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(Original Signature of Member)

114TH CONGRESS  
1ST SESSION

**H. R.** \_\_\_\_\_

To reauthorize the Commodity Futures Trading Commission, to better protect futures customers, to provide end-users with market certainty, to make basic reforms to ensure transparency and accountability at the Commission, to help farmers, ranchers, and end-users manage risks, to help keep consumer costs low, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

Mr. CONAWAY (for himself, Mr. AUSTIN SCOTT of Georgia, and Mr. DAVID SCOTT of Georgia) introduced the following bill; which was referred to the Committee on \_\_\_\_\_

\_\_\_\_\_  
**A BILL**

To reauthorize the Commodity Futures Trading Commission, to better protect futures customers, to provide end-users with market certainty, to make basic reforms to ensure transparency and accountability at the Commission, to help farmers, ranchers, and end-users manage risks, to help keep consumer costs low, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

**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.

**TITLE I—CUSTOMER PROTECTIONS**

- Sec. 101. Enhanced protections for futures customers.
- Sec. 102. Electronic confirmation of customer funds.
- Sec. 103. Notice and certifications providing additional customer protections.
- Sec. 104. Futures commission merchant compliance.
- Sec. 105. Certainty for futures customers and market participants.

**TITLE II—COMMODITY FUTURES TRADING COMMISSION  
REFORMS**

- Sec. 201. Extension of operations.
- Sec. 202. Consideration by the Commodity Futures Trading Commission of the costs and benefits of its regulations and orders.
- Sec. 203. Division directors.
- Sec. 204. Office of the Chief Economist.
- Sec. 205. Procedures governing actions taken by Commission staff.
- Sec. 206. Strategic technology plan.
- Sec. 207. Internal risk controls.
- Sec. 208. Subpoena duration and renewal.
- Sec. 209. Applicability of notice and comment requirements of the Administrative Procedure Act to guidance voted on by the Commission.
- Sec. 210. Judicial review of Commission rules.
- Sec. 211. GAO study on use of Commission resources.

**TITLE III—END-USER RELIEF**

- Sec. 301. Relief for hedgers utilizing centralized risk management practices.
- Sec. 302. Indemnification requirements.
- Sec. 303. Transactions with utility special entities.
- Sec. 304. Utility special entity defined.
- Sec. 305. Utility operations-related swap.
- Sec. 306. End-users not treated as financial entities.
- Sec. 307. Reporting of illiquid swaps so as to not disadvantage certain non-financial end-users.
- Sec. 308. Relief for grain elevator operators, farmers, agricultural counterparties, and commercial market participants.
- Sec. 309. Relief for end-users who use physical contracts with volumetric optionality.
- Sec. 310. Commission vote required before automatic change of swap dealer de minimis level.
- Sec. 311. Capital requirements for non-bank swap dealers.
- Sec. 312. Harmonization with the Jumpstart Our Business Startups Act.

- Sec. 313. Bona fide hedge defined to protect end-user risk management needs.
- Sec. 314. Cross-border regulation of derivatives transactions.

TITLE IV—TECHNICAL CORRECTIONS

- Sec. 401. Correction of references.
- Sec. 402. Elimination of obsolete references to dealer options.
- Sec. 403. Updated trade data publication requirement.
- Sec. 404. Flexibility for registered entities.
- Sec. 405. Elimination of obsolete references to electronic trading facilities.
- Sec. 406. Elimination of obsolete reference to alternative swap execution facilities.
- Sec. 407. Elimination of redundant references to types of registered entities.
- Sec. 408. Clarification of Commission authority over swaps trading.
- Sec. 409. Elimination of obsolete reference to the Commodity Exchange Commission.
- 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:

7           “(s) A registered futures association shall—  
 8                                   “(1) require each member of the association  
 9                                   that is a futures commission merchant to maintain  
 10                                   written policies and procedures regarding the main-  
 11                                   tenance of—

12                                   “(A) the residual interest of the member,  
 13                                   as described in section 1.23 of title 17, Code of  
 14                                   Federal Regulations, in any customer seg-  
 15                                   regated funds account of the member, as identi-

1           fied in section 1.20 of such title, and in any for-  
2           foreign futures and foreign options customer se-  
3           cured amount funds account of the member, as  
4           identified in section 30.7 of such title; and

5                   “(B) the residual interest of the member,  
6           as described in section 22.2(e)(4) of such title,  
7           in any cleared swaps customer collateral ac-  
8           count of the member, as identified in section  
9           22.2 of such title; and

10                   “(2) establish rules to govern the withdrawal,  
11           transfer or disbursement by any member of the asso-  
12           ciation, that is a futures commission merchant, of  
13           the member’s residual interest in customer seg-  
14           regated funds as provided in such section 1.20, in  
15           foreign futures and foreign options customer secured  
16           amount funds, identified as provided in such section  
17           30.7, and from a cleared swaps customer collateral,  
18           identified as provided in such section 22.2.”.

19 **SEC. 102. ELECTRONIC CONFIRMATION OF CUSTOMER**  
20                   **FUNDS.**

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

1 “(t) A registered futures association shall require any  
2 member of the association that is a futures commission  
3 merchant to—

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

14 “(2) instruct each depository, including any  
15 bank, trust company, derivatives clearing organiza-  
16 tion, or futures commission merchant, holding cus-  
17 tomer segregated funds under section 1.20 of title  
18 17, Code of Federal Regulations, foreign futures and  
19 foreign options customer secured amount funds  
20 under section 30.7 of such title, or cleared swap cus-  
21 tomer funds under section 22.2 of such title, to re-  
22 port balances in the futures commission merchant’s  
23 section 1.20 customer segregated funds, section 30.7  
24 foreign futures and foreign options customer secured  
25 amount funds, and section 22.2 cleared swap cus-

1 tomer funds, to the registered futures association or  
2 another party designated by the registered futures  
3 association, in the form, manner, and interval pre-  
4 scribed by the registered futures association; and

5 “(3) hold section 1.20 customer segregated  
6 funds, section 30.7 foreign futures and foreign op-  
7 tions customer secured amount funds and section  
8 22.2 cleared swaps customer funds in a depository  
9 that reports the balances in these accounts of the fu-  
10 tures commission merchant held at the depository to  
11 the registered futures association or another party  
12 designated by the registered futures association in  
13 the form, manner, and interval prescribed by the  
14 registered futures association.”.

