

106TH CONGRESS
2D SESSION

S. 2765

To amend the securities laws to provide for regulatory parity for single stock futures, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 21, 2000

Mr. SCHUMER introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To amend the securities laws to provide for regulatory parity for single stock futures, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SEC. 101. DEFINITIONS UNDER THE SECURITIES EX-**

4 **CHANGE ACT OF 1934.**

5 Section 3(a) of the Securities Exchange Act of 1934

6 (15 U.S.C. 78c(a)) is amended—

7 (1) in paragraph (10), by inserting “security
8 future,” between “treasury stock,” and “bond”;

9 (2) by striking paragraph (11) and inserting
10 the following:

1 “(11) The term ‘equity security’ means any
2 stock or similar security; or any security future; or
3 any security convertible, with or without consider-
4 ation, into such a security, or carrying any warrant
5 or right to subscribe to or purchase such a security;
6 or any such warrant or right; or any put, call, strad-
7 dle, option, or privilege on any such security; or any
8 other security which the Commission shall deem to
9 be of similar nature and consider necessary or ap-
10 propriate, by such rules and regulations as it may
11 prescribe in the public interest or for the protection
12 of investors, to treat as an equity security.”;

13 (3) in paragraph (13), by adding at the end the
14 following: “For security future products, this in-
15 cludes any contract, agreement, or transaction for
16 future delivery.”;

17 (4) in paragraph (14), by adding at the end the
18 following: “For security future products, this in-
19 cludes any contract, agreement, or transaction for
20 future delivery.”; and

21 (5) by adding at the end the following:

22 “(55)(A) The term ‘security future’ means a
23 contract of sale for future delivery of a single secu-
24 rity or of a narrow-based security index, including
25 any interest therein or based on the value thereof.

1 “(B) A ‘narrow-based security index’ is an
2 index—

3 “(i) that has 10 or fewer component secu-
4 rities;

5 “(ii) in which the securities of a single
6 issuer account on average, over the six-month
7 period ending on the date equity options expire
8 in June of each year and over the six-month pe-
9 riod ending on the date equity options expire in
10 December of each year, for more than 10% of
11 the market capitalization of that index;

12 “(iii) in which the securities of a single
13 issuer in a price-weighted (or other non-capital-
14 ization weighted) index account on average,
15 over the six-month period ending on the date
16 equity options expire in June of each year and
17 over the six-month period ending on the date
18 equity options expire in December of each year,
19 for more than three times their weight in the
20 index if calculated on a market-capitalization
21 basis;

22 “(iv) in which any component security has
23 an average daily trading volume value of less
24 than \$1 million or an aggregate market value

1 of the voting and non-voting common equity
2 held by non-affiliates of less than \$150 million;

3 “(v) in which the average correlation of the
4 securities in the index to the index itself is
5 greater than 0.6 over the six-month period end-
6 ing on the date equity options expire in June of
7 each year and over the six-month period ending
8 on the date equity options expire in December
9 of each year; or

10 “(vi) in which the correlation of any secu-
11 rity in the index to the index itself is greater
12 than 0.9 over the six-month period ending on
13 the date equity options expire in June of each
14 year and over the six-month period ending on
15 the date equity options expire in December of
16 each year.

17 “(C) The term ‘security future product’ means
18 a security future or any put, call, straddle, option,
19 or privilege on any security future.

20 “(56)(A) The term ‘margin’, when used with
21 respect to a security future product, means the
22 amount, type, and form of collateral required to se-
23 cure any extension, maintenance, or arrangement of
24 the extension or maintenance of credit, or the
25 amount of collateral required as a performance bond

1 related to the purchase, sale, or carrying of a secu-
2 rity future product, and all other uses of collateral
3 related to the purchasing, selling, or carrying of a
4 security future product.

5 “(B) The terms ‘margin level’ and ‘level of mar-
6 gin’, when used with respect to a security future
7 product, mean the amount of collateral required to
8 secure any extension, maintenance, or arrangement
9 of the extension or maintenance of credit, or the
10 amount of collateral required as a performance
11 bond, related to the purchase, sale, or carrying of a
12 security future product.

13 “(C) The terms ‘higher margin level’ and ‘high-
14 er level of margin’, when used with respect to a se-
15 curity future product, mean a margin level estab-
16 lished by a national securities exchange or a national
17 securities association that is higher than the min-
18 imum amount established jointly by the Commission
19 and the Commodity Futures Trading Commission
20 pursuant to section 7(c)(1)(C)(ii).”

21 **SEC. 102. REGULATORY RELIEF FOR MARKETS TRADING**
22 **SECURITY FUTURE PRODUCTS.**

23 (a) EXPEDITED REGISTRATION AND EXEMPTION.—
24 Section 6 of the Securities Exchange Act of 1934 (15
25 U.S.C. 78f) is amended by adding at the end the following:

1 “(g)(1) An exchange that lists or trades security fu-
2 ture products may be registered as a national securities
3 exchange solely for the purposes of trading security future
4 products if (A) it is a board of trade, as that term is de-
5 fined by the Commodity Exchange Act (7 U.S.C. 1a(1)),
6 that has been designated a contract market by the Com-
7 modity Futures Trading Commission and is not subject
8 to a suspension order by the Commodity Futures Commis-
9 sion, and (B) such exchange does not serve as a market
10 place for securities other than security future products,
11 or futures on exempted securities or groups or indexes of
12 securities that have been authorized by Commodity Fu-
13 tures Trading Commission order or options thereon.

14 “(2)(A) An exchange required to register only be-
15 cause it lists or trades security future products may reg-
16 ister for purposes of this section by filing with the Com-
17 mission a written notice in such form as the Commission,
18 by rule, may prescribe containing the rules of the exchange
19 and such other information and documents concerning
20 such exchange as the Commission, by rule, may prescribe
21 as necessary or appropriate in the public interest or for
22 the protection of investors.

23 “(B) Such registration shall be effective immediately
24 upon filing of the written notice with the Commission.
25 Such registration shall not be effective if the exchange

1 were so registered, its registration would be subject to sus-
2 pension or revocation.

