

# Union Calendar No. 266

112<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 2586

**[Report No. 112–345, Parts I and II]**

To refine the definition of swap execution facility in the provisions regulating swap markets added by title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 19, 2011

Mr. GARRETT (for himself, Mrs. MALONEY, Mr. HURT, and Mr. MEEKS) 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

DECEMBER 23, 2011

Reported from the Committee on Financial Services with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

DECEMBER 23, 2011

Referral to the Committee on Agriculture extended for a period ending not later than February 1, 2012

FEBRUARY 1, 2012

Referral to the Committee on Agriculture extended for a period ending not later than February 8, 2012

FEBRUARY 8, 2012

Additional sponsors: Mr. GRIMM, Mr. NEUGEBAUER, Mr. FITZPATRICK, Ms. MOORE, and Mr. DOLD

FEBRUARY 8, 2012

Reported from the Committee on Agriculture with an amendment; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in boldface roman]

[For text of introduced bill, see copy of bill as introduced on July 19, 2011]

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## **A BILL**

To refine the definition of swap execution facility in the provisions regulating swap markets added by title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

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. SHORT TITLE.**

4        *This Act may be cited as the “Swap Execution Facil-*  
5 *ity Clarification Act”.*

6 **SEC. 2. DEFINITION OF SWAP EXECUTION FACILITY.**

7        (a) *COMMODITY EXCHANGE ACT.*—Section 1a(50) of  
8 *the Commodity Exchange Act (7 U.S.C. 1a(50)) is amend-*  
9 *ed—*

10            (1) *by striking “The term” and inserting the fol-*  
11 *lowing:*

12                    “(A) *IN GENERAL.*—*The term*”;

13            (2) *by redesignating subparagraphs (A) and (B)*  
14 *as clauses (i) and (ii), respectively (and by moving*  
15 *the margins 2 ems to the right); and*

16            (3) *by adding at the end the following:*

17                    “(B) *INTERPRETATION.*—*In interpreting or*  
18 *further defining the term ‘swap execution facil-*  
19 *ity’, the Commission shall not require a swap*  
20 *execution facility to—*

21                            “(i) *have a minimum number of par-*  
22 *ticipants receive a bid or offer or respond to*  
23 *any trading system or platform*  
24 *functionality;*

1           “(ii) display or delay bids or offers for  
2           any period of time;

3           “(iii) limit the means of interstate  
4           commerce utilized by market participants to  
5           enter into and execute any swap trans-  
6           actions on the trading system or platform;  
7           or

8           “(iv) require bids or offers on one trad-  
9           ing system or platform operated by the  
10          swap execution facility to interact with bids  
11          or offers on another trading system or plat-  
12          form operated by the swap execution facil-  
13          ity”.

14          (b) *SECURITIES EXCHANGE ACT OF 1934*.—Section  
15          3(a)(77) of the Securities Exchange Act of 1934 (15 U.S.C.  
16          78c(a)(77)) is amended—

17                 (1) by striking “The term” and inserting the fol-  
18          lowing:

19                         “(A) *IN GENERAL*.—The term”;

20                         (2) by redesignating subparagraphs (A) and (B)  
21          as clauses (i) and (ii), respectively (and by moving  
22          the margins 2 ems to the right); and

23                         (3) by adding at the end the following:

24                                 “(B) *INTERPRETATION*.—In interpreting or  
25          further defining the term ‘security-based swap

1           *execution facility*’, the Commission shall not re-  
2           *quire a security-based swap execution facility*  
3           *to—*

4                     “(i) *have a minimum number of par-*  
5                     *ticipants receive a bid or offer or respond to*  
6                     *any trading system or platform*  
7                     *functionality;*

8                     “(ii) *display or delay bids or offers for*  
9                     *any period of time;*

10                    “(iii) *limit the means of interstate*  
11                    *commerce utilized by market participants to*  
12                    *enter into and execute any security-based*  
13                    *swap transactions on the ‘method of trading*  
14                    *functionality; or*

