

109TH CONGRESS
2^D SESSION

H. R. 5585

To improve the netting process for financial contracts, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 12, 2006

Mr. MCHENRY (for himself and Ms. WASSERMAN SCHULTZ) introduced the following bill; which was referred to the Committee on Financial Services, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To improve the netting process for financial contracts, and
for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Financial Netting Im-
5 provements Act of 2006”.

6 **SEC. 2. TREATMENT OF CERTAIN AGREEMENTS BY CON-**
7 **SERVATORS OR RECEIVERS OF DEPOSITORY**
8 **INSTITUTIONS.**

9 (a) DEFINITION OF SECURITIES CONTRACT.—

1 (1) FDIC-INSURED DEPOSITORY INSTITU-
2 TIONS.—Section 11(e)(8)(D)(ii) of the Federal De-
3 posit Insurance Act (12 U.S.C. 1821(e)(8)(D)(ii)) is
4 amended—

5 (A) in subclause (I)—

6 (i) by striking “mortgage loan, or”
7 and inserting “mortgage loan,”; and

8 (ii) by inserting before the semicolon
9 “(whether or not such repurchase or re-
10 verse repurchase transaction is a ‘repur-
11 chase agreement’, as defined in clause
12 (v))”;

13 (B) in subclause (IV)—

14 (i) by inserting “(including by nova-
15 tion)” after “the guarantee”; and

16 (ii) by inserting before the semicolon
17 “(whether or not such settlement is in con-
18 nection with any agreement or transaction
19 referred to in subclauses (I) through (XII)
20 (other than subclause (II))”;

21 (C) in subclause (IX), by striking “or
22 (VIII)” each place such term appears and in-
23 serting “(VIII), (IX), or (X)”;

24 (D) by redesignating subclauses (VI),
25 (VII), (VIII), (IX), and (X) as subclauses

1 (VIII), (IX), (X), (XI), and (XII), respectively;
2 and

3 (E) by inserting after subclause (V) the
4 following new subparagraphs:

5 “(VI) means any extension of
6 credit for the clearance or settlement
7 of securities transactions;

8 “(VII) means any loan trans-
9 action coupled with a securities collar
10 transaction, any prepaid securities
11 forward transaction, or any total re-
12 turn swap transaction coupled with a
13 securities sale transaction;”.

14 (2) INSURED CREDIT UNIONS.—Section
15 207(c)(8)(D)(ii) of the Federal Credit Union Act
16 (12 U.S.C. 1787(c)(8)(D)(ii)) is amended—

17 (A) in subclause (I)—

18 (i) by striking “mortgage loan, or”
19 and inserting “mortgage loan;” and

20 (ii) by inserting before the semicolon
21 “(whether or not such repurchase or re-
22 verse repurchase transaction is a ‘repur-
23 chase agreement’, as defined in clause
24 (v))”;

25 (B) in subclause (IV)—

1 (i) by inserting “(including by nova-
2 tion)” after “the guarantee”; and

3 (ii) by inserting before the semicolon
4 “(whether or not such settlement is in con-
5 nection with any agreement or transaction
6 referred to in subclauses (I) through (XII)
7 (other than subclause (II))”;

8 (C) in subclause (IX), by striking “or
9 (VIII)” each place such term appears and in-
10 serting “(VIII), (IX), or (X)”;

11 (D) by redesignating subclauses (VI),
12 (VII), (VIII), (IX), and (X) as subclauses
13 (VIII), (IX), (X), (XI), and (XII), respectively;
14 and

15 (E) by inserting after subclause (V) the
16 following new subparagraphs:

17 “(VI) means any extension of
18 credit for the clearance or settlement
19 of securities transactions;

20 “(VII) means any loan trans-
21 action coupled with a securities collar
22 transaction, any prepaid securities
23 forward transaction, or any total re-
24 turn swap transaction coupled with a
25 securities sale transaction;”.

1 (b) DEFINITION OF FORWARD CONTRACT.—

2 (1) FDIC-INSURED DEPOSITORY INSTITU-
3 TIONS.—Section 11(e)(8)(D)(iv)(I) of the Federal
4 Deposit Insurance Act (12 U.S.C.
5 1821(e)(8)(D)(iv)(I)) is amended by striking “trans-
6 action, reverse repurchase transaction” and inserting
7 “or reverse repurchase transaction (whether or not
8 such repurchase or reverse repurchase transaction is
9 a ‘repurchase agreement’, as defined in clause (v))”.