3 “(C) Such registration shall be terminated imme-
4 diately if any of the conditions for registration set forth
5 in this subsection are no longer satisfied.

6 “(3) The Commission shall make available to the
7 public all notices it receives under this subsection.

8 “(4)(A) An exchange that is registered under para-
9 graph (1) of this subsection shall be exempt from and shall
10 not be required to enforce compliance by its members with,
11 and its members shall not, solely with respect to those
12 transactions effected on such exchange in security future
13 products, be required to comply with, the following provi-
14 sions of this title and the rules thereunder:

15 “(i) subsections (b)(2), (b)(3), (b)(4), (b)(7),
16 (b)(9), (c), (d), and (e) of section 6;

17 “(ii) section 11;

18 “(iii) subsection (d) and (f) of section 17; and

19 “(iv) subsection (a), (f), and (h) of section 19.

20 “(B) An exchange that is subject to the registration
21 requirement of paragraph (1) of this subsection shall also
22 be exempt from submitting proposed rule changes pursu-
23 ant to section 19(b) of this title, except that:

24 “(i) it shall file proposed rule changes related to
25 higher margin levels, fraud or manipulation, record-

1 keeping, reporting, listing standards of security fu-
 2 ture products, or sales practices for persons who ef-
 3 fect transactions in security future products or rules
 4 primarily related to its obligation to enforce the se-
 5 curities laws pursuant to section 19(b)(7);

6 “(ii) it shall file pursuant to sections 19(b)(1)
 7 and 19(b)(2) proposed rule changes related to mar-
 8 gin, except for changes to higher margin levels; and

9 “(iii) it shall file pursuant to section 19(b)(1)
 10 proposed rule changes that have been abrogated by
 11 the Commission pursuant to section 19(b)(7)(C).

12 “(5) No exchange that is registered under paragraph
 13 (1) of this subsection shall trade any security future prod-
 14 uct until the National Futures Association has met the
 15 requirements set forth in section 15A(k)(2) of this title.”.

16 (b) COMMISSION REVIEW OF PROPOSED RULE
 17 CHANGES.—

18 (1) EXPEDITED REVIEW.—Section 19(b) of the
 19 Securities Exchange Act of 1934 (15 U.S.C. 78s(b))
 20 is amended by adding at the end the following:

21 “(7)(A) A self-regulatory organization that is
 22 an exchange registered with the Commission pursu-
 23 ant to section 6(g) of this title or that is the Na-
 24 tional Futures Association shall file with the Com-
 25 mission, in accordance with such rules as the Com-

1 mission may prescribe, copies of any proposed rule
2 change or any proposed change in, addition to, or
3 deletion from the rules of such self-regulatory orga-
4 nization (hereinafter in this subsection collectively
5 referred to as a ‘proposed rule change’) that relates
6 to higher margin levels, fraud or manipulation, rec-
7 ordkeeping, reporting, listing standards of security
8 future products, or sales practices for persons who
9 effect transactions in security future products or
10 rules primarily related to its obligation to enforce
11 the securities laws. Such proposed rule change shall
12 be accompanied by a concise general statement of
13 the basis and purpose of such proposed rule change.
14 The Commission shall, upon the filing of any pro-
15 posed rule change, publish notice thereof together
16 with the terms of substance of the proposed rule
17 change or a description of the subjects and issues in-
18 volved. The Commission shall give interested persons
19 an opportunity to submit written data, views, and
20 arguments concerning such proposed rule change.

21 “(B) A proposed rule change filed with the
22 Commission pursuant to subparagraph (A) must be
23 filed concurrently with the Commodity Futures
24 Trading Commission. Such proposed rule change
25 may take effect upon a determination by the Com-

1 commodity Futures Trading Commission that review of
2 the proposed rule change is not necessary or upon
3 approval of the proposed rule change by the Com-
4 modity Futures Trading Commission.

5 “(C) Any proposed rule change of a self-regu-
6 latory organization that has taken effect pursuant to
7 subparagraph (B) may be enforced by such self-reg-
8 ulatory organization to the extent it is not incon-
9 sistent with the provisions of this title, the rules and
10 regulations thereunder, and applicable Federal and
11 State law. At any time within sixty days of the date
12 the Commodity Futures Trading Commission deter-
13 mines that review of such proposed rule change is
14 not necessary or the date the Commodity Futures
15 Trading Commission approves such proposed rule
16 change, the Commission summarily may abrogate
17 the proposed rule change and require that the pro-
18 posed rule change be refiled in accordance with the
19 provisions of section 19(b)(1), if it appears to the
20 Commission that such proposed rule change unduly
21 burdens competition, conflicts with the securities
22 laws, or does not promote efficiency. Commission ac-
23 tion pursuant to the preceding sentence shall not af-
24 fect the validity or force of the rule change during
25 the period it was in effect and shall not be review-

1 able under section 25 nor deemed to be a final agen-
2 cy action for purposes of section 704 of title 5,
3 United States Code.

4 “(D) Within thirty-five days of the date of pub-
5 lication of notice of the filing of a proposed rule
6 change that is abrogated in accordance with sub-
7 paragraph (C) and refiled in accordance with section
8 19(b)(1), or within such longer period as the Com-
9 mission may designate up to ninety days after such
10 date if it finds such longer period to be appropriate
11 and publishes its reasons for so finding or as to
12 which the self-regulatory organization consents, the
13 Commission shall—

14 “(i) by order approve such proposed rule
15 change, or

16 “(ii) institute proceedings to determine
17 whether the proposed rule change should be dis-
18 approved. Such proceedings shall include notice
19 of the grounds for disapproval under consider-
20 ation and opportunity for hearing and be con-
21 cluded within one hundred eighty days of the
22 date of publication of notice of the filing of the
23 proposed rule change. At the conclusion of such
24 proceedings the Commission, by order, shall ap-
25 prove or disapprove such proposed rule change.

1 The Commission may extend the time for con-
2 clusion of such proceedings for up to sixty days
3 if it finds good cause for such extension and
4 publishes its reasons for so finding or for such
5 longer period as to which the self-regulatory or-
6 ganization consents.