15 **SEC. 103. NOTICE AND CERTIFICATIONS PROVIDING ADDI-**  
16 **TIONAL CUSTOMER PROTECTIONS.**

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

20 “(u) A futures commission merchant that has ad-  
21 justed net capital in an amount less than the amount re-  
22 quired by regulations established by the Commission or  
23 a self-regulatory organization of which the futures com-  
24 mission merchant is a member shall immediately notify

1 the Commission and the self-regulatory organization of  
2 this occurrence.

3 “(v) A futures commission merchant that does not  
4 hold a sufficient amount of funds in segregated accounts  
5 for futures customers under section 1.20 of title 17, Code  
6 of Federal Regulations, in foreign futures and foreign op-  
7 tions secured amount accounts for foreign futures and for-  
8 eign options secured amount customers under section 30.7  
9 of such title, or in segregated accounts for cleared swap  
10 customers under section 22.2 of such title, as required by  
11 regulations established by the Commission or a self-regu-  
12 latory organization of which the futures commission mer-  
13 chant is a member, shall immediately notify the Commis-  
14 sion and the self-regulatory organization of this occur-  
15 rence.

16 “(w) Within such time period established by the Com-  
17 mission after the end of each fiscal year, a futures com-  
18 mission merchant shall file with the Commission a report  
19 from the chief compliance officer of the futures commis-  
20 sion merchant containing an assessment of the internal  
21 compliance programs of the futures commission mer-  
22 chant.”.

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

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

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

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

5 (3) by adding at the end the following new  
6 paragraph:

7 “(2) Any rules or regulations requiring a fu-  
8 tures commission merchant to maintain a residual  
9 interest in accounts held for the benefit of customers  
10 in amounts at least sufficient to exceed the sum of  
11 all uncollected margin deficits of such customers  
12 shall provide that a futures commission merchant  
13 shall meet its residual interest requirement as of the  
14 end of each business day calculated as of the close  
15 of business on the previous business day.”.

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

20 **SEC. 105. CERTAINTY FOR FUTURES CUSTOMERS AND MAR-**  
21 **KET PARTICIPANTS.**

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

24 (1) by striking “and” at the end of paragraph  
25 (4);



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

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

4           “(6) that cash, securities, or other property of  
5           the estate of a commodity broker, including the  
6           trading or operating accounts of the commodity  
7           broker and commodities held in inventory by the  
8           commodity broker, shall be included in customer  
9           property, subject to any otherwise unavoidable secu-  
10          rity interest, or otherwise unavoidable contractual  
11          offset or netting rights of creditors (including rights  
12          set forth in a rule or bylaw of a derivatives clearing  
13          organization or a clearing agency) in respect of such  
14          property, but only to the extent that the property  
15          that is otherwise customer property is insufficient to  
16          satisfy the net equity claims of public customers (as  
17          such term may be defined by the Commission by  
18          rule or regulation) of the commodity broker.”.

19 **TITLE II—COMMODITY FUTURES**  
20 **TRADING COMMISSION RE-**  
21 **FORMS**

22 **SEC. 201. EXTENSION OF OPERATIONS.**

23          Section 12(d) of the Commodity Exchange Act (7  
24 U.S.C. 16(d)) is amended by striking “2013” and insert-  
25 ing “2019”.

1 **SEC. 202. CONSIDERATION BY THE COMMODITY FUTURES**  
2 **TRADING COMMISSION OF THE COSTS AND**  
3 **BENEFITS OF ITS REGULATIONS AND OR-**  
4 **DERS.**

5 Section 15(a) of the Commodity Exchange Act (7  
6 U.S.C. 19(a)) is amended by striking paragraphs (1) and  
7 (2) and inserting the following:

8 “(1) IN GENERAL.—Before promulgating a reg-  
9 ulation under this Act or issuing an order (except as  
10 provided in paragraph (3)), the Commission,  
11 through the Office of the Chief Economist, shall as-  
12 sess and publish in the regulation or order the costs  
13 and benefits, both qualitative and quantitative, of  
14 the proposed regulation or order, and the proposed  
15 regulation or order shall state its statutory justifica-  
16 tion.

17 “(2) CONSIDERATIONS.—In making a reasoned  
18 determination of the costs and the benefits, the  
19 Commission shall evaluate—

20 “(A) considerations of protection of market  
21 participants and the public;

22 “(B) considerations of the efficiency, com-  
23 petitiveness, and financial integrity of futures  
24 and swaps markets;

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

1 “(D) considerations of price discovery;

2 “(E) considerations of sound risk manage-  
3 ment practices;

4 “(F) available alternatives to direct regula-  
5 tion;

6 “(G) the degree and nature of the risks  
7 posed by various activities within the scope of  
8 its jurisdiction;

9 “(H) the costs of complying with the pro-  
10 posed regulation or order by all regulated enti-  
11 ties, including a methodology for quantifying  
12 the costs (recognizing that some costs are dif-  
13 ficult to quantify);

14 “(I) whether the proposed regulation or  
15 order is inconsistent, incompatible, or duplica-  
16 tive of other Federal regulations or orders;

17 “(J) the cost to the Commission of imple-  
18 menting the proposed regulation or order by the  
19 Commission staff, including a methodology for  
20 quantifying the costs;

21 “(K) whether, in choosing among alter-  
22 native regulatory approaches, those approaches  
23 maximize net benefits (including potential eco-  
24 nomic and other benefits, distributive impacts,  
25 and equity); and

1 “(L) other public interest considerations.”.

