

113TH CONGRESS
2D SESSION

H. R. 5471

To amend the Commodity Exchange Act and the Securities Exchange Act of 1934 to specify how clearing requirements apply to certain affiliate transactions, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 15, 2014

Ms. MOORE (for herself, Mr. STIVERS, Mr. GIBSON, and Ms. FUDGE) introduced the following bill; which was referred to the Committee on Financial Services, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Commodity Exchange Act and the Securities Exchange Act of 1934 to specify how clearing requirements apply to certain affiliate transactions, 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. TREATMENT OF AFFILIATE TRANSACTIONS.**

4 (a) IN GENERAL.—

5 (1) COMMODITY EXCHANGE ACT AMEND-
6 MENT.—Section 2(h)(7)(D)(i) of the Commodity Ex-

1 change Act (7 U.S.C. 2(h)(7)(D)(i)) is amended to
2 read as follows:

3 “(i) IN GENERAL.—An affiliate of a
4 person that qualifies for an exception
5 under subparagraph (A) (including affiliate
6 entities predominantly engaged in pro-
7 viding financing for the purchase of the
8 merchandise or manufactured goods of the
9 person) may qualify for the exception only
10 if the affiliate enters into the swap to
11 hedge or mitigate the commercial risk of
12 the person or other affiliate of the person
13 that is not a financial entity, provided that
14 if the hedge or mitigation of such commer-
15 cial risk is addressed by entering into a
16 swap with a swap dealer or major swap
17 participant, an appropriate credit support
18 measure or other mechanism must be uti-
19 lized.”.

20 (2) SECURITIES EXCHANGE ACT OF 1934
21 AMENDMENT.—Section 3C(g)(4)(A) of the Securities
22 Exchange Act of 1934 (15 U.S.C. 78c–3(g)(4)(A))
23 is amended to read as follows:

24 “(A) IN GENERAL.—An affiliate of a per-
25 son that qualifies for an exception under para-

1 graph (1) (including affiliate entities predomi-
2 nantly engaged in providing financing for the
3 purchase of the merchandise or manufactured
4 goods of the person) may qualify for the excep-
5 tion only if the affiliate enters into the security-
6 based swap to hedge or mitigate the commercial
7 risk of the person or other affiliate of the per-
8 son that is not a financial entity, provided that
9 if the hedge or mitigation such commercial risk
10 is addressed by entering into a security-based
11 swap with a security-based swap dealer or
12 major security-based swap participant, an ap-
13 propriate credit support measure or other
14 mechanism must be utilized.”.

15 (b) APPLICABILITY OF CREDIT SUPPORT MEASURE
16 REQUIREMENT.—The requirements in section
17 2(h)(7)(D)(i) of the Commodity Exchange Act and section
18 3C(g)(4)(A) of the Securities Exchange Act of 1934, as
19 amended by subsection (a), requiring that a credit support
20 measure or other mechanism be utilized if the transfer of
21 commercial risk referred to in such sections is addressed
22 by entering into a swap with a swap dealer or major swap
23 participant or a security-based swap with a security-based
24 swap dealer or major security-based swap participant, as
25 appropriate, shall not apply with respect to swaps or secu-

1 rity-based swaps, as appropriate, entered into before the
2 date of the enactment of this Act.

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