



CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

February 23, 2009

H.R. 977 **Derivatives Markets Transparency and** **Accountability Act of 2009**

*As ordered reported by the House Committee on Agriculture
on February 12, 2009*

SUMMARY

H.R. 977 would expand the authority of the Commodity Futures Trading Commission (CFTC) to regulate transactions and activities of various commodity markets. It also would authorize an increase in staffing for the CFTC and require the CFTC and the Government Accountability Office (GAO) to prepare several reports.

CBO estimates that implementing the provisions of H.R. 977 would cost \$225 million over the 2009-2014 period, assuming appropriation of the necessary amounts. Enacting H.R. 977 could affect revenues because of provisions that would affect the regulation of banks by the Federal Reserve, but CBO estimates that any such impact would not be significant. Further, enacting the bill could affect both revenue and direct spending because additional criminal and civil penalties could be imposed for violations of new regulations, but we expect that any such increases also would not be significant because of the relatively small number of violations likely to occur.

H.R. 977 would impose intergovernmental and private-sector mandates, as defined in the Unfunded Mandates Reform Act (UMRA), on participants in certain commodities markets. CBO cannot determine whether the costs to comply with the mandates in the bill would exceed the annual thresholds established in UMRA for intergovernmental or private-sector mandates (\$69 million and \$139 million in 2009, respectively, adjusted annually for inflation).

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of H.R. 977 is shown in the following table. The costs of this legislation fall within budget function 370 (commerce and housing credit).

	By Fiscal Year, in Millions of Dollars						2009- 2014
	2009	2010	2011	2012	2013	2014	
CHANGES IN SPENDING SUBJECT TO APPROPRIATION							
Estimated Authorization Level	15	34	46	46	46	47	234
Estimated Outlays	13	32	44	45	45	46	225

BASIS OF ESTIMATE

For this estimate, CBO assumes that the bill will be enacted during fiscal year 2009, that the necessary amounts will be appropriated each year, and that spending will follow historical patterns for the CFTC.

Spending Subject to Appropriation

Section 7 would authorize the CFTC to hire a sufficient number of full-time employees to improve enforcement activities and to increase the transparency of activities in various regulated commodity markets.

With regard to transactions in over-the-counter (OTC) markets, H.R. 977 would require the CFTC to develop new reporting requirements, study the effect of setting limits on the number of contracts that can be held in OTC markets, and set limits on the number of contracts that can be held by speculators in certain situations. The bill also would require that certain OTC transactions be settled and cleared through organizations regulated by either the CFTC or, with respect to financial commodities, by the Securities and Exchange Commission (SEC).

Other sections of the bill would:

- Establish limits on certain transactions to diminish or prevent excessive speculation and market manipulation;
- Require foreign boards of trade to meet certain requirements to allow domestic participants to have direct access to the foreign trading systems;
- Require that agreements to trade allowances to emit greenhouse gas and credits for reductions in greenhouse gas emissions be executed on regulated markets;

- Authorize the CFTC to suspend trading of credit default swaps (contracts that hedge the risk borne by a party to a contract that an entity may experience a loss of value as a result of an event specified in the contract) in certain situations; and
- Authorize the CFTC to conduct criminal litigation relating to violations of the Commodity Exchange Act.

Based on information from the CFTC, CBO estimates that the agency would add an additional 190 full-time employees by fiscal year 2011 to write regulations and undertake the additional oversight and enforcement activities required in the bill. In fiscal year 2008, CFTC received an appropriation of \$111 million that funded a staff of about 450 full-time employees. Assuming appropriation of the necessary amounts, CBO estimates that implementing H.R. 977 would increase spending by \$13 million in 2009 and \$225 million over the 2009-2014 period for the cost of salaries, overhead, reports, and upgrades to the agency's information technology systems.

Revenues and Direct Spending

H.R. 977 would limit the authority of the Federal Reserve to regulate banking institutions that process certain OTC transactions. Based on information from the Federal Reserve, it appears that few banks currently act as clearinghouses for such transactions. The budgetary effects of Federal Reserve activities are recorded as a change in revenues, and CBO estimates that the limitations included in the bill would not have a significant effect on revenues over the 2009-2019 period.

Enacting H.R. 977 could affect both revenue and direct spending because additional criminal and civil penalties could be imposed for violations of new regulations, but we expect that any such increases would not be significant because of the relatively small number of violations likely to occur.

INTERGOVERNMENTAL AND PRIVATE-SECTOR IMPACT

H.R. 977 would impose intergovernmental and private-sector mandates, as defined in UMRA, on participants in certain commodities markets. The bill would impose limits on the number of contracts that can be held (known as "position limits"), as well as transaction and reporting requirements, with respect to energy and certain agricultural commodities, on public and private entities such as pension funds, utilities, and swap dealers. The bill also would allow the CFTC to suspend trading in credit default swaps in some circumstances and impose new requirements on exchanges and derivatives clearing

organizations. Because of limited information about the transactions in the affected markets, the position limits that CFTC would establish, and the extent to which position limits would result in lower returns, CBO has no basis to estimate the cost of the mandates on public or private-sector entities. Consequently, CBO cannot determine whether the costs to comply with the mandates in the bill would exceed the annual thresholds established in UMRA for intergovernmental or private-sector mandates (\$69 million and \$139 million in 2009, respectively, adjusted annually for inflation).

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