worsen and spread to more States across the country. We must ensure that this program, which prevents costly and, oftentimes, irreparable damage to communities, personal property, and wildlife habitat, receives continued support. Mr. Speaker, I urge my colleagues to support the bill.

I yield back the balance of my time.

Mr. THOMPSON of Pennsylvania. I yield myself such time as I may consume.

I thank the ranking member for her leadership and support on this bill and, quite frankly, on everything we do as a part of our Subcommittee on Agriculture.

Mr. Speaker, I have no additional speakers on this bill. I urge all Members to join me in support of this bill.

I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. THOMPSON) that the House suspend the rules and pass the bill, H.R. 2394, as amended.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

COMMODITY END-USER RELIEF ACT

GENERAL LEAVE

Mr. CONAWAY. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill, H.R. 2289.

The SPEAKER pro tempore (Mr. LAMALFA). Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER pro tempore. Pursuant to House Resolution 288 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the state of the Union for the consideration of the bill, H.R. 2289.

The Chair appoints the gentleman from Idaho (Mr. SIMPSON) to preside over the Committee of the Whole.

□ 1526

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H.R. 2289) to reauthorize the Commodity Futures Trading Commission, to better protect futures customers, to provide end-users with market certainty, to make basic reforms to ensure transparency and accountability at the Commission, to help farmers, ranchers, and end-users manage risks, to help keep consumer costs low, and for other purposes, with Mr. SIMPSON in the chair.

The Clerk read the title of the bill.

The CHAIR. Pursuant to the rule, the bill is considered read the first time.

The gentleman from Texas (Mr. CONAWAY) and the gentleman from Minnesota (Mr. PETERSON) each will control 30 minutes.

The Chair recognizes the gentleman from Texas.

Mr. CONAWAY. Mr. Chairman, I yield myself such time as I may consume.

I rise today in support of H.R. 2289, the Commodity End-User Relief Act.

I want to start by thanking Chairman AUSTIN SCOTT and Ranking Member DAVID SCOTT of the Commodity Exchanges, Energy, and Credit Subcommittee. They have done a tremendous job over the past few months working on these issues. They have held three hearings on reauthorization, listening to testimony from end users, financial intermediaries, and even the commissioners themselves. Without their work, we would not have been able to move this bill today.

H.R. 2289, the Commodity End-User Relief Act, does exactly what the name suggests: it provides relief from unnecessary red tape for the businesses that ''make things'' in our country.

End users are the businesses that provide Americans with food, clothing, transportation, electricity, heat, and much, much more. Companies that produce, consume, and transport the commodities that make modern life possible use futures and swaps markets to reduce the uncertainties that their businesses face. Farmers hedge their crops in the spring so that they know what price they will get paid in the fall. Utilities hedge the price of energy so they can charge customers at a steady rate. Manufacturers hedge the cost of steel, energy, and other inputs to lock in prices as they work to fill their orders.

The fact is, no end user played any part in the financial crisis of 2008, and no end user poses a systemic risk to U.S. derivatives markets. Yet, as the Agriculture Committee heard in countless hours of testimony, it is now more difficult and more expensive for farmers, ranchers, processors, manufacturers, merchandisers, and other end users to manage their risks than it was 5 years ago.

To address their concerns, H.R. 2289 makes targeted reforms to the Commodity Exchange Act that fall into three broad categories: consumer protections, commission reforms, and end-user relief.

Title I of the bill protects customers and the margin funds they deposit at their FCMs by codifying critical changes made in the wake of the collapse and bankruptcy of both MF Global and Peregrine Financial.

Title II makes meaningful reforms to the operations of the Commission to improve the agency's deliberative process. In doing so, it also requires the Commission to conduct more robust cost-benefit analysis to help get future rulemakings right the first time and to avoid the endless cycle of re-proposing and delaying unworkable rules.

Finally, title III fixes numerous problems faced directly by end users who rely on derivatives markets. From unnecessary recordkeeping burdens, to improperly categorizing physical transactions as swaps, to narrowing the bona fide hedge definition, CFTC rules have discouraged exactly the kind of prudent risk management activities Congress intended to protect with the end-users exemptions in the Dodd-Frank bill.

These regulatory burdens present challenges to American businesses and will cost them significant capital to comply with, unless Congress acts to provide the relief.

