

AMENDMENT TO _____

OFFERED BY _____

Page 24, strike line 14 and all that follows through page 25, line 20 and insert the following:

1 “(1) IN GENERAL.—

2 “(A) PRESUMPTION OF CLEARING.—A
3 swap shall be submitted for clearing if a deriva-
4 tives clearing organization that is registered
5 under this Act will accept the swap for clearing.

6 “(B) OPEN ACCESS.—The rules of a de-
7 rivatives clearing organization described in sub-
8 paragraph (A) shall—

9 “(i) prescribe that all swaps submitted
10 to the derivatives clearing organization
11 with the same terms and conditions are
12 fungible and may be offset with each other;
13 and

14 “(ii) provide for non-discriminatory
15 clearing of a swap executed on or through
16 the rules of an unaffiliated designated con-
17 tract market or swap execution facility.

18 “(2) COMMISSION APPROVAL.—

1 “(A) IN GENERAL.—A derivatives clearing
2 organization shall submit to the Commission for
3 prior approval each swap, or any group, cat-
4 egory, type, or class of swaps, that it seeks to
5 accept for clearing, which submission the Com-
6 mission shall make available to the public.

7 “(B) DEADLINE.—The Commission shall
8 take final action on a request submitted pursu-
9 ant to subparagraph (A) not later than 90 days
10 after submission of the request, unless the de-
11 rivatives clearing organization submitting the
12 request agrees to an extension of the time limi-
13 tation established under this subparagraph. A
14 request on which the Commission fails to take
15 final action within the time limitation estab-
16 lished under this subparagraph is deemed ap-
17 proved.

18 “(C) APPROVAL.—The Commission shall
19 approve, unconditionally or subject to such
20 terms and conditions as the Commission deter-
21 mines to be appropriate, any request submitted
22 pursuant to subparagraph (A) if the Commis-
23 sion finds that the request is consistent with
24 section 5b(c)(2).

1 “(D) RULES.—Not later than 180 days
2 after the date of the enactment of the Over-the-
3 Counter Derivatives Markets Act of 2009, the
4 Commission shall adopt rules for a derivatives
5 clearing organization’s submission for approval,
6 pursuant to this paragraph, of a swap, or a
7 group, category, type or class of swaps, that it
8 seeks to accept for clearing.

9 “(3) STAY OF CLEARING REQUIREMENT.—At
10 any time after issuance of an approval pursuant to
11 paragraph (2):

12 “(A) REVIEW PROCESS.—The Commission,
13 on application of a counterparty to a swap or
14 on its own initiative, may stay the clearing re-
15 quirement of paragraph (1) until the Commis-
16 sion completes a review of the terms of the
17 swap (or the group, category, type, or class of
18 swaps) and the clearing arrangement.

19 “(B) DEADLINE.—The Commission shall
20 complete a review undertaken pursuant to sub-
21 paragraph (A) not later than 90 days after
22 issuance of the stay, unless the derivatives
23 clearing organization that clears the swap, or
24 group, category, type or class of swaps, agrees

1 to an extension of the time limitation estab-
2 lished under this subparagraph.

3 “(C) DETERMINATION.—Upon completion
4 of the review undertaken pursuant to subpara-
5 graph (A), the Commission may—

6 “(i) determine, unconditionally or sub-
7 ject to such terms and conditions as the
8 Commission determines to be appropriate,
9 that the swap, or group, category, type, or
10 class of swaps, must be cleared pursuant
11 to this subsection if it finds that such
12 clearing is consistent with section 5b(c)(2);
13 or

14 “(ii) determine that the clearing re-
15 quirement of paragraph (1) shall not apply
16 to the swap, or group, category, type, or
17 class of swaps.

18 “(D) RULES.—Not later than 180 days
19 after the date of the enactment of the Over-the-
20 Counter Derivatives Markets Act of 2009, the
21 Commission shall adopt rules for reviewing,
22 pursuant to this paragraph, a derivatives clear-
23 ing organization’s clearing of a swap, or a
24 group, category, type, or class of swaps, that it
25 has accepted for clearing.”.

Page 26, strike lines 12 through 17 and insert the following:

1 “(B) REPORTING BY SWAP DEALERS AND
2 MAJOR SWAP PARTICIPANTS.—In transactions
3 where both counterparties are swap dealers or
4 major swap participants, both counterparties
5 shall report the transaction. In transactions
6 where only 1 counterparty is a swap dealer or
7 major swap participant, the swap dealer or
8 major swap participant shall report the trans-
9 action. In transactions where neither
10 counterparty is a swap dealer or major swap
11 participant, only 1 counterparty shall be re-
12 quired to report the transaction and the
13 counterparties shall determine the reporting
14 party by contract or otherwise.”.

Page 25, line 21, strike “(3)” and insert “(4)”.

Page 26, line 3, strike “(4)” and insert “(5)”.

Page 26, line 18, strike “(5)” and insert “(6)”.

Page 27, line 14, strike “(6)” and insert “(7)”.

Page 29, line 3, strike “(7)” and insert “(8)”.

Page 29, line 11, strike “(8)” and insert “(9)”.

Page 45, line 23, insert “and public interest representatives” before the period.

Page 46, beginning on line 10, strike “Commission” and insert “Commission and any designated swap repository”.

Page 46, line 17, after the period insert “A derivatives clearing organization that clears security-based swap agreements (as defined in section 3(a)(76) of the Securities Exchange Act of 1934) shall, upon request, make available to the Securities and Exchange Commission all information (including information on a real-time basis) relating to such security-based swap agreements.”.

Page 46, line 20, insert “(with respect to swaps other than security-based swap agreements)” after “Commission”.

Page 47, line 25, insert “or (c)” after “(b)”.

Page 48, line 7, insert “or a bank under its regulatory jurisdiction” after “product”.

Page 48, line 23, strike the close quotation marks and the period that follows.

Page 48, after line 23, insert the following:

1 “(c) EXCEPTION.—The exclusion in subsection (a)
2 shall not apply to an identified banking product that—

3 “(1) is a product of a bank that is not under
4 the regulatory jurisdiction of an appropriate Federal
5 banking agency;

6 “(2) meets the definition of swap in section
7 1a(35) of the Commodity Exchange Act or security-
8 based swap in section 3(a)(68) of the Securities and
9 Exchange Act of 1934; and

10 “(3) has become known to the trade as a swap
11 or security-based swap, or has been structured as an
12 identified banking product for the purpose of evad-
13 ing the provisions of the Commodity Exchange Act
14 (7 U.S.C. 1 et seq.), the Securities Act of 1933 (15
15 U.S.C. 77a et seq.), or the Securities Exchange Act
16 of 1934 (15 U.S.C. 78a et seq.).”.

Page 58, line 10, strike “initial and variation”.

