

Management Subcommittee, I want to commend Mr. STIVERS and Ms. FUDGE for putting together a commonsense bill that will offer our businesses and agriculture firms certainty about a small but important aspect of the overall Dodd-Frank rulemaking.

Centralizing a large organization's risk mitigation efforts can yield substantial economic benefits and reduce a firm's overall credit risk. In addition to creating operating savings through economies of scale, these companies can also reduce the number of external-facing transactions altogether.

By looking at a firm's entire risk portfolio, it's possible to find places where risks overlap and offset one another, reducing the need for entering the market. Fewer swaps mean less money tied up in margin, clearing, and execution and more money being spent on hiring Americans, buying supplies, and funding innovation.

Unfortunately, ambiguity in the Dodd-Frank law could undo this innovative risk management strategy. If interaffiliate swaps are treated the same as other swaps, end users could wind up posting margin for the same swap twice: once for the public trade and once for the internal trade that assigns the swap to the appropriate business unit. Needless to say, posting margin for the same transaction twice means that companies are likely to abandon the use of interaffiliate swaps altogether and, with it, the efficiencies that made the strategy attractive in the first place, thereby driving up their business costs and overall risks.

It's important to note that this legislation simply clarifies the intent of Congress. It does not repeal any of the market protections in Dodd-Frank. These internal swaps do not create risk and do not pose a systemic threat to financial markets. Instead, it protects an important tool American companies use to unlock the value of their unlimited resources.

I want to thank both Mr. STIVERS and Ms. FUDGE for bringing forward this legislation, and Chairman LUCAS and Chairman BACHUS for shepherding it through both committees in a timely fashion.

Ms. FUDGE. I continue to reserve, Mr. Speaker. I have no further speakers.

Mr. GARRETT. Mr. Speaker, I was hoping the gentlelady had one more speaker. I was going to reserve, as we had one other speaker on the way, but let me just check.

Without seeing him here, Mr. Speaker, I yield back the balance of my time.

Ms. FUDGE. Mr. Speaker, I just, again, want to thank everyone involved in this bill and ask my colleagues to please support it.

I yield back the balance of my time.

□ 1520

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. GARRETT) that the House suspend the

rules and pass the bill, H.R. 2779, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. GARRETT. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

BUSINESS RISK MITIGATION AND PRICE STABILIZATION ACT OF 2012

Mr. GARRETT. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2682) to provide end user exemptions from certain provisions of the Commodity Exchange Act and the Securities Exchange Act of 1934, and for other purposes, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 2682

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Business Risk Mitigation and Price Stabilization Act of 2012".

SEC. 2. MARGIN REQUIREMENTS.

(a) COMMODITY EXCHANGE ACT AMENDMENT.—Section 4s(e) of the Commodity Exchange Act (7 U.S.C. 6s(e)), as added by section 731 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, is amended by adding at the end the following new paragraph:

"(4) APPLICABILITY WITH RESPECT TO COUNTERPARTIES.—The requirements of paragraphs (2)(A)(ii) and (2)(B)(ii) shall not apply to a swap in which a counterparty qualifies for an exception under section 2(h)(7)(A) or satisfies the criteria in section 2(h)(7)(D)."

(b) SECURITIES EXCHANGE ACT AMENDMENT.—Section 15F(e) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-10(e)), as added by section 764(a) of the Dodd-Frank Wall Street Reform and Consumer Protection Act, is amended by adding at the end the following new paragraph:

"(4) APPLICABILITY WITH RESPECT TO COUNTERPARTIES.—The requirements of paragraphs (2)(A)(ii) and (2)(B)(ii) shall not apply to a security-based swap in which a counterparty qualifies for an exception under section 3C(g)(1) or satisfies the criteria in section 3C(g)(4)."

SEC. 3. IMPLEMENTATION.

The amendments made by this Act to the Commodity Exchange Act shall be implemented—

(1) without regard to—

(A) chapter 35 of title 44, United States Code; and

(B) the notice and comment provisions of section 553 of title 5, United States Code;

(2) through the promulgation of an interim final rule, pursuant to which public comment will be sought before a final rule is issued; and

(3) such that paragraph (1) shall apply solely to changes to rules and regulations, or proposed rules and regulations, that are limited to and directly a consequence of such amendments.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from

New Jersey (Mr. GARRETT) and the gentleman from Texas (Mr. AL GREEN) each will control 20 minutes.

The Chair recognizes the gentleman from New Jersey.

GENERAL LEAVE

Mr. GARRETT. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks and to add any extraneous material on the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. GARRETT. I yield myself 3 minutes.

Mr. Speaker, this bipartisan bill would do what? It would provide a clear exemption from margin requirements, margin requirements imposed by the Dodd-Frank Act on where? On swap transactions for so-called end-users who use derivatives to hedge their business risks and whose swap transactions really do not pose a systemic risk to the financial system.

