

**AMENDMENT TO H.R. 3283**

**OFFERED BY \_\_\_\_\_**

At the end of the bill insert the following:

1 **SEC. 4. PRUDENTIAL REGULATION.**

2 Section 15F(a)(3) of the Securities Exchange Act of  
3 1934, as amended by section 3, is further amended by  
4 adding at the end the following:

5 “(4) PRUDENTIAL REGULATION.—A securities-  
6 based swap dealer that—

7 “(A) is registered with the Commission,

8 “(B) is a bank or a bank holding company,

9 and

10 “(C) conducts swap activities with non-  
11 U.S. persons (as defined under paragraph  
12 (3)(C)) out of an agency or branch of such  
13 dealer,

14 shall continue to be subject to any prudential or  
15 other rules, other than those issued under title VII  
16 of the Dodd-Frank Wall Street Reform and Con-  
17 sumer Protection Act or any amendment made by  
18 such title, of any relevant prudential regulator in the  
19 United States, including capital and safety and  
20 soundness.”.

1 **SEC. 5. PREVENTION OF IMPORTATION OF SYSTEMIC RISK**  
2 **AND THREATS TO U.S. FINANCIAL STABILITY.**

3 (a) IN GENERAL.— Title VII of the Dodd-Frank  
4 Wall Street Reform and Consumer Protection Act is  
5 amended by inserting after section 714 the following:

6 **“SEC. 714A. PREVENTION OF IMPORTATION OF SYSTEMIC**  
7 **RISKS AND THREATS TO THE FINANCIAL STA-**  
8 **BILITY OF THE UNITED STATES.**

9 “(a) IN GENERAL.—Notwithstanding section  
10 4s(a)(3) of the Commodity Exchange Act and section  
11 15F(a)(3) of the Securities Exchange Act of 1934, the  
12 Commodity Futures Trading Commission and the Securi-  
13 ties and Exchange Commission may, acting jointly, subject  
14 some or all of the swaps or security-based swaps that  
15 would not otherwise be subject to the provisions of this  
16 title or the amendments made by this title by reason of  
17 such sections 4s(a)(3) and 15F(a)(3) (hereinafter in this  
18 section referred to as ‘offshore swaps’) to any or all of  
19 the provisions of this title and the amendments made by  
20 this title, if the Commodity Futures Trading Commission  
21 and the Securities and Exchange Commission, jointly—

22 “(1) make a written determination that sub-  
23 jecting offshore swaps to some or all of the provi-  
24 sions of this title and the amendments made by this  
25 title is necessary—

1           “(A) to prevent the importation of sys-  
2           temic risk into the United States;

3           “(B) to avoid threats to the financial sta-  
4           bility of the United States; or

5           “(C) to prevent evasion of United States  
6           laws or regulations; and

7           “(2) submit such written determination to the  
8           Committee on Financial Services and the Committee  
9           on Agriculture of the House of Representatives and  
10          the Committee on Banking, Housing, and Urban Af-  
11          fairs of the Senate.

12          “(b) FACTORS TO BE CONSIDERED.—In making the  
13          determination described under subsection (a), the Com-  
14          modity Futures Trading Commission and the Securities  
15          and Exchange Commission shall consider the following:

16                 “(1) The extent to which the appropriate pru-  
17                 dential regulators have established adequate super-  
18                 visory frameworks with regard to offshore swap ac-  
19                 tivities of banks and bank holding companies that  
20                 participate in the offshore swap market, including  
21                 capital and risk management requirements.

22                 “(2) Whether, and the extent to which, offshore  
23                 swaps are subject to foreign regulatory regimes that  
24                 are materially comparable to the regulatory regimes

1 established in the United States for swaps and secu-  
2 rity-based swaps.

3 “(3) Whether clearing and trading of offshore  
4 swaps is necessary to reduce systemic risk, foster  
5 transparency, and avoid threats to the financial sta-  
6 bility of the United States.

7 “(4) The extent to which there are offshore  
8 swaps that are conducted by U.S. persons (as de-  
9 fined under section 15F(a)(3)(D) of the Securities  
10 Exchange Act of 1934) whose activities are not sub-  
11 ject to regulation on a global basis.

12 “(5) The extent to which offshore swaps are  
13 structured for the purpose of evading United States  
14 regulatory requirements.

15 “(c) CONSULTATION.—In applying any provision of  
16 this title or the amendments made by this title to an off-  
17 shore swap made by a bank or bank holding company, the  
18 Commodity Futures Trading Commission and the Securi-  
19 ties and Exchange Commission shall consult with the ap-  
20 propriate prudential regulator of such bank or bank hold-  
21 ing company.

22 “(d) EFFECTIVE DATE OF DETERMINATION.—

23 “(1) IN GENERAL.—An offshore swap may not  
24 be subject to any provision of this title or the  
25 amendments made by this title until the end of the

1 180-day period following the submission of the writ-  
2 ten determination described under subsection (a)(2).

3 “(2) EXCEPTION IN CASES OF EVASION.—Not-  
4 withstanding paragraph (1), if the Commodity Fu-  
5 tures Trading Commission and the Securities and  
6 Exchange Commission jointly determine that an off-  
7 shore swap is being used to evade a law or regula-  
8 tion of the United States, such swap may be subject  
9 to the provisions of this title and the amendments  
10 made by this title on any date after the submission  
11 of the written determination described under sub-  
12 section (a)(2), as determined by such Commis-  
13 sions.”.

14 (b) TABLE OF CONTENTS AMENDMENT.—The table  
15 of contents of the Dodd-Frank Wall Street Reform and  
16 Consumer Protection Act is amended by inserting after  
17 the item relating to section 714 the following new item:

“Sec. 714A. Prevention of importation of systemic risks and threats to the fi-  
nancial stability of the United States.”.



