

106TH CONGRESS
2D SESSION

H. R. 1161

AN ACT

To revise the banking and bankruptcy insolvency laws with respect to the termination and netting of financial contracts, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Financial Contract
3 Netting Improvement Act of 2000”.

4 **SEC. 2. TREATMENT OF CERTAIN AGREEMENTS BY CON-**
5 **SERVATORS OR RECEIVERS OF INSURED DE-**
6 **POSITORY INSTITUTIONS.**

7 (a) **DEFINITION OF QUALIFIED FINANCIAL CON-**
8 **TRACT.**—Section 11(e)(8)(D)(i) of the Federal Deposit In-
9 surance Act (12 U.S.C. 1821(e)(8)(D)(i)) is amended by
10 inserting “, resolution or order” after “any similar agree-
11 ment that the Corporation determines by regulation”.

12 (b) **DEFINITION OF SECURITIES CONTRACT.**—Sec-
13 tion 11(e)(8)(D)(ii) of the Federal Deposit Insurance Act
14 (12 U.S.C. 1821(e)(8)(D)(ii)) is amended to read as fol-
15 lows:

16 “(ii) **SECURITIES CONTRACT.**—The
17 term ‘securities contract’—

18 “(I) means a contract for the
19 purchase, sale, or loan of a security, a
20 certificate of deposit, a mortgage loan,
21 or any interest in a mortgage loan, a
22 group or index of securities, certifi-
23 cates of deposit, or mortgage loans or
24 interests therein (including any inter-
25 est therein or based on the value
26 thereof) or any option on any of the

1 foregoing, including any option to
2 purchase or sell any such security,
3 certificate of deposit, loan, interest,
4 group or index, or option;

5 “(II) does not include any pur-
6 chase, sale, or repurchase obligation
7 under a participation in a commercial
8 mortgage loan unless the Corporation
9 determines by regulation, resolution,
10 or order to include any such agree-
11 ment within the meaning of such
12 term;

13 “(III) means any option entered
14 into on a national securities exchange
15 relating to foreign currencies;

16 “(IV) means the guarantee by or
17 to any securities clearing agency of
18 any settlement of cash, securities, cer-
19 tificates of deposit, mortgage loans or
20 interests therein, group or index of se-
21 curities, certificates of deposit, or
22 mortgage loans or interests therein
23 (including any interest therein or
24 based on the value thereof) or option
25 on any of the foregoing, including any

1 option to purchase or sell any such se-
2 curity, certificate of deposit, loan, in-
3 terest, group or index, or option;

4 “(V) means any margin loan;

5 “(VI) means any other agree-
6 ment or transaction that is similar to
7 any agreement or transaction referred
8 to in this clause;

9 “(VII) means any combination of
10 the agreements or transactions re-
11 ferred to in this clause;

12 “(VIII) means any option to
13 enter into any agreement or trans-
14 action referred to in this clause;

15 “(IX) means a master agreement
16 that provides for an agreement or
17 transaction referred to in subclause
18 (I), (III), (IV), (V), (VI), (VII), or
19 (VIII), together with all supplements
20 to any such master agreement, with-
21 out regard to whether the master
22 agreement provides for an agreement
23 or transaction that is not a securities
24 contract under this clause, except that
25 the master agreement shall be consid-

1 ered to be a securities contract under
2 this clause only with respect to each
3 agreement or transaction under the
4 master agreement that is referred to
5 in subclause (I), (III), (IV), (V), (VI),
6 (VII), or (VIII); and

7 “(X) means any security agree-
8 ment or arrangement or other credit
9 enhancement related to any agree-
10 ment or transaction referred to in this
11 clause.”.

12 (c) DEFINITION OF COMMODITY CONTRACT.—Sec-
13 tion 11(e)(8)(D)(iii) of the Federal Deposit Insurance Act
14 (12 U.S.C. 1821(e)(8)(D)(iii)) is amended to read as fol-
15 lows:

16 “(iii) COMMODITY CONTRACT.—The
17 term ‘commodity contract’ means—

18 “(I) with respect to a futures
19 commission merchant, a contract for
20 the purchase or sale of a commodity
21 for future delivery on, or subject to
22 the rules of, a contract market or
23 board of trade;

1 “(II) with respect to a foreign fu-
2 tures commission merchant, a foreign
3 future;

4 “(III) with respect to a leverage
5 transaction merchant, a leverage
6 transaction;

7 “(IV) with respect to a clearing
8 organization, a contract for the pur-
9 chase or sale of a commodity for fu-
10 ture delivery on, or subject to the
11 rules of, a contract market or board
12 of trade that is cleared by such clear-
13 ing organization, or commodity option
14 traded on, or subject to the rules of,
15 a contract market or board of trade
16 that is cleared by such clearing orga-
17 nization;

18 “(V) with respect to a commodity
19 options dealer, a commodity option;

20 “(VI) any other agreement or
21 transaction that is similar to any
22 agreement or transaction referred to
23 in this clause;

1 “(VII) any combination of the
2 agreements or transactions referred to
3 in this clause;

4 “(VIII) any option to enter into
5 any agreement or transaction referred
6 to in this clause;

7 “(IX) a master agreement that
8 provides for an agreement or trans-
9 action referred to in subclause (I),
10 (II), (III), (IV), (V), (VI), (VII), or
11 (VIII), together with all supplements
12 to any such master agreement, with-
13 out regard to whether the master
14 agreement provides for an agreement
15 or transaction that is not a com-
16 modity contract under this clause, ex-
17 cept that the master agreement shall
18 be considered to be a commodity con-
19 tract under this clause only with re-
20 spect to each agreement or trans-
21 action under the master agreement
22 that is referred to in subclause (I),
23 (II), (III), (IV), (V), (VI), (VII), or
24 (VIII); or

1 “(X) any security agreement or
2 arrangement or other credit enhance-
3 ment related to any agreement or
4 transaction referred to in this
5 clause.”.

6 (d) DEFINITION OF FORWARD CONTRACT.—Section
7 11(e)(8)(D)(iv) of the Federal Deposit Insurance Act (12
8 U.S.C. 1821(e)(8)(D)(iv)) is amended to read as follows:

9 “(iv) FORWARD CONTRACT.—The
10 term ‘forward contract’ means—

11 “(I) a contract (other than a
12 commodity contract) for the purchase,
13 sale, or transfer of a commodity or
14 any similar good, article, service,
15 right, or interest which is presently or
16 in the future becomes the subject of
17 dealing in the forward contract trade,
18 or product or byproduct thereof, with
19 a maturity date more than 2 days
20 after the date the contract is entered
21 into, including a repurchase trans-
22 action, reverse repurchase transaction,
23 consignment, lease, swap, hedge
24 transaction, deposit, loan, option, allo-
25 cated transaction, unallocated trans-

1 action, or any other similar agree-
2 ment;

3 “(II) any combination of agree-
4 ments or transactions referred to in
5 subclauses (I) and (III);

6 “(III) any option to enter into
7 any agreement or transaction referred
8 to in subclause (I) or (II);

9 “(IV) a master agreement that
10 provides for an agreement or trans-
11 action referred to in subclause (I),
12 (II), or (III), together with all supple-
13 ments to any such master agreement,
14 without regard to whether the master
15 agreement provides for an agreement
16 or transaction that is not a forward
17 contract under this clause, except that
18 the master agreement shall be consid-
19 ered to be a forward contract under
20 this clause only with respect to each
21 agreement or transaction under the
22 master agreement that is referred to
23 in subclause (I), (II), or (III); or

24 “(V) any security agreement or
25 arrangement or other credit enhance-

1 ment related to any agreement or
2 transaction referred to in subclause
3 (I), (II), (III), or (IV).”.

4 (e) DEFINITION OF REPURCHASE AGREEMENT.—
5 Section 11(e)(8)(D)(v) of the Federal Deposit Insurance
6 Act (12 U.S.C. 1821(e)(8)(D)(v)) is amended to read as
7 follows:

8 “(v) REPURCHASE AGREEMENT.—The
9 term ‘repurchase agreement’ (which defini-
10 tion also applies to the term ‘reverse repur-
11 chase agreement’)—

12 “(I) means an agreement, includ-
13 ing related terms, which provides for
14 the transfer of 1 or more certificates
15 of deposit, mortgage-related securities
16 (as such term is defined in the Securi-
17 ties Exchange Act of 1934), mortgage
18 loans, interests in mortgage-related
19 securities or mortgage loans, eligible
20 bankers’ acceptances, qualified foreign
21 government securities or securities
22 that are direct obligations of, or that
23 are fully guaranteed by, the United
24 States or any agency of the United
25 States against the transfer of funds

1 by the transferee of such certificates
2 of deposit, eligible bankers' accept-
3 ances, securities, loans, or interests
4 with a simultaneous agreement by
5 such transferee to transfer to the
6 transferor thereof certificates of de-
7 posit, eligible bankers' acceptances,
8 securities, loans, or interests as de-
9 scribed above, at a date certain not
10 later than 1 year after such transfers
11 or on demand, against the transfer of
12 funds, or any other similar agreement;

13 “(II) does not include any repur-
14 chase obligation under a participation
15 in a commercial mortgage loan unless
16 the Corporation determines by regula-
17 tion, resolution, or order to include
18 any such participation within the
19 meaning of such term;

20 “(III) means any combination of
21 agreements or transactions referred to
22 in subclauses (I) and (IV);

23 “(IV) means any option to enter
24 into any agreement or transaction re-
25 ferred to in subclause (I) or (III);

1 “(V) means a master agreement
2 that provides for an agreement or
3 transaction referred to in subclause
4 (I), (III), or (IV), together with all
5 supplements to any such master
6 agreement, without regard to whether
7 the master agreement provides for an
8 agreement or transaction that is not a
9 repurchase agreement under this
10 clause, except that the master agree-
11 ment shall be considered to be a re-
12 purchase agreement under this sub-
13 clause only with respect to each agree-
14 ment or transaction under the master
15 agreement that is referred to in sub-
16 clause (I), (III), or (IV); and

17 “(VI) means any security agree-
18 ment or arrangement or other credit
19 enhancement related to any agree-
20 ment or transaction referred to in
21 subclause (I), (III), (IV), or (V).

