

Coalition for Derivatives End-Users

May 11, 2010

TO THE MEMBERS OF THE UNITED STATES SENATE:

The Coalition for Derivatives End-Users strongly supports an amendment that has been filed by Sen. Chambliss, SA 3816 to S. 3217, the “Restoring Financial Stability Act,” because it would bring important and needed reforms to the derivatives markets. If this amendment is brought to a vote, the Coalition urges you to support it.

The Chambliss amendment would strike the right balance between bringing fundamental and needed reforms to the over-the-counter (“OTC”) derivatives market, while also ensuring significant and burdensome new costs are not unnecessarily imposed on business end-users. Consistent with the Coalition’s position, the amendment:

- Provides explicit exemptions from central clearing, bilateral margining, and exchange trading requirements for business end-users that do not pose a threat to financial stability and that primarily use OTC derivatives to hedge business risk;
- Ensures increases in capital charges continue to be based on risk of loss and aimed at promoting safety and soundness of the financial system, and not used to penalize OTC derivatives;
- Provides legislative certainty that any new requirements are applied prospectively, recognizing that market participants negotiated existing trades based on the laws and market practices in effect at the time of these transactions.

Throughout the legislative process, the Coalition has advocated for a strong derivatives bill that brings full transparency to OTC derivatives market, imposes new regulatory standards on swap dealers and market participants whose activities in the OTC market could impact the stability of the financial system, and provides a strong clear exemption from mandatory clearing and bilateral margining for business end-users.

The Coalition remains concerned that Title VII of S. 3217 does not provide a strong clear exemption for end-users. If implemented, we believe many end-users of derivatives would be forced to divert precious working capital away from productive use to margin accounts, move their hedging practices overseas, or forego hedging altogether – leaving them exposed to the volatility and price uncertainty that OTC derivatives have so effectively mitigated. A survey and analysis conducted by the Business Roundtable and Keybridge Research found that a requirement to impose initial margin on OTC derivatives could lead to a loss of 100,000 to 120,000 jobs within the S&P 500 companies alone. The additional impact of variation margin could significantly increase this negative impact on jobs.

The Coalition urges you to support the Chambliss amendment. We stand ready to support any further amendments that will ensure a viable OTC market for companies across the country, and look forward to working with Members of the Senate to that end.

Sincerely,

American Petroleum Institute
Business Roundtable
Financial Executives International
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