

COMMITTEE ON AGRICULTURE

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Bipartisan Legislation to Amend Title VII of Dodd-Frank Act in 113th Congress **House Committee on Agriculture**

1. H.R. 634: Business Risk Mitigation and Price Stabilization Act of 2013

- Would provide an exemption from Dodd-Frank margin requirements for swaps transactions that qualify for the end-user clearing exemption.
 - Congress never intended for end-users to be subject to expensive margin requirements, which would require companies to take capital away from their businesses and hinder their ability to make job-creating investments.
- 113th Congress: Introduced February 13, 2013
 - Sponsored by Reps. Michael Grimm (R-NY), Gary Peters (D-MI), Austin Scott (R-GA) and Mike McIntyre (D-NC)
 - 112th Congress: **H.R. 2682**, Sponsored by Reps. Michael Grimm, Gary Peters, Austin Scott and Bill Owens, Mike McIntyre, and Gwen Moore.
 - Passed Financial Services on November 30, 2011 by voice vote.
 - Passed Agriculture on January 25, 2012 by voice vote.
 - **Passed House** on March 26, 2012: 370 Yeas, 24 Nays.

2. H.R. 677: Inter-Affiliate Swap Clarification Act

- Would provide that inter-affiliate transactions, when the parties to the transaction are under common control, will not be regulated as swaps.
- Regulating inter-affiliate swaps provides no additional risk-reduction, but it does substantially raise costs for corporations.
- Ensures that transactions between affiliates within a single corporate group are not regulated as swaps.
- Regulators are considering requiring that inter-affiliate swaps are treated the same as all other swaps—requiring margin, clearing, and price reporting.
- Many companies use one affiliate to conduct swaps, and then allocate that risk to other affiliates within their corporate structure.
- If these inter-affiliate transactions are subject to the same regulation as other swaps, companies could be subject to double margin, and this centralized trading model may become cost-prohibitive.

- 113th Congress: Introduced February 13, 2013
- Sponsored by Reps. Steve Stivers (R-OH), Gwen Moore (D-WI), Chris Gibson (R-NY) and Marcia Fudge (D-OH).
- 112th Congress: **H.R. 2779**, Sponsored by Reps. Steve Stivers, Marcia Fudge, Chris Gibson and Gwen Moore.
- Passed Financial Services on November 30, 2011: 53 Yeas, 0 Nays.
- Passed Agriculture on January 25, 2012 by voice vote.
- **Passed House** on March 26, 2012: 357 Yeas, 36 Nays.

3. **H.R. 742: the Swap Data Repository and Clearinghouse Indemnification Correction Act of 2013**

- Would strike the indemnification requirements related to both swap data gathered by swap data repositories (SDRs) and data collected by the Commission from clearinghouses with regard to cleared swaps.
 - Indemnification is not a legal concept in most foreign jurisdictions outside of the U.S. And the indemnification provisions – that were not included in the House-passed version of Dodd-Frank – threaten to make data sharing arrangements with foreign regulators unworkable.
 - Global information sharing is critical to international regulators’ ability to monitor systemic risk.
 - Would allow data sharing between U.S. and international regulators and swap data repositories without adding an unnecessary layer of legal bureaucracy.
- 113th Congress: Introduced February 15, 2013
 - Sponsored by Reps. Rick Crawford (R-AR), Sean Patrick Maloney (D-NY) Bill Huizenga (R-MI), Gwen Moore (D-Wisconsin).
 - 112th Congress: **H.R. 4235**, Sponsored by Reps. Robert Dold, Gwen Moore, Rick Crawford, Terri Sewell, Chris Gibson, Mike Conaway, Stephen Fincher, Randy Hultgren, and Kurt Schrader.
 - Passed House Financial Services on March 27, 2012 by voice vote.

4. **H.R. 992, Swaps Regulatory Improvement Act**

- Amends Section 716 of the Dodd-Frank Act to limit the swap desk push-out requirement so that it does not apply to equity or commodity swaps, but it will continue to apply to structured finance swaps that are based on an asset-backed security.
 - Identical text was introduced in the Senate (S.474) and sponsored by Sens. Kay Hagan (D-NC), Pat Toomey (R-PA), Mark Warner (D-VA), Mike Johanns (R-NE).
- 113th Congress: Introduced March 6, 2013
 - Sponsored by Reps. Randy Hultgren (R-IL), Richard Hudson (R-NC), Sean Patrick Maloney (D-NY), Jim Himes (D-CT)
 - 112th Congress: **H.R. 1838**, Sponsored by Rep. Nan Hayworth.
 - Passed Financial Services Committee on February 16, 2012 by voice vote.

5. **H.R. 1003: CFTC Cost-Benefit Analysis**

- Raises the legal standard for cost-benefit analysis and ensures the CFTC must consider the potential consequences of its actions on businesses.
 - The Dodd-Frank Act is sweeping legislation that impacts every sector of the economy. Good policy requires careful consideration and analysis.
- 113th Congress: Introduced March 6, 2013
 - Sponsored by Reps. Mike Conaway (R-TX), David Scott (D-GA) Jim Jordon (R-OH), Patrick McHenry (R-NC), Scott Garrett (R-NJ)
 - 112th Congress: **H.R. 1840**, Sponsored by Rep. Mike Conaway and 10 other Members.
 - Passed Agriculture by voice on January 25, 2012
 - Text of bill included in H.R. 4078, the “Red Tape Reduction and Small Business Job Creation Act”; **passed House** with 245 Yeas, 172 Nays, on July 26, 2012.

6. **H.R. 1038, Public Power Risk Management Act**

- Would allow producers, utility companies, and other non-financial entities to continue entering into energy swaps with government-owned utilities (Aka: utility special entities) without danger of being required to register with the CFTC as a “swap dealer” solely because of their dealings with government-owned utilities.
 - Utility special entities should be allowed to keep using traditional swap counterparties to help manage their risk related to the generation of electricity or production of natural gas.
 - To hinder these utility’s ability to manage risk would only increase their costs and possibly lead to higher energy rates for millions of Americans – an unacceptable result during a period of tremendous economic uncertainty.
- 113th Congress: Introduced March 11, 2013
 - Sponsored by Reps. Doug LaMalfa (R-CA), Jeff Denham (R-CA), John Garamendi (D-CA), Blaine Luetkemeyer (R-MO), Jim Costa (D-CA)

7. **H.R. XX, Swap Jurisdiction Certainty Act – Discussion Draft**

- Would direct the Commodity Futures Trading Commission and the Securities and Exchange Commission to adopt a joint rule on how they will regulate cross-border swaps transactions as part of the new requirements created in the Dodd-Frank Wall Street Reform and Consumer Protection Act.
- Any cross-border rule jointly issued by the two agencies must go through a formal rulemaking process subject to the Administrative Procedures Act. No “guidance” from either Commission will have the force of law.
- Would ensure that foreign countries with broadly equivalent regulatory regimes are allowed to govern derivatives transactions within their own borders unless the CFTC and SEC determine that they are not honoring their 2009 G20 commitments to enact financial regulatory reforms surrounding the trading of derivatives.