AMERICANS FOR FINANCIAL REFORM

# AFR Statement on Cross-Border Derivatives Rules

Last week, with little fanfare or publicity, the Commodity Futures Trading Commission (CFTC) once again issued an exemption from Dodd-Frank derivatives rules for derivatives transactions taking place on U.S. soil between nominally foreign entities. This exemption marks the fifth time that the CFTC has extended the length of what was originally supposed to be a "time-limited" exemption. The extension will delay the application of derivatives rules to this important category of derivatives transactions until at least September 2016.

The nominally foreign entities granted exemptions for derivatives trades taking place within the U.S. include large foreign subsidiaries of U.S. banks, subsidiaries which are major parts of some of the largest "too big to fail" Wall Street banks. As AFR has pointed out in a detailed letter to regulators, transactions involving these nominally foreign subsidiaries make up a majority of Wall Street derivatives transactions, and can pose significant risk to parent U.S. banks. Under this exemption, derivatives transactions taking place between U.S. banks on U.S. soil will not be subject to full U.S. regulation, so long as they are routed through one of thousands of nominally foreign subsidiaries.

This CFTC action echoes similar steps at the Securities and Exchange Commission, which has recently proposed to exempt a range of credit derivatives transactions taking place on U.S. soil from key clearing and trade execution requirements so long as such transactions are routed through nominally foreign entities. These and other actions taken by these two agencies show a disturbing willingness to permit major global banks to avoid the full scope of Dodd-Frank derivatives regulations based on paper distinctions that do not reflect true risks to major U.S. banks and ultimately the U.S. economy and the U.S. taxpayer. Further, regulators have not provided clear or full information concerning the full impact of these exemptions and the size and percentage of derivatives transactions that are benefiting from them.

AFR once again calls on regulators to reconsider and end their sweeping regulatory exemptions for international derivatives operations of U.S. banks and to provide greater transparency to the public concerning the size and potential impact of such exemptions. For more detail, see AFR's November 2014 letter to regulators on this issue.