22 For purposes of this clause, the term
23 ‘qualified foreign government security’
24 means a security that is a direct obligation
25 of, or that is fully guaranteed by, the cen-

1 tral government of a member of the Orga-
2 nization for Economic Cooperation and
3 Development (as determined by regulation
4 or order adopted by the appropriate Fed-
5 eral banking authority).”.

6 (f) DEFINITION OF SWAP AGREEMENT.—Section
7 11(e)(8)(D)(vi) of the Federal Deposit Insurance Act (12
8 U.S.C. 1821(e)(8)(D)(vi)) is amended to read as follows:

9 “(vi) SWAP AGREEMENT.—The term
10 ‘swap agreement’ means—

11 “(I) any agreement, including the
12 terms and conditions incorporated by
13 reference in any such agreement,
14 which is an interest rate swap, option,
15 future, or forward agreement, includ-
16 ing a rate floor, rate cap, rate collar,
17 cross-currency rate swap, and basis
18 swap; a spot, same day-tomorrow, to-
19 morrow-next, forward, or other for-
20 eign exchange or precious metals
21 agreement; a currency swap, option,
22 future, or forward agreement; an eq-
23 uity index or equity swap, option, fu-
24 ture, or forward agreement; a debt
25 index or debt swap, option, future, or

1 forward agreement; a credit spread or
2 credit swap, option, future, or forward
3 agreement; a commodity index or
4 commodity swap, option, future, or
5 forward agreement; or a weather
6 swap, weather derivative, or a weather
7 option;

8 “(II) any agreement or trans-
9 action similar to any other agreement
10 or transaction referred to in this
11 clause that is presently, or in the fu-
12 ture becomes, regularly entered into
13 in the swap market (including terms
14 and conditions incorporated by ref-
15 erence in such agreement) and that is
16 a forward, swap, future, or option on
17 1 or more rates, currencies, commod-
18 ities, equity securities or other equity
19 instruments, debt securities or other
20 debt instruments, or economic indices
21 or measures of economic risk or value;

22 “(III) any combination of agree-
23 ments or transactions referred to in
24 this clause;

1 “(IV) any option to enter into
2 any agreement or transaction referred
3 to in this clause;

4 “(V) a master agreement that
5 provides for an agreement or trans-
6 action referred to in subclause (I),
7 (II), (III), or (IV), together with all
8 supplements to any such master
9 agreement, without regard to whether
10 the master agreement contains an
11 agreement or transaction that is not a
12 swap agreement under this clause, ex-
13 cept that the master agreement shall
14 be considered to be a swap agreement
15 under this clause only with respect to
16 each agreement or transaction under
17 the master agreement that is referred
18 to in subclause (I), (II), (III), or (IV);
19 and

20 “(VI) any security agreement or
21 arrangement or other credit enhance-
22 ment related to any agreements or
23 transactions referred to in subpara-
24 graph (I), (II), (III), (IV), or (V).

1 Such term is applicable for purposes of
2 this title only and shall not be construed or
3 applied so as to challenge or affect the
4 characterization, definition, or treatment of
5 any swap agreement under any other statute,
6 regulation, or rule, including the Securities
7 Act of 1933, the Securities Exchange
8 Act of 1934, the Public Utility Holding
9 Company Act of 1935, the Trust Indenture
10 Act of 1939, the Investment Company Act
11 of 1940, the Investment Advisers Act of
12 1940, the Securities Investor Protection
13 Act of 1970, the Commodity Exchange
14 Act, and the regulations promulgated by
15 the Securities and Exchange Commission
16 or the Commodity Futures Trading Commission.”.

18 (g) DEFINITION OF TRANSFER.—Section
19 11(e)(8)(D)(viii) of the Federal Deposit Insurance Act (12
20 U.S.C. 1821(e)(8)(D)(viii)) is amended to read as follows:

21 “(viii) TRANSFER.—The term ‘transfer’
22 means every mode, direct or indirect,
23 absolute or conditional, voluntary or involuntary,
24 of disposing of or parting with
25 property or with an interest in property,

1 including retention of title as a security in-
2 terest and foreclosure of the depository
3 institutions's equity of redemption.”.

4 (h) TREATMENT OF QUALIFIED FINANCIAL CON-
5 TRACTS.—Section 11(e)(8) of the Federal Deposit Insur-
6 ance Act (12 U.S.C. 1821(e)(8)) is amended—

7 (1) in subparagraph (A), by striking “para-
8 graph (10)” and inserting “paragraphs (9) and
9 (10)”;

10 (2) in subparagraph (A)(i), by striking “to
11 cause the termination or liquidation” and inserting
12 “such person has to cause the termination, liquida-
13 tion, or acceleration”;

14 (3) by amending subparagraph (A)(ii) to read
15 as follows:

16 “(ii) any right under any security
17 agreement or arrangement or other credit
18 enhancement related to 1 or more qualified
19 financial contracts described in clause
20 (i);”;

21 (4) by amending subparagraph (E)(ii) to read
22 as follows:

23 “(ii) any right under any security
24 agreement or arrangement or other credit
25 enhancement related to 1 or more qualified

1 financial contracts described in clause
2 (i);”.

3 (i) AVOIDANCE OF TRANSFERS.—Section
4 11(e)(8)(C)(i) of the Federal Deposit Insurance Act (12
5 U.S.C. 1821(e)(8)(C)(i)) is amended by inserting “section
6 5242 of the Revised Statutes of the United States (12
7 U.S.C. 91) or any other Federal or State law relating to
8 the avoidance of preferential or fraudulent transfers,” be-
9 fore “the Corporation”.

10 **SEC. 3. AUTHORITY OF THE CORPORATION WITH RESPECT**
11 **TO FAILED AND FAILING INSTITUTIONS.**

12 (a) IN GENERAL.—Section 11(e)(8) of the Federal
13 Deposit Insurance Act (12 U.S.C. 1821(e)(8)) is
14 amended—

15 (1) in subparagraph (E), by striking “other
16 than paragraph (12) of this subsection, subsection
17 (d)(9)” and inserting “other than subsections (d)(9)
18 and (e)(10)”; and

19 (2) by adding at the end the following new sub-
20 paragraphs:

21 “(F) CLARIFICATION.—No provision of law
22 shall be construed as limiting the right or
23 power of the Corporation, or authorizing any
24 court or agency to limit or delay, in any man-
25 ner, the right or power of the Corporation to

1 transfer any qualified financial contract in ac-
2 cordance with paragraphs (9) and (10) of this
3 subsection or to disaffirm or repudiate any such
4 contract in accordance with paragraph (1).

5 “(G) WALKAWAY CLAUSES NOT EFFEC-
6 TIVE.—

7 “(i) IN GENERAL.—Notwithstanding
8 the provisions of subparagraphs (A) and
9 (E), and sections 403 and 404 of the Fed-
10 eral Deposit Insurance Corporation Im-
11 provement Act of 1991, no walkaway
12 clause shall be enforceable in a qualified fi-
13 nancial contract of an insured depository
14 institution in default.

15 “(ii) WALKAWAY CLAUSE DEFINED.—
16 For purposes of this subparagraph, the
17 term ‘walkaway clause’ means a provision
18 in a qualified financial contract that, after
19 calculation of a value of a party’s position
20 or an amount due to or from 1 of the par-
21 ties in accordance with its terms upon ter-
22 mination, liquidation, or acceleration of the
23 qualified financial contract, either does not
24 create a payment obligation of a party or
25 extinguishes a payment obligation of a

1 party in whole or in part solely because of
 2 such party's status as a nondefaulting
 3 party.”.

4 (b) TECHNICAL AND CONFORMING AMENDMENT.—
 5 Section 11(e)(12)(A) of the Federal Deposit Insurance
 6 Act (12 U.S.C. 1821(e)(12)(A)) is amended by inserting
 7 “or the exercise of rights or powers” after “the appoint-
 8 ment”.

