

JANUARY 4, 2017

RULES COMMITTEE PRINT 115-2
TEXT OF H.R. 238, COMMODITY END-USER
RELIEF ACT

[Showing the text of the bill as introduced.]

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Commodity End-User
3 Relief Act”.

4 SEC. 2. TABLE OF CONTENTS.

5 The table of contents of this Act is as follows:

Sec. 1. Short title.

Sec. 2. Table of contents.

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Sec. 102. Electronic confirmation of customer funds.

Sec. 103. Notice and certifications providing additional customer protections.

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Sec. 202. Consideration by the Commodity Futures Trading Commission of the
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tive Procedure Act to guidance voted on by the Commission.

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- Sec. 401. Correction of references.
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- Sec. 407. Elimination of redundant references to types of registered entities.
- Sec. 408. Clarification of Commission authority over swaps trading.
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- Sec. 410. Elimination of obsolete references to derivative transaction execution facilities.
- Sec. 411. Elimination of obsolete references to exempt boards of trade.
- Sec. 412. Elimination of report due in 1986.
- Sec. 413. Compliance report flexibility.
- Sec. 414. Miscellaneous corrections.

1 **TITLE I—CUSTOMER**
2 **PROTECTIONS**
3 **SEC. 101. ENHANCED PROTECTIONS FOR FUTURES CUS-**
4 **TOMERS.**

5 Section 17 of the Commodity Exchange Act (7 U.S.C.
6 21) is amended by adding at the end the following:

1 “(t) A registered futures association shall—

2 “(1) require each member of the association
3 that is a futures commission merchant to maintain
4 written policies and procedures regarding the main-
5 tenance of—

6 “(A) the residual interest of the member,
7 as described in section 1.23 of title 17, Code of
8 Federal Regulations, in any customer seg-
9 regated funds account of the member, as identi-
10 fied in section 1.20 of such title, and in any for-
11 eign futures and foreign options customer se-
12 cured amount funds account of the member, as
13 identified in section 30.7 of such title; and

14 “(B) the residual interest of the member,
15 as described in section 22.2(e)(4) of such title,
16 in any cleared swaps customer collateral ac-
17 count of the member, as identified in section
18 22.2 of such title; and

19 “(2) establish rules to govern the withdrawal,
20 transfer or disbursement by any member of the asso-
21 ciation, that is a futures commission merchant, of
22 the member’s residual interest in customer seg-
23 regated funds as provided in such section 1.20, in
24 foreign futures and foreign options customer secured
25 amount funds, identified as provided in such section

1 30.7, and from a cleared swaps customer collateral,
2 identified as provided in such section 22.2.”.

3 **SEC. 102. ELECTRONIC CONFIRMATION OF CUSTOMER**
4 **FUNDS.**

5 Section 17 of the Commodity Exchange Act (7 U.S.C.
6 21), as amended by section 101 of this Act, is amended
7 by adding at the end the following:

8 “(u) A registered futures association shall require
9 any member of the association that is a futures commis-
10 sion merchant to—

11 “(1) use an electronic system or systems to re-
12 port financial and operational information to the as-
13 sociation or another party designated by the reg-
14 istered futures association, including information re-
15 lated to customer segregated funds, foreign futures
16 and foreign options customer secured amount funds
17 accounts, and cleared swaps customer collateral, in
18 accordance with such terms, conditions, documenta-
19 tion standards, and regular time intervals as are es-
20 tablished by the registered futures association;

21 “(2) instruct each depository, including any
22 bank, trust company, derivatives clearing organiza-
23 tion, or futures commission merchant, holding cus-
24 tomer segregated funds under section 1.20 of title
25 17, Code of Federal Regulations, foreign futures and

1 foreign options customer secured amount funds
2 under section 30.7 of such title, or cleared swap cus-
3 tomer funds under section 22.2 of such title, to re-
4 port balances in the futures commission merchant's
5 section 1.20 customer segregated funds, section 30.7
6 foreign futures and foreign options customer secured
7 amount funds, and section 22.2 cleared swap cus-
8 tomer funds, to the registered futures association or
9 another party designated by the registered futures
10 association, in the form, manner, and interval pre-
11 scribed by the registered futures association; and

12 “(3) hold section 1.20 customer segregated
13 funds, section 30.7 foreign futures and foreign op-
14 tions customer secured amount funds and section
15 22.2 cleared swaps customer funds in a depository
16 that reports the balances in these accounts of the fu-
17 tures commission merchant held at the depository to
18 the registered futures association or another party
19 designated by the registered futures association in
20 the form, manner, and interval prescribed by the
21 registered futures association.”.

1 **SEC. 103. NOTICE AND CERTIFICATIONS PROVIDING ADDI-**
2 **TIONAL CUSTOMER PROTECTIONS.**

3 Section 17 of the Commodity Exchange Act (7 U.S.C.
4 21), as amended by sections 101 and 102 of this Act, is
5 amended by adding at the end the following:

6 “(v) A futures commission merchant that has ad-
7 justed net capital in an amount less than the amount re-
8 quired by regulations established by the Commission or
9 a self-regulatory organization of which the futures com-
10 mission merchant is a member shall immediately notify
11 the Commission and the self-regulatory organization of
12 this occurrence.

13 “(w) A futures commission merchant that does not
14 hold a sufficient amount of funds in segregated accounts
15 for futures customers under section 1.20 of title 17, Code
16 of Federal Regulations, in foreign futures and foreign op-
17 tions secured amount accounts for foreign futures and for-
18 eign options secured amount customers under section 30.7
19 of such title, or in segregated accounts for cleared swap
20 customers under section 22.2 of such title, as required by
21 regulations established by the Commission or a self-regu-
22 latory organization of which the futures commission mer-
23 chant is a member, shall immediately notify the Commis-
24 sion and the self-regulatory organization of this occur-
25 rence.

1 “(x) Within such time period established by the Com-
2 mission after the end of each fiscal year, a futures com-
3 mission merchant shall file with the Commission a report
4 from the chief compliance officer of the futures commis-
5 sion merchant containing an assessment of the internal
6 compliance programs of the futures commission mer-
7 chant.”.

8 **SEC. 104. FUTURES COMMISSION MERCHANT COMPLIANCE.**

9 (a) IN GENERAL.—Section 4d(a) of the Commodity
10 Exchange Act (7 U.S.C. 6d(a)) is amended—

11 (1) by redesignating paragraphs (1) and (2) as
12 subparagraphs (A) and (B);

13 (2) by inserting “(1)” before “It shall be unlaw-
14 ful”; and

15 (3) by adding at the end the following new
16 paragraph:

17 “(2) Any rules or regulations requiring a fu-
18 tures commission merchant to maintain a residual
19 interest in accounts held for the benefit of customers
20 in amounts at least sufficient to exceed the sum of
21 all uncollected margin deficits of such customers
22 shall provide that a futures commission merchant
23 shall meet its residual interest requirement as of the
24 end of each business day calculated as of the close
25 of business on the previous business day.”.

1 (b) CONFORMING AMENDMENT.—Section 4d(h) of
2 such Act (7 U.S.C. 6d(h)) is amended by striking “Not-
3 withstanding subsection (a)(2)” and inserting “Notwith-
4 standing subsection (a)(1)(B)”.

5 **SEC. 105. CERTAINTY FOR FUTURES CUSTOMERS AND MAR-**
6 **KET PARTICIPANTS.**

7 Section 20(a) of the Commodity Exchange Act (7
8 U.S.C. 24(a)) is amended—

9 (1) by striking “and” at the end of paragraph
10 (4);

11 (2) by striking the period at the end of para-
12 graph (5) and inserting “; and”; and

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

14 “(6) that cash, securities, or other property of
15 the estate of a commodity broker, including the
16 trading or operating accounts of the commodity
17 broker and commodities held in inventory by the
18 commodity broker, shall be included in customer
19 property, subject to any otherwise unavoidable secu-
20 rity interest, or otherwise unavoidable contractual
21 offset or netting rights of creditors (including rights
22 set forth in a rule or bylaw of a derivatives clearing
23 organization or a clearing agency) in respect of such
24 property, but only to the extent that the property
25 that is otherwise customer property is insufficient to

1 satisfy the net equity claims of public customers (as
2 such term may be defined by the Commission by
3 rule or regulation) of the commodity broker.”.

4 **TITLE II—COMMODITY FUTURES**
5 **TRADING COMMISSION RE-**
6 **FORMS**

7 **SEC. 201. EXTENSION OF OPERATIONS.**

8 Section 12(d) of the Commodity Exchange Act (7
9 U.S.C. 16(d)) is amended to read as follows:

10 “(d) AUTHORIZATION OF APPROPRIATIONS.—There
11 is authorized to be appropriated \$250,000,000 for each
12 of fiscal years 2017 through 2021 to carry out this Act.”.

13 **SEC. 202. CONSIDERATION BY THE COMMODITY FUTURES**
14 **TRADING COMMISSION OF THE COSTS AND**
15 **BENEFITS OF ITS REGULATIONS AND OR-**
16 **DERS.**

17 Section 15(a) of the Commodity Exchange Act (7
18 U.S.C. 19(a)) is amended—

19 (1) by striking paragraphs (1) and (2) and in-
20 serting the following:

21 “(1) IN GENERAL.—Before promulgating a reg-
22 ulation under this Act or issuing an order (except as
23 provided in paragraph (3)), the Commission,
24 through the Office of the Chief Economist, shall as-
25 sess and publish in the regulation or order the costs

1 and benefits, both qualitative and quantitative, of
2 the proposed regulation or order, and the proposed
3 regulation or order shall state its statutory justifica-
4 tion.

5 “(2) CONSIDERATIONS.—In making a reasoned
6 determination of the costs and the benefits, the
7 Commission shall evaluate—

8 “(A) considerations of protection of market
9 participants and the public;

10 “(B) considerations of the efficiency, com-
11 petitiveness, and financial integrity of futures
12 and swaps markets;

13 “(C) considerations of the impact on mar-
14 ket liquidity in the futures and swaps markets;

15 “(D) considerations of price discovery;

16 “(E) considerations of sound risk manage-
17 ment practices;

18 “(F) available alternatives to direct regula-
19 tion;

20 “(G) the degree and nature of the risks
21 posed by various activities within the scope of
22 its jurisdiction;

23 “(H) the costs of complying with the pro-
24 posed regulation or order by all regulated enti-
25 ties, including a methodology for quantifying

1 the costs (recognizing that some costs are dif-
2 ficult to quantify);

3 “(I) whether the proposed regulation or
4 order is inconsistent, incompatible, or duplica-
5 tive of other Federal regulations or orders;

6 “(J) the cost to the Commission of imple-
7 menting the proposed regulation or order by the
8 Commission staff, including a methodology for
9 quantifying the costs;

10 “(K) whether, in choosing among alter-
11 native regulatory approaches, those approaches
12 maximize net benefits (including potential eco-
13 nomic and other benefits, distributive impacts,
14 and equity); and

15 “(L) other public interest considerations.”;

16 and

17 (2) by adding at the end the following:

18 “(4) JUDICIAL REVIEW.—Notwithstanding sec-
19 tion 24(d), a court shall affirm a Commission as-
20 sessment of costs and benefits under this subsection,
21 unless the court finds the assessment to be an abuse
22 of discretion.”.

