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CONTACT: Marcus Stanley

marcus@ourfinancialsecurity.org

WARNER-WARREN-CUMMINGS BILL ESTABLISHES CRUCIAL NEW DERIVATIVES PROTECTIONS

Today, Senators Mark Warner and Elizabeth Warren, as well as Congressman Elijah Cummings have introduced an important new piece of legislation that takes a comprehensive approach to addressing failures in oversight of the \$500 trillion global derivatives market. This legislation would go far to protect the public against the risks of another disastrous meltdown in critical financial markets.

The derivatives market was central to the financial crisis of 2008. Despite valuable Dodd-Frank reforms, weaknesses in regulation of the derivatives market are still a major risk to financial stability today. These weaknesses range from loopholes inserted into Dodd-Frank itself to regulatory choices that have permitted big industry players to evade proper risk controls.

This important bill takes action to address a broad range of these problems, including:

- Addressing underfunding of the Commodity Futures Trading Commission, the key regulator of the derivatives market, and correcting weaknesses in its enforcement and penalty authority.
- Reversing regulatory decisions that have exempted a wide range of “cross-border” derivatives transactions conducted by U.S. banks from U.S. regulatory oversight.
- Protecting taxpayers by increasing the loss-absorbing capital the private sector is required to hold against derivatives risks.
- Closing a loophole in Dodd-Frank that exempted foreign exchange derivatives – over 10% of the global derivatives markets – from the most important risk controls required for the rest of the derivatives markets.
- Ending favorable treatment of derivatives contracts in bankruptcy courts. This legal favoritism gives significant and unjustified benefits to derivatives over other forms of private sector credit.

The largest Wall Street banks dominate 95% of the U.S. market for derivatives, and can be expected to fiercely fight this legislation in order to protect their profits and privileged position. The sponsors of this legislation have shown courage and foresight in taking on this powerful lobby and standing up for the public interest.