



Americans for Financial Reform
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June 11, 2010

Chairman Christopher Dodd
United States Senate
Washington, DC 20510

Chairman Barney Frank
United States House of Representatives
Washington, DC 20510

Dear Senator/Representative:

We write on behalf of Americans for Financial Reform, an unprecedented coalition of over 250 national, state and local groups who have come together to reform the financial industry. Members of our coalition include consumer, civil rights, investor, retiree, community, labor, religious and business groups as well as Nobel Prize-winning economists. We support strong derivatives regulation and oppose weakening amendments to the derivatives language passed by the Senate.

Reckless swaps and derivatives trading played a critical role in the financial crisis, turning the fallout from the crash of the domestic housing market into a global economic catastrophe. It is critically important to preserve the Senate bill's stronger stance on derivatives. Nobel prize-winning economist Joseph Stiglitz makes the case for the Senate derivatives chapter plainly, by stating, "If [Congress] fails to pass strict oversight of dangerous over-the-counter derivatives and swaps the U.S. economy will continue to be vulnerable to significant financial risk."

The Senate derivatives language constitutes a common sense approach to derivatives regulation that allows only commercial end-users that are hedging commercial risk to choose whether to clear their swaps while ensuring that risky financial institutions are required to clear and exchange trade all standardized swaps. The Senate language strikes the right balance. Any effort to expand the end user exemption to include additional market participants, such as financial institutions, would weaken the bill to the point of inadequacy. The text, which was passed by the Senate, is much stronger than the House's language because it will:

- **Require clearing for 90% of all derivatives.** While it includes an exemption for legitimate commercial end-users, the Senate language is precisely written so as to prevent the financial industry from exploiting this exemption as a new loophole. The House language, however, allows an exception from clearing for hedging "operating or balance sheet risk." This is a dangerous loophole that could allow hedge funds, insurance companies, banks and other financial players to escape the

clearing requirements. If adopted, the House language would exempt companies like Long Term Capital, AIG, Indy Mac and Countrywide.

- **Implement stronger post-trade transparency requirements** for all trades, without exemptions, and require “real-time public reporting” of data on a transaction by transaction basis as soon as technologically possible. This is much more robust than the House language which did not require real-time public reporting and only allowed the public to see aggregate data.
- **Makes vital improvements in transparency and accountability for swaps dealers and Major Swap Participants**, including a heightened standard of care on swaps dealers when they give advice or recommend swaps transactions to government entities, pension funds, endowments, and retirement plans. The Senate language is essential to combating the kind of abuses that have left government entities and non-profits across the country struggling under staggering derivatives-related debts, and to giving essential protections to less sophisticated institutional investors, including pension funds and endowments, and the taxpayers and workers on whose behalf they invest.* There is no parallel provision in the House bill.
- **Require federal regulators to set aggregate speculative position limits** across all markets rather than making such limits optional. This will help prevent excessive speculation within the derivatives markets from causing unnecessary volatility, including unnecessary and substantial price increases that consumers pay for everyday staples like food and gasoline.
- **Require reporting of ForEx swaps and forwards and regulate ForEx swap traders**, and require the U.S. Treasury Secretary to provide a report with detailed findings to Congress should he determine that ForEx forwards and swaps should still be exempt. If the Secretary makes such a determination, ForEx swaps dealers and major swaps participants would still be subject to business conduct standards and all ForEx swaps would have to be reported to the CFTC or swap data repositories. We view the Senate language as a compromise and believe that ForEx swaps and forwards should be regulated in the same way as other swaps and forwards. The House is even weaker because it exempts ForEx swaps and forwards from all regulation.
- **Require banks to move swaps desks into separately capitalized subsidiaries.** This would separate the riskiest derivatives trades from the Federal Reserve window, FDIC insurance, and the taxpayer guarantee. Swaps desks that are moved to bank affiliates will be required to maintain adequate capital, which will reduce risk by shrinking the enormous exposure of a few very large banks that can threaten the stability of other financial institutions. No other measure in the House or Senate bills protects the taxpayers in this manner.

There is one area, however, where the Senate language must be strengthened. Due to technical adjustments in the merger of the Senate Banking and Senate Agriculture

* We support the Senate language, as revised in negotiations between Senate committees. The description above pertains to the revised language.

derivatives provisions, there appears to be a loophole in Section 739 that will allow counterparties to trade uncleared, non-exempt swaps, in violation of the public and fully transparent CFTC and SEC orders on clearing, with no consequences. These technical issues must be addressed before final passage of the bill to ensure that there are sufficient penalties for market participants who intentionally evade the regulatory requirements.

Proper derivatives regulation is essential to the ongoing stability of the global financial system. H.R. 4173 includes provisions that are essential to rein in the unregulated, opaque system of derivatives trading that undermines our existing regulation of securities, commodities and credit markets, and is a systemic threat. Any amendment, however, has the potential to weaken this bill to the point of inadequacy. We strongly support Title VII of H.R. 4173 and urge you to stand up to efforts to weaken it.

