CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

February 2, 2006

H.R. 4473
CFTC Reauthorization Act of 2005

As passed by the House of Representatives on December 14, 2005

SUMMARY

H.R. 4473 would authorize appropriations for the Commodity Futures Trading Commission (CFTC) through 2010 and would amend and clarify the CFTC's jurisdiction over certain futures transactions and financial products. The bill also would require the CFTC and the Securities and Exchange Commission (SEC) to allow new methods for determining margin requirements on certain financial products and to resolve issues related to trading futures on certain security indexes. Finally, H.R. 4473 would require the CFTC to monitor trading of contracts for natural gas and to require the private sector to report significant holdings of such contracts.

CBO estimates that implementing the legislation would increase spending subject to appropriation for the CFTC by $1 million in 2006 and $428 million over the 2006-2011 period, assuming appropriation of the necessary amounts. We estimate that implementing the bill would not have a significant effect on spending subject to appropriation for the SEC.

CBO estimates that enacting H.R. 4473 would increase net revenue collections by $8 million in 2006, $158 million over the 2006-2011 period, and $308 million over the 2006-2016 period because it would increase the maximum civil penalty for price manipulation of commodities. (Civil penalties are recorded in the federal budget as revenues.) Enacting the bill also could affect revenues and direct spending as a result of increased criminal penalties. (Criminal penalties are recorded in the budget as revenues, deposited in the Crime Victims Fund, and later spent.) CBO estimates, however, that any increase in revenues and direct spending resulting from increased criminal penalties would not be significant.

H.R. 4473 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

The bill would impose a private-sector mandate as defined in UMRA on certain entities involved in retail foreign currency transactions by changing the criteria to qualify for

exclusion from CFTC jurisdiction with regard to those transactions. The bill also would impose a private-sector mandate on certain entities that hold, maintain, or control large positions in contract sales of natural gas for future delivery by requiring those entities to submit additional reports to the CFTC. CBO expects that the direct cost of those mandates would not exceed the annual threshold established by UMRA ($128 million in 2006, adjusted annually for inflation).

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of H.R. 4473 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					
	2006	2007	2008	2009	2010	2011
SPENDING SUBJECT TO APPROPRIATION						
CFTC Spending Under Current Law						
Budget Authority [a]	98	0	0	0	0	0
Estimated Outlays	98	9	0	0	0	0
Proposed Changes						
Estimated Authorization Level	1	104	107	111	114	0
Estimated Outlays	1	93	105	108	111	10
CFTC Spending Under the Bill						
Estimated Authorization Level [a]	99	104	107	111	114	0
Estimated Outlays	99	102	105	108	111	10
CHANGES IN REVENUES						
Estimated Revenues	8	30	30	30	30	30

a. The 2006 level is the amount appropriated for that year for the Commodity Futures Trading Commission.

BASIS OF ESTIMATE

CBO estimates that implementing the bill would cost $1 million in 2006 and $428 million over the 2006-2011 period to continue current activities of the CFTC and for new tasks specified in the bill. For this estimate, CBO assumes that the estimated amounts will be appropriated for each fiscal year and that outlays will follow historical spending patterns for the CFTC. Enacting the legislation would increase net revenues by $30 million a year after 2007, CBO estimates, for increasing civil monetary penalties for price manipulation of commodities. (The estimated increase for 2007 would be $8 million.)

Spending Subject to Appropriation

The legislation would authorize appropriations for the CFTC through 2010 and would amend and clarify the jurisdiction of the CFTC over certain futures transactions and financial products. The bill also would require the CFTC to monitor trading of contracts for natural gas and to administer private-sector reporting of significant holdings of such contracts. Finally, the bill would require the SEC and the CFTC to facilitate the implementation of new margin requirements for certain financial products and futures trading on certain security indexes.

For 2006, the CFTC received an appropriation of $98 million. Based on the agency's current budget and adjusting for anticipated inflation, CBO estimates that extending the authorization of appropriations for the current functions of the CFTC through 2010 would require $102 million in funding for 2007 and $428 million in appropriations over the 2007-2010 period.

Based on information provided by the CFTC, CBO estimates that the agency would require 10 additional personnel a year to manage the increased workload anticipated because of the legislation's impact on the agency's jurisdiction over certain future transactions. We also estimate that the CFTC would require two additional staff in 2007 for writing regulations related to margin requirements, futures trading on certain security indexes, and reporting requirements for significant holdings of contracts for natural gas. We estimate that salaries, benefits, and overhead for those additional staff would cost about $1 million in 2006 and $9 million over the 2006-2011 period. According to the CFTC, the agency currently monitors the market for natural gas, therefore we estimate that implementing the bill would not increase spending subject to appropriation for that task. We estimate that implementing the bill would not have a significant effect on spending by the SEC.

