

110TH CONGRESS  
2D SESSION

# S. 3130

To provide energy price relief by authorizing greater resources and authority for the Commodity Futures Trading Commission, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JUNE 12, 2008

Mr. DURBIN (for himself, Mr. REID, Mr. LEVIN, Mr. BINGAMAN, Mr. DORGAN, Mrs. FEINSTEIN, Ms. KLOBUCHAR, Mr. MENENDEZ, Mr. BROWN, Mr. CASEY, Mr. KERRY, Mr. LEAHY, Mrs. MURRAY, Ms. MIKULSKI, Mr. OBAMA, and Mr. REED) introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

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## A BILL

To provide energy price relief by authorizing greater resources and authority for the Commodity Futures Trading Commission, 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 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Increasing Trans-  
5 parency and Accountability in Oil Prices Act of 2008”.

6 **SEC. 2. SENSE OF SENATE ON ADDITIONAL EMERGENCY**  
7 **FUNDING FOR COMMISSION.**

8 (a) FINDINGS.—The Senate finds that—

1           (1) excessive speculation may be adding signifi-  
2           cantly to the price of oil and other energy commod-  
3           ities;

4           (2) the public and Congress are concerned that  
5           private, unregulated transactions and overseas ex-  
6           change transactions are not being adequately re-  
7           viewed by any regulatory body;

8           (3) an important Federal overseer of commodity  
9           speculation, the Commodity Futures Trading Com-  
10          mission, has staffing levels that have dropped to the  
11          lowest levels in the 33-year history of the Commis-  
12          sion; and

13          (4) the acting Chairman of the Commission has  
14          said publicly that an additional 100 employees are  
15          needed in light of the inflow of trading volume.

16          (b) SENSE OF SENATE.—It is the sense of the Senate  
17          that the President should immediately send to Congress  
18          a request for emergency appropriations for fiscal year  
19          2008 for the Commodity Futures Trading Commission in  
20          an amount that is sufficient—

21                 (1) to help restore public confidence in energy  
22                 commodities markets and Federal oversight of those  
23                 markets;

1           (2) to potentially impose limits on excessive  
2 speculation that is increasing the price of oil, gaso-  
3 line, diesel, and other energy commodities;

4           (3) to significantly improve the information  
5 technology capabilities of the Commission to help the  
6 Commission effectively regulate the energy futures  
7 markets; and

8           (4) to fund at least 100 new full-time positions  
9 at the Commission to oversee energy commodity  
10 market speculation and to enforce the Commodity  
11 Exchange Act (7 U.S.C. 1 et seq.).

12 **SEC. 3. ADDITIONAL COMMISSION EMPLOYEES FOR IM-**  
13 **PROVED ENFORCEMENT.**

14           Section 2(a)(7) of the Commodity Exchange Act (7  
15 U.S.C. 2(a)(7)) is amended by adding at the end the fol-  
16 lowing:

17                   “(D) ADDITIONAL EMPLOYEES.—As soon  
18 as practicable after the date of enactment of  
19 this subparagraph, the Commission shall ap-  
20 point at least 100 full-time employees (in addi-  
21 tion to the employees employed by the Commis-  
22 sion as of the date of enactment of this sub-  
23 paragraph)—

1           “(i) to increase the public trans-  
2           parency of operations in energy futures  
3           markets;

4           “(ii) to improve the enforcement of  
5           this Act in those markets; and

6           “(iii) to carry out such other duties as  
7           are prescribed by the Commission.”.

8 **SEC. 4. INSPECTOR GENERAL.**

9           Section 2(a) of the Commodity Exchange Act (7  
10 U.S.C. 2(a)) is amended by adding at the end the fol-  
11 lowing:

12           “(13) INSPECTOR GENERAL.—

13           “(A) OFFICE.—There shall be in the Com-  
14           mission, as an independent office, an Office of  
15           the Inspector General.

