

(1) Multilateral clearing organization

The term “multilateral clearing organization” means a system utilized by more than two participants in which the bilateral credit exposures of participants arising from the transactions cleared are effectively eliminated and replaced by a system of guarantees, insurance, or mutualized risk of loss.

(2) Over-the-counter derivative instrument

The term “over-the-counter derivative instrument” includes—

(A) any agreement, contract, or transaction, including the terms and conditions incorporated by reference in any such agreement, contract, or transaction, which is an interest rate swap, option, or forward agreement, including a rate floor, rate cap, rate collar, cross-currency rate swap, basis swap, and forward rate agreement; a same day-tomorrow, tomorrow-next, forward, or other foreign exchange or precious metals agreement; a currency swap, option, or forward agreement; an equity index or equity swap, option, or forward agreement; a debt index or debt swap, option, or forward agreement; a credit spread or credit swap, option, or forward agreement; a commodity index or commodity swap, option, or forward agreement; and a weather swap, weather derivative, or weather option;

(B) any agreement, contract or transaction similar to any other agreement, contract, or transaction referred to in this clause¹ that is presently, or in the future becomes, regularly entered into by parties that participate in swap transactions (including terms and conditions incorporated by reference in the agreement) and that is a forward, swap, or option on one or more occurrences of any event, rates, currencies, commodities, equity securities or other equity instruments, debt securities or other debt instruments, economic or other indices or measures of economic or other risk or value;

(C) any agreement, contract, or transaction excluded from the Commodity Exchange Act [7 U.S.C. 1 et seq.] under section 2(c), 2(d), 2(f), or 2(g) of such Act [7 U.S.C. 2(c), (d), (f), (g)], or exempted under section 2(h) or 4(c) of such Act [7 U.S.C. 2(h), 6(c)]; and

(D) any option to enter into any, or any combination of, agreements, contracts or transactions referred to in this subparagraph.¹

(3) Other definitions

The terms “insured State nonmember bank”, “State member bank”, and “affiliate” have the same meanings as in section 1813 of this title.

(Pub. L. 102-242, title IV, §408, as added Pub. L. 106-554, §1(a)(5) [title I, §112(a)(3)], Dec. 21, 2000, 114 Stat. 2763, 2763A-391.)

REFERENCES IN TEXT

The Commodity Exchange Act, referred to in par. (2)(C), is act Sept. 21, 1922, ch. 369, 42 Stat. 998, as

¹ So in original. Probably should be “this paragraph”.

amended, which is classified generally to chapter 1 (§1 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see section 1 of Title 7 and Tables.

§ 4422. Multilateral clearing organizations**(a) In general**

Except with respect to clearing organizations described in subsection (b) of this section, no person may operate a multilateral clearing organization for over-the-counter derivative instruments, or otherwise engage in activities that constitute such a multilateral clearing organization unless the person is a national bank, a State member bank, an insured State nonmember bank, an affiliate of a national bank, a State member bank, or an insured State nonmember bank, or a corporation chartered under section 25A of the Federal Reserve Act [12 U.S.C. 611 et seq.].

(b) Clearing organizations

Subsection (a) of this section shall not apply to any clearing organization that—

(1) is registered as a clearing agency under the Securities Exchange Act of 1934 [15 U.S.C. 78a et seq.];

(2) is registered as a derivatives clearing organization under the Commodity Exchange Act [7 U.S.C. 1 et seq.]; or

(3) is supervised by a foreign financial regulator that the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Securities and Exchange Commission, or the Commodity Futures Trading Commission, as applicable, has determined satisfies appropriate standards.

(Pub. L. 102-242, title IV, §409, as added Pub. L. 106-554, §1(a)(5) [title I, §112(a)(3)], Dec. 21, 2000, 114 Stat. 2763, 2763A-392.)

REFERENCES IN TEXT

Section 25A of the Federal Reserve Act, referred to in subsec. (a), popularly known as the Edge Act, is classified to subchapter II (§611 et seq.) of chapter 6 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 611 of this title and Tables.

The Securities Exchange Act of 1934, referred to in subsec. (b)(1), is act June 6, 1934, ch. 404, 48 Stat. 881, as amended, which is classified principally to chapter 2B (§78a et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 78a of Title 15 and Tables.

The Commodity Exchange Act, referred to in subsec. (b)(2), is act Sept. 21, 1922, ch. 369, 42 Stat. 998, as amended, which is classified generally to chapter 1 (§1 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see section 1 of Title 7 and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 339a of this title; title 11 sections 101, 103, 109, 781.

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