2 **SEC. 203. DIVISION DIRECTORS.**

3 Section 2(a)(6)(C) of the Commodity Exchange Act  
4 (7 U.S.C. 2(a)(6)(C)) is amended by inserting “, and the  
5 heads of the units shall serve at the pleasure of the Com-  
6 mission” before the period.

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

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

11 “(17) OFFICE OF THE CHIEF ECONOMIST.—

12 “(A) ESTABLISHMENT.—There is estab-  
13 lished in the Commission the Office of the Chief  
14 Economist.

15 “(B) HEAD.—The Office of the Chief  
16 Economist shall be headed by the Chief Econo-  
17 mist, who shall be appointed by the Commission  
18 and serve at the pleasure of the Commission.

19 “(C) FUNCTIONS.—The Chief Economist  
20 shall report directly to the Commission and per-  
21 form such functions and duties as the Commis-  
22 sion may prescribe.

23 “(D) PROFESSIONAL STAFF.—The Com-  
24 mission shall appoint such other economists as  
25 may be necessary to assist the Chief Economist

1 in performing such economic analysis, regu-  
2 latory cost-benefit analysis, or research any  
3 member of the Commission may request.”.

4 (b) CONFORMING AMENDMENT.—Section 2(a)(6)(A)  
5 of such Act (7 U.S.C. 2(a)(6)(A)) is amended by striking  
6 “(4) and (5) of this subsection” and inserting “(4), (5),  
7 and (17)”.

8 **SEC. 205. PROCEDURES GOVERNING ACTIONS TAKEN BY**  
9 **COMMISSION STAFF.**

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

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

14 “(12) RULES AND REGULATIONS.—

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

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

19 “(B) NOTICE TO COMMISSIONERS.—The  
20 Commission shall develop and publish internal  
21 procedures governing the issuance by any divi-  
22 sion or office of the Commission of any re-  
23 sponse to a formal, written request or petition  
24 from any member of the public for an exemp-  
25 tive, a no-action, or an interpretive letter and

1 such procedures shall provide that the commis-  
2 sioners be provided with the final version of the  
3 matter to be issued with sufficient notice to re-  
4 view the matter prior to its issuance.”.

5 **SEC. 206. STRATEGIC TECHNOLOGY PLAN.**

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

9 “(18) STRATEGIC TECHNOLOGY PLAN.—

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

17 “(B) CONTENTS.—The plan shall—

18 “(i) include for each related division  
19 or office a detailed technology strategy fo-  
20 cused on market surveillance and risk de-  
21 tection, market data collection, aggrega-  
22 tion, interpretation, standardization, har-  
23 monization, normalization, validation,  
24 streamlining or other data analytic proc-  
25 esses, and internal management and pro-

1           tection of data collected by the Commis-  
2           sion, including a detailed accounting of  
3           how the funds provided for technology will  
4           be used and the priorities that will apply in  
5           the use of the funds; and

6                   “(ii) set forth annual goals to be ac-  
7                   complished and annual budgets needed to  
8                   accomplish the goals.”.

9   **SEC. 207. INTERNAL RISK CONTROLS.**

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

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

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

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

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

1 “(5) SUBPOENA.—

2 “(A) IN GENERAL.—For”; and

3 (2) by adding after and below the end the fol-  
4 lowing:

5 “(B) OMNIBUS ORDERS OF INVESTIGA-  
6 TION.—

7 “(i) DURATION AND RENEWAL.—An  
8 omnibus order of investigation shall not be  
9 for an indefinite duration and may be re-  
10 newed only by Commission action.

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

19 **SEC. 209. APPLICABILITY OF NOTICE AND COMMENT RE-**  
20 **QUIREMENTS OF THE ADMINISTRATIVE PRO-**  
21 **CEDURE ACT TO GUIDANCE VOTED ON BY**  
22 **THE COMMISSION.**

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



1           “(D) APPLICABILITY OF NOTICE AND COM-  
2           MENT RULES TO GUIDANCE VOTED ON BY THE  
3           COMMISSION.—The notice and comment re-  
4           quirements of section 553 of title 5, United  
5           States Code, shall also apply with respect to  
6           any Commission statement or guidance, includ-  
7           ing interpretive rules, general statements of pol-  
8           icy, or rules of Commission organization, proce-  
9           dure, or practice, that has the effect of imple-  
10          menting, interpreting or prescribing law or pol-  
11          icy and that is voted on by the Commission.”.

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

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

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

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

1           “(b) A copy of the petition shall be transmitted forth-  
2 with by the clerk of the court to an officer designated by  
3 the Commission for that purpose. Thereupon the Commis-  
4 sion shall file in the court the record on which the rule  
5 complained of is entered, as provided in section 2112 of  
6 title 28, United States Code, and the Federal Rules of  
7 Appellate Procedure.

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

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

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

21           (a) **STUDY.**—The Comptroller General of the United  
22 States shall conduct a study of the resources of the Com-  
23 modity Futures Trading Commission that—

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

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

7                 (A) market surveillance and risk detection;

8                 and

9                 (B) market data collection, aggregation,  
10 interpretation, standardization, harmonization,  
11 and streamlining;

12           (3) analyzes the additional workload undertaken  
13 by the Commission, and ascertains where self-regu-  
14 latory organizations could be more effectively uti-  
15 lized; and

16           (4) examines existing and emerging post-trade  
17 risk reduction services in the swaps market, the no-  
18 tional amount of risk reduction transactions pro-  
19 vided by the services, and the effects the services  
20 have on financial stability, including—

21                 (A) market surveillance and risk detection;

22                 (B) market data collection, aggregation,  
23 interpretation, standardization, harmonization,  
24 and streamlining; and

1 (C) oversight and compliance work by mar-  
2 ket participants and regulators.

3 (b) REPORT.—Not later than 180 days after the date  
4 of the enactment of this Act, the Comptroller General of  
5 the United States shall submit to the Committee on Agri-  
6 culture of the House of Representatives and the Com-  
7 mittee on Agriculture, Nutrition, and Forestry of the Sen-  
8 ate a report that contains the results of the study required  
9 by subsection (a).