7 The Commission shall approve a proposed rule
8 change of a self-regulatory organization if it finds
9 that such proposed rule change promotes efficiency,
10 does not unduly burden competition, and does not
11 conflict with the securities laws. The Commission
12 shall disapprove a proposed rule change of a self-
13 regulatory organization if it does not make such
14 finding. The Commission shall not approve any pro-
15 posed rule change prior to the thirtieth day after the
16 date of publication of notice of the filing thereof, un-
17 less the Commission finds good cause for so doing
18 and publishes its reasons for so finding.”.

19 (2) CONSULTATION PROVISIONS.—Section 19(b)
20 of the Securities Exchange Act of 1934 (15 U.S.C.
21 78s(b)) is amended by adding after paragraph (7),
22 as added by this Act, the following:

23 “(8)(A) The Commission shall consult with and
24 consider the views of the Commodity Futures Trad-
25 ing Commission prior to approving a proposed rule

1 change filed by a national securities association reg-
2 istered pursuant to section 15A(a) or a national se-
3 curities exchange subject to the provisions of section
4 19(a) that primarily concerns conduct related to
5 transactions in security futures products, except
6 where the Commission determines that an emer-
7 gency exists requiring expeditious or summary action
8 and publishes its reasons therefore. If the Com-
9 modity Futures Trading Commission comments in
10 writing to the Commission on a proposed rule that
11 has been published for comment, the Commission
12 shall respond in writing to such written comment be-
13 fore approving the proposed rule. If the Commodity
14 Futures Trading Commission determines, and noti-
15 fies the Commission, that such rule, if implemented,
16 would, or as applied: (i) adversely affect the liquidity
17 or efficiency of the market for security future prod-
18 ucts; or (ii) impose any burden on competition not
19 necessary or appropriate in furtherance of the pur-
20 poses of this section, the Commission shall, prior to
21 adopting the proposed rule, find that such rule is
22 necessary and appropriate in furtherance of the pur-
23 poses of this section notwithstanding the Commodity
24 Futures Trading Commission's determination.

1 “(B) In approving rules described in subpara-
2 graph (A), the Commission shall consider the suffi-
3 ciency and appropriateness of then existing laws and
4 rules applicable to security futures products.”.

5 (c) REVIEW OF DISCIPLINARY PROCEEDINGS.—Sec-
6 tion 19(d) of the Securities Exchange Act of 1934 (15
7 U.S.C. 78s(d)) is amended by adding at the end the fol-
8 lowing:

9 “(3) The provisions of section 19(d) shall apply
10 to an exchange registered pursuant to section 6(g)
11 of this title or the National Futures Association only
12 to the extent that such self-regulatory organization
13 imposes any final disciplinary sanction related to a
14 security future product or the securities laws.”.

15 **SEC. 103. REGULATORY RELIEF FOR INTERMEDIARIES**

16 **TRADING SECURITY FUTURE PRODUCTS.**

17 (a) EXPEDITED REGISTRATION AND EXEMPTIONS.—

18 (1) Section 15(b) of the Securities Exchange
19 Act of 1934 (15 U.S.C. 78o(b)) is amended by add-
20 ing at the end the following:

21 “(11)(A)(i) A broker or dealer required to reg-
22 ister only because it effects transactions in security
23 future products on an exchange registered pursuant
24 to section 6(g) may register for purposes of this sec-
25 tion by filing with the Commission a written notice

1 in such form and containing such information con-
2 cerning such broker or dealer and any persons asso-
3 ciated with such broker or dealer as the Commission,
4 by rule, may prescribe as necessary or appropriate
5 in the public interest or for the protection of inves-
6 tors, if that broker or dealer is a member of the
7 National Futures Association.

8 “(ii) Such registration shall be effective imme-
9 diately upon filing of the written notice with the
10 Commission. Such registration shall not be effective
11 if the applicant were so registered, its registration
12 would be subject to suspension or revocation under
13 paragraph (4).

14 “(iii) Such registration shall be suspended im-
15 mediately if the National Futures Association sus-
16 pends the membership of that broker or dealer.

17 “(iv) Such registration shall be terminated im-
18 mediately if any of the above stated conditions for
19 registration set forth in this paragraph are no longer
20 satisfied.

21 “(B) A broker or dealer registered pursuant to
22 the requirements of subparagraph (A) shall be ex-
23 empt from the following provisions of this title and
24 the rules thereunder with respect to transactions in
25 security future products:

1 “(i) section 8;
2 “(ii) subsection (a) of section 10;
3 “(iii) section 11;
4 “(iv) subsection (c)(3) of section 15;
5 “(v) section 15B;
6 “(iv) section 15C; and
7 “(vii) subsections (d), (e), (f) (g), and (h)
8 of section 17.

9 The Commission, by rule, regulation, or order, also
10 may conditionally or unconditionally exempt any
11 broker or dealer from any other requirement of this
12 title related to security future products, to the ex-
13 tent that such exemption is necessary or appropriate
14 in the public interest, and is consistent with the pro-
15 tection of investors.”; and

16 (2) Section 28(e) of the Securities Exchange
17 Act of 1934 (15 U.S.C. 78bb(e)) is amended by add-
18 ing at the end the following:

19 “(4) The provisions of subsection (e) shall not
20 apply with regard to securities that are security fu-
21 ture products.”.

22 (b) FLOOR BROKERS.—Section 15(b) of the Securi-
23 ties Exchange Act of 1934 (15 U.S.C. 78o(b)) is amended
24 by adding after paragraph (11), as added by this Act, the
25 following:

1 “(12)(A) A natural person shall be exempt from
2 the registration requirements of this section if such
3 person:

4 “(i) is a member of a designated contract
5 registered with the Commission as an exchange
6 pursuant to section 6(g);

7 “(ii) only effects transactions in securities
8 of the exchange of which he is a member; and

9 “(iii) has no direct contact with public cus-
10 tomers.

