

**\*Public Law 106-554**  
**106th Congress**

**An Act**

Making consolidated appropriations for the fiscal year ending September 30, 2001, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. (a) The provisions of the following bills of the 106th Congress are hereby enacted into law:

- (1) H.R. 5656, as introduced on December 14, 2000.
- (2) H.R. 5657, as introduced on December 14, 2000.
- (3) H.R. 5658, as introduced on December 14, 2000.
- (4) H.R. 5666, as introduced on December 15, 2000, except that the text of H.R. 5666, as so enacted, shall not include section 123 (relating to the enactment of H.R. 4904).
- (5) H.R. 5660, as introduced on December 14, 2000.
- (6) H.R. 5661, as introduced on December 14, 2000.
- (7) H.R. 5662, as introduced on December 14, 2000.
- (8) H.R. 5663, as introduced on December 14, 2000.
- (9) H.R. 5667, as introduced on December 15, 2000.

(b) In publishing this Act in slip form and in the United States Statutes at Large pursuant to section 112 of title 1, United States Code, the Archivist of the United States shall include after the date of approval at the end appendixes setting forth the texts of the bills referred to in subsection (a) of this section and the text of any other bill enacted into law by reference by reason of the enactment of this Act.

SEC. 2. (a) Notwithstanding Rule 3 of the Budget Scorekeeping Guidelines set forth in the joint explanatory statement of the committee of conference accompanying Conference Report 105-217, legislation enacted in section 505 of the Department of Transportation and Related Agencies Appropriations Act 2001, section 312 of the Legislative Branch Appropriations Act, 2001, titles X and XI of H.R. 5548 (106th Congress) as enacted by H.R. 4942 (106th Congress), division B of H.R. 5666 (106th Congress) as enacted by this Act, and sections 1(a)(5) through 1(a)(9) of this Act that would have been estimated by the Office of Management and Budget as changing direct spending or receipts under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 were it included in an Act other than an appropriations Act shall be treated as direct spending or receipts legislation, as appropriate, under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985.

(b) In preparing the final sequestration report required by section 254(f)(3) of the Balanced Budget and Emergency Deficit Control Act of 1985 for fiscal year 2001, in addition to the information required by that section, the Director of the office of Management and Budget shall change any balance of direct spending

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\* See Endnote on 114 Stat. 2764.  
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and receipts legislation for fiscal year 2001 under section 252 of that Act to zero.

(c) This Act may be cited as the “Consolidated Appropriations Act, 2001”.

Approved December 21, 2000.

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**LEGISLATIVE HISTORY—H.R. 4577 (S. 2553):**

HOUSE REPORTS: Nos. 106-645 (Comm. on Appropriations) and 106-1033 (Comm. on Conference).

SENATE REPORTS: No. 106=293 accompanying S. 2553 (Comm. on Appropriations).

CONGRESSIONAL RECORD, Vol. 146 (2000):

June 8, 12-14, considered and passed House.

June 22, 23, 26-30, considered and passed Senate, amended.

Dec. 15, House and Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 36 (2000):

Dec. 21, Presidential remarks and statement.

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\*ENDNOTE: The following appendixes were added pursuant to the provisions of section 1 of this Act (114 Stat. 2763).

*U.S. STATUTES AT LARGE 83 P.L. 577; 83 Cong. Ch. 667; 68 Stat. 683*

*106 P.L. 554, \*; 114 Stat. 2763, \*\*;  
2000 Enacted H.R. 4577; 106 Enacted H.R. 4577*

UNITED STATES PUBLIC LAWS  
106th Congress – 2nd Session  
(c) 2000, LEXIS-NEXIS, A DIVISION OF REED ELSEVIER INC. AND  
REED ELSEVIER PROPERTIES INC.

PUBLIC LAW 106-554 [H.R. 4577]  
DEC. 21, 2000  
CONSOLIDATED APPROPRIATIONS ACT, 2001

106 P.L. 554; 114 Stat. 2763; 2000 Enacted H.R. 4577; 106 Enacted H.R. 4577

SEC. 209. AMENDMENTS TO THE INVESTMENT COMPANY ACT OF 1940 AND  
THE INVESTMENT ADVISERS ACT OF 1940.

