

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 2779
OFFERED BY MR. LUCAS OF OKLAHOMA**

Strike all after the enacting clause and insert the following:

1 SECTION 1. TREATMENT OF AFFILIATE TRANSACTIONS.

2 (a) COMMODITY EXCHANGE ACT AMENDMENTS.—
3 Section 1a(47) of the Commodity Exchange Act (7 U.S.C.
4 1(a)(47)), as added by section 721(a)(21) of the Dodd-
5 Frank Wall Street Reform and Consumer Protection Act,
6 is amended by adding at the end the following:

7 “(G) TREATMENT OF AFFILIATE TRANS-
8 ACTIONS.—

9 “(i) IN GENERAL.—For the purposes
10 of any clearing and execution requirements
11 under section 2(h) and any applicable mar-
12 gin and capital requirements of section
13 4s(e) and for purposes of defining a swap
14 dealer or a major security-based swap par-
15 ticipant, and reporting requirements other
16 than those set forth in clause (ii), the term
17 ‘swap’ does not include any agreement,
18 contract, or transaction that—

1 “(I) would otherwise be included
2 as a ‘security-based swap’ under sub-
3 paragraph (A); and

4 “(II) is entered into by parties
5 that report information or prepare fi-
6 nancial statements on a consolidated
7 basis, or for which an affiliated com-
8 pany reports information or prepares
9 financial statements on a consolidated
10 basis for both parties.

11 “(ii) REPORTING.—All agreements,
12 contracts, or transactions described in
13 clause (i) shall be reported to either a
14 swap data repository, or, if there is no
15 swap data repository that would accept
16 such swaps, to the Commission pursuant
17 to section 4r, or to a swap data repository
18 or to the Commission pursuant to 2(h)(5)
19 within such time period as the Commission
20 may by rule or regulation prescribe. Noth-
21 ing in this section shall prohibit a swap
22 data repository from publically reporting
23 the information submitted pursuant to this
24 paragraph.

1 “(iii) PROTECTION OF INSURANCE
2 FUNDS.—Nothing in this subparagraph
3 shall be construed to prevent the regulator
4 of a Federal or State insurance fund or
5 guaranty fund from exercising its other ex-
6 isting authority to protect the integrity of
7 such a fund, except that such regulator
8 shall not subject swap transactions be-
9 tween affiliated companies to clearing and
10 execution requirements under section 2, to
11 any applicable margin and capital require-
12 ments of section 4s(e), or to reporting re-
13 quirements in the Wall Street Trans-
14 parency and Accountability Act of 2010
15 other than those set forth in clause (ii)

16 “(iv) PRESERVATION OF FEDERAL
17 BANKING AGENCIES’ AUTHORITY.—Noth-
18 ing in this section shall affect the Federal
19 banking agencies’ safety-and-soundness
20 and authorities outside of the Wall Street
21 Transparency and Accountability Act of
22 2010, including with respect to the author-
23 ity of the agencies to impose capital re-
24 quirements on a bank with regard to de-
25 rivatives transactions. For purposes of this

1 subparagraph, the term ‘safety-and-sound-
2 ness authorities’ does not include any au-
3 thority established by such Act.”.

4 (b) SECURITIES EXCHANGE ACT OF 1934 AMEND-
5 MENTS.—Section 3(a)(68) of the Securities Exchange Act
6 of 1934 (15 U.S.C. 78c(3)(a)(68)), as added by section
7 761(a)(6) of the Dodd-Frank Wall Street Reform and
8 Consumer Protection Act, is amended by adding at the
9 end the following:

10 “(F) TREATMENT OF AFFILIATE TRANS-
11 ACTIONS.—

12 “(i) IN GENERAL.—The term ‘secu-
13 rity-based swap’ does not include any
14 agreement, contract, or transaction that—

15 “(I) would otherwise be included
16 as a ‘security-based swap’ under sub-
17 paragraph (A); and

18 “(II) is entered into by a party
19 that is controlling, controlled by, or
20 under common control with its
21 counterparty.

22 “(ii) REPORTING.—All agreements,
23 contracts, or transactions described in
24 clause (i) shall be reported to either a se-
25 curity-based swap data repository, or, if

1 there is no security-based swap data repos-
2 itory that would accept such security-based
3 swaps, to the Commission pursuant to sec-
4 tion 13A within such time period as the
5 Commission may by rule or regulation pre-
6 scribe.”.

