Amendment to H.R. 333, As Reported

Offered by Mr. Oxley of Ohio and Mr. LaFalce of New York

Page 286, line 10, insert "mortgage" before "loan".

Page 286, line 11, insert ", and including any repurchase or reverse repurchase transaction on any such security, certificate of deposit, loan, interest, group or index, or option" before the semicolon at the end.

Page 287, line 10, insert a comma after "index".

Page 288, line 18, insert "or any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in this clause" after "clause".

Page 291, line 8, insert "or any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in this clause" after "clause".

Page 293, line 7, insert "or any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause" after "(III), or (IV)".

Page 296, line 2, insert "or any guarantee or reimbursement obligation in connection with any agreement

or transaction referred to in any such subclause" after "(IV), or (V)".

Page 297, line 7, insert "total return," before "credit".

Page 297, line 15, insert "that is" before "similar".

Page 297, line 17, strike "that" and insert "and that has been,".

Page 297, beginning on line 18, strike "regularly entered into in the swap market" and insert "the subject of recurrent dealings in the swap markets".

Page 298, line 1, insert "quantitative measures associated with an occurrence, extent of an occurrence or contingency associated with a financial, commercial or economic consequence," before "or".

Page 298, line 1, insert "or financial" after "economic".

Page 298, line 2, insert "or financial" after "economic".

Page 299, beginning on line 4, strike "subparagraph" and insert "subclause".

Page 299, line 5, insert "or any guarantee or reimbursement obligation in connection with any agreement

or transaction referred to in any such subclause'' before the period at the end.

Page 299, line 19, insert ''the Gramm-Leach-Bliley Act, the Legal Certainty for Bank Products Act of 2000,'' before ''and''.

Page 305, line 19, strike ''contract'' and insert ''contracts''.

Page 306, line 18, insert ''cleared by or'' before ''subject''.

Page 307, line 2, insert ''and the term 'clearing organization' means a 'clearing organization' as defined in Section 402 of the Federal Deposit Insurance Corporation Improvement Act of 1991'' after ''financial institution''.

Page 313, line 2, strike ''or that'' and insert '', that''.

Page 313, line 4, insert ''or that is a multilateral clearing organization (as defined in section 408 of this Act)'' before the closing quotation marks.

Page 317, line 12, strike ''BANKS AND'' insert ''BANKS,''.

Page 317, line 13, insert ", CERTAIN UNINSURED STATE MEMBER BANKS, AND EDGE ACT CORPORATIONS" before the period.

Page 317, line 21, strike "**BANKS AND**" and insert "**BANKS,**".

Page 317, line 22, insert "**, CERTAIN UNINSURED STATE MEMBER BANKS, AND EDGE ACT CORPORATIONS**" before the period.

Page 318, line 2, insert "or a corporation chartered under section 25A of the Federal Reserve Act or an uninsured State member bank which operates, or operates as, a multilateral clearing organization pursuant to section 409 of this Act," after "agency".

Page 318, line 7, insert "in the case of an uninsured national bank or uninsured Federal branch or agency, or to the receiver of a corporation chartered under section 25A of the Federal Reserve Act or an uninsured State member bank appointed by the Board of Governors of the Federal Reserve System in the case of a corporation chartered under section 25A of the Federal Reserve Act or an uninsured State member bank" before the semicolon at the end.

Page 318, line 15, insert "in the case of an uninsured national bank or uninsured Federal branch or

agency, or to the receiver or conservator of a corporation chartered under section 25A of the Federal Reserve Act or an uninsured State member bank appointed by the Board of Governors of the Federal Reserve System in the case of a corporation chartered under section 25A of the Federal Reserve Act or an uninsured State member bank'' before ''; and''.

Page 318, line 18, strike ''bank or'' and insert ''bank,''.

Page 318, line 19, insert ''a corporation chartered under section 25A of the Federal Reserve Act or an uninsured State member bank which operates, or operates as, a multilateral clearing organization pursuant to section 409 of this Act'' before the period at the end.

Page 318, line 21, strike ''bank or'' and insert ''bank,''.

Page 318, line 22, insert ''a corporation chartered under section 25A of the Federal Reserve Act or an uninsured State member bank which operates, or operates as, a multilateral clearing organization pursuant to section 409 of this Act,'' after ''agency''.