10 (2) INSURED CREDIT UNIONS.—Section
11 207(c)(8)(D)(iv)(I) of the Federal Credit Union Act
12 (12 U.S.C. 1787(c)(8)(D)(iv)(I)) is amended by
13 striking “transaction, reverse repurchase trans-
14 action” and inserting “or reverse repurchase trans-
15 action (whether or not such repurchase or reverse
16 repurchase transaction is a ‘repurchase agreement’,
17 as defined in clause (v))”.

18 (c) DEFINITION OF SWAP AGREEMENT.—

19 (1) FDIC-INSURED DEPOSITORY INSTITU-
20 TIONS.—Section 11(e)(8)(D)(vi) of the Federal De-
21 posit Insurance Act (12 U.S.C. 1821(e)(8)(D)(vi)) is
22 amended—

23 (A) in subclause (I)—

1 (i) by striking “or precious metals”
2 and inserting “, precious metals, or other
3 commodity”; and

4 (ii) by striking “or a weather swap,
5 weather derivative, or weather option” and
6 inserting “weather swap, option, future, or
7 forward agreement; an emissions swap, op-
8 tion, future, or forward agreement; or an
9 inflation swap, option, future, or forward
10 agreement”;

11 (B) in subclause (II)—

12 (i) by inserting “or other derivatives”
13 after “dealings in the swap”; and

14 (ii) by striking “future, or option”
15 and inserting “future, option, or spot
16 transaction”; and

17 (C) by striking “the Securities Act of
18 1933, the Securities Exchange Act of 1934, the
19 Public Utility Holding Company Act of 1935,
20 the Trust Indenture Act of 1939, the Invest-
21 ment Company Act of 1940, the Investment
22 Advisers Act of 1940, the Securities Investor
23 Protection Act of 1970, the Commodity Ex-
24 change Act, the Gramm-Leach-Bliley Act, and
25 the Legal Certainty for Bank Products Act of

1 2000” and inserting “the Gramm-Leach-Bliley
2 Act, the Legal Certainty for Bank Products Act
3 of 2000, the securities laws (as such term is de-
4 fined in section 3(a)(47) of the Securities Ex-
5 change Act of 1934) and the Commodity Ex-
6 change Act”.

7 (2) INSURED CREDIT UNIONS.—Section
8 207(c)(8)(D)(vi) of the Federal Credit Union Act
9 (12 U.S.C. 1787(c)(8)(D)(vi)) is amended—

10 (A) in subclause (I)—

11 (i) by striking “or precious metals”
12 and inserting “, precious metals, or other
13 commodity”; and

14 (ii) by striking “or a weather swap,
15 weather derivative, or weather option” and
16 inserting “weather swap, option, future, or
17 forward agreement; an emissions swap, op-
18 tion, future, or forward agreement; or an
19 inflation swap, option, future, or forward
20 agreement”;

21 (B) in subclause (II)—

22 (i) by inserting “or other derivatives”
23 after “dealings in the swap”; and

1 (ii) by striking “future, or option”
2 and inserting “future, option, or spot
3 transaction”; and

4 (C) by striking “the Securities Act of
5 1933, the Securities Exchange Act of 1934, the
6 Public Utility Holding Company Act of 1935,
7 the Trust Indenture Act of 1939, the Invest-
8 ment Company Act of 1940, the Investment
9 Advisers Act of 1940, the Securities Investor
10 Protection Act of 1970, the Commodity Ex-
11 change Act, the Gramm-Leach-Bliley Act, and
12 the Legal Certainty for Bank Products Act of
13 2000” and inserting “the Gramm-Leach-Bliley
14 Act, the Legal Certainty for Bank Products Act
15 of 2000, the securities laws (as such term is de-
16 fined in section 3(a)(47) of the Securities Ex-
17 change Act of 1934) and the Commodity Ex-
18 change Act”.

19 **SEC. 3. CLARIFYING AMENDMENTS RELATING TO DEFINI-**
20 **TION OF PERSON.**

21 (a) **FDIC-INSURED DEPOSITORY INSTITUTIONS**
22 **DEFINITION OF PERSON.**—Section 11(e)(8)(D) of the
23 Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D))
24 is amended by adding at the end the following:

1 “(ix) PERSON.—The term ‘person’ includes
2 any governmental entity in addition to any enti-
3 ty included in the definition of such term in
4 section 1 of title 1, United States Code.”.

