

[DISCUSSION DRAFT]

112TH CONGRESS
1ST SESSION

H. R. _____

To amend the definitions “major swap participant” and “major security-based swap participant” in the Commodity Exchange Act and the Securities Exchange Act of 1934, respectively.

IN THE HOUSE OF REPRESENTATIVES

Mr. GRIMM introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the definitions “major swap participant” and “major security-based swap participant” in the Commodity Exchange Act and the Securities Exchange Act of 1934, respectively.

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

1 **SECTION 1. DEFINITIONS OF MAJOR SWAP PARTICIPANT**
2 **AND MAJOR SECURITY-BASED SWAP PARTICI-**
3 **PANT.**

4 (a) MAJOR SWAP PARTICIPANT.—Paragraph (33) of
5 section 1a of the Commodity Exchange Act (7 U.S.C. 1a)
6 is amended to read as follows:

7 “(33) MAJOR SWAP PARTICIPANT.—

8 “(A) IN GENERAL.—The term ‘major swap
9 participant’ means any person who is not a
10 swap dealer, and—

11 “(i) maintains a substantial net posi-
12 tion in outstanding swaps, excluding posi-
13 tions held primarily for hedging, reducing,
14 or otherwise mitigating its commercial
15 risk; or

16 “(ii) whose outstanding swaps create
17 substantial net counterparty exposure that
18 could have serious adverse effects on the
19 financial stability of the United States
20 banking system or financial markets.

21 “(B) DEFINITION OF SUBSTANTIAL NET
22 POSITION.—The Commission shall define by
23 rule or regulation the term ‘substantial net po-
24 sition’ at a threshold that the Commission de-
25 termines prudent for the effective monitoring,
26 management, and oversight of entities which

1 are systemically important or can significantly
2 impact the financial system of the United
3 States. In setting the definitions, the Commis-
4 sion shall consider the person's relative position
5 in uncleared as opposed to cleared swaps.

6 “(C) CONSTRUCTION.—A person may be
7 designated a major swap participant for 1 or
8 more individual types of swaps without being
9 classified as a major swap participant for all
10 classes of swaps.”

11 (b) MAJOR SECURITY-BASED SWAP PARTICIPANT.—
12 Paragraph (67) of section 3(a) of the Securities Exchange
13 Act of 1934 (15 U.S.C. 78c(a)) is amended to read as
14 follows:

15 “(67) MAJOR SECURITY-BASED SWAP PARTICI-
16 PANT.—

17 “(A) IN GENERAL.—The term ‘major secu-
18 rity-based swap participant’ means any person
19 who is not a security-based swap dealer, and—

20 “(i) maintains a substantial net posi-
21 tion in outstanding security-based swaps,
22 excluding positions held primarily for hedg-
23 ing, reducing or otherwise mitigating its
24 commercial risk; or

1 “(ii) whose outstanding security-based
2 swaps create substantial net counterparty
3 exposure that could have serious adverse
4 effects on the financial stability of the
5 United States banking system or financial
6 markets.

7 “(B) DEFINITION OF SUBSTANTIAL NET
8 POSITION.—The Commission shall define by
9 rule or regulation the term ‘substantial net po-
10 sition’ at a threshold that the Commission de-
11 termines prudent for the effective monitoring,
12 management, and oversight of entities which
13 are systemically important or can significantly
14 impact the financial system. In setting the defi-
15 nitions, the Commission shall consider the per-
16 son’s relative position in uncleared as opposed
17 to cleared security-based swaps.

18 “(C) CONSTRUCTION.—A person may be
19 designated a major security-based swap partici-
20 pant for 1 or more individual types of security-
21 based swaps without being classified as a major
22 security-based swap participant for all classes
23 of security-based swaps.”.

24 (c) EFFECTIVE DATES.—

1 (1) The amendment made by subsection (a)
2 shall take effect as if included in the enactment of
3 subtitle A of title VII of the Dodd-Frank Wall
4 Street Reform and Consumer Protection Act.

5 (2) The amendment made by subsection (b)
6 shall take effect as if included in the enactment of
7 subtitle B of title VII of the Dodd-Frank Wall
8 Street Reform and Consumer Protection Act.