

105TH CONGRESS  
1ST SESSION

# H. R. 645

To amend the Commodity Exchange Act to require the Commodity Futures Trading Commission to regulate certain cash markets, such as the National Cheese Exchange, until the Commission determines that the market does not establish reference points for other transactions.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 6, 1997

Mr. OBEY (for himself, Mr. KIND, Mr. JOHNSON of Wisconsin, and Mr. BARRETT of Wisconsin) introduced the following bill; which was referred to the Committee on Agriculture

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## A BILL

To amend the Commodity Exchange Act to require the Commodity Futures Trading Commission to regulate certain cash markets, such as the National Cheese Exchange, until the Commission determines that the market does not establish reference points for other transactions.

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 “National Cheese Ex-  
5 change Oversight and Improvement Act of 1997”.

1 **SEC. 2. FINDINGS.**

2 The Congress finds that the operation of the National  
3 Cheese Exchange and other cash markets is of national  
4 concern and in need of Federal oversight because of the  
5 following:

6 (1) The National Cheese Exchange, located in  
7 Green Bay, Wisconsin, is the dominant cash market  
8 for bulk cheese in the United States.

9 (2) While less than 1 percent of the cheese pro-  
10 duced in the United States is sold on the National  
11 Cheese Exchange, the price determined by the Na-  
12 tional Cheese Exchange acts as a reference price for  
13 as much as 95 percent of the commercial cheese  
14 transactions conducted in the United States.

15 (3) A three-year federally funded investigation  
16 into the activities of the National Cheese Exchange  
17 determined that the National Cheese Exchange is  
18 very thinly traded, highly concentrated, completely  
19 unregulated, and subject to manipulation.

20 (4) The Coffee, Sugar, and Cocoa Exchange in  
21 New York, an exchange regulated by the Commodity  
22 Futures Trading Commission, trades futures con-  
23 tracts for cheese.

24 (5) The low volume in trading of cheese futures  
25 contracts on the Coffee, Sugar, and Cocoa Exchange

1 is partially related to concerns about the lack of via-  
 2 bility, and potential for manipulation, in the domi-  
 3 nant cash market for cheese, the National Cheese  
 4 Exchange.

5 (6) The National Cheese Exchange is com-  
 6 pletely unregulated by any Federal or State agency.

7 (7) The Commodity Futures Trading Commis-  
 8 sion claims a lack of authority to regulate or oversee  
 9 the National Cheese Exchange and similar cash  
 10 markets.

11 **SEC. 3. COMMODITY FUTURES TRADING COMMISSION REG-**  
 12 **ULATION OF NATIONAL CHEESE EXCHANGE**  
 13 **AND SIMILAR CASH MARKETS.**

14 The Commodity Exchange Act (7 U.S.C. 1 et seq.)  
 15 is amended by inserting after section 20 (7 U.S.C. 24)  
 16 the following new section:

17 **“SEC. 21. COMMISSION REGULATION OF NATIONAL CHEESE**  
 18 **EXCHANGE AND SIMILAR CASH MARKETS.**

19 “(a) DEFINITION OF CONCENTRATED CASH MAR-  
 20 KET.—In this section, the term ‘concentrated cash mar-  
 21 ket’ means—

22 “(1) the National Cheese Exchange located in  
 23 Green Bay, Wisconsin; and

24 “(2) a cash market for a commodity if the  
 25 Commission determines that—

1           “(A) the cash market is geographically  
2 centralized in the form of a market or ex-  
3 change;

4           “(B) the cash market is very thinly traded  
5 or highly illiquid;

6           “(C) the price established by the cash mar-  
7 ket functions as a reference price for a majority  
8 of commercial transactions off the cash market  
9 for the commodity being traded;

10           “(D) trading in the cash market is con-  
11 centrated among relatively few buyers and sell-  
12 ers;

13           “(E) the cash market is substantially un-  
14 regulated by any other regulatory structure (in-  
15 cluding State regulation or self-regulation);

16           “(F) a futures market regulated under this  
17 Act also exists for the commodity that is being  
18 traded on the cash market; and

19           “(G) the instability, illiquidity, or potential  
20 for manipulation on the cash market could be  
21 a deterrent to the use of the futures market for  
22 that commodity.

23           “(b) REGULATION OF CONCENTRATED CASH MAR-  
24 KETS.—In consultation with the Secretary of Agriculture,  
25 the Commission shall regulate a concentrated cash market

1 under this Act until such time as the Commission deter-  
2 mines that the concentrated cash market is not function-  
3 ing as a reference price for a majority of commercial  
4 transactions off the cash market for the commodity being  
5 traded on the concentrated cash market.

6 “(c) SUBMISSION AND REVIEW OF OPERATING  
7 RULES.—

8 “(1) SUBMISSION REQUIRED.—The Commission  
9 shall require a concentrated cash market subject to  
10 regulation under subsection (b) to submit to the  
11 Commission for approval a set of rules governing the  
12 operation of the concentrated cash market.

13 “(2) TIME FOR SUBMISSION.—In the case of  
14 the National Cheese Exchange, the operating rules  
15 required under this subsection shall be submitted  
16 not later than 90 days after the date of the enact-  
17 ment of this section. In the case of other con-  
18 centrated cash markets, the operating rules shall be  
19 submitted not later than 90 days after the date on  
20 which the Commission notifies the concentrated cash  
21 market that it is subject to regulation under this  
22 section.

23 “(3) NOTIFICATION OF COMMISSION ACTION.—  
24 The Commission shall promptly review operating  
25 rules submitted by a concentrated cash market

1 under this subsection to determine whether the rules  
2 are sufficient to govern the operation of the con-  
3 centrated cash market. Not later than 60 days after  
4 receiving the rules from a concentrated cash market,  
5 the Commission shall notify the concentrated cash  
6 market of the results of the review, including wheth-  
7 er the rules are approved or disapproved. If dis-  
8 approved, the Commission shall provide such rec-  
9 ommendations regarding changes to the rules as the  
10 Commission considers necessary to secure approval  
11 and provide a schedule for resubmission of the rules.

12 “(4) SUBSEQUENT RULE CHANGES.—A con-  
13 centrated cash market may not change approved op-  
14 erating rules unless the proposed change is also sub-  
15 mitted to the Commission for review and the Com-  
16 mission approves the change in the manner provided  
17 in paragraph (3).

18 “(d) EFFECT OF FAILURE TO SUBMIT OR RECEIVE  
19 APPROVAL OF RULES.—Beginning one year after the date  
20 of the enactment of this section, the National Cheese Ex-  
21 change may operate only in accordance with rules ap-  
22 proved by the Commission under subsection (c). In the  
23 case of other concentrated cash markets, beginning one  
24 year after the date on which the concentrated cash market

1 is notified that it is subject to regulation under this sec-  
2 tion, the concentrated cash market may operate only in  
3 accordance with rules approved by the Commission under  
4 subsection (e).”.

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