9 **SEC. 4. AMENDMENTS RELATING TO TRANSFERS OF QUALI-**
 10 **FIED FINANCIAL CONTRACTS.**

11 (a) TRANSFERS OF QUALIFIED FINANCIAL CON-
 12 TRACTS TO FINANCIAL INSTITUTIONS.—Section 11(e)(9)
 13 of the Federal Deposit Insurance Act (12 U.S.C.
 14 1821(e)(9)) is amended to read as follows:

15 “(9) TRANSFER OF QUALIFIED FINANCIAL CON-
 16 TRACTS.—

17 “(A) IN GENERAL.—In making any trans-
 18 fer of assets or liabilities of a depository institu-
 19 tion in default which includes any qualified fi-
 20 nancial contract, the conservator or receiver for
 21 such depository institution shall either—

22 “(i) transfer to 1 financial institution,
 23 other than a financial institution for which
 24 a conservator, receiver, trustee in bank-
 25 ruptcy, or other legal custodian has been

1 appointed or which is otherwise the subject
2 of a bankruptcy or insolvency proceeding—

3 “(I) all qualified financial con-
4 tracts between any person or any af-
5 filiate of such person and the deposi-
6 tory institution in default;

7 “(II) all claims of such person or
8 any affiliate of such person against
9 such depository institution under any
10 such contract (other than any claim
11 which, under the terms of any such
12 contract, is subordinated to the claims
13 of general unsecured creditors of such
14 institution);

15 “(III) all claims of such deposi-
16 tory institution against such person or
17 any affiliate of such person under any
18 such contract; and

19 “(IV) all property securing or
20 any other credit enhancement for any
21 contract described in subclause (I) or
22 any claim described in subclause (II)
23 or (III) under any such contract; or

24 “(ii) transfer none of the qualified fi-
25 nancial contracts, claims, property or other

1 credit enhancement referred to in clause (i)
2 (with respect to such person and any affil-
3 iate of such person).

4 “(B) TRANSFER TO FOREIGN BANK, FOR-
5 EIGN FINANCIAL INSTITUTION, OR BRANCH OR
6 AGENCY OF A FOREIGN BANK OR FINANCIAL IN-
7 STITUTION.—In transferring any qualified fi-
8 nancial contracts and related claims and prop-
9 erty pursuant to subparagraph (A)(i), the con-
10 servator or receiver for such depository institu-
11 tion shall not make such transfer to a foreign
12 bank, financial institution organized under the
13 laws of a foreign country, or a branch or agency
14 of a foreign bank or financial institution unless,
15 under the law applicable to such bank, financial
16 institution, branch or agency, to the qualified
17 financial contracts, and to any netting contract,
18 any security agreement or arrangement or other
19 credit enhancement related to 1 or more quali-
20 fied financial contracts, the contractual rights
21 of the parties to such qualified financial con-
22 tracts, netting contracts, security agreements or
23 arrangements, or other credit enhancements are
24 enforceable substantially to the same extent as
25 permitted under this section.

1 “(C) TRANSFER OF CONTRACTS SUBJECT
2 TO THE RULES OF A CLEARING ORGANIZA-
3 TION.—In the event that a conservator or re-
4 ceiver transfers any qualified financial contract
5 and related claims, property and credit en-
6 hancements pursuant to subparagraph (A)(i)
7 and such contract is subject to the rules of a
8 clearing organization, the clearing organization
9 shall not be required to accept the transferee as
10 a member by virtue of the transfer.

11 “(D) DEFINITION.—For purposes of this
12 section, the term ‘financial institution’ means a
13 broker or dealer, a depository institution, a fu-
14 tures commission merchant, or any other insti-
15 tution as determined by the Corporation by reg-
16 ulation to be a financial institution.”.

17 (b) NOTICE TO QUALIFIED FINANCIAL CONTRACT
18 COUNTERPARTIES.—Section 11(e)(10)(A) of the Federal
19 Deposit Insurance Act (12 U.S.C. 1821(e)(10)(A)) is
20 amended by amending the flush material following clause
21 (ii) to read as follows: “the conservator or receiver shall
22 notify any person who is a party to any such contract of
23 such transfer by 5:00 p.m. (eastern time) on the business
24 day following the date of the appointment of the receiver,

1 in the case of a receivership, or the business day following
2 such transfer, in the case of a conservatorship.”.

3 (c) RIGHTS AGAINST RECEIVER AND TREATMENT OF
4 BRIDGE BANKS.—Section 11(e)(10) of the Federal De-
5 posit Insurance Act (12 U.S.C. 1821(e)(10)) is further
6 amended—

7 (1) by redesignating subparagraph (B) as sub-
8 paragraph (D); and

9 (2) by inserting after subparagraph (A) the fol-
10 lowing new subparagraphs:

11 “(B) CERTAIN RIGHTS NOT ENFORCE-
12 ABLE.—

13 “(i) RECEIVERSHIP.—A person who is
14 a party to a qualified financial contract
15 with an insured depository institution may
16 not exercise any right such person has to
17 terminate, liquidate, or net such contract
18 under paragraph (8)(A) or section 403 or
19 404 of the Federal Deposit Insurance Cor-
20 poration Improvement Act of 1991 solely
21 by reason of or incidental to the appoint-
22 ment of a receiver for the depository insti-
23 tution (or the insolvency or financial condi-
24 tion of the depository institution for which
25 the receiver has been appointed)—

1 “(I) until 5:00 p.m. (eastern
2 time) on the business day following
3 the date of the appointment of the re-
4 ceiver; or

5 “(II) after the person has re-
6 ceived notice that the contract has
7 been transferred pursuant to para-
8 graph (9)(A).

9 “(ii) CONSERVATORSHIP.—A person
10 who is a party to a qualified financial con-
11 tract with an insured depository institution
12 may not exercise any right such person has
13 to terminate, liquidate, or net such con-
14 tract under paragraph (8)(E) or section
15 403 or 404 of the Federal Deposit Insur-
16 ance Corporation Improvement Act of
17 1991, solely by reason of or incidental to
18 the appointment of a conservator for the
19 depository institution (or the insolvency or
20 financial condition of the depository insti-
21 tution for which the conservator has been
22 appointed).

23 “(iii) NOTICE.—For purposes of this
24 subsection, the Corporation as receiver or
25 conservator of an insured depository insti-

tution shall be deemed to have notified a person who is a party to a qualified financial contract with such depository institution if the Corporation has taken steps reasonably calculated to provide notice to such person by the time specified in subparagraph (A) of this subsection.

“(C) TREATMENT OF BRIDGE BANKS.—

The following institutions shall not be considered a financial institution for which a conservator, receiver, trustee in bankruptcy, or other legal custodian has been appointed or which is otherwise the subject of a bankruptcy or insolvency proceeding for purposes of paragraph (9)—

“(i) a bridge bank; or

“(ii) a depository institution organized by the Corporation, for which a conservator is appointed either—

“(I) immediately upon the organization of the institution; or

“(II) at the time of a purchase and assumption transaction between such institution and the Corporation

1 as receiver for a depository institution
2 in default.”.

3 **SEC. 5. AMENDMENTS RELATING TO DISAFFIRMANCE OR**
4 **REPUDIATION OF QUALIFIED FINANCIAL**
5 **CONTRACTS.**

6 (a) IN GENERAL.—Section 11(e) of the Federal De-
7 posit Insurance Act (12 U.S.C. 1821(e)) is further
8 amended—

9 (1) by redesignating paragraphs (11) through
10 (15) as paragraphs (12) through (16), respectively;
11 and

12 (2) by inserting after paragraph (10) the fol-
13 lowing new paragraph:

14 “(11) DISAFFIRMANCE OR REPUDIATION OF
15 QUALIFIED FINANCIAL CONTRACTS.—In exercising
16 the rights of disaffirmance or repudiation of a con-
17 servator or receiver with respect to any qualified fi-
18 nancial contract to which an insured depository in-
19 stitution is a party, the conservator or receiver for
20 such institution shall either—

21 “(A) disaffirm or repudiate all qualified fi-
22 nancial contracts between—

23 “(i) any person or any affiliate of
24 such person; and

1 “(ii) the depository institution in de-
2 fault; or

3 “(B) disaffirm or repudiate none of the
4 qualified financial contracts referred to in sub-
5 paragraph (A) (with respect to such person or
6 any affiliate of such person).”.

7 (b) TECHNICAL AND CONFORMING AMENDMENTS.—
8 Section 11(e)(8) of the Federal Deposit Insurance Act (12
9 U.S.C. 1821(e)(8)), as amended by section 2(i), is further
10 amended in subparagraph (C)(i), by striking “(11)” and
11 inserting “(12)”.

12 **SEC. 6. CLARIFYING AMENDMENT RELATING TO MASTER**
13 **AGREEMENTS.**

14 Section 11(e)(8)(D)(vii) of the Federal Deposit In-
15 surance Act (12 U.S.C. 1821(e)(8)(D)(vii)) is amended to
16 read as follows:

17 “(vii) TREATMENT OF MASTER
18 AGREEMENT AS 1 AGREEMENT.—Any mas-
19 ter agreement for any contract or agree-
20 ment described in any preceding clause of
21 this subparagraph (or any master agree-
22 ment for such master agreement or agree-
23 ments), together with all supplements to
24 such master agreement, shall be treated as
25 a single agreement and a single qualified

1 financial contract. If a master agreement
 2 contains provisions relating to agreements
 3 or transactions that are not themselves
 4 qualified financial contracts, the master
 5 agreement shall be deemed to be a quali-
 6 fied financial contract only with respect to
 7 those transactions that are themselves
 8 qualified financial contracts.”.