23 **SEC. 203. DIVISION DIRECTORS.**

24 Section 2(a)(6)(C) of the Commodity Exchange Act
25 (7 U.S.C. 2(a)(6)(C)) is amended by inserting “, and the

1 heads of the units shall serve at the pleasure of the Com-
2 mission” before the period.

3 **SEC. 204. OFFICE OF THE CHIEF ECONOMIST.**

4 (a) IN GENERAL.—Section 2(a) of the Commodity
5 Exchange Act (7 U.S.C. 2(a)) is amended by adding at
6 the end the following:

7 “(16) OFFICE OF THE CHIEF ECONOMIST.—

8 “(A) ESTABLISHMENT.—There is estab-
9 lished in the Commission the Office of the Chief
10 Economist.

11 “(B) HEAD.—The Office of the Chief
12 Economist shall be headed by the Chief Econo-
13 mist, who shall be appointed by the Commission
14 and serve at the pleasure of the Commission.

15 “(C) FUNCTIONS.—The Chief Economist
16 shall report directly to the Commission and per-
17 form such functions and duties as the Commis-
18 sion may prescribe.

19 “(D) PROFESSIONAL STAFF.—The Com-
20 mission shall appoint such other economists as
21 may be necessary to assist the Chief Economist
22 in performing such economic analysis, regu-
23 latory cost-benefit analysis, or research any
24 member of the Commission may request.”.

1 (b) CONFORMING AMENDMENT.—Section 2(a)(6)(A)
2 of such Act (7 U.S.C. 2(a)(6)(A)) is amended by striking
3 “(4) and (5) of this subsection” and inserting “(4), (5),
4 and (16)”.

5 (c) SENSE OF THE CONGRESS.—It is the sense of the
6 Congress that the Commodity Futures Trading Commis-
7 sion should take all appropriate actions to encourage ap-
8 plications for positions in the Office of the Chief Econo-
9 mist from members of minority groups, women, disabled
10 persons, and veterans.

11 **SEC. 205. PROCEDURES GOVERNING ACTIONS TAKEN BY**
12 **COMMISSION STAFF.**

13 Section 2(a)(12) of the Commodity Exchange Act (7
14 U.S.C. 2(a)(12)) is amended—

15 (1) by striking “(12) The” and inserting the
16 following:

17 “(12) RULES AND REGULATIONS.—

18 “(A) IN GENERAL.—Subject to the other
19 provisions of this paragraph, the”; and

20 (2) by adding after and below the end the fol-
21 lowing new subparagraph:

22 “(B) NOTICE TO COMMISSIONERS.—The
23 Commission shall develop and publish internal
24 procedures governing the issuance by any divi-
25 sion or office of the Commission of any re-

1 sponse to a formal, written request or petition
2 from any member of the public for an exemp-
3 tive, a no-action, or an interpretive letter and
4 such procedures shall provide that the commis-
5 sioners be provided with the final version of the
6 matter to be issued with sufficient notice to re-
7 view the matter prior to its issuance.”.

8 **SEC. 206. STRATEGIC TECHNOLOGY PLAN.**

9 Section 2(a) of the Commodity Exchange Act (7
10 U.S.C. 2(a)), as amended by section 204(a) of this Act,
11 is amended by adding at the end the following:

12 “(17) STRATEGIC TECHNOLOGY PLAN.—

13 “(A) IN GENERAL.—Every 5 years, the
14 Commission shall develop and submit to the
15 Committee on Agriculture of the House of Rep-
16 resentatives and the Committee on Agriculture,
17 Nutrition, and Forestry of the Senate a detailed
18 plan focused on the acquisition and use of tech-
19 nology by the Commission.

20 “(B) CONTENTS.—The plan shall—

21 “(i) include for each related division
22 or office a detailed technology strategy fo-
23 cused on market surveillance and risk de-
24 tection, market data collection, aggrega-
25 tion, interpretation, standardization, har-

1 monization, normalization, validation,
2 streamlining or other data analytic proc-
3 esses, and internal management and pro-
4 tection of data collected by the Commis-
5 sion, including a detailed accounting of
6 how the funds provided for technology will
7 be used and the priorities that will apply in
8 the use of the funds;

9 “(ii) set forth annual goals to be ac-
10 complished and annual budgets needed to
11 accomplish the goals; and

12 “(iii) include a summary of any plan
13 of action and milestones to address any
14 known information security vulnerability,
15 as identified pursuant to a widely accepted
16 industry or Government standard, includ-
17 ing—

18 “(I) specific information about
19 the industry or Government standard
20 used to identify the known informa-
21 tion security vulnerability;

22 “(II) a detailed time line with
23 specific deadlines for addressing the
24 known information security vulner-
25 ability; and

1 “(III) an update of any such
2 time line and the rationale for any de-
3 viation from the time line.”.

4 **SEC. 207. INTERNAL RISK CONTROLS.**

5 Section 2(a)(12) of the Commodity Exchange Act (7
6 U.S.C. 2(a)(12)), as amended by section 205 of this Act,
7 is amended by adding at the end the following:

8 “(C) INTERNAL RISK CONTROLS.—The
9 Commission, in consultation with the Chief
10 Economist, shall develop comprehensive internal
11 risk control mechanisms to safeguard and gov-
12 ern the storage of all market data by the Com-
13 mission, all market data sharing agreements of
14 the Commission, and all academic research per-
15 formed at the Commission using market data.”.

16 **SEC. 208. SUBPOENA DURATION AND RENEWAL.**

17 Section 6(c)(5) of the Commodity Exchange Act (7
18 U.S.C. 9(5)) is amended—

19 (1) by striking “(5) SUBPOENA.—For” and in-
20 serting the following:

21 “(5) SUBPOENA.—

22 “(A) IN GENERAL.—For”; and

23 (2) by adding after and below the end the fol-
24 lowing:

1 “(B) OMNIBUS ORDERS OF INVESTIGA-
2 TION.—

3 “(i) DURATION AND RENEWAL.—An
4 omnibus order of investigation shall not be
5 for an indefinite duration and may be re-
6 newed only by Commission action.

7 “(ii) DEFINITION.—In clause (i), the
8 term ‘omnibus order of investigation’
9 means an order of the Commission author-
10 izing 1 or more members of the Commis-
11 sion or its staff to issue subpoenas under
12 subparagraph (A) to multiple persons in
13 relation to a particular subject matter
14 area.”.

15 **SEC. 209. APPLICABILITY OF NOTICE AND COMMENT RE-**
16 **QUIREMENTS OF THE ADMINISTRATIVE PRO-**
17 **CEDURE ACT TO GUIDANCE VOTED ON BY**
18 **THE COMMISSION.**

19 Section 2(a)(12) of the Commodity Exchange Act (7
20 U.S.C. 2(a)(12)), as amended by sections 205 and 207
21 of this Act, is amended by adding at the end the following:

22 “(D) APPLICABILITY OF NOTICE AND COM-
23 MENT RULES TO GUIDANCE VOTED ON BY THE
24 COMMISSION.—The notice and comment re-
25 quirements of section 553 of title 5, United

1 States Code, shall also apply with respect to
2 any Commission statement or guidance, includ-
3 ing interpretive rules, general statements of pol-
4 icy, or rules of Commission organization, proce-
5 dure, or practice, that has the effect of imple-
6 menting, interpreting or prescribing law or pol-
7 icy and that is voted on by the Commission.”.

8 **SEC. 210. JUDICIAL REVIEW OF COMMISSION RULES.**

9 The Commodity Exchange Act (7 U.S.C. 1 et seq.)
10 is amended by adding at the end the following:

11 **“SEC. 24. JUDICIAL REVIEW OF COMMISSION RULES.**

12 “(a) A person adversely affected by a rule of the
13 Commission promulgated under this Act may obtain re-
14 view of the rule in the United States Court of Appeals
15 for the District of Columbia Circuit or the United States
16 Court of Appeals for the circuit where the party resides
17 or has the principal place of business, by filing in the
18 court, within 60 days after publication in the Federal Reg-
19 ister of the entry of the rule, a written petition requesting
20 that the rule be set aside.

21 “(b) A copy of the petition shall be transmitted forth-
22 with by the clerk of the court to an officer designated by
23 the Commission for that purpose. Thereupon the Commis-
24 sion shall file in the court the record on which the rule
25 complained of is entered, as provided in section 2112 of

1 title 28, United States Code, and the Federal Rules of
2 Appellate Procedure.

3 “(c) On the filing of the petition, the court has juris-
4 diction, which becomes exclusive on the filing of the
5 record, to affirm and enforce or to set aside the rule in
6 whole or in part.

7 “(d) The court shall affirm and enforce the rule un-
8 less the Commission’s action in promulgating the rule is
9 found to be arbitrary, capricious, an abuse of discretion,
10 or otherwise not in accordance with law; contrary to con-
11 stitutional right, power, privilege, or immunity; in excess
12 of statutory jurisdiction, authority, or limitations, or short
13 of statutory right; or without observance of procedure re-
14 quired by law.”.

15 **SEC. 211. GAO STUDY ON USE OF COMMISSION RESOURCES.**

16 (a) STUDY.—The Comptroller General of the United
17 States shall conduct a study of the resources of the Com-
18 modity Futures Trading Commission that—

19 (1) assesses whether the resources of the Com-
20 mission are sufficient to enable the Commission to
21 effectively carry out the duties of the Commission;

22 (2) examines the expenditures of the Commis-
23 sion on hardware, software, and analytical processes
24 designed to protect customers in the areas of—

1 (A) market surveillance and risk detection;
2 and

3 (B) market data collection, aggregation,
4 interpretation, standardization, harmonization,
5 and streamlining;

6 (3) analyzes the additional workload undertaken
7 by the Commission, and ascertains where self-regu-
8 latory organizations could be more effectively uti-
9 lized; and

10 (4) examines existing and emerging post-trade
11 risk reduction services in the swaps market, the no-
12 tional amount of risk reduction transactions pro-
13 vided by the services, and the effects the services
14 have on financial stability, including—

15 (A) market surveillance and risk detection;

16 (B) market data collection, aggregation,
17 interpretation, standardization, harmonization,
18 and streamlining; and

19 (C) oversight and compliance work by mar-
20 ket participants and regulators.