## 10 **TITLE III—END-USER RELIEF**

### 11 **SEC. 301. RELIEF FOR HEDGERS UTILIZING CENTRALIZED** 12 **RISK MANAGEMENT PRACTICES.**

13 (a) IN GENERAL.—

14 (1) COMMODITY EXCHANGE ACT AMEND-  
15 MENT.—Section 2(h)(7)(D)(i) of the Commodity Ex-  
16 change Act (7 U.S.C. 2(h)(7)(D)(i)) is amended to  
17 read as follows:

18 “(i) IN GENERAL.—An affiliate of a  
19 person that qualifies for an exception  
20 under subparagraph (A) (including an af-  
21 filiate entity predominantly engaged in  
22 providing financing for the purchase of the  
23 merchandise or manufactured goods of the  
24 person) may qualify for the exception only  
25 if the affiliate enters into the swap to

1 hedge or mitigate the commercial risk of  
2 the person or other affiliate of the person  
3 that is not a financial entity, provided that  
4 if the hedge or mitigation of such commer-  
5 cial risk is addressed by entering into a  
6 swap with a swap dealer or major swap  
7 participant, an appropriate credit support  
8 measure or other mechanism must be uti-  
9 lized.”.

10 (b) **APPLICABILITY OF CREDIT SUPPORT MEASURE**

11 **REQUIREMENT.**—Notwithstanding section 351 of this Act,  
12 the requirements in section 2(h)(7)(D)(i) of the Com-  
13 modity Exchange Act, as amended by subsection (a), re-  
14 quiring that a credit support measure or other mechanism  
15 be utilized if the transfer of commercial risk referred to  
16 in such section is addressed by entering into a swap with  
17 a swap dealer or major swap participant shall not apply  
18 with respect to swaps entered into before the date of the  
19 enactment of this Act.

20 **SEC. 302. INDEMNIFICATION REQUIREMENTS.**

21 (a) **DERIVATIVES CLEARING ORGANIZATIONS.**—Sec-  
22 tion 5b(k)(5) of the Commodity Exchange Act (7 U.S.C.  
23 7a-1(k)(5)) is amended to read as follows:

24 “(5) **CONFIDENTIALITY AGREEMENT.**—Before  
25 the Commission may share information with any en-



1           “(ii) In making a determination to ex-  
2           empt pursuant to subparagraph (D), the  
3           Commission shall treat a utility operations-  
4           related swap entered into with a utility  
5           special entity, as defined in section  
6           4s(h)(2)(D), as if it were entered into with  
7           an entity that is not a special entity, as de-  
8           fined in section 4s(h)(2)(C).”.

9   **SEC. 304. UTILITY SPECIAL ENTITY DEFINED.**

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

13           “(D) UTILITY SPECIAL ENTITY.—For pur-  
14           poses of this Act, the term ‘utility special enti-  
15           ty’ means a special entity, or any instrumen-  
16           tality, department, or corporation of or estab-  
17           lished by a State or political subdivision of a  
18           State, that—

19           “(i) owns or operates, or anticipates  
20           owning or operating, an electric or natural  
21           gas facility or an electric or natural gas  
22           operation;

23           “(ii) supplies, or anticipates sup-  
24           plying, natural gas and or electric energy  
25           to another utility special entity;

1           “(iii) has, or anticipates having, pub-  
2           lic service obligations under Federal, State,  
3           or local law or regulation to deliver electric  
4           energy or natural gas service to customers;  
5           or

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

9   **SEC. 305. UTILITY OPERATIONS-RELATED SWAP.**

10       (a)    SWAP    FURTHER    DEFINED.—Section  
11   1a(47)(A)(iii) of the Commodity Exchange Act (7 U.S.C.  
12   1a(47)(A)(iii)) is amended—

13           (1) by striking “and” at the end of subclause  
14       (XXI);

15           (2) by adding “and” at the end of subclause  
16       (XXII); and

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

18                           “(XXIII) a utility operations-re-  
19                           lated swap;”.

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

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

24       The term ‘utility operations-related swap’ means a  
25       swap that—



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

3           “(B) is not a contract, agreement, or  
4 transaction based on, derived on, or ref-  
5 erencing—

6                 “(i) an interest rate, credit, equity, or  
7 currency asset class; or

8                 “(ii) except as used for fuel for elec-  
9 tric energy generation, a metal, agricul-  
10 tural commodity, or crude oil or gasoline  
11 commodity of any grade; or

12                 “(iii) any other commodity or category  
13 of commodities identified for this purpose  
14 in a rule or order adopted by the Commis-  
15 sion in consultation with the appropriate  
16 Federal and State regulatory commissions;  
17 and

18           “(C) is associated with—

19                 “(i) the generation, production, pur-  
20 chase, or sale of natural gas or electric en-  
21 ergy, the supply of natural gas or electric  
22 energy to a utility, or the delivery of nat-  
23 ural gas or electric energy service to utility  
24 customers;

1 “(ii) fuel supply for the facilities or  
2 operations of a utility;

3 “(iii) compliance with an electric sys-  
4 tem reliability obligation;

5 “(iv) compliance with an energy, en-  
6 ergy efficiency, conservation, or renewable  
7 energy or environmental statute, regula-  
8 tion, or government order applicable to a  
9 utility; or

10 “(v) any other electric energy or nat-  
11 ural gas swap to which a utility is a  
12 party.”.

13 **SEC. 306. END-USERS NOT TREATED AS FINANCIAL ENTI-**  
14 **TIES.**

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

18 “(iii) LIMITATION.—Such definition  
19 shall not include an entity—

20 “(I) whose primary business is  
21 providing financing, and who uses de-  
22 rivatives for the purpose of hedging  
23 underlying commercial risks related to  
24 interest rate and foreign currency ex-  
25 posures, 90 percent or more of which

1 arise from financing that facilitates  
2 the purchase or lease of products, 90  
3 percent or more of which are manu-  
4 factured by the parent company or  
5 another subsidiary of the parent com-  
6 pany; or

7 “(II) who is not supervised by a  
8 prudential regulator, and is not de-  
9 scribed in any of subclauses (I)  
10 through (VII) of clause (i), and—

11 “(aa) is a commercial mar-  
12 ket participant; or

13 “(bb) enters into swaps,  
14 contracts for future delivery, and  
15 other derivatives on behalf of, or  
16 to hedge or mitigate the commer-  
17 cial risk of, whether directly or in  
18 the aggregate, affiliates that are  
19 not so supervised or described.”.

