

112TH CONGRESS
1ST SESSION

H. R. 3527

To amend the Commodity Exchange Act to clarify the definition of swap dealer.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 30, 2011

Mr. HULTGREN (for himself, Mr. BOREN, Mrs. BIGGERT, Mr. DOLD, Mr. JOHNSON of Illinois, Mr. LANCE, Mr. KINZINGER of Illinois, Mr. MANZULLO, and Mr. SCHOCK) introduced the following bill; which was referred to the Committee on Agriculture

A BILL

To amend the Commodity Exchange Act to clarify the definition of swap dealer.

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

3 **SECTION 1. SHORT TITLE.**

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

6 **SEC. 2. CLARIFICATION OF THE DEFINITION OF SWAP**
7 **DEALER.**

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

1 “(49) SWAP DEALER.—

2 “(A) IN GENERAL.—The term ‘swap deal-
3 er’ means any person who is engaged in the
4 business of entering into swaps, and—

5 “(i) holds itself out as a dealer in
6 swaps;

7 “(ii) makes a market in swaps; or

8 “(iii) engages in any activity causing
9 the person to be commonly known as a
10 dealer or market maker in swaps,

11 provided however, in no event shall an insured
12 depository institution be considered to be a
13 swap dealer to the extent it offers to enter into
14 a swap with a customer in connection with orig-
15 inating a loan to the customer.

16 “(B) INCLUSION.—A person may be des-
17 ignated as a swap dealer for a single type or
18 single class or category of swap or activities and
19 considered not to be a swap dealer for other
20 types, classes, or categories of swaps or activi-
21 ties.

22 “(C) EXCEPTION.—In determining wheth-
23 er a person is a ‘swap dealer’ within the mean-
24 ing of subparagraph (A), no consideration shall

1 be given to any transaction entered into for the
2 person's own account for the purpose of—

3 “(i) hedging or mitigating commercial
4 risk; or

5 “(ii) achieving the person's own trad-
6 ing or investment objectives.

7 “(D) DE MINIMIS EXCEPTION.—The Com-
8 mission shall exempt from designation as a
9 swap dealer an entity that enters into swap
10 dealing transactions with or on behalf of the
11 person's customers if the aggregate gross no-
12 tional amount of the outstanding swap dealing
13 transactions entered into over the course of the
14 preceding calendar year does not exceed
15 \$3,000,000,000 (or such greater amount as the
16 Commission may establish as market conditions
17 warrant), multiplied by the sum of 1 and the
18 percentage (if any) by which the Consumer
19 Price Index for all Urban Customers published
20 by the Bureau of Labor Statistics of the De-
21 partment of Labor changed for the 12-month
22 period ending the preceding April 30.”.

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