provides recommendations to improve
24 openness, transparency, and other necessary
25 elements of a properly functioning market in a

1 manner that protects consumers in the United
2 States.

3 (b) STUDY RELATING TO EFFECTS OF SPECULATORS
4 ON AGRICULTURE AND ENERGY FUTURES MARKETS AND
5 AGRICULTURE AND ENERGY PRICES.—

6 (1) STUDY.—The Commodity Futures Trading
7 Commission shall conduct a study of the effects of
8 speculators on agriculture and energy futures mar-
9 kets and agriculture and energy prices.

10 (2) ANALYSIS.—The study shall include an
11 analysis of, at a minimum—

12 (A) the effect of increased amounts of cap-
13 ital in agriculture and energy futures markets;

14 (B) the impact of the roll-over of positions
15 by index fund traders and swap dealers on agri-
16 culture and energy futures markets and agri-
17 culture and energy prices; and

18 (C) the extent to which each factor de-
19 scribed in subparagraphs (A) and (B) and spec-
20 ulators—

21 (i) affect—

22 (I) the pricing of agriculture and
23 energy commodities; and

24 (II) risk management functions;
25 and

1 (ii) contribute to economically efficient
2 price discovery.

3 (3) REPORT.—Not later than 2 years after the
4 date of the enactment of this Act, the Commodity
5 Futures Trading Commission shall submit to the
6 Committee on Agriculture of the House of Rep-
7 resentatives and the Committee on Agriculture, Nu-
8 trition, and Forestry of the Senate a report that de-
9 scribes the results of the study.

10 **SEC. 14. OVER-THE-COUNTER AUTHORITY.**

11 (a) IN GENERAL.—Section 2 of the Commodity Ex-
12 change Act (7 U.S.C. 2) is amended by adding at the end
13 the following:

14 “(j) OVER-THE-COUNTER AUTHORITY.—

15 “(1) Within 60 days after the date of the enact-
16 ment of this subsection, the Commission shall, by
17 rule, regulation, or order, require routine reporting
18 as it deems in its discretion appropriate, on not less
19 than a monthly basis, of agreements, contracts, or
20 transactions, with regard to an agricultural or en-
21 ergy commodity, entered into in reliance on sub-
22 section (g), (h)(1), or (h)(2) of section 2, or any ex-
23 emption issued by the Commission by rule, regula-
24 tion, or order that are fungible (as defined by the
25 Commission) with agreements, contracts, or trans-

1 actions traded on or subject to the rules of any
2 board of trade or of any electronic trading facility
3 with respect to a significant price discovery contract.

4 “(2) Notwithstanding subsections (g), (h)(1),
5 and (h)(2) of section 2, and any exemption issued by
6 the Commission by rule, regulation, or order, the
7 Commission shall assess and issue a finding on
8 whether the agreements, contracts, or transactions
9 reported pursuant to paragraph (1), alone or in con-
10 junction with other similar agreements, contracts, or
11 transactions, have the potential to—

12 “(A) disrupt the liquidity or price dis-
13 covery function on a registered entity;

14 “(B) cause a severe market disturbance in
15 the underlying cash or futures market for an
16 agricultural or energy commodity; or

17 “(C) prevent or otherwise impair the price
18 of a contract listed for trading on a registered
19 entity from reflecting the forces of supply and
20 demand in any market for an agricultural com-
21 modity enumerated in section 1a(4) or an en-
22 ergy commodity.

23 “(3) If the Commission makes a finding pursu-
24 ant to paragraph (2) of this subsection, the Commis-
25 sion may, in its discretion, utilize its authority under

1 section 8a(9) to impose position limits (including, as
2 appropriate and in its discretion, related hedge ex-
3 emption provisions for bona fide hedging comparable
4 to bona fide hedge provisions of section 4a(e)(2)) on
5 agreements, contracts, or transactions involved, and
6 take corrective actions to enforce the limits.”.

7 (b) CONFORMING AMENDMENTS.—

8 (1) Section 2(g) of such Act (7 U.S.C. 2(g)) is
9 amended by inserting “subsection (j) of this section,
10 and” after “(other than”.

11 (2) Section 2(h)(2)(A) of such Act (7 U.S.C.
12 2(h)(2)(A)) is amended by inserting “subsection (j)
13 of this section and” before “sections”.

14 (3) Section 8a(9) of such Act (7 U.S.C.
15 12a(a)(9)) is amended by inserting after “of the
16 Commission’s action” the following: “, and to fix
17 and enforce limits to agreements, contracts, or
18 transaction subject to section 2(j)(1) pursuant to a
19 finding made under section 2(j)(2)”.

20 **SEC. 15. EXPEDITED PROCESS.**

21 The Commodity Futures Trading Commission may
22 use emergency and expedited procedures (including any
23 administrative or other procedure as appropriate) to carry

- 1 out this Act if, in its discretion, it deems it necessary to
- 2 do so.