21 (b) REPORT.—Not later than 180 days after the date
22 of the enactment of this Act, the Comptroller General of
23 the United States shall submit to the Committee on Agri-
24 culture of the House of Representatives and the Com-
25 mittee on Agriculture, Nutrition, and Forestry of the Sen-

1 ate a report that contains the results of the study required
2 by subsection (a).

3 **SEC. 212. DISCLOSURE OF REQUIRED DATA OF OTHER REG-**
4 **ISTERED ENTITIES.**

5 Section 8 of the Commodity Exchange Act (7 U.S.C.
6 12) is amended by adding at the end the following:

7 “(j) DISCLOSURE OF REQUIRED DATA OF OTHER
8 REGISTERED ENTITIES.—

9 “(1) Except as provided in this subsection, the
10 Commission may not be compelled to disclose any
11 proprietary information provided to the Commission,
12 except that nothing in this subsection—

13 “(A) authorizes the Commission to with-
14 hold information from Congress; or

15 “(B) prevents the Commission from—

16 “(i) complying with a request for in-
17 formation from any other Federal depart-
18 ment or agency, any State or political sub-
19 division thereof, or any foreign government
20 or any department, agency, or political
21 subdivision thereof requesting the report or
22 information for purposes within the scope
23 of its jurisdiction, upon an agreement of
24 confidentiality to protect the information

1 in a manner consistent with this paragraph
2 and subsection (e); or

3 “(ii) making a disclosure made pursu-
4 ant to a court order in connection with an
5 administrative or judicial proceeding
6 brought under this Act, in any receivership
7 proceeding involving a receiver appointed
8 in a judicial proceeding brought under this
9 Act, or in any bankruptcy proceeding in
10 which the Commission has intervened or in
11 which the Commission has the right to ap-
12 pear and be heard under title 11 of the
13 United States Code.

14 “(2) Any proprietary information of a com-
15 modity trading advisor or commodity pool operator
16 ascertained by the Commission in connection with
17 Form CPO-PQR, Form CTA-PR, and any successor
18 forms thereto, shall be subject to the same limita-
19 tions on public disclosure, as any facts ascertained
20 during an investigation, as provided by subsection
21 (a); provided, however, that the Commission shall
22 not be precluded from publishing aggregate informa-
23 tion compiled from such forms, to the extent such
24 aggregate information does not identify any indi-

1 vidual person or firm, or such person’s proprietary
2 information.

3 “(3) For purposes of section 552 of title 5,
4 United States Code, this subsection, and the infor-
5 mation contemplated herein, shall be considered a
6 statute described in subsection (b)(3)(B) of such
7 section 552.

8 “(4) For purposes of the definition of propri-
9 etary information in paragraph (5), the records and
10 reports of any client account or commodity pool to
11 which a commodity trading advisor or commodity
12 pool operator registered under this title provides
13 services that are filed with the Commission on Form
14 CPO-PQR, CTA-PR, and any successor forms there-
15 to, shall be deemed to be the records and reports of
16 the commodity trading advisor or commodity pool
17 operator, respectively.

18 “(5) For purposes of this section, proprietary
19 information of a commodity trading advisor or com-
20 modity pool operator includes sensitive, non-public
21 information regarding—

22 “(A) the commodity trading advisor, com-
23 modity pool operator or the trading strategies
24 of the commodity trading advisor or commodity
25 pool operator;

1 “(B) analytical or research methodologies
2 of a commodity trading advisor or commodity
3 pool operator;

4 “(C) trading data of a commodity trading
5 advisor or commodity pool operator; and

6 “(D) computer hardware or software con-
7 taining intellectual property of a commodity
8 trading advisor or commodity pool operator;”.

9 **TITLE III—END-USER RELIEF**

10 **SEC. 301. TRANSACTIONS WITH UTILITY SPECIAL ENTITIES.**

11 Section 1a(49) of the Commodity Exchange Act (7
12 U.S.C. 1a(49)) is amended by adding at the end the fol-
13 lowing:

14 “(E) CERTAIN TRANSACTIONS WITH A
15 UTILITY SPECIAL ENTITY.—

16 “(i) Transactions in utility operations-
17 related swaps shall be reported pursuant to
18 section 4r.

19 “(ii) In making a determination to ex-
20 empt pursuant to subparagraph (D), the
21 Commission shall treat a utility operations-
22 related swap entered into with a utility
23 special entity, as defined in section
24 4s(h)(2)(D), as if it were entered into with

1 an entity that is not a special entity, as de-
2 fined in section 4s(h)(2)(C).”.

3 **SEC. 302. UTILITY SPECIAL ENTITY DEFINED.**

4 Section 4s(h)(2) of the Commodity Exchange Act (7
5 U.S.C. 6s(h)(2)) is amended by adding at the end the fol-
6 lowing:

7 “(D) UTILITY SPECIAL ENTITY.—For pur-
8 poses of this Act, the term ‘utility special enti-
9 ty’ means a special entity, or any instrumen-
10 tality, department, or corporation of or estab-
11 lished by a State or political subdivision of a
12 State, that—

13 “(i) owns or operates, or anticipates
14 owning or operating, an electric or natural
15 gas facility or an electric or natural gas
16 operation;

17 “(ii) supplies, or anticipates sup-
18 plying, natural gas and or electric energy
19 to another utility special entity;

20 “(iii) has, or anticipates having, pub-
21 lic service obligations under Federal, State,
22 or local law or regulation to deliver electric
23 energy or natural gas service to customers;
24 or

1 “(iv) is a Federal power marketing
2 agency, as defined in section 3 of the Fed-
3 eral Power Act.”.

4 **SEC. 303. UTILITY OPERATIONS-RELATED SWAP.**

5 (a) SWAP FURTHER DEFINED.—Section
6 1a(47)(A)(iii) of the Commodity Exchange Act (7 U.S.C.
7 1a(47)(A)(iii)) is amended—

8 (1) by striking “and” at the end of subclause
9 (XXI);

10 (2) by adding “and” at the end of subclause
11 (XXII); and

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

13 “(XXIII) a utility operations-re-
14 lated swap;”.

15 (b) UTILITY OPERATIONS-RELATED SWAP DE-
16 FINED.—Section 1a of such Act (7 U.S.C. 1a) is amended
17 by adding at the end the following:

18 “(52) UTILITY OPERATIONS-RELATED SWAP.—

19 The term ‘utility operations-related swap’ means a
20 swap that—

21 “(A) is entered into by a utility to hedge
22 or mitigate a commercial risk;

23 “(B) is not a contract, agreement, or
24 transaction based on, derived on, or ref-
25 erencing—

1 “(i) an interest rate, credit, equity, or
2 currency asset class;

3 “(ii) except as used for fuel for elec-
4 tric energy generation, a metal, agricul-
5 tural commodity, or crude oil or gasoline
6 commodity of any grade; or

7 “(iii) any other commodity or category
8 of commodities identified for this purpose
9 in a rule or order adopted by the Commis-
10 sion in consultation with the appropriate
11 Federal and State regulatory commissions;
12 and

13 “(C) is associated with—

14 “(i) the generation, production, pur-
15 chase, or sale of natural gas or electric en-
16 ergy, the supply of natural gas or electric
17 energy to a utility, or the delivery of nat-
18 ural gas or electric energy service to utility
19 customers;

20 “(ii) fuel supply for the facilities or
21 operations of a utility;

22 “(iii) compliance with an electric sys-
23 tem reliability obligation;

24 “(iv) compliance with an energy, en-
25 ergy efficiency, conservation, or renewable

1 energy or environmental statute, regula-
2 tion, or government order applicable to a
3 utility; or

4 “(v) any other electric energy or nat-
5 ural gas swap to which a utility is a
6 party.”.

7 **SEC. 304. END-USERS NOT TREATED AS FINANCIAL ENTI-**
8 **TIES.**

9 (a) IN GENERAL.—Section 2(h)(7)(C)(iii) of the
10 Commodity Exchange Act (7 U.S.C. 2(h)(7)(C)(iii)) is
11 amended to read as follows:

12 “(iii) LIMITATION.—Such definition
13 shall not include an entity—

14 “(I) whose primary business is
15 providing financing, and who uses de-
16 rivatives for the purpose of hedging
17 underlying commercial risks related to
18 interest rate and foreign currency ex-
19 posures, 90 percent or more of which
20 arise from financing that facilitates
21 the purchase or lease of products, 90
22 percent or more of which are manu-
23 factured by the parent company or
24 another subsidiary of the parent com-
25 pany; or

1 “(II) who is not supervised by a
2 prudential regulator, and is not de-
3 scribed in any of subclauses (I)
4 through (VII) of clause (i), and—

5 “(aa) is a commercial mar-
6 ket participant; or

7 “(bb) enters into swaps,
8 contracts for future delivery, and
9 other derivatives on behalf of, or
10 to hedge or mitigate the commer-
11 cial risk of, whether directly or in
12 the aggregate, affiliates that are
13 not so supervised or described.”.

14 (b) COMMERCIAL MARKET PARTICIPANT DE-
15 FINED.—

16 (1) IN GENERAL.—Section 1a of such Act (7
17 U.S.C. 1a), as amended by section 303(b) of this
18 Act, is amended by redesignating paragraphs (7)
19 through (52) as paragraphs (8) through (53), re-
20 spectively, and by inserting after paragraph (6) the
21 following:

22 “(7) COMMERCIAL MARKET PARTICIPANT.—The
23 term ‘commercial market participant’ means any
24 producer, processor, merchant, or commercial user

1 of an exempt or agricultural commodity, or the prod-
2 ucts or byproducts of such a commodity.”.

3 (2) CONFORMING AMENDMENTS.—

4 (A) Section 1a of such Act (7 U.S.C. 1a)
5 is amended—

6 (i) in subparagraph (A) of paragraph
7 (18) (as so redesignated by paragraph (1)
8 of this subsection), in the matter preceding
9 clause (i), by striking “(18)(A)” and in-
10 sserting “(19)(A)”; and

11 (ii) in subparagraph (A)(vii) of para-
12 graph (19) (as so redesignated by para-
13 graph (1) of this subsection), in the matter
14 following subclause (III), by striking
15 “(17)(A)” and inserting “(18)(A)”.