5 (b) INSURED CREDIT UNIONS DEFINITION OF PER-
6 SON.—Section 207(c)(8)(D) of the Federal Credit Union
7 Act (12 U.S.C. 1787(c)(8)(D)) is amended by adding at
8 the end the following:

9 “(ix) PERSON.—The term ‘person’ in-
10 cludes any governmental entity in addition
11 to any entity included in the definition of
12 such term in section 1 of title 1, United
13 States Code.”.

14 **SEC. 4. FEDERAL DEPOSIT INSURANCE CORPORATION IM-**
15 **PROVEMENT ACT OF 1991.**

16 (a) ENFORCEABILITY OF BILATERAL NETTING CON-
17 TRACTS.—Section 403 of the Federal Deposit Insurance
18 Corporation Improvement Act of 1991 (12 U.S.C. 4403)
19 is amended—

20 (1) in each of subsections (a) and (f), by strik-
21 ing “paragraphs (8)(E), (8)(F), and (10)(B) of”
22 each place such term appears; and

23 (2) in subsection (a), by inserting “terminated,
24 liquidated, accelerated, and” after “institutions shall
25 be”.

1 (b) ENFORCEABILITY OF CLEARING ORGANIZATION
2 NETTING CONTRACTS.—Section 404 of the Federal De-
3 posit Insurance Corporation Improvement Act of 1991 (12
4 U.S.C. 4404) is amended—

5 (1) in each of subsections (a) and (h), by strik-
6 ing “paragraphs (8)(E), (8)(F), and (10)(B) of”
7 each place such term appears; and

8 (2) in subsection (a), by inserting “terminated,
9 liquidated, accelerated, and” after “organization
10 shall be”.

11 **SEC. 5. CONFORMING AMENDMENTS.**

12 (a) CLARIFYING DEFINITIONS.—Title 11, United
13 States Code, is amended—

14 (1) in section 101—

15 (A) in paragraph (22)(A)—

16 (i) by striking “(domestic or foreign)”
17 after “an entity”; and

18 (ii) by inserting “(whether or not a
19 ‘customer’, as defined in section 741)”
20 after “custodian for a customer”;

21 (B) in paragraph (22A)—

22 (i) by striking “on any day during the
23 previous 15-month period” each place it
24 appears and inserting “at such time or on
25 any day during the 15-month period pre-

1 ceding the date of the filing of the peti-
2 tion”; and

3 (ii) by inserting “(aggregated across
4 counterparties)” after “principal amount
5 outstanding”;

6 (C) in paragraph (25)(A)—

7 (i) by inserting “, as defined in sec-
8 tion 761” after “commodity contract”; and

9 (ii) by striking “repurchase trans-
10 action, reverse repurchase transaction,”
11 and inserting “repurchase or reverse re-
12 purchase transaction (whether or not such
13 repurchase or reverse repurchase trans-
14 action is a ‘repurchase agreement’, as de-
15 fined in this section)”;

16 (D) in paragraph (53B)(A)—

17 (i) in clause (i)—

18 (I) in subclause (II), by striking
19 “or precious metals” and inserting “,
20 precious metals, or other commodity”;

21 (II) in subclause (VII), by strik-
22 ing “or” at the end;

23 (III) in subclause (VIII), by
24 striking “weather derivative, or weath-

1 er option” and inserting “option, fu-
2 ture, or forward agreement”; and

3 (IV) by adding at the end the fol-
4 lowing:

5 “(IX) an emissions swap, option,
6 future, or forward agreement; or

7 “(X) an inflation swap, option,
8 future, or forward agreement;” and

9 (ii) in clause (ii)—

10 (I) in subclause (I), by inserting
11 “or other derivatives” after “dealings
12 in the swap”; and

13 (II) in subclause (II), by striking
14 “future, or option” and inserting “fu-
15 ture, option, or spot transaction”; and