Page 319, line 3, insert ''and the Board of Governors of the Federal Reserve System'' after ''Currency''.

Page 319, line 4, insert "each" after "may".

Page 319, line 8, insert "and the Board of Governors of the Federal Reserve System" after "Currency".

Page 319, line 8, insert "each" after "shall".

Page 321, line 6, insert "or any guarantee or reimbursement obligation by or to a forward contract merchant or financial participant in connection with any agreement or transaction referred to in any such subparagraph," after "(C), or (D)".

Page 321, beginning on line 7, strike "actual value of such contract on the date of the filing of the petition" and insert "damages in connection with any such agreement or transaction measured in accordance with Section 562 of this title".

Page 323, line 18, insert "or any guarantee or reimbursement obligation by or to a repo participant or financial participant in connection with any agreement or transaction referred to in any such clause" after "(iii), or (iv)" .

Page 323, beginning on line 19, strike "actual value of such contract on the date of the filing of the petition" and insert "damages in connection with any such agree-

ment or transaction measured in accordance with section 562 of this title''.

Page 324, beginning on line 11, strike ''which is an interest rate swap'' and insert ''which is—

''(I) an interest rate swap''.

Page 324, beginning on line 13, strike ''including—'' and all that follows through ''a rate floor'' on line 14, and insert ''including a rate floor''

Page 325, line 3, insert ''total return,'' before ''credit spread''.

Page 325, line 12, insert ''that is'' before ''similar''.

Page 325, line 13, insert ''and'' before ''that''.

Page 325, line 14, insert ''has been,'' before ''is''.

Page 325, beginning on line 15, strike ''regularly entered into in the swap market'' and insert ''the subject of recurrent dealings in the swap markets''.

Page 325, line 23, insert ''quantitative measures associated with an occurrence, extent of an occurrence or contingency associated with a financial, commercial or economic consequence,'' after ''instruments,''.

Page 325, line 24, insert ''or financial'' after ''economic''.

Page 325, line 25, insert "or financial" before "risk".

Page 326, line 24, insert "or any guarantee or reimbursement obligation by or to a swap participant or financial participant in connection with any agreement or transaction referred to in any such clause" after "through (v)".

Page 326, beginning on line 25, strike "actual value of such contract on the date of the filing of the petition" and insert "damages in connection with any such agreement or transaction measured in accordance with section 562 of this title".

Page 327, line 14, insert "the Gramm-Leach-Bliley Act, the Legal Certainty for Bank Products Act of 2000," before "and".

Page 328, line 6, insert "mortgage" before "loan".

Page 328, line 7, insert ", and including any repurchase or reverse repurchase transaction on any such security, certificate of deposit, loan, interest, group or index, or option" before the semicolon at the end.

Page 329, line 25, strike the comma.

Page 330, line 2, insert "or any guarantee or reimbursement obligation by or to a stockbroker, securities

clearing agency, financial institution or financial partici-
pant in connection with any agreement or transaction re-
ferred to in this subparagraph'' before the comma after
''subparagraph''.

Page 330, beginning on line 3, strike ''actual value
of such contract on the date of the filing of the petition''
and insert ''damages in connection with any such agree-
ment or transaction measured in accordance with section
562 of this title''.

Page 331, line 12, insert ''or any guarantee or reim-
bursement obligation by or to a commodity broker or fi-
nancial participant in connection with any agreement or
transaction referred to in this paragraph'' before the
comma after ''paragraph''.

Page 331, beginning on line 12, strike ''actual value
of such contract on the date of the filing of the petition''
and insert ''damages in connection with any such agree-
ment or transaction measured in accordance with section
562 of this title''.

Page 331, after line 18, insert the following new
paragraph (and redesignate subsequent paragraphs ac-
cordingly):

1   (1) by striking paragraph (22) and inserting
2   the following:

1   "(22) 'financial institution' means—

2   "(A) a Federal reserve bank, or an entity

3   (domestic or foreign) that is a commercial or

4   savings bank, industrial savings bank, savings

5   and loan association, trust company, or receiver

6   or conservator for such entity and, when any

7   such Federal reserve bank, receiver, conservator

8   or entity is acting as agent or custodian for a

9   customer in connection with a securities con-

10   tract, as defined in section 741, such customer;

11   or

12   "(B) in connection with a securities con-

13   tract, as defined in section 741, an investment

14   company registered under the Investment Com-

15   pany Act of 1940;";

Page 332, line 13, strike "participant' means an en-
tity" and insert "participant' means—

        "(A) an entity".