16 (B) Section 4(c)(1)(A)(i)(I) of such Act (7
17 U.S.C. 6(c)(1)(A)(i)(I)) is amended by striking
18 “(7), paragraph (18)(A)(vii)(III), paragraphs
19 (23), (24), (31), (32), (38), (39), (41), (42),
20 (46), (47), (48), and (49)” and inserting “(8),
21 paragraph (19)(A)(vii)(III), paragraphs (24),
22 (25), (32), (33), (39), (40), (42), (43), (47),
23 (48), (49), and (50)”.

1 (C) Section 4q(a)(1) of such Act (7 U.S.C.
2 6o–1(a)(1)) is amended by striking “1a(9)” and
3 inserting “1a(10)”.

4 (D) Section 4s(f)(1)(D) of such Act (7
5 U.S.C. 6s(f)(1)(D)) is amended by striking
6 “1a(47)(A)(v)” and inserting “1a(48)(A)(v)”.

7 (E) Section 4s(h)(5)(A)(i) of such Act (7
8 U.S.C. 6s(h)(5)(A)(i)) is amended by striking
9 “1a(18)” and inserting “1a(19)”.

10 (F) Section 4t(b)(1)(C) of such Act (7
11 U.S.C. 6t(b)(1)(C)) is amended by striking
12 “1a(47)(A)(v)” and inserting “1a(48)(A)(v)”.

13 (G) Section 5(d)(23) of such Act (7 U.S.C.
14 7(d)(23)) is amended by striking
15 “1a(47)(A)(v)” and inserting “1a(48)(A)(v)”.

16 (H) Section 5(e)(1) of such Act (7 U.S.C.
17 7(e)(1)) is amended by striking “1a(9)” and in-
18 serting “1a(10)”.

19 (I) Section 5b(k)(3)(A) of such Act (7
20 U.S.C. 7a–1(k)(3)(A)) is amended by striking
21 “1a(47)(A)(v)” and inserting “1a(48)(A)(v)”.

22 (J) Section 5h(f)(10)(A)(iii) of such Act (7
23 U.S.C. 7b–3(f)(10)(A)(iii)) is amended by strik-
24 ing “1a(47)(A)(v)” and inserting
25 “1a(48)(A)(v)”.

1 (K) Section 21(f)(4)(C) of such Act (7
2 U.S.C. 24a(f)(4)(C)) is amended by striking
3 “1a(48)” and inserting “1a(49)”.

4 **SEC. 305. REPORTING OF ILLIQUID SWAPS SO AS TO NOT**
5 **DISADVANTAGE CERTAIN NON-FINANCIAL**
6 **END-USERS.**

7 Section 2(a)(13) of the Commodity Exchange Act (7
8 U.S.C. 2(a)(13)) is amended—

9 (1) in subparagraph (C), by striking “The
10 Commission” and inserting “Except as provided in
11 subparagraph (D), the Commission”; and

12 (2) by redesignating subparagraphs (D)
13 through (G) as subparagraphs (E) through (H), re-
14 spectively, and inserting after subparagraph (C) the
15 following:

16 “(D) REQUIREMENTS FOR SWAP TRANS-
17 ACTIONS IN ILLIQUID MARKETS.—Notwith-
18 standing subparagraph (C):

19 “(i) The Commission shall provide by
20 rule for the public reporting of swap trans-
21 actions, including price and volume data,
22 in illiquid markets that are not cleared and
23 entered into by a non-financial entity that
24 is hedging or mitigating commercial risk in
25 accordance with subsection (h)(7)(A).

1 “(ii) The Commission shall ensure
2 that the swap transaction information re-
3 ferred to in clause (i) of this subparagraph
4 is available to the public no sooner than 30
5 days after the swap transaction has been
6 executed or at such later date as the Com-
7 mission determines appropriate to protect
8 the identity of participants and positions in
9 illiquid markets and to prevent the elimi-
10 nation or reduction of market liquidity.

11 “(iii) In this subparagraph, the term
12 ‘illiquid markets’ means any market in
13 which the volume and frequency of trading
14 in swaps is at such a level as to allow iden-
15 tification of individual market partici-
16 pants.”.

17 **SEC. 306. RELIEF FOR GRAIN ELEVATOR OPERATORS,**
18 **FARMERS, AGRICULTURAL COUNTERPAR-**
19 **TIES, AND COMMERCIAL MARKET PARTICI-**
20 **PANTS.**

21 The Commodity Exchange Act (7 U.S.C. 1 et seq.)
22 is amended by inserting after section 4t the following:

1 **“SEC. 4u. RECORDKEEPING REQUIREMENTS APPLICABLE**
2 **TO NON-REGISTERED MEMBERS OF CERTAIN**
3 **REGISTERED ENTITIES.**

4 “Except as provided in section 4(a)(3), a member of
5 a designated contract market or a swap execution facility
6 that is not registered with the Commission and not re-
7 quired to be registered with the Commission in any capac-
8 ity shall satisfy the recordkeeping requirements of this Act
9 and any recordkeeping rule, order, or regulation under
10 this Act by maintaining a written record of each trans-
11 action in a contract for future delivery, option on a future,
12 swap, swaption, trade option, or related cash or forward
13 transaction. The written record shall be sufficient if it in-
14 cludes the final agreement between the parties and the
15 material economic terms of the transaction.”.

16 **SEC. 307. RELIEF FOR END-USERS WHO USE PHYSICAL**
17 **CONTRACTS WITH VOLUMETRIC**
18 **OPTIONALITY.**

19 Section 1a(48)(B)(ii) of the Commodity Exchange
20 Act (7 U.S.C. 1a(47)(B)(ii)), as so redesignated by section
21 304(b)(1) of this Act, is amended to read as follows:

22 “(ii) any purchase or sale of a non-
23 financial commodity or security for de-
24 ferred shipment or delivery, so long as the
25 transaction is intended to be physically set-
26 tled, including any stand-alone or embed-

1 ded option for which exercise results in a
2 physical delivery obligation;”.

3 **SEC. 308. COMMISSION VOTE REQUIRED BEFORE AUTO-**
4 **MATIC CHANGE OF SWAP DEALER DE MINI-**
5 **MIS LEVEL.**

6 Section 1a(50)(D) of the Commodity Exchange Act
7 (7 U.S.C. 1a(49)(D)), as so redesignated by section
8 304(b)(1) of this Act, is amended—

9 (1) by striking all that precedes “shall exempt”
10 and inserting the following:

11 “(D) EXCEPTION.—

12 “(i) IN GENERAL.—The Commission”;

13 and

14 (2) by adding after and below the end the fol-
15 lowing new clause:

16 “(ii) DE MINIMIS QUANTITY.—The de
17 minimis quantity of swap dealing described
18 in clause (i) shall be set at a quantity of
19 \$8,000,000,000, and may be amended or
20 changed only through a new affirmative
21 action of the Commission undertaken by
22 rule or regulation.”.

1 **SEC. 309. CAPITAL REQUIREMENTS FOR NON-BANK SWAP**
2 **DEALERS.**

3 (a) COMMODITY EXCHANGE ACT.—Section 4s(e) of
4 the Commodity Exchange Act (7 U.S.C. 6s(e)) is amend-
5 ed—

6 (1) in paragraph (2)(B), by striking “shall”
7 and inserting the following: “and the Securities and
8 Exchange Commission, in consultation with the pru-
9 dential regulators, shall jointly”; and

10 (2) in paragraph (3)(D)—

11 (A) in clause (ii), by striking “shall, to the
12 maximum extent practicable,” and inserting
13 “shall”; and

14 (B) by adding at the end the following:

15 “(iii) FINANCIAL MODELS.—To the
16 extent that swap dealers and major swap
17 participants that are banks are permitted
18 to use financial models approved by the
19 prudential regulators or the Securities and
20 Exchange Commission to calculate min-
21 imum capital requirements and minimum
22 initial and variation margin requirements,
23 including the use of non-cash collateral,
24 the Commission shall, in consultation with
25 the prudential regulators and the Securi-
26 ties and Exchange Commission, permit the

1 use of comparable financial models by
2 swap dealers and major swap participants
3 that are not banks.”.

4 (b) SECURITIES EXCHANGE ACT OF 1934.—Section
5 15F(e) of the Securities Exchange Act of 1934 (15 U.S.C.
6 78o–10(e)) is amended—

7 (1) in paragraph (2)(B), by striking “shall”
8 and inserting the following: “and the Commodity
9 Futures Trading Commission, in consultation with
10 the prudential regulators, shall jointly”; and

11 (2) in paragraph (3)(D)—

12 (A) in clause (ii), by striking “shall, to the
13 maximum extent practicable,” and inserting
14 “shall”; and

15 (B) by adding at the end the following:

16 “(iii) FINANCIAL MODELS.—To the
17 extent that security-based swap dealers
18 and major security-based swap participants
19 that are banks are permitted to use finan-
20 cial models approved by the prudential reg-
21 ulators or the Commodity Futures Trading
22 Commission to calculate minimum capital
23 requirements and minimum initial and var-
24 iation margin requirements, including the
25 use of non-cash collateral, the Commission

1 shall, in consultation with the Commodity
2 Futures Trading Commission, permit the
3 use of comparable financial models by se-
4 curity-based swap dealers and major secu-
5 rity-based swap participants that are not
6 banks.”.

7 **SEC. 310. HARMONIZATION WITH THE JUMPSTART OUR**
8 **BUSINESS STARTUPS ACT.**

9 Within 90 days after the date of the enactment of
10 this Act, the Commodity Futures Trading Commission
11 shall—

12 (1) revise section 4.7(b) of title 17, Code of
13 Federal Regulations, in the matter preceding para-
14 graph (1), to read as follows:

15 “(b) Relief available to commodity pool operators.
16 Upon filing the notice required by paragraph (d) of this
17 section, and subject to compliance with the conditions
18 specified in paragraph (d) of this section, any registered
19 commodity pool operator who sells participations in a pool
20 solely to qualified eligible persons in an offering which
21 qualifies for exemption from the registration requirements
22 of the Securities Act pursuant to section 4(2) of that Act
23 or pursuant to Regulation S, 17 CFR 230.901 et seq.,
24 and any bank registered as a commodity pool operator in
25 connection with a pool that is a collective trust fund whose

1 securities are exempt from registration under the Securi-
2 ties Act pursuant to section 3(a)(2) of that Act and are
3 sold solely to qualified eligible persons, may claim any or
4 all of the following relief with respect to such pool.”; and

5 (2) revise section 4.13(a)(3)(i) of such title to
6 read as follows:

7 “(i) Interests in the pool are exempt
8 from registration under the Securities Act
9 of 1933, and such interests are offered and
10 sold pursuant to section 4 of the Securities
11 Act of 1933 and the regulations there-
12 under;”.