9 **SEC. 7. FEDERAL DEPOSIT INSURANCE CORPORATION IM-**
 10 **PROVEMENT ACT OF 1991.**

11 (a) DEFINITIONS.—Section 402 of the Federal De-
 12 posit Insurance Corporation Improvement Act of 1991 (12
 13 U.S.C. 4402) is amended—

14 (1) in paragraph (2)—

15 (A) by inserting “or exempt from such reg-
 16 istration pursuant to an order of the Securities
 17 and Exchange Commission” before the semi-
 18 colon at the end of subparagraph (A)(ii); and

19 (B) by inserting “or that has been granted
 20 an exemption pursuant to section 4(c)(1) of
 21 such Act” before the period at the end of sub-
 22 paragraph (B);

23 (2) in paragraph (6)—

1 (A) by redesignating subparagraphs (B)
2 through (D) as subparagraphs (C) through (E),
3 respectively;

4 (B) by inserting after subparagraph (A)
5 the following new subparagraph:

6 “(B) an uninsured national bank or an un-
7 insured State bank that is a member of the
8 Federal Reserve System if the national bank or
9 State member bank is not eligible to make ap-
10 plication to become an insured bank under sec-
11 tion 5 of the Federal Deposit Insurance Act;”;
12 and

13 (C) by amending subparagraph (C) (as re-
14 designated) to read as follows:

15 “(C) a branch or agency of a foreign bank,
16 a foreign bank and any branch or agency of the
17 foreign bank, or the foreign bank that estab-
18 lished the branch or agency, as those terms are
19 defined in section 1(b) of the International
20 Banking Act of 1978;”;

21 (3) in paragraph (11), by adding before the pe-
22 riod “and any other clearing organization with which
23 such clearing organization has a netting contract”;

24 (4) by amending paragraph (14)(A)(i) to read
25 as follows:

1 “(i) means a contract or agreement
2 between two or more financial institutions,
3 clearing organizations, or members that
4 provides for netting present or future pay-
5 ment obligations or payment entitlements
6 (including liquidation or closeout values re-
7 lating to such obligations or entitlements)
8 among the parties to the agreement; and”;
9 and

10 (5) by adding at the end the following new
11 paragraph:

12 “(15) PAYMENT.—The term ‘payment’ means a
13 payment of United States dollars, another currency,
14 or a composite currency, and a noncash delivery, in-
15 cluding a payment or delivery to liquidate an
16 unmatured obligation.”.

17 (b) ENFORCEABILITY OF BILATERAL NETTING CON-
18 TRACTS.—Section 403 of the Federal Deposit Insurance
19 Corporation Improvement Act of 1991 (12 U.S.C. 4403)
20 is amended—

21 (1) by amending subsection (a) to read as fol-
22 lows:

23 “(a) GENERAL RULE.—Notwithstanding any other
24 provision of State or Federal law (other than paragraphs
25 (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal

1 Deposit Insurance Act or any order authorized under sec-
 2 tion 5(b)(2) of the Securities Investor Protection Act of
 3 1970), the covered contractual payment obligations and
 4 the covered contractual payment entitlements between any
 5 two financial institutions shall be netted in accordance
 6 with, and subject to the conditions of, the terms of any
 7 applicable netting contract (except as provided in section
 8 561(b)(2) of title 11, United States Code).’; and

9 (2) by adding at the end the following new sub-
 10 section:

11 “(f) ENFORCEABILITY OF SECURITY AGREE-
 12 MENTS.—The provisions of any security agreement or ar-
 13 rangement or other credit enhancement related to 1 or
 14 more netting contracts between any two financial institu-
 15 tions shall be enforceable in accordance with their terms
 16 (except as provided in section 561(b)(2) of title 11, United
 17 States Code) and shall not be stayed, avoided, or otherwise
 18 limited by any State or Federal law (other than para-
 19 graphs (8)(E), (8)(F), and (10)(B) of section 11(e) of the
 20 Federal Deposit Insurance Act and section 5(b)(2) of the
 21 Securities Investor Protection Act of 1970).’.

22 (c) ENFORCEABILITY OF CLEARING ORGANIZATION
 23 NETTING CONTRACTS.—Section 404 of the Federal De-
 24 posit Insurance Corporation Improvement Act of 1991 (12
 25 U.S.C. 4404) is amended—

1 (1) by amending subsection (a) to read as fol-
2 lows:

3 “(a) GENERAL RULE.—Notwithstanding any other
4 provision of State or Federal law (other than paragraphs
5 (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal
6 Deposit Insurance Act and any order authorized under
7 section 5(b)(2) of the Securities Investor Protection Act
8 of 1970), the covered contractual payment obligations and
9 the covered contractual payment entitlements of a member
10 of a clearing organization to and from all other members
11 of a clearing organization shall be netted in accordance
12 with and subject to the conditions of any applicable net-
13 ting contract (except as provided in section 561(b)(2) of
14 title 11, United States Code).”; and

15 (2) by adding at the end the following new sub-
16 section:

17 “(h) ENFORCEABILITY OF SECURITY AGREE-
18 MENTS.—The provisions of any security agreement or ar-
19 rangement or other credit enhancement related to 1 or
20 more netting contracts between any two members of a
21 clearing organization shall be enforceable in accordance
22 with their terms (except as provided in section 561(b)(2)
23 of title 11, United States Code) and shall not be stayed,
24 avoided, or otherwise limited by any State or Federal law
25 (other than paragraphs (8)(E), (8)(F), and (10)(B) of sec-

tion 11(e) of the Federal Deposit Insurance Act and section 5(b)(2) of the Securities Investor Protection Act of 1970).”.

(d) ENFORCEABILITY OF CONTRACTS WITH UNINSURED NATIONAL BANKS AND UNINSURED FEDERAL BRANCHES AND AGENCIES.—The Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4401 et seq.) is amended—

(1) by redesignating section 407 as section 407A; and

(2) by adding after section 406 the following new section:

“SEC. 407. TREATMENT OF CONTRACTS WITH UNINSURED NATIONAL BANKS AND UNINSURED FEDERAL BRANCHES AND AGENCIES.

“(a) IN GENERAL.—Notwithstanding any other provision of law, paragraphs (8), (9), (10), and (11) of section 11(e) of the Federal Deposit Insurance Act shall apply to an uninsured national bank or uninsured Federal branch or Federal agency except—

“(1) any reference to the ‘Corporation as receiver’ or ‘the receiver or the Corporation’ shall refer to the receiver of an uninsured national bank or uninsured Federal branch or Federal agency appointed by the Comptroller of the Currency;

1 “(2) any reference to the ‘Corporation’ (other
 2 than in section 11(e)(8)(D) of such Act), the ‘Cor-
 3 poration, whether acting as such or as conservator
 4 or receiver’, a ‘receiver’, or a ‘conservator’ shall refer
 5 to the receiver or conservator of an uninsured na-
 6 tional bank or uninsured Federal branch or Federal
 7 agency appointed by the Comptroller of the Cur-
 8 rency; and

9 “(3) any reference to an ‘insured depository in-
 10 stitution’ or ‘depository institution’ shall refer to an
 11 uninsured national bank or an uninsured Federal
 12 branch or Federal agency.

13 “(b) LIABILITY.—The liability of a receiver or conser-
 14 vator of an uninsured national bank or uninsured Federal
 15 branch or agency shall be determined in the same manner
 16 and subject to the same limitations that apply to receivers
 17 and conservators of insured depository institutions under
 18 section 11(e) of the Federal Deposit Insurance Act.

19 “(c) REGULATORY AUTHORITY.—

20 “(1) IN GENERAL.—The Comptroller of the
 21 Currency, in consultation with the Federal Deposit
 22 Insurance Corporation, may promulgate regulations
 23 to implement this section.

24 “(2) SPECIFIC REQUIREMENT.—In promul-
 25 gating regulations to implement this section, the

1 Comptroller of the Currency shall ensure that the
 2 regulations generally are consistent with the regula-
 3 tions and policies of the Federal Deposit Insurance
 4 Corporation adopted pursuant to the Federal De-
 5 posit Insurance Act.

6 “(d) DEFINITIONS.—For purposes of this section, the
 7 terms ‘Federal branch’, ‘Federal agency’, and ‘foreign
 8 bank’ have the same meaning as in section 1(b) of the
 9 International Banking Act.”.

10 **SEC. 8. BANKRUPTCY CODE AMENDMENTS.**

11 (a) DEFINITIONS OF FORWARD CONTRACT, REPUR-
 12 CHASE AGREEMENT, SECURITIES CLEARING AGENCY,
 13 SWAP AGREEMENT, COMMODITY CONTRACT, AND SECU-
 14 RITIES CONTRACT.—Title 11, United States Code, is
 15 amended—

16 (1) in section 101—

17 (A) in paragraph (25)—

18 (i) by striking “means a contract”
 19 and inserting “means—
 20 “(A) a contract”;

21 (ii) by striking “, or any combination
 22 thereof or option thereon;” and inserting
 23 “, or any other similar agreement;”; and

24 (iii) by adding at the end the fol-
 25 lowing:

1 “(B) any combination of agreements or
2 transactions referred to in subparagraphs (A)
3 and (C);

4 “(C) any option to enter into an agreement
5 or transaction referred to in subparagraph (A)
6 or (B);

7 “(D) a master agreement that provides for
8 an agreement or transaction referred to in sub-
9 paragraph (A), (B), or (C), together with all
10 supplements to any such master agreement,
11 without regard to whether such master agree-
12 ment provides for an agreement or transaction
13 that is not a forward contract under this para-
14 graph, except that such master agreement shall
15 be considered to be a forward contract under
16 this paragraph only with respect to each agree-
17 ment or transaction under such master agree-
18 ment that is referred to in subparagraph (A),
19 (B) or (C); or

20 “(E) any security agreement or arrange-
21 ment, or other credit enhancement related to
22 any agreement or transaction referred to in
23 subparagraph (A), (B), (C), or (D), but not to
24 exceed the actual value of such contract on the
25 date of the filing of the petition;”;

1 (B) in paragraph (46), by striking “on any
2 day during the period beginning 90 days before
3 the date of” and inserting “at any time before”;

4 (C) by amending paragraph (47) to read
5 as follows:

