January 6, 2015


Dear Representative:

The Coalition for Derivatives End-Users represents the views of companies that employ derivatives primarily to manage risks associated with their businesses. Hundreds of companies and business associations have been active in the Coalition in seeking strong, effective and fair regulation of derivatives markets that brings transparency and mitigates the risk of another systemic collapse while not unduly burdening American businesses and harming job growth.

While the Coalition does not have a position on all of the components of H.R. 37, the Promoting Job Creation and Reducing Small Business Burdens Act, we appreciate and support the efforts of the bills’ sponsor, Rep. Fitzpatrick, to incorporate into this bill vital provisions that will protect derivatives end-users from harmful margin and clearing requirements.

We particularly appreciate the addition of language that incorporates H.R. 634/S.888, the Business Risk Mitigation and Price Stabilization Act of 2013, which would ensure that non-financial derivatives end-users are not subject to unnecessary margin requirements. This bill passed the House of Representatives last year with 411 votes. We also appreciate the inclusion of the text of H.R. 5471, the Derivatives End-Users Clarification Act, which passed the House of Representatives last December by voice vote (with no member speaking against or expressing opposition). This bill, and its bipartisan Senate companion, S. 2976, would clarify that swaps with centralized treasury units (“CTUs”) of non-financial end-users are exempt from clearing requirements.

A March 2014 Coalition survey of chief financial officers and corporate treasurers underscores the urgent need for the end-user provisions incorporated into H.R. 37. Eighty-six percent of survey respondents indicated that fully collateralizing over-the-counter derivatives would adversely impact business investment, acquisitions, research & development and job creation. Another Coalition survey found that 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 130,000 jobs.

Nearly half of our March 2014 survey respondents use CTUs to execute over-the-counter derivatives. The Commodity Futures Trading Commission (“CFTC”) staff has issued no-action relief that, while helpful, underscores the need for legislation to fix the underlying flaw in the Dodd-Frank Act language. The CFTC’s relief does not provide the certainty that corporations need to plan, as the relief can be removed or modified at any time.
Throughout the legislative and regulatory process surrounding the Dodd-Frank Wall Street Reform and Consumer Protection Act, the Coalition has supported efforts to increase transparency in the derivatives markets and enhance financial stability for the U.S. economy through thoughtful new regulation while avoiding needless costs. We urge you to support the efforts to move the essential clarifications in these bills which would provide certainty and help end-users focus their efforts on innovation, job growth and job creation.

Sincerely,

Agricultural Retailers Association  
Business Roundtable  
Commodity Markets Council  
Financial Executives International  
National Association of Corporate Treasurers  
National Association of Manufacturers  
U.S. Chamber of Commerce