

AMENDMENT TO H.R. _____

OFFERED BY MR. LYNCH OF MASSACHUSETTS

[Page and line numbers correspond to those of the October 2 draft]

In section 111(a)—

- 1 (1) strike “and” at the end of paragraph (19);
2 (2) strike the period at the end of paragraph
3 (20) and insert “; and”; and
4 (3) add at the end the following:
5 “(51) RESTRICTED OWNER.—The term ‘re-
6 stricted owner’ means any swap dealer, security-
7 based swap dealer, major swap participant, major
8 security-based swap participant, person associated
9 with a swap dealer or major swap participant, or
10 person associated with a security-based swap dealer
11 or major security-based swap participant.”.

In section 5b(c)(2) of the Commodity Exchange Act,
as proposed to be added by section 113(b)(3) of the bill,
strike subparagraph (P) and insert the following:

- 12 “(P) CONFLICTS OF INTEREST.—
13 “(i) The derivatives clearing organiza-
14 tion shall establish and enforce rules to
15 minimize conflicts of interest in its deci-

1 sion-making process, and establish a pro-
2 cess for resolving any such conflicts of in-
3 terest.

4 “(ii) The rules of the derivatives clear-
5 ing organization shall provide that a re-
6 stricted owner shall not be permitted di-
7 rectly or indirectly to acquire beneficial
8 ownership of interests in the organization
9 or in persons with a controlling interest in
10 the organization, to the extent that such
11 an acquisition would result in restricted
12 owners controlling more than 20 percent of
13 the votes entitled to be cast on any matter
14 by the holders of the ownership interests.

15 “(iii) The rules of the derivatives
16 clearing organization shall provide that a
17 majority of the directors of the organiza-
18 tion shall not be associated with a re-
19 stricted owner.”.

 In section 4s(h)(1) of the Commodity Exchange Act,
 as proposed to be added by section 117 of the bill—

20 (1) strike “and” at the end of subparagraph
21 (C); and

1 (2) redesignate subparagraph (D) as subpara-
2 graph (E) and insert after subparagraph (C) the fol-
3 lowing:

4 “(D) the prevention of self-dealing, by lim-
5 iting the extent to which such a swap dealer or
6 major swap participant may conduct business
7 with a derivatives clearing organization, a board
8 of trade, or an alternative swap execution facil-
9 ity that clears or trades swaps and in which
10 such a swap dealer or major swap participant
11 has a material debt or equity investment; and”.

 In section 5h(e) of the Commodity Exchange Act, as
 proposed to be added by section 120 of the bill, strike
 paragraph (10) and insert the following:

12 “(10) CONFLICTS OF INTEREST.—

13 “(A) The swap execution facility shall es-
14 tablish and enforce rules to minimize conflicts
15 of interest in its decision-making process, and
16 establish a process for resolving any such con-
17 flicts of interest.

18 “(B) The rules of the swap execution facil-
19 ity shall provide that a restricted owner shall
20 not be permitted directly or indirectly to ac-
21 quire beneficial ownership of interests in the fa-
22 cility or in persons with a controlling interest in

1 the facility, to the extent that such an acquisi-
2 tion would result in restricted owners control-
3 ling more than 20 percent of the votes entitled
4 to be cast on any matter by the holders of the
5 ownership interests.

6 “(C) The rules of the swap execution facil-
7 ity shall provide that a majority of the directors
8 of the facility shall not be associated with a re-
9 stricted owner.”.

 In section 122, redesignate subsection (b) and sub-
 section (c) and insert after subsection (a) the following:

10 (c) Section 5(d) of the Commodity Exchange Act (7
11 U.S.C. 7(d)) is amended by striking paragraph (15) and
12 inserting the following:

13 “(15) CONFLICTS OF INTEREST.—

14 “(A) The board of trade shall establish
15 and enforce rules to minimize conflicts of inter-
16 est in the decisionmaking process of the con-
17 tract market, and establish a process for resolv-
18 ing any such conflicts of interest.

19 “(B) The rules of a board of trade that
20 trades swaps shall provide that a restricted
21 owner shall not be permitted directly or indi-
22 rectly to acquire beneficial ownership of inter-
23 ests in the board of trade or in persons with a

1 controlling interest in the board of trade, to the
2 extent that such an acquisition would result in
3 restricted owners controlling more than 20 per-
4 cent of the votes entitled to be cast on any mat-
5 ter by the holders of the ownership interests.