Page 332, line 15, insert "swap agreement, repur-
chase agreement," after "commodity contract,".

Page 333, line 3, strike the closing quotation marks
and the second semicolon.

Page 333, after line 3, insert the following new sub-
paragraph:

1   "(B) a 'clearing organization' (as such

2   term is defined in section 402 of the Federal

3   Deposit Insurance Corporation Improvement

4   Act of 1991);"; and

5   Page 333, line 7, strike the comma after "entity".

6   Page 333, line 9, strike "or" after "merchants".

7   Page 334, line 3, insert "or any guarantee or reim-

8 bursement obligation related to 1 or more of the fore-

9 going" before the semicolon.

10   Page 334, line 24, strike "and".

11   Page 335, line 2, strike "and".

12   Page 335, line 7, insert "or financial participant"

13 after "swap participant".

14   Page 335, line 13, insert "or financial participant"

15 after "swap participant".

16   Page 335, line 15, strike "and".

17   Page 335, line 17, insert "or financial participant"

18 after "swap participant".

19   Page 336, line 10, strike "and".

20   Page 337, strike line 8.

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1   Page 337, after line 11, insert the following new sub-

2 paragraph:

3   (C) by inserting 'or financial participant'

4   after 'swap participant' each time such term

5   appears; and

    Page 339, strike line 12.

    Page 339, line 15, strike the period at the end and insert "; and".

    Page 339, after line 15, insert the following new paragraph:

6   (3) by striking so much of the text of the sec-

7   ond sentence as appears before "whether" and in-

8   serting "As used in this section, the term "contrac-

9   tual right" includes a right set forth in a rule or

10   bylaw of a derivatives clearing organization (as de-

11   fined in the Commodity Exchange Act), a multilat-

12   eral clearing organization (as defined in the Federal

13   Deposit Insurance Corporation Improvement Act of

14   1991), a national securities exchange, a national se-

15   curities association, a contract market designated

16   under the Commodity Exchange Act, a derivatives

17   transaction execution facility registered under the

18   Commodity Exchange Act, or a board of trade (as

19   defined in the Commodity Exchange Act) or in a

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1   resolution of the governing board thereof and a
2   right,''

    Page 339, strike line 23.

    Page 340, line 3, strike the period at the end and
insert ''; and''

    Page 340, after line 3, insert the following new
paragraph:

3   (3) by striking so much of the text of the third
4   sentence as appears before ''whether'' and inserting
5   ''As used in this section, the term ''contractual
6   right'' includes a right set forth in a rule or bylaw
7   of a derivatives clearing organization (as defined in
8   the Commodity Exchange Act), a multilateral clear-
9   ing organization (as defined in the Federal Deposit
10   Insurance Corporation Improvement Act of 1991), a
11   national securities exchange, a national securities as-
12   sociation, a contract market designated under the
13   Commodity Exchange Act, a derivatives transaction
14   execution facility registered under the Commodity
15   Exchange Act, or a board of trade (as defined in the
16   Commodity Exchange Act) or in a resolution of the
17   governing board thereof and a right,

    Page 340, line 14, strike ''and''.

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Page 340, line 18, strike the period and insert "; and".

Page 340, after line 18, insert the following new paragraph:

1   (4) by striking so much of the text of the sec-
2   ond sentence as appears before "whether" and in-
3   serting "As used in this section, the term 'contrac-
4   tual right' includes a right set forth in a rule or
5   bylaw of a derivatives clearing organization (as de-
6   fined in the Commodity Exchange Act), a multilat-
7   eral clearing organization (as defined in the Federal
8   Deposit Insurance Corporation Improvement Act of
9   1991), a national securities exchange, a national se-
10   curities association, a contract market designated
11   under the Commodity Exchange Act), a derivatives
12   transaction execution facility registered under the
13   Commodity Exchange Act, or a board of trade (as
14   defined in the Commodity Exchange Act) or in a
15   resolution of the governing board thereof and a
16   right,".

Page 341, line 3, insert "**; proceedings under chapter 15**" after "**contracts**".