Page 58, line 20, strike “initial and variation”.

Page 61, line 11, strike “both initial and variation”.

Page 66, strike lines 5 through 9 and insert the fol-
lowing:

17 “(ii) for cleared swaps, upon the re-
18 quest of the counterparty, the daily mark
19 from the appropriate clearinghouse and for

1 non-cleared swaps, upon the request of the
2 counterparty, the daily mark of the swap
3 dealer or major swap participant; and”.

Page 61, beginning on line 22, strike “Margin requirements” and all that follows through line 25 and insert “Any such margin requirements for swaps shall provide for the use of non-cash collateral.”.

Page 70, strike lines 6 through 14 and insert the following:

4 “(1) EXEMPTIONS.—The Commission may exempt,
5 conditionally or unconditionally, a swap dealer or major
6 swap participant from the prudential requirements of the
7 Over-the-Counter Derivatives Markets Act of 2009 if the
8 Commission finds that such swap dealer or major swap
9 participant is subject to comparable, comprehensive super-
10 vision and regulation on a consolidated basis by the Secu-
11 rities and Exchange Commission, a Prudential Regulator
12 or the appropriate governmental authorities in the organi-
13 zation’s home country.”.

Page 71, line 7, after the period insert “This subsection shall not be interpreted to preclude commercial arrangements regarding the investment of the segregated funds or other property and the related allocation of gains and losses resulting from any such investment.”.

Page 71, line 10, insert “variation or initial” after “as”.

Page 71, line 14, strike “funds or other property” and insert “variation or initial margin or collateral”.

Page 71, beginning on line 15, strike “funds or other property” and insert “variation or initial margin or collateral”.

Page 73, strike lines 1 through 4 and insert the following:

1 “(1) IN GENERAL.—
2 “(A) No person may operate a swap execu-
3 tion facility unless the facility is registered
4 under this section.
5 “(B) The term ‘swap execution facility’
6 means an entity that facilitates the execution of
7 swaps between two persons through any means
8 of interstate commerce but which is not a des-
9 ignated contract market.”.

Page 77, line 17, after the period insert “The swap execution facility shall, upon request, make available to the Securities and Exchange Commission all information (including information on a real-time basis) relating to transactions in security-based swap agreements (as de-

fined in section 3(a)(76) of the Securities Exchange Act of 1934).”.

Page 105, after line 3, insert the following:

1 “(d) Any such books and records relating to trans-
2 actions in security-based swap agreements (as defined in
3 section 3(a)(76) of the Securities Exchange Act of 1934)
4 shall be open at all times to inspection and examination
5 by the Securities and Exchange Commission.

Page 105, line 4, strike “(d)” and insert “(e)”.

Page 105, line 8, strike “(e)” and insert “(f)”.

Page 105, strike lines 12 through 21 and insert the following:

6 **SEC. 133. AUTHORITY TO BAN ABUSIVE SWAPS.**

7 The Commodity Futures Trading Commission and
8 the Securities and Exchange Commission may, by rule or
9 order, jointly collect information as may be necessary con-
10 cerning the markets for any types of swap (as defined in
11 section 1a(35) of the Commodity Exchange Act) or secu-
12 rity-based swap (as defined in section 1a(38) of the such
13 Act) and jointly issue a report with respect to any types
14 of swaps or security-based swaps which the Commodity
15 Futures Trading Commission and the Securities and Ex-
16 change Commission find are detrimental to the stability

1 of a financial market or of participants in a financial mar-
2 ket.

Page 106, line 3, strike “, and the Office of Deriva-
tives Supervision”.

Page 106, strike lines 11 through 20 and insert the
following:

3 **SEC. 135. AUTHORITY TO BAN ACCESS TO THE UNITED**
4 **STATES FINANCIAL SYSTEM.**

5 If the Commodity Futures Trading Commission or
6 the Securities and Exchange Commission determines that
7 the regulation of swaps or security-based swaps markets
8 in a foreign country undermines the stability of the U.S.
9 financial system, either Commission, in consultation with
10 the Secretary of the Treasury, may prohibit an entity
11 domiciled in that country from participating in the United
12 States in any swap or security-based swap activities.

Page 107, after line 25, insert the following (and re-
designate succeeding paragraphs accordingly):

13 (2) in paragraph (10) by inserting “security-
14 based swaps” after “security future,”

Page 113, line 7, after “swap” insert “or security-
based swap agreement”.

Page 113, line 15, after “security” insert “or a security-based swap or security-based swap agreement with respect to such security”.

Page 113, line 18, after “swap” insert “or security-based swap agreement”.

Page 114, line 4, after “security” insert “or a security-based swap or security-based swap agreement with respect to such security”.

Page 114, line 6, after “swap” insert “or security-based swap agreement”.

Page 114, line 9, after “swap” insert “security-based swap agreement”.

Page 114, line 18, after “security” insert “or a security-based swap or a security-based swap agreement with respect to such security”.

Page 114, line 21, after “swap” insert “or security-based swap agreement”.

Page 115, after line 2, insert the following (and redesignate the subsequent paragraphs accordingly):

- 1 (3) Section 9(i) (15 U.S.C. 78i(i)) is amended
- 2 by striking “(as defined in section 206B of the
- 3 Gramm-Leach-Bliley Act)”;

Page 117, strike line 9 and all that follows through page 118, line 20 and insert the following:

1 “(1) IN GENERAL.—

2 “(A) PRESUMPTION OF CLEARING.—A se-
3 curity-based swap shall be submitted for clear-
4 ing if a clearing agency that is registered under
5 this Act will accept the security-based swap for
6 clearing;

7 “(B) OPEN ACCESS.—The rules of a clear-
8 ing agency described in subparagraph (A)
9 shall—

10 “(i) prescribe that all security-based
11 swaps submitted to the clearing agency
12 with the same terms and conditions are
13 fungible and may be offset with each other;
14 and

15 “(ii) provide for non-discriminatory
16 clearing of a security-based swap executed
17 on or through the rules of an unaffiliated
18 exchange or alternative swap execution fa-
19 cility.

20 “(2) COMMISSION APPROVAL.—

21 “(A) IN GENERAL.—A clearing agency
22 shall submit to the Commission for prior ap-
23 proval each security-based swap, or any group,

1 category, type or class of security-based swaps,
2 that it seeks to accept for clearing, which sub-
3 mission the Commission shall make available to
4 the public.

5 “(B) DEADLINE.—The Commission shall
6 take final action on a request submitted pursu-
7 ant to subparagraph (A) not later than 90 days
8 after submission of the request, unless the
9 clearing agency submitting the request agrees
10 to an extension of the time limitation estab-
11 lished under this subparagraph. A request on
12 which the Commission fails to take final action
13 within the time limitation established under this
14 subparagraph shall be deemed approved.

