Statement of the U.S. Chamber of Commerce

ON: To Review the G-20 Swap Data Reporting Goals

TO: Subcommittee on Commodity Exchanges, Energy, and Credit, U.S. House Committee on Agriculture

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The U.S. Chamber of Commerce is the world's largest business federation representing the interests of more than 3 million businesses of all sizes, sectors, and regions, as well as state and local chambers and industry associations. The Chamber is dedicated to promoting, protecting, and defending America's free enterprise system.

More than 96% of Chamber member companies have fewer than 100 employees, and many of the nation's largest companies are also active members. We are therefore cognizant not only of the challenges facing smaller businesses, but also those facing the business community at large.

Besides representing a cross-section of the American business community with respect to the number of employees, major classifications of American business—e.g., manufacturing, retailing, services, construction, wholesalers, and finance—are represented. The Chamber has membership in all 50 states.

The Chamber's international reach is substantial as well. We believe that global interdependence provides opportunities, not threats. In addition to the American Chambers of Commerce abroad, an increasing number of our members engage in the export and import of both goods and services and have ongoing investment activities. The Chamber favors strengthened international competitiveness and opposes artificial U.S. and foreign barriers to international business.

Testimony before the Subcommittee on Commodity Exchanges, Energy, and Credit, U.S. House Committee on Agriculture
"To Review the G-20 Swap Data Reporting Goals"
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Mr. Chairman, Ranking Member Scott, other members of the Subcommittee, I want to thank you for inviting me to testify at this important hearing, which focuses on matters of significant concern to the end-user community. I am testifying today on behalf of both the U.S. Chamber of Commerce ("Chamber") and the Coalition for Derivatives End-Users ("Coalition"). The Chamber is the world's largest business federation, representing the interests of more than three million businesses of all sizes, sectors, and regions. The Coalition includes more than 300 end-user companies and trade associations. Collectively, the Chamber and the Coalition represent a wide and diverse population of domestic and international commercial businesses and trade associations.

The Chamber's mission is to ensure America's global leadership in capital formation by supporting robust capital markets that are the most fair, transparent, efficient, and innovative in the world. As part of that mission, the Chamber recognizes the acute need for commercial end-users to effectively manage risk. Similarly, the Coalition, representing the engines of our domestic and global economy, has consistently supported financial regulatory measures that promote economic stability and transparency without imposing undue burdens on derivatives end-users; a sentiment with which I believe a consensus of those in this room agree.

At the outset, let me thank the members of this subcommittee for their focus on balancing regulations to promote financial stability and for Main Street businesses to have the tools necessary to operate and grow.

Main Street businesses use derivatives for their intended purpose—obtaining access to raw materials, locking in prices for commodities and mitigating risk—not for financial speculation. This allows businesses to produce goods with stable prices for consumers. Therefore, there are real economic consequences of getting derivatives regulation wrong for Main Street businesses and the American consumer. Many U.S. companies are able to maintain more stable and successful operations through the use of a variety of risk management tools, including derivatives. Smart regulation should encourage, not discourage, such practices.

The Chamber and the Coalition have worked diligently to address the regulatory burdens faced by commercial end-users, and that is why, before I dive into the subject matter of this hearing, I would like to thank the CFTC for listening to the concerns of end-users and for creating a data reporting regime that is both robust and sensible. Unfortunately, we cannot say the same for the G-20 framework.

We are broadly supportive of the G-20's swap data reporting goals, including improving transparency in derivatives markets, mitigating systemic risk, and preventing market abuse. However, as this Subcommittee is aware, implementation of those G-20 rules domestically has begun to vary considerably. For example, the European Union ("EU") appears to be proceeding without due regard for the economic and regulatory burdens imposed on end-users by certain swap data reporting obligations. It is important to remember that these obligations are being imposed on entities that do not pose systemic risk and did not cause the financial crisis. Swap data reporting, at its core, is largely driven by the need for transparency within the derivatives markets. The theory is that, with transactional details, regulators will be better equipped to assess market shortcomings and better ensure financial stability. While that may be so, the real question is what level of transaction detail is necessary, or even helpful?

The EU, unlike the U.S., has implemented dual-sided and inter-affiliate reporting requirements on end-users. Unfortunately, in many circumstances these regulations are duplicative, costly and otherwise detract from the risk mitigating nature of end-user derivatives. Disparate treatment has resulted in a fragmented market where U.S. end-users operating abroad now face compliance with multiple reporting regimes and required data sets for their derivatives transactions. Beyond the costly issues of compliance, the lack of consistency across jurisdictions in a global market does not serve the G-20 goals of greater transparency, international harmonization, and systemic risk reduction in the derivatives markets.