20 (b) COMMERCIAL MARKET PARTICIPANT DE-  
21 FINED.—

22 (1) IN GENERAL.—Section 1a of such Act (7  
23 U.S.C. 1a), as amended by section 305(b) of this  
24 Act, is amended by redesignating paragraphs (8)  
25 through (52) as paragraphs (9) through (53), re-

1           spectively, and by inserting after paragraph (6) the  
2           following:

3           “(7) COMMERCIAL MARKET PARTICIPANT.—The  
4           term ‘commercial market participant’ means any  
5           producer, processor, merchant, or commercial user  
6           of an exempt or agricultural commodity, or the prod-  
7           ucts or byproducts of such a commodity.”.

8           (2) CONFORMING AMENDMENTS.—

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

11           (i) in subparagraph (A) of paragraph  
12           (18) (as so redesignated by paragraph (1)  
13           of this subsection), in the matter preceding  
14           clause (i), by striking “(18)(A)” and in-  
15           serting “(19)(A)”; and

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

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

1 paragraph (19)(A)(vii)(III), paragraphs (24),  
2 (25), (32), (33), (39), (40), (42), (43), (47),  
3 (48), (49), and (50)”.

4 (C) Section 4q(a)(1) of such Act (7 U.S.C.  
5 6o-1(a)(1)) is amended by striking “1a(9)” and  
6 inserting “1a(10)”.

7 (D) Section 4s(f)(1)(D) of such Act (7  
8 U.S.C. 6s(f)(1)(D)) is amended by striking  
9 “1a(47)(A)(v)” and inserting “1a(48)(A)(v)”.

10 (E) Section 4s(h)(5)(A)(i) of such Act (7  
11 U.S.C. 6s(h)(5)(A)(i)) is amended by striking  
12 “1a(18)” and inserting “1a(19)”.

13 (F) Section 4t(b)(1)(C) of such Act (7  
14 U.S.C. 6t(b)(1)(C)) is amended by striking  
15 “1a(47)(A)(v)” and inserting “1a(48)(A)(v)”.

16 (G) Section 5(d)(23) of such Act (7 U.S.C.  
17 7(d)(23)) is amended by striking  
18 “1a(47)(A)(v)” and inserting “1a(48)(A)(v)”.

19 (H) Section 5(e)(1) of such Act (7 U.S.C.  
20 7(e)(1)) is amended by striking “1a(9)” and in-  
21 serting “1a(10)”.

22 (I) Section 5b(k)(3)(A) of such Act (7  
23 U.S.C. 7a-1(k)(3)(A)) is amended by striking  
24 “1a(47)(A)(v)” and inserting “1a(48)(A)(v)”.

1 (J) Section 5h(f)(10)(A)(iii) of such Act (7  
2 U.S.C. 7b-3(f)(10)(A)(iii)) is amended by strik-  
3 ing “1a(47)(A)(v)” and inserting  
4 “1a(48)(A)(v)”.

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

8 **SEC. 307. REPORTING OF ILLIQUID SWAPS SO AS TO NOT**  
9 **DISADVANTAGE CERTAIN NON-FINANCIAL**  
10 **END-USERS.**

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

13 (1) in subparagraph (C), by striking “The  
14 Commission” and inserting “Except as provided in  
15 subparagraph (D), the Commission”; and

16 (2) by redesignating subparagraphs (D)  
17 through (G) as subparagraphs (E) through (H), re-  
18 spectively, and inserting after subparagraph (C) the  
19 following:

20 “(D) REQUIREMENTS FOR SWAP TRANS-  
21 ACTIONS IN ILLIQUID MARKETS.—Notwith-  
22 standing subparagraph (C):

23 “(i) The Commission shall provide by  
24 rule for the public reporting of swap trans-  
25 actions, including price and volume data,

1 in illiquid markets that are not cleared and  
2 entered into by a non-financial entity that  
3 is hedging or mitigating commercial risk in  
4 accordance with subsection (h)(7)(A).

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

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

1 **SEC. 308. RELIEF FOR GRAIN ELEVATOR OPERATORS,**  
2 **FARMERS, AGRICULTURAL**  
3 **COUNTERPARTIES, AND COMMERCIAL MAR-**  
4 **KET PARTICIPANTS.**

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

7 **“SEC. 4u. RECORDKEEPING REQUIREMENTS APPLICABLE**  
8 **TO NON-REGISTERED MEMBERS OF CERTAIN**  
9 **REGISTERED ENTITIES.**

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



1 **SEC. 309. RELIEF FOR END-USERS WHO USE PHYSICAL**  
2 **CONTRACTS WITH VOLUMETRIC**  
3 **OPTIONALITY.**

4 Section 1a(47)(B)(ii) of the Commodity Exchange  
5 Act (7 U.S.C. 1a(47)(B)(ii)) is amended to read as fol-  
6 lows:

7 “(ii) any purchase or sale of a non-  
8 financial commodity or security for de-  
9 ferred shipment or delivery, so long as the  
10 transaction is intended to be physically set-  
11 tled, including any stand-alone or embed-  
12 ded option for which exercise results in a  
13 physical delivery obligation;”.

14 **SEC. 310. COMMISSION VOTE REQUIRED BEFORE AUTO-**  
15 **MATIC CHANGE OF SWAP DEALER DE MINI-**  
16 **MIS LEVEL.**

17 Section 1a(49)(D) of the Commodity Exchange Act  
18 (7 U.S.C. 1a(49)(D)) is amended—

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

21 “(D) EXCEPTION.—

22 “(i) IN GENERAL.—The Commission”;

23 and

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

1                   “(ii) DE MINIMIS QUANTITY.—The de  
2                   minimis quantity of swap dealing described  
3                   in clause (i) shall be set at a quantity of  
4                   \$8,000,000,000, and may be amended or  
5                   changed only through a new affirmative  
6                   action of the Commission undertaken by  
7                   rule or regulation.”.

