CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

September 6, 2000

H.R. 4541
Commodity Futures Modernization and Financial Contract Netting Improvement Act of 2000

As ordered reported by the House Committee on Banking and Financial Services on July 27, 2000

SUMMARY

H.R. 4541 would reauthorize funding for the activities of Commodity Futures Trading Commission (CFTC) during the 2001-2005 period. The bill also would allow trading of futures contracts based on single stocks (single-stock futures) under certain conditions, with oversight being shared by the CFTC and the Securities and Exchange Commission (SEC). In addition, H.R. 4541 would clarify that certain over-the-counter derivative transactions are outside of the jurisdiction of the CFTC. The bill also would establish a new crime related to derivatives fraud and would authorize the Federal Trade Commission (FTC) to combat such fraud. Finally, the bill would amend banking and bankruptcy laws to provide consistent treatment of certain financial contracts and to encourage the settlement by a single payment, on a net basis, of all the contracted-but-not-yet-due claims and liabilities of an insolvent institution.

Assuming appropriation of the necessary amounts, CBO estimates that implementing this legislation would cost $368 million over the 2001-2005 period. Most of this cost would be incurred by the CFTC; CBO estimates that the SEC would spend $3 million a year to regulate trading of futures contracts on individual securities and fight derivatives fraud, and that the FTC would spend and additional $1 million a year to help combat securities fraud.

By imposing new duties on financial institutions regulators, establishing a new crime, and allowing trading of single-stock futures, H.R. 4541 would affect direct spending and receipts; therefore, pay-as-you-go procedures would apply. CBO estimates that any impact on direct spending and receipts would not be significant in any year.

H.R. 4541 contains intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA), but CBO estimates that the costs would not exceed the threshold

established in the act ($55 million in 2000, adjusted annually for inflation). CBO's estimate of the impact of H.R. 4541 on the private sector will be provided later in a separate statement.

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of H.R. 4541 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				
	2001	2002	2003	2004	2005
CHANGES IN SPENDING SUBJECT TO APPROPRIATION [a]					
Proposed Changes to CFTC Spending					
Estimated Authorization Level	67	69	72	74	77
Estimated Outlays	60	68	71	73	76
Proposed Changes to SEC Spending					
Estimated Authorization Level	3	3	3	3	3
Estimated Outlays	3	3	3	3	3
Proposed Changes to FTC Spending					
Estimated Authorization Level	1	1	1	1	1
Estimated Outlays	1	1	1	1	1
Total Changes in Spending					
Estimated Authorization Level	71	73	76	78	81
Estimated Outlays	64	72	75	77	80

a. In addition to authorizing additional spending subject to appropriation, enacting H.R. 4541 would have an insignificant effect on direct spending and receipts.

BASIS OF ESTIMATE

For this estimate, CBO assumes that the bill will be enacted near the start of fiscal year 2001 and that the necessary amounts will be appropriated for each fiscal year. Outlay estimates are based on historical spending rates for the affected agencies. Enactment of H.R. 4541 also would affect direct spending and receipts because it would assign new duties to regulators of financial institutions, it would create a new crime, and would result in additional SEC fee collections. CBO estimates that those additional effects would not be significant.

Spending Subject to Appropriation

H.R. 4541 would reauthorize funding for activities of the CFTC over the 2001-2005 period. Based on the agency's current budget and adjusting for anticipated inflation, CBO estimates that this reauthorization would cost $59 million in 2001 and a total of $343 million over the five-year period.

The bill also would make several changes to the Commodity Exchange Act that would increase the administrative costs of the CFTC. The CFTC would share oversight of single-stock futures transactions with the SEC. CBO estimates that this change to the CFTC's regulatory responsibilities would require the agency to hire new staff. Based on information from the CFTC, CBO estimates that these changes to the CFTC's administrative responsibilities would cost $1 million a year over the 2001-2005 period. The bill also clarifies that the CFTC does not have jurisdiction over certain over-the-counter derivatives transactions.

H.R. 4541 also would require that the SEC play a significant role in overseeing single-stock futures transactions and combating fraud related to such transactions. Based on information from the SEC, CBO estimates that the SEC would have to hire additional staff to handle these new responsibilities. We estimate this new effort would cost about $3 million a year during the 2001-2005 period.

H.R. 4541 would require the FTC to combat certain securities fraud among parties who are not regulated by the SEC, CFTC, or banking regulators. Based on information from the FTC, CBO estimates implementing this provision would cost about $1 million a year.

Although enacting this bill could eliminate certain bankruptcy proceedings, CBO estimates that any subsequent reduction in the workload of federal agencies would not have a significant impact on the budgets of the Executive Office for United States Trustees or the federal court system.

