

Manager's Amendment Summary

Changes short title

Changes deadline for agency rules from 180 days to 1 year throughout the bill.

(The page numbers below refer to the page number in the amendment in the nature of a substitute to which the change is made, not to the page number in the manager's amendment.)

P 8 – Prohibits federal assistance to derivative clearing organizations or clearing agencies or their subsidiaries except where explicitly authorized by an Act of Congress

P11- Clarifies that definition of swap excludes options on contracts of sale of a commodity for future delivery

P 13- Clarifies that foreign exchange forwards and swaps are not considered to be swaps

P 17-18 (and p 117 for security-based swaps) – Amends the definition of major swap participant by (1) excluding the value of positions held primarily for hedging, reducing or otherwise mitigating commercial risk from the determination of the person's substantial net position; (2) including persons whose outstanding swaps create substantial net counterparty exposure that could have serious adverse effect on the financial stability of the US banking system or financial markets; and (3) providing that a person may be designated a major swap participant for 1 or more individual types of swaps.

P 21 – Adds a definition of “alternative swap execution facility”, which means a service that facilitates the execution or trading of swaps between two persons through any means of interstate commerce, but which is not a designated contract market, including any electronic trade execution or confirmation facility or any voice brokerage facility.

P 22 – Specifies the provisions for which the CFTC shall not have authority to grant exemptions.

P 24- (and p 129 for the SEC) Clarifies that the presumption of clearing applies only if the regulator has authorized the clearing requirement

P 25- (and p 130 for the SEC) Adds a provision to the clearing requirement to clarify that the regulator may allow clearing without mandating it.

P 27 – (and p 132 for the SEC) Clarifies that the regulator has discretion to apply terms and conditions to the clearing requirement.

P 31-32 (and p 137 for security-based swaps) – Modifies requirements for exemption from the clearing requirement by allowing the exemption even if a counterparty is a tier 1 financial holding company.

P 33 – Clarifies that CFTC will define the term “commodity”.

P 34 (and p 138, line 9 for security based swaps) – Grandfathers in banks and clearing houses currently clearing for purposes of registration.

P 35 (and p 142 for security-based swaps) – Makes the exemption from registering with the CFTC for clearing organizations already registered with the SEC automatic.

P 58 – Provides CFTC with authority to provide exemptions from regulation (other than capital and margin requirements) for dealers and major participants.

P 66 (and 173 for security-based swaps)– Modifies a provision requiring information on fees and remuneration that must be disclosed to counterparties by swap dealers and major swap participants.

P 72 - Provides that an alternative swap execution facility may not list for trading or confirm the execution of any swap in an agricultural commodity except pursuant to a rule or regulation of the CFTC.

P 88 – Provides guidance to the CFTC with regard to margin requirements to ensure such requirements protect the financial integrity of DCOs and transactions and that specific amounts are not set.

P 96 – Strikes a duplicative provision requiring boards of trade to establish position limits or position accountability for speculators.

P 119 – Excludes certain swaps that reference government securities.

P 137 – Conforms the exception from the clearing requirement in title II of the bill to the exception provided under title I. The exception applies if one counterparty is neither a swap dealer nor major swap participant and demonstrates to the SEC how it generally meets financial obligations associated with entering into non-cleared swaps.