8   **SEC. 311. CAPITAL REQUIREMENTS FOR NON-BANK SWAP**  
9                   **DEALERS.**

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

13                   (1) in paragraph (2)(B), by inserting “in con-  
14                   sultation with the prudential regulators and the Se-  
15                   curities and Exchange Commission” before “shall”;  
16                   and

17                   (2) in paragraph (3)(D)—

18                           (A) in clause (ii), by striking “shall, to the  
19                           maximum extent practicable,” and inserting  
20                           “shall”; and

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

22                                   “(iii) FINANCIAL MODELS.—To the  
23                                   extent that swap dealers and major swap  
24                                   participants that are banks are permitted  
25                                   to use financial models approved by the

1 prudential regulators or the Securities and  
2 Exchange Commission to calculate min-  
3 imum capital requirements and minimum  
4 initial and variation margin requirements,  
5 including the use of non-cash collateral,  
6 the Commission shall, in consultation with  
7 the prudential regulators and the Securi-  
8 ties and Exchange Commission, permit the  
9 use of comparable financial models by  
10 swap dealers and major swap participants  
11 that are not banks.”.

12 **SEC. 312. HARMONIZATION WITH THE JUMPSTART OUR**  
13 **BUSINESS STARTUPS ACT.**

14 Within 90 days after the date of the enactment of  
15 this Act, the Commodity Futures Trading Commission  
16 shall—

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

20 “(b) Relief available to commodity pool operators.  
21 Upon filing the notice required by paragraph (d) of this  
22 section, and subject to compliance with the conditions  
23 specified in paragraph (d) of this section, any registered  
24 commodity pool operator who sells participations in a pool  
25 solely to qualified eligible persons in an offering which

1 qualifies for exemption from the registration requirements  
2 of the Securities Act pursuant to section 4(2) of that Act  
3 or pursuant to Regulation S, 17 CFR 230.901 et seq.,  
4 and any bank registered as a commodity pool operator in  
5 connection with a pool that is a collective trust fund whose  
6 securities are exempt from registration under the Securi-  
7 ties Act pursuant to section 3(a)(2) of that Act and are  
8 sold solely to qualified eligible persons, may claim any or  
9 all of the following relief with respect to such pool:”;

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

12 “(i) Interests in the pool are exempt  
13 from registration under the Securities Act  
14 of 1933, and such interests are offered and  
15 sold pursuant to section 4 of the Securities  
16 Act of 1933 and the regulations there-  
17 under;”.

18 **SEC. 313. BONA FIDE HEDGE DEFINED TO PROTECT END-  
19 USER RISK MANAGEMENT NEEDS.**

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

22 (1) in paragraph (1)—

23 (A) by striking “may” and inserting  
24 “shall”; and

1 (B) by striking “future for which” and in-  
2 serting “future, to be determined by the Com-  
3 mission, for which either an appropriate swap is  
4 available or”;

5 (2) in paragraph (2)—

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

13 (B) in subparagraph (A)(ii), by striking  
14 “of risks” and inserting “or management of  
15 current or anticipated risks”; and

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

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

22 **SEC. 314. CROSS-BORDER REGULATION OF DERIVATIVES**  
23 **TRANSACTIONS.**

24 (a) **RULEMAKING REQUIRED.**—Within 1 year after  
25 the date of the enactment of this Act, the Commodity Fu-

1 tures Trading Commission shall issue a rule that address-  
2 es—

3 (1) the nature of the connections to the United  
4 States that require a non-U.S. person to register as  
5 a swap dealer or a major swap participant under the  
6 Commodity Exchange Act and the regulations issued  
7 under such Act;

8 (2) which of the United States swaps require-  
9 ments apply to the swap activities of non-U.S. per-  
10 sons and U.S. persons and their branches, agencies,  
11 subsidiaries, and affiliates outside of the United  
12 States, and the extent to which the requirements  
13 apply; and

14 (3) the circumstances under which a U.S. per-  
15 son or non-U.S. person in compliance with the swaps  
16 regulatory requirements of a foreign jurisdiction  
17 shall be exempt from United States swaps require-  
18 ments.

19 (b) CONTENT OF THE RULE.—

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

1 (A) the scope and objectives of the swaps  
2 regulatory requirements of the foreign jurisdic-  
3 tion;

4 (B) the effectiveness of the supervisory  
5 compliance program administered;

6 (C) the enforcement authority exercised by  
7 the foreign jurisdiction; and

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

11 (2) COMPARABILITY.—In the rule, the Commis-  
12 sion shall—

13 (A) provide that any non-U.S. person or  
14 any transaction between two non-U.S. persons  
15 shall be exempt from United States swaps re-  
16 quirements if the person or transaction is in  
17 compliance with the swaps regulatory require-  
18 ments of a foreign jurisdiction which the Com-  
19 mission has determined to be comparable to  
20 and as comprehensive as United States swaps  
21 requirements; and

22 (B) set forth the circumstances in which a  
23 U.S. person or a transaction between a U.S.  
24 person and a non-U.S. person shall be exempt  
25 from United States swaps requirements if the

1 person or transaction is in compliance with the  
2 swaps regulatory requirements of a foreign ju-  
3 risdiction which the Commission has determined  
4 to be comparable to and as comprehensive as  
5 United States swaps requirements.

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

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

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

19 (c) APPLICATION OF THE RULE.—

20 (1) ASSESSMENTS OF FOREIGN JURISDIC-  
21 TIONS.—Beginning on the date on which a final rule  
22 is issued under this section, the Commission shall  
23 begin to assess the swaps regulatory requirements of  
24 foreign jurisdictions, in the order the Commission  
25 determines appropriate, in accordance with the cri-



1       teria established pursuant to subsection (b)(1). Fol-  
2       lowing each assessment, the Commission shall deter-  
3       mine, by rule or by order, whether the swaps regu-  
4       latory requirements of the foreign jurisdiction are  
5       comparable to and as comprehensive as United  
6       States swaps requirements.