6 “(47) ‘repurchase agreement’ (which definition
7 also applies to a ‘reverse repurchase agreement’)—

8 “(A) means—

9 “(i) an agreement, including related
10 terms, which provides for the transfer of 1
11 or more certificates of deposit, mortgage-
12 related securities (as defined in the Securi-
13 ties Exchange Act of 1934), mortgage
14 loans, interests in mortgage-related securi-
15 ties or mortgage loans, eligible bankers’ ac-
16 ceptances, qualified foreign government se-
17 curities, or securities that are direct obliga-
18 tions of, or that are fully guaranteed by,
19 the United States or any agency of the
20 United States against the transfer of funds
21 by the transferee of such certificates of de-
22 posit, eligible bankers’ acceptances, securi-
23 ties, loans, or interests, with a simulta-
24 neous agreement by such transferee to
25 transfer to the transferor thereof certifi-

1 cates of deposit, eligible bankers' accept-
2 ance, securities, loans, or interests of the
3 kind described above, at a date certain not
4 later than 1 year after such transfer or on
5 demand, against the transfer of funds;

6 “(ii) any combination of agreements
7 or transactions referred to in clauses (i)
8 and (iii);

9 “(iii) an option to enter into an agree-
10 ment or transaction referred to in clause
11 (i) or (ii);

12 “(iv) a master agreement that pro-
13 vides for an agreement or transaction re-
14 ferred to in clause (i), (ii), or (iii), together
15 with all supplements to any such master
16 agreement, without regard to whether such
17 master agreement provides for an agree-
18 ment or transaction that is not a repur-
19 chase agreement under this paragraph, ex-
20 cept that such master agreement shall be
21 considered to be a repurchase agreement
22 under this paragraph only with respect to
23 each agreement or transaction under the
24 master agreement that is referred to in
25 clause (i), (ii), or (iii); or

1 “(v) any security agreement or ar-
2 rangement or other credit enhancement re-
3 lated to any agreement or transaction re-
4 ferred to in clause (i), (ii), (iii), or (iv), but
5 not to exceed the actual value of such con-
6 tract on the date of the filing of the peti-
7 tion; and

8 “(B) does not include a repurchase obliga-
9 tion under a participation in a commercial
10 mortgage loan,

11 and, for purposes of this paragraph, the term ‘quali-
12 fied foreign government security’ means a security
13 that is a direct obligation of, or that is fully guaran-
14 teed by, the central government of a member of the
15 Organization for Economic Cooperation and Devel-
16 opment;”;

17 (D) in paragraph (48) by inserting “or ex-
18 empt from such registration under such section
19 pursuant to an order of the Securities and Ex-
20 change Commission” after “1934”; and

21 (E) by amending paragraph (53B) to read
22 as follows:

23 “(53B) ‘swap agreement’—

24 “(A) means—

1 “(i) any agreement, including the
2 terms and conditions incorporated by ref-
3 erence in such agreement, which is an in-
4 terest rate swap, option, future, or forward
5 agreement, including a rate floor, rate cap,
6 rate collar, cross-currency rate swap, and
7 basis swap; a spot, same day-tomorrow, to-
8 morrow-next, forward, or other foreign ex-
9 change or precious metals agreement; a
10 currency swap, option, future, or forward
11 agreement; an equity index or an equity
12 swap, option, future, or forward agree-
13 ment; a debt index or a debt swap, option,
14 future, or forward agreement; a credit
15 spread or a credit swap, option, future, or
16 forward agreement; a commodity index or
17 a commodity swap, option, future, or for-
18 ward agreement; or a weather swap,
19 weather derivative, or weather option;

20 “(ii) any agreement or transaction
21 similar to any other agreement or trans-
22 action referred to in this paragraph that—

23 “(I) is presently, or in the future
24 becomes, regularly entered into in the
25 swap market (including terms and

1 conditions incorporated by reference
2 therein); and

3 “(II) is a forward, swap, future,
4 or option on 1 or more rates, cur-
5 rencies, commodities, equity securities,
6 or other equity instruments, debt se-
7 curities or other debt instruments, or
8 economic indices or measures of eco-
9 nomic risk or value;

10 “(iii) any combination of agreements
11 or transactions referred to in this para-
12 graph;

13 “(iv) any option to enter into an
14 agreement or transaction referred to in
15 this paragraph;

16 “(v) a master agreement that provides
17 for an agreement or transaction referred to
18 in clause (i), (ii), (iii), or (iv), together
19 with all supplements to any such master
20 agreement, and without regard to whether
21 the master agreement contains an agree-
22 ment or transaction that is not a swap
23 agreement under this paragraph, except
24 that the master agreement shall be consid-
25 ered to be a swap agreement under this

1 paragraph only with respect to each agree-
2 ment or transaction under the master
3 agreement that is referred to in clause (i),
4 (ii), (iii), or (iv); or

5 “(B) any security agreement or arrange-
6 ment or other credit enhancement related to
7 any agreements or transactions referred to in
8 subparagraph (A), but not to exceed the actual
9 value of such contract on the date of the filing
10 of the petition; and

11 “(C) is applicable for purposes of this title
12 only and shall not be construed or applied so as
13 to challenge or affect the characterization, defi-
14 nition, or treatment of any swap agreement
15 under any other statute, regulation, or rule, in-
16 cluding the Securities Act of 1933, the Securi-
17 ties Exchange Act of 1934, the Public Utility
18 Holding Company Act of 1935, the Trust In-
19 denture Act of 1939, the Investment Company
20 Act of 1940, the Investment Advisers Act of
21 1940, the Securities Investor Protection Act of
22 1970, the Commodity Exchange Act, and the
23 regulations prescribed by the Securities and Ex-
24 change Commission or the Commodity Futures
25 Trading Commission.”;

1 (2) by amending section 741(7) to read as fol-
2 lows:

3 “(7) ‘securities contract’—

4 “(A) means—

5 “(i) a contract for the purchase, sale,
6 or loan of a security, a certificate of de-
7 posit, a mortgage loan or any interest in a
8 mortgage loan, a group or index of securi-
9 ties, certificates of deposit or mortgage
10 loans or interests therein (including an in-
11 terest therein or based on the value there-
12 of), or option on any of the foregoing, in-
13 cluding an option to purchase or sell any
14 such security, certificate of deposit, loan,
15 interest, group or index, or option;

16 “(ii) any option entered into on a na-
17 tional securities exchange relating to for-
18 eign currencies;

19 “(iii) the guarantee by or to any secu-
20 rities clearing agency of a settlement of
21 cash, securities, certificates of deposit,
22 mortgage loans or interests therein, group
23 or index of securities, or mortgage loans or
24 interests therein (including any interest
25 therein or based on the value thereof), or

1 option on any of the foregoing, including
2 an option to purchase or sell any such se-
3 curity, certificate of deposit, loan, interest,
4 group or index, or option;

5 “(iv) any margin loan;

6 “(v) any other agreement or trans-
7 action that is similar to an agreement or
8 transaction referred to in this paragraph;

9 “(vi) any combination of the agree-
10 ments or transactions referred to in this
11 paragraph;

12 “(vii) any option to enter into any
13 agreement or transaction referred to in
14 this paragraph;

15 “(viii) a master agreement that pro-
16 vides for an agreement or transaction re-
17 ferred to in clause (i), (ii), (iii), (iv), (v),
18 (vi), or (vii), together with all supplements
19 to any such master agreement, without re-
20 gard to whether the master agreement pro-
21 vides for an agreement or transaction that
22 is not a securities contract under this
23 paragraph, except that such master agree-
24 ment shall be considered to be a securities
25 contract under this paragraph only with

1 respect to each agreement or transaction
2 under such master agreement that is re-
3 ferred to in clause (i), (ii), (iii), (iv), (v),
4 (vi), or (vii); or

5 “(ix) any security agreement or ar-
6 rangement or other credit enhancement re-
7 lated to any agreement or transaction re-
8 ferred to in this paragraph, but not to ex-
9 ceed the actual value of such contract on
10 the date of the filing of the petition; and

11 “(B) does not include any purchase, sale,
12 or repurchase obligation under a participation
13 in a commercial mortgage loan.”; and

14 (3) in section 761(4)—

15 (A) by striking “or” at the end of subpara-
16 graph (D); and

17 (B) by adding at the end the following:

18 “(F) any other agreement or transaction
19 that is similar to an agreement or transaction
20 referred to in this paragraph;

21 “(G) any combination of the agreements or
22 transactions referred to in this paragraph;

23 “(H) any option to enter into an agree-
24 ment or transaction referred to in this para-
25 graph;

1 “(I) a master agreement that provides for
2 an agreement or transaction referred to in sub-
3 paragraph (A), (B), (C), (D), (E), (F), (G), or
4 (H), together with all supplements to such mas-
5 ter agreement, without regard to whether the
6 master agreement provides for an agreement or
7 transaction that is not a commodity contract
8 under this paragraph, except that the master
9 agreement shall be considered to be a com-
10 modity contract under this paragraph only with
11 respect to each agreement or transaction under
12 the master agreement that is referred to in sub-
13 paragraph (A), (B), (C), (D), (E), (F), (G), or
14 (H); or

15 “(J) any security agreement or arrange-
16 ment or other credit enhancement related to
17 any agreement or transaction referred to in this
18 paragraph, but not to exceed the actual value of
19 such contract on the date of the filing of the pe-
20 tition;”.

