

116TH CONGRESS  
1ST SESSION

# H. R. 4250

To amend the Commodity Exchange Act to exempt certain charitable organizations from regulation as commodity pool operators, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 9, 2019

Ms. CRAIG 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 exempt certain charitable organizations from regulation as commodity pool operators, 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. EXEMPTION OF QUALIFIED CHARITABLE ORGA-**  
4 **NIZATIONS FROM REGULATION AS COM-**  
5 **MODITY POOL OPERATORS.**

6 Section 4m of the Commodity Exchange Act (7  
7 U.S.C. 6m) is amended—

8 (1) by striking “SEC. 4M. (1) It” and inserting  
9 the following:

1 **“SEC. 4m. USE OF MAILS OR OTHER MEANS OR INSTRU-**  
2 **MENTALITIES OF INTERSTATE COMMERCE**  
3 **BY COMMODITY TRADING ADVISORS AND**  
4 **COMMODITY POOL OPERATORS.**

5 “(a) PROHIBITION.—

6 “(1) IN GENERAL.—It”;

7 (2) in the second sentence—

8 (A) by striking “The provisions of this sec-

9 tion” and inserting the following:

10 “(2) EXCEPTIONS.—

11 “(A) COMMODITY TRADING ADVISORS.—

12 “(i) IN GENERAL.—Subject to clause

13 (ii) and except as provided in subpara-

14 graphs (B) and (C), this section”;

15 (B) by striking “commodity trading advi-

16 sor who is a (1) dealer” and inserting the fol-

17 lowing: “commodity trading advisor who is a—

18 “(I) dealer”;

19 (C) by striking “or (2) nonprofit” and in-

20 serting the following: “; or

21 “(II) nonprofit”;

22 (D) by striking “Commodity Futures

23 Trading Commission Act of 1974; if the advice

24 by the person described in clause (1) or (2) of

25 this sentence” and inserting the following:

1 “Commodity Futures Trading Commission Act  
2 of 1974.

3 “(ii) APPLICABILITY.—Clause (i) only  
4 applies if the advice by the person de-  
5 scribed in subclause (I) or (II) of clause  
6 (i)”;

7 (E) by striking “business:” and inserting  
8 “business.”; and

9 (F) by striking “*Provided*, That such per-  
10 son shall be subject to proceedings under sec-  
11 tion 14 of this Act.” and inserting the fol-  
12 lowing:

13 “(B) COMPLAINTS AGAINST EXCEPTED  
14 PERSONS.—A person described in subclause (I)  
15 or (II) of clause (i) shall be subject to pro-  
16 ceedings under section 14.

17 “(C) CHARITABLE ORGANIZATIONS.—This  
18 section shall not apply to any commodity trad-  
19 ing advisor or commodity pool operator that  
20 is—

21 “(i) a charitable organization, as de-  
22 fined in section 3(e)(10)(D)(iii) of the In-  
23 vestment Company Act of 1940 (15 U.S.C.  
24 80a-3(e)(10)(D)(iii)), or a trustee, direc-  
25 tor, officer, employee, or volunteer of such

1 a charitable organization acting within the  
2 scope of the employment or duties of the  
3 person with the organization, whose trad-  
4 ing advice is provided only to, or with re-  
5 spect to, one or more of—

6 “(I) any such charitable organi-  
7 zations; or

8 “(II) an investment trust, syn-  
9 dicate, or similar form of enterprise  
10 excluded from the definition of ‘invest-  
11 ment company’ pursuant to section  
12 3(c)(10) of the Investment Company  
13 Act of 1940 (15 U.S.C. 80a-  
14 3(c)(10)); or

15 “(ii) any plan, company, or account  
16 described in section 3(c)(14) of the Invest-  
17 ment Company Act of 1940 (15 U.S.C.  
18 80a-3(c)(14)), any person or entity who  
19 establishes or maintains such a plan, com-  
20 pany, or account, or any trustee, director,  
21 officer, employee, or volunteer for any of  
22 the foregoing plans, persons, or entities  
23 acting within the scope of the employment  
24 or duties of the person with the organiza-  
25 tion, whose trading advice is provided only

1 to, or with respect to, any investment  
2 trust, syndicate, or similar form of enter-  
3 prise excluded from the definition of ‘in-  
4 vestment company’ pursuant to section  
5 3(c)(14) of the Investment Company Act  
6 of 1940 (15 U.S.C. 80a-3(c)(14)).”;

7 (3) by striking “(2) Nothing in this Act” and  
8 inserting the following:

9 “(b) RELATIONSHIP TO OTHER LAW.—Nothing in  
10 this Act”;

11 (4) by striking “(3) EXCEPTION.—” and all  
12 that follows through “Paragraph (1) shall not  
13 apply” and inserting the following:

14 “(c) EXCEPTION.—

15 “(1) IN GENERAL.—Subsection (a) shall not  
16 apply”;

17 (5) by striking “(B) ENGAGED PRIMARILY.—  
18 For purposes of subparagraph (A)” and inserting  
19 the following:

20 “(2) ENGAGED PRIMARILY.—For purposes of  
21 paragraph (1)”;

22 (6) by striking “(C) COMMODITY INTERESTS.—  
23 For purposes of this paragraph” and inserting the  
24 following:

1           “(3) COMMODITY INTERESTS.—For purposes of  
2           this subsection”; and

3           (7) by adding at the end the following:

4           “(d) DISCLOSURE CONCERNING EXEMPTED CHARITABLE ORGANIZATIONS.—A commodity trading advisor or  
5           TABLE ORGANIZATIONS.—A commodity trading advisor or  
6           commodity pool operator that is an organization or person  
7           described in subsection (a)(2)(C)(i) to or of any invest-  
8           ment trust, syndicate, or similar form of enterprise ex-  
9           cluded from the definition of ‘investment company’ pursu-  
10          ant to section 3(c)(10)(B) of the Investment Company Act  
11          of 1940 (15 U.S.C. 80a-3(c)(10)(B)) shall provide disclo-  
12          sure in accordance with section 7(e) of that Act (15 U.S.C.  
13          80a-7(e)).”.

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