CHAMBER OF COMMERCE
OF THE
UNITED STATES OF AMERICA

R. BRUCE JOSTEN
EXECUTIVE VICE PRESIDENT
GOVERNMENT AFFAIRS

1615 H STREET, N.W.
WASHINGTON, D.C. 20062-2000
202/463-5310

March 10, 2014

The Honorable Andy Barr
U.S. House of Representatives
Washington, DC 20515

Dear Representative Barr:

The U.S. Chamber of Commerce, the world's largest business federation representing the interests of more than three million businesses of all sizes, sectors, and regions, as well as state and local chambers and industry associations, and dedicated to promoting, protecting and defending America's free enterprise system, thanks you for introducing H.R. 4167, the "Restoring Proven Financing for American Employers Act." This bill would correct an unintended consequence of the regulations implementing Section 619 ("Volcker Rule") of the Dodd-Frank Wall Street Reform and Consumer Act ( "Dodd-Frank Act") that has inhibited the ability of American business to access a form of financing known as Collateralized Loan Obligations ("CLOs").

CLOs provide over $300 billion in financing to thousands of businesses in 47 states and the District of Columbia that collectively employ over five million Americans. CLOs are primarily used by small, midsize, or challenged businesses as a non-investment grade vehicle. CLO portfolios are managed and comprised almost exclusively of senior, secured non-real estate corporate loans. As a result, the CLO market performed largely as expected during the financial crisis. Unlike structured products based on subprime mortgages, CLO tranches experienced very few aggregate losses,[1] and in the past 16 years combined, CLOs have experienced a cumulative *impairment* rate of approximately 1.5%, while the actual *loss* rate was even lower. Even the Federal Reserve Board acknowledged a low default rate for CLO collateral in its Report to Congress on Risk Retention in October 2010, citing the aligned incentive mechanisms inherent in CLO structures.[2]

In finalizing the Volcker Rule this past December, the regulators used a broad definition of "ownership interest" to determine whether a bank owns an interest in a covered fund, such as a hedge fund, that must be divested under Volcker. The regulators far exceeded the requirements of the statute and swept certain bank bond portfolios into a prohibition directed at hedge fund

[1] In fact, most CLO debt downgraded during the crisis has been subsequently upgraded, with most originally rated AAA tranches still rated at least Aa- or better, even under new, stronger requirements from the agencies. CLO mezzanine debt, originally rated below investment grade, will not take any losses, and CLO equity outperformed original pre-crisis expectations.

[2] *See* Board of Governors of the Federal Reserve, Report to Congress on Risk Retention, October 2010.

ownership. This will remove a major source of liquidity from the CLO market and make it harder for businesses that need the CLO market for loans to find the financing that they need to operate, grow, and create jobs. Bloomberg recently reported that CLO issuances in the United States were down by 60% in January and that some forms of CLO activities are now migrating to Europe.

H.R. 4167 would correct this unintended consequence and preserve this important form of financing for American businesses. Without this corrective action, existing portfolios may be sold at fire sale prices, and it will be harder, if not impossible, to issue CLOs at their historic rates. This will deprive American businesses of an important capital formation tool, making it more difficult to expand in what has already been a prolonged and challenging business environment.

The Chamber strongly supports H.R. 4167 and looks forward to working with you on its passage to preserve the ability of American businesses to obtain the resources needed to grow and create jobs.

Sincerely,

R. Bruce Josten