13 **SEC. 311. BONA FIDE HEDGE DEFINED TO PROTECT END-**
14 **USER RISK MANAGEMENT NEEDS.**

15 Section 4a(c) of the Commodity Exchange Act (7
16 U.S.C. 6a(c)) is amended—

17 (1) in paragraph (1)—

18 (A) by striking “may” and inserting
19 “shall”; and

20 (B) by striking “future for which” and in-
21 serting “future, to be determined by the Com-
22 mission, for which either an appropriate swap is
23 available or”;

24 (2) in paragraph (2)—

1 (A) in the matter preceding subparagraph
2 (A), by striking “subsection (a)(2)” and all that
3 follows through “position as” and inserting
4 “paragraphs (2) and (5) of subsection (a) for
5 swaps, contracts of sale for future delivery, or
6 options on the contracts or commodities, a bona
7 fide hedging transaction or position is”; and

8 (B) in subparagraph (A)(ii), by striking
9 “of risks” and inserting “or management of
10 current or anticipated risks”; and

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

12 “(3) The Commission may further define, by
13 rule or regulation, what constitutes a bona fide
14 hedging transaction, provided that the rule or regu-
15 lation is consistent with the requirements of sub-
16 paragraphs (A) and (B) of paragraph (2).”.

17 **SEC. 312. CROSS-BORDER REGULATION OF DERIVATIVES**
18 **TRANSACTIONS.**

19 (a) **RULEMAKING REQUIRED.**—Within 1 year after
20 the date of the enactment of this Act, the Commodity Fu-
21 tures Trading Commission shall issue a rule that address-
22 es—

23 (1) the nature of the connections to the United
24 States that require a non-United States person to
25 register as a swap dealer or a major swap partici-

1 pant under the Commodity Exchange Act and the
2 regulations issued under such Act;

3 (2) which of the United States swaps require-
4 ments apply to the swap activities of non-United
5 States persons and United States persons and their
6 branches, agencies, subsidiaries, and affiliates out-
7 side of the United States, and the extent to which
8 the requirements apply; and

9 (3) the circumstances under which a United
10 States person or non-United States person in com-
11 pliance with the swaps regulatory requirements of a
12 foreign jurisdiction shall be exempt from United
13 States swaps requirements.

14 (b) CONTENT OF THE RULE.—

15 (1) CRITERIA.—In the rule, the Commission
16 shall establish criteria for determining that 1 or
17 more categories of the swaps regulatory require-
18 ments of a foreign jurisdiction are comparable to
19 and as comprehensive as United States swaps re-
20 quirements. The criteria shall include—

21 (A) the scope and objectives of the swaps
22 regulatory requirements of the foreign jurisdic-
23 tion;

24 (B) the effectiveness of the supervisory
25 compliance program administered;

1 (C) the enforcement authority exercised by
2 the foreign jurisdiction; and

3 (D) such other factors as the Commission,
4 by rule, determines to be necessary or appro-
5 priate in the public interest.

6 (2) COMPARABILITY.—In the rule, the Commis-
7 sion shall—

8 (A) provide that any non-United States
9 person or any transaction between 2 non-United
10 States persons shall be exempt from United
11 States swaps requirements if the person or
12 transaction is in compliance with the swaps reg-
13 ulatory requirements of a foreign jurisdiction
14 which the Commission has determined to be
15 comparable to and as comprehensive as United
16 States swaps requirements; and

17 (B) set forth the circumstances in which a
18 United States person or a transaction between
19 a United States person and a non-United
20 States person shall be exempt from United
21 States swaps requirements if the person or
22 transaction is in compliance with the swaps reg-
23 ulatory requirements of a foreign jurisdiction
24 which the Commission has determined to be

1 comparable to and as comprehensive as United
2 States swaps requirements.

3 (3) OUTCOMES-BASED COMPARISON.—In devel-
4 oping and applying the criteria, the Commission
5 shall emphasize the results and outcomes of, rather
6 than the design and construction of, foreign swaps
7 regulatory requirements.

8 (4) RISK-BASED RULEMAKING.—In the rule, the
9 Commission shall not take into account, for the pur-
10 poses of determining the applicability of United
11 States swaps requirements, the location of personnel
12 that arrange, negotiate, or execute swaps.

13 (5) No part of any rulemaking under this sec-
14 tion shall limit the Commission's antifraud or
15 antimanipulation authority.

16 (c) APPLICATION OF THE RULE.—

17 (1) ASSESSMENTS OF FOREIGN JURISDIC-
18 TIONS.—Beginning on the date on which a final rule
19 is issued under this section, the Commission shall
20 begin to assess the swaps regulatory requirements of
21 foreign jurisdictions, in the order the Commission
22 determines appropriate, in accordance with the cri-
23 teria established pursuant to subsection (b)(1). Fol-
24 lowing each assessment, the Commission shall deter-
25 mine, by rule or by order, whether the swaps regu-

1 latory requirements of the foreign jurisdiction are
2 comparable to and as comprehensive as United
3 States swaps requirements.

4 (2) SUBSTITUTED COMPLIANCE FOR
5 UNASSESSED MAJOR MARKETS.—Beginning 18
6 months after the date of enactment of this Act—

7 (A) the swaps regulatory requirements of
8 each of the 8 foreign jurisdictions with the larg-
9 est swaps markets, as calculated by notional
10 value during the 12-month period ending with
11 such date of enactment, except those with re-
12 spect to which a determination has been made
13 under paragraph (1), shall be considered to be
14 comparable to and as comprehensive as United
15 States swaps requirements; and

16 (B) a non-United States person or a trans-
17 action between 2 non-United States persons
18 shall be exempt from United States swaps re-
19 quirements if the person or transaction is in
20 compliance with the swaps regulatory require-
21 ments of any of such unexcepted foreign juris-
22 dictions.

23 (3) SUSPENSION OF SUBSTITUTED COMPLI-
24 ANCE.—If the Commission determines, by rule or by
25 order, that—

1 (A) the swaps regulatory requirements of a
2 foreign jurisdiction are not comparable to and
3 as comprehensive as United States swaps re-
4 quirements, using the categories and criteria es-
5 tablished under subsection (b)(1);

6 (B) the foreign jurisdiction does not ex-
7 empt from its swaps regulatory requirements
8 United States persons who are in compliance
9 with United States swaps requirements; or

10 (C) the foreign jurisdiction is not providing
11 equivalent recognition of, or substituted compli-
12 ance for, registered entities (as defined in sec-
13 tion 1a(41) of the Commodity Exchange Act)
14 domiciled in the United States,

15 the Commission may suspend, in whole or in part,
16 a determination made under paragraph (1) or a con-
17 sideration granted under paragraph (2).

18 (d) PETITION FOR REVIEW OF FOREIGN JURISDIC-
19 TION PRACTICES.—A registered entity, commercial mar-
20 ket participant (as defined in section 1a(7) of the Com-
21 modity Exchange Act), or Commission registrant (within
22 the meaning of such Act) who petitions the Commission
23 to make or change a determination under subsection
24 (c)(1) or (c)(3) of this section shall be entitled to expedited
25 consideration of the petition. A petition shall include any

1 evidence or other supporting materials to justify why the
2 petitioner believes the Commission should make or change
3 the determination. Petitions under this section shall be
4 considered by the Commission any time following the en-
5 actment of this Act. Within 180 days after receipt of a
6 petition for a rulemaking under this section, the Commis-
7 sion shall take final action on the petition. Within 90 days
8 after receipt of a petition to issue an order or change an
9 order issued under this section, the Commission shall take
10 final action on the petition.

11 (e) REPORT TO CONGRESS.—If the Commission
12 makes a determination described in this section through
13 an order, the Commission shall articulate the basis for the
14 determination in a written report published in the Federal
15 Register and transmitted to the Committee on Agriculture
16 of the House of Representatives and Committee on Agri-
17 culture, Nutrition, and Forestry of the Senate within 15
18 days of the determination. The determination shall not be
19 effective until 15 days after the committees receive the re-
20 port.

21 (f) DEFINITIONS.—As used in this Act and for pur-
22 poses of the rules issued pursuant to this Act, the fol-
23 lowing definitions apply:

24 (1) UNITED STATES PERSON.—The term
25 “United States person”—

1 (A) means—

2 (i) any natural person resident in the
3 United States;

4 (ii) any partnership, corporation,
5 trust, or other legal person organized or
6 incorporated under the laws of the United
7 States or having its principal place of busi-
8 ness in the United States;

9 (iii) any account (whether discre-
10 tionary or non-discretionary) of a United
11 States person; and

12 (iv) any other person as the Commis-
13 sion may further define to more effectively
14 carry out the purposes of this section; and

15 (B) does not include the International
16 Monetary Fund, the International Bank for Re-
17 construction and Development, the Inter-Amer-
18 ican Development Bank, the Asian Development
19 Bank, the African Development Bank, the
20 United Nations, their agencies or pension plans,
21 or any other similar international organizations
22 or their agencies or pension plans.

23 (2) UNITED STATES SWAPS REQUIREMENTS.—

24 The term “United States swaps requirements”
25 means the provisions relating to swaps contained in

1 the Commodity Exchange Act (7 U.S.C. 1a et seq.)
2 that were added by title VII of the Dodd-Frank Wall
3 Street Reform and Consumer Protection Act (15
4 U.S.C. 8301 et seq.) and any rules or regulations
5 prescribed by the Commodity Futures Trading Com-
6 mission pursuant to such provisions.

7 (3) FOREIGN JURISDICTION.—The term “for-
8 eign jurisdiction” means any national or supra-
9 national political entity with common rules gov-
10 erning swaps transactions.

11 (4) SWAPS REGULATORY REQUIREMENTS.—The
12 term “swaps regulatory requirements” means any
13 provisions of law, and any rules or regulations pur-
14 suant to the provisions, governing swaps trans-
15 actions or the counterparties to swaps transactions.

