

112TH CONGRESS  
1ST SESSION

# H. R. 1610

To provide end user exemptions from certain provisions of the Commodity Exchange Act and the Securities Exchange Act of 1934, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 15, 2011

Mr. GRIMM (for himself, Mr. NEUGEBAUER, and Mr. GARRETT) 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

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## A BILL

To provide end user exemptions from certain provisions of the Commodity Exchange Act and the Securities Exchange Act of 1934, and for other purposes.

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 “Business Risk Mitiga-  
5 tion and Price Stabilization Act of 2011”.

1 **SEC. 2. MARGIN RULES.**

2 (a) COMMODITY EXCHANGE ACT AMENDMENTS.—

3 The Commodity Exchange Act (7 U.S.C. 1 et seq.) is  
4 amended—

5 (1) in section 1a(33)(A), as added by section  
6 721(a)(6) of the Dodd-Frank Wall Street Reform  
7 and Consumer Protection Act, by amending clause  
8 (ii) to read as follows:

9 “(ii) whose outstanding swaps create  
10 substantial net counterparty exposure that  
11 could have serious adverse effects on the  
12 financial stability of the United States  
13 banking system or financial markets; or”;  
14 and

15 (2) in section 4s(e), as added by section 731 of  
16 the Dodd-Frank Wall Street Reform and Consumer  
17 Protection Act, by adding at the end the following  
18 new paragraphs:

19 “(4) APPLICABILITY WITH RESPECT TO  
20 COUNTERPARTIES.—The margin requirements of  
21 this subsection shall not apply to swaps in which 1  
22 of the counterparties is not—

23 “(A) a swap dealer or major swap partici-  
24 pant;

25 “(B) an investment fund that—

1           “(i) has issued securities, other than  
2           debt securities, to greater than five unaf-  
3           filiated persons;

4           “(ii) would be an investment company  
5           (as defined in section 3 of the Investment  
6           Company Act of 1940 (15 U.S.C. 80a-3))  
7           but for paragraph (1) or (7) of section 3(c)  
8           of that Act (15 U.S.C. 80a-3(e)); and

9           “(iii) is not primarily invested in  
10          physical assets (which shall include com-  
11          mercial real estate) directly or through in-  
12          terest in its affiliates that own such assets;

13          “(C) an entity defined in section 1303(20)  
14          of the Federal Housing Enterprises Financial  
15          Safety and Soundness Act of 1992 (12 U.S.C.  
16          4502(20)); or

17          “(D) a commodity pool.

18          “(5) MARGIN TRANSITION RULES.—Swaps en-  
19          tered into before the date upon which final rules  
20          must be published under section 712(e) of the Wall  
21          Street Transparency and Accountability Act of 2010  
22          are exempt from the margin requirements of this  
23          subsection.”.

1 (b) SECURITIES EXCHANGE ACT OF 1934 AMEND-  
2 MENTS.—The Securities Exchange Act of 1934 (15  
3 U.S.C. 78a et seq.) is amended—

4 (1) in section 3(a)(67)(A), as added by section  
5 761(a)(6) of the Dodd-Frank Wall Street Reform  
6 and Consumer Protection Act, by amending clause  
7 (ii) to read as follows:

8 “(ii) whose outstanding security-based  
9 swaps create substantial net counterparty  
10 exposure that could have serious adverse  
11 effects on the financial stability of the  
12 United States banking system or financial  
13 markets; or”; and

14 (2) in section 15F(e), as added by section  
15 764(a) of the Dodd-Frank Wall Street Reform and  
16 Consumer Protection Act, by adding at the end the  
17 following new paragraphs:

18 “(4) APPLICABILITY WITH RESPECT TO  
19 COUNTERPARTIES.—The margin requirements of  
20 this subsection shall not apply to security-based  
21 swaps in which one of the counterparties is not—

22 “(A) a security-based swap dealer or major  
23 security-based swap participant;

24 “(B) an investment fund that would be an  
25 investment company (as defined in section 3 of

1 the Investment Company Act of 1940 (15  
2 U.S.C. 80a-3)) but for paragraph (1) or (7) of  
3 section 3(c) of that Act (15 U.S.C. 80a-3(c));

4 “(C) primarily invested in physical assets  
5 (which shall include commercial real estate) di-  
6 rectly or through interest in its affiliates that  
7 own such assets;

8 “(D) an entity defined in section 1303(20)  
9 of the Federal Housing Enterprises Financial  
10 Safety and Soundness Act of 1992 (12 U.S.C.  
11 4502(20)); or

12 “(E) a commodity pool.

13 “(5) MARGIN TRANSITION RULES.—Security-  
14 based swaps entered into before the date upon which  
15 final rules must be published under section  
16 712(a)(5) of the Wall Street Transparency and Ac-  
17 countability Act of 2010 are exempt from the mar-  
18 gin requirements of this subsection.”.

19 (c) EFFECTIVE DATE.—The amendments made by  
20 this section shall take effect as if included in the provisions  
21 of the Dodd-Frank Wall Street Reform and Consumer  
22 Protection Act to which they relate.

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