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AMENDMENT TO H.R. 4173
OFFERED BY MR. FRANK OF MASSACHUSETTS

At the end of title III, add the following new section:

1 **SEC. _____. AUTHORITY TO SET MARGIN OR COLLATERAL**
2 **REQUIREMENT FOR SWAPS AND SECURITY-**
3 **BASED SWAPS INVOLVING END USERS.**

4 (a) IN GENERAL.—Subject to subsection (b):

5 (1) PRUDENTIAL REGULATORS.—A Prudential
6 Regulator may impose a margin or collateral re-
7 quirement with respect to a swap or security-based
8 swap a counterparty to which is an end user which
9 is a bank or bank holding company subject to regu-
10 lation by the Prudential Regulator.

11 (2) COMMODITY FUTURES TRADING COMMIS-
12 SION.—The Commodity Futures Trading Commis-
13 sion may impose a margin or collateral requirement
14 with respect to a swap a counterparty to which is an
15 end user (other than an end user described in para-
16 graph (1)), and the other counterparty to which is
17 a swap dealer or major swap participant for which
18 there is no Prudential Regulator.

19 (3) SECURITIES AND EXCHANGE COMMIS-
20 SION.—The Securities and Exchange Commission

1 may impose a margin or collateral requirement with
2 respect to a security-based swap a counterparty to
3 which is an end user (other than an end user de-
4 scribed in paragraph (1)), and the other
5 counterparty to which is a security-based swap deal-
6 er or major security-based swap participant for
7 which there is no Prudential Regulator.

8 (b) REQUIREMENTS.—Any margin or collateral re-
9 quirement imposed under subsection (a) with respect to
10 a transaction shall be commensurate with the risk involved
11 in the transaction, and allow for the use of non-cash collat-
12 eral.

13 (c) LIMITATION ON APPLICABILITY.—This section
14 shall not apply to a swap or security-based swap entered
15 into before the end of the 90-day period that begins with
16 the effective date of this section.

17 (d) DEFINITIONS.—In this section:

18 (1) END USER.—The term “end user” means a
19 person who is not a swap dealer, security-based swap
20 dealer, major swap participant, or major security-
21 based swap participant.

22 (2) OTHER TERMS.—The other terms shall
23 have the meanings given the terms in section 1a of
24 the Commodity Exchange Act.

25 (e) EFFECTIVE DATE.—

1 (1) PRUDENTIAL REGULATORS.—Subsection
2 (a)(1) shall take effect—

3 (A) with respect to swaps, as if included in
4 subtitle A; and

5 (B) with respect to security-based swaps,
6 as if included in subtitle B.

7 (2) COMMODITY FUTURES TRADING COMMIS-
8 SION.—Subsection (a)(2) shall take effect as if in-
9 cluded in subtitle A.

10 (3) SECURITIES AND EXCHANGE COMMIS-
11 SION.—Subsection (a)(3) shall take effect as if in-
12 cluded in subtitle B.