21 (b) DEFINITIONS OF FINANCIAL INSTITUTION, FI-
22 NANCIAL PARTICIPANT, AND FORWARD CONTRACT MER-
23 CHANT.—Section 101 of title 11, United States Code, is
24 amended—

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

3 “(22) the term ‘financial institution’—

4 “(A) means a Federal reserve bank or an
5 entity (domestic or foreign) that is a commer-
6 cial or savings bank, industrial savings bank,
7 savings and loan association, trust company, a
8 bank or a corporation organized under section
9 25A of the Federal Reserve Act and, when any
10 such bank or entity is acting as agent or custo-
11 dian for a customer in connection with a securi-
12 ties contract, as defined in section 741, such
13 customer; and

14 “(B) includes any person described in sub-
15 paragraph (A) which operates, or operates as, a
16 multilateral clearing organization pursuant to
17 section 409 of the Federal Deposit Insurance
18 Corporation Improvement Act of 1991;”;

19 (2) by inserting after paragraph (22) the fol-
20 lowing:

21 “(22A) ‘financial participant’ means an entity
22 that, at the time it enters into a securities contract,
23 commodity contract or forward contract, or at the
24 time of the filing of the petition, has 1 or more
25 agreements or transactions described in paragraph

1 (1), (2), (3), (4), (5), or (6) of section 561(a) with
2 the debtor or any other entity (other than an affil-
3 iate) of a total gross dollar value of at least
4 \$1,000,000,000 in notional or actual principal
5 amount outstanding on any day during the previous
6 15-month period, or has gross mark-to-market posi-
7 tions of at least \$100,000,000 (aggregated across
8 counterparties) in 1 or more such agreement or
9 transaction with the debtor or any other entity
10 (other than an affiliate) on any day during the pre-
11 vious 15-month period;” and

12 (3) by amending paragraph (26) to read as fol-
13 lows:

14 “(26) ‘forward contract merchant’ means a
15 Federal reserve bank, or an entity whose business
16 consists in whole or in part of entering into forward
17 contracts as or with merchants or in a commodity,
18 as defined or in section 761, or any similar good, ar-
19 ticle, service, right, or interest which is presently or
20 in the future becomes the subject of dealing or in
21 the forward contract trade;”.

22 (c) DEFINITION OF MASTER NETTING AGREEMENT
23 AND MASTER NETTING AGREEMENT PARTICIPANT.—Sec-
24 tion 101 of title 11, United States Code, is amended by

1 inserting after paragraph (38) the following new para-
2 graphs:

3 “(38A) ‘master netting agreement’ means an
4 agreement providing for the exercise of rights, in-
5 cluding rights of netting, setoff, liquidation, termi-
6 nation, acceleration, or closeout, under or in connec-
7 tion with 1 or more contracts that are described in
8 any 1 or more of paragraphs (1) through (5) of sec-
9 tion 561(a), or any security agreement or arrange-
10 ment or other credit enhancement related to 1 or
11 more of the foregoing. If a master netting agreement
12 contains provisions relating to agreements or trans-
13 actions that are not contracts described in para-
14 graphs (1) through (5) of section 561(a), the master
15 netting agreement shall be deemed to be a master
16 netting agreement only with respect to those agree-
17 ments or transactions that are described in any 1 or
18 more of the paragraphs (1) through (5) of section
19 561(a);

20 “(38B) ‘master netting agreement participant’
21 means an entity that, at any time before the filing
22 of the petition, is a party to an outstanding master
23 netting agreement with the debtor;”.

24 (d) SWAP AGREEMENTS, SECURITIES CONTRACTS,
25 COMMODITY CONTRACTS, FORWARD CONTRACTS, REPUR-

1 CHASE AGREEMENTS, AND MASTER NETTING AGREE-
2 MENTS UNDER THE AUTOMATIC-STAY.—

3 (1) IN GENERAL.—Section 362(b) of title 11,
4 United States Code, is amended—

5 (A) in paragraph (6), by inserting “,
6 pledged to and under the control of,” after
7 “held by”;

8 (B) in paragraph (7), by inserting “,
9 pledged to and under the control of,” after
10 “held by”;

11 (C) by amending paragraph (17) to read
12 as follows:

13 “(17) under subsection (a), of the setoff by a
14 swap participant of a mutual debt and claim under
15 or in connection with 1 or more swap agreements
16 that constitutes the setoff of a claim against the
17 debtor for any payment or other transfer of property
18 due from the debtor under or in connection with any
19 swap agreement against any payment due to the
20 debtor from the swap participant under or in con-
21 nection with any swap agreement or against cash,
22 securities, or other property held by, pledged to and
23 under the control of, or due from such swap partici-
24 pant to margin, guarantee, secure, or settle any
25 swap agreement;”;

1 (D) in paragraph (18) by striking the pe-
2 riod at the end and inserting “; or”; and

3 (E) by inserting after paragraph (18) the
4 following new paragraph:

5 “(19) under subsection (a), of the setoff by a
6 master netting agreement participant of a mutual
7 debt and claim under or in connection with 1 or
8 more master netting agreements or any contract or
9 agreement subject to such agreements that con-
10 stitutes the setoff of a claim against the debtor for
11 any payment or other transfer of property due from
12 the debtor under or in connection with such agree-
13 ments or any contract or agreement subject to such
14 agreements against any payment due to the debtor
15 from such master netting agreement participant
16 under or in connection with such agreements or any
17 contract or agreement subject to such agreements or
18 against cash, securities, or other property held by,
19 pledged to and under the control of, or due from
20 such master netting agreement participant to mar-
21 gin, guarantee, secure, or settle such agreements or
22 any contract or agreement subject to such agree-
23 ments, to the extent such participant is eligible to
24 exercise such offset rights under paragraph (6), (7),

1 or (17) for each individual contract covered by the
2 master netting agreement in issue.”.

3 (2) LIMITATION.—Section 362 of title 11,
4 United States Code, is amended by adding at the
5 end the following:

6 “(i) LIMITATION.—The exercise of rights not subject
7 to the stay arising under subsection (a) pursuant to para-
8 graph (6), (7), or (17), or (32) of subsection (b) shall not
9 be stayed by any order of a court or administrative agency
10 in any proceeding under this title.”.

11 (e) LIMITATION OF AVOIDANCE POWERS UNDER
12 MASTER NETTING AGREEMENT.—Section 546 of title 11,
13 United States Code, is amended—

14 (1) in subsection (g) (as added by section 103
15 of Public Law 101–311)—

16 (A) by striking “under a swap agreement”;
17 and

18 (B) by striking “in connection with a swap
19 agreement” and inserting “under or in connec-
20 tion with any swap agreement”; and

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

22 “(j) Notwithstanding sections 544, 545, 547,
23 548(a)(1)(B), and 548(b), the trustee may not avoid a
24 transfer made by or to a master netting agreement partici-
25 pant under or in connection with any master netting

1 agreement or any individual contract covered thereby that
2 is made before the commencement of the case, except
3 under section 548(a)(1)(A), and except to the extent the
4 trustee could otherwise avoid such a transfer made under
5 an individual contract covered by such master netting
6 agreement.”.

7 (f) FRAUDULENT TRANSFERS OF MASTER NETTING
8 AGREEMENTS.—Section 548(d)(2) of title 11, United
9 States Code, is amended—

- 10 (1) in subparagraph (C), by striking “and”;
- 11 (2) in subparagraph (D), by striking the period
12 and inserting “; and”; and
- 13 (3) by adding at the end the following new sub-
14 paragraph:
- 15 “(E) a master netting agreement participant
16 that receives a transfer in connection with a master
17 netting agreement or any individual contract covered
18 thereby takes for value to the extent of such trans-
19 fer, except, with respect to a transfer under any in-
20 dividual contract covered thereby, to the extent such
21 master netting agreement participant otherwise did
22 not take (or is otherwise not deemed to have taken)
23 such transfer for value.”.

1 (g) TERMINATION OR ACCELERATION OF SECURITIES
2 CONTRACTS.—Section 555 of title 11, United States Code,
3 is amended—

4 (1) by amending the section heading to read as
5 follows:

6 **“§ 555. Contractual right to liquidate, terminate, or**
7 **accelerate a securities contract”;**

8 and

9 (2) in the first sentence, by striking “liquida-
10 tion” and inserting “liquidation, termination, or ac-
11 celeration”.

12 (h) TERMINATION OR ACCELERATION OF COMMOD-
13 ITIES OR FORWARD CONTRACTS.—Section 556 of title 11,
14 United States Code, is amended—

15 (1) by amending the section heading to read as
16 follows:

17 **“§ 556. Contractual right to liquidate, terminate, or**
18 **accelerate a commodities contract or for-**
19 **ward contract”;**

20 and

21 (2) in the first sentence, by striking “liquida-
22 tion” and inserting “liquidation, termination, or ac-
23 celeration”.

1 (i) TERMINATION OR ACCELERATION OF REPUR-
2 CHASE AGREEMENTS.—Section 559 of title 11, United
3 States Code, is amended—

4 (1) by amending the section heading to read as
5 follows:

6 **“§ 559. Contractual right to liquidate, terminate, or**
7 **accelerate a repurchase agreement”;**

8 and

9 (2) in the first sentence, by striking “liquida-
10 tion” and inserting “liquidation, termination, or ac-
11 celeration”.

