



May 24, 2020

The Honorable Harry Reid, Senate Majority Leader  
S-221 Capitol Building  
Washington, DC 20510

The Honorable Nancy Pelosi, Speaker of the House of Representatives  
H-232 Capitol Building  
Washington, DC 20515

Dear Senate Majority Leader Reid and Speaker Pelosi:

The National Corn Growers Association (NCGA) and the Natural Gas Supply Association (NGSA) appreciate the commitment by Congress to ensure the integrity of the U.S. financial system evidenced by the passage of S. 3217, Restoring American Financial Stability Act of 2010 and H.R. 4173, Wall Street Reform and Consumer Protection Act of 2009. While the NCGA and NGSA support the underlying goal of ensuring financial system integrity, as we believe many members of Congress do, we are concerned that the legislation's approach to derivatives regulation will result in serious unintended consequences for the economy unless the clearing exclusion is modified to account for entities and transactions that do not pose a systemic risk. The House and Senate conference provides the opportunity to remedy this concern.

Although the end-user clearing exemption provided in Title VII of S. 3217 is certainly a step in the right direction, the practical effect of the legislation, without a relatively minor modification to the definition of "Swap Dealer," will be mandatory clearing for many commercial end-users. Imposing a clearing requirement on commercial end-users does not further the goal of ensuring financial system integrity, and instead, centralizes risk that would have otherwise been diversified, *increasing* systemic risk and unnecessarily removing productive capital from the economy.

Mandatory clearing of derivatives transactions, a key element of S. 3217 Title VII,

will drain the economy of approximately \$700 billion\* in capital. Keeping U.S. industry's capital at work in a recovering economy through a broadened clearing exclusion will help create jobs, energy and products for U.S. consumers without compromising the integrity of the U.S. financial system.

There are a number of responsible ways that conferees can clarify and strengthen the protection for end users, but we believe this concern can be addressed by simply clarifying that a swap dealer, by definition, excludes commercial end-users or that the legislation define "Swap Dealer" as "any person who - (i) holds itself out as a dealer in swaps; (ii) makes a market in swaps; (iii) regularly engages in the purchase and sale of swaps in the ordinary course of business; **AND** (iv) engages in any activity causing the person to be commonly known in the trade as a dealer or market maker in swaps" instead of as any person meeting any one of those criteria.

The important thing to bear in mind as the conference begins is that a means of preventing the unintended consequences to the economy and commercial end users exists and is achievable. Broadening the clearing exclusion to exempt commercial end-users is absolutely essential to avoiding harm to the economy and allowing capital to stay at work in U.S. industries.

The NCGA and NGSAs appreciate your work to ensure an end-user clearing exemption. We urge you to carefully consider the potential unintended consequences to the economy and adopt a solution that works for U.S. corn growers, natural gas producers and other derivatives end-users. Thank you for your consideration.

Sincerely,

National Corn Growers Association  
Natural Gas Supply Association

Copy: The Honorable Christopher Dodd, Chairman, Senate Committee on  
Banking, Housing, and Urban Affairs

The Honorable Blanche Lincoln, Chairman, Senate Committee on  
Agriculture, Nutrition and Forestry

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\* Estimate based on the U.S. portion of global credit exposure that is not already collateralized. Data sources include the Bank for International Settlements, Monetary and Economic Department OTC Derivatives Market Activity Report, "Cross-border derivatives exposures: how global are derivatives markets?" by Sally Davies of the Division of International Finance, Board of Governors of the Federal Reserve System, and Country Exposure Report that shows U.S. banks' exposure from derivatives. For the detailed calculation methodology, please contact the Natural Gas Supply Association at 202-326-9314.

The Honorable Saxby Chambliss, Ranking Member, Senate Committee on Agriculture, Nutrition and Forestry

The Honorable Richard Shelby, Ranking Member, Senate Committee on Banking, Housing, and Urban Affairs

The Honorable Barney Frank, Chairman, House Committee on Financial Services

The Honorable Spencer Bachus, III, Ranking Member, House Committee on Financial Services

The Honorable Collin Peterson, Chairman, House Committee on Agriculture

The Honorable Frank Lucas, Ranking Member, House Committee on Agriculture

Members of the U.S. Senate and U.S. House of Representatives