15                    “(iv) *require bids or offers on one trad-*  
16                    *ing system or platform operated by the*  
17                    *swap execution facility to interact with bids*  
18                    *or offers on another method of trading*  
19                    *functionality operated by the swap execu-*  
20                    *tion facility.”.*

21 **SECTION 1. SHORT TITLE.**

22           **This Act may be cited as the “Swap Execu-**  
23 **tion Facility Clarification Act”.**

1 **SEC. 2. DEFINITION OF SWAP EXECUTION FACILITY.**

2 **(a) COMMODITY EXCHANGE ACT.—Section**  
3 **1a(50) of the Commodity Exchange Act (7**  
4 **U.S.C. 1a(50)) is amended—**

5 **(1) by striking “The term” and insert-**  
6 **ing the following:**

7 **“(A) IN GENERAL.—The term”;**

8 **(2) by redesignating subparagraphs**  
9 **(A) and (B) as clauses (i) and (ii), respec-**  
10 **tively, and increasing the indentation of**  
11 **each such provision by 2 ems; and**

12 **(3) by adding at the end the fol-**  
13 **lowing:**

14 **“(B) INTERPRETATION.—In inter-**  
15 **preting or further defining the term**  
16 **‘swap execution facility’, the Commis-**  
17 **sion shall not require a swap execu-**  
18 **tion facility to—**

19 **“(i) have a minimum number**  
20 **of participants receive a bid or**  
21 **offer or respond to any method of**  
22 **trading functionality;**

23 **“(ii) delay bids or offers for**  
24 **any period of time; or**

25 **“(iii) limit the means of inter-**  
26 **state commerce utilized by mar-**

1           ket participants to enter into and  
2           execute any swap transactions on  
3           the       method       of       trading  
4           functionality.”.

5       **(b) SECURITIES EXCHANGE ACT OF 1934.—**  
6       **Section 3(a)(77) of the Securities Exchange**  
7       **Act of 1934 (15 U.S.C. 78c(a)(77)), as added by**  
8       **section 761(a)(6) of the Dodd-Frank Wall**  
9       **Street Reform and Consumer Protection Act,**  
10      **is amended—**

11           (1) by striking “The term” and insert-  
12           ing the following:

13                   “(A) IN GENERAL.—The term”;

14           (2) by redesignating subparagraphs  
15           (A) and (B) as clauses (i) and (ii), respec-  
16           tively, and increasing the indentation of  
17           each such provision by 2 ems; and

18           (3) by adding at the end the fol-  
19           lowing:

20                   “(B) INTERPRETATION.—In inter-  
21           preting or further defining the term  
22           ‘security-based swap execution facil-  
23           ity’, the Commission shall not require  
24           a security-based swap execution facil-  
25           ity to—

1           “(i) have a minimum number  
2           of participants receive a bid or  
3           offer or respond to any trading  
4           system or platform functionality;

5           “(ii) display or delay bids or  
6           offers for any period of time;

7           “(iii) limit the means of inter-  
8           state commerce utilized by mar-  
9           ket participants to enter into and  
10          execute any security-based swap  
11          transactions on the trading sys-  
12          tem or platform; or

13          “(iv) require bids or offers on  
14          one trading system or platform  
15          operated by the swap execution  
16          facility to interact with bids or of-  
17          fers on another trading system or  
18          platform operated by the swap  
19          execution facility.”.

20 **SEC. 3. IMPLEMENTATION.**

21          **The amendments made by this Act shall**  
22 **be implemented—**

23               **(1) without regard to—**

24                       **(A) chapter 35 of title 44, United**  
25                       **States Code; and**



1           **(B) the notice and comment provi-**  
2           **sions of section 553 of title 5, United**  
3           **States Code; and**  
4           **(2) through the promulgation of an**  
5           **interim final rule.**

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