Title VII of Dodd-Frank sought to require that most swaps, one, be executed on an electronic exchange to ensure price transparency; two, be subject to initial and variation margin and central clearing through the lifetime of the transaction, to ensure performance on the obligation for counterparties; and, last, to be reported to a central repository to ensure that regulators have an accurate picture of the entire marketplace at any one point in time.

□ 1530

H.R. 2289 does not roll back a single core tenet of title VII. It does not change the execution, clearing, margining, and reporting framework set up by the act. In fact, not a single witness who appeared before the House Committee on Agriculture ever asked us to upend these principles. But what they did ask for were fixes to portions of the statute that didn't work as intended, to provide more flexibility in complying with the rules when they impaired end users' ability to hedge, and to bring more certainty to the Commission and how it operates. That is exactly what H.R. 2289 provides.

Similar to the CFTC reauthorization bill passed by the House with overwhelming bipartisan support last Congress, the Commodity End-User Relief Act makes narrowly targeted changes to the Commodity Exchange Act. This legislation offers meaningful improvements for market participants without undermining the basic tenets of title VII. I am proud that the committee has again put together a bill that has earned the bipartisan support of our members because it provides the right relief to the right people.

Mr. Chairman, I urge support of the Commodity End-User Relief Act.

I reserve the balance of my time.

JUNE 8, 2015.

DEAR MEMBER OF THE HOUSE OF REPRESENTATIVES: The undersigned organizations represent a very broad cross-section of U.S. production agriculture and agribusiness. We urge you to cast an affirmative vote on H.R. 2289, the ''Commodity End-User Relief Act,'' when it moves to the floor for consideration.

This legislation contains a number of important provisions for agricultural and agribusiness hedgers who use futures and swaps to manage their business and production risks. Some, but certainly not all, of the bill's important provisions include:

Sections 101–103—Codify important customer protections to help prevent another MF Global situation.

Section 104—Provides a permanent solution to the residual interest problem that would have put more customer funds at risk—and potentially driven farmers, ranchers and small hedgers out of futures markets—by forcing pre-margining of their hedge accounts.

Section 308—Relief from burdensome and technologically infeasible recordkeeping requirements in commodity markets.

Section 310—Requires the CFTC to conduct a study and issue a rule before reducing the de minimis threshold for swap dealer registration in order to make sure that doing so would not harm market liquidity and end-user access to markets.

Section 313—Confirms the intent of Dodd-Frank that anticipatory hedging is considered bona fide hedging activity.

Thank you in advance for your support of this bill that is so important to U.S. farmers, ranchers, hedgers and futures customers.

Sincerely,

Agribusiness Association of Iowa; Agribusiness Council of Indiana/Indiana Grain and Feed Association; American Cotton Shippers Association; American Farm Bureau Federation; American Feed Industry Association; American Soybean Association; Commodity Markets Council; Grain and Feed Association of Illinois; Kansas Grain and Feed Association; Michigan Agri-Business Association; Michigan Bean Shippers Association; Minnesota Grain and Feed Association; Missouri Agribusiness Association; National Cattlemen's Beef Association; National Corn Growers Association; National Cotton Council; National Council of Farmer Cooperatives; National Grain and Feed Association; National Pork Producers Council; Nebraska Grain and Feed Association; North American Export Grain Association; North Dakota Grain Dealers Association; Northeast Agribusiness and Feed Alliance; Ohio Agri-Business Association; Oklahoma Grain and Feed Association; Pacific Northwest Grain and Feed Association; Rocky Mountain Agribusiness Association; Southeast Minnesota Grain and Feed Dealers Association; South Dakota Grain and Feed Association; Tennessee Feed and Grain Association; Texas Grain and Feed Association; USA Rice Federation; Wisconsin Agri-Business Association.

JUNE 5, 2015.

HOUSE OF REPRESENTATIVES,
Washington, DC.

DEAR REPRESENTATIVE: The National Association of Manufacturers (NAM), the largest manufacturing association in the United States representing manufacturers in every industrial sector and in all 50 states, supports provisions in the Commodity End User Relief Act (H.R. 2289), to clarify that non-financial companies, like manufacturers, that use derivatives to manage business risk will not be subject to onerous and harmful regulatory requirements.

Manufacturers use derivatives to manage and mitigate against fluctuations in commodity prices and currency and interest rates. The NAM worked to include provisions in the Dodd-Frank Wall Street Reform and Consumer Protection Act (P.L.111–203) to protect manufacturers' use of over-the-counter derivatives. We continue to work to ensure that, as Dodd-Frank is implemented, end-users do not face undue burdens. Imposing unnecessary regulation on end-users would limit their ability to use these important risk management tools, increasing costs and negatively impacting business investment, U.S. competitiveness and job growth.