(a) Definitions Under the Investment Company Act of 1940 and the Investment Advisers  
Act of 1940.—

(1) Section 2(a)(36) of the Investment Company Act of 1940 (15 U.S.C. 80a 2(a)(36)) is  
amended by inserting “security future,” after “treasury stock,”.

(2) Section 202(a)(18) of the Investment Advisers Act of 1940 (15 U.S.C. 80b 2(a)(18))  
is amended by inserting “security future,” after “treasury stock,”.

(3) Section 2(a) of the Investment Company Act of 1940 (15 U.S.C. 80a 2(a)) is amended  
by adding at the end the following:

“(52) The terms ‘security future’ and ‘narrow-based security index’ have the same  
meanings as provided in section 3(a)(55) of the Securities Exchange Act of 1934.”.

# H.R. 5660

To reauthorize and amend the Commodity Exchange Act to promote legal certainty, enhance competition, and reduce systemic risk in markets for futures and over-the-counter derivatives, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

DECEMBER 14, 2000

Mr. EWING (for himself, Mr. COMBEST, Mr. LEACH, Mr. LAFALCE, and Mr. BLILEY) introduced the following bill; which was referred to the Committee on Agriculture, and in addition to the Committees on Banking and Financial Services, Commerce, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To reauthorize and amend the Commodity Exchange Act to promote legal certainty, enhance competition, and reduce systemic risk in markets for futures and over-the-counter derivatives, 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; TABLE OF CONTENTS.**

4           (a) SHORT TITLE.—This Act may be cited as the

5           “Commodity           Futures           Modernization           Act           of           2000.”

1 (b) TABLE OF CONTENTS.—The table of contents of  
 2 this Act is as follows:

- Sec. 1. Short title; table of contents.  
 Sec. 2. Purposes.

#### TITLE I—COMMODITY FUTURES MODERNIZATION

- Sec. 101. Definitions.  
 Sec. 102. Agreements, contracts, and transactions in foreign currency, government securities, and certain other commodities.  
 Sec. 103. Legal certainty for excluded derivative transactions.  
 Sec. 104. Excluded electronic trading facilities.  
 Sec. 105. Hybrid instruments; swap transactions.  
 Sec. 106. Transactions in exempt commodities.  
 Sec. 107. Application of commodity futures laws.  
 Sec. 108. Protection of the public interest.  
 Sec. 109. Prohibited transactions.  
 Sec. 110. Designation of boards of trade as contract markets.  
 Sec. 111. Derivatives transaction execution facilities.  
 Sec. 112. Derivatives clearing.  
 Sec. 113. Common provisions applicable to registered entities.  
 Sec. 114. Exempt boards of trade.  
 Sec. 115. Suspension or revocation of designation as contract market.  
 Sec. 116. Authorization of appropriations.  
 Sec. 117. Preemption.  
 Sec. 118. Predispute resolution agreements for institutional customers.  
 Sec. 119. Consideration of costs and benefits and antitrust laws.  
 Sec. 120. Contract enforcement between eligible counterparties.  
 Sec. 121. Special procedures to encourage and facilitate bona fide hedging by agricultural producers.  
 Sec. 122. Rule of construction.  
 Sec. 123. Technical and conforming amendments.  
 Sec. 124. Privacy.  
 Sec. 125. Report to Congress.  
 Sec. 126. International activities of the Commodity Futures Trading Commission.

#### TITLE II—COORDINATED REGULATION OF SECURITY FUTURES PRODUCTS

##### Subtitle A—Securities Law Amendments

- Sec. 201. Definitions under the Securities Exchange Act of 1934.  
 Sec. 202. Regulatory relief for markets trading security futures products.  
 Sec. 203. Regulatory relief for intermediaries trading security futures products.  
 Sec. 204. Special provisions for interagency cooperation.  
 Sec. 205. Maintenance of market integrity for security futures products.  
 Sec. 206. Special provisions for the trading of security futures products.  
 Sec. 207. Clearance and settlement.  
 Sec. 208. Amendments relating to registration and disclosure issues under the Securities Act of 1933 and the Securities Exchange Act of 1934.  
 Sec. 209. Amendments to the Investment Company Act of 1940 and the Investment Advisers Act of 1940.