Direct Spending

H.R. 4541 would require the Office of the Comptroller of the Currency (OCC), and the Federal Deposit Insurance Corporation (FDIC), to issue regulations to implement the provisions of the legislation concerning bankrupt financial institutions and to combat fraud in certain securities trading. The OCC charges fees to cover all its administrative costs; therefore, additional spending by the OCC would have no net budgetary effect over time. That is not the case with the FDIC, however, which uses deposit insurance premiums paid by all banks to cover the expenses it incurs to supervise state-chartered banks. Because the balances in the deposit insurance funds exceed the levels required under current law, very few banks or savings and loans pay premiums for deposit insurance at this time. Therefore, CBO expects that the FDIC would recover from premium income very little, if any, of the administrative costs associated with implementing H.R. 4541. However, we do not expect these costs to be significant.

The bill would give the FDIC, acting as receiver for insolvent financial institutions, additional flexibility to determine the most appropriate method for resolving a failing bank or savings and loan. As a result, we expect that enacting H.R. 4541 could help reduce the losses associated with closing insured institutions. Although it is difficult to assess the amount of savings, if any, associated with the bill's clarification of the treatment of certain financial transactions affecting failing banks and savings and loans, CBO estimates that the net effect on FDIC outlays would probably be negligible.

Revenues

H.R.4541would establish a new federal crime relating to derivatives fraud. As a result, the federal government would be able to pursue cases that it otherwise would not be able to prosecute. Because those prosecuted and convicted under H.R. 4541 could be subject to criminal fines, the federal government might collect additional fines if the bill is enacted. Collections of such fines are recorded in the budget as governmental receipts (revenues), which are deposited in the Crime Victims Fund and spent in subsequent years. CBO expects that any additional receipts and direct spending would be less than $500,000 each year.

H.R. 4541 would require the Federal Reserve Board to issue new regulations to implement provisions of the bill to combat fraud in derivatives trading. Budgetary effects of these additional responsibilities on the Federal Reserve would be recorded as a change in revenues. Based on information from the Federal Reserve, CBO estimates that enacting H.R. 4541 would reduce such revenues by less than $500,000 a year over the 2001-2005 period.

Under current law, the SEC collects a fee equal to 1/300th of a percent of the aggregate value of securities traded through national securities exchanges, brokers, and dealers. Such fees are recorded as revenues. H.R. 4541 would allow the trading of single-stock futures on national securities exchanges. By creating a new category of financial transactions that would be subject to SEC fees, this bill would increase revenues collected by the SEC. However, based on information provided by the CFTC, the SEC, and by private groups, CBO estimates that any increase in such revenues would not be significant.

PAY-AS-YOU-GO CONSIDERATIONS

The Balanced Budget and Emergency Deficit Control Act (BBEDCA) sets up pay-as-you go procedures for legislation affecting direct spending or receipts. CBO estimates that enacting H.R. 4541 would affect direct spending and governmental receipts but that there would be no significant impact in any year.

Under BBEDCA, provisions providing funding necessary to meet the government's deposit insurance commitment are excluded from pay-as-you-go procedures. CBO believes that the administrative costs associated with FDIC issuing regulations under H.R. 4541 are related to safety and soundness of deposit insurance, and thus, would be excluded. In any case, we estimate that those changes would be less than $500,000 annually.

ESTIMATED IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS

H.R. 4541 would require state insurance regulators to enforce antifraud and consumer protection regulations with regard to certain derivative and swap transactions. The bill also would preempt state laws affecting bankruptcy proceedings of certain state banks that are members of the Federal Reserve, certain commodities transactions that are conducted in markets regulated by the Commodities Futures Trading Commission (CFTC), and certain commodities contracts that are excluded from regulation by the CFTC. Both the new duties for state insurance regulators and the preemptions of state law would be mandates as defined by UMRA. CBO estimates that the costs of these mandates would not be significant and would not exceed the threshold established in the act ($55 million in 2000, adjusted annually for inflation).

ESTIMATED IMPACT ON THE PRIVATE SECTOR

CBO’s estimate of the impact of H.R. 4541 on the private sector will be provided later in a separate statement.

PREVIOUS CBO ESTIMATES

CBO has transmitted cost estimates for three other bills that would reauthorize the CFTC. Differences in the estimates reflect differences in the bills. On September 6, 2000, CBO transmitted a cost estimate for H.R. 4541 as ordered reported by the House Committee on Commerce on July 27, 2000. On June 29, 2000, CBO transmitted a cost estimate for H.R. 4541 as ordered reported by the House Committee on Agriculture on June 27, 2000.

On July 11, 2000, CBO transmitted a cost estimate for S. 2697, the Commodity Futures Modernization Act of 2000, as ordered reported by the Senate Committee on Agriculture, Nutrition, and Forestry, on June 29, 2000.

ESTIMATE PREPARED BY:

Federal Costs: Mark Hadley
Impact on State, Local, and Tribal Governments: Susan Sieg Tompkins

ESTIMATE APPROVED BY:

Peter H. Fontaine
Deputy Assistant Director for Budget Analysis