Thank you for considering the Americans for Financial Reform position on these important issues. For more information on derivatives reform, please contact Heather Slavkin, AFL-CIO, at 202-637-5318 or hslavkin@aflcio.org.

Sincerely,

Americans for Financial Reform

CC: Members of Financial Reform Conference Committee

Following are the partners of Americans for Financial Reform.

All the organizations support the overall principles of AFR and are working for an accountable, fair and secure financial system. Not all of these organizations work on all of the issues covered by the coalition or have signed on to every statement.

National Organizations

- A New Way Forward
- AARP
- Accountable America
- Adler and Colvin
- AFL-CIO
- AFSCME
- Alliance For Justice
- American Family Voices
- American Income Life Insurance
- Americans for Democratic Action, Inc.
- Americans for Fairness in Lending
- American Sustainable Business Council
- Americans United for Change
- Business for Shared Prosperity
- Calvert Asset Management Company, Inc.
- Campaign for America's Future
- Campaign Money
- Center for Digital Democracy
- Center for Economic and Policy Research
- Center for Economic Progress
- Center for Responsible Lending
- Center for Justice and Democracy
- Center of Concern
- Change to Win
- Clean Yield Asset Management
- Coastal Enterprises Inc.
- Color of Change
- Common Cause
- Communications Workers of America
- Community Development Transportation Lending Services
- Community Law Center
- Consumer Action
- Consumer Association Council
- Consumers for Auto Safety and Reliability
- Consumer Federation of America
- Consumer Watchdog
- Consumers Union
- Corporation for Enterprise Development
- CREDO
- CTW Investment Group
- Demos
- Economic Policy Institute

- Essential Action
- Green America
- Greenlining Institute
- Good Business International
- Help Is On the Way, Inc
- HNMA Funding
- Home Actions
- Housing Counseling Services
- Information Press
- Institute for Global Communications
- Institute for Policy Studies: Global Economy Project
- International Brotherhood of Teamsters
- Institute of Women's Policy Research
- Keystone Research Center
- Krull & Company
- Laborers' International Union of North America
- Lake Research Partners
- Lawyers' Committee for Civil Rights Under Law
- Leadership Conference on Civil Rights
- MoveOn.org Political Action
- NAACP
- NASCAT
- National Association of Consumer Advocates
- National Association of Investment Professionals
- National Association of Neighborhoods
- National Coalition for Asian Pacific American Community Development
- National Community Reinvestment Coalition
- National Consumer Law Center (on behalf of its low-income clients)
- National Consumers League
- National Council of La Raza
- National Fair Housing Alliance
- National Federation of Community Development Credit Unions
- National Housing Institute
- National Housing Trust
- National Housing Trust Community Development Fund
- National NeighborWorks Association
- National Peoples Action
- National Council of Womens Organizations
- National Worksrigh Institute
- Next Step
- OMB Watch
- Opportunity Finance Network
- Partners for the Common Good
- National People's Action (NPA)
- PICO
- Progress Now Action
- Progressive States Network
- Poverty and Race Research Action Council
- Public Citizen
- Responsible Endowments Coalition
- Sargent Shriver Center on Poverty Law

- Scam Victims United
- SEIU
- Sojourners
- State Voices
- Taxpayer's for Common Sense
- The Association for Housing and Neighborhood Development
- The Carrots and Sticks Project
- The Fuel Savers Club
- The Seminal
- UNET
- Union Plus
- United for a Fair Economy
- U.S. PIRG
- Unitarian Universalist for a Just Economic Community
- United Food and Commercial Workers
- United States Student Association
- USAction
- Veris Wealth Partners
- Veterans Chamber of Commerce
- We The People Now
- Western States Center
- Woodstock Institute
- Working America
- World Business Academy
- World Privacy Forum

State Organizations

- 207 CCAG
- 9 to 5, the National Association of Working Women (CO)
- AARP Rhode Island
- Alaska PIRG
- Arizona PIRG
- Arizona Advocacy Network
- Arizonans for Responsible Lending
- Arkansas Community Organizations
- Arkansas Public Policy Panel
- Association for Neighborhood and Housing Development (NY)
- Audubon Partnership for Economic Development LDC (New York, NY)
- Aurora NAACP
- BAC Funding Consortium Inc. (Miami, FL)
- Beech Capital Venture Corporation (Philadelphia, PA)
- Bell Policy Center (CO)
- California PIRG
- California Reinvestment Coalition
- Center for Media and Democracy
- Center for NYC Neighborhoods
- Century Housing Corporation (Culver City, CA)
- Changer(NY)
- Chautauqua Home Rehabilitation and Improvement Corporation (NY)
- Chicago Community Loan Fund (Chicago, IL)

