

113TH CONGRESS
1ST SESSION

S. 474

To amend provisions in section 716 of the Dodd-Frank Wall Street Reform and Consumer Protection Act relating to Federal assistance for swaps entities.

IN THE SENATE OF THE UNITED STATES

MARCH 6, 2013

Mrs. HAGAN (for herself, Mr. TOOMEY, Mr. WARNER, and Mr. JOHANNES) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To amend provisions in section 716 of the Dodd-Frank Wall Street Reform and Consumer Protection Act relating to Federal assistance for swaps entities.

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 “Swaps Regulatory Im-
5 provement Act”.

1 **SEC. 2. REFORM OF PROHIBITION ON SWAP ACTIVITY AS-**
 2 **SISTANCE.**

3 Section 716 of the Dodd-Frank Wall Street Reform
 4 and Consumer Protection Act (15 U.S.C. 8305) is amend-
 5 ed—

6 (1) in subsection (b)—

7 (A) in paragraph (2)(B), by striking “in-
 8 sured depository institution” and inserting
 9 “covered depository institution”; and

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

11 “(3) COVERED DEPOSITORY INSTITUTION.—

12 The term ‘covered depository institution’ means—

13 “(A) an insured depository institution, as
 14 that term is defined in section 3 of the Federal
 15 Deposit Insurance Act (12 U.S.C. 1813); and

16 “(B) a United States uninsured branch or
 17 agency of a foreign bank.”;

18 (2) in subsection (c)—

19 (A) in the heading for such subsection, by
 20 striking “INSURED” and inserting “COVERED”;

21 (B) by striking “an insured” and inserting
 22 “a covered”;

23 (C) by striking “such insured” and insert-
 24 ing “such covered”; and

25 (D) by striking “or savings and loan hold-
 26 ing company” and inserting “savings and loan

1 holding company, or foreign banking organiza-
2 tion (as such term is defined under Regulation
3 K of the Board of Governors of the Federal Re-
4 serve System (12 C.F.R. 211.21(o)))”;

5 (3) by amending subsection (d) to read as fol-
6 lows:

7 “(d) ONLY BONA FIDE HEDGING AND TRADITIONAL
8 BANK ACTIVITIES PERMITTED.—

9 “(1) IN GENERAL.—The prohibition in sub-
10 section (a) shall not apply to any covered depository
11 institution that limits its swap and security-based
12 swap activities to the following:

13 “(A) HEDGING AND OTHER SIMILAR RISK
14 MITIGATION ACTIVITIES.—Hedging and other
15 similar risk mitigating activities directly related
16 to the covered depository institution’s activities.

17 “(B) NON-STRUCTURED FINANCE SWAP
18 ACTIVITIES.—Acting as a swaps entity for
19 swaps or security-based swaps other than a
20 structured finance swap.

21 “(C) CERTAIN STRUCTURED FINANCE
22 SWAP ACTIVITIES.—Acting as a swaps entity for
23 swaps or security-based swaps that are struc-
24 tured finance swaps, if—

1 “(i) such structured finance swaps are
2 undertaken for hedging or risk manage-
3 ment purposes; or

4 “(ii) each asset-backed security under-
5 lying such structured finance swaps is of a
6 credit quality and of a type or category
7 with respect to which the prudential regu-
8 lators have jointly adopted rules author-
9 izing swap or security-based swap activity
10 by covered depository institutions.

11 “(2) DEFINITIONS.—For purposes of this sub-
12 section:

13 “(A) STRUCTURED FINANCE SWAP.—The
14 term ‘structured finance swap’ means a swap or
15 security-based swap based on an asset-backed
16 security (or group or index primarily comprised
17 of asset-backed securities).

18 “(B) ASSET-BACKED SECURITY.—The
19 term ‘asset-backed security’ has the meaning
20 given such term under section 3(a) of the Secu-
21 rities Exchange Act of 1934 (15 U.S.C.
22 78c(a)).”;

23 (4) in subsection (e), by striking “an insured”
24 and inserting “a covered”; and

25 (5) in subsection (f)—

1 (A) by striking “an insured depository”
2 and inserting “a covered depository”; and

3 (B) by striking “the insured depository”
4 each place such term appears and inserting
5 “the covered depository”.

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