7           (2)       SUBSTITUTED       COMPLIANCE       FOR  
8       UNASSESSED    MAJOR    MARKETS.—Beginning   18  
9       months after the date of enactment of this Act—

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

19           (B) a non-U.S. person or a transaction be-  
20           tween 2 non-U.S. persons shall be exempt from  
21           United States swaps requirements if the person  
22           or transaction is in compliance with the swaps  
23           regulatory requirements of any of such  
24           unexcepted foreign jurisdictions.

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

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

9                   (B) the foreign jurisdiction does not ex-  
10                  empt from its swaps regulatory requirements  
11                  U.S. persons who are in compliance with United  
12                  States swaps requirements,

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

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

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

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

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

22 (1) U.S. PERSON.—The term “U.S. person”—  
23 (A) means—  
24 (i) any natural person resident in the  
25 United States;

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

6                   (iii) any account (whether discre-  
7                   tionary or non-discretionary) of a U.S. per-  
8                   son; and

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

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

20                  (2) UNITED STATES SWAPS REQUIREMENTS.—

21                  The term “United States swaps requirements”  
22                  means the provisions relating to swaps contained in  
23                  the Commodity Exchange Act (7 U.S.C. 1a et seq.)  
24                  that were added by title VII of the Dodd-Frank Wall  
25                  Street Reform and Consumer Protection Act (15

1 U.S.C. 8301 et seq.) and any rules or regulations  
2 prescribed by the Commodity Futures Trading Com-  
3 mission pursuant to such provisions.

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

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

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

## 18 **TITLE IV—TECHNICAL** 19 **CORRECTIONS**

### 20 **SEC. 401. CORRECTION OF REFERENCES.**

21 (a) Section 2(h)(8)(A)(ii) of the Commodity Ex-  
22 change Act (7 U.S.C. 2(h)(8)(A)(ii)) is amended by strik-  
23 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), and  
18 (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 (g)”  
21 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(18)(A)(x) of the Commodity Exchange  
19   Act (7 U.S.C. 1a(18)(A)(x)) is amended by striking  
20   “(other than an electronic trading facility with respect to  
21   a significant price discovery contract)”.

22          (b) Section 1a(40) of such Act (7 U.S.C. 1a(40)) is  
23   amended—

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

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

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

5           (1) in the 1st sentence—

6           (A) by striking “or by any electronic trad-  
7           ing facility”;

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

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

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

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

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

21          (1) by striking “, or any significant price dis-  
22          covery contract traded or executed on an electronic  
23          trading facility or any agreement, contract, or trans-  
24          action that is treated by a derivatives clearing orga-  
25          nization, whether registered or not registered, as



1 fungible with a significant price discovery contract”;  
2 and

3 (2) by striking “or electronic trading facility”

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

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

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

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

21 **SEC. 407. ELIMINATION OF REDUNDANT REFERENCES TO**  
22 **TYPES OF REGISTERED ENTITIES.**

23 Section 6b of the Commodity Exchange Act (7 U.S.C.  
24 13a) is amended in the 1st sentence by striking “as set  
25 forth in sections 5 through 5c”.

1 **SEC. 408. CLARIFICATION OF COMMISSION AUTHORITY**  
2 **OVER SWAPS TRADING.**

3 Section 8a of the Commodity Exchange Act (7 U.S.C.  
4 12a) is amended—

5 (1) in paragraph (7)—

6 (A) by inserting “the protection of swaps  
7 traders and to assure fair dealing in swaps,  
8 for” after “appropriate for”;

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

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

13 (2) in paragraph (9)—

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

16 (B) by inserting “swap or” after “margin  
17 levels on any”.

18 **SEC. 409. ELIMINATION OF OBSOLETE REFERENCE TO THE**  
19 **COMMODITY EXCHANGE COMMISSION.**

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

1 **SEC. 410. ELIMINATION OF OBSOLETE REFERENCES TO DE-**  
2 **RIVATIVE TRANSACTION EXECUTION FACILI-**  
3 **TIES.**

4 (a) Section 1a(12)(B)(vi) of the Commodity Ex-  
5 change Act (7 U.S.C. 1a(12)(B)(vi)) is amended by strik-  
6 ing “derivatives transaction execution facility” and insert-  
7 ing “swap execution facility”.

8 (b) Section 1a(34) of such Act (7 U.S.C. 1a(34)) is  
9 amended by striking “or derivatives transaction execution  
10 facility” each place it appears.

11 (c) Section 1a(35)(B)(iii)(I) of such Act (7 U.S.C.  
12 1a(35)(B)(iii)(I)) is amended by striking “or registered  
13 derivatives transaction execution facility”.

14 (d) Section 2(a)(1)(C)(ii) of such Act (7 U.S.C.  
15 2(a)(1)(C)(ii)) is amended—

16 (1) by striking “, or register a derivatives  
17 transaction execution facility that trades or exe-  
18 cutes,”;

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

23 (3) by striking “or the derivatives transaction  
24 execution facility,”.

25 (e) Section 2(a)(1)(C)(v)(I) of such Act (7 U.S.C.  
26 2(a)(1)(C)(v)(I)) is amended by striking “, or any deriva-

1 tives transaction execution facility on which such contract  
2 or option is traded,”.

3 (f) Section 2(a)(1)(C)(v)(II) of such Act (7 U.S.C.  
4 2(a)(1)(C)(v)(II)) is amended by striking “or derivatives  
5 transaction execution facility” each place it appears.

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

9 (h) Section 2(a)(1)(D)(i) of such Act (7 U.S.C.  
10 2(a)(1)(D)(i)) is amended in the matter preceding sub-  
11 clause (I)—

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

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

16 (i) Section 2(a)(1)(D)(i)(IV) of such Act (7 U.S.C.  
17 2(a)(1)(D)(i)(IV)) is amended by striking “registered de-  
18 rivatives transaction execution facility,” each place it ap-  
19 pears.

