

Coalition for Derivatives End-Users

March 24, 2015

The Honorable Mike Crapo
Chairman
Subcommittee on Securities, Insurance and
Investment
Committee on Banking, Housing & Urban Affairs
United States Senate
239 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Mark R. Warner
Ranking Member
Subcommittee on Securities, Insurance and
Investment
Committee on Banking, Housing & Urban Affairs
United States Senate
475 Russell Senate Office Building
Washington, DC 20510

***Re: Subcommittee Hearing on Capital Formation and Reducing Small Business Burdens;
Support for Derivatives End-Users Clarification Act***

Dear Chairman Crapo and Ranking Member Warner:

The Coalition for Derivatives End-Users thanks you for holding this important hearing to explore ways to encourage capital formation and to avoid costly regulation of business activities where it is not needed. We also appreciate your focus on the *Derivatives End-Users Clarification Act* (H.R. 1317), which the Coalition strongly supports. The bill, H.R. 1317 in the House, contains the same language as the measure introduced in the Senate last year by Senators Collins and Klobuchar (S. 2976). This narrowly-tailored, bipartisan bill will provide much-needed clarification that certain swap transactions with centralized treasury units (“CTUs”) of non-financial end-users are exempt from clearing requirements and fix a language glitch in the Dodd-Frank Act that denies some end-users the clearing exception that Congress passed specifically for them.

The Coalition is encouraged that the House of Representatives last year passed the bill (H.R. 5471/S. 2976) by voice vote, reflecting the fact that CTUs are a best practice among corporate treasurers and their use should be encouraged, not penalized.

While the Commodity Futures Trading Commission (“CFTC”) has issued no-action relief allowing some end-users to use the clearing exemption, the relief does not fix the problematic language in the Dodd-Frank Act. This language, which also is referenced in regulatory proposals on margin, places corporate boards in the difficult position of approving decisions not to clear trades despite the unintended inapplicability of the exemption.

It also is important to note that international regulators often look to U.S. rules when developing their regulations. Unless we fix the underlying problem in the Dodd-Frank Act, our denial of clearing relief to end-users with CTUs may be propagated overseas.

We urge you to support this crucial legislation to address the concerns of derivatives end-users. Throughout the legislative process, the Coalition has supported efforts to increase

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transparency in the derivatives markets and enhance financial stability for the U.S. economy through thoughtful new regulation while avoiding needless costs. The language in this bill would provide certainty and help end-users focus their efforts on innovation, growth and job creation.

Sincerely,

Coalition for Derivatives End-Users