

AMENDMENT TO H.R. 977
OFFERED BY MR. BOSWELL OF IOWA

Page 28, strike line 18 and all that follows through line 2 on page 30 and insert the following:

1 “(h) ALTERNATIVES TO CLEARING THROUGH DE-
2 RIVATIVES CLEARING ORGANIZATIONS.—

3 “(1) SETTLEMENT AND CLEARING THROUGH
4 CERTAIN OTHER REGULATED ENTITIES.—

5 “(A) An agreement, contract, or trans-
6 action, or class thereof, relating to an excluded
7 commodity, that would otherwise be required to
8 be settled and cleared by section 2(d)(1)(C),
9 2(d)(2)(D), or 2(g)(4) of this Act, or subsection
10 (e)(1) of this section may be settled and cleared
11 through an entity listed in section 409(b)(1) of
12 the Federal Deposit Insurance Corporation Im-
13 provement Act of 1991.

14 “(B) An agreement, contract, or trans-
15 action, or class thereof, that would otherwise be
16 required to be settled and cleared by section
17 2(d)(1)(C), 2(d)(2)(D), 2(g)(4), 2(h)(1)(C), or
18 2(h)(3)(C) of this Act, or subsection (e)(1) of
19 this section may be settled and cleared through

1 an entity listed in section 409(b)(3) of the Fed-
2 eral Deposit Insurance Corporation Improve-
3 ment Act of 1991.

4 “(2) WAIVER OF CLEARING REQUIREMENT.—

5 “(A) The Commission, in its discretion,
6 may exempt an agreement, contract, or trans-
7 action, or class thereof, that would otherwise be
8 required by section 2(d)(1)(C), 2(d)(2)(D),
9 2(g)(4), 2(h)(1)(C), or 2(h)(3)(C) of this Act,
10 or subsection (c)(1) of this section to be settled
11 and cleared through a derivatives clearing orga-
12 nization registered with the Commission from
13 such requirement.

14 “(B) In granting exemptions pursuant to
15 subparagraph (A), the Commission shall consult
16 with the Securities and Exchange Commission
17 and the Board of Governors of the Federal Re-
18 serve System regarding exemptions that relate
19 to excluded commodities or entities for which
20 the Securities Exchange Commission or the
21 Board of Governors of the Federal Reserve Sys-
22 tem serve as the primary regulator.

23 “(C) Before granting an exemption pursu-
24 ant to subparagraph (A), the Commission shall

1 find that the agreement, contract, or trans-
2 action, or class thereof—

3 “(i) is highly customized as to its ma-
4 terial terms and conditions;

5 “(ii) is transacted infrequently;

6 “(iii) does not serve a significant
7 price-discovery function in the market-
8 place; and

9 “(iv) is being entered into by parties
10 who can demonstrate the financial integ-
11 rity of the agreement, contract, or trans-
12 action and their own financial integrity, as
13 such terms and standards are determined
14 by the Commission. The standards shall
15 include a net capital requirement associ-
16 ated with any agreement, contract, or
17 transaction subject to an exemption from
18 the clearing requirement that recognizes
19 the risks associated with the absence of
20 clearing.

21 “(D) Any agreement, contract, or trans-
22 action, or class thereof, which is exempted pur-
23 suant to subparagraph (A) shall be reported in
24 a manner designated by the Commission to the
25 Commission, the Securities and Exchange Com-

1 mission, the Board of Governors of the Federal
2 Reserve System, or such other entity the Com-
3 mission deems appropriate.”.

Page 34, line 3, insert “(1)” before “The”.

Page 34, after line 5, insert the following:.

4 (2) Before the amendments made by this sec-
5 tion take effect, the Commission shall through rule-
6 making, after notice and comment, establish and
7 publish guidelines outlining the terms and conditions
8 that must apply for a agreement, contract, trans-
9 action, or class thereof, to qualify for the exemption
10 cited in section 4(h)(2) of the Commodity Exchange
11 Act.

