

Document 0788

[20788001]

The Senate Agriculture Committee is responding to trading abuses in the futures markets with a far-reaching bill that would become the Futures Trading Practices Act of 1989 .

[20788002]

The proposed legislation has a laudable goal : to assure the integrity of the U.S. futures markets .

[20788003]

However , as is common with sweeping legislation , the proposal contains many provisions that could destroy important parts of the system it sets out to preserve .

[20788006]

The bill also elevates even minor rule infractions to felonies and provides for recovery of punitive damages in civil lawsuits and arbitration cases without any showing of willful misconduct .

[20788007]

Many aspects of the bill are salutary , providing appropriate public safeguards that can and should be instituted throughout the industry .

[20788009]

Other aspects of the bill , however , are either structured in ways that create unnecessary burdens for the industry or actually are harmful to the exchanges , the industry and ultimately the general public .

[20788010]

One of the most prominent features is the requirement that in three years all exchanges have in place a system that records all trades by a source independent of the executing broker .

[20788011]

The New York futures exchanges have been working together to develop a trade recording system much like the one called for in the bill .

[20788012]

We would be delighted to have such a system in place today .

[20788013]

But is it realistic for Congress to mandate by a rigid deadline a system that has not yet been subjected to feasibility studies ?

[20788014]

What if the system does n't work ?

[20788016]

Cost is a key consideration because of the global sweep of the financial markets .

[20788017]

The U.S. futures exchanges compete world-wide as never before .

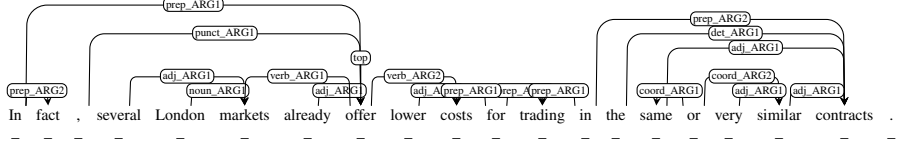
[20788018]

Today , trading in almost any commodity can be diverted from U.S. markets with just a few strokes of a keyboard .

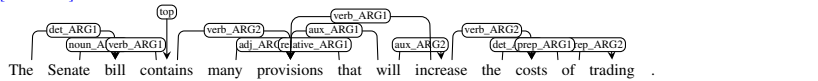
[20788019]

All foreign markets are aggressively courting U.S. business .

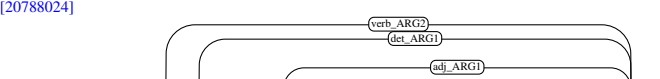
[20788020]



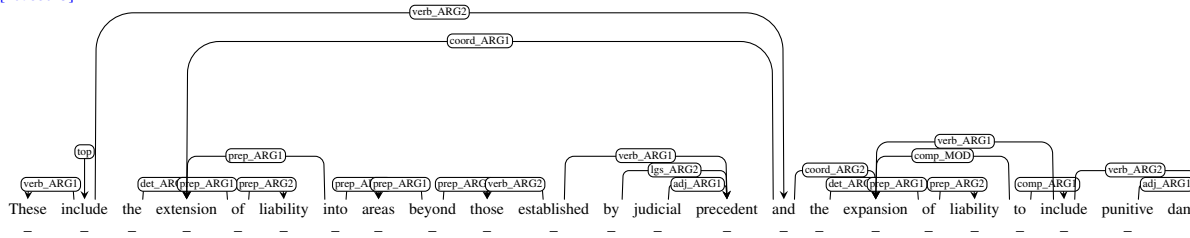
[20788021]



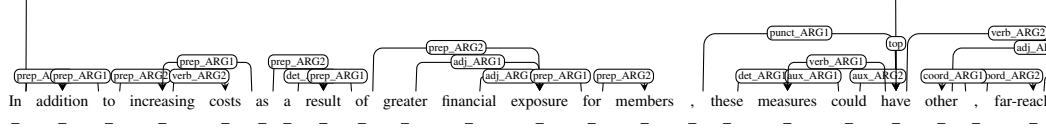
[20788022]



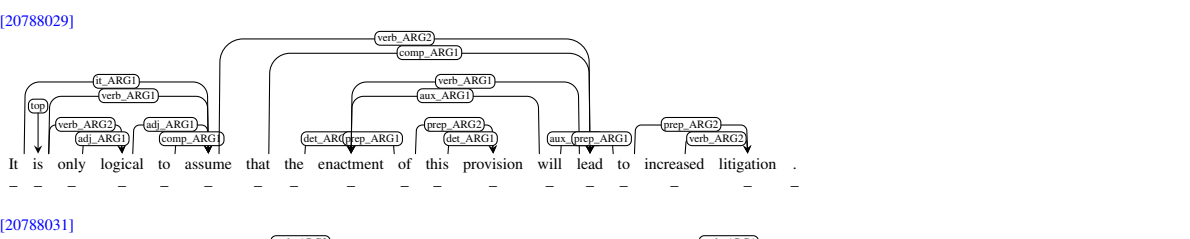
[20788023]



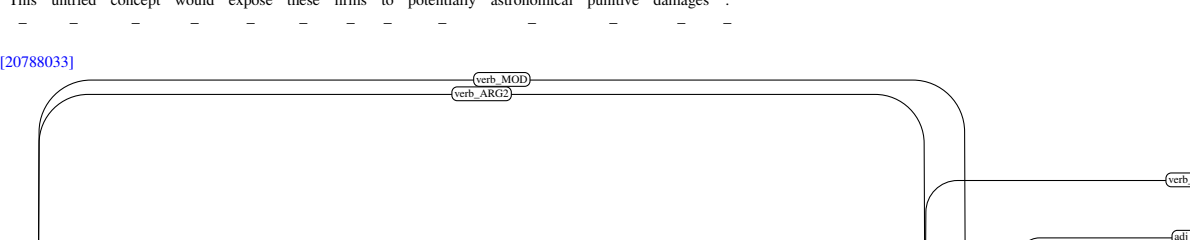
[20788024]



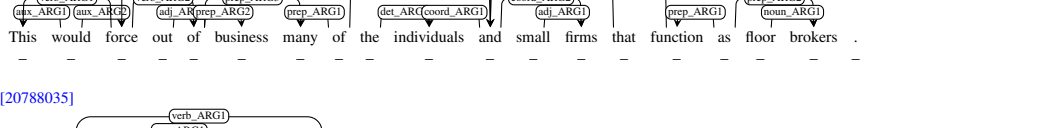
[20788025]



[20788026]



[20788027]



Finally , under the bill , a number of legitimate , longstanding business practices would be arbitrarily banned , unless the CFTC were to take specific and timely action to permit them to continue .

[20788037]  
In other words , regulation will occur through inaction and happenstance , rather than through a normal deliberative procedure .

[20788038]  
The affected practices include the placing of oral orders , which is the way most public customer orders are placed , and trading between affiliated brokers , even though in some cases trading with affiliates may be the only way to obtain the best execution for a client .

[20788040]  
All U.S. futures exchanges agree that these and other trading practices require proper regulation and supervision .

[20788042]  
The markets are complex , as is the environment in which they function .

[20788044]  
That temptation must be put aside to permit careful consideration of all the implications , positive and negative , of the proposed resolutions to those problems , and to avoid creating a marketplace where no one trades .

[20788045]  
Mr. Nastro is chairman of the Coffee , Sugar & Cocoa Exchange in New York and director of commodity administration at Shearson Lehman Hutton .