

CHAMBER OF COMMERCE  
OF THE  
UNITED STATES OF AMERICA

R. BRUCE JOSTEN  
EXECUTIVE VICE PRESIDENT  
GOVERNMENT AFFAIRS

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March 20, 2013

The Honorable Frank Lucas  
Chairman  
Committee on Agriculture  
U.S. House of Representatives  
Washington, DC 20515

The Honorable Collin Peterson  
Ranking Member  
Committee on Agriculture  
U.S. House of Representatives  
Washington, DC 20515

Dear Chairman Lucas and Ranking Member Peterson:

The U.S. Chamber of Commerce, the world's largest business federation representing the interests of more than three million businesses and organizations of every size, sector, and region, is encouraged by the Committee's bipartisan efforts to protect end users' ability to efficiently manage their business risk. The Chamber writes today to offer our support for each of the following bills that are before the Committee for markup.

H.R. 634, the "Business Risk Mitigation and Price Stabilization Act of 2013," would create a critical exemption for corporate end users that manage their business risk with derivatives. Despite the clear intent of Congress to shield end users from unnecessary cash collateral requirements, the Prudential Banking Regulators believe they do not have the flexibility under Dodd-Frank to provide a regulatory exemption. Chairman Bernanke has noted this problem on a number of occasions and has supported a legislative fix. An identical bill passed the House in 2012 by an overwhelming bipartisan margin – 370-24.

H.R. 677, the "Inter-Affiliate Swap Clarification Act," would exempt transactions between affiliates of a company from clearing and margin requirements that were intended for market-facing derivatives transactions. Internal transactions do not create the systemic risk that derivatives regulations are designed to mitigate. In fact, companies use affiliate transactions as part of a prudent risk management strategy to "net down" exposures from across the company. A similar bill passed the House last year with overwhelming bipartisan support – 357-36.

H.R. 742, the "Swap Data Repository and Clearinghouse Indemnification Correction Act of 2013," would eliminate an unworkable indemnification requirement in Dodd-Frank that would lead to a balkanized system for storing and accessing swaps data. Some foreign jurisdictions have laws or regulations that make indemnification impossible, and therefore prevent foreign regulators from accessing swaps information from U.S.-registered SDRs. The legislation would repeal the indemnification requirement, but make clear that regulators have an obligation to maintain the confidentiality of the information.

H.R. 992, the "Swaps Regulatory Improvement Act," would modify section 716 of Dodd-Frank, often referred to as the swaps push-out provision that requires insured depository

institutions to spin-off certain derivatives activities into separately capitalized affiliates. By narrowing the scope of the push-out provision, the legislation will actually mitigate systemic risk and reduce complexity for market participants.

H.R. 1003, “To improve consideration by the Commodity Futures Trading Commission of the costs and benefits of its regulations and orders,” would require the Commodity Futures Trading Commission (CFTC) to undertake rigorous quantitative and qualitative cost-benefit analysis before promulgating a new regulation. The Chamber recently released a report, entitled [“The Importance of Cost-Benefit Analysis in Financial Regulation,”](#) that emphasized the strong policy imperative for transparent economic analysis as part of the rulemaking process, even for independent regulators. This legislation would ensure the CFTC only regulates when the benefits justify the costs.

H.R. 1038, the “Public Power Risk Management Act of 2013,” would help ensure that public utilities’ ability to hedge their risk and serve their customers is not hindered by CFTC regulation. The Commission’s Swap Dealer definition punishes counterparties who transact with “special entities” like public utilities by increasing their compliance burden, making it more difficult and more expensive for these special entities to find willing partners in the market.

H.R. 1256, the “Swap Jurisdiction Certainty Act,” would require the CFTC and the Securities and Exchange Commission (SEC) to conduct a joint rulemaking to define the territorial reach of U.S. derivatives regulation, while carefully considering the costs and benefits of regulating transactions between non-U.S. counterparties. The CFTC has proposed guidance, rather than a notice and comment proposed regulation, while the SEC has yet to act at all. The lack of interagency coordination is problematic, and the CFTC’s substantive approach could increase end user costs by imposing new burdens on their dealer counterparties that operate globally.

The Chamber looks forward to working with the Committee and the Congress to pass these important bills.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Bruce Josten". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

R. Bruce Josten

cc: The Members of the House Committee on Agriculture