20 (j) Section 2(a)(1)(D)(ii)(I) of such Act (7 U.S.C.  
21 2(a)(1)(D)(ii)(I)) is amended to read as follows:

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

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

4 (l) Section 2(a)(1)(D)(ii)(III) of such Act (7 U.S.C.  
5 2(a)(1)(D)(ii)(III)) is amended by striking “or registered  
6 derivatives transaction execution facility member”.

7 (m) Section 2(a)(9)(B)(ii) of such Act (7 U.S.C.  
8 2(a)(9)(B)(ii)) is amended—

9 (1) by striking “or registration” each place it  
10 appears;

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

13 (3) by striking “or register”;

14 (4) by striking “registering,”;

15 (5) by striking “or registering,” each place it  
16 appears; and

17 (6) by striking “registration,”.

18 (n) Section 2(c)(2) of such Act (7 U.S.C. 2(c)(2)) is  
19 amended by striking “or a derivatives transaction execu-  
20 tion facility” each place it appears.

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

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

1 (1) by striking “or registered” after “des-  
2 ignated”; and

3 (2) by striking “or derivative transaction execu-  
4 tion facility”.

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

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

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

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

14 (s) Section 4c(g) of such Act (7 U.S.C. 6c(g)) is  
15 amended by striking “or derivatives transaction execution  
16 facility” each place it appears.

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

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

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

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

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

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

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

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

15 (bb) Section 5c(f)(1) of such Act (7 U.S.C. 7a-  
16 2(f)(1)) is amended by striking “or registered derivatives  
17 transaction execution facility”.

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

19 (1) by striking “or registered”;

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

22 (3) by striking “or registration” each place it  
23 appears.

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

1 (1) by striking “or registered”;

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

4 (3) by inserting “shall” before “exclude”.

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

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

8 (2) by striking “or a derivatives transaction  
9 execution facility”.

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

13 **SEC. 411. ELIMINATION OF OBSOLETE REFERENCES TO EX-**  
14 **EMPT BOARDS OF TRADE.**

15 (a) Section 1a(18)(A)(x) of the Commodity Exchange  
16 Act (7 U.S.C. 1a(18)(A)(x)) is amended by striking “or  
17 an exempt board of trade”.

18 (b) Section 12(e)(1)(B)(i) of such Act (7 U.S.C.  
19 16(e)(1)(B)(i)) is amended by striking “or exempt board  
20 of trade”.

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

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



1 **SEC. 413. COMPLIANCE REPORT FLEXIBILITY.**

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

4 “(B) REQUIREMENTS.—A compliance re-  
5 port under subparagraph (A) shall—

6 “(i) include a certification that, under  
7 penalty of law, the compliance report is  
8 materially accurate and complete; and

9 “(ii) be furnished at such time as the  
10 Commission determines by rule, regulation,  
11 or order, to be appropriate.”.

12 **SEC. 414. MISCELLANEOUS CORRECTIONS.**

13 (a) Section 1a(12)(A)(i)(II) of the Commodity Ex-  
14 change Act (7 U.S.C. 1a(12)(A)(i)(II)) is amended by  
15 adding at the end a semicolon.

16 (b) Section 2(a)(1)(C)(ii)(III) of such Act (7 U.S.C.  
17 2(a)(1)(C)(ii)(III)) is amended by moving the provision 2  
18 ems to the right.

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

22 (d) Section 2(a)(1)(C)(iv) of such Act (7 U.S.C.  
23 2(a)(1)(C)(iv)) is amended by striking “under or” and in-  
24 serting “under”.

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

4 (f) Section 2(a)(1)(C)(v)(VI) of such Act (7 U.S.C.  
5 2(a)(1)(C)(v)(VI)) is amended by striking “III” and in-  
6 serting “(III)”.

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

9 (h) Section 4(c)(3)(H) of such Act (7 U.S.C.  
10 6(c)(3)(H)) is amended by striking “state” and inserting  
11 “State”.

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

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

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

21 (k) Section 4f(c)(3)(A) of such Act (7 U.S.C.  
22 6f(c)(3)(A)) is amended by striking the 1st comma.

23 (l) Section 4f(c)(4)(A) of such Act (7 U.S.C.  
24 6f(c)(4)(A)) is amended by striking “in developing” and  
25 inserting “In developing”.

1 (m) Section 4f(c)(4)(B) of such Act (7 U.S.C.  
2 6f(c)(4)(B)) is amended by striking “1817(a)” and insert-  
3 ing “1817(a)”.

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

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

9 (p) Section 5f(b)(1) of such Act (7 U.S.C. 7b-  
10 1(b)(1)) is amended by striking “section 5f” and inserting  
11 “this section”.

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

14 (r) Section 8a of such Act (7 U.S.C. 12a) is amended  
15 in each of paragraphs (1)(E) and (3)(B) by striking “In-  
16 vestors” and inserting “Investor”.

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

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

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

1 (v) Section 17(b)(9)(D) of such Act (7 U.S.C.  
2 21(b)(9)(D)) is amended by striking the semicolon and in-  
3 serting a period.

4 (w) Section 17(b)(10)(C)(ii) of such Act (7 U.S.C.  
5 21(b)(10)(C)(ii)) is amended by striking “and” at the end.

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

9 (y) Section 17(b)(12) of such Act (7 U.S.C.  
10 21(b)(12)) is amended—

11 (1) by striking “(A)”; and

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

14 (z) Section 17(b)(13) of such Act (7 U.S.C.  
15 21(b)(13)) is amended by striking “A” and inserting “a”.

16 (aa) Section 17 of such Act (7 U.S.C. 21) is amended  
17 by redesignating subsection (q), as added by section  
18 233(5) of Public Law 97–444, and subsection (r) as sub-  
19 sections (r) and (s), respectively.

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

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