

COMMODITY FUTURES MODERNIZATION AND FINANCIAL  
CONTRACT NETTING IMPROVEMENT ACT OF 2000

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OCTOBER 19, 2000.—Ordered to be printed  
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Mr. LEACH, from the Committee on Banking and Financial  
Services, submitted the following

SUPPLEMENTAL REPORT

[To accompany H.R. 4541]

This supplemental report shows the report of the Congressional Budget Office on the private sector effects with respect to the bill (H.R. 4541), as reported by the Committee on Banking and Financial Services and the vote of the committee on an amendment to the bill, which were not included in part 2 of the report submitted by the Committee on Banking and Financial Services on September 6, 2000, (H. Rept. 106-711, pt. 2).

This supplemental report is submitted in accordance with clause 3(a)(2) of rule XIII of the Rules of the House of Representatives.

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, October 3, 2000.*

Hon. JAMES A. LEACH,  
*Chairman, Committee on Banking and Financial Services,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed estimate of private-sector effects of H.R. 4541, the Commodity Futures Modernization and Financial Contract Netting Improvement Act of 2000. CBO completed a federal cost estimate and an assessment of the bill's effects on state, local, and tribal governments on September 6.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Judy Ruud and Tim VandenBerg.

Sincerely,

BARRY B. ANDERSON  
(For Dan L. Crippen, Director).

Enclosure.

CONGRESSIONAL BUDGET OFFICE ESTIMATE OF COSTS OF PRIVATE-  
SECTOR MANDATES*H.R. 4541—Commodity Futures Modernization and Financial Contract Netting Improvement Act of 2000*

Summary: H.R. 4541 would impose three new private-sector mandates as defined by the Unfunded Mandates Reform Act (UMRA) on insured depository institutions, registered futures associations, and retail swap market participants. CBO estimates that the direct costs of those mandates would be below the annual threshold established by UMRA for private-sector mandates (\$109 million in 2000, adjusted for inflation).

Private-sector mandates contained in the bill: H.R. 4541 would impose three new private-sector mandates as defined by UMRA. First, the bill would require insured depository institutions to keep more detailed records for certain financial contracts. Section 209 would authorize the Federal Deposit Insurance Corporation (FDIC) to prescribe additional recordkeeping requirements for certain qualified financial contracts held by depository institutions. Under the Federal Deposit Insurance Act, qualified financial contracts are defined for five types of financial contracts: securities contracts, commodity contracts, forward contracts, repurchase agreements, and swap agreements. The FDIC anticipates that under the new requirements, institutions would essentially have to ensure that certain data that they already collect (and record) on such contracts are organized in a manner that would be accessible to the FDIC. Consequently, CBO experts that the direct costs of this mandate would not be large.

Second, H.R. 4541 would require a registered futures association to adopt “suitability rules” for its members, regarding advising customers on the purchase or sale of newly authorized futures on single stocks and futures on narrow stock indexes. Such rules would require that a future commission merchant, a commodity trading advisor, or an introducing broker that recommends such a purchase or sale to ascertain the suitability of that recommendation for their customers. According to industry representatives, such suitability rules would be similar to the “know your customer requirements” that the National Futures Association adopted in 1985. Thus, CBO expects that the direct costs of issuing suitability rules would be negligible.

Third, the bill would authorize the Federal Reserve and the Secretary of the Treasury, in consultation with the Securities and Exchange Commission and the Commodity Futures Trading Commission, to jointly prescribe customer protection regulations that apply to sales practices relating to retail swap transactions. According to regulatory and industry representatives, the retail market for swaps may develop in the future, but such transactions are currently limited, if any. Thus, this mandate would have no immediate cost.

Estimate prepared by: Judy Ruud and Tim VandenBerg.

Estimate approved by: Roger Hitchner, Assistant Director for Microeconomics and Financial Studies Division.

**ERRATA**

On page 58 of Report 106-711 Part 2 under COMMITTEE CONSIDERATION AND VOTES add the following:

The Committee considered an amendment by Mrs. Maloney of New York to delete the provision providing a partial exclusion from the CEA for exempt commodities entered into solely between eligible contract participants and executed on an electronic trading facility. The amendment was defeated 12-20.

## YEAS

Mr. King  
 Mr. LaFalce  
 Ms. Waters  
 Mrs. Maloney, (NY)  
 Mr. Gutierrez  
 Mr. Watt  
 Mr. Maloney, (CT)  
 Ms. Hooley  
 Mr. Sherman  
 Ms. Lee  
 Mr. Inslee  
 Ms. Schakowsky

## NAYS

Mr. Leach  
 Mrs. Roukema  
 Mr. Bereuter  
 Mr. Baker  
 Mr. Campbell  
 Mr. Royce  
 Mr. Lucas  
 Mr. Metcalf  
 Mrs. Kelly  
 Dr. Weldon  
 Mr. Ryun, (KS)  
 Mr. Cook  
 Mr. Riley  
 Mr. Hill, (MT)  
 Mr. Ryan, (WI)  
 Mrs. Biggert  
 Mr. Terry  
 Mr. Green, (WI)  
 Mr. Toomey  
 Mr. Bentsen