15 “(C) APPROVAL.—The Commission shall
16 approve, unconditionally or subject to such
17 terms and conditions as the Commission deter-
18 mines to be appropriate, any request submitted
19 pursuant to subparagraph (A) if it finds that
20 the request is consistent with the core principles
21 specified under subsection (l).

22 “(D) RULES.—Not later than 180 days
23 after the date of enactment of the Over-the-
24 Counter Derivatives Markets Act of 2009, the
25 Commission shall adopt rules for a clearing

1 agency's submission for approval, pursuant to
2 this paragraph, of a security-based swap, or a
3 group, category, type or class of security-based
4 swaps, that it seeks to accept for clearing.

5 “(3) STAY OF CLEARING REQUIREMENT.—At
6 any time after issuance of an approval pursuant to
7 paragraph (2)—

8 “(A) REVIEW PROCESS.—The Commission,
9 on application of a counterparty to a security-
10 based swap or on its own initiative, may stay
11 the clearing requirement of paragraph (1) until
12 the Commission completes a review of the terms
13 of the security-based swap (or the group, cat-
14 egory, type or class of security-based swaps)
15 and the clearing arrangement.

16 “(B) DEADLINE.—The Commission shall
17 complete a review undertaken pursuant to sub-
18 paragraph (A) not later than 90 days after
19 issuance of the stay, unless the clearing agency
20 that clears the security-based swap, or group,
21 category, type or class of security-based swaps,
22 agrees to an extension of the time limitation es-
23 tablished under this subparagraph.

1 “(C) DETERMINATION.—Upon completion
2 of the review undertaken pursuant to subpara-
3 graph (A), the Commission may—

4 “(i) determine, unconditionally or sub-
5 ject to such terms and conditions as the
6 Commission determines to be appropriate,
7 that the security-based swap, or group,
8 category, type or class of security-based
9 swaps, must be cleared pursuant to this
10 subsection if it finds that such clearing is
11 consistent with the securities laws; or

12 “(ii) determine that the clearing re-
13 quirement of paragraph (1) shall not apply
14 to the security-based swap, or group, cat-
15 egory, type or class of security-based
16 swaps.

17 “(D) RULES.—Not later than 180 days
18 after the date of enactment of the Over-the-
19 Counter Derivatives Markets Act of 2009, the
20 Commission shall adopt rules for reviewing,
21 pursuant to this paragraph, a clearing agency’s
22 clearing of a security-based swap, or a group,
23 category, type or class of security-based swaps,
24 that it has accepted for clearing.”.

Page 118, line 21, strike “(2)” and insert “(4)”.

Page 119, line 3, strike “(3)” and insert “(5)”.

Page 119, strike lines 13 through 19 and insert the following:

1 “(B) REPORTING BY SECURITY-BASED
2 SWAP DEALERS AND MAJOR SECURITY-BASED
3 SWAP PARTICIPANTS.—In transactions where
4 only 1 counterparty is a security-based swap
5 dealer or major security-based swap participant,
6 the security-based swap dealer or major secu-
7 rity-based swap participant shall report the
8 transaction. In transactions where neither
9 counterparty is a security-based swap dealer or
10 major security-based swap participant, only 1
11 counterparty shall be required to report the
12 transaction and the counterparties shall deter-
13 mine the reporting party by contract or other-
14 wise.”

Page 119, line 20, strike “(4)” and insert “(6)”.

Page 120, after line 15, insert the following:

15 “(5) EXCEPTION.—The requirements of para-
16 graph (1) shall not apply to a security-based swap
17 if—

1 “(A) no clearing agency registered under
2 this Act will accept the security-based swap for
3 clearing; or

4 “(B) one of the counterparties to the secu-
5 rity-based swap is not a security-based swap
6 dealer or major security-based swap partici-
7 pant.”.

Page 122, line 1, insert “and any designated swap repository” after “Commission”.

Page 122, line 9, strike “alternative”.

Page 134, line 9, insert “and public interest representatives” before the period.

Page 137, line 3, strike “ALTERNATIVE”.

Page 137, line 6, strike “**ALTERNATIVE**”.

Page 137, strike lines 8 through 11 and insert the following:

8 “(1) IN GENERAL.—

9 “(A) No person may operate a swap execu-
10 tion facility unless such facility is registered
11 under this section.

12 “(B) For purposes of this section, the term
13 ‘swap execution facility’ means an entity that
14 facilitates the execution of swaps between 2

1 persons through any means of interstate com-
2 merce but which is not a designated contract
3 market.”.

Page 137, beginning on line 12 through page 144,
line 18, strike “alternative” each place it appears.

Page 146, line 2, insert after the period the fol-
lowing: “This subsection shall not be interpreted to pre-
clude commercial arrangement regarding the investment
of the segregated funds or other property and the related
allocation of gains and losses resulting from any such in-
vestment.”.

Page 146, line 5, insert “variation or initial” after
“dealer as”.

Page 146, line 10, strike “funds or other property”
and insert “variation or initial margin or collateral”.

Page 146, line 11, strike “funds or other property”
and insert “variation or initial margin or collateral”.

Page 148, line 9, after “SWAPS” insert “AND SECU-
RITY-BASED SWAP AGREEMENTS”.

Page 148, line 12, strike “(i)” and insert “(j)”.

Page 148, line 17, after “swaps” insert “or any se-
curity-based swap agreement”.

Page 161, line 14, strike “initial and variation”.

Page 162, line 1, strike “initial and variation”.

Page 164, line 19, strike “both initial and variation”.

Page 169, strike line 24 and all that follows through page 170, line 4 and insert the following:

1 “(ii) for cleared swaps, upon the re-
2 quest of the counterparty, the daily mark
3 from the appropriate clearinghouse and for
4 non-cleared swaps, upon the request of the
5 counterparty, the daily mark of the secu-
6 rity-based swap dealer or major security-
7 based swap participant; and”.

Page 180, strike lines 6 through 15 and insert the following:

8 “(5) EXEMPTIONS.—The Commission may ex-
9 empt, conditionally or unconditionally, a security-
10 based swap dealer or major security-based swap par-
11 ticipant from the prudential requirements of the
12 Over-the-Counter Derivatives Markets Act of 2009 if
13 the Commission finds that such security-based swap
14 dealer or major security-based swap participant is
15 subject to comparable, comprehensive supervision

1 and regulation on a consolidated basis by the Com-
2 modity Futures Trading Commission, a Prudential
3 Regulator or the appropriate governmental authori-
4 ties in the organization’s home country.””.

Page 185, after line 25, insert the following:

5 (b) EXEMPTION FROM REGISTRATION.—Section 3(a)
6 of the Securities Act of 1933 is amended by adding at
7 the end the following:

8 “(15) Any security-based swap, as defined in
9 section 2(a)(17) that is not otherwise a security as
10 defined in section 2(a)(1) and that satisfies such
11 conditions as established by rule or regulation by the
12 Commission consistent with the provisions of the
13 Over-the-Counter Derivatives Markets Act of 2009.
14 The Commission shall promulgate rules imple-
15 menting this exemption.”.