Provisions included in H.R. 2289 would ensure that non-financial end-users trading through a centralized treasury unit (''CTU'') are covered by the end-user clearing exemption provided by the Dodd-Frank Act. Without the clarification on CTUs, non-financial end-users may be swept into costly clearing requirements meant for financial entities, simply because they use a CTU to manage internal and external trading to mitigate risk within a corporate entity—an industry ''best practice''.

The CFTC reauthorization also includes an NAM-supported provision that requires the CFTC to take an affirmative action before lowering the swap dealer de minimis threshold. Without this provision, the de minimis level of swap dealing automatically drops from the $8 billion to $3 billion in the near future, sweeping some manufacturers into bank-like regulatory requirements.

Almost five years after the enactment of Dodd-Frank, implementation of the Act is well underway and deadlines for compliance with various regulations are looming. End-users remain extremely concerned about the lack of clarity on the CTU issue and the automatic drop in the de minimis threshold for swap dealing among other issues. Thank you in advance for supporting provisions in H.R. 2289 to ensure that derivatives regulation is focused on needed areas, and not on imposing unnecessary regulatory burdens on manufacturers.

Sincerely,

DOROTHY COLEMAN.

MAY 11, 2015.

Hon. MICHAEL CONAWAY,
Chairman, House Committee on Agriculture, Longworth House Office Building, Washington, DC.

Hon. COLLIN C. PETERSON,
Ranking Member, House Committee on Agriculture, Longworth House Office Building, Washington, DC.

DEAR CHAIRMAN CONAWAY AND RANKING MEMBER PETERSON: As the House prepares to vote on and reauthorize the Commodity Futures Trading Commission (CFTC) oversight of the futures and swaps markets, the National Corn Growers Association (NCGA) and the Natural Gas Supply Association (NGSA) wish to express support for the end user provisions in the CFTC reauthorization bill which will help to ensure that corn and natural gas markets are able to function efficiently.

Specifically, NCGA and NGSA support the provision which will provide relief for end-users using physical contracts with volumetric optionality and ensure that non-financial, physical energy delivery agreements are not regulated as swaps.

Founded in 1957, NCGA represents more than 40,000 dues-paying corn farmers nationwide. NCGA and its 48 affiliated state organizations work together to create and increase opportunities for their members and their industry.

Established in 1965, NGSA encourages the use of natural gas within a balanced national energy policy, and promotes the benefits of competitive markets, thus encouraging increased supply and the reliable and efficient delivery of natural gas to U.S. customers.

Because of the potential for the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (the Dodd-Frank Act or the Act) to impede what are and have been healthy, competitive, and resilient corn and natural gas markets, NCGA and NGSA played an active role in the shaping of the Act during its passage and have continued this role in ensuring the Act's successful implementation by the CFTC.

The CEA as amended by the Dodd-Frank Act excludes forward contracts and includes options in commodities in the definition of ''swap.'' This raises the practical question of how to treat forward contracts containing terms that provide for some form of flexibility in delivered volumes, i.e., ''embedded optionality.''

Flexibility in the terms of physical commodity forward contracts is essential in everyday commerce given the commercial uncertainties that exist in commodity delivery and receipt. One important form of such flexibility involves the volumes to be transacted in a forward contract. This flexibility is necessary because parties cannot always accurately predict the required or optimal amounts of physical commodities to meet their business needs and objectives. The CFTC refers to this flexibility as ''volumetric optionality'' and has formulated rules that suggest that the CFTC will regulate forward contracts with such ''optionality'' as swaps.

Volumetric optionality is a contractual tool used in the physical commodity industry to ''right size'' physical delivery. The ability to appropriately size a physical commodity delivery via a contractual tool facilitates market efficiency because it allows commercial market participants to adjust delivery volumes seamlessly in response to changes in supply and demand requirements at the time of delivery. Volumetric optionality is a delivery tool that mitigates the uncertainty inherent in any physical commodity contract, making both parties aware of potential delivery variability embedded within the intent to deliver. Thus, volumetric optionality in a physical forward contract allows commercial uncertainties to be accommodated up front, providing a process for orderly physical delivery and settlement even in the absence of precision in the delivery volume. Importantly, the intent to physically deliver remains despite the variability in final delivery terms.