Page 342, line 11, insert "traded on or subject to the rules of a contract market designated under the Com-

modity Exchange Act or a derivatives transaction execution facility registered under the Commodity Exchange Act'' after ''contract''.

Page 342, line 22, insert ''and traded on or subject to the rules of a contract market designated under the Commodity Exchange Act or a derivatives transaction execution facility registered under the Commodity Exchange Act'' after ''debtor''.

Page 343, line 5, strike ''agreement'' and insert ''or similar arrangement''.

Page 343, beginning on line , strike ''section 5a(a)(12)(A)'' and insert ''paragraph (1) or (2) of section 5c(c)''.

Page 343, line 10, strike ''been approved'' and insert ''not been abrogated or rendered ineffective by the Commodity Futures Trading Commission''.

Page 343, beginning on line 18, strike ''national'' and all that follows through ''market'' on line 21, and insert ''derivatives clearing organization (as defined in the Commodity Exchange Act), a multilateral clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991), a national securities exchange, a national securities association, a contract market designated under the Commodity Exchange

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Act, a derivatives transaction execution facility registered under the Commodity Exchange Act, or a board of trade (as defined in the Commodity Exchange Act)''.

Page 344, strike the item following line 18, and insert the following new item:

"561. Contractual right to terminate, liquidate, accelerate, or offset under a master netting agreement and across contracts; proceedings under chapter 15.''.

Page 345, line 21, insert "**financial participants**" before "**securities**".

Page 346, line 9, insert "in subsection (a)(2)(B)(ii), by inserting before the semicolon, and" after "(1)".

Page 346, line 10, insert a comma after "period",

Page 346, after line 22, insert the following new paragraph (and redesignate the subsequent paragraphs as paragraphs (3), (4), (7), and (8), respectively):

1   (2) in sections 362(b)(7) and 546(f), by insert-
2   ing "or financial participant" after "repo partici-
3   pant" each time such term appears;

Page 347, after line 2, insert the following new paragraphs:

4   (5) in section 548(d)(2)(C), by inserting "or fi-
5   nancial participant" after "repo participant";

1   (6) in section 548(d)(2)(D), by inserting "or fi-

2   nancial participant" after "swap participant";

Page 347, beginning on line 6, strike "by inserting" and all that follows through "contract market" on line 8, and insert "by striking the second sentence and inserting 'As used in this section, the term "contractual right" includes a right set forth in a rule or bylaw of a derivatives clearing organization (as defined in the Commodity Exchange Act), a multilateral clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991), a national securities exchange, a national securities association, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodity Exchange Act, or a board of trade (as defined in the Commodity Exchange Act)' ".

Page 347, line 12, strike "and".

Page 347, line 14, strike the period and insert a semicolon.

Page 347, after line 14, insert the following new paragraphs:

3   (9) in section 559, by inserting "or financial

4   participant" after "repo participant" each time such

5   term appears; and

1   (10) in section 560, by inserting "or financial

2   participant" after "swap participant".

    Page 348, strike the item following line 4, and insert

the following new item:

> "767. Commodity broker liquidation and forward contract merchants, com-
>   modity brokers, stockbrokers, financial institutions, financial
>   participants, securities clearing agencies, swap participants,
>   repo participants, and master netting agreement participants.";

    Page 348, strike the item following line 7, and insert

the following new item:

> "753. Stockbroker liquidation and forward contract merchants, commodity bro-
>   kers, stockbrokers, financial institutions, financial participants,
>   securities clearing agencies, swap participants, repo partici-
>   pants, and master netting agreement participants.".

    Page 348, after the item following line 7, insert the

following new section:

3 **SEC. 907A. SECURITIES BROKER AND COMMODITY BROKER**

4   **LIQUIDATION.**

5   The Securities and Exchange Commission and the

6 Commodity Futures Trading Commission may consult

7 with each other with respect to—

8   (1) whether, under what circumstances, and the

9   extent to which security futures products will be

10   treated as commodity contracts or securities in a liq-

11   uidation of a person that is both a securities broker

12   and a commodity broker; and

1   (2) the treatment in such a liquidation of ac-

2   counts in which both commodity contracts and secu-

3   rities are carried.

Page 352, line 1, insert a comma after ''101''.

Page 352, line 2, strike ''and 741'' and insert ''741, and 761''.