

### **Austin Scott Amendment**

Amends section 5h(f) of the Commodity Exchange Act to narrow a Swap Execution Facility's (SEF) monitoring responsibility over "trading in swaps" to swaps trading "only on its own facility." It also replaces the requirement that a SEF hold funds to cover its operating costs for 1 year with the requirement that it hold funds to conduct an orderly wind-down of operations. It further modifies the duties of a SEF chief compliance officer and the procedures for SEF annual reports to the Commodity Futures Trading Commission.

**AMENDMENT TO H.R. \_\_\_\_\_**  
**OFFERED BY MR. AUSTIN SCOTT OF GEORGIA**

Page 45, after line 17, insert the following:

**1 SEC. 315. CORE PRINCIPLE CERTAINTY.**

2 Section 5h(f) of the Commodity Exchange Act (7  
3 U.S.C. 7b-3(f)) is amended—

4 (1) in paragraph (1)(B), by inserting “except as  
5 described in this subsection,” after “Commission by  
6 rule or regulation”;

7 (2) in paragraph (2), by amending subpara-  
8 graph (D) to read as follows:

9 “(D) have reasonable discretion in estab-  
10 lishing and enforcing its rules related to trade  
11 practice surveillance, market surveillance, real-  
12 time marketing monitoring, and audit trail  
13 given that a swap execution facility may offer  
14 a trading system or platform to execute or  
15 trade swaps through any means of interstate  
16 commerce. A swap execution facility shall be re-  
17 sponsible for monitoring trading in swaps only  
18 on its own facility.”;

19 (3) in paragraph (4)(B), by adding at the end  
20 the following: “A swap execution facility shall be re-

1       sponsible for monitoring trading in swaps only on its  
2       own facility.”;

3           (4) in paragraph (6)(B)—

4               (A) by striking “shall—” and all that fol-  
5               lows through “compliance with the” and insert  
6               “shall monitor the trading activity on its facility  
7               for compliance with any”;

8               (B) by striking “or through”; and

9               (C) by adding at the end the following: “A  
10              swap execution facility shall be responsible for  
11              monitoring positions only on its own facility.”;

12           (5) in paragraph (8), by striking “to liquidate”  
13           and all that follows and inserting “to suspend or  
14           curtail trading in a swap on its own facility.”;

15           (6) in paragraph (13)(B), by striking “cover  
16           the operating costs of the swap execution facility for  
17           a 1-year period, as calculated on a rolling basis” and  
18           inserting “conduct an orderly wind-down of its oper-  
19           ations”; and

20           (7) in paragraph (15)—

21               (A) in subparagraph (A), by adding at the  
22               end the following: “The individual may also  
23               perform other responsibilities for the swap exe-  
24               cution facility.”;

25               (B) in subparagraph (B)—

1 (i) in clause (i), by inserting “, a com-  
2 mittee of the board,” after “directly to the  
3 board”;

4 (ii) by striking clauses (iii) through  
5 (v) and inserting the following:

6 “(iii) establish and administer policies  
7 and procedures that are reasonably de-  
8 signed to resolve any conflicts of interest  
9 that may arise;

10 “(iv) establish and administer policies  
11 and procedures that reasonably ensure  
12 compliance with this Act and the rules and  
13 regulations issued under this Act, includ-  
14 ing rules prescribed by the Commission  
15 pursuant to this section; and”;

16 (iii) by redesignating clause (vi) as  
17 clause (v);

18 (C) in subparagraph (C), by striking  
19 “(B)(vi)” and inserting “(B)(v)”;

20 (D) in subparagraph (D)—

21 (i) in clause (i)—

22 (I) by striking “In accordance  
23 with rules prescribed by the Commis-  
24 sion, the” and inserting “The”; and

25 (II) by striking “and sign”; and

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(ii) in clause (ii)—

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(I) in the matter preceding sub-

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clause (I), by inserting “or senior offi-

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cer” after “officer”;

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(II) by amending subclause (I) to

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read as follows:

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“(I) submit each report described

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in clause (i) to the Commission; and”;

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and

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(III) in subclause (II), by insert-

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ing “materially” before “accurate”.

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