16           “(B) APPOINTMENT.—The Office shall be  
17           headed by an Inspector General, appointed in  
18           accordance with the Inspector General Act of  
19           1978 (5 U.S.C. App.).

20           “(C) COMPENSATION.—The Inspector  
21           General shall be compensated at the rate pro-  
22           vided for level IV of the Executive Schedule  
23           under section 5315 of title 5, United States  
24           Code.

1           “(D) ADMINISTRATION.—The Inspector  
2           General shall exert independent control of the  
3           budget allocations, expenditures, and staffing  
4           levels, personnel decisions and processes, pro-  
5           curement, and other administrative and man-  
6           agement functions of the Office.”.

7 **SEC. 5. STUDY OF INTERNATIONAL REGULATION OF EN-**  
8 **ERGY COMMODITY MARKETS.**

9           (a) IN GENERAL.—The Comptroller General of the  
10          United States shall conduct a study of the international  
11          regime for regulating the trading of energy commodity fu-  
12          tures and derivatives.

13          (b) ANALYSIS.—The study shall include an analysis  
14          of, at a minimum—

15               (1) key common features and differences among  
16               countries in the regulation of energy commodity  
17               trading, including with respect to market oversight  
18               and enforcement;

19               (2) agreements and practices for sharing mar-  
20               ket and trading data;

21               (3) the use of position limits or thresholds to  
22               detect and prevent price manipulation, excessive  
23               speculation, or other unfair trading practices;

1           (4) practices regarding the identification of  
2 commercial and noncommercial trading and the ex-  
3 tent of market speculation; and

4           (5) agreements and practices for facilitating  
5 international cooperation on market oversight, com-  
6 pliance, and enforcement.

7       (c) REPORT.—Not later than 120 days after the date  
8 of enactment of this Act, the Comptroller General shall  
9 submit to the appropriate committees of Congress a report  
10 that—

11           (1) describes the results of the study; and

12           (2) provides recommendations to improve open-  
13 ness, transparency, and other necessary elements of  
14 a properly functioning market in a manner that pro-  
15 tects consumers in the United States from the ef-  
16 fects of excessive speculation and energy price vola-  
17 tility.

18 **SEC. 6. SPECULATIVE LIMITS AND TRANSPARENCY FOR**

19 **OFF-SHORE OIL TRADING.**

20       Section 4 of the Commodity Exchange Act (7 U.S.C.  
21 6) is amended by adding at the end the following:

22       “(e) FOREIGN BOARDS OF TRADE.—

23           “(1) IN GENERAL.—In the case of any foreign  
24 board of trade for which the Commission has grant-  
25 ed or is considering an application to grant a board

1 of trade located outside of the United States relief  
2 from the requirement of subsection (a) to become a  
3 designated contract market, derivatives transaction  
4 execution facility, or other registered entity, with re-  
5 spect to an energy commodity that is physically de-  
6 livered in the United States, prior to continuing to  
7 or initially granting the relief, the Commission shall  
8 determine that the foreign board of trade—

9 “(A) applies comparable principles or re-  
10 quirements regarding the daily publication of  
11 trading information and position limits or ac-  
12 countability levels for speculators as apply to a  
13 designated contract market, derivatives trans-  
14 action execution facility, or other registered en-  
15 tity trading energy commodities physically deliv-  
16 ered in the United States; and

17 “(B) provides such information to the  
18 Commission regarding the extent of speculative  
19 and nonspeculative trading in the energy com-  
20 modity that is comparable to the information  
21 the Commission determines necessary to publish  
22 a Commitment of Traders report for a des-  
23 ignated contract market, derivatives transaction  
24 execution facility, or other registered entity

1 trading energy commodities physically delivered  
2 in the United States.