Page 186, line 1, strike “(b)” and insert “(c)”.

Page 186, beginning on line 23, strike “amended by
adding at the end the following new subsection” and in-
sert “amended—

16 (1) in subsection (a)(1) by inserting “and (c)
17 and subject to subsection (d)” after “provided in
18 subsection (b)””; and

1 (2) by adding at the end the following new sub-
2 section:

3 “(d) EXEMPTIVE AUTHORITY.—The Commission
4 may use its authority under subsection (a) to exempt any
5 person, security, or transaction, or any class of persons,
6 securities, or transactions from any provision or provisions
7 of this title or of any rule or regulation thereunder that
8 applies to such person, security, or transaction solely be-
9 cause a security-based swap is a security, as such term
10 is defined in section 3(a) of this title.”.



BIGGER
070

**AMENDMENT TO THE MANAGER'S AMENDMENT TO
H.R. _____**

OFFERED BY MRS. BIGGERT OF ILLINOIS

Page 1, strike lines 6 through 17 and insert the following:

1 “(B) OPEN ACCESS.—The rules of a de-

2 rivatives clearing organization described in sub-

3 paragraph (A) shall prescribe that all swaps

4 submitted to the derivatives clearing organiza-

5 tion with the same terms and conditions are

6 economically equivalent and may be offset with

7 each other within the derivatives clearing orga-

8 nization.”.

accept 9-13
strike 14-17

AMENDMENT TO _____

OFFERED BY _____

Page 27, strike line 14 through page 29, line 2 and
insert the following:

1 “(6) TRADE EXECUTION.—

2 “(A) IN GENERAL.—With respect to trans-
3 actions involving swaps subject to the clearing
4 requirement of paragraph (1) and where both
5 counterparties are either swap dealers or major
6 swap participants, such counterparties shall—

7 “(i) execute the transaction on a
8 board of trade designated as a contract
9 market under section 5; or

10 “(ii) execute the transaction on a
11 swap execution facility registered with the
12 Commission.

13 “(B) EXCEPTION.—The requirements of
14 clauses (i) and (ii) of subparagraph (A) shall
15 not apply if no board of trade or swap execution
16 facility makes the swap available to trade.

17 “(C) REQUIRED REPORTING.—If the ex-
18 ception of subparagraph (B) applies and there
19 is no facility that makes the swap available to

1 trade, the counterparties shall comply with any
2 recordkeeping and transaction reporting re-
3 quirements as may be prescribed by the Com-
4 mission with respect to swaps subject to the re-
5 quirements of paragraph (1).”.

Page 135, strike line 7 through page 136, line 19,
and insert the following:

6 “(a) TRADE EXECUTION.—

7 “(1) IN GENERAL.—With respect to trans-
8 actions involving security-based swaps subject to the
9 clearing requirement of section 3B and where both
10 counterparties are either security-based swap dealers
11 or major security-based swap participants, such
12 counterparties shall—

13 “(A) execute the transaction on a national
14 securities exchange registered pursuant to sec-
15 tion 6(a) (in which event such transaction shall
16 be subject to regulation under this title as a
17 transaction in a security); or

18 “(B) execute the transaction on a swap
19 execution facility registered with the Commis-
20 sion.

21 “(2) EXCEPTION.—The requirements of sub-
22 paragraphs (A) or (B) of paragraph (1) shall not

1 apply if no board of trade or swap execution facility
2 makes the swap available to trade.

3 “(3) REQUIRED REPORTING.—If the exception
4 of paragraph (2) applies and there is no facility that
5 makes the swap available to trade, the counterpar-
6 ties shall comply with any recordkeeping and trans-
7 action reporting requirements as may be prescribed
8 by the Commission with respect to security-based
9 swaps subject to the requirements of section 3B and
10 where both counterparties are either security-based
11 swap dealers or major security-based swap partici-
12 pants.”.



AMENDMENT TO H.R. _____**OFFERED BY _____**

Page 12, strike line 17 and all that follows through page 14, line 17, and insert the following:

1 “(40) MAJOR SWAP PARTICIPANT.—

2 “(A) IN GENERAL.—The term ‘major swap
3 participant’ means any person who is not a
4 swap dealer and—

5 “(i) who maintains a substantial net
6 position in outstanding swaps, excluding
7 positions held primarily for hedging, reduc-
8 ing, or otherwise mitigating commercial
9 risk; or

10 “(ii) whose outstanding swaps create
11 substantial net counterparty exposure (cur-
12 rent and potential future) that would ex-
13 pose counterparties to significant credit
14 losses that could have a material adverse
15 effect on capital of the counterparties.

16 “(B) DEFINITIONS.—The Commission and
17 the Securities and Exchange Commission shall
18 jointly define by rule or regulation the term
19 ‘substantial net position’ and ‘substantial net

1 counterparty exposure’ at a threshold that the
2 Commissions determine prudent for the effec-
3 tive monitoring of, management and oversight
4 of the financial system. In the event the Com-
5 missions are unable to agree upon a level within
6 60 days of the commencement of such consulta-
7 tions, the Secretary of the Treasury shall make
8 such determination, which shall be binding on
9 and adopted by such Commissions.

10 “(41) MAJOR SECURITY-BASED SWAP PARTICI-
11 PANT.—

12 “(A) IN GENERAL.—The term ‘major secu-
13 rity-based swap participant’ means any person
14 who is not a swap dealer and—

15 “(i) who maintains a substantial net
16 position in outstanding security-based
17 swaps, excluding positions held primarily
18 for hedging, reducing, or otherwise miti-
19 gating commercial risk; or

20 “(ii) whose outstanding security-based
21 swaps create substantial net counterparty
22 exposure (current and potential future)
23 that would expose counterparties to signifi-
24 cant credit losses that could have a mate-

1 rial adverse effect on capital of the
2 counterparties.

3 “(B) DEFINITIONS.—The Commission and
4 the Commodity Futures Trading Commission
5 shall jointly define by rule or regulation the
6 term ‘substantial net position’ and ‘substantial
7 net counterparty exposure’ at a threshold that
8 the Commissions determine prudent for the ef-
9 fective monitoring of, management and over-
10 sight of the financial system. In the event the
11 Commissions are unable to agree upon a level
12 within 60 days of the commencement of such
13 consultations, the Secretary of the Treasury
14 shall make such determination, which shall be
15 binding on and adopted by such Commissions.”.