11 “(B) A natural person exempt from registration
12 pursuant to subparagraph (A) shall also be exempt
13 from the following provisions of this title and the
14 rules thereunder:

15 “(i) section 8;

16 “(ii) subsection (a) of section 10;

17 “(iii) section 11;

18 “(iv) subsection (c)(3) of section 15;

19 “(v) section 15B;

20 “(iv) section 15C; and

21 “(vii) subsections (d), (e), (f) (g), and (h)
22 of section 17.”.

23 (c) LIMITED PURPOSE NATIONAL SECURITIES ASSO-
24 CIATION.—Section 15A of the Securities Exchange Act of

1 1934 (15 U.S.C. 78o-3) is amended by adding at the end
2 the following:

3 “(k)(1) The National Futures Association shall be a
4 registered national securities association for the limited
5 purpose of regulating the activities of members who are
6 registered as brokers or dealers in security future products
7 pursuant to section 15(b)(11).

8 “(2) The National Futures Association shall—

9 “(A) be so organized and have the capacity to
10 carry out the purposes of the securities laws applica-
11 ble to security future products and to comply, and
12 (subject to any rule or order of the Commission pur-
13 suant to section 19(g)(2)) to enforce compliance by
14 its members and persons associated with members,
15 with the provisions of the securities laws applicable
16 to security future products, the rules and regulations
17 thereunder, and the rules of the National Futures
18 Association;

19 “(B) have rules that are designed to prevent
20 fraudulent and manipulative acts and practices, to
21 promote just and equitable principles of trade, and,
22 in general, to protect investors and the public inter-
23 est; and are not designed to regulate by virtue of
24 any authority conferred by this title matters not re-

1 lated to the purposes of this title or the administra-
2 tion of the association;

3 “(C) have rules that provide that (subject to
4 any rule or order of the Commission pursuant to
5 section 19(g)(2)) its members and persons associ-
6 ated with its members shall be appropriately dis-
7 ciplined for violation of any provision of the securi-
8 ties laws applicable to security future products, the
9 rules or regulations thereunder, or the rules of the
10 association, by expulsion, suspension, limitation of
11 activities, functions, and operations, fine, censure,
12 being suspended or barred from being associated
13 with a member, or any other fitting sanction;

14 “(D) have rules that ensure that members and
15 natural persons associated with members meet such
16 standards of training, experience, and competence
17 necessary to effect transactions in security future
18 products and are tested for their knowledge of secu-
19 rities and security future products; and

20 “(E) have rules governing sales practices and
21 the advertising of security future products com-
22 parable to those of other national securities associa-
23 tions registered pursuant to section 15A(a).

1 “(3) The National Futures Association shall be ex-
2 empt from submitting proposed rule changes pursuant to
3 section 19(b) of this title, except that:

4 “(A) it shall file proposed rule changes related
5 to higher margin levels, fraud or manipulation, rec-
6 ordkeeping, reporting, listing standards of security
7 future products, or sales practices or standards of
8 training, experience, competence, or other qualifica-
9 tions for persons who effect transactions in security
10 future products or rules primarily related to its obli-
11 gation to enforce the securities laws pursuant to sec-
12 tion 19(b)(7);

13 “(B) it shall file pursuant to sections 19(b)(1)
14 and 19(b)(2) proposed rule changes related to mar-
15 gin, except for changes to higher margin levels; and

16 “(C) it shall file pursuant to section 19(b)(1)
17 proposed rule changes that have been abrogated by
18 the Commission pursuant to section 19(b)(7)(C).

19 “(4) The National Futures Association shall be ex-
20 empt from and shall not be required to enforce compliance
21 by its members, and its members shall not, solely with re-
22 spect to their transactions effected in security future prod-
23 ucts, be required to comply, with the following provisions
24 of this title and the rules thereunder:

1 “(A) subsections (b)(1), (b)(3), (b)(4), (b)(5),
2 (b)(8), (b)(10), (b)(11), (b)(12), (b)(13), (c), (d),
3 (e), (f), (g), (h), and (i) of section 15A;

4 “(B) subsections (d) and (f) of section 17; and

5 “(C) subsections (a), (f), and (h) of section
6 19.”.

7 “(d) EXEMPTION UNDER THE SECURITIES INVESTOR
8 PROTECTION ACT OF 1970.—

9 (1) Section 16(14) of the Securities Investor
10 Protection Act of 1970 (15 U.S.C. 78lll(14)) is
11 amended by inserting “or any security future as that
12 term is defined in Section 3(a)(55)(A) of the Securi-
13 ties Exchange Act of 1934,” between “certificate of
14 deposit for a security,” and “any investment con-
15 tract or certificate of interest or participation”; and

16 (2) Section 3(a)(2) of the Securities Investor
17 Protection Act of 1970 (15 U.S.C. 78ccc(a)(2)) is
18 amended—

19 (A) in subparagraph (A)(i), by striking
20 “and” after the semicolon;

21 (B) in subparagraph (A)(ii), by striking
22 the period and inserting “; and”;

23 (C) by adding at the end the following:

24 “(iii) persons who are registered as a
25 broker or dealer pursuant to section

1 15(b)(11)(A) of the Securities Exchange
2 Act of 1934.”.

3 (e) OTHER PROVISION.—Section 15(i)(6)(A) of the
4 Securities Exchange Act of 1934 (15 U.S.C. 78o(i)(6)(A))
5 is amended—

6 (1) in subparagraph (A)(ii), by striking
7 “and”;

8 (2) in subparagraph (A)(iii), by striking
9 the period and inserting “; and”;

10 (3) by adding at the end the following:

11 “(iv) is not a security future prod-
12 uct.”.