1           (2)   EXEMPTIONS   FROM   REPORTING  
2   REQUIREMENT.—Section 129(g)(5) of the Securities  
3   Exchange Act of 1934 (15 U.S.C. 78l(g)(5)) is amended  
4   by adding at the end the following: “For purposes of  
5   this subsection, a security futures product shall not be  
6   considered a class of equity security of the issuer of the  
7   securities underlying the security futures product.”.

8           (3)   TRANSACTIONS BY CORPORATE INSIDERS.—  
9   Section 16 of the Securities Exchange Act of 1934 (15  
10   U.S.C. 78p) is amended by adding at the end the following:

11           “(f) TREATMENT OF TRANSACTIONS IN SECURITY  
12   FUTURES PRODUCTS.—The provisions of this section shall  
13   apply to ownership of and transactions in security futures  
14   products.”.

15   **SEC. 209. AMENDMENTS TO THE INVESTMENT**  
16                   **COMPANY ACT OF 1940 AND THE**  
17                   **INVESTMENT ADVISERS ACT OF**  
18                   **1940.**

19           (a) DEFINITIONS UNDER THE INVESTMENT COMPANY  
20   ACT OF 1940 AND THE INVESTMENT ADVISERS ACT OF  
21   1940.—

22                   (1) Section 2(a)(36) of the Investment  
23                   Company Act of 1940 (15 U.S.C. 80a-2(a)(36))  
24                   is

1 amended by inserting “security future,” after “treasury  
2 stock,”.

3 (2) Section 202(a)(18) of the Investment  
4 Advisers Act of 1940 (15 U.S.C. 80b-2(a)(18)) is  
5 amended by inserting “security future,” after  
6 “treasury stock,”.

7 (3) Section 2(a) of the Investment Company Act  
8 of 1940 (15 U.S.C. 80a-2(a)) is amended by adding  
9 at the end the following:

10 “(52) The terms ‘security future’ and ‘narrow-  
11 based security index’ have the same meanings as  
12 provided in section 3(a)(55) of the Securities  
13 Exchange Act of 1934.”.

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

17 “(27) The terms ‘security future’ and ‘narrow-  
18 based security index’ have the same meanings as  
19 provided in section 3(a)(55) of the Securities  
20 Exchange Act of 1934.”.

21 (b) OTHER PROVISION.—Section 203(b) of the  
22 Investment Advisers Act of 1940 (15 U.S.C. 80b-3(b)) is  
23 amended—

24 (1) by striking “or” at the end of paragraph

25 (4);

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MAKING OMNIBUS CONSOLIDATED AND EMERGENCY SUPPLEMENTAL  
APPROPRIATIONS FOR FISCAL YEAR 2001

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DECEMBER 15, 2000.—Ordered to be printed

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MR. YOUNG of Florida, from the committee of conference, submitted the following

CONFERENCE REPORT

[To accompany H.R. 4577]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4577) “making appropriations for the Department of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2001, and for other purposes”, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate, and agree to the same with amendments, as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

*SECTION I. (a) The provisions of the following bills of the 106th Congress are hereby enacted into law:*

- (1) H.R. 5656, as introduced on December 14, 2000.*
- (2) H.R. 5657, as introduced on December 14, 2000.*
- (3) H.R. 5658, as introduced on December 14, 2000.*
- (4) H.R. 5666, as introduced on December 15, 2000.*
- (5) H.R. 5660, as introduced on December 14, 2000.*
- (6) H.R. 5661, as introduced on December 14, 2000.*
- (7) H.R. 5662, as introduced on December 14, 2000.*
- (8) H.R. 5663, as introduced on December 14, 2000.*
- (9) H.R. 5667, as introduced on December 15, 2000.*

*(b) In publishing this Act in slip form and in the United States Statutes at Large pursuant to section 112 of title 1, United States Code, the Archivist of the United States shall include after the date of approval at the end appendixes setting forth the texts of the bills referred to in subsection (a) of this section and the text of any other*



(1) *TREATMENT OF SECURITY FUTURES PRODUCTS.*—Section 2(a) of the Securities Act of 1933 (15 U.S.C. 77b(a)) is amended—

(A) in paragraph (1), by inserting “security future,” after “treasury stock,”;

(B) in paragraph (3), by adding at the end the following: “Any offer or sale of a security futures product by or on behalf of the issuer of the securities underlying the security futures product, an affiliate of the issuer, or an underwriter, shall constitute a contract for sale of, sale of, offer for sale, or offer to sell the underlying securities.”;

(C) by adding at the end the following:

“(16) The terms ‘security future’, ‘narrow-based security index’, and ‘security futures product’ have the same meanings as provided in section 3(a)(55) of the Securities Exchange Act of 1934.”.

