Committee on Agriculture
Frank D. Lucas, Chairman

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H.R. 1840
Cost Benefit Analysis Requirements in the Commodity Exchange Act

Sponsored by Reps. Mike Conaway, Mike Quigley & Leonard Boswell

Summary:
Requires the CFTC to assess the costs and benefits of proposed actions and evaluate the potential impact on liquidity.

Why:
Although the Commodity Exchange Act requires the Commodity Futures Trading Commission (CFTC) to ***consider*** the costs and benefits of regulations, the CFTC does not interpret this as a requirement to ***quantify*** the costs and benefits of their actions.

The CFTC is exempt from President Obama's Executive Order that requires cost-benefit analyses of proposed regulations.

The CFTC has taken a check-the-box approach to cost-benefit analysis, providing vague and subjective estimates.

That leads to significant miscalculations: in one example, cost estimates conducted by an affected market participant were 63 times greater than those estimated by the CFTC.

Creating a Balanced Approach to Regulations

H.R. 1840 would require the CFTC to follow the same standards for cost benefit analysis as laid out in President Obama's Executive Order, including:

- Performing qualitative and quantitative analysis of CFTC actions
- Evaluating alternatives to direct regulation
- Assessing the impact on liquidity in futures markets
- Determining whether the regulation imposes the least possible burden on market participants

The CFTC's Cursory Approach to Cost-Benefit Analysis

The CFTC's Inspector General issued a report in April on the CFTC's cost-benefit analyses. The report indicated that the CFTC saw the requirement to consider costs and benefits as a legal issue as opposed to an economic one.

Staff "appeared to rely heavily on an historic (and somewhat stripped down) analytical approach...similar economic analyses in the context of federal rulemaking have proved perilous for financial market regulators."

Staff "uniformly stressed a desire to refrain from expressing mandatory rules in terms of costs and benefits."