

**AMENDMENT TO RULES COMMITTEE PRINT 114-**

**18**

**OFFERED BY MS. DELAURO OF CONNECTICUT**

Page 24, after line 8, insert the following:

1 **SEC. \_\_\_\_ . REQUIREMENT THAT THE COMMODITY FU-**  
2 **TURES TRADING COMMISSION IMPOSE FEES**  
3 **AND ASSESSMENTS TO RECOVER THE COST**  
4 **OF APPROPRIATIONS TO THE COMMISSION.**

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

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

9 “(1) IMPOSITION OF FEES.—

10 “(A) IN GENERAL.—Except as provided in  
11 subparagraph (C), the Commission shall, by  
12 order, impose a fee on each agreement, con-  
13 tract, or transaction that is a contract of sale  
14 of a commodity for future delivery, an option,  
15 or a swap, including an agreement, contract, or  
16 transaction transacted through the use of a for-  
17 eign terminal, so that the total of the fees so  
18 imposed during each fiscal year is sufficient to  
19 recover the costs to the Government of the an-

1           nual appropriation to the Commission by Con-  
2           gress for the fiscal year.

3           “(B) FOREIGN TERMINAL.—In subpara-  
4           graph (A), the term ‘foreign terminal’ means a  
5           technology, software, or device, which is located  
6           in the United States and used to execute an  
7           agreement, contract, or transaction on a foreign  
8           board of trade, or which is located outside of  
9           the United States and used to execute an agree-  
10          ment, contract, or transaction within the  
11          United States on a domestic board of trade.

12          “(C) EXEMPTIONS.—The Commission, by  
13          rule, may exempt any such agreement, contract,  
14          or transaction from any fee imposed under this  
15          paragraph, if the Commission finds that the ex-  
16          emption is consistent with—

17                  “(i) the public interest;

18                  “(ii) the equal treatment of contract  
19                  markets, derivatives clearing organizations,  
20                  and market participants; and

21                  “(iii) the operation of a nationwide  
22                  market system.

23          “(D) LIMITATION.—The fees imposed  
24          under this paragraph on all transactions of the

1 same kind shall be determined in a uniform  
2 manner.

3 “(E) MID-YEAR ADJUSTMENT.—By March  
4 1 of each fiscal year, the Commission shall de-  
5 termine whether, based on the fees collected  
6 under this subsection during the first 5 months  
7 of the fiscal year, the total of the amounts col-  
8 lected and to be collected under this subsection  
9 for the fiscal year is reasonably likely to be 10  
10 percent (or more) greater or less than the costs  
11 described in subparagraph (A) for the fiscal  
12 year. If the Commission so determines, the  
13 Commission shall by order, no later than March  
14 1 of the fiscal year, adjust the fee rates other-  
15 wise applicable under this paragraph for the fis-  
16 cal year so that the total of the amounts so col-  
17 lected and to be collected is reasonably likely to  
18 equal to the costs so described.

19 “(F) EFFECTIVE DATE.—Subject to para-  
20 graphs (2)(C) and (4), a fee rate prescribed (or  
21 adjusted) under this paragraph for a fiscal year  
22 shall take effect on the later of—

23 “(i) the 1st day of the fiscal year; or

1                   “(ii) 60 days after the date on which  
2                   a regular appropriation to the Commission  
3                   for the fiscal year is enacted.

4                   “(G) PUBLICATION.—The Commission  
5                   shall publish in the Federal Register notices of  
6                   the fee rates applicable under this paragraph  
7                   for a fiscal year not later than 30 days after  
8                   the date on which a regular appropriation to  
9                   the Commission for the fiscal year is enacted,  
10                  together with any estimates or projections on  
11                  which the fee rates are based.

12                  “(H) INAPPLICABILITY OF RULE MAKING  
13                  REQUIREMENTS.—In exercising its authority  
14                  under this paragraph, the Commission shall not  
15                  be required to comply with section 553 of title  
16                  5, United States Code.

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

18                  “(A) CLEARED TRANSACTIONS;  
19                  UNCLEARED SWAPS REPORTED TO SWAP DATA  
20                  REPOSITORIES.—

21                  “(i) PAYMENT OF FEES.—

22                  “(I) CLEARED TRANSACTIONS.—  
23                  In the case of a contract of sale of a  
24                  commodity for future delivery, an op-  
25                  tion, or a swap that is cleared by a

1 derivatives clearing organization reg-  
2 istered or exempt from registration  
3 under this Act, each party to the  
4 agreement, contract, or transaction  
5 shall pay the fee determined under  
6 paragraph (1) to the derivatives clear-  
7 ing organization.

8 “(II) UNCLEARED SWAPS RE-  
9 PORTED TO SWAP DATA REPOSI-  
10 TORIES.—In the case of a swap that  
11 is not cleared by a derivatives clearing  
12 organization registered or exempt  
13 from registration under this Act and  
14 that is accepted by a swap data repos-  
15 itory registered under section 21, each  
16 party to the swap shall pay the trans-  
17 action fee determined under para-  
18 graph (1) to the swap data repository.

19 “(ii) COLLECTION OF FEES.—The  
20 Commission shall collect the fees paid in  
21 accordance with clause (i) in such manner  
22 and within such time as the Commission  
23 deems appropriate, except that if the Com-  
24 mission has not collected a fee paid in ac-  
25 cordance with clause (i) within 30 days

1 after receipt by the derivatives clearing or-  
2 ganization or swap data repository, as the  
3 case may be, the organization or reposi-  
4 tory, as the case may be, shall transmit the  
5 fee to the Commission.

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

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

21 “(3) DEPOSIT OF FEES.—

22 “(A) OFFSETTING COLLECTIONS.—A fee  
23 collected under paragraph (2) for a fiscal year  
24 shall be deposited and credited as offsetting col-

1           lections to the account providing appropriations  
2           to the Commission.

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

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

