Coalition for Derivatives End-Users

December 3, 2010

Re: Seeking Support for Vitter/Crapo/Chambliss/Enzi/Corker Margin Amendment to H.R. 6398

Dear Senator:

The Coalition for Derivatives End-Users (the "Coalition") represents the views of companies that employ derivatives primarily to manage risks associated with their businesses. More than 270 companies and business associations have joined 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.

We write to ask you to support the Vitter/Crapo/Chambliss/Enzi/Corker Margin Amendment to H.R. 6398, which we understand the sponsors propose to have adopted by unanimous consent. This is an important amendment, and we commend its sponsors for their efforts to address some of our concerns with the derivatives title of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (the "Dodd-Frank Act").

The amendment would restore the transactional exemption from margin requirements that the Senate passed in May 2010. The exemption would mean that trades involving end-users would not be subject to costly margin requirements. In other words, the exemption would reduce uncertainty, improve liquidity and promote investment, economic growth and job creation.

A Business Roundtable survey from earlier this year demonstrated that, without an exemption, the imposition of a 3% initial margin requirement on S&P 500 companies would drain $269 million in liquidity per company and could reduce capital spending by $5 to $6 billion per year, causing a loss of **100,0000 to 120,000 jobs**.[1] Including variation margin requirements into this equation could increase the job loss substantially.

This amendment does no more than make the margin provisions of the Dodd-Frank Act consistent with the way they have been described by their sponsors. A letter written by Senators Dodd and Lincoln and a colloquy engaged in by Representatives Frank and Peterson state clearly that margin is not intended to be imposed on end-users. Representative Frank said it most plainly, "The marginal requirements are not on end-users."[2] The amendment would begin to fulfill the promise made at the time of passage of the Dodd-Frank Act for legislation to address several issues known at the time, including this one.

---

1 *See* Business Roundtable survey, *available at* http://www.businessroundtable.org/publication/analysis_business_roundtable%E2%80%99s_survey_overthecounter_derivatives, at 2.

2 156 CONG. REC. H5248 (June 30, 2010) (colloquy of Representatives Frank and Peterson).

The amendment is also consistent with Chairman Gensler's most recent statements on margin requirements. At a meeting of the Commodity Futures Trading Commission on December 1, 2010, the Chairman noted, "I believe that proposed rules on margin requirements should focus only on transactions between financial entities rather than those transactions that involve non-financial end-users."

The Vitter/Crapo/Chambliss/Enzi/Corker Margin Amendment would achieve the focusing that Chairman Gensler supports by removing the authority of regulators to impose margin on trades with non-financial end-users. This is an extremely positive step, and one that we hope will lead to a margin exemption for all end-user trades.

Your support for this amendment is appreciated.

Sincerely,

American Petroleum Institute
Business Roundtable
National Association of Corporate Treasurers
National Association of Manufacturers
National Association of Real Estate Investment Trusts
The Real Estate Roundtable
U.S. Chamber of Commerce