Page 70, line 14, strike the close quotation mark
and following period and after such line insert the fol-
lowing:

16 “(m) EXEMPTIVE AUTHORITY.—In implementing
17 this section, the Commission may exempt, by rule or order,
18 an individual institution or class of institutions from the
19 general or specific requirements under this section.”.

Page 180, line 15, strike the close quotation mark and following period and after such line insert the following:

1 “(m) EXEMPTIVE AUTHORITY.—In implementing
2 this section, the Commission may exempt, by rule or order,
3 an individual institution or class of institutions from the
4 general or specific requirements under this section.”.



AMENDMENT TO THE AMENDMENT OFFERED BY

OFFERED BY Mr. Bachus

Page 3 of the amendment, strike lines ~~14~~¹⁶ through ~~17~~¹⁹ and insert the following:

1 “(m) EXEMPTIVE AUTHORITY.—

2 “(1) IN GENERAL.—The Commission, by rule
3 or regulation, may conditionally or unconditionally
4 exempt any person, derivative, or transaction, or any
5 class or classes of persons, derivatives, or trans-
6 actions, from any provision of this Act that was
7 added by an amendment in the Over-the-Counter
8 Derivatives Markets Act of 2009, to the extent that
9 such exemption is necessary or appropriate in the
10 public interest, and is consistent with the purposes
11 of such Act.

12 “(2) PROCEDURES.—The Commission shall, by
13 rule or regulation, determine the procedures under
14 which an exemptive order under this subsection shall
15 be granted and may, in its sole discretion, decline to
16 entertain any application for an order of exemption
17 under this subsection.”.

Page 4 of the amendment, strike lines 1 through 4 and insert the following:

1 “(m) EXEMPTIVE AUTHORITY.—

2 “(1) IN GENERAL.—The Commission, by rule
3 or regulation, may conditionally or unconditionally
4 exempt any person, derivative, or transaction, or any
5 class or classes of persons, derivatives, or trans-
6 actions, from any provision of this Act that was
7 added by an amendment in the Over-the-Counter
8 Derivatives Markets Act of 2009, to the extent that
9 such exemption is necessary or appropriate in the
10 public interest, and is consistent with the purposes
11 of such Act.

12 “(2) PROCEDURES.—The Commission shall, by
13 rule or regulation, determine the procedures under
14 which an exemptive order under this subsection shall
15 be granted and may, in its sole discretion, decline to
16 entertain any application for an order of exemption
17 under this subsection.”.

At the end of the amendment, insert the following:

Page 22, strike line 3 through line 9.

Strike section 159 and redesignate section 160 as
section 159.



AMENDMENT TO H.R. _____

OFFERED BY MR. MEEKS OF NEW YORK

Page 71, line 16, strike “a” and insert “an independent”.

Page 71, line 20, after the period insert the following: “If a swap counterparty is a swap dealer or major swap participant who owns more than 20 percent of, or has more than 50 percent representation on the board of directors of, a custodian, the custodian shall not be considered independent from the swap counterparties for purposes of the preceding sentence.”.

Page 146, line 12, strike “a” and insert “an independent”.

Page 146, line 16, after the period insert the following: “If a securities-based swap counterparty is a swap dealer or major securities-based swap participant who owns more than 20 percent of, or has more than 50 percent representation on the board of directors of, a custodian, the custodian shall not be considered independent from the securities-based swap counterparties for purposes of the preceding sentence.”.



LEE 043

AMENDMENT TO H.R. *Derivatives Discussion*
Draft
OFFERED BY MR. LEE OF NEW YORK

Page 29, after line 18, insert the following:

1 “(9) EXCLUSION.—Paragraph (1) shall not
2 apply to a swap 1 party to which is not a swap deal-
3 er or major swap participant, and which is entered
4 into before the end of the 90-day period that begins
5 with the effective date of this paragraph.”.

Page 60, after line 12, insert the following:

6 “(B) EXCLUSION.—Subparagraph (A)
7 shall not apply to a swap 1 party to which is
8 not a swap dealer or major swap participant,
9 and which is entered into before the end of the
10 90-day period that begins with the effective
11 date of this subparagraph.”.

Page 60, line 13, strike “(B)” and insert “(C)”.

Page 60, line 20, strike “(C)” and insert “(D)”.

Page 61, after line 25, insert the following:

12 “(C) EXCLUSION.—Subparagraph (B)
13 shall not apply to a swap 1 party to which is
14 not a swap dealer or major swap participant,

1 and which is entered into before the end of the
2 90-day period that begins with the effective
3 date of this subparagraph.”.

Page 62, line 1, strike “(C)” and insert “(D)”.

Page 120, after line 15, insert the following:

4 “(5) EXCLUSION.—Paragraph (1) shall not
5 apply to a security-based swap one party to which is
6 not a security-based swap dealer or major security-
7 based swap participant, and which is entered into
8 before the end of the 180-day period that begins
9 with the effective date of this paragraph.”.

Page 163, after line 24, insert the following:

10 “(B) EXCLUSION.—Subparagraph (A)
11 shall not apply to a security-based swap one
12 party to which is not a security-based swap
13 dealer or major security-based swap participant,
14 and which is entered into before the end of the
15 90-day period that begins with the effective
16 date of this subparagraph.”.

Page 164, line 1, strike “(B) and insert (C)”.

Page 164, line 9, strike “(C) and insert (D)”.

Page 165, after line 8, insert the following:

1 “(C) Subparagraph (B) shall not apply to
2 a security-based swap one party to which is not
3 a security-based swap dealer or major security-
4 based swap participant, and which is entered
5 into before the end of the 90-day period that
6 begins with the effective date of this subpara-
7 graph.”.

Page 165, line 9, strike “(C)” and insert “(D)”.



AMENDMENT TO H.R. _____

OFFERED BY MR. LYNCH OF MASSACHUSETTS

[Page and line numbers correspond to those of the October 2 draft]

In section 111(a)—

- 1 (1) strike “and” at the end of paragraph (19);
2 (2) strike the period at the end of paragraph
3 (20) and insert “; and”; and
4 (3) add at the end the following:
5 “(51) RESTRICTED OWNER.—The term ‘re-
6 stricted owner’ means any swap dealer, security-
7 based swap dealer, major swap participant, major
8 security-based swap participant, person associated
9 with a swap dealer or major swap participant, or
10 person associated with a security-based swap dealer
11 or major security-based swap participant.”.

In section 5b(c)(2) of the Commodity Exchange Act,
as proposed to be added by section 113(b)(3) of the bill,
strike subparagraph (P) and insert the following:

- 12 “(P) CONFLICTS OF INTEREST.—
13 “(i) The derivatives clearing organiza-
14 tion shall establish and enforce rules to
15 minimize conflicts of interest in its deci-

1 sion-making process, and establish a pro-
2 cess for resolving any such conflicts of in-
3 terest.

