

Martinez Pelosi Stupak
 Mascara Peterson (FL) Tanner
 Matsui Pickett Taylor (MS)
 McCarthy Pomeroy Tejada
 McDermott Poshard Thompson
 McHale Rahall Thornton
 Meehan Reed Thurman
 Mfume Reynolds Torres
 Miller (CA) Richardson Torricelli
 Mineta Rivers Towns
 Mink Rose Traficant
 Moakley Roybal-Allard Tucker
 Mollohan Rush Velazquez
 Murtha Sabo Vento
 Nadler Sanders Visclosky
 Neal Sawyer Volkmer
 Oberstar Schroeder Ward
 Obey Schumer Watt (NC)
 Olver Scott Waxman
 Ortiz Serrano Williams
 Orton Skaggs Wise
 Owens Slaughter Woolsey
 Pallone Spratt Wyden
 Pastor Stark Wynn
 Payne (NJ) Stokes Yates
 Payne (VA) Studds

ANSWERED "PRESENT"—1

Lowey

NOT VOTING—8

Abercrombie McDade Rangel
 Gibbons McKinney Waters
 Johnson, E.B. Meek

So the substitute amendment for the amendment was agreed to.

After some further time,

40.14 RECORDED VOTE

A recorded vote by electronic device was ordered in the Committee of the Whole on the following amendment submitted by Mr. MARKEY:

Page 28, after line 2, insert the following new section (and redesignate the succeeding sections and conform the table of contents accordingly):

SEC. 6. INAPPLICABILITY TO DERIVATIVES.

This Act and the amendments made by this Act shall not apply to any action based on an allegation of fraud in connection with the purchase or sale of a derivative instrument. For purposes of this section, the term "derivative instrument" means any financial contract or other instrument that derives its value from the value or performance of any security, currency exchange rate, or interest rate (or group or index thereof), but does not include—

(1) any security that is traded on a national securities exchange or on an automated interdealer quotation system sponsored by a securities association registered under section 15A of this title;

(2) any forward contract which has a maturity at the time of issuance not exceeding 270 days;

(3) any contract of sale of a commodity for future delivery, or any option on such a contract, traded or executed on a designated contract market and subject to regulation under the Commodity Exchange Act; or

(4) any deposit held by a financial institution.

It was decided in the negative

Yeas 162
 Nays 261
 Answered present 1

40.15 [Roll No. 211] AYES—162

Abercrombie Berman Cardin
 Ackerman Bishop Clay
 Andrews Bonior Clayton
 Baesler Borski Clement
 Baldacci Boucher Clyburn
 Barrett (WI) Brown (CA) Coleman
 Bateman Brown (FL) Collins (IL)
 Becerra Brown (OH) Collins (MI)
 Beilenson Bryant (TX) Conyers

Costello Kaptur Pomeroy
 Coyne Kennedy (MA) Poshard
 DeFazio Kelleny Rahall
 DeLauro Kildee Reed
 Dellums Kleczka Reynolds
 Dicks Klink Rivers
 Dingell Lantos Roemer
 Dixon Levin Roukema
 Doggett Lewis (GA) Roybal-Allard
 Doyle Lipinski Rush
 Duncan Lofgren Sabo
 Durbin Luther Sanders
 Edwards Maloney Sawyer
 Engel Manton Schroeder
 Nadler Markley Schumer
 Evans Martinez Scott
 Farr Mascara Serrano
 Fazio Matsui Slaughter
 Fields (LA) McCarthy Smith (WA)
 Filner McDermott Spratt
 Flake McHale Stark
 Foglietta McNulty Stokes
 Ford Meehan Studds
 Fox Menendez Stupak
 Frost Metcalf Tanner
 Furse Mfume Taylor (MS)
 Gejdenson Miller (CA) Thompson
 Gephardt Mineta Thornton
 Gordon Minge Torres
 Green Mink Torricelli
 Gutierrez Moakley Towns
 Hall (OH) Mollohan Traficant
 Hamilton Morella Tucker
 Hastings (FL) Murtha Velazquez
 Hefner Nadler Visclosky
 Hilliard Neal Volkmer
 Hinchey Oberstar Ward
 Holden Obey Watt (NC)
 Horn Olver Waxman
 Hoyer Owens Williams
 Jackson-Lee Pallone Wise
 Jacobs Pastor Woolsey
 Johnson (SD) Payne (NJ) Wyden
 Johnson, E. B. Pelosi Wynn
 Johnston Peterson (FL) Yates

