



Americans for Financial Reform
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October 20, 2011

Dear Senator,

On behalf of Americans for Financial Reform, we are writing to urge you to oppose Senator Crapo's Amendment 814 to the bill HR 2112. Americans for Financial Reform is 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 prominent experts.

Senate Amendment 814 would severely damage if not eliminate the ability of financial regulators to oversee the "shadow markets" in derivatives that were a central contributor to the catastrophic financial crisis of 2008. The financial collapse cost Americans millions of jobs and trillions of dollars. The economic and deficit issues we face today were to a substantial degree created by the failure of our financial system. According to recent polling, 77 percent of Americans want tougher rules and enforcement for Wall Street companies. Amendment 814 undermines these protections and must be defeated.

Unregulated Derivatives Markets Were At The Heart of The Financial Crisis

Every analysis of the 2008 financial crisis has agreed that unregulated derivatives markets were at the core of the crisis. The \$162 billion taxpayer bailout of the American International Group (AIG) was triggered because that company made massive derivatives bets without any requirement to reserve collateral or margin against possible losses. The synthetic debt instruments that multiplied financial risks linked to subprime mortgages were created through the use of credit derivatives. The lack of transparency around derivatives risks contributed significantly to the breakdown in confidence that brought interbank lending to a halt during the crisis. Even prior to 2008, unregulated derivatives were at the center of financial scandals ranging from the Orange County bankruptcy in 1994, to the collapse and bailout of Long Term Capital Management in 1998, to the Enron Corporation's manipulations of the energy market. Since derivatives can be used to replicate any financial exposure, so long as derivatives remain unregulated other forms of financial oversight lose effectiveness as well.

Dodd Frank Creates Necessary, Common Sense Derivatives Reforms

The common-sense derivatives reforms in the Dodd Frank Act should not be controversial. These reforms simply create price transparency and open trading in the derivatives markets and

require market participants to back up their bets by reserving margin against possible losses. These replicate the basic requirements that private exchanges typically demand of their participants. Oversight is limited to those institutions whose size or role in the market renders them a potential threat to financial stability, and margin will generally not be required for non-speculative derivatives transactions that are used to hedge commercial risk.

But reform threatens the profits of the small group of large Wall Street banks who dominate the over-the-counter derivatives market. These dealers make massive profits due to the lack of price transparency and competition in the market. They also benefit from the ability to easily conceal or shift risks through derivative transactions that occur outside of regulatory oversight. These Wall Street banks are pushing back hard against derivatives reforms.

Crapo Amendment Would Severely Undermine and Delay Needed Reforms

Two legislative tactics have been used to oppose derivatives reforms. The first is delay: the creation of repeated roadblocks to any action at all by regulators. The second is the creation of multiple loopholes that would render derivatives oversight rules ineffective even once they were completed. Senator Crapo's Amendment 814 uses both these tactics.

First, the amendment would require the completion of five massive new quantitative studies before regulators could undertake any action at all. This ignores the fact that over the past 14 months regulators have already reviewed thousands of public comments on rules proposals and held multiple public roundtables to discuss the issues around these rules. Congress has also held numerous hearings questioning regulators on their rules, and regulators have already postponed the issuance of derivatives rules in order to fully address public comment.

The rules to be delayed would include those that are designed to simply gather information about over the counter derivatives markets that regulators have not been able to track, because they have been exempted from any public reporting. Without these rules, regulators currently lack complete information on basic issues like the full extent of the threat posed by credit default swaps on European sovereign debt. Other rules that would be delayed include rules for price transparency in the market, basic business conduct rules to prevent exploitation of cities and towns by unfair derivatives contracts, and rules requiring collateral backing for derivatives.

The second tactic, the creation of massive loopholes, is also well represented in this amendment. The amendment is drafted in a murky and confusing manner that conceals the full extent of the gaps it would create in derivatives oversight. A large set of companies are specifically exempted from any regulation. This includes offshore subsidiaries of U.S. companies. Incredibly, according to Senator Crapo's amendment these companies could be set up specifically to evade U.S. derivatives rules, so long as this was not their "sole purpose". Numerous purely financial companies are also exempted from derivatives rules. They include Real Estate Investment Trusts, investment funds with five or fewer unaffiliated shareholders, and banks that have not been

specifically designated as swaps dealers. Swaps between affiliates – defined as any company sharing any form of even partial common control – are also exempted from any oversight. This allows enormous scope for shell games that move revenues and risks out of U.S. companies offshore, or move risks between only loosely or vaguely affiliated companies. The combination of the affiliate and offshoring rules would recreate a vast and unregulated shadow market in derivatives outside any Dodd-Frank oversight.

Regulators would also be severely limited in providing oversight to even very large derivatives players so long as the companies could claim that their derivatives positions were hedged with some other counterparty. As we learned during the financial crisis, counterparty failure can quickly lead such hedges to become ineffective, particularly in turbulent market conditions when they are most important. For example, the bailout of AIG occurred because AIG's failure caused major banks to lose the derivatives hedges they had maintained with AIG.

The combination of extensive delay and major new loopholes in derivatives oversight means that Amendment 814 would seriously undermine new derivatives protections that are badly needed to render our financial system more secure. It must be defeated.

Sincerely,

Americans for Financial Reform

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.

