

113TH CONGRESS
2D SESSION

S. 2976

To amend the Commodity Exchange Act and the Securities Exchange Act of 1934 to specify how clearing requirements apply to certain affiliate transactions, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 4, 2014

Ms. COLLINS (for herself and Ms. KLOBUCHAR) introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

A BILL

To amend the Commodity Exchange Act and the Securities Exchange Act of 1934 to specify how clearing requirements apply to certain affiliate transactions, 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 “Derivatives End-Users
5 Clarification Act”.

6 **SEC. 2. TREATMENT OF AFFILIATE TRANSACTIONS.**

7 (a) IN GENERAL.—

1 (1) COMMODITY EXCHANGE ACT AMEND-
2 MENT.—Section 2(h)(7)(D) of the Commodity Ex-
3 change Act (7 U.S.C. 2(h)(7)(D)) is amended by
4 striking clause (i) and inserting the following:

5 “(i) IN GENERAL.—An affiliate of a
6 person that qualifies for an exception
7 under subparagraph (A) (including affiliate
8 entities predominantly engaged in pro-
9 viding financing for the purchase of the
10 merchandise or manufactured goods of the
11 person) may qualify for the exception only
12 if the affiliate enters into the swap to
13 hedge or mitigate the commercial risk of
14 the person or other affiliate of the person
15 that is not a financial entity, on the condi-
16 tion that if the hedge or mitigation of that
17 commercial risk is addressed by entering
18 into a swap with a swap dealer or major
19 swap participant, an appropriate credit
20 support measure or other mechanism shall
21 be used.”.

22 (2) SECURITIES EXCHANGE ACT OF 1934
23 AMENDMENT.—Section 3C(g)(4) of the Securities
24 Exchange Act of 1934 (15 U.S.C. 78c-3(g)(4)) is

1 amended by striking subparagraph (A) and inserting
2 the following:

3 “(A) IN GENERAL.—An affiliate of a per-
4 son that qualifies for an exception under this
5 subsection (including affiliate entities predomi-
6 nantly engaged in providing financing for the
7 purchase of the merchandise or manufactured
8 goods of the person) may qualify for the excep-
9 tion only if the affiliate enters into the security-
10 based swap to hedge or mitigate the commercial
11 risk of the person or other affiliate of the per-
12 son that is not a financial entity, on the condi-
13 tion that if the hedge or mitigation of that com-
14 mercial risk is addressed by entering into a se-
15 curity-based swap with a security-based swap
16 dealer or major security-based swap participant,
17 an appropriate credit support measure or other
18 mechanism shall be used.”.

19 (b) APPLICABILITY OF CREDIT SUPPORT MEASURE
20 REQUIREMENT.—The requirements of section
21 2(h)(7)(D)(i) of the Commodity Exchange Act (7 U.S.C.
22 2(h)(7)(D)(i)) and section 3C(g)(4)(A) of the Securities
23 Exchange Act of 1934 (15 U.S.C. 78c-3(g)(4)(A)) (as
24 amended by subsection (a)) shall not apply with respect

1 to swaps or security-based swaps, as appropriate, entered
2 into before the date of enactment of this Act.

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