# TALKING POINTS ON DERIVATIVES LEGISLATION

***"Last year, some members of Congress supported watering down Dodd-Frank derivative safeguards, but abandoned those efforts after the world learned that JPMorgan Chase had lost billions of dollars on derivative trades made out of its London office. It is incredible that less than a week after new JPMorgan Whale hearings detailed how the bank's London office piled up risk, hid losses, and dodged regulatory oversight, that some House members are again supporting the weakening of derivative safeguards."***

*Senator Carl Levin, March 19, 2013*

- Unregulated derivatives markets were a major contributor to the 2008 financial crisis. According to the General Accounting Office, the crisis created economic costs to the U.S. economy of at least $5 to $10 trillion, and possibly much higher. The crisis also led to the loss of 8 million jobs and trillions of dollars in household wealth.

- With the exception of HR 742, which is unobjectionable, the bills under consideration by House Financial Services today have one thing in common: they create sweeping new exemptions to derivatives rules passed in response to the regulatory failures of the financial crisis.

- The Dodd Frank Act already provides regulators with enormous flexibility in writing rules and the discretion to address particular concerns raised by regulated entities. Regulators have the authority to address many of the issues raised in these bills and in many cases have already done so. For example, regulators have already finalized a statutory exemption for regulatory requirements in the case of inter-affiliate swaps (the issue addressed in HR 677) and have proposed a broad exemption for end user margin (HR 634). However, the statutory exemptions in bills like HR 677 are much broader and less tailored than the regulatory rules, and would create significant loopholes.

- Some of this legislation strikes at the heart of effective derivatives regulation. For example, HR 1256 would create numerous new bureaucratic obstacles that would prevent effective oversight of derivatives activities in foreign subsidiaries of U.S. banks.

- Derivatives related scandals ranging from Long Term Capital Management in the 1990s to American International Group (AIG) in the financial crisis to the recent London Whale case have all revolved around activities conducted in foreign jurisdictions. Preventing oversight of foreign subsidiary activity would make effective derivatives regulation impossible.

- Other legislation would reverse steps taken to end the public subsidy to too-big-to-fail Wall Street banks. For example, HR 992 would allow financial companies to place even the most complex and dangerous types of derivatives dealing inside the depository bank, where it benefits from Federal deposit insurance and access to Federal Reserve liquidity support. HR 992 would effectively eliminate Dodd-Frank provisions designed to put a firewall between depository banking and the riskiest types of investment banking.

- The legislation considered here would enormously increase the already unacceptable delays in implementation of the Dodd-Frank derivatives oversight rules. For example, HR 1062 would greatly add to the already extensive cost-benefit requirements on the SEC and could create near-impossible obstacles to rulemaking.

- The SEC is already required to consider economic impacts of its rules as well as impacts on capital formation. Industry has already won many lawsuits on the basis of current SEC cost-benefit requirements. The numerous new requirements in HR 1062 include a requirement to measure the costs and benefits of not only a proposed rule but all 'available alternatives' to that rule.

- According to recent polling, over 70 percent of the public support *tougher* rules and enforcement for Wall Street financial companies. By weakening oversight of Wall Street, the legislation before you today moves in exactly the wrong direction. It must be rejected.