We understand that European policymakers believe that a dual-sided reporting regime for derivatives transactions is appropriate in order to reconcile certain circumstances in reporting errors and confirm the integrity of reported data. However, we believe that adopting a dual-sided reporting regime presents legitimate and significant costs on end-users and should not be adopted without a thorough analysis of whether dual-sided reporting presents any significant benefits to such error reconciliation. This is especially true given that, in the United States, regulators have access to accurate derivatives transaction data through single-sided reporting, coupled with straight-through-processing and the existing confirmation and reconciliation processes employed by end-users and other market participants.

The CFTC and lawmakers have correctly recognized that the intrusive nature of intragroup reporting—swap data reporting of transactions among entities within a single end-user corporate structure—does not serve to promote the goals of the G-20 framework. Nor does it increase systemic risk, either by creating counterparty credit risk or increasing interconnectedness between financial institutions. The EU's approach fails to substantively justify the need for information related to the intra-corporate management of commercial risk—such information has little or no value to regulators when compared to the costs and operational burdens that end-users face in reporting such transactions. Forcing end-users to comply with the same reporting requirements for intragroup transactions as those required for external derivatives transactions would simply burden end-users without any corresponding benefit.

Finally, it is also worth noting that the EU has also included futures markets in their reporting legislation. That inclusion is outside of the G-20 commitment and has proven to be highly burdensome and costly for end users. This is a particularly large issue given that tools on collecting data from futures markets are already available to European regulators.

The larger point, which I know this Subcommittee appreciates, is that the cumulative effect of new derivatives regulation threatens to impose undue burdens on end-user hedging. Both the direct regulation of end-users through reporting requirements, on which this hearing is focused, and indirect regulation, such as capital and liquidity requirements imposed on our counterparties, serves to discourage end-user risk management through hedging. We need a regulatory system that allows Main Street to effectively use derivatives to hedge commercial risk, resulting in key economic benefits; one that allows businesses—from manufacturing to healthcare to agriculture to energy to technology—to improve their planning and forecasting, manage unforeseen and uncontrollable events, offer more stable prices to consumers and contribute to economic growth. The imposition of unnecessary burdens on end-users businesses restricts job growth, decreases investment and undermines our competitiveness in Europe—leading to material cumulative impacts on corporate end-users and our economy.

While we support reforms to enhance derivatives market transparency and reduce systemic risk, we remain concerned that a regression to dual-sided and intragroup reporting would place disproportionate, costly and unnecessary burdens on end-users and would not provide regulators or markets with any discernible benefit.

Throughout the development of the G-20 framework, the passage and implementation of the Dodd-Frank Wall Street Reform and Consumer Protection Act, the Chamber and the Coalition have advocated for a more transparent derivatives market through the imposition of thoughtful, new regulatory standards that enhance financial stability while avoiding needless costs on end-users. The importance of prudent regulation and international harmonization of regulatory standards that promote Main Street business has been echoed by Members of Congress, including by Chairman Conaway, who has noted that bipartisan efforts must "protect end-users from being roped into reporting, registration, or regulatory requirements that are inappropriate for the level of risk they can impose on financial markets. It is clear that end-users did not cause the financial crisis, they do not pose a systemic risk to the U.S. financial markets, and they should not be treated like financial entities."[1] These efforts are clearly reflected in the Commodity End-User Relief Act, which includes several provisions to provide end-user relief, including ensuring that there is adequate time between completing and reporting a transaction to protect an end-user's hedging in thinly-traded markets.

As the Subcommittee considers the U.S.'s implementation of G-20 reporting obligations, it is our hope that the effects of such requirements on commercial end-users are at the forefront of that consideration. Continued support for global standards, rather than proceeding on divergent paths, is important for data reporting consistency. It also has the potential minimize reporting burdens for end users through the development of high quality data that can be easily understood and used by regulators throughout the world. While we realize that Congress does not have a direct hand in the implementation of the G-20 framework, Congress does have ability to influence that process by promoting harmonization and a sensitivity to the impacts on end-user companies. Together we can strengthen our financial systems by supporting Main Street business.

Thank you and I am happy to address any questions that you may have.

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[1] Press Release, *Congressman Conaway Praises Approval of the Customer Protection and End User Relief Act*, U.S. Representative Mike Conaway (Apr. 9, 2014), *available at* http://agriculture.house.gov/news/documentsingle.aspx?DocumentID=1110.