13 **SEC. 104. SPECIAL PROVISIONS FOR INTERAGENCY CO-**
14 **OPERATION.**

15 Section 17 of the Securities Exchange Act of 1934
16 (15 U.S.C. 78q) is amended by striking subsection (b) and
17 inserting the following:

18 “(b)(1) All records of persons described in subsection
19 (a) are subject at any time, or from time to time, to such
20 reasonable periodic, special, or other examinations by rep-
21 resentatives of the Commission and the appropriate regu-
22 latory agency for such persons as the Commission or the
23 appropriate regulatory agency for such persons deems nec-
24 essary or appropriate in the public interest, for the protec-
25 tion of investors, or otherwise in furtherance of the pur-

1 poses of this title if the Commission, prior to conducting
2 any such examination of a—

3 “(A) registered clearing agency, registered
4 transfer agent, or registered municipal securities
5 dealer for which it is not the appropriate regulatory
6 agency, gives notice to the appropriate regulatory
7 agency for such clearing agency, transfer agent, or
8 municipal securities dealer, of such proposed exam-
9 ination and consults with the appropriate regulatory
10 agency concerning the feasibility and desirability of
11 coordinating such examinations conducted by the ap-
12 propriate regulatory agency with a view to avoiding
13 unnecessary regulatory duplication or undue regu-
14 latory burdens for such clearing agency, transfer
15 agent, or municipal securities dealer; or

16 “(B) broker or dealer registered pursuant to
17 section 15(b)(11) or exchange registered pursuant to
18 section 6(g), gives notice to the Commodity Futures
19 Trading Commission of such proposed examination
20 and consults with the Commodity Futures Trading
21 Commission concerning the feasibility and desir-
22 ability of coordinating such examination with exami-
23 nations conducted by the Commodity Futures Trad-
24 ing Commission with a view to avoiding unnecessary

1 regulatory duplication or undue regulatory burdens
2 for such broker or dealer or exchange.

3 “(2) The Commission shall notify the Commodity Fu-
4 tures Trading Commission of any examination conducted
5 of any broker or dealer registered pursuant to section
6 15(b)(11) or exchange registered pursuant to section 6(g),
7 and, upon request, furnish to the Commodity Futures
8 Trading Commission any examination report and data
9 supplied to the Commission in connection with such exam-
10 ination.

11 “(3) The Commission shall, to the fullest extent pos-
12 sible, use the reports of examinations of any broker or
13 dealer registered pursuant to section 15(b)(11) or ex-
14 change registered pursuant to section 6(g) made by the
15 Commodity Futures Trading Commission, the National
16 Futures Association, or an exchange registered pursuant
17 to section 6(g).

18 “(4) Nothing in this subsection shall be construed to
19 impair or limit (other than by the requirement of prior
20 consultation) the power of the Commission under this sub-
21 section to examine any clearing agency, transfer agent, or
22 municipal securities dealer, broker or dealer registered
23 pursuant to section 15(b)(11), or exchange registered pur-
24 suant to section 6(g), or to affect in any way the power
25 of the Commission under any other provision of this title

1 or otherwise to inspect, examine, or investigate any clear-
 2 ing agency, transfer agent, or municipal securities dealer,
 3 broker or dealer registered pursuant to section 15(b)(11),
 4 or exchange registered pursuant to section 6(g).”.

5 **SEC. 105. MAINTENANCE OF MARKET INTEGRITY FOR SE-**
 6 **CURITY FUTURE PRODUCTS.**

7 (a) ADDITION OF SECURITY FUTURE PRODUCTS TO
 8 OPTION-SPECIFIC ENFORCEMENT PROVISIONS.—

9 (1) PROHIBITION AGAINST MANIPULATION.—

10 Section 9(b) of the Securities Exchange Act of 1934
 11 (15 U.S.C. 78i) is amended—

12 (A) in paragraph (1), by inserting “(A)”
 13 between “acquires” and “any” and by striking
 14 “; or” and inserting “, or (B) any contract of
 15 sale of the security for future delivery; or”;

16 (B) in paragraph (2), by inserting “(A)”
 17 between “any” and “such” and by striking
 18 “; or” and inserting “or (B) such contract of
 19 sale for future delivery; or”; and

20 (C) in paragraph (3), by inserting “(A)”
 21 between “any” and “such” and inserting “or
 22 (B) contract of sale for future delivery” be-
 23 tween “security” and “with”.

24 (2) LIABILITY OF CONTROLLING PERSONS AND
 25 PERSONS WHO AID AND ABET VIOLATIONS.—Section

1 20(d) of the Securities Exchange Act of 1934 (15
2 U.S.C. 78t) is amended by striking “or privilege”
3 and inserting “privilege, or security future product”.

4 (3) LIABILITY TO CONTEMPORANEOUS TRADERS
5 FOR INSIDER TRADING.—Section 21A(a)(1) of the
6 Securities Exchange Act of 1934 (15 U.S.C. 78u–
7 1(a)(1)) is amended by striking “standardized op-
8 tions, the Commission—” and inserting “standard-
9 ized options or security future products, the Com-
10 mission—”.

11 (4) ENFORCEMENT CONSULTATION.—Section
12 21 of the Securities Exchange Act of 1934 (15
13 U.S.C. 78u) is amended by adding at the end the
14 following:

15 “(i) The Commission shall file with
16 the Commodity Futures Trading Commis-
17 sion notice of the commencement of any
18 proceeding and a copy of any order entered
19 by the Commission against any broker or
20 dealer registered pursuant to section
21 15(b)(11) or any exchange registered pur-
22 suant to section 6(g).”.

1 **SEC. 106. SPECIAL PROVISIONS FOR THE TRADING OF SE-**
2 **CURITY FUTURE PRODUCTS.**

3 (a) LISTING STANDARDS.—Section 6 of the Securi-
4 ties Exchange Act of 1934 (15 U.S.C. 78f) is amended
5 by inserting after subsection (g), as added by this Act,
6 the following:

7 “(h)(1) It shall be unlawful for any person to effect
8 transactions in security future products otherwise than on
9 a national securities exchange or a national securities as-
10 sociation registered pursuant to section 15A(a).

11 “(2) A national securities exchange or a national se-
12 curities association registered pursuant to section 15A(a)
13 may trade only security future products that conform with
14 listing standards that such exchanges file with the Com-
15 mission under section 19(b)(7) and the Commodity Fu-
16 tures Trading Commission under section of the Com-
17 modity Exchange Act (7 U.S.C.).

