

COMMODITY MARKETS OVERSIGHT COALITION

An Alliance of Derivatives End-Users & Reform Advocates

June 23, 2010

All House and Senate Conferees
Conference Committee on Financial Reform Legislation
United States Congress
Washington, DC 20010

Re: Final House-Senate Conference Negotiations on Financial Reform Legislation

The Commodity Markets Oversight Coalition is an alliance of consumer advocates and commercial end-users that rely on derivatives to hedge commodity price fluctuations and to insulate their businesses and consumers from risk. For years we have called for increased oversight and transparency in the derivatives markets in order to reduce volatility and to prevent fraud, abuse and excessive speculation.

In light of this, we commend House Agriculture Committee Chairman Collin Peterson and Senate Agriculture Committee Chairman Blanche Lincoln for their leadership and dedication to this cause. Working with their counterparts House Financial Services Committee Chairman Barney Frank and Senate Banking Committee Chairman Chris Dodd, and with the help and support of the members of these various committees, they have worked tirelessly with a commitment to meaningful reform. These efforts have resulted in the legislation you now have before you.

Please consider the below as you conduct final deliberations on this legislation today:

Mandatory Exchange Trading & Clearing

We feel strongly that mandatory exchange trading for standardized contracts and mandatory clearing requirements for all others, with a narrow exemption for purely non-financial (i.e., commodity-related) derivatives users, is an essential component to reform. Additionally, the Commodity Futures Trading Commission needs enforcement authority to compel compliance with these mandates. Neither the House offer nor the Senate base text provides this authority. We consider this a structural “glitch” in the mandate language that Conferees can and should remedy. And finally, the Senate definition of Alternative Swap Execution Facility is preferred, because it does not include “voice brokerage” in its definition, which could become a considerable loophole.

Definitions of End-User, Swap Dealer and Major Swap Participant

Regarding the “end-user” exemption, again, our coalition has long stated that only commercial entities that used derivatives to manage risks associated with the price of physical commodities should be able to qualify for the exemption. This position is consistent with precedents established by the Congress in the Commodity Exchange Act and historically by the Commodity Futures Trading Commission. So-called “balance sheet risk” continues to be discussed as a legitimate commercial risk that should be covered under the exemption. We do not support any inclusion of balance sheet risk or any other financial risk mitigation as a legitimate hedge that should be eligible for this exemption.

Further, for both the definitions of swap dealer and major swap participant, the Senate language is strongly preferred over the recent House offer in order to prevent evasion from regulation in this legislation.

Speculative Position Limits

We commend both chambers for passing legislation that expands regulator's authority to set limits on the size that a speculator can take in the market, known as "speculative position limits." Further, we are pleased that both chambers have agreed to legislation that would compel the CFTC to establish aggregate position limits.

Because both chambers have acted in this regard, we oppose any concessions out of a fear that these limits would move activity overseas and that would therefore restrain the CFTC's ability to set these limits or conduct a study as was suggested by the House offer. We take serious exception to the argument that derivatives activity will move overseas if position limits are set, and are willing to discuss this further with you if you require. Please retain unconditional requirement that regulators establish speculative limits across all markets, as provided for in both House and Senate bills.

And finally, Conferees should not provide any exemptions from position limits, but rather defer to the CFTC in this regard. The CFTC has been closely examining who should and should not receive hedge exemptions from such limits, with our input, and the Congress should defer to their expertise.

Again... Thank you

Again, we thank all members of the relevant committees and the conference committee and their staff for their hard work on this legislation. As you near the "finish line" in your deliberations and send a final bill to both chambers for their consideration, please keep in mind that the most important goal in this effort has been – and continues to be – to prevent a repeat the crises we've experienced in the financial, housing, credit and most important to our coalition, commodities markets.

We hope that conferees will act with this dedication to meaningful reform and that it will report out a strong derivatives title that puts Main Street before Wall Street, affords financial interests no loopholes or opportunities to evade regulation and that will strengthen the derivatives markets and the broader economy through comprehensive transparency, oversight and reform.

Thank you for your consideration.

For more information on our coalition visit
www.nefactioncenter.com/commoditymarkets.php

Primary Coalition Contacts:

James Collura, New England Fuel Institute (NEFI)
jimcollura@nefi.com – (202) 584-0160

Sherri Cabrera, Petroleum Marketers Association of America (PMAA)
scabrera@pmaa.org – (703) 351-8000

Ryan Stroschein, Air Transport Association (ATA)
rstroschein@airlines.org – (202) 626-4122

Adam White, White Knight Research & Trading
Adam.white@whtknt.com – (404) 551-5859