In August of 2012, the CFTC issued the final rule further defining the term ''swap,'' Final Rule, Further Definition of ''Swap,'' et al., 77 Fed. Reg. 48, 208 (August 13, 2012) (Swap Definition Final Rule or Final Rule). As part of the definition of swap, the Final Rule provides an interpretation that an agreement, contract or transaction with embedded optionality falls within the forward exclusion when seven criteria are met. The seventh criterion or element requires that:

7. The exercise or non-exercise of the embedded volumetric optionality is based primarily on physical factors, or regulatory requirements, that are outside the control of the parties and are influencing demand for, or supply of, the nonfinancial commodity.

In the Final Rule, the Commission specifically requested comments on whether this seventh element is necessary, appropriate and sufficiently clear and unambiguous. On October 12, 2012, NCGA and NGSA submitted written comments to the CFTC highlighting the market uncertainty that the new seven-criterion test creates in light of very clear statutory language stating that contracts with the intent to physically deliver are physical forward contracts. Specifically, NCGA and NGSA asked the Commission to affirm that the seven criteria identified in the Final Rule are simply illustrative of certain common characteristics in forward contracts with embedded optionality, and thus, a safe harbor instead of requirements for satisfaction of the forward contract exclusion.

NCGA and NGSA recognize the Commission's interest in retaining the ability to regulate physical contracts with embedded options as swaps if ''intent to physically deliver'' is not genuine and simply crafted to evade regulation. However, in this case, the Commission has created so much ambiguity in the applicability of the forward-contract

exclusion that market participants may be reluctant to use volumetric optionality in their forward contracting. Consequently, the regulatory uncertainty caused by the seven-criterion test compromises the viability of a physical commodity market delivery tool that is critical to market efficiency. The forward-contract exclusion should not be implemented in a way that limits its usefulness to catching bad actors at the expense of physical market efficiency.

The definition of swap has far-reaching effects beyond physical market efficiency. Determining what is and is not a swap impacts the calculation of notional amount and thus, which entities are swap dealers. It also impacts the application of position limits and the appropriate scope of the bona fide hedge exemption, clearing requirements, reporting requirements and capital and margin requirements. In short, the definition of swap is the heart and soul of the end-user protections.

The October 12, 2012 NCGA and NGSA request for clarity regarding the Commission's expected application of the seven-criterion test remains unanswered. In light of the lingering uncertainty created by the seven-criterion test, clarity regarding the applicability of the forward-contract exclusion to volumetric options embedded within a physical contract has become essential to commodity producers and consumers. Given the importance of the definition of swap to implementation of so many other Dodd-Frank-Act-related CFTC regulations, clarity is crucial to the sound implementation the Dodd-Frank Act. This regulatory uncertainty has complicated sound implementation of the Dodd-Frank Act and risks harming commodity market efficiency. The CFTC is contemplating some clarifying language on volumetric optionality which would be welcome news. Regardless of the CFTC's clarification, however, the implementation uncertainty that has persisted for the last four years illustrates the need for legislative changes.

The swap definition is fundamental to implementation of the CFTC's new Dodd-Frank rules and consequently to the on-going availability of cost-effective risk management tools. However, if the definition is too broad, it can bring in common commercial agreements that have no relationship to the types of transactions that the Dodd-Frank Act was intended to regulate. Market participants demonstrating the potential to exercise physical delivery or a history of physical delivery must have confidence in the forward-contract exclusion from the definition of a swap.

NCGA and NGSA are committed to working with you to achieve a positive outcome that both protects the integrity of commodity markets and ensures the continued availability of cost effective hedging tools.

Sincerely,

NATIONAL CORN GROWERS ASSOCIATION.
NATURAL GAS SUPPLY ASSOCIATION.

JUNE 2, 2015.

Hon. JOHN BOEHNER,
Speaker, House of Representatives, Washington, DC.
Hon. MICHAEL CONAWAY,
Chairman, House Agriculture Committee, House of Representatives,Washington, DC.
Hon. NANCY PELOSI,
Minority Leader, House of Representatives,Washington, DC.
Hon. COLLIN PETERSON,
Ranking Member, House Agriculture Committee, House of Representatives,Washington, DC.

DEAR SPEAKER BOEHNER, LEADER PELOSI, CHAIRMAN CONAWAY, AND RANKING MEMBER PETERSON: On behalf of the member companies of the Edison Electric Institute (EEI), I want to express our strong support for H.R. 2289, the Commodity End-User Relief Act. Key provisions in the legislation provide additional certainty and clarify congressional intent on a number of issues of significant importance to EEI members.

EEI is the association of U.S. investor-owned utilities, international affiliates and industry associates worldwide. Our members provide electricity for 220 million Americans, directly employ more than a half-million workers, and operate in all 50 states. With approximately $90 billion in annual capital expenditures, the electric utility industry is responsible for providing reliable, affordable, and increasingly clean electricity that powers the economy and enhances the lives of all Americans.

EEI members are non-financial entities that participate in the physical commodity market and rely on swaps and futures contracts primarily to hedge and mitigate their commercial risk. The goal of our member companies is to provide their customers with reliable electric service at affordable and stable rates, which has a direct and significant impact on literally every area of the U.S. economy. Since wholesale electricity and natural gas historically have been two of the most volatile commodity groups, our member companies place a strong emphasis on managing the price volatility inherent in these wholesale commodity markets to the benefit of their customers. The derivatives market has proven to be an extremely effective tool in insulating our customers from this risk and price volatility. In sum, our members are the quintessential commercial end-users of swaps. As such, regulations that make effective risk management options more costly for end-users of swaps will likely result in higher and more volatile energy prices for retail, commercial, and industrial customers. H.R. 2289 goes a long way in providing much needed regulatory relief and even greater clarity to the compliance landscape facing EEI and the entire end-user community going forward.

Thank you for your leadership on these important issues. We look forward to working with you to advance this legislation through the House.

Sincerely,

THOMAS R. KUHN.

MAY 12, 2015.

Hon. K. MICHAEL CONAWAY,
Chairman, Committee on Agriculture, House of Representatives, Longworth House Office Building, Washington, DC.

DEAR CHAIRMAN CONAWAY: The American Gas Association strongly supports the Commodity End User Relief Act, a bill to reauthorize the Commodity Exchange Act (CEA) that would improve Commodity Future Trading Commission (CFTC) operations and provide much-needed marketplace certainty and regulatory relief for natural gas utilities and the American homes and businesses to which they deliver natural gas.

The American Gas Association (AGA), founded in 1918, represents more than 200 local energy companies that deliver clean natural gas throughout the United States. There are more than 71 million residential, commercial and industrial natural gas customers in the U.S., of which 94 percent—over 68 million customers—receive their gas from AGA members. AGA is an advocate for natural gas utility companies and their customers and provides a broad range of programs and services for member natural gas pipelines, marketers, gatherers, international natural gas companies and industry associates. Today, natural gas meets more than one-fourth of the United States' energy needs.

The Commodity End User Relief Act will help the CFTC become a more responsive and well-equipped regulator. Commercial market participants currently lack basic procedural opportunities to hold the CFTC accountable for arbitrary and capricious actions. The lack of good process is self-evident in the haphazard pattern of rulemaking and non-rule ''guidance'' issued by the Commissioners or staff. Just yesterday, the CFTC answered a critical industry question about whether ''swaps'' (financial derivatives) include non-financial natural gas delivery contracts through an ''Interpretation'' rather than through formal regulation. Even this action is five months late: The CFTC asked for comments on this draft in November 2014 and closed the comment period in December 2014. The goal was to provide time-sensitive response to market participants. And yet, it took five months to finalize.

The Commodity End User Relief Act will help fix several problems described above—changes that can neither be made by the CFTC's evolving leadership nor by revisions to internal rules.

1. Direct Review in Federal Appellate Courts: The bill would allow the federal appellate courts to directly review CFTC rules, replacing the protracted and expensive trial court process currently in effect as the default rule for judicial review. This change will not increase litigation nor will it disrupt the CFTC. Rather, it will incentivize the CFTC to write better rules and avoid challenge altogether. Also, any inevitable legal challenges will be more swiftly decided by appellate courts, benefitting the regulator and the regulated community. All of the key federal rulemaking agencies are subject to direct appellate review — including the Securities Exchange Commission and Federal Energy Regulatory Commission. There is no logical justification to treat the CFTC differently.

2. Strict Compliance with the Administrative Procedures Act (APA): The CFTC's administrative process suffers from vague and varying levels of compliance with federal procedural laws. Strict compliance with federal laws requiring due process and notice should not be contingent on how the Commission leadership directs staff, shares information among Commissioners, or chooses between a legal rule, non-binding guidance, or interpretation for resolving a public concern. This bill would eliminate subjectivity and require strict compliance with the APA and Executive Orders that instruct agencies to ensure public notice-and-comment on rules or guidance that have legally-binding effects.

