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(Original Signature of Member)

115TH CONGRESS  
1ST SESSION

**H. R.** \_\_\_\_\_

To amend the Securities Exchange Act of 1934 and the Commodity Exchange Act to remove unfairness in the scope of end-user relief for end users hedging bona fide business risks, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

M. \_\_\_\_\_ introduced the following bill; which was referred to the  
Committee on \_\_\_\_\_

\_\_\_\_\_  
**A BILL**

To amend the Securities Exchange Act of 1934 and the Commodity Exchange Act to remove unfairness in the scope of end-user relief for end users hedging bona fide business risks, and for other purposes.

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. FIXING END-USER UNFAIRNESS LANGUAGE.**

4 (a) SECURITIES EXCHANGE ACT OF 1934.—Section  
5 3C(g)(3) of the Securities Exchange Act of 1934 (15  
6 U.S.C. 78c–3(g)(3)) is amended—

7 (1) in subparagraph (A)—

1 (A) in clause (v), by striking the semicolon  
2 at the end and inserting “that is required to be  
3 operated by a commodity pool operator reg-  
4 istered under such Act;”; and

5 (B) in clause (vi), by striking the semi-  
6 colon at the end and inserting “, other than a  
7 private fund that has a majority of the fund’s  
8 assets invested, directly or indirectly, in phys-  
9 ical assets or a private fund that is engaged pri-  
10 marily in the business of owning and operating  
11 commercial businesses;”; and

12 (2) by adding at the end the following:

13 “(C) EXCLUSION FOR DE MINIMIS FINAN-  
14 CIAL ACTIVITY.—

15 “(i) IN GENERAL.—For the purposes  
16 of this subsection, the term ‘financial enti-  
17 ty’ does not include an entity described in  
18 clauses (vii) or (viii) of subparagraph (A)  
19 that engages in de minimis financial activ-  
20 ity.

21 “(ii) DEFINITION OF DE MINIMIS FI-  
22 NANCIAL ACTIVITY.—For the purposes of  
23 this paragraph, the term ‘de minimis fi-  
24 nancial activity’ means the entity had an  
25 average daily notional amount of uncleared

1 swaps, excluding swaps that hedge or miti-  
2 gate commercial risk, with all  
3 counterparties during business days in  
4 June, July, and August of the previous cal-  
5 endar year of less than \$1,000,000,000.”.

6 (b) COMMODITY EXCHANGE ACT.—Section  
7 2(h)(7)(C) of the Commodity Exchange Act (7 U.S.C.  
8 2(h)(7)(C)) is amended—

9 (1) in clause (i)—

10 (A) in subclause (V), by striking the semi-  
11 colon at the end and inserting “that is required  
12 to be operated by a commodity pool operator  
13 registered under this Act;”; and

14 (B) in subclause (VI), by striking the semi-  
15 colon at the end and inserting “, other than a  
16 private fund that has a majority of the fund’s  
17 assets invested, directly or indirectly, in phys-  
18 ical assets or a private fund that is engaged pri-  
19 marily in the business of owning and operating  
20 commercial businesses;”; and

21 (2) by adding at the end the following:

22 “(iv) EXCLUSION FOR DE MINIMIS FI-  
23 NANCIAL ACTIVITY.—

24 “(I) IN GENERAL.—For the pur-  
25 poses of this paragraph, the term ‘fi-

1 nancial entity’ does not include an en-  
2 tity described in subclauses (VII) or  
3 (VIII) of clause (i) that engages in de  
4 minimis financial activity.

5 “(II) DEFINITION OF DE MINIMIS  
6 FINANCIAL ACTIVITY.—For the pur-  
7 poses of this clause, the term ‘de  
8 minimis financial activity’ means the  
9 entity had an average daily notional  
10 amount of uncleared swaps, excluding  
11 swaps that hedge or mitigate commer-  
12 cial risk, with all counterparties dur-  
13 ing business days in June, July, and  
14 August of the previous calendar year  
15 of less than \$1,000,000,000.”.