

Coalition for Derivatives End-Users

November 29, 2011

House Committee on Financial Services
2129 Rayburn House Office Building
Washington, DC 20515

Re: Support for Bills Scheduled for Mark-Up on November 30, 2011

To the Members of the House Committee on Financial Services:

We appreciate the Committee taking up several pieces of bipartisan legislation that would help prevent unnecessary and harmful regulation of derivatives end-users, and we write to offer our support for these three bills.

We reiterate our support for the Grimm-Peters-Scott-Owens Business Risk Mitigation and Stabilization Act of 2011, H.R. 2682, which would ensure that regulators do not impose margin requirements on many end-users. Congressional intent was clear on this point—end-users would not be subject to margin requirements. Nonetheless, regulations proposed by the Prudential Regulators and the CFTC could require end-users to post margin (or leave open the possibility that end-users will be required to post margin in the future). These margin rules will funnel cash away from productive commercial use. As a result, end-users will face increased liquidity risk, which may require them to take on more debt. We need Congress to step in and clarify that end-users should continue to have the ability to manage their risk without unnecessary initial and variation margin requirements imposed on them. We are also hopeful that H.R. 2682 will be expanded to exempt trades with financial end-users, which employ derivatives similarly, to manage risks.

We also reiterate support for the Stivers-Fudge bill, H.R. 2779, which would prevent inter-affiliate trades from being subject to regulatory burdens designed to be applied to certain outward-facing swaps. Regulators have not provided definitive guidance regarding inter-affiliate trades, and what we are hearing from regulators suggests that they do not plan to exempt such trades from margin, clearing, real-time reporting, and other requirements. We believe that regulation of inter-affiliate trades should square with a simple economic reality: purely internal trades do not increase systemic risk. Thus, imposing unnecessary requirements on inter-affiliate trades would be a mistake, placing substantial burdens on end-users and consumers, increasing costs to the economy, and likely forcing companies to abandon proven and efficient methods of managing their risk through centralized hedging centers.

H.R. 2586, the Swap Execution Facility Clarification Act, addresses concerns the Coalition has raised regarding the CFTC's proposed swap execution facility rule, which could disadvantage some end-users by limiting their ability to choose counterparties and modes of execution using their own business judgment. Although certain end-users will be exempt from the Dodd-Frank Act's mandatory clearing and trading requirements, other end-users will still be subject to them. As we explained in our comment letter to the CFTC on March 8, 2011, the CFTC's proposed requirement, that request for quote systems must transmit requests to no less than five market participants, would restrict end-users' access to cost-effective hedging. We support the goals of

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H.R. 2586 that would help address this concern and other problematic aspects of the CFTC's proposed rule to help ensure that end-users will have a variety of options and methods for hedging their risk.

We appreciate the Committee's hard work in helping to address some of the unintended consequences of the Dodd-Frank Act, and stand ready to work with you on legislation designed to achieve greater efficiency through a balanced, smarter regulatory process.

Sincerely,

Business Roundtable
Financial Executives International
National Association of Corporate Treasurers
National Association of Manufacturers
U.S. Chamber of Commerce