

# Union Calendar No. 508

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

# H. R. 1838

**[Report No. 112–476, Part I]**

To repeal a provision of the Dodd-Frank Wall Street Reform and Consumer Protection Act prohibiting any Federal bailout of swap dealers or participants.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 11, 2011

Ms. HAYWORTH 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

MAY 11, 2012

Reported from the Committee on Financial Services with amendments

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

MAY 11, 2012

Referral to the Committee on Agriculture extended for a period ending not later than May 30, 2012

MAY 30, 2012

Referral to the Committee on Agriculture extended for a period ending not later than July 16, 2012

JULY 16, 2012

Referral to the Committee on Agriculture extended for a period ending not later than September 14, 2012

SEPTEMBER 14, 2012

Referral to the Committee on Agriculture extended for a period ending not later than November 16, 2012

NOVEMBER 16, 2012

The Committee on Agriculture discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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## **A BILL**

To repeal a provision of the Dodd-Frank Wall Street Reform and Consumer Protection Act prohibiting any Federal bailout of swap dealers or participants.

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. REPEAL.**

4 ~~Section 716 of the Dodd-Frank Wall Street Reform~~  
5 ~~and Consumer Protection Act (15 U.S.C. 8305) is re-~~  
6 ~~pealed.~~

7 **SECTION 1. SHORT TITLE.**

8 *This Act may be cited as the “Swaps Bailout Preven-*  
9 *tion Act”.*

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

12 *Section 716 of the Dodd-Frank Wall Street Reform*  
13 *and Consumer Protection Act (15 U.S.C. 8305) is amend-*  
14 *ed—*

15 *(1) in subsection (b), by adding at the end the*  
16 *following:*

17 *“(3) COVERED DEPOSITORY INSTITUTION.—The*  
18 *term ‘covered depository institution’ means—*

19 *“(A) an insured depository institution; and*

20 *“(B) a United States uninsured branch or*  
21 *agency of a foreign bank that has a prudential*  
22 *regulator.”;*

23 *(2) in subsection (c)—*

24 *(A) in the heading for such subsection, by*  
25 *striking “INSURED” and inserting “COVERED”;*

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

3           (C) by striking “such insured” and insert-  
4           ing “such covered”; and

5           (D) by striking “or savings and loan hold-  
6           ing company” and inserting “savings and loan  
7           holding company, or foreign banking organiza-  
8           tion (as such term is defined under Regulation  
9           K (12 C.F.R. 211.21(o)))”;

10          (3) by amending subsection (d) to read as fol-  
11          lows:

12          “(d) *ONLY BONA FIDE HEDGING AND TRADITIONAL*  
13          *BANK ACTIVITIES PERMITTED.*—

14                 “(1) *IN GENERAL.*—The prohibition in sub-  
15                 section (a) shall not apply to any covered depository  
16                 institution that limits its swap and security-based  
17                 swap activities to the following:

18                         “(A) *HEDGING AND OTHER SIMILAR RISK*  
19                         *MITIGATION ACTIVITIES.*—Hedging and other  
20                         similar risk mitigating activities directly related  
21                         to the covered depository institution’s activities.

22                         “(B) *NON-STRUCTURED FINANCE SWAP AC-*  
23                         *TIVITIES.*—Acting as a swaps entity for swaps or  
24                         security-based swaps other than a structured fi-  
25                         nance swap.

1           “(C) *CERTAIN STRUCTURED FINANCE SWAP*  
2           *ACTIVITIES.*—Acting as a swaps entity for swaps  
3           or security-based swaps that are structured fi-  
4           nance swaps, if—

5                   “(i) such structured finance swaps are  
6                   undertaken for hedging or risk management  
7                   purposes; or

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

15           “(2) *DEFINITIONS.*—For purposes of this sub-  
16           section:

17                   “(A) *STRUCTURED FINANCE SWAP.*—The  
18                   term ‘structured finance swap’ means a swap or  
19                   security-based swap based on an asset-backed se-  
20                   curity (or group or index primarily comprised of  
21                   asset-backed securities).

22                   “(B) *ASSET-BACKED SECURITY.*—The term  
23                   ‘asset-backed security’ has the meaning given  
24                   such term under section 3(a) of the Securities  
25                   Exchange Act of 1934 (15 U.S.C. 78c(a)).”;

1           (4) *in subsection (e), by striking “an insured”*  
2 *and inserting “a covered”;*

3           (5) *in subsection (f)—*

4                 (A) *by striking “an insured” and inserting*  
5 *“a covered”;* and

6                 (B) *by striking “the insured” each place*  
7 *such term appears and inserting “the covered”;*

8           (6) *in subsection (g), by striking “insured” and*  
9 *inserting “covered”;*

10           (7) *in subsection (m), by striking “An insured”*  
11 *and inserting “A covered”;* and

12           (8) *by adding at the end the following:*

13           “(n) *FOREIGN SWAP ACTIVITY.—*

14                 “(1) *IN GENERAL.—This section shall not apply*  
15 *to swap or security-based swap activity conducted*  
16 *outside the United States with a non-U.S.*  
17 *counterparty by a non-U.S. swaps entity.*

18                 “(2) *DEFINITIONS.—For purposes of this sub-*  
19 *section, the terms ‘non-U.S. swaps entity’ and ‘non-*  
20 *U.S. counterparty’ mean a swaps entity or*  
21 *counterparty, respectively, that is licensed, in the case*  
22 *of a foreign branch of a United States depository in-*  
23 *stitution, or organized under the laws of a jurisdic-*  
24 *tion outside the United States.’”.*

Amend the title so as to read: “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.”.

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NOVEMBER 16, 2012

The Committee on Agriculture discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed