

Coalition for Derivatives End-Users

March 19, 2013

The Honorable Frank Lucas
Chairman
House Committee on Agriculture
U.S. House of Representatives
2311 Rayburn House Office Building
Washington, DC 20515

The Honorable Collin Peterson
Ranking Member
House Committee on Agriculture
U.S. House of Representatives
2109 Rayburn House Office Building
Washington, DC 20515

Re: End-User Support for H.R. 634 to Protect Derivatives End-Users from Unnecessary Margin Requirements and for H.R. 677 to Preserve Central Hedging and Prevent Unnecessary Regulation of Inter-Affiliate Swaps

Dear Chairman Lucas and Ranking Member Peterson:

The undersigned organizations—representing hundreds of end-user companies that employ derivatives to manage risk—write in strong support of H.R. 634, the *Business Risk Mitigation and Price Stabilization Act of 2013*, and H.R. 677, the *Inter-Affiliate Swap Clarification Act*. These two vital bills would help prevent unnecessary and harmful regulation of derivatives end-users and preserve jobs. We commend you and the other members of the Agriculture Committee for working to advance these bills in the 113th Congress.

H.R. 634 would ensure that regulators would not impose unnecessary margin requirements on many end-users. In approving the Dodd-Frank Act, Congress made clear that end-users were not to be subject to margin requirements. Nonetheless, regulations proposed by the Prudential Banking Regulators could require end-users to post margin. While the regulations proposed by the Commodity Futures Trading Commission (the “Commission”) are preferable to the regulations proposed by the Prudential Banking Regulators, the Commission’s regulations do not provide end-users with the predictability and assurance that H.R. 634 provides. According to a Coalition survey, a 3% initial margin requirement could reduce capital spending by as much as \$5.1 to \$6.7 billion among S&P 500 companies alone and cost 100,000 to 120,000 jobs. We need Congress to step in and clarify that end-users will continue to have the ability to manage risk without the threat of having unnecessary initial and variation margin requirements imposed on them. In short, we need this bill. We are also hopeful that H.R. 634 will be expanded to exempt trades with financial end-users, which also employ derivatives to manage risk. The House Committee on Agriculture reported an identical bill (H.R. 2682) by voice vote in the 112th Congress, and the bill received overwhelming bipartisan support when it passed the House on March 26, 2012.

H.R. 677 would prevent certain internal, inter-affiliate trades from being subject to regulatory burdens that were designed to be applied only to certain street-facing swaps. Regulators have proposed an exemption for inter-affiliate swaps, but the proposal would condition the exemption on margin requirements that could make the exemption itself meaningless. In contrast, the Coalition believes that regulation of inter-affiliate trades should square with a simple economic reality: internal trades do not increase systemic risk. Thus, imposing requirements that are designed to address systemic risk on inter-affiliate trades would create costs without a corresponding benefit, placing substantial burdens on end-users and consumers and increasing costs to the economy. The House Committee on Agriculture reported a similar bill (H.R. 2779) by voice vote in the 112th

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Congress, and the bill received overwhelming bipartisan support when it passed the House on March 26, 2012.

We also strongly support language in H.R. 677 that would ensure end-users will not face additional regulatory burdens for using centralized treasury units to manage their risk. It appears from the regulators' interpretation of the Dodd-Frank Act that non-financial end-users could be forced either to dismantle their centralized treasury units and find a new way to manage risk or to clear all of their inter-affiliate trades. Stated another way, this problem threatens to deny the end-user clearing exception to end-users because they have chosen to hedge their risk in an efficient, highly-effective and risk-reducing way. H.R. 677 would rescue end-users from this double bind, creating certainty with respect to these purely internal trades.

Throughout the legislative and regulatory processes surrounding the Dodd-Frank Act, the Coalition has advocated for strong regulation that brings transparency to the derivatives market and imposes thoughtful new regulatory standards that enhance financial stability while avoiding needless costs. The Coalition appreciates very much your bipartisan legislative efforts to focus regulation where it is needed most by removing the burden where it will cause harm and provide no benefit.

Sincerely,

Business Roundtable
Commodity Markets Council
Financial Executives International
National Association of Corporate Treasurers
National Association of Manufacturers
National Association of Real Estate Investment Trusts
Real Estate Roundtable
U.S. Chamber of Commerce