

**AMENDMENT TO H.R. \_\_\_\_\_**

**OFFERED BY \_\_\_\_\_**

Page 12, strike line 17 and all that follows through page 14, line 17, and insert the following:

1           “(40) MAJOR SWAP PARTICIPANT.—

2                   “(A) IN GENERAL.—The term ‘major swap  
3           participant’ means any person who is not a  
4           swap dealer and—

5                           “(i) who maintains a substantial net  
6                           position in outstanding swaps, excluding  
7                           positions held primarily for hedging, reduc-  
8                           ing, or otherwise mitigating commercial  
9                           risk; or

10                           “(ii) whose outstanding swaps create  
11                           substantial net counterparty exposure (cur-  
12                           rent and potential future) that would ex-  
13                           pose counterparties to significant credit  
14                           losses that could have a material adverse  
15                           effect on capital of the counterparties.

16                           “(B) DEFINITIONS.—The Commission and  
17           the Securities and Exchange Commission shall  
18           jointly define by rule or regulation the term  
19           ‘substantial net position’ and ‘substantial net

1           counterparty exposure’ at a threshold that the  
2           Commissions determine prudent for the effec-  
3           tive monitoring of, management and oversight  
4           of the financial system. In the event the Com-  
5           missions are unable to agree upon a level within  
6           60 days of the commencement of such consulta-  
7           tions, the Secretary of the Treasury shall make  
8           such determination, which shall be binding on  
9           and adopted by such Commissions.

10           “(41) MAJOR SECURITY-BASED SWAP PARTICI-  
11           PANT.—

12                   “(A) IN GENERAL.—The term ‘major secu-  
13                   rity-based swap participant’ means any person  
14                   who is not a swap dealer and—

15                           “(i) who maintains a substantial net  
16                           position in outstanding security-based  
17                           swaps, excluding positions held primarily  
18                           for hedging, reducing, or otherwise miti-  
19                           gating commercial risk; or

20                           “(ii) whose outstanding security-based  
21                           swaps create substantial net counterparty  
22                           exposure (current and potential future)  
23                           that would expose counterparties to signifi-  
24                           cant credit losses that could have a mate-

1           rial adverse effect on capital of the  
2           counterparties.

3           “(B) DEFINITIONS.—The Commission and  
4           the Commodity Futures Trading Commission  
5           shall jointly define by rule or regulation the  
6           term ‘substantial net position’ and ‘substantial  
7           net counterparty exposure’ at a threshold that  
8           the Commissions determine prudent for the ef-  
9           fective monitoring of, management and over-  
10          sight of the financial system. In the event the  
11          Commissions are unable to agree upon a level  
12          within 60 days of the commencement of such  
13          consultations, the Secretary of the Treasury  
14          shall make such determination, which shall be  
15          binding on and adopted by such Commissions.”.

Page 70, line 14, strike the close quotation mark  
and following period and after such line insert the fol-  
lowing:

16          “(m) EXEMPTIVE AUTHORITY.—In implementing  
17          this section, the Commission may exempt, by rule or order,  
18          an individual institution or class of institutions from the  
19          general or specific requirements under this section.”.

Page 180, line 15, strike the close quotation mark and following period and after such line insert the following:

1       “(m) EXEMPTIVE AUTHORITY.—In implementing  
2 this section, the Commission may exempt, by rule or order,  
3 an individual institution or class of institutions from the  
4 general or specific requirements under this section.”.