3 “(2) EXISTING FOREIGN BOARDS OF TRADE.—  
4 During the period beginning 1 year after the date of  
5 enactment of this subsection and ending 18 months  
6 after the date of enactment of this subsection, the  
7 Commission shall determine whether to continue to  
8 grant relief in accordance with paragraph (1) to any  
9 foreign board of trade for which the Commission  
10 granted relief prior to the date of enactment of this  
11 subsection.”.

12 **SEC. 7. COMMISSION AUTHORITY OVER TRADERS.**

13 Section 4 of the Commodity Exchange Act (7 U.S.C.  
14 6) (as amended by section 6) is amended by adding at  
15 the end the following:

16 “(f) COMMISSION AUTHORITY OVER TRADERS.—

17 “(1) IN GENERAL.—Notwithstanding any other  
18 provision of this section or any determination made  
19 by the Commission to grant relief from the require-  
20 ments of subsection (a) to become a designated con-  
21 tract market, derivatives transaction execution facil-  
22 ity, or other registered entity, in the case of a person  
23 located within the United States, or otherwise sub-  
24 ject to the jurisdiction of the Commission, trading  
25 on a foreign board of trade, exchange, or market lo-

1 cated outside the United States (including the terri-  
2 tories and or possessions of the United States), the  
3 Commission shall have authority under this Act—

4 “(A) to apply and enforce section 9, in-  
5 cluding provisions relating to manipulation or  
6 attempted manipulation, the making of false  
7 statements, and willful violations of this Act;

8 “(B) to require or direct the person to  
9 limit, reduce, or liquidate any position to pre-  
10 vent or reduce the threat of price manipulation,  
11 excessive speculation, price distortion, or dis-  
12 ruption of delivery or the cash settlement proc-  
13 ess; and

14 “(C) to apply such recordkeeping require-  
15 ments as the Commission determines are nec-  
16 essary.

17 “(2) CONSULTATION.—Prior to the issuance of  
18 any order under paragraph (1) to reduce a position  
19 on a foreign board of trade, exchange, or market lo-  
20 cated outside the United States (including the terri-  
21 tories and possessions of the United States), the  
22 Commission shall consult with the foreign board of  
23 trade, exchange, or market and the appropriate reg-  
24 ulatory authority.

1           “(3) ADMINISTRATION.—Nothing in this sub-  
2           section limits any of the otherwise applicable au-  
3           thorities of the Commission.”.

4 **SEC. 8. INDEX TRADERS AND SWAP DEALERS.**

5           Section 4 of the Commodity Exchange Act (7 U.S.C.  
6 6) (as amended by section 7) is amended by adding at  
7 the end the following:

8           “(g) INDEX TRADERS AND SWAP DEALERS.—Not  
9 later than 60 days after the date of enactment of this sub-  
10 section, the Commission shall—

11           “(1) routinely require detailed reporting from  
12 index traders and swap dealers in markets under the  
13 jurisdiction of the Commission;

14           “(2) reclassify the types of traders for regu-  
15 latory and reporting purposes to distinguish between  
16 index traders and swaps dealers; and

17           “(3) review the trading practices for index trad-  
18 ers in markets under the jurisdiction of the Commis-  
19 sion—

20           “(A) to ensure that index trading is not  
21 adversely impacting the price discovery process;  
22 and

23           “(B) to determine whether different prac-  
24 tices or regulations should be implemented.”.

1 **SEC. 9. DISAGGREGATION OF INDEX FUNDS AND OTHER**  
2 **DATA IN ENERGY MARKETS.**

3 Section 4 of the Commodity Exchange Act (7 U.S.C.  
4 6) (as amended by section 8) is amended by adding at  
5 the end the following:

6 “(h) DISAGGREGATION OF INDEX FUNDS AND DATA  
7 IN ENERGY MARKETS.—The Commission shall  
8 disaggregate and make public monthly—

9 “(1) the number of positions and total value of  
10 index funds and other passive, long-only positions in  
11 energy markets; and

12 “(2) data on speculative positions relative to  
13 bona fide physical hedgers in those markets.”.

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