18 “(3) Such listing standards must:

19 “(A) require that any security underlying the
20 security future, including each component security of
21 a narrow-based security index, be registered pursu-
22 ant to section 12 of this title;

23 “(B) require that the security future product be
24 cash settled;

25 “(C) be no less restrictive than comparable list-
26 ing standards for options;

1 “(D) require that the security future be based
2 upon common stock and such other equity securities
3 as the Commission determines appropriate;

4 “(E) require that the security future product is
5 guaranteed by a clearing agency that has in place
6 provisions for linked and coordinated clearing with
7 other clearing agencies that guarantee security fu-
8 ture products, which permits the security future
9 product to be purchased on a national securities ex-
10 change or national securities association registered
11 pursuant to section 15A(a) and offset on another
12 national securities exchange or national securities
13 association registered pursuant to section 15A(a);

14 “(F) require that only a broker or dealer sub-
15 ject to suitability rules comparable to those of a na-
16 tional securities association registered pursuant to
17 section 15A(a) effect transactions in the security fu-
18 ture product;

19 “(G) require that the security future product be
20 subject to the prohibition against dual trading in
21 section 4(j) of the Commodity Exchange Act (7
22 U.S.C. 6j) or the provisions of section 11(a) of this
23 title and the rules and regulations thereunder, ex-
24 cept to the extent otherwise permitted under this
25 title and the rules and regulations thereunder;

1 “(H) require that trading in the security future
2 product and any security that underlies the security
3 future product not be readily susceptible to manipu-
4 lation;

5 “(I) require that procedures be in place for co-
6 ordinated surveillance to detect manipulation and in-
7 sider trading between the market trading the secu-
8 rity future product, the market trading the securities
9 underlying the security future product, and other
10 markets trading related securities;

11 “(J) require that the market trading the secu-
12 rity future product has in place audit trails nec-
13 essary or appropriate to facilitate the coordinated
14 surveillance required in subparagraph (I);

15 “(K) require that the market trading the secu-
16 rity future product has in place procedures to co-
17 ordinate trading halts between that market and mar-
18 kets trading the securities underlying the security
19 future product and other markets trading related se-
20 curities; and

21 “(L) require that initial and maintenance mar-
22 gin levels for a security future product shall not be
23 lower than the levels of margin required on a com-
24 parable option traded on an exchange registered pur-
25 suant to section 6(a) of this title.

1 “(4) No person shall offer to enter into, enter into,
2 or confirm the execution of any option on a securities fu-
3 ture: *Provided, however,* That after 3 years from the date
4 of enactment of this Act the Commission and the Com-
5 modity Futures Trading Commission may by order deter-
6 mine to permit trading of options on any security future
7 authorized to be traded under the provisions of this Act.
8 Before any such determination, the Commission and the
9 Commodity Futures Trading Commission shall conduct a
10 study of the effect of the trading of security futures on
11 the markets for futures contracts, securities, and options
12 and the adequacy of protections for investors and other
13 market participants.”.

14 (b) MARGIN.—Section 7(c)(1) of the Securities Ex-
15 change Act of 1934 (15 U.S.C. 78g) is amended—

16 (1) in subparagraph (A), by inserting “except
17 as provided in subparagraph (C),” between “secu-
18 rity),” and “in contravention” and by striking “and”
19 after the semicolon;

20 (2) in subparagraph (B), by striking the period
21 and inserting “; and”; and

22 (3) by adding at the end the following:

23 “(C) JOINT REGULATIONS.—

24 “(i) It shall be unlawful for any
25 broker, dealer, or member of a national se-

1 curities exchange to, directly or indirectly,
2 extend or maintain credit to or for, ar-
3 range for the extension or maintenance of
4 credit for, or collect margin from any cus-
5 tomer on any security future product in
6 contravention of the rules and regulations
7 which the Commission and the Commodity
8 Futures Trading Commission shall pre-
9 scribe pursuant to subparagraph (C)(ii).

10 “(ii) The Commission and the Com-
11 modity Futures Trading Commission shall
12 issue jointly such regulations to establish
13 margin requirements, including the estab-
14 lishment of levels of margin (initial and
15 maintenance) and use of collateral for se-
16 curity future products under such terms,
17 and at such levels as the Commission and
18 the Commodity Futures Trading Commis-
19 sion jointly deem: (I) appropriate to pre-
20 serve the financial integrity of markets
21 trading security future products; (II) to
22 prevent systemic risk; (III) to make equiv-
23 alent the margin levels (initial and mainte-
24 nance) and other margin requirements be-
25 tween security future products and com-

1 parable options traded on a national secu-
2 rities exchange; and (IV) to ensure that
3 the margin requirements, other than levels
4 of margin, including the type, form, and
5 use of collateral for security future prod-
6 ucts, are and remain consistent with the
7 requirements for options traded on a na-
8 tional securities exchange established by
9 the Federal Reserve Board, pursuant to
10 subparagraphs (A) and (B).”.

11 (c) INCORPORATION OF SECURITY FUTURE PROD-
12 UCTS INTO THE NATIONAL MARKET SYSTEM.—Section
13 11A of the Securities Exchange Act of 1934 (15 U.S.C.
14 78k–1) is amended by adding at the end the following:

15 “(e)(1) With respect to security future products, the
16 Commission and the Commodity Futures Trading Com-
17 mission shall consult and cooperate so that, to the max-
18 imum extent practicable, their respective regulatory re-
19 sponsibilities may be fulfilled and the rules and regulations
20 applicable to security future products may foster a na-
21 tional market system for security future products if the
22 Commission and the Commodity Futures Trading Com-
23 mission determine that such a system would be consistent
24 with the Congressional findings in subsection (a)(1). In
25 accordance with this objective, the Commission shall, at

1 least fifteen days prior to the issuance for public comment
2 of any proposed rule or regulation under this section con-
3 cerning security future products, consult and request the
4 views of the Commodity Futures Trading Commission.

5 “(2) No rule adopted pursuant to this section shall
6 be applied to any person with respect to security future
7 products traded on an exchange that is registered under
8 section 6(g) unless the Commodity Futures Trading Com-
9 mission has issued an order directing that such rule is ap-
10 plicable to such persons.”.