6 “(C) The rules of a board of trade that
7 trades swaps shall provide that a majority of
8 the directors of the board of trade shall not be
9 associated with a restricted owner.”

In section 3(a) of the Securities Exchange Act of
1934 (15 U.S.C. 78c(a)), as proposed to be amended by
section 151 of the bill, add at the end the following new
paragraph:

10 “(77) RESTRICTED OWNER.—The term ‘re-
11 stricted owner’ has the same meaning as in section
12 1a(51) of the Commodity Exchange Act.”

Page 134, strike lines 1 through 5 and insert the
following:

13 “(16) CONFLICTS OF INTEREST.—
14 “(A) IN GENERAL.—A clearing agency that
15 clears security-based swaps shall establish and
16 enforce rules to minimize conflicts of interest in
17 the decision-making process of the clearing

1 agency and establish a process for resolving
2 such conflicts of interest.

3 “(B) BENEFICIAL OWNERSHIP BY A RE-
4 STRICTED OWNER.—The rules of a clearing
5 agency that clears security-based swaps shall
6 provide that a restricted owner shall not be per-
7 mitted directly or indirectly to acquire beneficial
8 ownership of interest in the agency or in per-
9 sons with a controlling interest in the agency,
10 to the extent that such an acquisition would re-
11 sult in restricted owners controlling more than
12 20 percent of the votes entitled to be cast on
13 any matter by the holders of the ownership in-
14 terests.

15 “(C) ASSOCIATION WITH A RESTRICTED
16 OWNER.—The rules of a clearing agency that
17 clears security-based swaps shall provide that a
18 majority of the directors of the clearing agency
19 shall not be associated with a restricted
20 owner.”.

Amend section 3C(e)(10) of the Securities Exchange
Act of 1934, as added by section 153(d) of the bill, to
read as follows:

21 “(10) CONFLICTS OF INTEREST.—

1 “(A) IN GENERAL.—The swap execution
2 facility shall establish and enforce rules to mini-
3 mize conflicts of interest in its decision-making
4 process and establish a process for resolving
5 such conflicts of interest.

6 “(B) BENEFICIAL OWNERSHIP BY A RE-
7 STRICTED OWNER.—The rules of the swap exe-
8 cution facility shall provide that a restricted
9 owner shall not be permitted directly or indi-
10 rectly to acquire beneficial ownership of inter-
11 ests in the facility or in persons with a control-
12 ling interest in the facility, to the extent that
13 such an acquisition would result in restricted
14 owners controlling more than 20 percent of the
15 votes entitled to be cast on any matter by the
16 holders of the ownership interests.

17 “(C) ASSOCIATION WITH A RESTRICTED
18 OWNER.—The rules of the swap execution facil-
19 ity shall provide that a majority of the directors
20 of the facility shall not be associated with a re-
21 stricted owner.”.

In section 15F(h)(1) of the Securities Exchange Act
of 1934, as proposed to be added by section 154 of the
bill—

(1) in subparagraph (C), strike “and”; and

(2) insert after subparagraph (C) the following (and redesignate the succeeding subparagraph accordingly):

1 “(D) the prevention of self-dealing by lim-
2 iting the extent to which a security-based swap
3 dealer or major security-based swap participant
4 may conduct business with a clearing agency,
5 an exchange, or an alternative swap execution
6 facility that clears or trades security-based
7 swaps and in which such a dealer or participant
8 has a material debt or equity investment; and”.

Insert after section 154 the following new section (and redesignate succeeding sections accordingly):

9 **SEC. 155. NATIONAL SECURITY EXCHANGE REGISTRATION**
10 **REQUIREMENTS.**

11 Section 6(b) of the Securities Exchange Act of 1934
12 (15 U.S.C. 78f(b)) is amended by adding at the end the
13 following new paragraphs:

14 “(10) The rules of the exchange minimize con-
15 flicts of interest in its decision-making process and
16 establish a process for resolving such conflicts of in-
17 terest.

18 “(11) The rules of an exchange that trades se-
19 curity-based swaps provide that a majority of the di-

1 rectors of the exchange shall not be associated with
2 a restricted owner.

3 “(12) The rules of an exchange that trades se-
4 curity-based swaps provide that a restricted owner
5 shall not be permitted directly or indirectly to ac-
6 quire beneficial ownership of interests in the ex-
7 change or in persons with a controlling interest in
8 the exchange, to the extent that such an acquisition
9 would result in restricted owners controlling more
10 than 20 percent of the votes entitled to be cast on
11 any matter by the holders of the ownership inter-
12 ests.”.