NOES—261

Allard Crane Hansen
 Archer Crapo Harman
 Arney Cremeans Hastert
 Bachus Cubin Hastings (WA)
 Baker (CA) Cunnigham Hayes
 Baker (LA) Danner Hayworth
 Ballenger de la Garza Hefley
 Barcia Deal Heineman
 Barr DeLay Hergler
 Barrett (NE) Deutsch Hilleary
 Bartlett Diaz-Balart Hobson
 Barton Dickey Hoekstra
 Bass Dooley Hoke
 Bentsen Doolittle Hostettler
 Bereuter Dornan Houghton
 Bevill Dreier Hunter
 Bilbray Dunn Hutchinson
 Billrakis Ehlers Hyde
 Bliley Ehrlich Inglis
 Blute Emerson Istook
 Boehlert English Johnson (CT)
 Boehner Ensign Johnson, Sam
 Bonilla Everett Jones
 Bono Ewing Kanjorski
 Brewster Fawell Kasich
 Browder Fields (TX) Kelly
 Brownback Flanagan Kennedy (RI)
 Bryant (TN) Foley Kim
 Bunn Forbes King
 Bunning Fowler Kingston
 Burr Frank (MA) Klug
 Burton Franks (CT) Knollenberg
 Buyer Franks (NJ) Kolbe
 Callahan Frelinghuysen LaFalce
 Calvert Frisa LaHood
 Camp Funderburk Largent
 Canady Gallegly Latham
 Castle Ganske Laughlin
 Chabot Gekas Lazio
 Chambliss Geren Leach
 Chapman Gilchrist Lewis (CA)
 Chenoweth Gillmor Lewis (KY)
 Christensen Gilman Lightfoot
 Chrysler Gonzalez Lincoln
 Clinger Goodlatte Linder
 Coble Goodling Livingston
 Coburn Goss LoBiondo
 Collins (GA) Graham Longley
 Combest Greenwood Lucas
 Condit Gunderson Manzullo
 Cooley Gutknecht Martini
 Cox Hall (TX) McCollum
 Cramer Hancock McCreery

McHugh Radanovich Stearns
 McInnis Ramstad Stenholm
 McIntosh Regula Stockman
 McKeon Richardson Stump
 Meyers Riggs Talent
 Mica Roberts Tate
 Miller (FL) Rogers Tauzin
 Molinari Rohrabacher Taylor (NC)
 Montgomery Ros-Lehtinen Tejada
 Moorhead Rose Thomas
 Moran Roth Thornberry
 Myers Royce Thurman
 Myrick Salmon Tiahrt
 Nethercutt Sanford Torkildsen
 Neumann Saxton Upton
 Ney Scarborough Vento
 Norwood Schaefer Vucanovich
 Nussle Schiff Waldholtz
 Ortiz Seastrand Walker
 Orton Sensenbrenner Walsh
 Oxley Shadegg Wamp
 Packer Shaw Watts (OK)
 Parker Shays Weldon (FL)
 Paxon Shuster Weldon (PA)
 Payne (VA) Sisisky Weller
 Peterson (MN) Skaggs White
 Petri Skeen Whitfield
 Pickett Skelton Wicker
 Pombo Smith (MI) Wilson
 Porter Smith (NJ) Wolf
 Portman Smith (TX) Young (AK)
 Pryce Solomon Young (FL)
 Quillen Souder Zeliff
 Quinn Spence Zimmer

ANSWERED "PRESENT"—1

Lowey

NOT VOTING—10

Davis LaTourette Rangel
 Fattah McDade Waters
 Gibbons McKinney
 Jefferson Meek

So the amendment was not agreed to. After some further time,

40.16 RECORDED VOTE

A recorded vote by electronic device was ordered in the Committee of the Whole on the following amendment submitted by Mr. DINGELL:

Page 28, line 12, insert before the period the following: ", except that this Act and the amendments made by this Act shall not apply to any action commenced by any State or local government, or any agency or instrumentality of any State or local government, before the date which is 3 years after such date of enactment."