16 (g) CONFORMING AMENDMENT.—Section 4(c)(1)(A)
17 of the Commodity Exchange Act (7 U.S.C. 6(c)(1)(A)) is
18 amended by inserting “or except as necessary to effectuate
19 the purposes of the Commodity End-User Relief Act,”
20 after “to grant exemptions,”.

21 **SEC. 313. EXEMPTION OF QUALIFIED CHARITABLE ORGANI-**
22 **ZATIONS FROM DESIGNATION AND REGULA-**
23 **TION AS COMMODITY POOL OPERATORS.**

24 (a) EXCLUSION FROM DEFINITION OF COMMODITY
25 POOL.—Section 1a(11) of the Commodity Exchange Act

1 (7 U.S.C. 1a(10)), as so redesignated by section 304(b)(1)
2 of this Act, is amended by adding at the end the following:

3 “(C) EXCLUSION.—The term ‘commodity
4 pool’ shall not include any investment trust,
5 syndicate, or similar form of enterprise ex-
6 cluded from the definition of ‘investment com-
7 pany’ pursuant to section 3(c)(10) or 3(c)(14)
8 of the Investment Company Act of 1940.”.

9 (b) INAPPLICABILITY OF PROHIBITION ON USE OF
10 INSTRUMENTALITIES OF INTERSTATE COMMERCE BY UN-
11 REGISTERED COMMODITY TRADING ADVISOR.—Section
12 4m of such Act (7 U.S.C. 6m) is amended—

13 (1) in paragraph (1), in the second sentence, by
14 inserting “: *Provided further*, That the provisions of
15 this section shall not apply to any commodity trad-
16 ing advisor that is: (A) a charitable organization, as
17 defined in section 3(c)(10)(D) of the Investment
18 Company Act of 1940, or a trustee, director, officer,
19 employee, or volunteer of such a charitable organiza-
20 tion acting within the scope of the employment or
21 duties of the person with the organization, whose
22 trading advice is provided only to, or with respect to,
23 1 or more of the following: (i) any such charitable
24 organization; or (ii) an investment trust, syndicate
25 or similar form of enterprise excluded from the defi-

1 nition of ‘investment company’ pursuant to section
2 3(c)(10) of the Investment Company Act of 1940; or
3 (B) any plan, company, or account described in sec-
4 tion 3(c)(14) of the Investment Company Act of
5 1940, any person or entity who establishes or main-
6 tains such a plan, company, or account, or any
7 trustee, director, officer, employee, or volunteer for
8 any of the foregoing plans, persons, or entities act-
9 ing within the scope of the employment or duties of
10 the person with the organization, whose trading ad-
11 vice is provided only to, or with respect to, any in-
12 vestment trust, syndicate, or similar form of enter-
13 prise excluded from the definition of ‘investment
14 company’ pursuant to section 3(c)(14) of the Invest-
15 ment Company Act of 1940” before the period; and

16 (2) by adding at the end the following:

17 “(4) DISCLOSURE CONCERNING EXCLUDED CHARIT-
18 TABLE ORGANIZATIONS.—The operator of or advisor to
19 any investment trust, syndicate, or similar form of enter-
20 prise excluded from the definition of ‘commodity pool’ by
21 reason of section 1a(10)(C) of this Act pursuant to section
22 3(c)(10) of the Investment Company Act of 1940 shall
23 provide disclosure in accordance with section 7(e) of the
24 Investment Company Act of 1940.”.

1 **SEC. 314. SMALL BANK HOLDING COMPANY CLEARING EX-**
2 **EMPTION.**

3 Section 2(h)(7)(C) of the Commodity Exchange Act
4 (7 U.S.C. 2(h)(7)(C)) is amended by adding at the end
5 the following:

6 “(iv) HOLDING COMPANIES.—A deter-
7 mination made by the Commission under
8 clause (ii) shall, with respect to small
9 banks and savings associations, also apply
10 to their respective bank holding company
11 (as defined in section 2 of the Bank Hold-
12 ing Company Act of 1956), or savings and
13 loan holding company (as defined in sec-
14 tion 10 of the Home Owners’ Loan Act of
15 1933)), if the total consolidated assets of
16 the holding company are no greater than
17 the asset threshold set by the Commission
18 in determining small bank and savings as-
19 sociation eligibility under clause (ii).”.

20 **SEC. 315. CORE PRINCIPLE CERTAINTY.**

21 Section 5h(f) of the Commodity Exchange Act (7
22 U.S.C. 7b–3(f)) is amended—

23 (1) in paragraph (1)(B), by inserting “except as
24 described in this subsection” after “Commission by
25 rule or regulation”;

1 (2) in paragraph (2), by amending subpara-
2 graph (D) to read as follows:

3 “(D) have reasonable discretion in estab-
4 lishing and enforcing its rules related to trade
5 practice surveillance, market surveillance, real-
6 time marketing monitoring, and audit trail
7 given that a swap execution facility may offer
8 a trading system or platform to execute or
9 trade swaps through any means of interstate
10 commerce. A swap execution facility shall be re-
11 sponsible for monitoring trading in swaps only
12 on its own facility.”;

13 (3) in paragraph (4)(B), by adding at the end
14 the following: “A swap execution facility shall be re-
15 sponsible for monitoring trading in swaps only on its
16 own facility.”;

17 (4) in paragraph (6)(B)—

18 (A) by striking “shall—” and all that fol-
19 lows through “compliance with the” and insert
20 “shall monitor the trading activity on its facility
21 for compliance with any”; and

22 (B) by adding at the end the following: “A
23 swap execution facility shall be responsible for
24 monitoring positions only on its own facility.”;

1 (5) in paragraph (8), by striking “to liquidate”
2 and all that follows and inserting “to suspend or
3 curtail trading in a swap on its own facility.”;

4 (6) in paragraph (13)(B), by striking “1-year
5 period, as calculated on a rolling basis” and insert-
6 ing “90-day period, as calculated on a rolling basis,
7 or conduct an orderly wind-down of its operations,
8 whichever is greater”; and

9 (7) in paragraph (15)—

10 (A) in subparagraph (A), by adding at the
11 end the following: “The individual may also
12 perform other responsibilities for the swap exe-
13 cution facility.”;

14 (B) in subparagraph (B)—

15 (i) in clause (i), by inserting “, a com-
16 mittee of the board,” after “directly to the
17 board”;

18 (ii) by striking clauses (iii) through
19 (v) and inserting the following:

20 “(iii) establish and administer policies
21 and procedures that are reasonably de-
22 signed to resolve any conflicts of interest
23 that may arise;

24 “(iv) establish and administer policies
25 and procedures that reasonably ensure

1 compliance with this Act and the rules and
2 regulations issued under this Act, includ-
3 ing rules prescribed by the Commission
4 pursuant to this section; and”;

5 (iii) by redesignating clause (vi) as
6 clause (v);

7 (C) in subparagraph (C), by striking
8 “(B)(vi)” and inserting “(B)(v)”; and

9 (D) in subparagraph (D)—

10 (i) in clause (i)—

11 (I) by striking “In accordance
12 with rules prescribed by the Commis-
13 sion, the” and inserting “The”; and

14 (II) by striking “and sign”; and

15 (ii) in clause (ii)—

16 (I) in the matter preceding sub-
17 clause (I), by inserting “or senior offi-
18 cer” after “officer”;

19 (II) by amending subclause (I) to
20 read as follows:

21 “(I) submit each report described
22 in clause (i) to the Commission; and”;
23 and

24 (III) in subclause (II), by insert-
25 ing “materially” before “accurate”.

1 **SEC. 316. TREATMENT OF FEDERAL HOME LOAN BANK**
2 **PRODUCTS.**

3 (a) Section 1a(2) of the Commodity Exchange Act
4 (7 U.S.C. 1a(2)) is amended—

5 (1) in subparagraph (B), by striking “and”;

6 (2) in subparagraph (C), by striking the period
7 and inserting “; and”; and

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

9 “(D) is the Federal Housing Finance
10 Agency for any Federal Home Loan Bank (as
11 defined in section 2 of the Federal Home Loan
12 Bank Act).”.

13 (b) Section 402(a) of the Legal Certainty for Bank
14 Products Act of 2000 (7 U.S.C. 27(a)) is amended—

15 (1) by striking “or” at the end of paragraph
16 (6);

17 (2) by striking the period at the end of para-
18 graph (7) and inserting “; or”; and

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

20 “(8) any Federal Home Loan Bank (as defined
21 in section 2 of the Federal Home Loan Bank Act).”.

22 **SEC. 317. TREATMENT OF CERTAIN FUNDS.**

23 (a) **AMENDMENT TO THE DEFINITION OF COM-**
24 **MODITY POOL OPERATOR.**—Section 1a(12) of the Com-
25 **modity Exchange Act (7 U.S.C. 1a(11)), as so redesi-**

1 nated by section 304(b)(1) of this Act, is amended by add-
2 ing at the end the following:

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

12 “(ii) For purposes of this subparagraph
13 only, the term ‘financial commodity interest’
14 means a futures contract, an option on a fu-
15 tures contract, or a swap, involving a com-
16 modity that is not an exempt commodity or an
17 agricultural commodity, including any index of
18 financial commodity interests, whether cash set-
19 tled or involving physical delivery.

20 “(iii) For purposes of this subparagraph
21 only, the term ‘commodity’ does not include a
22 security issued by a real estate investment
23 trust, business development company, or issuer
24 of asset-backed securities, including any index
25 of such securities.”.

1 (b) AMENDMENT TO THE DEFINITION OF COM-
2 MODITY TRADING ADVISOR.—Section 1a(13) of such Act
3 (7 U.S.C. 1a(12)), as so redesignated by section 304(b)(1)
4 of this Act, is amended by adding at the end the following:

5 “(E) The term ‘commodity trading advisor’
6 does not include a person who serves as an in-
7 vestment adviser to an investment company reg-
8 istered pursuant to section 8 of the Investment
9 Company Act of 1940 or a subsidiary of such
10 a company, if the commodity trading advice re-
11 lates only to a financial commodity interest, as
12 defined in paragraph (12)(C)(ii) of this section.
13 For purposes of this subparagraph only, the
14 term ‘commodity’ does not include a security
15 issued by a real estate investment trust, busi-
16 ness development company, or issuer of asset-
17 backed securities, including any index of such
18 securities.”.

19 **TITLE IV—TECHNICAL** 20 **CORRECTIONS**

21 **SEC. 401. CORRECTION OF REFERENCES.**

22 (a) Section 2(h)(8)(A)(ii) of the Commodity Ex-
23 change Act (7 U.S.C. 2(h)(8)(A)(ii)) is amended by strik-
24 ing “5h(f) of this Act” and inserting “5h(g)”.

