

**AMENDMENT IN THE NATURE OF A SUBSTITUTE  
TO H.R. 3527  
OFFERED BY MR. LUCAS OF OKLAHOMA**

Strike all after the enacting clause and insert the following:

**1 SECTION 1. SHORT TITLE.**

2       This Act may be cited as the “Protecting Main Street  
3 End-Users From Excessive Regulation”.

**4 SEC. 2. CLARIFICATION OF THE DEFINITION OF SWAP**

**5                   DEALER.**

6       Section 1a(49) of the Commodity Exchange Act (7  
7 U.S.C. 1a(49)) is amended to read as follows:

8                   “(49) SWAP DEALER.—

9                   “(A) IN GENERAL.—The term ‘swap deal-  
10 er’ means any person who—

11                   “(i) holds itself out as a dealer in  
12 swaps;

13                   “(ii) makes a market in swaps;

14                   “(iii) regularly enters into swaps with  
15 counterparties as an ordinary course of  
16 business for its own account; or

1                   “(iv) engages in any activity causing  
2                   the person to be commonly known as a  
3                   dealer or market maker in swaps,  
4                   provided however, in no event shall an insured  
5                   depository institution be considered to be a  
6                   swap dealer to the extent it offers to enter into  
7                   a swap with a customer in connection with orig-  
8                   inating a loan to the customer.

9                   “(B) INCLUSION.—A person may be des-  
10                  ignated as a swap dealer for a single type or  
11                  single class or category of swap or activities and  
12                  considered not to be a swap dealer for other  
13                  types, classes, or categories of swaps or activi-  
14                  ties.

15                  “(C) EXCEPTIONS.—

16                  “(i) The term ‘swap dealer’ does not  
17                  include a person that enters into swaps for  
18                  such person’s own account, either individ-  
19                  ually or in a fiduciary capacity, but not as  
20                  part of regular business activities as de-  
21                  scribed in subparagraph (A).

22                  “(ii) In determining whether a person  
23                  is a ‘swap dealer’ within the meaning of  
24                  subparagraph (A), any transaction entered  
25                  into for a person’s own account for the

1           purpose of hedging or mitigating commer-  
2           cial risk shall not be considered as part of  
3           that determination.

4           “(iii) The Commission shall by rule  
5           adopt standards distinguishing the activi-  
6           ties described in subparagraph (A) and en-  
7           tering into swaps for a person’s own ac-  
8           count for the purpose of achieving one’s  
9           own trading objectives as determined by  
10          the Commission.

11          “(D) DE MINIMIS EXCEPTION.—The Com-  
12          mission shall exempt from designation as a  
13          swap dealer an entity that enters into swap  
14          dealing transactions with or on behalf of the  
15          person’s customers if the aggregate gross no-  
16          tional amount of the outstanding swap dealing  
17          transactions entered into over the course of the  
18          preceding calendar year does not exceed  
19          \$3,000,000,000 (or such greater amount as the  
20          Commission may establish as market conditions  
21          warrant), multiplied by the sum of 1 and the  
22          percentage (if any) by which the Consumer  
23          Price Index for all Urban Customers published  
24          by the Bureau of Labor Statistics of the De-

1           partment of Labor changed for the 12-month  
2           period ending the preceding April 30.”.