4 “(ii) The rules of the derivatives clear-
5 ing organization shall provide that a re-
6 stricted owner shall not be permitted di-
7 rectly or indirectly to acquire beneficial
8 ownership of interests in the organization
9 or in persons with a controlling interest in
10 the organization, to the extent that such
11 an acquisition would result in restricted
12 owners controlling more than 20 percent of
13 the votes entitled to be cast on any matter
14 by the holders of the ownership interests.

15 “(iii) The rules of the derivatives
16 clearing organization shall provide that a
17 majority of the directors of the organiza-
18 tion shall not be associated with a re-
19 stricted owner.”.

 In section 4s(h)(1) of the Commodity Exchange Act,
 as proposed to be added by section 117 of the bill—

20 (1) strike “and” at the end of subparagraph
21 (C); and

1 (2) redesignate subparagraph (D) as subpara-
2 graph (E) and insert after subparagraph (C) the fol-
3 lowing:

4 “(D) the prevention of self-dealing, by lim-
5 iting the extent to which such a swap dealer or
6 major swap participant may conduct business
7 with a derivatives clearing organization, a board
8 of trade, or an alternative swap execution facil-
9 ity that clears or trades swaps and in which
10 such a swap dealer or major swap participant
11 has a material debt or equity investment; and”.

 In section 5h(e) of the Commodity Exchange Act, as
 proposed to be added by section 120 of the bill, strike
 paragraph (10) and insert the following:

12 “(10) CONFLICTS OF INTEREST.—

13 “(A) The swap execution facility shall es-
14 tablish and enforce rules to minimize conflicts
15 of interest in its decision-making process, and
16 establish a process for resolving any such con-
17 flicts of interest.

18 “(B) The rules of the swap execution facil-
19 ity shall provide that a restricted owner shall
20 not be permitted directly or indirectly to ac-
21 quire beneficial ownership of interests in the fa-
22 cility or in persons with a controlling interest in

1 the facility, to the extent that such an acquisi-
2 tion would result in restricted owners control-
3 ling more than 20 percent of the votes entitled
4 to be cast on any matter by the holders of the
5 ownership interests.

6 “(C) The rules of the swap execution facil-
7 ity shall provide that a majority of the directors
8 of the facility shall not be associated with a re-
9 stricted owner.”.

 In section 122, redesignate subsection (b) and sub-
section (c) and insert after subsection (a) the following:

10 (c) Section 5(d) of the Commodity Exchange Act (7
11 U.S.C. 7(d)) is amended by striking paragraph (15) and
12 inserting the following:

13 “(15) CONFLICTS OF INTEREST.—

14 “(A) The board of trade shall establish
15 and enforce rules to minimize conflicts of inter-
16 est in the decisionmaking process of the con-
17 tract market, and establish a process for resolv-
18 ing any such conflicts of interest.

19 “(B) The rules of a board of trade that
20 trades swaps shall provide that a restricted
21 owner shall not be permitted directly or indi-
22 rectly to acquire beneficial ownership of inter-
23 ests in the board of trade or in persons with a

1 controlling interest in the board of trade, to the
2 extent that such an acquisition would result in
3 restricted owners controlling more than 20 per-
4 cent of the votes entitled to be cast on any mat-
5 ter by the holders of the ownership interests.

6 “(C) The rules of a board of trade that
7 trades swaps shall provide that a majority of
8 the directors of the board of trade shall not be
9 associated with a restricted owner.”

In section 3(a) of the Securities Exchange Act of
1934 (15 U.S.C. 78c(a)), as proposed to be amended by
section 151 of the bill, add at the end the following new
paragraph:

10 “(77) RESTRICTED OWNER.—The term ‘re-
11 stricted owner’ has the same meaning as in section
12 1a(51) of the Commodity Exchange Act.”

Page 134, strike lines 1 through 5 and insert the
following:

13 “(16) CONFLICTS OF INTEREST.—
14 “(A) IN GENERAL.—A clearing agency that
15 clears security-based swaps shall establish and
16 enforce rules to minimize conflicts of interest in
17 the decision-making process of the clearing

1 agency and establish a process for resolving
2 such conflicts of interest.

3 “(B) BENEFICIAL OWNERSHIP BY A RE-
4 STRICTED OWNER.—The rules of a clearing
5 agency that clears security-based swaps shall
6 provide that a restricted owner shall not be per-
7 mitted directly or indirectly to acquire beneficial
8 ownership of interest in the agency or in per-
9 sons with a controlling interest in the agency,
10 to the extent that such an acquisition would re-
11 sult in restricted owners controlling more than
12 20 percent of the votes entitled to be cast on
13 any matter by the holders of the ownership in-
14 terests.

15 “(C) ASSOCIATION WITH A RESTRICTED
16 OWNER.—The rules of a clearing agency that
17 clears security-based swaps shall provide that a
18 majority of the directors of the clearing agency
19 shall not be associated with a restricted
20 owner.”.

Amend section 3C(e)(10) of the Securities Exchange
Act of 1934, as added by section 153(d) of the bill, to
read as follows:

21 “(10) CONFLICTS OF INTEREST.—

1 “(A) IN GENERAL.—The swap execution
2 facility shall establish and enforce rules to mini-
3 mize conflicts of interest in its decision-making
4 process and establish a process for resolving
5 such conflicts of interest.

6 “(B) BENEFICIAL OWNERSHIP BY A RE-
7 STRICTED OWNER.—The rules of the swap exe-
8 cution facility shall provide that a restricted
9 owner shall not be permitted directly or indi-
10 rectly to acquire beneficial ownership of inter-
11 ests in the facility or in persons with a control-
12 ling interest in the facility, to the extent that
13 such an acquisition would result in restricted
14 owners controlling more than 20 percent of the
15 votes entitled to be cast on any matter by the
16 holders of the ownership interests.

17 “(C) ASSOCIATION WITH A RESTRICTED
18 OWNER.—The rules of the swap execution facil-
19 ity shall provide that a majority of the directors
20 of the facility shall not be associated with a re-
21 stricted owner.”.

In section 15F(h)(1) of the Securities Exchange Act
of 1934, as proposed to be added by section 154 of the
bill—

(1) in subparagraph (C), strike “and”; and

(2) insert after subparagraph (C) the following (and redesignate the succeeding subparagraph accordingly):

1 “(D) the prevention of self-dealing by lim-
2 iting the extent to which a security-based swap
3 dealer or major security-based swap participant
4 may conduct business with a clearing agency,
5 an exchange, or an alternative swap execution
6 facility that clears or trades security-based
7 swaps and in which such a dealer or participant
8 has a material debt or equity investment; and”.

