

tions of a State that is not the domiciliary State of the ceding insurer, except those with respect to taxes and assessments on insurance companies or insurance income, are preempted to the extent that they—

(1) restrict or eliminate the rights of the ceding insurer or the assuming insurer to resolve disputes pursuant to contractual arbitration to the extent such contractual provision is not inconsistent with the provisions of title 9;

(2) require that a certain State's law shall govern the reinsurance contract, disputes arising from the reinsurance contract, or requirements of the reinsurance contract;

(3) attempt to enforce a reinsurance contract on terms different than those set forth in the reinsurance contract, to the extent that the terms are not inconsistent with this subchapter; or

(4) otherwise apply the laws of the State to reinsurance agreements of ceding insurers not domiciled in that State.

(Pub. L. 111-203, title V, § 531, July 21, 2010, 124 Stat. 1595.)

§ 8222. Regulation of reinsurer solvency

(a) Domiciliary State regulation

If the State of domicile of a reinsurer is an NAIC-accredited State or has financial solvency requirements substantially similar to the requirements necessary for NAIC accreditation, such State shall be solely responsible for regulating the financial solvency of the reinsurer.

(b) Nondomiciliary States

(1) Limitation on financial information requirements

If the State of domicile of a reinsurer is an NAIC-accredited State or has financial solvency requirements substantially similar to the requirements necessary for NAIC accreditation, no other State may require the reinsurer to provide any additional financial information other than the information the reinsurer is required to file with its domiciliary State.

(2) Receipt of information

No provision of this section shall be construed as preventing or prohibiting a State that is not the State of domicile of a reinsurer from receiving a copy of any financial statement filed with its domiciliary State.

(Pub. L. 111-203, title V, § 532, July 21, 2010, 124 Stat. 1595.)

§ 8223. Definitions

For purposes of this subchapter, the following definitions shall apply:

(1) Ceding insurer

The term “ceding insurer” means an insurer that purchases reinsurance.

(2) Domiciliary State

The terms “State of domicile” and “domiciliary State” mean, with respect to an insurer or reinsurer, the State in which the insurer or reinsurer is incorporated or entered through, and licensed.

(3) NAIC

The term “NAIC” means the National Association of Insurance Commissioners or any successor entity.

(4) Reinsurance

The term “reinsurance” means the assumption by an insurer of all or part of a risk undertaken originally by another insurer.

(5) Reinsurer

(A) In general

The term “reinsurer” means an insurer to the extent that the insurer—

(i) is principally engaged in the business of reinsurance;

(ii) does not conduct significant amounts of direct insurance as a percentage of its net premiums; and

(iii) is not engaged in an ongoing basis in the business of soliciting direct insurance.

(B) Determination

A determination of whether an insurer is a reinsurer shall be made under the laws of the State of domicile in accordance with this paragraph.

(6) State

The term “State” includes any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Northern Mariana Islands, the Virgin Islands, and American Samoa.

(Pub. L. 111-203, title V, § 533, July 21, 2010, 124 Stat. 1595.)

SUBCHAPTER III—RULE OF CONSTRUCTION

§ 8231. Rule of construction

Nothing in this chapter or the amendments made by this subtitle¹ shall be construed to modify, impair, or supersede the application of the antitrust laws. Any implied or actual conflict between this chapter and any amendments to this chapter and the antitrust laws shall be resolved in favor of the operation of the antitrust laws.

(Pub. L. 111-203, title V, § 541, July 21, 2010, 124 Stat. 1596.)

REFERENCES IN TEXT

This subtitle, referred to in text, is subtitle B (§§ 511-542) of title V of Pub. L. 111-203, which enacted this chapter and provisions set out as notes under section 8201 of this title. Subtitle B did not make any amendments.

§ 8232. Severability

If any section or subsection of this chapter, or any application of such provision to any person or circumstance, is held to be unconstitutional, the remainder of this chapter, and the application of the provision to any other person or circumstance, shall not be affected.

(Pub. L. 111-203, title V, § 542, July 21, 2010, 124 Stat. 1596.)

¹ See References in Text note below.

**CHAPTER 109—WALL STREET
TRANSPARENCY AND ACCOUNTABILITY**
SUBCHAPTER I—REGULATION OF OVER-THE-
COUNTER SWAPS MARKETS

PART A—REGULATORY AUTHORITY

Sec.	
8301.	Definitions.
8302.	Review of regulatory authority.
8303.	Abusive swaps.
8304.	Authority to prohibit participation in swap activities.
8305.	Prohibition against Federal Government bail-outs of swaps entities.
8306.	Determining status of novel derivative products.
8307.	Studies.
8308.	Memorandum.

PART B—REGULATION OF SWAP MARKETS

8321.	Authority to define terms.
8322.	Authority of FERC.
8323.	Rulemaking on conflict of interest.
8324.	Savings clause.
8325.	International harmonization.

SUBCHAPTER II—REGULATION OF SECURITY-
BASED SWAP MARKETS

8341.	Authority to further define terms.
8342.	Savings clause.
8343.	Rulemaking on conflict of interest.
8344.	Other authority.