1 (b) Section 5c(e)(5)(C)(i) of such Act (7 U.S.C. 7a–
2 2(c)(5)(C)(i)) is amended by striking “1a(2)(i)” and in-
3 serting “1a(19)(i)”.

4 (c) Section 23(f) of such Act (7 U.S.C. 26(f)) is
5 amended by striking “section 7064” and inserting “sec-
6 tion 706”.

7 **SEC. 402. ELIMINATION OF OBSOLETE REFERENCES TO**
8 **DEALER OPTIONS.**

9 (a) IN GENERAL.—Section 4c of the Commodity Ex-
10 change Act (7 U.S.C. 6c) is amended by striking sub-
11 sections (d) and (e) and redesignating subsections (f) and
12 (g) as subsections (d) and (e), respectively.

13 (b) CONFORMING AMENDMENTS.—

14 (1) Section 2(d) of such Act (7 U.S.C. 2(d)) is
15 amended by striking “(g) of” and inserting “(e) of”.

16 (2) Section 4f(a)(4)(A)(i) of such Act (7 U.S.C.
17 6f(a)(4)(A)(i)) is amended by striking “, (d), (e),
18 and (g)” and inserting “and (e)”.

19 (3) Section 4k(5)(A) of such Act (7 U.S.C.
20 6k(5)(A)) is amended by striking “, (d), (e), and
21 (g)” and inserting “and (e)”.

22 (4) Section 5f(b)(1)(A) of such Act (7 U.S.C.
23 7b–1(b)(1)(A)) is amended by striking “, (e), and
24 (g)” and inserting “and (e)”.

1 (5) Section 9(a)(2) of such Act (7 U.S.C.
2 13(a)(2)) is amended by striking “through (e)” and
3 inserting “and (c)”.

4 **SEC. 403. UPDATED TRADE DATA PUBLICATION REQUIRE-**
5 **MENT.**

6 Section 4g(e) of the Commodity Exchange Act (7
7 U.S.C. 6g(e)) is amended by striking “exchange” and in-
8 serting “each designated contract market and swap execu-
9 tion facility”.

10 **SEC. 404. FLEXIBILITY FOR REGISTERED ENTITIES.**

11 Section 5c(b) of the Commodity Exchange Act (7
12 U.S.C. 7a-2(b)) is amended by striking “contract market,
13 derivatives transaction execution facility, or electronic
14 trading facility” each place it appears and inserting “reg-
15 istered entity”.

16 **SEC. 405. ELIMINATION OF OBSOLETE REFERENCES TO**
17 **ELECTRONIC TRADING FACILITIES.**

18 (a) Section 1a(19)(A)(x) of the Commodity Exchange
19 Act (7 U.S.C. 1a(18)(A)(x)), as so redesignated by section
20 304(b)(1) of this Act, is amended by striking “(other than
21 an electronic trading facility with respect to a significant
22 price discovery contract)”.

23 (b) Section 1a(40) of such Act (7 U.S.C. 1a(41)), as
24 so redesignated by section 304(b)(1) of this Act, is amend-
25 ed—

1 (1) by adding “and” at the end of subpara-
2 graph (D); and

3 (2) by striking all that follows “section 21” and
4 inserting a period.

5 (c) Section 4a(e) of such Act (7 U.S.C. 6a(e)) is
6 amended—

7 (1) in the first sentence—

8 (A) by striking “or by any electronic trad-
9 ing facility”;

10 (B) by striking “or on an electronic trad-
11 ing facility”; and

12 (C) by striking “or electronic trading facil-
13 ity” each place it appears; and

14 (2) in the second sentence, by striking “or elec-
15 tronic trading facility with respect to a significant
16 price discovery contract”.

17 (d) Section 4g(a) of such Act (7 U.S.C. 6g(a)) is
18 amended by striking “any significant price discovery con-
19 tract traded or executed on an electronic trading facility
20 or”.

21 (e) Section 4i of such Act (7 U.S.C. 6i) is amended—

22 (1) by striking “, or any significant price dis-
23 covery contract traded or executed on an electronic
24 trading facility or any agreement, contract, or trans-
25 action that is treated by a derivatives clearing orga-

1 nization, whether registered or not registered, as
2 fungible with a significant price discovery contract”;
3 and

4 (2) by striking “or electronic trading facility”.

5 (f) Section 6(b) of such Act (7 U.S.C. 8(b)) is amend-
6 ed by striking “or electronic trading facility” each place
7 it appears.

8 (g) Section 12(e)(2) of such Act (7 U.S.C. 16(e)(2))
9 is amended by striking “in the case of—” and all that
10 follows and inserting “in the case of an agreement, con-
11 tract, or transaction that is excluded from this Act under
12 section 2(c) or 2(f) of this Act or title IV of the Com-
13 modify Futures Modernization Act of 2000, or exempted
14 under section 4(c) of this Act (regardless of whether any
15 such agreement, contract, or transaction is otherwise sub-
16 ject to this Act).”.

17 **SEC. 406. ELIMINATION OF OBSOLETE REFERENCE TO AL-**
18 **TERNATIVE SWAP EXECUTION FACILITIES.**

19 Section 5h(h) of the Commodity Exchange Act (7
20 U.S.C. 7b–3(h)) is amended by striking “alternative” be-
21 fore “swap”.

1 **SEC. 407. ELIMINATION OF REDUNDANT REFERENCES TO**
2 **TYPES OF REGISTERED ENTITIES.**

3 Section 6b of the Commodity Exchange Act (7 U.S.C.
4 13a) is amended in the first sentence by striking “as set
5 forth in sections 5 through 5c”.

6 **SEC. 408. CLARIFICATION OF COMMISSION AUTHORITY**
7 **OVER SWAPS TRADING.**

8 Section 8a of the Commodity Exchange Act (7 U.S.C.
9 12a) is amended—

10 (1) in paragraph (7)—

11 (A) by inserting “the protection of swaps
12 traders and to assure fair dealing in swaps,
13 for” after “appropriate for”;

14 (B) in subparagraph (A), by inserting
15 “swaps or” after “conditions in”; and

16 (C) in subparagraph (B), by inserting “or
17 swaps” after “future delivery”; and

18 (2) in paragraph (9)—

19 (A) by inserting “swap or” after “or liq-
20 uidation of any”; and

21 (B) by inserting “swap or” after “margin
22 levels on any”.

1 **SEC. 409. ELIMINATION OF OBSOLETE REFERENCE TO THE**
2 **COMMODITY EXCHANGE COMMISSION.**

3 Section 13(c) of the Commodity Exchange Act (7
4 U.S.C. 13c(c)) is amended by striking “or the Commis-
5 sion”.

6 **SEC. 410. ELIMINATION OF OBSOLETE REFERENCES TO DE-**
7 **RIVATIVE TRANSACTION EXECUTION FACILI-**
8 **TIES.**

9 (a) Section 1a(13)(B)(vi) of the Commodity Ex-
10 change Act (7 U.S.C. 1a(12)(B)(vi)), as so redesignated
11 by section 304(b)(1) of this Act, is amended by striking
12 “derivatives transaction execution facility” and inserting
13 “swap execution facility”.

14 (b) Section 1a(35) of such Act (7 U.S.C. 1a(34)), as
15 so redesignated by section 304(b)(1) of this Act, is amend-
16 ed by striking “or derivatives transaction execution facil-
17 ity” each place it appears.

18 (c) Section 1a(36)(B)(iii)(I) of such Act (7 U.S.C.
19 1a(35)(B)(iii)(I)), as so redesignated by section 304(b)(1)
20 of this Act, is amended by striking “or registered deriva-
21 tives transaction execution facility”.

22 (d) Section 2(a)(1)(C)(ii) of such Act (7 U.S.C.
23 2(a)(1)(C)(ii)) is amended—

24 (1) by striking “, or register a derivatives
25 transaction execution facility that trades or exe-
26 cutes,”;

1 (2) by striking “, and no derivatives transaction
2 execution facility shall trade or execute such con-
3 tracts of sale (or options on such contracts) for fu-
4 ture delivery”; and

5 (3) by striking “or the derivatives transaction
6 execution facility,”.

7 (e) Section 2(a)(1)(C)(v)(I) of such Act (7 U.S.C.
8 2(a)(1)(C)(v)(I)) is amended by striking “, or any deriva-
9 tives transaction execution facility on which such contract
10 or option is traded,”.

11 (f) Section 2(a)(1)(C)(v)(II) of such Act (7 U.S.C.
12 2(a)(1)(C)(v)(II)) is amended by striking “or derivatives
13 transaction execution facility” each place it appears.

14 (g) Section 2(a)(1)(C)(v)(V) of such Act (7 U.S.C.
15 2(a)(1)(C)(v)(V)) is amended by striking “or registered
16 derivatives transaction execution facility”.

17 (h) Section 2(a)(1)(D)(i) of such Act (7 U.S.C.
18 2(a)(1)(D)(i)) is amended in the matter preceding sub-
19 clause (I)—

20 (1) by striking “in, or register a derivatives
21 transaction execution facility”; and

22 (2) by striking “, or registered as a derivatives
23 transaction execution facility for,”.

24 (i) Section 2(a)(1)(D)(i)(IV) of such Act (7 U.S.C.
25 2(a)(1)(D)(i)(IV)) is amended by striking “registered de-

1 derivatives transaction execution facility,” each place it ap-
2 pears.

3 (j) Section 2(a)(1)(D)(ii)(I) of such Act (7 U.S.C.
4 2(a)(1)(D)(ii)(I)) is amended to read as follows:

5 “(I) the transaction is conducted on or subject
6 to the rules of a board of trade that has been des-
7 ignated by the Commission as a contract market in
8 such security futures product; or”.

9 (k) Section 2(a)(1)(D)(ii)(II) of such Act (7 U.S.C.
10 2(a)(1)(D)(ii)(II)) is amended by striking “or registered
11 derivatives transaction execution facility”.

12 (l) Section 2(a)(1)(D)(ii)(III) of such Act (7 U.S.C.
13 2(a)(1)(D)(ii)(III)) is amended by striking “or registered
14 derivatives transaction execution facility member”.

15 (m) Section 2(a)(9)(B)(ii) of such Act (7 U.S.C.
16 2(a)(9)(B)(ii)) is amended—

17 (1) by striking “or registration” each place it
18 appears;

19 (2) by striking “or derivatives transaction exe-
20 cution facility” each place it appears;

21 (3) by striking “or register”;

22 (4) by striking “, registering,”; and

23 (5) by striking “registration,”.

