

# Coalition for Derivatives End-Users

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## **Support for H.R. 677 the Stivers-Fudge Bill to Exempt Inter-Affiliate Swaps from the Regulatory Requirements of Title VII of the Dodd-Frank Act**

- Prevents internal, inter-affiliate trades from being subject to regulatory burdens that were designed to be applied only to certain market-facing swaps.
  - Excludes from the definition of “swap”, transactions that are executed between consolidated entities.
- Contains numerous protections and limitations to prevent abuse.
  - Limited to clearing, margin, swap dealer calculation and some reporting requirements.
  - Restricts use of inter-affiliate exemption only to entities with consolidated balance sheets.
  - Includes a specific grant of anti-evasion authority to regulators.
  - Trades would still be reported to regulators.
  - Contains language that preserves regulators’ safety and soundness authority and that protects insurance funds.
- Reported to the House in the 112<sup>th</sup> Congress by a vote of 53-0 in the House Financial Services Committee and by a unanimous voice vote in the House Agriculture Committee.
- Passed the House in the 112<sup>th</sup> Congress by nearly a 10 to 1 margin (357-36) and no member spoke against the bill during floor debate.
- We believe that regulation of inter-affiliate trades should square with a simple economic reality: purely internal trades between affiliated parties do not increase systemic risk.
- Imposing requirements that are designed to address systemic risk on inter-affiliate trades would create costs without any corresponding benefit.
- Needless regulation would place substantial burdens on end-users and consumers, increasing costs to the economy, and possibly forcing companies to abandon proven and efficient methods of managing their risk through centralized treasury units.
- During the House Financial Services Committee mark-up of the bill in the 112<sup>th</sup> Congress, Cong. Frank said “*we have alleviated any legitimate concerns about this bill.*”
- Bill was amended since the 112<sup>th</sup> Congress to ensure companies can continue to execute most or all swaps through a single affiliated entity, improving efficiency and trading expertise.
- CFTC no-action relief, while helpful, contains restrictive conditions and does not reduce the need for the clean legislative solution H.R. 677 provides to ensure non-financial end-users are not penalized for choosing to manage their swaps efficiently through centralized treasury units.
  - Corporate boards are unwilling to approve actions that violate laws or regulations and are protected only by no-action relief.
  - No-action relief prohibits centralized treasury units from combining, netting or consolidating risk of financial affiliates such as cash-pooling entities.
  - No-action relief could render end-users with more than one central treasury unit that both trade with the same non-financial affiliate, ineligible for relief.
  - No-action relief denied unless external swaps are guaranteed by non-financial parent.