12 (j) LIQUIDATION, TERMINATION, OR ACCELERATION
13 OF SWAP AGREEMENTS.—Section 560 of title 11, United
14 States Code, is amended—

15 (1) by amending the section heading to read as
16 follows:

17 **“§ 560. Contractual right to liquidate, terminate, or**
18 **accelerate a swap agreement”;**

19 (2) in the first sentence, by striking “termi-
20 nation of a swap agreement” and inserting “liquida-
21 tion, termination, or acceleration of 1 or more swap
22 agreements”; and

23 (3) by striking “in connection with any swap
24 agreement” and inserting “in connection with the

1 termination, liquidation, or acceleration of 1 or more
 2 swap agreements”.

3 (k) LIQUIDATION, TERMINATION, ACCELERATION, OR
 4 OFFSET UNDER A MASTER NETTING AGREEMENT AND
 5 ACROSS CONTRACTS.—(1) Title 11, United States Code,
 6 is amended by inserting after section 560 the following:

7 **“§ 561. Contractual right to terminate, liquidate, ac-**
 8 **celerate, or offset under a master netting**
 9 **agreement and across contracts**

10 “(a) IN GENERAL.—Subject to subsection (b), the ex-
 11 ercise of any contractual right, because of a condition of
 12 the kind specified in section 365(e)(1), to cause the termi-
 13 nation, liquidation, or acceleration of or to offset or net
 14 termination values, payment amounts or other transfer ob-
 15 ligations arising under or in connection with 1 or more
 16 (or the termination, liquidation, or acceleration of 1 or
 17 more)—

18 “(1) securities contracts, as defined in section
 19 741(7);

20 “(2) commodity contracts, as defined in section
 21 761(4);

22 “(3) forward contracts;

23 “(4) repurchase agreements;

24 “(5) swap agreements; or

25 “(6) master netting agreements,

1 shall not be stayed, avoided, or otherwise limited by oper-
2 ation of any provision of this title or by any order of a
3 court or administrative agency in any proceeding under
4 this title.

5 “(b) EXCEPTION.—

6 “(1) A party may exercise a contractual right
7 described in subsection (a) to terminate, liquidate, or
8 accelerate only to the extent that such party could
9 exercise such a right under section 555, 556, 559,
10 or 560 for each individual contract covered by the
11 master netting agreement in issue.

12 “(2) If a debtor is a commodity broker subject
13 to subchapter IV of chapter 7—

14 “(A) a party may not net or offset an obli-
15 gation to the debtor arising under, or in con-
16 nection with, a commodity contract against any
17 claim arising under, or in connection with,
18 other instruments, contracts, or agreements
19 listed in subsection (a), except to the extent the
20 party has positive net equity in the commodity
21 accounts at the debtor, as calculated under such
22 subchapter; and

23 “(B) another commodity broker may not
24 net or offset an obligation to the debtor arising
25 under, or in connection with, a commodity con-

1 tract entered into or held on behalf of a cus-
2 tomer of the debtor against any claim arising
3 under, or in connection with, other instruments,
4 contracts, or agreements listed in subsection
5 (a).

6 “(c) RULE OF APPLICATION.—Subparagraphs (A)
7 and (B) of subsection (b)(2) shall not be construed as pro-
8 hibiting the offset of claims and obligations arising pursu-
9 ant to—

10 “(1) a cross-margining arrangement that has
11 been approved by the Commodity Futures Trading
12 Commission or that has been submitted to such
13 Commission pursuant to section 5a(a)(12) of the
14 Commodity Exchange Act and has been permitted to
15 go into effect; or

16 “(2) another netting arrangement, between a
17 clearing organization (as defined in section 761) and
18 another entity, that has been approved by the Com-
19 modity Futures Trading Commission.

20 “(d) DEFINITION.—As used in this section, the term
21 ‘contractual right’ includes a right set forth in a rule or
22 bylaw of a national securities exchange, a national securi-
23 ties association, or a securities clearing agency, a right
24 set forth in a bylaw of a clearing organization or contract
25 market or in a resolution of the governing board thereof,

1 and a right, whether or not evidenced in writing, arising
 2 under common law, under law merchant, or by reason of
 3 normal business practice.”.

4 (2) CONFORMING AMENDMENT.—The table of sec-
 5 tions of chapter 5 of title 11, United States Code, is
 6 amended by inserting after the item relating to section
 7 560 the following:

“561. Contractual right to terminate, liquidate, accelerate, or offset under a
 master netting agreement and across contracts.”.

8 (1) MUNICIPAL BANKRUPTCIES.—Section 901(a) of
 9 title 11, United States Code, is amended—

10 (1) by inserting “555, 556,” after “553,”; and

11 (2) by inserting “559, 560, 561, 562,” after
 12 “557,”.

13 (m) ANCILLARY PROCEEDINGS.—Section 304 of title
 14 11, United States Code, is amended by adding at the end
 15 the following new subsection:

16 “(d) Any provisions of this title relating to securities
 17 contracts, commodity contracts, forward contracts, repur-
 18 chase agreements, swap agreements, or master netting
 19 agreements shall apply in a case ancillary to a foreign pro-
 20 ceeding under this section or any other section of this title
 21 so that enforcement of contractual provisions of such con-
 22 tracts and agreements in accordance with their terms will
 23 not be stayed or otherwise limited by operation of any pro-
 24 vision of this title or by order of a court in any proceeding

1 under this title, and to limit avoidance powers to the same
2 extent as in a proceeding under chapter 7 or 11 (such
3 enforcement not to be limited based on the presence or
4 absence of assets of the debtor in the United States).”.

5 (n) COMMODITY BROKER LIQUIDATIONS.—Title 11,
6 United States Code, is amended by inserting after section
7 766 the following:

8 **“§ 767. Commodity broker liquidation and forward**
9 **contract merchants, commodity brokers,**
10 **stockbrokers, financial institutions, fi-**
11 **nancial participants, securities clearing**
12 **agencies, swap participants, repo partici-**
13 **pants, and master netting agreement par-**
14 **ticipants**

15 “Notwithstanding any other provision of this title,
16 the exercise of rights by a forward contract merchant,
17 commodity broker, stockbroker, financial institution, fi-
18 nancial participant, securities clearing agency, swap par-
19 ticipant, repo participant, or master netting agreement
20 participant under this title shall not affect the priority of
21 any unsecured claim it may have after the exercise of such
22 rights.”.

23 (o) STOCKBROKER LIQUIDATIONS.—Title 11, United
24 States Code, is amended by inserting after section 752 the
25 following:

1 **“§ 753. Stockbroker liquidation and forward contract**
 2 **merchants, commodity brokers, stock-**
 3 **brokers, financial institutions, financial**
 4 **participants, securities clearing agencies,**
 5 **swap participants, repo participants, and**
 6 **master netting agreement participants**

7 “Notwithstanding any other provision of this title,
 8 the exercise of rights by a forward contract merchant,
 9 commodity broker, stockbroker, financial institution, secu-
 10 rities clearing agency, swap participant, repo participant,
 11 financial participant, or master netting agreement partici-
 12 pant under this title shall not affect the priority of any
 13 unsecured claim it may have after the exercise of such
 14 rights.”.

15 (p) SETOFF.—Section 553 of title 11, United States
 16 Code, is amended—

17 (1) in subsection (a)(3)(C), by inserting “(ex-
 18 cept for a setoff of a kind described in section
 19 362(b)(6), 362(b)(7), 362(b)(17), 362(b)(32), 555,
 20 556, 559, 560 or 561)” before the period; and

21 (2) in subsection (b)(1), by striking
 22 “362(b)(14)” and inserting “362(b)(17),
 23 362(b)(32), 555, 556, 559, 560, 561”.

24 (q) SECURITIES CONTRACTS, COMMODITY CON-
 25 TRACTS, AND FORWARD CONTRACTS.—Title 11, United
 26 States Code, is amended—

1 (1) in section 362(b)(6), by striking “financial
2 institutions,” each place such term appears and in-
3 serting “financial institution, financial participant”;

4 (2) in section 546(e), by inserting “financial
5 participant,” after “financial institution,”;

6 (3) in section 548(d)(2)(B), by inserting “fi-
7 nancial participant,” after “financial institution,”;

8 (4) in section 555—

9 (A) by inserting “financial participant,”
10 after “financial institution,”; and

11 (B) by inserting before the period at the
12 end “, a right set forth in a bylaw of a clearing
13 organization or contract market or in a resolu-
14 tion of the governing board thereof, and a right,
15 whether or not in writing, arising under com-
16 mon law, under law merchant, or by reason of
17 normal business practice”; and

18 (5) in section 556, by inserting “, financial par-
19 ticipant” after “commodity broker”.

20 (r) CONFORMING AMENDMENTS.—Title 11, United
21 States Code, is amended—

22 (1) in the table of sections of chapter 5—

23 (A) by amending the items relating to sec-
24 tions 555 and 556 to read as follows:

“555. Contractual right to liquidate, terminate, or accelerate a securities con-
tract.

“556. Contractual right to liquidate, terminate, or accelerate a commodities contract or forward contract.”;

1 and

2 (B) by amending the items relating to sec-
3 tions 559 and 560 to read as follows:

“559. Contractual right to liquidate, terminate, or accelerate a repurchase agreement.

“560. Contractual right to liquidate, terminate, or accelerate a swap agreement.”;

4 and

5 (2) in the table of sections of chapter 7—

6 (A) by inserting after the item relating to
7 section 766 the following:

“767. Commodity broker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, financial participants, securities clearing agencies, swap participants, repo participants, and master netting agreement participants.”;

8 and

9 (B) by inserting after the item relating to
10 section 752 the following:

“753. Stockbroker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, financial participants, securities clearing agencies, swap participants, repo participants, and master netting agreement participants.”.

