



**Legislative Bulletin.....October 30, 2013**

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**H.R. 992 — Swaps Regulatory Improvement Act**

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**H.R. 992 — Swaps Regulatory Improvement Act (Hultgren, R-IL)**

**Order of Business:** H.R. 992 is [scheduled](#) for consideration on Wednesday, October 29, 2013, subject to a closed rule. More information can be found on the Rules Committee website [here](#).

**Summary:** [H.R. 992](#) modifies Section 716 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank) which is referred to as the “swaps push-out provision.” The bill modifies Section 716 by allowing swaps to be retained by banks where they are under the supervision of regulators instead of forcing banks to “push-out” swaps to affiliate organizations allowing banks to preserve their access to Federal Deposit Insurance Corporation or Federal Reserve credit. Instead of forcing all swaps to be pushed out, H.R. 992 only requires “structured finance swaps” to be pushed out – like those that brought down AIG. It also creates parity between insured depository institutions and uninsured branches of U.S. banks and agencies of foreign banks so that they would all be able to conduct swaps and still have access to federal assistance.

**Major Changes Since the Last Time This Legislation was Before the House:** A similar bill, H.R. 1838, was introduced in the 112<sup>th</sup> Congress and was reported favorably by the House Committee on Financial Services.

**Additional Background:** According to the [Securities and Exchange Commission](#), swaps “are financial contracts in which two counterparties agree to exchange or ‘swap’ payments with each other as a result of such things as changes in a stock price, interest rate or commodity price. Swap is also defined under [7 U.S.C. 1a \(47\)](#). A Securities and Exchange Commission chart of security-based swaps can be viewed [here](#).

Swaps are used by companies such as agricultural businesses and utility companies to mitigate risks such as adverse price changes or changes interest rates. Some customers might prefer to have banks as counter-parties to a swap to decrease the risk of default. This bill allows banks to remain counter-parties to those transactions instead of potentially less-capitalized affiliate entities.

There have been concerns that requiring banks to push-out swaps to affiliated entities adds unnecessary costs to the transactions. International regulators have not implemented similar push-out requirements which could give a competitive advantage for foreign banks.

Federal Reserve Chairman Ben Bernanke has stated that he has concerns with Section 716 of Dodd-Frank.

An additional explanation of the bill by the Congressional Budget Office can be viewed [here](#).

**Committee Action:** H.R. 992 was introduced on March 3, 2013. It was referred to the House Committee on Financial Services and the House Committee on Agriculture. On March 20, 2013, the House Committee on Agriculture favorably reported the bill by a [vote](#) of 31-14. On May 7, 2013, the House Committee on Financial Services held a markup on the bill where it was favorably reported by a [vote](#) of 53-6.

**Outside Groups:**

- The U.S. Chamber of Commerce has indicated that they will “key vote” a vote in favor of this legislation.

The other following groups support this legislation:

- The Financial Services Roundtable
- [Securities Industry and Financial Markets Association \(SIFMA\)](#)
- Institute of International Bankers
- International Swaps and Derivatives Association, Inc.
- American Bankers Association

**Administration Position:** The Executive Office of the President issued a Statement of Administration Policy (SAP) on Monday, October 28, 2013, in opposition to the bill. The SAP can be viewed [here](#).

**Cost to Taxpayers:** According to the Congressional Budget Office [cost estimate](#), “enacting this legislation could affect direct spending and revenues; therefore, pay-as-you-go procedures apply. However, CBO estimates that any impact on the net cash flows of the Federal Reserve or the FDIC over the next 10 years would not be significant.”

**Does the Bill Expand the Size and Scope of the Federal Government?:** No.

**Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?:** No.

**Does the Bill Contain Any Federal Encroachment into State or Local Authority in Potential Violation of the 10<sup>th</sup> Amendment?:** No.

**Does the Bill Delegate Any Legislative Authority to the Executive Branch?:** No.

**Does the Bill Contain Any Earmarks/Limited Tax Benefits/Limited Tariff Benefits?:** No.

**Constitutional Authority:** According to the sponsor, “Congress has the power to enact this legislation pursuant to the following: Article I, Section 8, Clause 3 of the United States Constitution, as this legislation regulates commerce with foreign nations, between the states, and with Indian Tribes.” Congressman Hultgren’s statement in the Congressional Record can be viewed [here](#).

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