11 (d) INCORPORATION OF SECURITY FUTURE PROD-
12 UCTS INTO THE NATIONAL SYSTEM FOR CLEARANCE AND
13 SETTLEMENT.—Section 17A(b) of the Securities Ex-
14 change Act of 1934 (15 U.S.C. 78q-1(b)) is amended by
15 adding at the end the following:

16 “(7) A clearing agency that is regulated directly
17 or indirectly by the Commodity Futures Trading
18 Commission through its association with a des-
19 ignated contract market for security future products,
20 and that only performs the functions of a clearing
21 agency with respect to security future products and
22 transactions in securities effected pursuant to the
23 rules of the designated contract market with which
24 it is associated, is exempted from the provisions of
25 this section and the rules and regulations there-

1 under, except that any clearing agency that performs
2 the functions of a clearing agency with respect to se-
3 curity future products must coordinate with and de-
4 velop fair and reasonable links with any and all
5 other clearing agencies that perform the functions of
6 a clearing agency with respect to security future
7 products, which will permit security future product
8 to be purchased on a national securities exchange or
9 national securities association registered pursuant to
10 section 15A(a) and offset on another national securi-
11 ties exchange or national securities association reg-
12 istered pursuant to section 15A(a).”.

13 (e) MARKET EMERGENCY POWERS AND CIRCUIT
14 BREAKERS.—Section 12(k) of the Securities Exchange
15 Act of 1934 (15 U.S.C. 78l(k)) is amended—

16 (1) in paragraph (1), by adding at the end the
17 following: “If the actions described in subparagraph
18 (A) or (B) involve a security future product, the
19 Commission shall consult with and consider the
20 views of the Commodity Futures Trading Commis-
21 sion.”; and

22 (2) in paragraph (2)(A), by inserting between
23 “extensions.” and “In exercising” the following: “If
24 the actions described in subparagraph (A) involve a
25 security future product, the Commission shall con-

1 sult with and consider the views of the Commodity
2 Futures Trading Commission.”.

3 **SEC. 107. AMENDMENTS RELATING TO REGISTRATION AND**
4 **DISCLOSURE ISSUES UNDER THE SECURI-**
5 **TIES ACT OF 1933 AND THE SECURITIES EX-**
6 **CHANGE ACT OF 1934.**

7 (a) AMENDMENTS TO THE SECURITIES ACT OF
8 1933.—

9 (1) Section 2(a) of the Securities Act of 1933
10 (15 U.S.C. 77b(a)) is amended—

11 (A) in paragraph (1), by inserting “secu-
12 rity future,” between “treasury stock,” and
13 “bond”;

14 (B) in paragraph (3), by adding at the end
15 the following: “Any offer or sale of a security
16 future product by or on behalf of the issuer of
17 the securities underlying the security future
18 product, an affiliate of the issuer, or an under-
19 writer, will constitute a contract for sale of, sale
20 of, offer for sale, or offer to sell the issuer’s un-
21 derlying securities.”;

22 (C) in paragraph (10), by adding at the
23 end of the following: “Any materials meeting
24 the requirements of section of the Securi-
25 ties Exchange Act of 1934 or section of

1 the Commodity Exchange Act (7 U.S.C.)
2 shall not be deemed to constitute a prospectus
3 for the offer or sale of a security future prod-
4 uct.”; and

5 (D) by adding at the end the following:

6 “(16)(A) The term ‘security future’ means
7 a contract of sale for future delivery of a single
8 security or of a narrow-based security index, in-
9 cluding any interest therein or based on the
10 value thereof.

11 “(B) A ‘narrow-based security index’ is an
12 index—

13 “(i) that has 10 or fewer component
14 securities;

15 “(ii) in which the securities of a single
16 issuer account on average, over the six-
17 month period ending on the date equity op-
18 tions expire in June of each year and over
19 the six-month period ending on the date
20 equity options expire in December of each
21 year, for more than 10% of the market
22 capitalization of that index;

23 “(iii) in which the securities of a sin-
24 gle issuer in a price-weighted (or other
25 non-capitalization weighted) index account

1 on average, over the six-month period end-
2 ing on the date equity options expire in
3 June of each year and over the six-month
4 period ending on the date equity options
5 expire in December of each year, for more
6 than three times their weight in the index
7 if calculated on a market-capitalization
8 basis;

9 “(iv) in which any component security
10 has an average daily trading volume value
11 of less than \$1 million or an aggregate
12 market value of the voting and non-voting
13 common equity held by non-affiliates of
14 less than \$150 million;

15 “(v) in which the average correlation
16 of the securities in the index to the index
17 itself is greater than 0.6 over the six-
18 month period ending on the date equity op-
19 tions expire in June of each year and over
20 the six-month period ending on the date
21 equity options expire in December of each
22 year; or

23 “(vi) in which the correlation of any
24 security in the index to the index itself is
25 greater than 0.9 over the six-month period

1 ending on the date equity options expire in
2 June of each year and over the six-month
3 period ending on the date equity options
4 expire in December of each year.

5 “(17) The term ‘security future product’
6 means a security future or any put, call, strad-
7 dle, option, or privilege on any security fu-
8 ture.”.

9 (2) Section 3(a) of the Securities Act of 1933
10 (15 U.S.C. 77c) is amended by adding at the end
11 the following:

12 “(14) Any security future product that is (A)
13 guaranteed by a clearing agency registered under
14 section 17A of the Securities Exchange Act of 1934
15 or exempt from registration under paragraph (b)(4)
16 of section 17A of the Securities Exchange Act of
17 1934; and (B) traded on a national securities ex-
18 change or a national securities association registered
19 pursuant to section 15A(a) of the Securities Ex-
20 change Act of 1934.”.

21 (3) Section 12(a)(2) of the Securities Act of
22 1933 (15 U.S.C. 77l(a)(2)) is amended by striking
23 “paragraph 2” and inserting “paragraphs (2) and
24 (14)”.

1 (b) AMENDMENTS TO THE SECURITIES EXCHANGE
2 ACT OF 1934.—

3 (1) Section 12(a) of the Securities Exchange
4 Act of 1934 (15 U.S.C. 78l(a)) is amended by add-
5 ing at the end the following:

6 “(1) The provisions of this subsection shall not
7 apply in respect of a security future product listed
8 on a national securities exchange.”.