Following the really late night of the Dodd-Frank conference committee deliberations, numerous assurances were made that margin would not be required on end-users' transactions. Now, these assurances were subsequently followed up by formal letters and colloquies by the very same architects of the bill themselves. Everyone was told that Congress clearly intended for the language to exempt end-users from the bill's margin requirements.

Unfortunately, the regulators have interpreted it a different way, and they have interpreted Dodd-Frank's somewhat rushed language as not providing a clear exemption for these end-users.

Representative GRIMM's bill here today finally provides American businesses with the certainty that they need to use derivatives to hedge against business risk. End-users, you know, were not the cause of the financial crisis; and by any measure whatsoever, end-users are not systemically significant.

Who are these end-users that we're talking about here? Well, they are the Main Street businesses from all over the country that represent all types of industries that rely on the use of derivatives to responsibly hedge their own business risk, and so they should not be and were not ever considered under the same umbrella, if you will, of regulations as banks are that are subject to posting margins on their swap transactions.

In requiring end-users to be subject to a mandatory margin requirement, what it basically does is force commercial entities to act like banks. So, without a margin exemption, the cost of hedging for these would rise dramatically, and that would needlessly tie up working capital that otherwise could and should be used to expand business investments, build factories, or create jobs.

So I conclude on this. It is critical that we provide U.S. Main Street businesses across this country with this important certainty, with this clarity. I urge my colleagues on both sides of the aisle to support this bipartisan bill.

I reserve the balance of my time.

Mr. AL GREEN of Texas. Mr. Speaker, I would like to note that I will be yielding 10 minutes of time to my colleague from the Ag Committee, Mr. OWENS.

The SPEAKER pro tempore. Without objection, the gentleman from New York will control 10 minutes.

There was no objection.

Mr. AL GREEN of Texas. I yield myself such time as I may consume.

Mr. Speaker, I do want to concur with those who've announced that bipartisanship is alive and well at the committee level and on the floor of this House today. I'd like to thank my colleagues on the other side, Mr. GARRETT and Mr. GRIMM, for their cooperation and our ability to work together.

I'd also like to especially thank the staff of the full committee and the staff of each congressional office for the outstanding work the staff members have done. It is very difficult to get legislation to this point without the benefit of staff having had a helping hand, and we thank the staff.

Mr. Speaker, the passage of the Wall Street Reform and Consumer Protection Act of 2010 established a system for regulating the over-the-counter—that's the OTC—derivatives market. Authority is provided to the Securities and Exchange Commission, the Commodity Futures Trading Commission, and the banking regulators, which have been proposing the regulation that will eventually govern the OTC derivatives market.

Previously, banks and other financial companies were able to amass considerable risk using OTC derivatives without reporting to the regulator or to the public. The Wall Street Reform Act requires that most derivative transactions, primarily those between dealers, now be centrally cleared and exchange traded whenever possible and that all transaction data be collected and publicly reported at clearinghouses or swap-data repositories.

The new rules are intended to allow regulators and the public to better analyze the derivative risk-taking activities of banks and other financial companies. The new rules are not intended to hold in place onerous requirements on companies that use derivatives only as a means to hedge the risk of the company.

H.R. 2682 clarifies Congress' intent when passing the Wall Street Reform legislation by more clearly exempting end-users that are only using swaps to hedge or to mitigate commercial risk.

H.R. 2682 is also consistent with a colloquy between Representatives FRANK and PETERSON, as well as a letter from Senators Lincoln and Dodd, which noted that the reform legislation provided the regulators with sufficient

authority to exempt end-users from the margin requirements.

This bill passed favorably out of both the House Financial Services Committee and House Agriculture Committee with strong bipartisan support. In no way should H.R. 2682 undo any of the important protections of reform legislation. Its purpose is to recognize the end-users' responsibility to use swaps as a part of their businesses.

I congratulate Mr. GRIMM and Mr. PETERS, and I encourage you to support this bill.

I reserve the balance of my time.

Mr. GARRETT. At this time, I yield 5 minutes to the gentleman from New York (Mr. GRIMM), the author of the underlying legislation and also someone who has been instrumental in making sure that we could work in a bipartisan manner to get it to the floor today.

Mr. GRIMM. I would like to thank Chairman GARRETT.

I rise today in support of my legislation, H.R. 2682, the Business Risk Mitigation and Price Stabilization Act of 2012. H.R. 2682, I'm very proud to say, is truly a bipartisan bill; and I would like to thank my colleagues on the other side of the aisle, especially Mr. PETERS of Michigan, Mr. AUSTIN SCOTT of Georgia, and Mr. OWENS of New York, for working with me on this extremely important issue.

