



Americans for Financial Reform
1629 K St NW, 10th Floor, Washington, DC, 20006
202.466.1885

November 15, 2011

Dear Representative,

On behalf of Americans for Financial Reform, we are writing to express our deep concerns about the legislation being considered in subcommittee today. 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.

The financial crisis of 2008 cost the U.S. economy trillions of dollars and millions of jobs, and led to millions of families losing their homes. Globally, economists have estimated that the total cost of the financial crisis could exceed \$60 trillion. These enormous costs were created by lack of accountability on Wall Street. According to recent polling data, almost 70 percent of Americans favor stronger regulations and oversight on big Wall Street banks and the financial services industry. A large majority also favor the recently passed Dodd-Frank Wall Street Reform Act.

In light of the clear need to address accountability in the financial sector, there has been little support for any attempt to repeal Dodd-Frank outright. So the big banks lobbying against increased oversight have turned to behind-the-scenes attempts to create loopholes in key parts of new regulations. They have also tried to create roadblocks in the way of effective regulatory implementation of the bill. Both of these tactics are represented in the bills being considered today. We urge you to reject these bills.

HR 2586 (Garrett) would allow big Wall Street derivatives dealers to continue opaque bilateral trading and allow them to avoid price transparency and fair price competition in their markets. A central goal of the Dodd-Frank derivatives reforms is to create price transparency in the derivatives markets. Such transparency will permit derivatives end users to negotiate better prices for their hedging transactions, create market pressure to further standardization and simplification of derivatives, and help new competitors to enter the market to diversify the small “club” of big dealers who currently control the market. But HR 2586 would undermine these reforms by creating a statutory ban on pre-trade price transparency requirements in swaps exchanges. Transparency is a simple, basic market requirement that has been standard on financial exchanges for centuries. Banning regulators from establishing it on derivatives exchanges is a significant blow against Dodd-Frank derivatives reforms.

HR 2779 (Stivers) would exempt all transactions between related affiliates from derivatives regulations (except for requirements to report the transaction). If this exemption applied only to transactions between wholly owned subsidiaries and a parent company it might perhaps be feasible, since the reporting requirements are maintained so that regulators could track use of the

exemption to conceal evasion of tax laws or financial regulations generally. However, the exemption in this legislation goes much further. Affiliates would include any entity that is ‘controlling, controlled by, or under common control with’ its counterparty. This could potentially include a very wide range of only partially affiliated entities, including joint ventures and counterparties in which the same third party had only a minority ownership stake. (Minority ownership stakes can be argued to be controlling). Such a broad exemption would be enormously difficult to police and would greatly increase litigation and uncertainty around derivatives rules.

HR 3045 (Canseco) purports to be simply a clarification of the principle that swaps dealers should not be deemed ERISA fiduciaries to a pension simply due to advice given during a swaps deal. The drafters of the Dodd-Frank Act, reform advocates, financial regulators, and the Department of Labor all agree on this principle. In fact, the Department of Labor has already established ERISA rules that make clear that swaps dealers will not be so designated. However, HR 3045 in fact goes much further and opens a gaping loophole in the derivatives business conduct standards created by Dodd-Frank. The legislation would permit swaps dealers to get a blanket exemption from **any** duty to respect the best interests of pension funds when giving any advice during a swaps deal. Just last week, we saw the largest municipal bankruptcy in United States history, in Jefferson County, Alabama. This debacle was created by bad advice given during a swaps deal. With pension funds under heavy pressure to increase returns, the last thing Congress should wish to do is to give swaps dealers a blank check to provide deceptive advice to pension funds.

HR 1838 (Stivers) would repeal a section of the Dodd-Frank Act that prohibits the Federal Government from bailing out big Wall Street derivatives dealers. There is overwhelming agreement that we should be removing subsidies to ‘too big to fail’ banks, and incentives for excessive risk taking. We do not see any policy justifications for this proposal, and we are frankly puzzled at its being put forward. With the consequences of the financial crisis causing great hardship, and public anger about the bailouts of 2008 and 2009 still running high, why would members of the Committee wish to the Federal government to bail out big Wall Street banks?

HR 2308 (Garrett) would impose a broad range of new administrative requirements on the SEC before passing a rule. But the SEC is already required to conduct a cost-benefit analysis of each and every proposed rule. In doing so, it is required to consider the effects on efficiency, competition, and capital formation. And, as the recent proxy access decision made clear, the courts are far from reluctant to overturn agency rulemakings if they feel the agency has not adequately assessed their economic impact. Indeed, the pressing question for the SEC today is whether it is capable of adopting effective rules in cases where industry is willing to mount a legal challenge. Far from solving that problem, this bill would add new red tape requirements designed to allow big Wall Street banks new ways to challenge SEC regulations in court. This would put well-funded financial industry groups even more firmly in the driver’s seat during the regulatory process, and undermine the ability of regulators to implement the basic regulatory safeguards in the Dodd-Frank Act. With the nation still feeling the ill effects of a financial crisis brought about by weak and ineffective financial regulation, Congress should be looking to strengthen our financial regulators not tie them in red tape, as this bill would do.

As discussed above, these bills do not create genuine reform in regulation. Instead, they create loopholes and roadblocks to regulation that would allow big banks to continue the same practices

that helped lead to the financial crisis. These are practices that, far from helping the economy, boosted the profits of Wall Street banks and big derivatives dealers while taking money and jobs from Main Street. We urge rejection of these bills.

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 Nurses United
- 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