1 (n) Section 2(e)(2) of such Act (7 U.S.C. 2(c)(2)) is
2 amended by striking “or a derivatives transaction execu-
3 tion facility”.

4 (o) Section 4(a)(1) of such Act (7 U.S.C. 6(a)(1))
5 is amended by striking “or derivatives transaction execu-
6 tion facility” each place it appears.

7 (p) Section 4(e)(1) of such Act (7 U.S.C. 6(c)(1)) is
8 amended—

9 (1) by striking “or registered” after “des-
10 igned”; and

11 (2) by striking “or derivatives transaction exe-
12 cution facility”.

13 (q) Section 4a(a)(1) of such Act (7 U.S.C. 6a(a)(1))
14 is amended—

15 (1) by striking “or derivatives transaction exe-
16 cution facilities”; and

17 (2) by striking “or derivatives transaction exe-
18 cution facility”.

19 (r) Section 4a(e) of such Act (7 U.S.C. 6a(e)) is
20 amended—

21 (1) by striking “, derivatives transaction execu-
22 tion facility,” each place it appears; and

23 (2) by striking “or derivatives transaction exe-
24 cution facility”.

1 (s) Section 4c(e) of such Act (7 U.S.C. 6c(g)), as so
2 redesignated by section 402(a) of this Act, is amended by
3 striking “or derivatives transaction execution facility”
4 each place it appears.

5 (t) Section 4d of such Act (7 U.S.C. 6d) is amended
6 by striking “or derivatives transaction execution facility”
7 each place it appears.

8 (u) Section 4e of such Act (7 U.S.C. 6e) is amended
9 by striking “or derivatives transaction execution facility”.

10 (v) Section 4f(b) of such Act (7 U.S.C. 6f(b)) is
11 amended by striking “or derivatives transaction execution
12 facility” each place it appears.

13 (w) Section 4i of such Act (7 U.S.C. 6i) is amended
14 by striking “or derivatives transaction execution facility”.

15 (x) Section 4j(a) of such Act (7 U.S.C. 6j(a)) is
16 amended by striking “and registered derivatives trans-
17 action execution facility”.

18 (y) Section 4p(a) of such Act (7 U.S.C. 6p(a)) is
19 amended by striking “, or derivatives transaction execu-
20 tion facilities”.

21 (z) Section 4p(b) of such Act (7 U.S.C. 6p(b)) is
22 amended by striking “derivatives transaction execution fa-
23 cility,”.

1 (aa) Section 5c(f) of such Act (7 U.S.C. 7a–2(f)) is
2 amended by striking “and registered derivatives trans-
3 action execution facility”.

4 (bb) Section 5c(f)(1) of such Act (7 U.S.C. 7a–
5 2(f)(1)) is amended by striking “or registered derivatives
6 transaction execution facility”.

7 (cc) Section 6 of such Act (7 U.S.C. 8) is amended—

8 (1) by striking “or registered”;

9 (2) by striking “or derivatives transaction exe-
10 cution facility” each place it appears; and

11 (3) by striking “or registration” each place it
12 appears.

13 (dd) Section 6a(a) of such Act (7 U.S.C. 10a(a)) is
14 amended—

15 (1) by striking “or registered”;

16 (2) by striking “or a derivatives transaction
17 execution facility”; and

18 (3) by inserting “shall” before “exclude” the
19 first place it appears.

20 (ee) Section 6a(b) of such Act (7 U.S.C. 10a(b)) is
21 amended—

22 (1) by striking “or registered”; and

23 (2) by striking “or a derivatives transaction
24 execution facility”.

1 (ff) Section 6d(1) of such Act (7 U.S.C. 13a–2(1))
2 is amended by striking “derivatives transaction execution
3 facility,”.

4 **SEC. 411. ELIMINATION OF OBSOLETE REFERENCES TO EX-**
5 **EMPT BOARDS OF TRADE.**

6 (a) Section 1a(19)(A)(x) of the Commodity Exchange
7 Act (7 U.S.C. 1a(18)(A)(x)), as so redesignated by section
8 304(b)(1) of this Act, is amended by striking “or an ex-
9 empt board of trade”.

10 (b) Section 12(e)(1)(B)(i) of such Act (7 U.S.C.
11 16(e)(1)(B)(i)) is amended by striking “or exempt board
12 of trade”.

13 **SEC. 412. ELIMINATION OF REPORT DUE IN 1986.**

14 Section 26 of the Futures Trading Act of 1978 (7
15 U.S.C. 16a) is amended by striking subsection (b) and re-
16 designating subsection (c) as subsection (b).

17 **SEC. 413. COMPLIANCE REPORT FLEXIBILITY.**

18 Section 4s(k)(3)(B) of the Commodity Exchange Act
19 (7 U.S.C. 6s(k)(3)(B)) is amended to read as follows:

20 “(B) REQUIREMENTS.—A compliance re-
21 port under subparagraph (A) shall—

22 “(i) include a certification that, under
23 penalty of law, the compliance report is
24 materially accurate and complete; and

1 “(ii) be furnished at such time as the
2 Commission determines by rule, regulation,
3 or order, to be appropriate.”.

4 **SEC. 414. MISCELLANEOUS CORRECTIONS.**

5 (a) Section 1a(13)(A)(i)(II) of the Commodity Ex-
6 change Act (7 U.S.C. 1a(12)(A)(i)(II)), as so redesignated
7 by section 304(b)(1) of this Act, is amended by adding
8 at the end a semicolon.

9 (b) Section 2(a)(1)(C)(ii)(III) of such Act (7 U.S.C.
10 2(a)(1)(C)(ii)(III)) is amended by moving the provision 2
11 ems to the right.

12 (c) Section 2(a)(1)(C)(iii) of such Act (7 U.S.C.
13 2(a)(1)(C)(iii)) is amended by moving the provision 2 ems
14 to the right.

15 (d) Section 2(a)(1)(C)(iv) of such Act (7 U.S.C.
16 2(a)(1)(C)(iv)) is amended by striking “under or” and in-
17 serting “under”.

18 (e) Section 2(a)(1)(C)(v) of such Act (7 U.S.C.
19 2(a)(1)(C)(v)) is amended by moving the provision 2 ems
20 to the right.

21 (f) Section 2(a)(1)(C)(v)(VI) of such Act (7 U.S.C.
22 2(a)(1)(C)(v)(VI)) is amended by striking “III” and in-
23 serting “(III)”.

24 (g) Section 2(c)(1) of such Act (7 U.S.C. 2(c)(1)) is
25 amended by striking the second comma.

1 (h) Section 4(c)(3)(H) of such Act (7 U.S.C.
2 6(c)(3)(H)) is amended by striking “state” and inserting
3 “State”.

4 (i) Section 4c(c) of such Act (7 U.S.C. 6c(c)) is
5 amended to read as follows:

6 “(c) The Commission shall issue regulations to con-
7 tinue to permit the trading of options on contract markets
8 under such terms and conditions that the Commission
9 from time to time may prescribe.”.

10 (j) Section 4d(b) of such Act (7 U.S.C. 6d(b)) is
11 amended by striking “paragraph (2) of this section” and
12 inserting “subsection (a)(2)”.

13 (k) Section 4f(c)(3)(A) of such Act (7 U.S.C.
14 6f(c)(3)(A)) is amended by striking the first comma.

15 (l) Section 4f(c)(4)(A) of such Act (7 U.S.C.
16 6f(c)(4)(A)) is amended by striking “in developing” and
17 inserting “In developing”.

18 (m) Section 4f(c)(4)(B) of such Act (7 U.S.C.
19 6f(c)(4)(B)) is amended by striking “1817(a)” and insert-
20 ing “1817(a)”.

21 (n) Section 5 of such Act (7 U.S.C. 7) is amended
22 by redesignating subsections (c) through (e) as sub-
23 sections (b) through (d), respectively.

24 (o) Section 5b of such Act (7 U.S.C. 7a-1) is amend-
25 ed by redesignating subsection (k) as subsection (j).

1 (p) Section 5f(b)(1) of such Act (7 U.S.C. 7b–
2 1(b)(1)) is amended by striking “section 5f” and inserting
3 “this section”.

4 (q) Section 6(a) of such Act (7 U.S.C. 8(a)) is
5 amended by striking “the the” and inserting “the”.

6 (r) Section 8a of such Act (7 U.S.C. 12a) is amended
7 in each of paragraphs (2)(E) and (3)(B) by striking “In-
8 vestors” and inserting “Investor”.

9 (s) Section 9(a)(2) of such Act (7 U.S.C. 13(a)(2))
10 is amended by striking “subsection 4c” and inserting “sec-
11 tion 4c”.

12 (t) Section 12(b)(4) of such Act (7 U.S.C. 16(b)(4))
13 is amended by moving the provision 2 ems to the left.

14 (u) Section 14(a)(2) of such Act (7 U.S.C. 18(a)(2))
15 is amended by moving the provision 2 ems to the left.

16 (v) Section 17(b)(9)(D) of such Act (7 U.S.C.
17 21(b)(9)(D)) is amended by striking the semicolon and in-
18 serting a period.

19 (w) Section 17(b)(10)(C)(ii) of such Act (7 U.S.C.
20 21(b)(10)(C)(ii)) is amended by striking “and” at the end.

21 (x) Section 17(b)(11) of such Act (7 U.S.C.
22 21(b)(11)) is amended by striking the period and inserting
23 a semicolon.

24 (y) Section 17(b)(12) of such Act (7 U.S.C.
25 21(b)(12)) is amended—

1 (1) by striking “(A)”; and

2 (2) by striking the period and inserting “;
3 and”.

4 (z) Section 17(b)(13) of such Act (7 U.S.C.
5 21(b)(13)) is amended by striking “A” and inserting “a”.

6 (aa) Section 17 of such Act (7 U.S.C. 21), as amend-
7 ed by sections 101 through 103 of this Act, is amended
8 by redesignating subsection (q), as added by section
9 233(5) of Public Law 97–444, and subsections (s) through
10 (w) as subsections (r) through (x), respectively.

11 (bb) Section 22(b)(3) of such Act (7 U.S.C. 25(b)(3))
12 is amended by striking “of registered” and inserting “of
13 a registered”.

14 (cc) Section 22(b)(4) of such Act (7 U.S.C. 25(b)(4))
15 is amended by inserting a comma after “entity”.