11 **SEC. 9. RECORDKEEPING REQUIREMENTS.**

12 Section 11(e)(8) of the Federal Deposit Insurance
13 Act (12 U.S.C. 1821(e)(8)) is amended by adding at the
14 end the following new subparagraph:

15 “(H) RECORDKEEPING REQUIREMENTS.—

16 The Corporation, in consultation with the ap-
17 propriate Federal banking agencies, may pre-

1 scribe regulations requiring more detailed rec-
2 ordkeeping with respect to qualified financial
3 contracts (including market valuations) by in-
4 sured depository institutions.”.

5 **SEC. 10. EXEMPTIONS FROM CONTEMPORANEOUS EXECU-**
6 **TION REQUIREMENT.**

7 Section 13(e)(2) of the Federal Deposit Insurance
8 Act (12 U.S.C. 1823(e)(2)) is amended to read as follows:

9 “(2) EXEMPTIONS FROM CONTEMPORANEOUS
10 EXECUTION REQUIREMENT.—An agreement to pro-
11 vide for the lawful collateralization of—

12 “(A) deposits of, or other credit extension
13 by, a Federal, State, or local governmental enti-
14 ty, or of any depositor referred to in section
15 11(a)(2), including an agreement to provide col-
16 lateral in lieu of a surety bond;

17 “(B) bankruptcy estate funds pursuant to
18 section 345(b)(2) of title 11, United States
19 Code;

20 “(C) extensions of credit, including any
21 overdraft, from a Federal reserve bank or Fed-
22 eral home loan bank; or

23 “(D) 1 or more qualified financial con-
24 tracts, as defined in section 11(e)(8)(D),

1 shall not be deemed invalid pursuant to paragraph
 2 (1)(B) solely because such agreement was not exe-
 3 cuted contemporaneously with the acquisition of the
 4 collateral or because of pledges, delivery, or substi-
 5 tution of the collateral made in accordance with such
 6 agreement.”.

7 **SEC. 11. DAMAGE MEASURE.**

8 (a) IN GENERAL.—Title 11, United States Code, is
 9 amended—

10 (1) by inserting after section 561 the following:

11 **“§ 562. Damage measure in connection with swap**
 12 **agreements, securities contracts, forward**
 13 **contracts, commodity contracts, repur-**
 14 **chase agreements, or master netting**
 15 **agreements**

16 “If the trustee rejects a swap agreement, securities
 17 contract as defined in section 741, forward contract, com-
 18 modity contract (as defined in section 761) repurchase
 19 agreement, or master netting agreement pursuant to sec-
 20 tion 365(a), or if a forward contract merchant, stock-
 21 broker, financial institution, securities clearing agency,
 22 repo participant, financial participant, master netting
 23 agreement participant, or swap participant liquidates, ter-
 24 minates, or accelerates such contract or agreement, dam-
 25 ages shall be measured as of the earlier of—

1 “(1) the date of such rejection; or

2 “(2) the date of such liquidation, termination,
3 or acceleration.”; and

4 (2) in the table of sections of chapter 5 by in-
5 serting after the item relating to section 561 the fol-
6 lowing:

“562. Damage measure in connection with swap agreements, securities con-
tracts, forward contracts, commodity contracts, repurchase
agreements, or master netting agreements.”.

7 (b) CLAIMS ARISING FROM REJECTION.—Section
8 502(g) of title 11, United States Code, is amended—

9 (1) by designating the existing text as para-
10 graph (1); and

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

12 “(2) A claim for damages calculated in accordance
13 with section 562 shall be allowed under subsection (a), (b),
14 or (c), or disallowed under subsection (d) or (e), as if such
15 claim had arisen before the date of the filing of the peti-
16 tion.”.

17 **SEC. 12. SIPC STAY.**

18 Section 5(b)(2) of the Securities Investor Protection
19 Act of 1970 (15 U.S.C. 78eee(b)(2)) is amended by adding
20 after subparagraph (B) the following new subparagraph:

21 “(C) EXCEPTION FROM STAY.—

22 “(i) Notwithstanding section 362 of
23 title 11, United States Code, neither the
24 filing of an application under subsection

1 (a)(3) nor any order or decree obtained by
2 the Securities Investor Protection Corpora-
3 tion from the court shall operate as a stay
4 of any contractual rights of a creditor to
5 liquidate, terminate, or accelerate a securi-
6 ties contract, commodity contract, forward
7 contract, repurchase agreement, swap
8 agreement, or master netting agreement,
9 each as defined in title 11 United States
10 Code, to offset or net termination values,
11 payment amounts, or other transfer obliga-
12 tions arising under or in connection with 1
13 or more of such contracts or agreements,
14 or to foreclose on any cash collateral
15 pledged by the debtor whether or not with
16 respect to 1 or more of such contracts or
17 agreements.

18 “(ii) Notwithstanding clause (i), such
19 application, order, or decree may operate
20 as a stay of the foreclosure on or disposi-
21 tion of securities collateral pledged by the
22 debtor, whether or not with respect to 1 or
23 more of such contracts or agreements, se-
24 curities sold by the debtor under a repur-

chase agreement or securities lent under a securities lending agreement.

“(iii) As used in this section, the term ‘contractual right’ includes a right set forth in a rule or bylaw of a national securities exchange, a national securities association, or a securities clearing agency, a right set forth in a bylaw of a clearing organization or contract market or in a resolution of the governing board thereof, and a right, whether or not in writing, arising under common law, under law merchant, or by reason of normal business practice.”.

SEC. 13. ASSET-BACKED SECURITIZATIONS.

Section 541 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) by striking “or” at the end of paragraph (4)(B)(ii);

(B) by redesignating paragraph (5) as paragraph (6); and

(C) by inserting after paragraph (4) the following new paragraph:

“(5) any eligible asset (or proceeds thereof), to the extent that such eligible asset was transferred by

1 the debtor before the date of commencement of the
2 case, to an eligible entity in connection with an
3 asset-backed securitization, except to the extent such
4 asset (or proceeds or value thereof) may be recov-
5 ered by the trustee under section 550 by virtue of
6 avoidance under section 548(a)(1); or”; and

7 (2) by adding at the end the following new sub-
8 section:

9 “(e) For purposes of this section, the following defini-
10 tions shall apply:

11 “(1) the term ‘asset-backed securitization’
12 means a transaction in which eligible assets trans-
13 ferred to an eligible entity are used as the source of
14 payment on securities, including all securities issued
15 by governmental units, at least 1 class or tranche of
16 which is rated investment grade by 1 or more na-
17 tionally recognized securities rating organizations,
18 when the securities are initially issued by an issuer;

19 “(2) the term ‘eligible asset’ means—

20 “(A) financial assets (including interests
21 therein and proceeds thereof), either fixed or re-
22 volving, whether or not such assets are in exist-
23 ence as of the date of the transfer, including
24 residential and commercial mortgage loans, con-
25 sumer receivables, trade receivables, assets of

1 governmental units (including payment obliga-
2 tions relating to taxes, receipts, fines, tickets,
3 and other sources of revenue), and lease receiv-
4 ables, that, by their terms, convert into cash
5 within a finite time period, plus any residual in-
6 terest in property subject to receivables in-
7 cluded in such financial assets plus any rights
8 or other assets designed to assure the servicing
9 or timely distribution of proceeds to security
10 holders;

11 “(B) cash; and

12 “(C) securities, including all securities
13 issued by governmental units.

14 “(3) the term ‘eligible entity’ means—

15 “(A) an issuer; or

16 “(B) a trust, corporation, partnership, gov-
17 ernmental unit, limited liability company (in-
18 cluding a single member limited liability com-
19 pany), or other entity engaged exclusively in the
20 business of acquiring and transferring eligible
21 assets directly or indirectly to an issuer and
22 taking actions ancillary thereto;

23 “(4) the term ‘issuer’ means a trust, corpora-
24 tion, partnership, governmental unit, limited liability
25 company (including a single member limited liability

1 company), or other entity engaged exclusively in the
2 business of acquiring and holding eligible assets,
3 issuing securities backed by eligible assets, and tak-
4 ing actions ancillary thereto; and

5 “(5) the term ‘transferred’ means the debtor,
6 pursuant to a written agreement, represented and
7 warranted that eligible assets were sold, contributed,
8 or otherwise conveyed with the intention of removing
9 them from the estate of the debtor pursuant to sub-
10 section (b)(5) (whether or not reference is made to
11 this title or any section of this title), irrespective,
12 without limitation, of—

13 “(A) whether the debtor directly or indi-
14 rectly obtained or held an interest in the issuer
15 or in any securities issued by the issuer;

16 “(B) whether the debtor had an obligation
17 to repurchase or to service or supervise the
18 servicing of all or any portion of such eligible
19 assets; or

20 “(C) the characterization of such sale, con-
21 tribution, or other conveyance for tax, account-
22 ing, regulatory reporting, or other purposes.”.

23 **SEC. 14. APPLICATION OF AMENDMENTS.**

24 The amendments made by this Act shall apply with
25 respect to cases commenced or appointments made under

1 any Federal or State law after the date of the enactment
2 of this Act, but shall not apply with respect to cases com-
3 menced or appointments made under any Federal or State
4 law before the date of the enactment of this Act.

Passed the House of Representatives October 24,
2000.

Attest:

Clerk.

106TH CONGRESS
2D SESSION

H. R. 1161

AN ACT

To revise the banking and bankruptcy insolvency laws with respect to the termination and netting of financial contracts, and for other purposes.