

116TH CONGRESS  
1ST SESSION

# H. R. 4909

To expand the scope of the matters required to be evaluated by the Commodity Futures Trading Commission in considering the costs and benefits of its proposed regulations and orders, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 29, 2019

Mr. JOHNSON of South Dakota introduced the following bill; which was referred to the Committee on Agriculture

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## A BILL

To expand the scope of the matters required to be evaluated by the Commodity Futures Trading Commission in considering the costs and benefits of its proposed regulations and orders, 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 “CFTC Cost-Benefit  
5       Analysis Improvement Act”.

1 **SEC. 2. CONSIDERATION BY THE COMMODITY FUTURES**  
2 **TRADING COMMISSION OF THE COSTS AND**  
3 **BENEFITS OF ITS REGULATIONS AND OR-**  
4 **DERS.**

5 (a) IN GENERAL.—Section 2(a) of the Commodity  
6 Exchange Act (7 U.S.C. 2(a)) is amended by adding at  
7 the end the following:

8 “(16) OFFICE OF THE CHIEF ECONOMIST.—

9 “(A) ESTABLISHMENT.—There is estab-  
10 lished in the Commission the Office of the Chief  
11 Economist.

12 “(B) HEAD.—The Office of the Chief  
13 Economist shall be headed by the Chief Econo-  
14 mist.

15 “(C) FUNCTIONS.—The Chief Economist  
16 shall serve as economic advisor and perform  
17 such other functions and duties as the Chair-  
18 man may prescribe.

19 “(D) PROFESSIONAL STAFF.—The Com-  
20 mission shall appoint such other economists as  
21 may be necessary to assist the Chief Economist  
22 in performing economic analysis, regulatory  
23 cost-benefit analysis, or research.”.

24 (b) CONSIDERATION OF COSTS AND BENEFITS.—  
25 Section 15(a) of such Act (7 U.S.C. 19(a)) is amended—

1           (1) by striking paragraphs (1) and (2) and in-  
2       serting the following:

3           “(1) IN GENERAL.—Before promulgating a reg-  
4       ulation under this Act or issuing an order (except as  
5       provided in paragraph (3)), the Commission,  
6       through the Office of the Chief Economist, shall as-  
7       sess and publish in the regulation or order the costs  
8       and benefits, both qualitative and quantitative, of  
9       the proposed regulation or order, and the proposed  
10      regulation or order shall state its statutory justifica-  
11      tion.

12          “(2) CONSIDERATIONS.—In making a reasoned  
13      determination of the costs and the benefits, the  
14      Commission shall evaluate—

15           “(A) considerations of protection of market  
16      participants and the public;

17           “(B) considerations of the efficiency, com-  
18      petitiveness, and financial integrity of futures  
19      and swaps markets;

20           “(C) considerations of the impact on mar-  
21      ket liquidity in the futures and swaps markets;

22           “(D) considerations of price discovery;

23           “(E) considerations of sound risk manage-  
24      ment practices;

1           “(F) available alternatives to direct regula-  
2           tion;

3           “(G) the degree and nature of the risks  
4           posed by various activities within the scope of  
5           its jurisdiction;

6           “(H) the costs of complying with the pro-  
7           posed regulation or order by all regulated enti-  
8           ties, including a methodology for quantifying  
9           the costs (recognizing that some costs are dif-  
10          ficult to quantify);

11          “(I) whether the proposed regulation or  
12          order is inconsistent, incompatible, or duplica-  
13          tive of other Federal regulations or orders;

14          “(J) the cost to the Commission of imple-  
15          menting the proposed regulation or order by the  
16          Commission staff, including a methodology for  
17          quantifying the costs;

18          “(K) whether, in choosing among alter-  
19          native regulatory approaches, those approaches  
20          maximize net benefits (including potential eco-  
21          nomic and other benefits, distributive impacts,  
22          and equity); and

23          “(L) other public interest considerations.”;  
24          and

25          (2) by adding at the end the following:

1           “(4) JUDICIAL REVIEW.—Notwithstanding sec-  
2           tion 24(d), a court shall affirm a Commission as-  
3           sessment of costs and benefits under this subsection,  
4           unless the court finds the assessment to be an abuse  
5           of discretion.”.

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