

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 5749
OFFERED BY MR. FOSTER OF ILLINOIS**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Options Markets Sta-
3 bility Act”.

4 SECTION 2. RULEMAKING.

5 Within 180 days of the date of enactment of this Act,
6 the Board of Governors of the Federal Reserve System,
7 the Federal Deposit Insurance Corporation, and the
8 Comptroller of the Currency shall, jointly, issue a pro-
9 posed rule, and finalize such rule within 360 days of the
10 date of enactment of this Act, to adopt a methodology for
11 calculating the counterparty credit risk exposure, at de-
12 fault, of a depository institution, depository institution
13 holding company, or affiliate thereof to a client arising
14 from a guarantee provided by the depository institution,
15 depository institution holding company, or affiliate thereof
16 to a central counterparty in respect of the client’s per-
17 formance under a derivative contract cleared through that
18 central counterparty pursuant to the risk-based and lever-

1 age-based capital rules applicable to depository institu-
2 tions and depository institution holding companies under
3 parts 3, 217, and 324 of title 12, Code of Federal Regula-
4 tions. In issuing such rule, the Board of Governors of the
5 Federal Reserve System, the Federal Deposit Insurance
6 Corporation, and the Comptroller of the Currency shall
7 consider—

8 (1) the availability of liquidity provided by mar-
9 ket makers during times of high volatility in the cap-
10 ital markets;

11 (2) the spread between the bid and the quote
12 offered by market makers;

13 (3) the preference for clearing through central
14 counterparties;

15 (4) the safety and soundness of the financial
16 system and financial stability, including the benefits
17 of central clearing;

18 (5) the safety and soundness of individual insti-
19 tutions that may centrally clear derivatives or op-
20 tions on behalf of a client, including concentration of
21 market share;

22 (6) the economic value of delta weighting a
23 counterparty's position and netting of a
24 counterparty's position;

25 (7) the inherent risk of the positions;

1 (8) barriers to entry for depository institutions,
2 depository institution holding companies, affiliates
3 thereof, and entities not affiliated with a depository
4 institution or depository institution holding company
5 to centrally clear derivatives or options on behalf of
6 market makers;

7 (9) the impact any changes may have on the
8 broader capital regime and aggregate capital in the
9 system; and

10 (10) consideration of other potential factors
11 that impact market making in the options market,
12 including changes in market structure.

13 **SEC. 3. REPORT TO CONGRESS.**

14 At the end of the 5-year period beginning on the date
15 the final rule is issued under section 1, the Board of Gov-
16 ernors of the Federal Reserve System shall submit to the
17 Committee on Financial Services of the House of Rep-
18 resentatives and the Committee on Banking, Housing, and
19 Urban Affairs of the Senate a report detailing the impact
20 of the final rule during such period on the factors de-
21 scribed under paragraphs (1) through (10) of section 2.