Insert after section 154 the following new section (and redesignate succeeding sections accordingly):

9 **SEC. 155. NATIONAL SECURITY EXCHANGE REGISTRATION**
10 **REQUIREMENTS.**

11 Section 6(b) of the Securities Exchange Act of 1934
12 (15 U.S.C. 78f(b)) is amended by adding at the end the
13 following new paragraphs:

14 “(10) The rules of the exchange minimize con-
15 flicts of interest in its decision-making process and
16 establish a process for resolving such conflicts of in-
17 terest.

18 “(11) The rules of an exchange that trades se-
19 curity-based swaps provide that a majority of the di-

1 rectors of the exchange shall not be associated with
2 a restricted owner.

3 “(12) The rules of an exchange that trades se-
4 curity-based swaps provide that a restricted owner
5 shall not be permitted directly or indirectly to ac-
6 quire beneficial ownership of interests in the ex-
7 change or in persons with a controlling interest in
8 the exchange, to the extent that such an acquisition
9 would result in restricted owners controlling more
10 than 20 percent of the votes entitled to be cast on
11 any matter by the holders of the ownership inter-
12 ests.”.



**BIGGERT
064**

AMENDMENT TO H.R. _____

OFFERED BY MRS. BIGGERT OF ILLINOIS

Strike section 123.



AMENDMENT TO H.R. _____

OFFERED BY MR. FOSTER OF ILLINOIS

At the end of the bill, add the following:

1 **Subtitle C—Miscellaneous**

2 **SEC. 191. STUDY ON FEASIBILITY OF REQUIRING USE OF**
3 **STANDARDIZED ALGORITHMIC DESCRIP-**
4 **TIONS FOR FINANCIAL DERIVATIVES.**

5 (a) IN GENERAL.—The Securities and Exchange
6 Commission and the Commodity Futures Trading Com-
7 mission shall conduct a joint study of the feasibility of re-
8 quiring the derivatives industry to adopt standardized
9 computer-readable algorithmic descriptions which may be
10 used to describe complex and standardized financial de-
11 rivatives.

12 (b) GOALS.—The algorithmic descriptions defined in
13 the study shall be designed to facilitate computerized anal-
14 ysis of individual derivative contracts and to calculate net
15 exposures to complex derivatives. The algorithmic descrip-
16 tions shall be optimized for simultaneous use by:

- 17 (1) commercial users and traders of derivatives;
18 (2) derivative clearing houses, exchanges and
19 electronic trading platforms;

1 (3) trade repositories and regulator investiga-
2 tions of market activities; and

3 (4) systemic risk regulators.

4 The study will also examine the extent to which the algo-
5 rithmic description, together with standardized and exten-
6 sible legal definitions, may serve as the binding legal defi-
7 nition of derivative contracts. The study will examine the
8 logistics of possible implementations of standardized algo-
9 rithmic descriptions for derivatives contracts. The study
10 shall be limited to electronic formats for exchange of deriv-
11 ative contract descriptions and will not contemplate disclo-
12 sure of proprietary valuation models.

13 (c) INTERNATIONAL COORDINATION.— In conducting
14 the study, the Securities and Exchange Commission and
15 the Commodity Futures Trading Commission shall coordi-
16 nate the study with international financial institutions and
17 regulators as appropriate and practical.

18 (d) REPORT.—Within 8 months after the date of the
19 enactment of this Act, the Securities and Exchange Com-
20 mission and the Commodity Futures Trading Commission
21 shall jointly submit to the Committees on Agriculture and
22 on Financial Services of the House of Representatives and
23 the Committees on Agriculture, Nutrition, and Forestry
24 and on Banking, Housing, and Urban Affairs of the Sen-

- 1 ate a written report which contains the results of the study
- 2 required by subsections (a) through (e).



AMENDMENT TO H.R. _____

OFFERED BY MRS. BIGGERT OF ILLINOIS

Page 88, strike lines 3 through 8.

Page 88, line 9, strike "(d)" and insert "(e)".

Page 89, line 11, strike "(e)" and insert "(d)".



AMENDMENT TO H.R. _____
OFFERED BY MR. MEEKS

Page 71, line 8, strike “At the request of” and insert

1 (1) SEGREGATION.—At the request of

Page 71, after line 24, insert the following:

2 (2) BACK OFFICE AUDIT REPORTING.—If a
3 swap dealer does not segregate funds at the request
4 of a swap counterparty in accordance with para-
5 graph (1), the swap dealer shall report to its
6 counterparty on a quarterly basis that its back office
7 procedures relating to margin and collateral require-
8 ments are in compliance with the agreement of the
9 counterparties.

Page 146, line 3, strike “At the request of” and insert

10 (1) SEGREGATION.—At the request of

Page 146, after line 20, insert the following:

11 (2) BACK OFFICE AUDIT REPORTING.—If a se-
12 curity-based swap dealer does not segregate funds at
13 the request of a security-based swap counterparty in

1 accordance with paragraph (1), the security-based
2 swap dealer shall report to its counterparty on a
3 quarterly basis that its back office procedures relat-
4 ing to margin and collateral requirements are in
5 compliance with the agreement of the counterparties.



MILLER (CA)
001

Representative Gary G. Miller
Amendment 001

October 2, 2009 Discussion Draft of the Over-the-Counter Derivatives Markets Act of 2009
To be reported as H.R. 3795

Sec. 155. Reporting and Recordkeeping., p. 183, delete lines 10-13 and after line 9 add the following section:

“(e) DERIVATIVES BENEFICIAL OWNERSHIP. – Section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m) is amended by adding after section (l) the following:

“(m) For purposes of Sections 13 and 16 of the Securities Exchange Act of 1934, as amended, a person shall be deemed to acquire beneficial ownership of an equity security based on the purchase or sale of a security-based swap or other derivative instrument only to the extent that the Commission by rule determines, after consultation with the Prudential Regulators and the Secretary of the Treasury, that the purchase or sale of the security-based swap or other derivative instrument, or class of security-based swaps or other derivatives instruments, provides incidents of ownership comparable to direct ownership of the equity security, and that it is necessary to achieve the purposes of this section that the purchase or sale of the security-based swap or instrument, or class of security-based swaps or instruments, be deemed the acquisition of beneficial ownership of the equity security.”.

AMENDMENT TO H.R. _____

OFFERED BY MR. FOSTER OF ILLINOIS

At the end, add the following:

1 **TITLE III—STUDY**

2 **SEC. 301. STUDY OF PREPARATIONS NEEDED TO ESTAB-**
3 **LISH SINGLE REGULATOR FOR ALL TRANS-**
4 **ACTIONS INVOLVING FINANCIAL DERIVA-**
5 **TIVES.**

6 (a) IN GENERAL.—The Secretary of the Treasury,
7 the Commodity Futures Trading Commission, and the Se-
8 curities and Exchange Commission shall conduct a joint
9 study of the preparations necessary to establish, by Janu-
10 ary 1, 2012, a single regulator for all transactions involv-
11 ing financial derivatives.