Revenues and Direct Spending

The legislation would increase tenfold the maximum civil penalties for manipulation of prices in the commodities market. According to the CFTC, collections for these penalties have averaged about $40 million between 2002 and 2004 but were much lower over the previous three-year period. Considering that the CFTC has the authority to assess penalties in amounts less than the maximum penalty set in law, the deterrent effect of increased penalties, and the cyclical nature of violations of these laws over the last several years, CBO expects that, on average, collections from penalties would increase by about $40 million per year, once fully implemented. CBO estimates that, under the bill, revenues would increase by $8 million in 2006, $158 million over the 2006-2011 period, and $308 million over the 2006-2016 period, net of income and payroll tax offsets.

The legislation also would increase the maximum criminal penalties assessed on individuals for manipulation of prices in the commodities market and other criminal activity related to futures trading. Based on information provided by the CFTC, we estimate that any additional revenues or direct spending resulting from increased criminal penalties would not be significant.

ESTIMATED IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS

The bill contains no intergovernmental mandates as defined in UMRA and would not affect the budgets of state, local, and tribal governments.

ESTIMATED IMPACT ON THE PRIVATE SECTOR

The bill would impose private-sector mandates as defined in UMRA on certain entities involved in retail foreign currency transactions by changing the criteria to qualify for exclusion from CFTC jurisdiction with regard to those transactions. The bill also would impose a private-sector mandate on certain entities that hold, maintain, or control large positions in contract sales of natural gas for future delivery by requiring those entities to submit additional reports to the CFTC. CBO expects that the direct cost of those mandates would not exceed the annual threshold established by UMRA ($128 million in 2006, adjusted annually for inflation).

The CFTC currently has jurisdiction over certain retail foreign currency agreements, contracts, and transactions. The bill would expand the range of such products over which the CFTC has jurisdiction. Under current law, some entities are excluded from the jurisdiction of the CFTC for such transactions. The bill would impose private-sector mandates as defined in UMRA on certain entities involved in retail foreign currency transactions by changing the criteria to qualify for an exclusion from CFTC jurisdiction with regard to those transactions. The bill would no longer permit unregistered affiliates of futures commission merchants (FCMs) to be excluded from the jurisdiction of the CFTC regarding their retail foreign currency transactions. For registered FCMs to qualify for exclusion, the bill would require that each person who participates in the solicitation or recommendation of such transactions must register with the CFTC and be a member of the National Futures Association (NFA).

The complete registration process for each unregistered FCM would not exceed about $750 per person. Currently, the CFTC regulates about 50,000 registered FCMs. However, there are no data on the number of unregistered FCMs because they are not currently regulated. CBO expects that the number of unregistered FCMs would not be large enough to cause the costs of this mandate to exceed UMRA's threshold.

The bill also would impose a mandate on certain entities that hold, maintain, or control large positions in contracted sales of natural gas for future delivery. The bill would require those entities to keep and maintain records of their transactions for five years and submit electronic reports to the CFTC upon request as part of the Commission's surveillance. Currently, all entities that hold, maintain, or control any position in a contract sale of natural gas for future delivery must keep and maintain records for such transactions and submit electronic reports to the CFTC if they trade over an exchange. Entities that engage in "over-the-counter" futures transactions (transactions that are not made over an exchange) are presently excluded from CFTC authority and are not required to submit electronic reports to the CFTC. According to government sources, entities that participate in such over-the-counter transactions currently maintain transaction records and are capable of transmitting the reports electronically to the CFTC. CBO expects that the costs of complying with the mandate would be minimal.

PREVIOUS CBO ESTIMATE

On July 28, 2005, CBO transmitted a cost estimate for S. 1566, the Commodity Exchange Reauthorization Act of 2005, as ordered reported by the Senate Committee on Agriculture, Nutrition, and Forestry on July 21, 2005. Both pieces of legislation would extend the authority to appropriate funds for the CFTC through 2010, amend and clarify the CFTC's jurisdiction over certain futures transactions and financial products, and increase the maximum penalties for manipulation of prices in the commodities market. S. 1566 does not contain the provisions included in H.R. 4473 regarding margin requirements, futures trading on certain security indexes, monitoring of the market for natural gas, and reporting requirements for significant holdings of contracts for natural gas; however, CBO estimates that implementing those provisions would not have a significant impact on spending subject to appropriation.

CBO's cost estimates for H.R. 4473 and S. 1566 differ because we completed our cost estimate for H.R. 4473 after enactment of the fiscal year 2006 appropriation for the CFTC. The funding provided for 2006 changes our assumptions regarding the impact of the bill.

Both bills would impose similar private-sector mandates by changing the criteria to qualify for an exclusion from CFTC jurisdiction regarding retail foreign currency transactions.

H.R. 4473 differs in that it contains an additional title clarifying the CFTC's authority over contracted sales of natural gas for future delivery. The new title would create an additional reporting requirement for certain entities holding, maintaining, and controlling large positions in those sales. The aggregate cost of complying with the mandates in each bill would fall below UMRA's annual threshold for private-sector mandates.

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