It was decided in the negative

Yeas 179
 Nays 248
 Answered present 1

40.17 [Roll No. 212] AYES—179

Abercrombie Collins (IL) Ford
 Ackerman Collins (MI) Fox
 Andrews Conyers Frank (MA)
 Bachus Costello Frost
 Baesler Coyne Furse
 Baldacci Cramer Gejdenson
 Barcia de la Garza Gephardt
 Barrett (WI) DeFazio Gonzalez
 Becerra DeLauro Gordon
 Beilenson Dellums Green
 Bentsen Dicks Gutierrez
 Berman Dingell Hall (OH)
 Bevill Dixon Hall (TX)
 Bishop Doggett Hamilton
 Bonior Doyle Hastings (FL)
 Borski Duncan Hefner
 Boucher Durbin Hilliard
 Browder Edwards Hinchey
 Brown (CA) Engel Holden
 Brown (FL) Eshoo Hoyer
 Brown (OH) Evans Jackson-Lee
 Bryant (TX) Farr Jefferson
 Cardin Fattah Johnson (SD)
 Chapman Fazio Johnson, E.B.
 Clay Fields (LA) Johnston
 Clayton Filner Kanjorski
 Clayburn Flake Kaptur
 Coleman Foglietta Kennedy (MA)

Kennelly
Kildee
Klecza
Klink
LaFalce
Lantos
Laughlin
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McNulty
Meehan
Menendez
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Pickett
Pomeroy
Poshard
Rahall
Reed
Reynolds
Richardson
Rivers
Roemer
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Skaggs

Slaughter
Spratt
Stark
Stokes
Studds
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Torrice
Townsend
Traficant
Tucker
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wise
Woolsey
Wyden
Wynn
Yates
Saxton
Scarborough
Schaefer
Seiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)
Zimmer

Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Skaggs
Slaughter
Spratt
Stark
Stokes
Studds
Stupak
Tanner
Taylor (MS)
Thompson
Thornton
Thurman
Torres
Torrice
Townsend
Traficant
Tucker
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wise
Woolsey
Wyden
Wynn
Yates

NOES—255

Allard
Archer
Army
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Barton
Bass
Bateman
Bereuter
Bevill
Bilirakis
Bliley
Blute
Boehler
Boehner
Bonilla
Bono
Brewster
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cox
Crane
Crapo
Creameans
Cubin
Cunningham
Danner
Davis
Deal
DeLay
Deutsch
Diaz-Balart
Dickey
Dooley
Doolittle
Dornan
Dreier
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Eshoo
Everett
Ewing
Farr
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly

ANSWERED "PRESENT"—1

Lowey
NOT VOTING—6

Gibbons
McDade
McKinney
Meek
Rangel
Sisisky

So the amendment was not agreed to.
After some further time,

40.18 RECORDED VOTE

A recorded vote by electronic device was ordered in the Committee of the Whole on the following amendment submitted by Mr. BRYANT:

Page 18, beginning on line 6, strike subsections (b) and (c) and insert the following (and redesignate the succeeding subsections accordingly):

"(b) PLEADING REQUIREMENT.—In any action arising under this title in which the plaintiff may recover money damages only if it proves that the defendant acted with scienter, the plaintiff must allege in its complaint facts suggesting that the defendant acted with that state of mind.

It was decided in the negative
Yes 168
Answered present 255
present 1

40.19 [Roll No. 213]
AYES—168

Allard
Archer
Army
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehler
Boehner
Bonilla
Bono
Brewster
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Crane
Crapo
Creameans
Cunningham
Danner
Davis
Deal
DeLay
Deutsch
Diaz-Balart
Dickey
Dooley
Doolittle
Dornan
Dreier
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Farr
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Minge
Molinari
Montgomery
Moorhead
Moran
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (MN)
Petri
Pombo
Porter
Portman
Pryce
Quillen
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Royce
Salmon
Sanford

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bishop
Bonior
Borski
Boucher
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chambliss
Chapman
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Cooley
Costello
Coyne
Cramer
de la Garza
DeFazio
DeLauro
Dellums
Dicks
Dingell
Dixon
Doggett
Doyle
Duncan
Durban
Engel
Evans
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Fox
Frost
Furse
Gejdenson
Gephardt
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Hastings (FL)
Hefner
Hilliard
Hinche
Holden
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McCollum
McDermott
McHale
Meehan
Menendez
Mfume
Miller (CA)
Minge
Mink
Moakley
Mollohan
Murtha
Nadler
Oberstar
Obey
Olver
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Pomeroy
Poshard
Rahall
Reed
Reynolds
Richardson
Rivers
Roybal-Allard

Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klecza
Klug
Knollenberg
Kolbe
Kolle
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCrery
McHugh
McInnis
McIntosh
McKeon
McNulty
Metcalf
Meyers
Miller (FL)
Mineta
Molinari
Montgomery
Moorhead
Moran
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Talent
Tate
Tauzin
Taylor (NC)
Tejeda
Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)
Zimmer