- A New Way Forward
- AARP
- AFL-CIO
- AFSCME
- Alliance For Justice
- Americans for Democratic Action, Inc
- American Income Life Insurance
- Americans United for Change
- Campaign for America's Future
- Campaign Money
- Center for Digital Democracy
- Center for Economic and Policy Research
- Center for Economic Progress
- Center for Media and Democracy
- 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
- Consumer Action
- Consumer Association Council
- Consumers for Auto Safety and Reliability
- Consumer Federation of America
- Consumer Watchdog
- Consumers Union
- Corporation for Enterprise Development
- CREDO Mobile
- CTW Investment Group
- Demos
- Economic Policy Institute
- Essential Action
- Greenlining Institute
- Good Business International
- HNMA Funding Company

- 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
- Krull & Company
- Laborers' International Union of North America
- Lake Research Partners
- Lawyers' Committee for Civil Rights Under Law
- Move On
- NASCAT
- National Association of Consumer Advocates
- National Association of Neighborhoods
- 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 Trust
- National Housing Trust Community Development Fund
- National NeighborWorks Association
- National People's Action
- National Council of Women's Organizations
- Next Step
- OMB Watch
- OpenTheGovernment.org
- Opportunity Finance Network
- Partners for the Common Good
- PICO
- Progress Now Action
- Progressive States Network
- Poverty and Race Research Action Council
- Public Citizen
- Sargent Shriver Center on Poverty Law
- SEIU
- State Voices
- Taxpayer's for Common Sense
- The Association for Housing and Neighborhood Development
- The Fuel Savers Club
- The Leadership Conference on Civil and Human Rights
- The Seminal
- TICAS
- U.S. Public Interest Research Group
- UNITE HERE
- United Food and Commercial Workers

- United States Student Association
- USAction
- Veris Wealth Partners
- Western States Center
- We the People Now
- Woodstock Institute
- World Privacy Forum
- UNET
- Union Plus
- Unitarian Universalist for a Just Economic Community

List of State and Local Signers

- Alaska PIRG
- Arizona PIRG
- Arizona Advocacy Network
- Arizonans For Responsible Lending
- Association for Neighborhood and Housing Development NY
- Audubon Partnership for Economic Development LDC, New York NY
- BAC Funding Consortium Inc., Miami FL
- Beech Capital Venture Corporation, Philadelphia PA
- California PIRG
- California Reinvestment Coalition
- 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
- Colorado PIRG
- Coalition on Homeless Housing in Ohio
- 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 A
- Connecticut PIRG
- Consumer Assistance Council
- Cooper Square Committee (NYC)
- Cooperative Fund of New England, Wilmington NC
- Corporacion de Desarrollo Economico de Ceiba, Ceiba PR

- Delta Foundation, Inc., Greenville MS
- Economic Opportunity Fund (EOF), Philadelphia PA
- Empire Justice Center NY
- Empowering and Strengthening Ohio's People (ESOP), Cleveland OH
- Enterprises, Inc., Berea KY
- Fair Housing Contact Service OH
- Federation of Appalachian Housing
- Fitness and Praise Youth Development, Inc., Baton Rouge LA
- Florida Consumer Action Network
- Florida PIRG
- Funding Partners for Housing Solutions, Ft. Collins CO
- Georgia PIRG
- Grow Iowa Foundation, Greenfield IA
- Homewise, Inc., Santa Fe NM
- Idaho Nevada CDFI, Pocatello ID
- Idaho Chapter, National Association of Social Workers
- Illinois PIRG
- Impact Capital, Seattle WA
- Indiana PIRG
- Iowa PIRG
- Iowa Citizens for Community Improvement
- JobStart Chautauqua, Inc., Mayville NY
- 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
- MASSPIRG
- Massachusetts Fair Housing Center
- 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
- Mortgage Recovery Service Center of L.A.
- Montana Community Development Corporation, Missoula MT
- Montana PIRG
- 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
- New Yorkers for Responsible Lending
- NOAH Community Development Fund, Inc., Boston MA

- Nonprofit Finance Fund, New York NY
- Nonprofits Assistance Fund, Minneapolis M
- North Carolina PIRG
- Northside Community Development Fund, Pittsburgh PA
- Ohio Capital Corporation for Housing, Columbus OH
- Ohio PIRG
- OligarchyUSA
- Oregon State PIRG
- Our Oregon
- PennPIRG
- Piedmont Housing Alliance, Charlottesville VA
- Michigan PIRG
- Rocky Mountain Peace and Justice Center, CO
- Rhode Island PIRG
- Rural Community Assistance Corporation, West Sacramento CA
- Rural Organizing Project OR
- San Francisco Municipal Transportation Authority
- Seattle Economic Development Fund
- Community Capital Development
- TexPIRG
- The Fair Housing Council of Central New York
- The Loan Fund, Albuquerque NM
- Third Reconstruction Institute NC
- Vermont PIRG
- Village Capital Corporation, Cleveland OH
- Virginia Citizens Consumer Council
- Virginia Poverty Law Center
- War on Poverty - Florida
- WashPIRG
- Westchester Residential Opportunities Inc.
- Wigamig Owners Loan Fund, Inc., Lac du Flambeau WI
- WISPIRG

Small Businesses

- Blu
- Bowden-Gill Environmental
- Community MedPAC
- Diversified Environmental Planning
- Hayden & Craig, PLLC
- Mid City Animal Hospital, Pheonix AZ
- The Holographic Repatterning Institute at Austin
- UNET

