SUBCHAPTER II—REGULATION OF SECURITY-BASED SWAP MARKETS

§ 8341. Authority to further define terms

The Securities and Exchange Commission may, by rule, further define—

　(1) the term ''commercial risk'';

　(2) any other term included in an amendment to the Securities Exchange Act of 1934[1] (15 U.S.C. 78c(a)) made by this subtitle; and

　(3) the terms ''security-based swap'', ''security-based swap dealer'', ''major security-based swap participant'', and ''eligible contract participant'', with regard to security-based swaps (as such terms are defined in the amendments made by subsection (a)) for the purpose of including transactions and entities that have been structured to evade this subtitle or the amendments made by this subtitle.

(Pub. L. 111–203, title VII, §761(b), July 21, 2010, 124 Stat. 1759.)

§ 8342. Savings clause

Notwithstanding any other provision of this title,[1] nothing in this subtitle shall be construed as divesting any appropriate Federal banking agency of any authority it may have to establish or enforce, with respect to a person for which such agency is the appropriate Federal banking agency, prudential or other standards pursuant to authority by Federal law other than this title.[1]

(Pub. L. 111–203, title VII, §764(b), July 21, 2010, 124 Stat. 1796.)

§ 8343. Rulemaking on conflict of interest

(a) In general

In order to mitigate conflicts of interest, not later than 180 days after July 21, 2010, the Securities and Exchange Commission shall adopt rules which may include numerical limits on the control of, or the voting rights with respect to, any clearing agency that clears security-based swaps, or on the control of any security-based swap execution facility or national securities exchange that posts or makes available for trading security-based swaps, by a bank holding company (as defined in section 1841 of title 12) with total consolidated assets of $50,000,000,000 or more, a nonbank financial company (as defined in section 5311 of title 12) supervised by the Board of Governors of the Federal Reserve System, affiliate of such a bank holding company or nonbank financial company, a security-based swap dealer, major security-based swap participant, or person associated with a security-based swap dealer or major security-based swap participant.

(b) Purposes

The Securities and Exchange Commission shall adopt rules if the Commission determines, after the review described in subsection (a), that such rules are necessary or appropriate to improve the governance of, or to mitigate systemic risk, promote competition, or mitigate conflicts of interest in connection with a security-based swap dealer or major security-based swap participant's conduct of business with, a clearing agency, national securities exchange, or security-based swap execution facility that clears, posts, or makes available for trading security-based swaps and in which such security-based swap dealer or major security-based swap participant has a material debt or equity investment.

(c) Considerations

In adopting rules pursuant to this section, the Securities and Exchange Commission shall consider any conflicts of interest arising from the amount of equity owned by a single investor, the ability to vote, cause the vote of, or withhold votes entitled to be cast on any matters by the holders of the ownership interest, and the governance arrangements of any derivatives clear-

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[1] So in original. Probably should be ''section 3(a) of the Securities Exchange Act of 1934''.

[1] See References in Text note below.