12 (b) REPORT TO THE CONGRESS.—Not later than De-
13 cember 1, 2010, Secretary of the Treasury, the Com-
14 modity Futures Trading Commission, and the Securities
15 and Exchange Commission shall jointly submit to the
16 Committees on Agriculture and on Financial Services of
17 the House of Representatives and the Committees on Ag-
18 riculture, Nutrition, and Forestry and on Banking, Hous-
19 ing, and Urban Affairs of the Senate a written report that

1 contains the results of the study required by subsection

2 (a).



FRANK to Foster
024

Mr. Frank moves
to amend the amendment
in line 9 by striking
the words "preparation
necessary to establish"
& substitute the words
"desirability & feasibility
of establishing"

FRANK amendment to Foster 024

Mr. Frank moves to amend the amendment in line 9 by striking the words "preparation necessary to establish" and substitute the words "desirability and feasibility of establishing"

1 tions (and associated margin) upon the insol-
2 vency of a clearing participant;

3 (2) to clarify and harmonize the insolvency law
4 framework applicable to entities that are both com-
5 modity brokers (as defined in section 101(6) of title
6 11, United States Code) and registered brokers or
7 dealers (as defined in section 3(a) of the Securities
8 Exchange Act of 1934 (15 U.S.C. 78e(a))); and

9 (3) to facilitate the portfolio margining of secu-
10 rities and commodity futures and options positions
11 held through entities that are both futures commis-
12 sion merchants (as defined in section 1a of the Com-
13 modity Exchange Act) and registered brokers or
14 dealers (as defined in section 3 of the Securities Ex-
15 change Act of 1934 (15 U.S.C. 78e(a))).



MCCARTHY (CA)
001

AMENDMENT TO H.R. _____

OFFERED BY Mr. McCarthy of California

Page 60, line 22, strike “and Tier 1 financial holding companies”.



BIGGER
066

AMENDMENT TO H.R. _____

OFFERED BY MRS. BIGGERT OF ILLINOIS

Page 88, strike line 9 and all that follows through page 89, line 12, and insert the following:

1 (d) Section 5c(c) of the Commodity Exchange Act (7
2 U.S.C. 7a-2(c)) is amended to read as follows:

3 “(c) NEW CONTRACTS, NEW RULES, AND RULE
4 AMENDMENTS.—

5 “(1) IN GENERAL.—Subject to paragraph (2), a
6 registered entity may elect to list for trading or ac-
7 cept for clearing any new contract or other instru-
8 ment, or may elect to approve and implement any
9 new rule or rule amendment, by providing to the
10 Commission (and the Secretary of the Treasury, in
11 the case of a contract of sale of a government secu-
12 rity for future delivery (or option on such a con-
13 tract) or a rule or rule amendment specifically re-
14 lated to such a contract) a written certification that
15 the new contract or instrument or clearing of the
16 new contract or instrument, new rule, or rule
17 amendment complies with this Act (including regula-
18 tions under this Act).

19 “(2) PRIOR APPROVAL.—

1 “(A) IN GENERAL.—A registered entity
2 may request that the Commission grant prior
3 approval to any new contract or other instru-
4 ment, new rule, or rule amendment.

5 “(B) PRIOR APPROVAL REQUIRED.—Not-
6 withstanding any other provision of this section,
7 a designated contract market shall submit to
8 the Commission for prior approval under sub-
9 paragraph (A) each rule amendment that mate-
10 rially changes the terms and conditions, as de-
11 termined by the Commission, in any contract of
12 sale for future delivery of a commodity (or any
13 option thereon) traded through its facilities if
14 the rule amendment applies to contracts and
15 delivery months which have already been listed
16 for trading and for which there is open interest.

17 “(C) DEADLINE.—If prior approval is re-
18 quested under subparagraph (A), the Commis-
19 sion shall take final action on the request not
20 later than 90 days after submission of the re-
21 quest, unless the person submitting the request
22 agrees to an extension of the time limitation es-
23 tablished under this subparagraph.

24 “(3) APPROVAL.—The Commission shall ap-
25 prove any such new contract or instrument, new

1 rule, or rule amendment unless the Commission
2 finds that the new contract or instrument, new rule,
3 or rule amendment would violate this Act.”.



MANZULLO
022

AMENDMENT TO H.R. _____

OFFERED BY MR. MANZULLO OF ILLINOIS

Page 34, line 12, strike "(A) IN GENERAL.—"

and all that follows through the period on line 18

Page 34, line 16, strike "this paragraph" and insert "subparagraphs (B) through (N) of section 5b(c)(2)".

Page 35, strike line 1 and all that follows through page 46, line 2, and insert close quotation marks followed by a period.

Page 46, line 3, strike "(4)" and insert "(3)".

Page 47, line 10, strike "(5)" and insert "(4)".

Page 124, strike line 15 and all that follows through page 134, line 12 and insert the following:

1 “(I) STANDARDS FOR CLEARING AGENCIES CLEAR-
2 ING SWAP TRANSACTIONS.—To be registered and to main-
3 tain registration as a clearing agency that clears swap
4 transactions, a clearing agency shall comply with such
5 standards as the Commission may establish by rule. In
6 establishing any such standards, and in the exercise of its
7 oversight of such a clearing agency pursuant to this title,
8 the Commission may conform such standards or oversight
9 to reflect evolving United States and international stand-

Page 34, strike the sentence beginning on line 21.

BACHAS (REVISED)

AMENDMENT TO THE
"OVER-THE-COUNTER DERIVATIVES MARKETS ACT OF 2009"
DISCUSSION DRAFT OF OCTOBER 2, 2009

OFFERED BY MR. ~~SHEKMAN~~ ^{BACHAS} OF ~~CALIFORNIA~~ ^{ALABAMA}

At the end of the title, insert the following new section:

SEC. ____ . PROHIBITION AGAINST GOVERNMENT ASSISTANCE. *u c by Frank*

(A) IN GENERAL.—No provision of this title ~~or any other Act, including the Federal Reserve Act, the Federal Deposit Insurance Act, the Bank Holding Company Act or any future Act,~~ shall be construed to authorize federal assistance to support the clearing operations or liquidation of a derivatives clearing organization described in the Commodity Exchange Act, except where explicitly authorized by an Act of Congress.

(B) DEFINITION.—For the purposes of this section, the term 'federal assistance' shall be defined as the use of public funds for the purposes of:

- (i) making loans to, or purchasing any debt obligation of, a derivatives clearing organization or a subsidiary;
- (ii) purchasing assets of a derivatives clearing organization or a subsidiary;
- (iii) assuming or guaranteeing the obligations of a derivatives clearing organization or a subsidiary; or
- (iv) acquiring any type of equity interest or security of a derivatives clearing organization or a subsidiary.