

**Amend section 362(b)(6), (7), (17) and (27) as follows:**

(b) The filing of a petition under section 301, 302, or 303 of this title, or of an application under section 5(a)(3) of the Securities Investor Protection Act of 1970, does not operate as a stay –

\* \* \*

- (6) under subsection (a) of this section, of the exercise by a commodity broker, forward contract merchant, stockbroker, financial institution, financial participant, or securities clearing agency of any contractual right (as defined in section 555 or 556) to foreclose on, dispose of, draw against, demand and receive payment under, or otherwise realize on any financial collateral under any security agreement or arrangement or other credit enhancement forming a part of or related to any commodity contract, forward contract or securities contract, or of any contractual right (as defined in section 555 or 556) to offset or net out any termination value, payment amount, or other transfer obligation arising under or in connection with 1 or more such contracts, including any master agreements for such contracts;
- (7) under subsection (a) of this section, of the exercise by a repo participant or financial participant of any contractual right (as defined in section 559) to foreclose on, dispose of, draw against, demand and receive payment under, or otherwise realize on any financial collateral under any security agreement or arrangement or other credit enhancement forming a part of or related to any repurchase agreement, or of any contractual right (as defined in section 559) to offset or net out any termination value, payment amount, or other transfer obligation arising under or in connection with 1 or more such agreements, including any master agreements for such agreements;

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- (17) under subsection (a) of this section, of the exercise by a swap participant or financial participant of any contractual right (as defined in section 560) to foreclose on, dispose of, draw against, demand and receive payment under, or otherwise realize on any financial collateral under any security agreement or arrangement or other credit enhancement forming a part of or related to any swap agreement, or of any contractual right (as defined in section 560) to offset or net out any termination value, payment amount, or other transfer obligation arising under or in connection with 1 or more such agreements, including any master agreements for such agreements;

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- (27) under subsection (a) of this section, under subsection (a) of this section, of the exercise by a master netting agreement participant of any contractual

right (as defined in section 555, 556, 559, or 560) to foreclose on, dispose of, draw against, demand and receive payment under, or otherwise realize on any financial collateral under any security agreement or arrangement or other credit enhancement forming a part of or related to any master netting agreement, or of any contractual right (as defined in section 555, 556, 559, or 560) to offset or net out any termination value, payment amount, or other transfer obligation arising under or in connection with 1 or more such master netting agreements to the extent that such participant is eligible to exercise such rights under paragraph (6), (7), or (17) for each individual contract covered by the master netting agreement in issue; and

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**Amend section 101 to insert the following after paragraph (21B):**

(21C) The term "financial collateral"

(A) means, with respect to one or more contracts of the kind described in paragraphs (1) through (5) of section 561(a), --

(i) any property sold or to be sold in the performance of such contracts, cash, cash equivalent, security, instrument, certificate of deposit, mortgage loan, or interest in a contract of the kind described in paragraphs (1) through (5) of section 561(a) (except in each case any security or instrument issued or executed by the debtor or a person under common control with the debtor), in each case which also secures obligations under such contracts;

(ii) any other property not used in the operation of any business owned or conducted by the debtor or a person under common control with the debtor, in each case which secures obligations under such contracts; or

(iii) any letter of credit, guarantee, reimbursement agreement or other credit enhancement issued or provided by a person other than the debtor for the obligations under such contracts (regardless of any recourse that such person may have to the debtor), in each case which provides credit enhancement for obligations under such contracts; and

(B) notwithstanding subparagraph (A), does not include --

(i) any receivable (as defined in section 547(a)(3)) arising in the ordinary course of business of the debtor or a person under common control with the debtor relating to the sale or lease of goods, the provision of services or the licensing of information; and

(ii) any property that was not of a kind described in subparagraph (A) at the time of the filing of the petition, and the proceeds of such property.

**Note: The Section 362(b) portion of the foregoing is identical to the Drafting Committee report of July 23, 2008. The Section 101(21C) portion of the foregoing contains changes from such report in clauses (A)(i) and B(ii).**