16 (E) in paragraph (53B)(B), by striking
17 “the Securities Act of 1933, the Securities Ex-
18 change Act of 1934, the Public Utility Holding
19 Company Act of 1935, the Trust Indenture Act
20 of 1939, the Investment Company Act of 1940,
21 the Investment Advisers Act of 1940, the Secu-
22 rities Investor Protection Act of 1970, the Com-
23 modity Exchange Act, the Gramm-Leach-Bliley
24 Act, and the Legal Certainty for Bank Products
25 Act of 2000” and inserting “the Gramm-Leach-

1 Bliley Act, the Legal Certainty for Bank Prod-
2 ucts Act of 2000, the securities laws (as such
3 term is defined in section 3(a)(47) of the Secu-
4 rities Exchange Act of 1934) and the Com-
5 modity Exchange Act”;

6 (2) in section 362(b)—

7 (A) by striking paragraphs (6) and (7) and
8 inserting the following:

9 “(6) under subsection (a) of this section, of the
10 exercise by a commodity broker, forward contract
11 merchant, stockbroker, financial institution, finan-
12 cial participant, or securities clearing agency of any
13 contractual right (as defined in section 555 or 556)
14 under any security agreement or arrangement or
15 other credit enhancement forming a part of or re-
16 lated to any commodity contract, forward contract
17 or securities contract, or of any contractual right (as
18 defined in section 555 or 556) to offset or net out
19 any termination value, payment amount, or other
20 transfer obligation arising under or in connection
21 with 1 or more such contracts, including any master
22 agreement for such contracts;

23 “(7) under subsection (a) of this section, of the
24 exercise by a repo participant or financial partici-
25 pant of any contractual right (as defined in section

1 559) under any security agreement or arrangement
2 or other credit enhancement forming a part of or re-
3 lated to any repurchase agreement, or of any con-
4 tractual right (as defined in section 559) to offset or
5 net out any termination value, payment amount, or
6 other transfer obligation arising under or in connec-
7 tion with 1 or more such agreements, including any
8 master agreement for such agreements;”;

9 (B) by striking paragraph (17) and insert-
10 ing the following:

11 “(17) under subsection (a) of this section, of
12 the exercise by a swap participant or financial par-
13 ticipant of any contractual right (as defined in sec-
14 tion 560) under any security agreement or arrange-
15 ment or other credit enhancement forming a part of
16 or related to any swap agreement, or of any contrac-
17 tual right (as defined in section 560) to offset or net
18 out any termination value, payment amount, or
19 other transfer obligation arising under or in connec-
20 tion with 1 or more such agreements, including any
21 master agreement for such agreements;” and

22 (C) by striking paragraph (27) and insert-
23 ing the following:

24 “(27) under subsection (a) of this section, of
25 the exercise by a master netting agreement partici-

1 pant of any contractual right (as defined in section
2 555, 556, 559, or 560) under any security agree-
3 ment or arrangement or other credit enhancement
4 forming a part of or related to any master netting
5 agreement, or of any contractual right (as defined in
6 section 555, 556, 559, or 560) to offset or net out
7 any termination value, payment amount, or other
8 transfer obligation arising under or in connection
9 with 1 or more such master netting agreements to
10 the extent that such participant is eligible to exercise
11 such rights under paragraph (6), (7), or (17) for
12 each individual contract covered by the master net-
13 ting agreement in issue; and”;

14 (3) in section 741(7)(A)—

15 (A) in clause (i)—

16 (i) by striking “mortgage loan or”
17 and inserting “mortgage loan,”; and

18 (ii) by inserting before the semicolon
19 “(whether or not such repurchase or re-
20 verse repurchase transaction is a ‘repur-
21 chase agreement’, as defined in section
22 101)”;

23 (B) in clause (iii)—

24 (i) by inserting “(including by nova-
25 tion)” after “the guarantee”; and

1 (ii) by inserting before the semicolon
2 “(whether or not such settlement is in con-
3 nection with any agreement or transaction
4 referred to in clauses (i) through (xi))”;

5 (C) in clause (viii), by striking “or (vii)”
6 each place it appears and inserting “(vii), (viii),
7 or (ix)”;

8 (D) by redesignating clauses (v) through
9 (ix) as clauses (vii) through (xi), respectively;
10 and

11 (E) by inserting after clause (iv) the fol-
12 lowing:

13 “(v) any extension of credit for
14 the clearance or settlement of securi-
15 ties transactions;

16 “(vi) any loan transaction cou-
17 pled with a securities collar trans-
18 action, any prepaid forward securities
19 transaction, or any total return swap
20 transaction coupled with a securities
21 sale transaction;”.

