

Coalition for Derivatives End-Users

April 28, 2010

The Honorable Blanche Lincoln
Chairman
Committee on Agriculture
United States Senate
Washington, DC 20510

The Honorable Chris Dodd
Chairman
Committee on Banking, Housing, and Urban Affairs
United States Senate
Washington, DC 20510

Dear Chairman Lincoln and Chairman Dodd:

On behalf of the Coalition for Derivatives End-Users and the thousands of companies we represent, thank you for your efforts to draft legislation to reform regulation of the derivatives markets to provide transparency and contain systemic risk, and for your ongoing efforts on behalf of companies that use over-the-counter (OTC) derivatives to manage the risk of day-to-day business operations.

At the same time, we have significant concerns about, and cannot support, the derivatives reform title included in the current version of S. 3217 – Restoring American Financial Stability Act of 2010. While the legislation does include many positive elements, it does not provide a strong and clear exemption for all end-users. Without such an exemption, many companies across the country that had no role in the financial crisis and do not pose risks to the financial system will have to post billions of dollars in working capital to meet new regulatory requirements. These additional costs will impact the ability of these companies to meet their financial obligations, threaten needed job creation, and significantly weaken the ability of American companies to compete globally.

Additionally, the Coalition has long advocated that any new regulations should only apply prospectively, recognizing that existing derivatives contracts held by companies were entered into according to the law and market practices at the time they were executed. The bill as reported by the Agriculture Committee would have addressed this concern, but the current agreement takes a significant step backwards by allowing for retroactive margin requirements on existing long-term contracts. This would create a sudden and substantial financial and liquidity burden on companies – directly contrary to the overarching goals of regulatory reform.

Coalition members very much appreciate your willingness to work with us to advance legislation that promotes market stability, transparency and oversight and preserves the ability of companies to access OTC derivative products to manage business risk. We look forward to working constructively to improve this bill so that it will meet our shared goal of providing full transparency to the derivatives market, containing systemic risk, and ensuring that end-users are not subjected to significant and costly requirements.

Sincerely,

American Petroleum Institute
Business Roundtable
Financial Executives International
National Association of Real Estate Investment Trusts

National Association of Corporate Treasurers
National Association of Manufacturers
The Real Estate Roundtable
U.S. Chamber of Commerce

Cc: The Members of the United States Senate