

AMENDMENT TO H.R. 4348

OFFERED BY MS. DELAURO OF CONNECTICUT

Page 34, after line 22, insert the following:

1 **TITLE IV—MISCELLANEOUS**

2 **SEC. 401. REQUIREMENT THAT THE COMMODITY FUTURES**
3 **TRADING COMMISSION IMPOSE FEES AND AS-**
4 **SESSMENTS TO RECOVER THE COST OF AP-**
5 **PROPRIATIONS TO THE COMMISSION.**

6 Section 12 of the Commodity Exchange Act (7 U.S.C.
7 16) is amended by adding at the end the following:

8 “(i) RECOVERY OF COSTS OF ANNUAL APPROPRIA-
9 TIONS.—

10 “(1) IMPOSITION OF FEES.—

11 “(A) IN GENERAL.—The Commission
12 shall, by order, impose a fee on each agreement,
13 contract, or transaction that is a contract of
14 sale of a commodity for future delivery, an op-
15 tion on such a contract, or a swap, so that the
16 total of the fees so imposed during each fiscal
17 year is sufficient to recover the costs to the
18 Government of the annual appropriation to the
19 Commission by Congress for the fiscal year.

1 “(B) LIMITATION.—The fees imposed
2 under this paragraph on all transactions of the
3 same kind shall be determined in a uniform
4 manner.

5 “(C) MID-YEAR ADJUSTMENT.—

6 “(i) IN GENERAL.—By March 1 of
7 each fiscal year, the Commission shall de-
8 termine whether, based on the fees col-
9 lected under this subsection during the
10 first 5 months of the fiscal year, the total
11 of the amounts collected and to be col-
12 lected under this subsection for the fiscal
13 year is reasonably likely to be 10 percent
14 (or more) greater or less than the costs de-
15 scribed in subparagraph (A) for the fiscal
16 year. If the Commission so determines, the
17 Commission shall by order, no later than
18 March 1 of the fiscal year, adjust the fee
19 rates otherwise applicable under this para-
20 graph for the fiscal year so that the total
21 of the amounts so collected and to be col-
22 lected is reasonably likely to equal to the
23 costs so described.

24 “(ii) EFFECTIVE DATE.—Subject to
25 paragraphs (2)(C) and (4), an adjusted

1 rate prescribed under clause (i) of this sub-
2 paragraph in a fiscal year shall take effect
3 on the later of—

4 “(I) the 1st day of the fiscal year
5 to which the rate applies; or

6 “(II) 60 days after the date on
7 which a regular appropriation to the
8 Commission for the fiscal year is en-
9 acted.

10 “(D) PUBLICATION.—The Commission
11 shall publish in the Federal Register notices of
12 the fee rates applicable under this paragraph
13 for a fiscal year not later than 30 days after
14 the date on which a regular appropriation to
15 the Commission for the fiscal year is enacted,
16 together with any estimates or projections on
17 which the fee rates are based.

18 “(E) INAPPLICABILITY OF RULE MAKING
19 REQUIREMENTS.—In exercising its authority
20 under this paragraph, the Commission shall not
21 be required to comply with section 553 of title
22 5, United States Code.

23 “(F) NO JUDICIAL REVIEW.—A fee rate
24 prescribed under this paragraph and published

1 in accordance with subparagraph (D) shall not
2 be subject to judicial review.

3 “(2) PAYMENT AND COLLECTION OF FEES.—

4 “(A) CLEARED TRANSACTIONS;
5 UNCLEARED SWAPS REPORTED TO SWAP DATA
6 REPOSITORIES.—

7 “(i) PAYMENT OF FEES.—

8 “(I) CLEARED TRANSACTIONS.—

9 In the case of a contract of sale of a
10 commodity for future delivery, an op-
11 tion on such a contract, or a swap
12 that is cleared by a derivatives clear-
13 ing organization registered or exempt
14 from registration under this Act, each
15 party to the agreement, contract, or
16 transaction shall pay the fee deter-
17 mined under paragraph (1) to the de-
18 rivatives clearing organization.

19 “(II) UNCLEARED SWAPS RE-
20 PORTED TO SWAP DATA REPOSI-
21 TORIES.—In the case of a swap that
22 is not cleared by a derivatives clearing
23 organization registered or exempt
24 from registration under this Act and
25 that is accepted by a swap data repos-

1 itory registered under section 21, each
2 party to the swap shall pay the trans-
3 action fee determined under para-
4 graph (1) to the swap data repository.

5 “(ii) COLLECTION OF FEES.—The
6 Commission shall collect the fees paid in
7 accordance with clause (i) in such manner
8 and within such time as the Commission
9 deems appropriate.

10 “(B) UNCLEARED SWAPS REPORTED TO
11 COMMISSION.—In the case of a swap that is not
12 cleared by a derivatives clearing organization
13 registered or exempt from registration under
14 this Act and that is reported to the Commission
15 pursuant to section 4r, each party to the swap
16 shall pay the fee determined under paragraph
17 (1) to the Commission in a manner and within
18 such time as the Commission deems appro-
19 priate.

20 “(C) SUBJECT TO APPROPRIATIONS.—Ex-
21 cept as provided in paragraph (4), a fee shall
22 not be collected under this subsection for a fis-
23 cal year, except to the extent provided in ad-
24 vance in appropriation Acts.

25 “(3) DEPOSIT OF FEES.—

1 “(A) OFFSETTING COLLECTIONS.—A fee
2 collected under paragraph (2) for a fiscal year
3 shall be deposited and credited as offsetting col-
4 lections to the account providing appropriations
5 to the Commission.

6 “(B) GENERAL REVENUES PROHIBITED.—
7 A fee collected under paragraph (2) for a fiscal
8 year shall not be deposited and credited as gen-
9 eral revenue of the Treasury.

10 “(4) LAPSE OF APPROPRIATION.—If on the
11 first day of a fiscal year a regular appropriation to
12 the Commission has not been enacted, the Commis-
13 sion shall continue to collect (as offsetting collec-
14 tions) the fees imposed under paragraph (1) at the
15 rate in effect during the preceding fiscal year, until
16 60 days after the date such a regular appropriation
17 is enacted.”.

Conform the table of contents accordingly.