- Chicago Community Ventures (Chicago, IL)
- Chicago Consumer Coalition
- Citizen Potawatomi CDC (Shawnee, OK)
- Club Change of Martin County (Florida)
- Coalition on Homeless Housing in Ohio
- Coffee Party of Pensacola, Florida
- Coffee Party of Union Square, New York City
- Colorado AFL-CIO
- Colorado Center on Law and Policy
- Colorado Immigrants Rights Coalition
- Colorado PIRG
- Colorado Spring NAACP
- Community Action of Nebraska
- Community Capital Development
- Community Capital Fund (Bridgeport, CT)
- Community Capital of Maryland (Baltimore, MD)
- Community Development Financial Institution of the Tohono O’odham Nation (Sells, AZ)
- Community Redevelopment Loan and Investment Fund, (Atlanta, GA)
- Community Reinvestment Association of North Carolina
- Community Resource Group (Fayetteville, AR)
- Connecticut Association for Human Services
- Connecticut Citizen Action Group
- Connecticut PIRG
- Consumer Assistance Council
- Cooper Square Committee (New York, NY)
- Cooperative Fund of New England (Wilmington, NC)
- Corporacion de Desarrollo Economico de Ceiba (Ceiba, PR)
- CWA 7777 (CO)
- Delta Foundation, Inc. (Greenville, MS)
- Economic Opportunity Fund (EOF) (Philadelphia, PA)
- Empire Justice Center (NY)
- Enterprises, Inc., Berea KY
- Fair Housing Contact Service OH
- Federation of Appalachian Housing Enterprises, Inc. (Berea, KY)
- Fitness and Praise Youth Development, Inc. (Baton Rouge, LA)
- Florida Consumer Action Network
- Florida PIRG
- Forward Community Investments (Madison, WI)
- Funding Partners for Housing Solutions (Ft. Collins, CO)
- Georgia PIRG
- Grow Iowa Foundation (Greenfield, IA)
- Homewise, Inc. (Santa Fe, NM)
- Humanitas Community Development Corporation
- Idaho Chapter, National Association of Social Workers
- Idaho Community Action Network
- Idaho Nevada CDFI (Pocatello, ID)
- Illinois PIRG
- Impact Capital (Seattle, WA)
- Indiana PIRG
- Indiana University PIRG
- Information Press (CA)

- Iowa PIRG
- Iowa Citizens for Community Improvement
- JobStart Chautauqua, Inc. (Mayville, NY)
- Keystone Research Center
- La Casa Federal Credit Union (Newark, NJ)
- Low Income Investment Fund (San Francisco, CA)
- Long Island Housing Services NY
- MaineStream Finance (Bangor, ME)
- Maryland PIRG
- Massachusetts Consumers' Coalition
- Massachusetts Fair Housing Center
- MASSPIRG
- Michigan PIRG
- Midland Community Development Corporation (Midland, TX)
- Midwest Minnesota Community Development Corporation (Detroit Lakes, MN)
- Mile High Community Loan Fund (Denver, CO)
- Missouri PIRG
- Montana Community Development Corporation (Missoula, MT)
- Montana PIRG
- Mortgage Recovery Service Center of L.A.
- Neighborhood Economic Development Advocacy Project
- New Hampshire PIRG
- New Jersey Community Capital (Trenton, NJ)
- New Jersey Citizen Action
- New Jersey PIRG
- New Mexico PIRG
- New York PIRG
- New York City AIDS Housing Network
- Next Step (MN)
- NOAH Community Development Fund, Inc. (Boston, MA)
- Nonprofit Finance Fund (New York, NY)
- Nonprofits Assistance Fund (Minneapolis, MN)
- North Carolina Association of Community Development Corporations
- North Carolina PIRG
- Northern Community Investment Corporation (St. Johnsbury, VT)
- Northside Community Development Fund (Pittsburgh, PA)
- Ohio Capital Corporation for Housing (Columbus, OH)
- Ohio PIRG
- Oregon State PIRG
- Our Oregon
- PennPIRG
- Piedmont Housing Alliance (Charlottesville, VA)
- Rhode Island PIRG
- Rights for All People
- The Rocky Mountain Peace and Justice Center
- Rural Community Assistance Corporation (West Sacramento, CA)
- Rural Organizing Project OR
- San Francisco Metropolitan Transportation Authority
- Seattle Economic Development Fund dba Community Capital Development
- SEIU Local 105 (Colorado)
- SEIU Rhode Island

- Siouland Economic Development Corporation (Sioux City, IA)
- Southern Bancorp (Arkadelphia, AR)
- TexPIRG
- The Association for Housing and Neighborhood Development
- The Fair Housing Council of Central New York
- The Help Network
- The Loan Fund (Albuquerque, NM)
- Third Reconstruction Institute (NC)
- V-Family, Inc.
- Vermont PIRG
- Village Capital Corporation (Cleveland, OH)
- Virginia Citizens Consumer Council
- Virginia Poverty Law Center
- War on Poverty – Florida
- Washington Community Action Network
- WashPIRG
- Westchester Residential Opportunities Inc. NY
- Wigamig Owners Loan Fund, Inc. (Lac du Flambeau, WI)
- WISPIRG

Businesses

- Blu
- Bowden-Gill Environmental
- Community MedPAC
- Diversified Env. Planning
- Hayden & Craig, PLLC\
- The Holographic Repatterning Institute at Austin
- Mid City Animal Hospital (Phoenix, AZ)
- UNET