

7. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE FRANK, BARNEY OF MASSACHUSETTS OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

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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.

