

Stupak #47
Revised

AMENDMENT TO H.R. 4173
OFFERED BY MR. STUPAK OF MICHIGAN

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

1 **SEC. _____ . ADDITIONAL RULES REGARDING EXECUTION**
2 **AND CLEARING OF SWAPS AND SECURITY-**
3 **BASED SWAPS.**

4 (a) SWAPS.—Section 2(j)(7) of the Commodity Ex-
5 change Act (7 U.S.C. 2), as added by the preceding provi-
6 sions of this Act, is amended—

7 (1) in subparagraph (A), by striking “and
8 where both counterparties are either swap dealers or
9 major swap participants, such counterparties” and
10 inserting “, the parties”; and

11 (2) by redesignating subparagraph (C) as sub-
12 paragraph (D) and inserting after subparagraph (B)
13 the following:

14 “(C) CERTAIN SWAPS NOT REQUIRED TO
15 BE CLEARED.—

16 “(i) IN GENERAL.—A swap that quali-
17 fies for the exception of paragraph
18 (8)(A)(i) shall not be executed, except on

1 or through a swap execution facility reg-
2 istered with the Commission.

3 “(ii) ADDITIONAL EXCEPTIONS.—
4 Clause (i) shall not apply to a swap if no
5 swap execution facility makes the swap
6 available to trade or execute.

7 “(iii) RULE OF INTERPRETATION.—
8 This subparagraph shall not be interpreted
9 to require any swap to be cleared.”.

10 (b) SECURITY-BASED SWAPS.—Section 5A(a) of the
11 Securities Exchange Act of 1934, as added by the pre-
12 ceding provisions of this Act, is amended—

13 (1) in paragraph (1), by striking “section 3B
14 and where both counterparties are either swap deal-
15 ers or major swap participants, such counterparties”
16 and inserting “section 3B(a)(1), the parties”; and

17 (2) by redesignating paragraph (3) as para-
18 graph (4) and inserting after paragraph (2) the fol-
19 lowing:

20 “(3) CERTAIN SECURITY-BASED SWAPS NOT RE-
21 QUIRED TO BE CLEARED.—

22 “(A) IN GENERAL.—A security-based swap
23 that qualifies for the exception of section
24 3B(h)(1)(A) shall not be executed except on a

1 swap execution facility registered with the Com-
2 mission.

3 “(B) ADDITIONAL EXCEPTIONS.—Subpara-
4 graph (A) shall not apply to a security-based
5 swap if no swap execution facility makes the se-
6 curity-based swap available to trade or execute.

7 “(C) RULE OF INTERPRETATION.—This
8 paragraph shall not be interpreted to require
9 any security-based swap to be cleared.”.

10 (c) EFFECTIVE DATE.—

11 (1) SWAPS.—The amendments made by sub-
12 section (a) shall take effect as if included in subtitle
13 A.

14 (2) SECURITY-BASED SWAPS.—The amend-
15 ments made by subsection (b) shall take effect as if
16 included in subtitle B.