22 (b) LIMITATION OF AVOIDANCE POWERS UNDER
23 MASTER NETTING AGREEMENT.—Section 546 of title 11,
24 United States Code, is amended—

25 (1) in subsection (e)—

1 (A) by inserting “(or for the benefit of)”
2 before “a commodity broker”; and

3 (B) by inserting “or that is a transfer
4 made by or to (or for the benefit of) a com-
5 modity broker, forward contract merchant,
6 stockbroker, financial institution, financial par-
7 ticipant, or securities clearing agency, in con-
8 nection with a securities contract, as defined in
9 section 741(7), commodity contract, as defined
10 in section 761(4), or forward contract,” after
11 “securities clearing agency,”;

12 (2) in subsection (f)—

13 (A) by striking “that is a margin payment,
14 as defined in section 741 or 761 of this title,
15 or settlement payment, as defined in section
16 741 of this title,”; and

17 (B) by inserting “(or for the benefit of)”
18 before “a repo participant”;

19 (3) in subsection (g), by inserting “(or for the
20 benefit of)” before “a swap participant”; and

21 (4) in subsection (j), by inserting “(or for the
22 benefit of)” after “made by or to”.

23 (c) SIPC STAY.—Section 5(b)(2)(C)(iii) of the Secu-
24 rities Investor Protection Act of 1970 (15 U.S.C.
25 78eee(b)(2)(C)(iii)) is amended—

1 (1) by inserting “a derivatives clearing organi-
2 zation (as defined in the Commodity Exchange Act),
3 a multilateral clearing organization (as defined in
4 the Federal Deposit Insurance Corporation Improve-
5 ment Act of 1991),” after “rule or bylaw of”; and

6 (2) by striking “or a securities clearance agen-
7 cy, a right set forth in a bylaw of a clearing organi-
8 zation or contract market” and inserting “a securi-
9 ties clearing agency, a contract market designated
10 under the Commodity Exchange Act, a derivatives
11 transaction execution facility registered under the
12 Commodity Exchange Act, or a board of trade (as
13 defined in the Commodity Exchange Act),”.

14 (d) SAVINGS CLAUSE.—Title IX of the Bankruptcy
15 Abuse Prevention and Consumer Protection Act of 2005
16 (Public Law 109–8, 119 Stat. 146) is amended by adding
17 at the end the following:

18 **“SEC. 912. SAVINGS CLAUSE.**

19 “The meanings of terms used in this title are applica-
20 ble for the purposes of this title only, and shall not be
21 construed or applied so as to challenge or affect the char-
22 acterization, definition, or treatment of any similar terms
23 under any other statute, regulation, or rule, including the
24 Gramm-Leach-Bliley Act, the Legal Certainty for Bank
25 Products Act of 2000, the securities laws (as such term

1 is defined in section 3(a)(47) of the Securities Exchange
2 Act of 1934), and the Commodity Exchange Act.”.

3 **SEC. 6. WALKAWAY CLAUSES.**

4 (a) FDIC-INSURED DEPOSITORY INSTITUTIONS.—
5 Section 11(e)(8)(G) of the Federal Deposit Insurance Act
6 (12 U.S.C. 1821(e)(8)(G)) is amended by striking clause
7 (ii) and inserting the following new clauses:

8 “(ii) LIMITED SUSPENSION OF CER-
9 TAIN OBLIGATIONS.—In the case of a
10 qualified financial contract referred to in
11 clause (i), any payment or delivery obliga-
12 tions otherwise due from a party pursuant
13 to the qualified financial contract shall be
14 suspended from the time the receiver is ap-
15 pointed until the earlier of—

16 “(I) the time such party receives
17 notice that such contract has been
18 transferred pursuant to subparagraph
19 (A); or

20 “(II) 5:00 p.m. (eastern time) on
21 the business day following the date of
22 the appointment of the receiver.

23 “(iii) WALKAWAY CLAUSE DE-
24 FINED.—For purposes of this subpara-
25 graph, the term ‘walkaway clause’ means

1 any provision in a qualified financial con-
2 tract that suspends, conditions, or extin-
3 guishes a payment obligation of a party, in
4 whole or in part, or does not create a pay-
5 ment obligation of a party that would oth-
6 erwise exist, solely because of such party's
7 status as a nondefaulting party in connec-
8 tion with the insolvency of an insured de-
9 pository institution that is a party to the
10 contract or the appointment of or the exer-
11 cise of rights or powers by a conservator or
12 receiver of such depository institution, and
13 not as a result of a party's exercise of any
14 right to offset, setoff, or net obligations
15 that exist under the contract, any other
16 contract between those parties, or applica-
17 ble law.”.

