

Coalition for Derivatives End-Users

March 23, 2012

U.S. House of Representatives
Washington, DC 20515

Re: End-User Support for H.R. 2682, H.R. 2779, and H.R. 2586

To the Members of the U.S. House of Representatives:

The undersigned organizations — representing thousands of end-user companies — urge you to support the Grimm-Peters-Scott-Owens Business Risk Mitigation and Stabilization Act of 2011 (H.R. 2682), the Stivers-Fudge bill (H.R. 2779), and the Garrett-Maloney-Meeks-Hurt Swap Execution Facility Clarification Act (H.R. 2586). These bills will help prevent unnecessary and harmful regulation of derivatives end-users and preserve jobs.

H.R. 2682, approved by the House Financial Services and Agriculture Committees by unanimous voice votes, would ensure that regulators do not impose margin requirements on many end-users. In approving the Dodd-Frank Act, Congress made clear that end-users were not to be subject to margin requirements. Nonetheless, regulations proposed by the Prudential Regulators could require end-users to post margin.

While the regulations proposed by the Commodity Futures Trading Commission are preferable, they do not provide end-users with the predictability and assurance that H.R. 2682 offers. According to a Coalition survey, margin rules 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 120,000 jobs. We need Congress to step in and clarify that end-users will continue to have the ability to manage risk without the threat of having unnecessary initial and variation margin requirements imposed on them. We are also hopeful that H.R. 2682 will be expanded to exempt trades with financial end-users, which also employ derivatives, to manage risk.

Similarly, H.R. 2779, approved by the House Financial Services Committee by a vote of 53-0 and the House Agriculture Committee by unanimous voice vote, would prevent internal, inter-affiliate trades from being subject to regulatory burdens that were designed to be applied only to certain street-facing swaps. Regulators have indicated that they feel constrained to treat inter-affiliate trades like other “swaps”.

In contrast, the Coalition believes that regulation of inter-affiliate trades should square with a simple economic reality: internal trades do not increase systemic risk. Thus, imposing requirements that are designed to address systemic risk on inter-affiliate trades would create costs without a corresponding benefit. It would place substantial burdens on end-users and consumers, increasing costs to the economy, and could force companies to abandon proven and efficient methods of managing their risk through centralized risk-mitigation centers. H.R. 2779 would prevent needless and costly regulation of internal trades while providing safeguards to ensure targeted application.

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H.R. 2586, approved by the House Financial Services and Agriculture Committees by voice votes, addresses concerns the Coalition has raised regarding the Commodity Futures Trading Commission's proposed swap execution facility rule. This rule could disadvantage some end-users by limiting their ability to choose counterparties and modes of execution using their own business judgment. Although certain end-users will be exempt from the Dodd-Frank Act's mandatory clearing and trading requirements, other end-users will still be subject to them. As we explained in our March 8, 2011 comment letter to the Commodity Futures Trading Commission, the proposed requirement, that market participants must transmit a request for a quote to no less than five market participants, would restrict end-users' access to cost-effective hedging. We support the goals of H.R. 2586, which would help address end-user concerns with the proposed rule and ensure that end-users have a variety of options and methods for hedging their risk.

The Coalition appreciates the hard, bipartisan work that has gone into helping to focus regulation where it is needed most by removing the burden where it will cause only harm. Thank you in advance for continuing this effort by supporting H.R. 2682, H.R. 2779, and H.R. 2586.

Sincerely,

Agricultural Retailers Association
American Petroleum Institute
Business Roundtable
Commodity Markets Council
Financial Executives International
National Association of Corporate Treasurers
National Association of Manufacturers
National Association of Real Estate Investment Trusts
Real Estate Roundtable
U.S. Chamber of Commerce