

TITLE VII: WALL STREET TRANSPARENCY AND ACCOUNTABILITY

- **Limited Derivative Trading for Banks:** Banks may trade interest rate, foreign exchange, gold and silver derivatives, and hedging their own risks. Bank holding companies must push out or “spin-off” trading in other derivatives to affiliates, utilizing non-bank funds.
- **Prohibition Against Government Bailouts:** There is a prohibition against federal government bailouts and assistance to any swap/security-based swap dealer, major swap participant, swap execution facility, designated contract market, national securities exchange, central counterparty, clearing house, clearing agency, or derivatives clearing organization that is registered or any other Federal or State Law.
- **Rulemaking Authority:** OTC derivatives are to be regulated through joint rulemaking by the SEC and the CFTC. Both must consult with each other to assure regulations are consistent and comparable with the regulations prescribed by the other.
- **Regulatory Authority:** The SEC would regulate security based swaps and the CFTC would regulate swaps.
- **Foreign Entities:** The SEC and CFTC may, in consultation with the Secretary of Treasury, prohibit foreign entities from participating in the US in any swap/security based swap activity they determine undermines the stability of the US financial system.
- **Clearing Requirement:** OTC derivatives must be cleared through centralized clearing houses and traded on exchanges. Both regulators and clearing houses are to determine which contracts should be cleared. The SEC and CFTC must approve contracts before clearing houses may clear them.
- **Must Clear Through Registered Derivatives Clearing Organization:** All swaps/security-based swaps should be cleared with a registered derivatives clearing organization unless the CFTC or SEC provide an exemption.
- **Exemption for Contracts not Accepted for Clearing:** Contracts are exempt from the clearing requirement if no centralized clearing house, exchange, or alternative swap execution facility will accept the contract for clearing or trading.
- **Approval Required Before Clearing a Type of Swap/Security Based Swap:** Registered derivatives clearing organizations must get approval before a specific type or category of swaps/security-based swaps can be cleared.
- **Commercial End User Exemption:** Contracts are exempt from the clearing requirement if one counterparty is not a swap/security-based swap dealer or major swap/security-based swap participant and is using the swap to hedge their own commercial risk (that are not financial in nature).

- **Captive-Finance Exemption:** U.S. manufacturers can use derivatives to hedge risks associated with the sale or lease of products that are 90% manufactured by the parent company if they are hedging their own risks.
- **Registration of Derivative Clearing Organization:** Derivative clearing organizations must be registered with the SEC or CFTC and comply with the “core principles” and SEC/CFTC rules and regulations.
- **Core Principles:** The “core principles” include: standards for minimum financial resources, participant and product eligibility, risk management, settlement procedures, safety of member or participant funds and assets, rules and procedures for defaults, rule enforcement, system safeguards, reporting, recordkeeping, disclosure, information sharing, antitrust considerations, governance arrangements, conflict of interest mitigation, board composition, and legal risk
- **Registration of Swap/security-based Swap Dealers and Major Swap/security-based Swap Participants:** Swap/security-based swap dealers and major swap/security-based swap participants must be registered and meet requirements. These requirements include: (1) minimum capital and margin requirements(2) reporting and recordkeeping requirements; (3) conform with business conduct standards; (4) conform with documentation and back office standards; and (5) comply with requirements relating to position limits, disclosure, conflicts of interest, and antitrust considerations. Requires data collection and publication on all trades through clearing houses or swap repositories.
- **Swap Data Repositories:** Each swap that is not accepted for clearing by a clearing organization shall be reported to a swap data repository or, if none will accept, to the Commission pursuant to this section within such time period as the Commission may by rule or regulation prescribe.
- **International Harmonization:** Requires regulators to consult and coordinate with international authorities on the establishment of consistent standards for the regulation of swaps/security-based swaps.
- **Study on Implementation:** Requires a GAO study on implementation of these provisions.
- **Study on Federal Insolvency Laws:** Requires the SEC, CFTC, and FINRA to make recommendations to Congress regarding Federal insolvency laws and their impact on swaps/security-based swaps activity.
- **Effective Date:** The SEC and CFTC have 360 days from the date of enactment to promulgate rules, unless otherwise stated.