H.R. 2682 will clarify Congress' intent under the Dodd-Frank Act and provide an explicit exemption from having to post margin for true commercial end-users of over-the-counter derivatives. Despite clear legislative history to the contrary, regulators continue to misinterpret the Dodd-Frank Act, giving them authority to impose margin requirements on end-users.

This bill will ensure once and for all that true end-users are not subjected to margin requirements that Congress never intended to be applied and make sure that regulators do not attempt to exercise authorities they were never granted by Congress in ways that will certainly do harm to the economy, specifically, by diverting working capital away from investment and expansion, which fuels economic growth and certainly job creation.

True end-users are firms and companies that use derivatives to manage their various financial risks. For example, firms use these products to lock in the costs of raw materials that they're going to need in the future, which ultimately protects American consumers and creates jobs here in America. If true end-users were required to post margin, their hedging costs may become so high that they could abandon the practice, leading to great price variations for raw materials and, ultimately, an increase in consumer prices for a whole host of products from food to energy.

□ 1530

At a time when constituents on Staten Island and in Brooklyn are strug-

gling with sky-high tolls, rising gas prices, they simply can't afford to pay more for items they rely on every day. Furthermore, this legislation will not only help to keep consumers' prices stable, but it will also protect U.S. jobs. The cost savings end users will realize by not being required to post margin will free up capital for business expansion and job creation.

In fact, it has been shown that imposing a 3 percent margin on over-the-counter derivatives held by S&P 500 companies could cut capital spending by \$5.1 to \$6.7 billion. That could lead to 100,000 to 130,000 job losses. At a time when unemployment is 8.3 percent, this cannot be overlooked or overstated.

Finally, without this clear exemption provided in this legislation, I believe that U.S.-based commercial end users may attempt to continue hedging and avoid posting margins by moving their derivatives products overseas. That would put U.S.-based financial institutions at a major disadvantage and, as a consequence, drive even more U.S. jobs overseas. In addition, this could also encourage regulatory arbitrage and actually increase systemic risk to a worldwide financial system.

In closing, I ask that my colleagues support this commonsense, bipartisan pro-jobs legislation.

Mr. OWENS. Mr. Speaker, I yield myself such time as I may consume. I rise in support of H.R. 2682.

I would like to thank Chairman LUCAS and Ranking Member PETERSON for their leadership on this important issue, as well as Mr. SCOTT from the Agriculture Committee, and our colleagues on Financial Services, Mr. PETERS, Mr. GREEN and, of course, Mr. GRIMM.

As a cosponsor of H.R. 2682 and as one of the authors of this legislation, I believe that the definition of an "end user" needs to be very specific to ensure that the CFTC implements the intent of Congress in exempting true end users from certain derivatives regulations.

My district in upstate New York includes a number of entities that would be inappropriately captured as swap dealers under the proposed CFTC rules, including agricultural cooperatives, farm credit institutions, community banks, and electric cooperatives. Clearly, none of these entities were intended by Congress to be covered by these regulations.

While each of them uses derivatives to meet their business needs, they are not engaging in derivatives transactions as their primary businesses. If forced to comply with the increased margin and clearing requirements, it could make the services currently offered by end users cost prohibitive and impede their ability to conduct business, likely resulting in higher prices for my constituents and diverting capital that could otherwise be invested and used to help create jobs. These are all negative consequences that our economy can ill afford at this time.

These financial instruments are particularly important for dairy farmers in my district who depend on their cooperatives to offer them tools to manage price risks and to lock in margins. A local cooperative must have the ability to enter into swaps with its members and have affordable access to the market with other commercial counterparties to offset the risk of providing these swaps and forward contracts. Under the CFTC's proposed rules, the cooperatives would be regulated as a swap dealer even though they are using derivative contracts to hedge commercial risk and to support the viability of their members.

There is no doubt in my mind that the derivatives market needs to be regulated and that certain participants need to post margin to cover their trades in order to mitigate systemic risk throughout the financial system. However, this legislation will codify Congress' intent and ensure that commercial end users can continue to hedge against risk.

I urge my colleagues on both sides of the aisle to support this important bipartisan legislation, and I yield back the balance of my time.

Mr. GARRETT. Once again, Mr. Speaker, I would like to yield 3 minutes to the gentleman from Texas (Mr. CONAWAY).

Mr. CONAWAY. Thank you to Mr. GARRETT of New Jersey.

Mr. Speaker, I rise today in full support of H.R. 2682, the Business Risk Mitigation and Stabilization Act.

As chairman of the General Farm Commodities and Risk Management Subcommittee, I am pleased to see this bill brought to the floor today. The Business Risk Mitigation and Stabilization Act will offer legislative clarification for one of the most important points that underlies Dodd-Frank, which is that nonfinancial end users should not be required to post margin.

In hearings and letters, Congress could not have been clearer in its intent to exempt nonfinancial end users from being required to post margins for their risk mitigation transactions. Yet, despite our clear intent, regulators have proposed rules that could result in margin requirements for these end users.