18 (b) INSURED CREDIT UNIONS.—Section
19 207(c)(8)(G) of the Federal Credit Union Act 12 U.S.C.
20 1787(c)(8)(G)) is amended by striking clause (ii) and in-
21 serting the following new clauses:

22 “(ii) LIMITED SUSPENSION OF CER-
23 TAIN OBLIGATIONS.—In the case of a
24 qualified financial contract referred to in
25 clause (i), any payment or delivery obliga-

1 tions otherwise due from a party pursuant
2 to the qualified financial contract shall be
3 suspended from the time the liquidating
4 agent is appointed until the earlier of—

5 “(I) the time such party receives
6 notice that such contract has been
7 transferred pursuant to subparagraph
8 (A); or

9 “(II) 5:00 p.m. (eastern time) on
10 the business day following the date of
11 the appointment of the liquidating
12 agent.

13 “(iii) WALKAWAY CLAUSE DE-
14 FINED.—For purposes of this subpara-
15 graph, the term ‘walkaway clause’ means
16 any provision in a qualified financial con-
17 tract that suspends, conditions, or extin-
18 guishes a payment obligation of a party, in
19 whole or in part, or does not create a pay-
20 ment obligation of a party that would oth-
21 erwise exist, solely because of such party’s
22 status as a nondefaulting party in connec-
23 tion with the insolvency of an insured cred-
24 it union or the appointment of or the exer-
25 cise of rights or powers by a conservator or

1 liquidating agent of such credit union, and
2 not as a result of a party's exercise of any
3 right to offset, setoff, or net obligations
4 that exist under the contract, any other
5 contract between those parties, or applica-
6 ble law.”.

7 **SEC. 7. COMPENSATION OF CHAPTER 7 TRUSTEES; CHAP-**
8 **TER 7 FILING FEES.**

9 (a) AMENDMENTS TO TITLE 11 OF THE UNITED
10 STATES CODE.—

11 (1) COMPENSATION OF CHAPTER 7 TRUST-
12 EES.—Section 330(b)(1) of title 11, United States
13 Code, is amended by striking “\$45” and inserting
14 “\$100”.

15 (2) RELATED AMENDMENTS.—Section 330(b)
16 of title 11, United States Code, is amended—

17 (A) by striking “(1)”, and

18 (B) by striking paragraph (2).

19 (b) AMENDMENTS TO TITLE 28 OF THE UNITED
20 STATES CODE.—

21 (1) CHAPTER 7 FILING FEE.—Section
22 1930(a)(1)(A) of title 28 of the United States Code,
23 as amended by section 10101 of Public Law 109–
24 171, is amended by striking “\$245” and inserting
25 “\$300”, and

1 (2) UNITED STATES TRUSTEE FUND.—Section
2 589a(b)(1)(A) of title 28, United States Code, is
3 amended by striking “40.46” and inserting “29.67”.

4 (c) RELATED AMENDMENT REGARDING COLLEC-
5 TIONS AND DEPOSITS OF MISCELLANEOUS BANKRUPTCY
6 FEES.—Section 406(b) of the Judiciary Appropriations
7 Act, 1990 (28 U.S.C. 1931 note) is amended by striking
8 “28.87” and inserting “21.17”.

9 (d) CONFORMING AMENDMENT.—Section 10101(a)
10 of Public Law 109–171 is amended by striking paragraph
11 (2).

12 (e) EFFECTIVE DATE; APPLICATION OF AMEND-
13 MENTS.—The amendments made by this section shall take
14 effect 60 days after the date of the enactment of this Act
15 and shall not apply with respect to cases commenced
16 under title 11 of the United States Code before the date
17 such amendments take effect.

18 **SEC. 8. SCOPE OF APPLICATION.**

19 Subject to section 7(e), the amendments made by this
20 Act shall not apply to any cases commenced under title
21 11, United States Code, or appointments made under any
22 Federal or State law, before the date of the enactment
23 of this Act.

○