SUBCHAPTER I—REGULATION OF OVER-
THE-COUNTER SWAPS MARKETS

PART A—REGULATORY AUTHORITY

§ 8301. Definitions

In this subtitle, the terms “prudential regulator”, “swap”, “swap dealer”, “major swap participant”, “swap data repository”, “associated person of a swap dealer or major swap participant”, “eligible contract participant”, “swap execution facility”, “security-based swap”, “security-based swap dealer”, “major security-based swap participant”, and “associated person of a security-based swap dealer or major security-based swap participant” have the meanings given the terms in section 1a of title 7, including any modification of the meanings under section 8321(a) of this title.

(Pub. L. 111–203, title VII, §711, July 21, 2010, 124 Stat. 1641.)

REFERENCES IN TEXT

This subtitle, referred to in text, is subtitle A (§§711–754) of title VII of Pub. L. 111–203, July 21, 2010, 124 Stat. 1641, which enacted this subchapter, section 78c–2 of this title, and sections 1b, 6b–1, 6r to 6t, 7b–3, 24a, and 26 of Title 7, Agriculture, amended sections 78f, 78o, and 78s of this title, sections 1a, 2, 6 to 6b, 6c, 6d, 6m, 6q, 6s, 7 to 7b, 8 to 9a, 12, 12a, 13, 13–1, 13a–1, 13b, 15, 16, 21, 24, 25, 27 to 27b, 27e, and 27f of Title 7, section 761 of Title 11, Bankruptcy, and sections 4421 and 4422 of Title 12, Banks and Banking, enacted provisions set out as notes under sections 1a, 2, 6a, 7a–1, 7a–3, and 9 of Title 7, and amended provisions set out as a note under section 78c of this title. For complete classification of subtitle A to the Code, see Tables.

EFFECTIVE DATE

Provisions of subchapter effective on the later of 360 days after July 21, 2010, or, to the extent the provision requires a rulemaking, not less than 60 days after pub-

lication of the final rule or regulation implementing such provision, see section 754 of Pub. L. 111–203, set out as an Effective Date of 2010 Amendment note under section 1a of Title 7, Agriculture.

SHORT TITLE

Pub. L. 111–203, title VII, §701, July 21, 2010, 124 Stat. 1641, provided that: “This title [enacting this chapter, sections 78c–2 to 78c–5, 78j–2, 78m–1, and 78o–10 of this title, and sections 1b, 6b–1, 6r to 6t, 7b–3, 24a, and 26 of Title 7, Agriculture, amending sections 77b, 77b–1, 77e, 77q, 78c, 78c–1, 78f, 78i, 78j, 78m, 78o, 78p, 78q–1, 78s, 78t, 78u–1, 78u–2, 78bb, 78dd, 78mm, 80a–2, and 80b–2 of this title, sections 1a, 2, 6 to 6b, 6c, 6d, 6m, 6q, 6s, 7 to 7b, 8 to 9a, 12, 12a, 13, 13–1, 13a–1, 13b, 15, 16, 21, 24, 25, 27 to 27b, 27e, and 27f of Title 7, section 761 of Title 11, Bankruptcy, and sections 4421 and 4422 of Title 12, Banks and Banking, enacting provisions set out as notes under section 77b of this title and sections 1a, 2, 6a, 7a–1, 7a–3, and 9 of Title 7, and amending provisions set out as notes under section 78c of this title] may be cited as the ‘Wall Street Transparency and Accountability Act of 2010.’”

DEFINITION

For definition of “including” as used in this section, see section 5301 of Title 12, Banks and Banking.

§ 8302. Review of regulatory authority

(a) Consultation

(1) Commodity Futures Trading Commission

Before commencing any rulemaking or issuing an order regarding swaps, swap dealers, major swap participants, swap data repositories, derivative clearing organizations with regard to swaps, persons associated with a swap dealer or major swap participant, eligible contract participants, or swap execution facilities pursuant to this subtitle, the Commodity Futures Trading Commission shall consult and coordinate to the extent possible with the Securities and Exchange Commission and the prudential regulators for the purposes of assuring regulatory consistency and comparability, to the extent possible.

(2) Securities and Exchange Commission

Before commencing any rulemaking or issuing an order regarding security-based swaps, security-based swap dealers, major security-based swap participants, security-based swap data repositories, clearing agencies with regard to security-based swaps, persons associated with a security-based swap dealer or major security-based swap participant, eligible contract participants with regard to security-based swaps, or security-based swap execution facilities pursuant to subtitle B, the Securities and Exchange Commission shall consult and coordinate to the extent possible with the Commodity Futures Trading Commission and the prudential regulators for the purposes of assuring regulatory consistency and comparability, to the extent possible.

(3) Procedures and deadline

Such regulations shall be prescribed in accordance with applicable requirements of title 5 and shall be issued in final form not later than 360 days after July 21, 2010.

(4) Applicability

The requirements of paragraphs (1) and (2) shall not apply to an order issued—