Every dollar that a business has tied up in a margin account is a dollar it cannot spend on job creation or other productive business purposes. The Chamber of Commerce has recently estimated the costs of requiring these end users to post margins could reach billions of dollars and cost over 100,000 jobs, all over the clear and concise objections of Congress.

This legislation simply affirms the original position of Congress that nonfinancial end users do not need to tie up scarce resources to participate in the swaps markets. Much like H.R. 2779, which we debated earlier, the Business Risk Mitigation and Stabilization Act would not undermine the established goals of Dodd-Frank. Non-

financial end users represent less than 10 percent of the swaps market and have never posed a systemic risk to the broader financial markets.

As we in Congress continue to advance legislation to put America back to work, we should prevent unnecessary regulatory burdens on businesses. I am pleased to support H.R. 2682 because it will do just that.

I want to thank Mr. GRIMM, Mr. PETERS, Mr. SCOTT, and Mr. OWENS for sponsoring this important legislation. I am pleased to note that it is a bipartisan effort and is supported overwhelmingly by both committees.

I also want to thank my chairman, Mr. LUCAS, and Chairman BACHUS, for their work in clarifying Congress' intent for regulators with respect to end users. This legislation will protect jobs and businesses struggling to meet the multitude of mandates coming out of Washington.

Mr. AL GREEN of Texas. Mr. Speaker, I would simply close by indicating that I concur with my colleagues. This legislation does enjoy the bipartisan support that we believe will help us get a message to our Members that it is a good piece of legislation that should be totally supported by the membership. So, I would ask my colleagues and Members of the Congress to please support this legislation.

I yield back the balance of my time.

Mr. GARRETT. Mr. Speaker, I think we have one more speaker. I yield 2 minutes to the gentleman from Georgia (Mr. AUSTIN SCOTT).

Mr. AUSTIN SCOTT of Georgia. Mr. Speaker, I rise today in support of H.R. 2682, the Business Risk Mitigation and Price Stabilization Act of 2012.

This bill provides a clear exemption for nonfinancial end users that qualify for the clearing exemption under title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

Across the country, consumers and businesses alike are confronted with risks that are associated with their day-to-day operations. To manage this risk, businesses use over-the-counter derivatives to provide price certainty and stability in many other conditions which may arise or may otherwise be less specific. Consumers, in turn, benefit from these business prudent risk management practices a through lower volatility in the day-to-day prices of the products that they purchase.

Due to the importance of protecting the consumer while providing a pro-growth environment for business, Congress provided an exemption from clearing and margin requirements for businesses and individuals who are not financial institutions. By providing this exemption, less than 10 percent of the capital involved in the derivatives market is relieved of the burdensome regulations and can be kept in the U.S. economy. To further the initial goal, H.R. 2682 clarifies Congress' intent of keeping much needed capital in the U.S. markets, which plays an important role in the country's economic growth.

For this reason, I ask my colleagues to support H.R. 2682 so businesses and individuals can manage their risks of day-to-day operations while not being constrained with the burdensome capital requirements.

Mr. GARRETT. I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HUIZENGA of Michigan). The question is on the motion offered by the gentleman from New Jersey (Mr. GARRETT) that the House suspend the rules and pass the bill, H.R. 2682, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. GARRETT. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

□ 1540

HOMES FOR HEROES ACT OF 2011

Mrs. BIGGERT. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3298) to establish the position of Special Assistant for Veterans Affairs in the Department of Housing and Urban Development, and for other purposes.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 3298

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Homes for Heroes Act of 2011".

SEC. 2. SPECIAL ASSISTANT FOR VETERANS AFFAIRS IN THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.

Section 4 of the Department of Housing and Urban Development Act (42 U.S.C. 3533) is amended by adding at the end the following new subsection:

"(g) SPECIAL ASSISTANT FOR VETERANS AFFAIRS.—

"(1) ESTABLISHMENT.—There shall be in the Department a Special Assistant for Veterans Affairs, who shall be a special assistant to the Secretary and shall report directly to the Secretary.

"(2) APPOINTMENT.—The Special Assistant for Veterans Affairs shall be appointed based solely on merit and shall be covered under the provisions of title 5, United States Code, governing appointments in the competitive service.

"(3) RESPONSIBILITIES.—The Special Assistant for Veterans Affairs shall be responsible for—

"(A) ensuring veterans have fair access to housing and homeless assistance under each program of the Department providing either such assistance;

"(B) coordinating all programs and activities of the Department relating to veterans;

"(C) serving as a liaison for the Department with the Department of Veterans Affairs, including establishing and maintaining relationships with the Secretary of Veterans Affairs;

"(D) serving as a liaison for the Department, and establishing and maintaining relationships with the United States Interagency