(2) *EXEMPTION FROM REGISTRATION.*—Section 3(a) of the Securities Act of 1933 (15 U.S.C. 77c(a)) is amended by adding at the end the following:

“(14) Any security futures product that is—

“(A) cleared by a clearing agency registered under section 17A of the Securities Exchange Act of 1934 or exempt from registration under subsection (b)(7) of such section 17A; and

“(B) traded on a national securities exchange or a national securities association registered pursuant to section 15A(a) of the Securities Exchange Act of 1934.”.

(3) *CONFORMING AMENDMENT.*—Section 12(a)(2) of the Securities Act of 1933 (15 U.S.C. 771(a)(2)) is amended by striking “paragraph (2)” and inserting “paragraphs (2) and (14)”.

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

(1) *EXEMPTION FROM REGISTRATION.*—Section 12(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78(a)) is amended by adding at the end the following: “The provisions of this subsection shall not apply in respect of a security futures product traded on a national securities exchange.”.

(2) *EXEMPTIONS FROM REPORTING REQUIREMENT.*—Section 12(g)(5) of the Securities Exchange Act of 1934 (15 U.S.C. 78l(g)(5)) is amended by adding at the end the following: “For purposes of this subsection, a security futures product shall not be considered a class of equity security of the issuer of the securities underlying the security futures product.”.

(3) *TRANSACTIONS BY CORPORATE INSIDERS.*—Section 16 of the Securities Exchange Act of 1934 (15 U.S.C. 78p) is amended by adding at the end the following:

“(f) *TREATMENT OF TRANSACTIONS IN SECURITY FUTURES PRODUCTS.*—The provisions of this section shall apply to ownership of and transactions in security futures products.”.

**SEC. 209 AMENDMENTS TO THE INVESTMENT COMPANY ACT OF 1940 AND THE INVESTMENT ADVISERS ACT OF 1940.**

(a) *DEFINITIONS UNDER THE INVESTMENT COMPANY ACT OF 1940 AND THE INVESTMENT ADVISERS ACT OF 1940.*—

(1) Section 2(a)(36) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(36)) is amended by inserting “security future,” after “treasury stock,”.

(2) Section 202(a)(18) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(a)(18)) is amended by inserting “security future,” after “treasury stock,”.

(3) Section 2(a) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)) is amended by adding at the end the following:

“(52) The terms ‘security future’ and ‘narrow-based security index’ have the same meanings as provided in section 3(a)(55) of the Securities Exchange Act of 1934.

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

“(27) The terms ‘security future’ and ‘narrow-based security index’ have the same meanings as provided in section 3(a)(55) of the Securities Exchange Act of 1934.”.

(b) OTHER PROVISION.—Section 203(b) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-3(b)) is amended—

(1) by striking “or” at the end of paragraph (4);

(2) by striking the period at the end of paragraph (5) and inserting “; or”; and

(3) by adding at the end the following:

“(6) any investment adviser that is registered with the Commodity Futures Trading Commission as a commodity trading advisor whose business does not consist primarily of acting as an investment adviser, as defined in section 202(a)(11) of this title, and that does not act as an investment adviser to—

“(A) an investment company registered under title I of this Act; or

“(B) a company which has elected to be a business development company pursuant to section 54 of title I of this Act and has not withdrawn its election.”.

#### **SEC. 210 PREEMPTION OF STATE LAWS.**

Section 28(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78bb(a)) is amended—

(1) in the last sentence—

(A) by inserting “subject to this title” after “privilege, or other security”; and

(B) by striking “any such instrument, if such instrument is traded pursuant to rules and regulations of a self-regulatory organization that are filed with the Commission pursuant to Section 19(b) of this Act” and inserting “any such security”; and

(2) by adding at the end the following new sentence: “No provision of State law regarding the offer, sale, or distribution of securities shall apply to any transaction in a security futures product, except that this sentence shall not be construed as limiting any State antifraud law of general applicability.”.