9 (2) Section 12(g)(5) of the Securities Exchange
10 Act of 1934 (15 U.S.C. 78l(g)) is amended by add-
11 ing at the end the following: “For purposes of this
12 subsection, a security future product shall not be
13 considered a class of equity security of the issuer of
14 the securities underlying the security future prod-
15 uct.”; and

16 (3) Section 16 of the Securities Exchange Act
17 of 1934 (15 U.S.C. 78p) is amended by adding at
18 the end the following:

19 “(f) The provisions of this section shall apply to own-
20 ership of and transactions in security future products as
21 if they were ownership of and transactions in the under-
22 lying equity security. The Commission may adopt such
23 rules and regulations as it deems necessary or appropriate
24 in the public interest to carry out the purposes of this sec-
25 tion.”.

1 **SEC. 108. AMENDMENTS TO THE INVESTMENT COMPANY**
2 **ACT OF 1940 AND THE INVESTMENT ADVIS-**
3 **ERS ACT OF 1940.**

4 (a) DEFINITIONS UNDER THE INVESTMENT COM-
5 PANY ACT OF 1940 AND THE INVESTMENT ADVISERS ACT
6 OF 1940.—

7 (1) Section 2(a)(36) of the Investment Com-
8 pany Act of 1940 (15 U.S.C. 80a-2(a)(36)) is
9 amended by inserting “security future,” between
10 “treasury stock,” and “bond”;

11 (2) Section 202(a)(18) of the Investment Advis-
12 ers Act of 1940 (15 U.S.C. 80b-2(a)(18)) is amend-
13 ed by inserting “security future,” between “treasury
14 stock,” and “bond”;

15 (3) Section 2(a) of the Investment Company
16 Act of 1940 (15 U.S.C. 801-2(a)) is amended by
17 adding at the end the following:

18 “(52)(A) ‘Security future’ means a contract of
19 sale for future delivery of a single security other
20 than an exempted security under section 3 of the Se-
21 curities Act of 1933 or of a narrow-based security
22 index, including any interest therein or based on the
23 value thereof.

24 “(B) A ‘narrow-based security index’ is an
25 index—

1 “(i) that has 10 or fewer component secu-
2 rities;

3 “(ii) in which the securities of a single
4 issuer account on average, over the six-month
5 period ending on the date equity options expire
6 in June of each year and over the six-month pe-
7 riod ending on the date equity options expire in
8 December of each year, for more than 10% of
9 the market capitalization of that index;

10 “(iii) in which the securities of a single
11 issuer in a price-weighted (or other non-capital-
12 ization weighted) index account on average,
13 over the six-month period ending on the date
14 equity options expire in June of each year and
15 over the six-month period ending on the date
16 equity options expire in December of each year,
17 for more than three times their weight in the
18 index if calculated on a market-capitalization
19 basis;

20 “(iv) in which any component security has
21 an average daily trading volume value of less
22 than \$1 million or an aggregate market value
23 of the voting and non-voting common equity
24 held by non-affiliates of less than \$150 million;

1 “(v) in which the average correlation of the
2 securities in the index to the index itself is
3 greater than 0.6 over the six-month period end-
4 ing on the date equity options expire in June of
5 each year and over the six-month period ending
6 on the date equity options expire in December
7 of each year; or

8 “(vi) in which the correlation of any secu-
9 rity in the index to the index itself is greater
10 than 0.9 over the six-month period ending on
11 the date equity options expire in June of each
12 year and over the six-month period ending on
13 the date equity options expire in December of
14 each year.”; and

15 (4) Section 202(a) of the Investment Advisers
16 Act of 1940 (15 U.S.C. 80b–2(a)) is amended by
17 adding at the end the following:

18 “(25)(A) ‘Security future’ means a contract of
19 sale for future delivery of a single security or of a
20 narrow-based security index, including any interest
21 therein or based on the value thereof.

22 “(B) A ‘narrow-based security index’ is an
23 index—

24 “(i) that has 10 or fewer component secu-
25 rities;

1 “(ii) in which the securities of a single
2 issuer account on average, over the six-month
3 period ending on the date equity options expire
4 in June of each year and over the six-month pe-
5 riod ending on the date equity options expire in
6 December of each year, for more than 10% of
7 the market capitalization of that index;

8 “(iii) in which the securities of a single
9 issuer in a price-weighted (or other non-capital-
10 ization weighted) index account on average,
11 over the six-month period ending on the date
12 equity options expire in June of each year and
13 over the six-month period ending on the date
14 equity options expire in December of each year,
15 for more than three times their weight in the
16 index if calculated on a market-capitalization
17 basis;

18 “(iv) in which any component security has
19 an average daily trading volume value of less
20 than \$1 billion or an aggregate market value of
21 the voting and non-voting common equity held
22 by non-affiliates of less than \$150 million;

23 “(v) in which the average correlation of the
24 securities in the index to the index itself is
25 greater than 0.6 over the six-month period end-

1 ing on the date equity options expire in June of
2 each year and over the six-month period ending
3 on the date equity options expire in December
4 of each year; or

5 “(vi) in which the correlation of any secu-
6 rity in the index to the index itself is greater
7 than 0.9 over the six-month period ending on
8 the date equity options expire in June of each
9 year and over the six-month period ending on
10 the date equity options expire in December of
11 each year.”.

12 (b) OTHER PROVISION.—Section 203(b) of the In-
13 vestment Advisers Act of 1940 (15 U.S.C. 80b–3(b)) is
14 amended by adding at the end the following:

15 “(6) any investment adviser that is registered,
16 or required to be registered, with the Commodity
17 Futures Trading Commission as a commodity trad-
18 ing advisor and whose business does not consist pri-
19 marily of acting as a investment adviser, as defined
20 in section 202(a)(11) of this title.”.

21 **SEC. 109. EFFECTIVE DATE.**

22 The amendments made by this title shall become ef-
23 fective one year after the date of enactment of this Act.

○