

**AMENDMENT TO THE COMMITTEE PRINT OF H.R.****1838****OFFERED BY MR. HIMES OF CONNECTICUT, MRS.****MALONEY OF NEW YORK, AND MS.****HAYWORTH OF NEW YORK**

Amend section 2 to read as follows:

1 **SEC. 2. REFORM OF PROHIBITION ON SWAP ACTIVITY AS-**  
2 **SISTANCE.**

3 Section 716 of the Dodd-Frank Wall Street Reform  
4 and Consumer Protection Act (15 U.S.C. 8305) is amend-  
5 ed—

6 (1) in subsection (b), by adding at the end the  
7 following:

8 “(3) COVERED DEPOSITORY INSTITUTION.—

9 The term ‘covered depository institution’ means—

10 “(A) an insured depository institution; and

11 “(B) a United States uninsured branch or  
12 agency of a foreign bank that has a prudential  
13 regulator.”;

14 (2) in subsection (c)—

15 (A) in the heading for such subsection, by  
16 striking “INSURED” and inserting “COVERED”;

1 (B) by striking “an insured” and inserting  
2 “a covered”;

3 (C) by striking “such insured” and insert-  
4 ing “such covered”; and

5 (D) by striking “or savings and loan hold-  
6 ing company” and inserting “savings and loan  
7 holding company, or foreign banking organiza-  
8 tion (as such term is defined under Regulation  
9 K (12 C.F.R. 211.21(o))”;

10 (3) by amending subsection (d) to read as fol-  
11 lows:

12 “(d) ONLY BONA FIDE HEDGING AND TRADITIONAL  
13 BANK ACTIVITIES PERMITTED.—

14 “(1) IN GENERAL.—The prohibition in sub-  
15 section (a) shall not apply to any covered depository  
16 institution that limits its swap and security-based  
17 swap activities to the following:

18 “(A) HEDGING AND OTHER SIMILAR RISK  
19 MITIGATION ACTIVITIES.—Hedging and other  
20 similar risk mitigating activities directly related  
21 to the covered depository institution’s activities.

22 “(B) NON-STRUCTURED FINANCE SWAP  
23 ACTIVITIES.—Acting as a swaps entity for  
24 swaps or security-based swaps other than a  
25 structured finance swap.

1           “(C) CERTAIN STRUCTURED FINANCE  
2 SWAP ACTIVITIES.—Acting as a swaps entity for  
3 swaps or security-based swaps that are struc-  
4 tured finance swaps, if—

5           “(i) such structured finance swaps are  
6 undertaken for hedging or risk manage-  
7 ment purposes; or

8           “(ii) each asset-backed security under-  
9 lying such structured finance swaps is of a  
10 credit quality and of a type or category  
11 with respect to which the prudential regu-  
12 lators have jointly adopted rules author-  
13 izing swap or security-based swap activity  
14 by covered depository institutions.

15           “(2) DEFINITIONS.—For purposes of this sub-  
16 section:

17           “(A) STRUCTURED FINANCE SWAP.—The  
18 term ‘structured finance swap’ means a swap or  
19 security-based swap based on an asset-backed  
20 security (or group or index primarily comprised  
21 of asset-backed securities).

22           “(B) ASSET-BACKED SECURITY.—The  
23 term ‘asset-backed security’ has the meaning  
24 given such term under section 3(a) of the Secu-

1           rities Exchange Act of 1934 (15 U.S.C.  
2           78c(a)).”;

3           (4) in subsection (e), by striking “an insured”  
4           and inserting “a covered”;

5           (5) in subsection (f)—

6                 (A) by striking “an insured” and inserting  
7                 “a covered”; and

8                 (B) by striking “the insured” each place  
9                 such term appears and inserting “the covered”;

10           (6) in subsection (g), by striking “insured” and  
11           inserting “covered”;

12           (7) in subsection (m), by striking “An insured”  
13           and inserting “A covered”; and

14           (8) by adding at the end the following:

15           “(n) FOREIGN SWAP ACTIVITY.—

16                 “(1) IN GENERAL.—This section shall not apply  
17                 to swap or security-based swap activity conducted  
18                 outside the United States with a non-U.S.  
19                 counterparty by a non-U.S. swaps entity.

20                 “(2) DEFINITIONS.—For purposes of this sub-  
21                 section, the terms ‘non-U.S. swaps entity’ and ‘non-  
22                 U.S. counterparty’ mean a swaps entity or  
23                 counterparty, respectively, that is licensed, in the  
24                 case of a foreign branch of a United States deposi-

1 tory institution, or organized under the laws of a ju-  
2 risdiction outside the United States.”.

