Coalition for Derivatives End-Users

July 23, 2013

The Honorable Frank D. Lucas
Chairman
House Committee on Agriculture
U.S. House of Representatives
1301 Longworth House Office Building
Washington, DC 20515

The Honorable Collin C. Peterson
Ranking Member
House Committee on Agriculture
U.S. House of Representatives
1305 Longworth House Office Building
Washington, DC 20515

Re: End-User Support for Adding H.R. 634 and H.R. 677 to Legislation Reauthorizing the Commodity Futures Trading Commission

Dear Chairman Lucas and Ranking Member Peterson:

The Coalition for Derivatives End-Users, representing hundreds of end-user companies that employ derivatives to manage risk, write in strong support of adding H.R. 634, the *Business Risk Mitigation and Price Stabilization Act of 2013* and H.R. 677, the *Inter-Affiliate Swap Clarification Act*, to legislation reauthorizing the Commodity Futures Trading Commission (the "CFTC"). These two vital bills would help prevent unnecessary and harmful regulation of derivatives end-users and preserve jobs. We have attached our June 11, 2013 letter to the U.S. House of Representatives in support of the two bills. The letter provides a sense of the range of end-user companies that stand behind these important bills.

This Committee, of course, is well aware of these two end-user bills, and the Coalition commends your efforts in moving the legislation toward enactment. On March 20, 2103, this Committee ordered both bills reported by unanimous voice votes. H.R. 634 passed the House last month by a vote of 411-12 and we are optimistic that passage of H.R. 677 will soon follow. These are commonsense bills that assist non-financial end-users in targeted, narrow ways that are consistent with the intent of Congress in passing the Dodd-Frank Act and that address problems not solved by regulatory action.

Both bills are urgently needed due to the impending application of regulatory requirements on end-users. H.R. 634 is needed because regulations proposed by the Prudential Banking Regulators have interpreted the Dodd-Frank Act as mandating that margin requirements be imposed on all swaps, including those entered into by non-financial end-users. The CFTC's proposed regulations, while preferable to those proposed by the Prudential Banking Regulators, do not provide end-users with the predictability and assurance that H.R. 634 provides. As noted in the attached letter, a 3% initial margin requirement applied to end-user transactions could cost more than 100,000 jobs.

H.R. 677 is urgently needed as well. Under CFTC rules, clearing requirements will apply to all swap market participants beginning this coming September. H.R. 677 would prevent regulators from denying non-financial companies the use of the end-user clearing exception because they have chosen to hedge their risk in an efficient, highly-effective and risk-reducing way – through the use of a centralized treasury unit ("CTU"). The CTU provision of H.R. 677 is especially important, as it makes clear that non-financial end-user companies that are using swaps to hedge or mitigate non-financial risks will not be disparately treated based on corporate structure and will not be subject to regulation that disadvantages them for employing what is a best practice among corporate treasurers.

To ensure timely consideration of these bills and to prevent unnecessary and harmful regulation of derivatives end-users, we request that both bills be included in legislation to reauthorize the CFTC if they have not already been enacted by the time that your Committee reports out the reauthorization.

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,

Coalition for Derivatives End-Users

Coalition for Derivatives End-Users

June 11, 2013

U.S. House of Representatives
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 Representative:

The undersigned companies and organizations 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.

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. In the 112th Congress, an identical bill (H.R. 2682) received overwhelming bipartisan support when it passed the House on March 26, 2012. This year's version of the bill was ordered reported by the House Agriculture Committee by unanimous voice vote and by the House Committee on Financial Services by a vote of 59-0.

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. It also would prevent regulators from denying non-financial companies use of the end-user clearing exception because they have chosen to hedge their risk in an efficient, highly-effective and risk-reducing way – through the use of centralized treasury units. Regulators have proposed a clearing exemption for inter-affiliate trades, but it would impose unreasonable conditions on financial end-users and would not address the centralized hedging unit problem. 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. H.R. 677 also includes language that ensures bank swap dealers and major swap participants would not be able to take advantage of the clearing exemption in the bill that is intended for end-users only. The House Committee on Agriculture ordered the bill reported by unanimous voice vote and the House Committee on Financial Services approved the measure by a vote of 50-10. Last year's version of the bill received overwhelming bipartisan support when it passed the House on March 26, 2012.

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 encourages you to support these bipartisan bills when they are voted on in the U.S. House of Representatives and ensure that new regulations do not impede innovation, U.S. competitiveness or job growth.

Sincerely,

Air Products & Chemicals, Inc.	Allentown, PA
Ameren Corporation	St. Louis, MO
American Honda Finance Corporation	Torrance, CA
Apache Corporation	Houston, TX
Bayer Corporation	Pittsburgh, PA
Blyth, Inc.	Greenwich, CT
BP America Inc.	Houston, TX
Business Roundtable	Washington, DC
Cargill	Minneapolis, MN
Caterpillar Inc.	Peoria, IL
Daimler North America Corporation	Montvale, NJ
Deere & Company	Moline, IL
DuPont Co.	Wilmington, DE
DuPont Fabros Technology	Washington, DC
Eaton	Cleveland, OH
Edison Electric Institute	Washington, DC
Eli Lilly and Company	Indianapolis, IN
EnerVest, Ltd.	Houston, TX
EV Energy Partners	Houston, TX
Exelon Corporation	Chicago, IL
Financial Executives International	Morristown, NJ
FMC Corporation	Philadelphia, PA
Ford Motor Company	Dearborn, MI
GE	Fairfield, CT
General Motors Company	Detroit, MI
Hallmark Cards, Inc.	Kansas City, MO
Hardinge Inc.	Elmira, NY
HCA	Nashville, TN
Health Care REIT	Toledo, OH
Helen of Troy, L.P.	El Paso, TX
Hercules Offshore Inc.	Houston, TX

Hersha Hospitality Trust	Harrisburg, PA
Honeywell International	Morristown, NJ
IBM Corporation	Armonk, NY
Independent Petroleum Association of America	Washington, DC
Johnson Controls, Inc.	Milwaukee, WI
Lockheed Martin Corporation	Bethesda, MD
MAHLE Industries, Incorporated	Farmington Hills, MI
Mars, Incorporated	McLean, VA
McDonald's	Oak Brook, IL
Medtronic, Inc.	Minneapolis, MN
Merck	Whitehouse Station, NJ
MillerCoors	Chicago, IL
Motor & Equipment Manufacturers Association	Washington, DC
National Association of Corporate Treasurers	Reston, VA
National Association of Manufacturers	Washington, DC
National Gypsum Company	Charlotte, NC
Nielsen	Wilton, CT
Peabody Energy	St. Louis, MO
Sealed Air Corporation	Elmwood Park, NJ
Siemens Capital Company LLC	Iselin, NJ
Simon Property Group	Indianapolis, IN
The Boeing Company	Chicago, IL
The Coca-Cola Company	Atlanta, GA
The Dow Chemical Company	Midland, MI
The JBG Companies	Chevy Chase, MD
The Procter & Gamble Company	Cincinnati, OH
Time Warner Inc.	New York, NY
U.S. Chamber of Commerce	Washington, DC
United Launch Alliance	Centennial, CO
United Technologies Corporation	Hartford, CT
Volvo Group North America	Greensboro, NC
Whirlpool Corporation	Benton Harbor, MI
Zimmer, Inc.	Warsaw, IN