

S. 876

To amend the Commodity Exchange Act to specify how clearing requirements apply to certain affiliate transactions.

IN THE SENATE OF THE UNITED STATES

MARCH 26, 2015

Mr. ROBERTS introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

A BILL

To amend the Commodity Exchange Act to specify how clearing requirements apply to certain affiliate transactions.

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.—

(1) COMMODITY EXCHANGE ACT AMEND-
MENT.—Section 2(h)(7)(D) of the Commodity Ex-
change Act (7 U.S.C. 2(h)(7)(D)) is amended by
striking clause (i) and inserting the following:

9 “(i) IN GENERAL.—An affiliate of a
10 person that qualifies for an exception

under subparagraph (A) (including affiliate entities predominantly engaged in providing financing for the purchase of the merchandise or manufactured goods of the person) may qualify for the exception only if the affiliate enters into the swap to hedge or mitigate the commercial risk of the person or other affiliate of the person that is not a financial entity, provided that if the hedge or mitigation of the commercial risk is addressed by entering into a swap with a swap dealer or major swap participant, an appropriate credit support measure or other mechanism must be used.”.

(2) CONFORMING AMENDMENT.—Section 3C(g)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78c–3(g)(4)) is amended by striking subparagraph (A) and inserting the following:

“(A) IN GENERAL.—An affiliate of a person that qualifies for an exception under paragraph (1) (including affiliate entities predominantly engaged in providing financing for the purchase of the merchandise or manufactured goods of the person) may qualify for the excep-

1 tion only if the affiliate enters into the security-
 2 based swap to hedge or mitigate the commercial
 3 risk of the person or other affiliate of the per-
 4 son that is not a financial entity, provided that
 5 if the hedge or mitigation of the commercial
 6 risk is addressed by entering into a security-
 7 based swap with a security-based swap dealer
 8 or major security-based swap participant, an
 9 appropriate credit support measure or other
 10 mechanism must be used.”.

11 (b) APPLICABILITY OF CREDIT SUPPORT MEASURE
 12 REQUIREMENT.—The requirements in section
 13 2(h)(7)(D)(i) of the Commodity Exchange Act and section
 14 3C(g)(4)(A) of the Securities Exchange Act of 1934, as
 15 amended by subsection (a), requiring that a credit support
 16 measure or other mechanism be used if the transfer of
 17 commercial risk referred to in those sections is addressed
 18 by entering into a swap with a swap dealer or major swap
 19 participant or a security-based swap with a security-based
 20 swap dealer or major security-based swap participant, as
 21 appropriate, shall not apply with respect to swaps or secu-
 22 rity-based swaps, as appropriate, entered into before the
 23 date of enactment of this Act.

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