

U.S. House of Representatives
Committee on Agriculture

Amendment submitted in advance (numbered in order received)

Amendment #: 002

Submitted by Rep. Davis

Davis Amendment – CFTC Reauthorization

The Davis amendment would address recent changes to CFTC Rule 4.5 and restore exclusive SEC jurisdiction over those funds that invest only in financial derivatives, while allowing the CFTC to continue to regulate funds that resemble or compete with traditional commodity pools.

AMENDMENT TO H.R. _____

OFFERED BY MR. RODNEY DAVIS OF ILLINOIS

Page ____, after line ____, insert the following:

1 **SEC. ____ . TREATMENT OF CERTAIN FUNDS.**

2 (a) AMENDMENT TO THE DEFINITION OF COM-
3 MODITY POOL OPERATOR.—Section 1a(11) of the Com-
4 modity Exchange Act (7 U.S.C. 1a(11)) is amended by
5 adding at the end the following:

6 “(C)(i) The term ‘commodity pool oper-
7 ator’ does not include a person who serves as
8 an investment adviser to an investment com-
9 pany registered pursuant to section 8 of the In-
10 vestment Company Act of 1940 or a subsidiary
11 of such a company, if the investment company
12 or subsidiary invests, reinvests, owns, holds, or
13 trades in commodity interests limited to only fi-
14 nancial commodity interests.

15 “(ii) For purposes of this subparagraph
16 only, the term ‘financial commodity interest’
17 means a futures contract, an option on a fu-
18 tures contract, or a swap, involving a com-
19 modity that is not an exempt commodity or an
20 agricultural commodity, including any index of

1 financial commodity interests, whether cash set-
2 tled or involving physical delivery.

3 “(iii) For purposes of this subparagraph
4 only, the term ‘commodity’ does not include a
5 security issued by a real estate investment
6 trust, business development company, or issuer
7 of asset-backed securities, including any index
8 of such securities.”.

9 (b) AMENDMENT TO THE DEFINITION OF COM-
10 MODITY TRADING ADVISOR.—Section 1a(12) of such Act
11 (7 U.S.C. 1a(12)) is amended by adding at the end the
12 following:

13 “(E) The term ‘commodity trading advisor’
14 does not include a person who serves as an in-
15 vestment adviser to an investment company reg-
16 istered pursuant to section 8 of the Investment
17 Company Act of 1940 or a subsidiary of such
18 a company, if the commodity trading advice re-
19 lates only to a financial commodity interest, as
20 defined in paragraph (11)(C)(ii) of this section.
21 For purposes of this subparagraph only, the
22 term ‘commodity’ does not include a security
23 issued by a real estate investment trust, busi-
24 ness development company, or issuer of asset-

1 backed securities, including any index of such
2 securities.”.