3. Give the CFTC Comprehensive Authority to Exempt End-Users' Physical Contracts from ''Swaps'' and ''Options'' Regulation: The CFTC undertook a tortuous four-year path of issuing interim final rules, policy guidance, and no-action letters, to arrive yesterday at yet another ''interpretation'' regarding how much of the physical marketplace will not be regulated as ''swaps''. In the interim, gas utilities have seen their physical gas counterparties (natural gas suppliers) exit the marketplace. Those that remain, offer less flexible and more costly contracting terms to avoid any confusion generated by CFTC policies that suggest these physical transactions are ''swaps''. In the past year alone, many AGA members' counterparties have abstained from providing the physical delivery flexibility that is needed to manage customer demand during hard winters and cold snaps. For AGA's rate-regulated utilities, cost increases for flexible gas supplies are passed directly to consumers.

Yesterday's Interpretation does help clarify the morass of regulatory guidance that

the CFTC has issued in prior years. However, confusion remains as at least two Commissioners disagree about what the CFTC has actually accomplished (see statements from CFTC Chairman Massad and Commissioner Bowen). Natural gas utilities cannot afford to wait any longer for policy clarity because energy consumers are paying the price for the CFTC's confusion. The Commodity End User Relief Act will definitively clarify that non-financial energy delivery agreements, that ensure physical delivery of natural gas to homes and businesses, will not be treated by the CFTC as speculative, financial instruments. The bill will help restore liquidity to the physical energy marketplace, which gas utilities rely on to mitigate commercial risk on behalf of consumers.

Congress certainly did not intend to provide the CFTC a tremendous regulatory mandate without giving it the necessary guidance and authority to do its job. Furthermore, Congress did not intend for the CEA to constrain liquidity in the physical natural gas marketplace, create business-changing impacts on regulated natural gas utilities, or increase the costs of reliable service for natural gas consumers. As such, AGA supports the Commodity End User Relief Act because it provides the CFTC the tools necessary to be a responsive regulator and restores the regulatory confidence that natural gas utilities rely on to procure natural gas supplies at the lowest reasonable cost for the benefit of America's natural gas consumers.

Sincerely,

DAVE MCCURDY,
President and CEO,
American Gas Association.

JUNE 8, 2015.

Re End-User Support for Passage of Derivatives End-User Clarifications in H.R. 2289, the Commodity End-User Relief Act.

TO THE MEMBERS OF THE U.S. HOUSE OF REPRESENTATIVES: The Coalition for Derivatives End-Users represents the views of companies that employ derivatives primarily to manage risks associated with their businesses. Hundreds of companies and business associations have been active in the Coalition, seeking strong, effective and fair regulation of derivatives markets that brings transparency and mitigates the risk of another systemic collapse while not unduly burdening American businesses and harming job growth. The Coalition supports H.R. 2289, the Commodity End-User Relief Act, which incorporates vital legislation aimed at protecting derivatives end-users.

In particular, the Coalition strongly supports the bill's inclusion of the language of H.R. 1317, the Derivatives End-User Clarification Act, sponsored by Representatives Moore, Stivers, Fudge and Gibson. H.R. 1317 is a narrowly targeted bill providing much-needed clarification that certain swap transactions with centralized treasury units (''CTUs'') of non-financial end-users are exempt from clearing requirements and fixes a language glitch in the Dodd-Frank Wall Street Reform and Consumer Protection Act (the ''Dodd-Frank Act'') that denies some end-users that employ CTUs the clearing exception that Congress passed specifically for them.

A Coalition survey of chief financial officers and corporate treasurers found that nearly half of the respondents use CTUs to execute over-the-counter derivatives. The Coalition is encouraged that the House of Representatives last year passed this CTU language (H.R. 5471/S. 2976) by voice vote, reflecting the fact that CTUs are a best practice among corporate treasurers and their use should be encouraged, not penalized.

While the Commodity Futures Trading Commission has issued no-action relief allowing some end-users to use the clearing exception, the relief does not fix the problematic language in the Dodd-Frank Act. This language, which also is referenced in regulatory proposals on margin, places corporate boards in the difficult position of approving decisions not to clear trades based on a staff letter indicating that the law will not be enforced against the company.

It also is important to note that international regulators often look to U.S. rules—but not no-action letters—when developing their regulations. Unless we fix the underlying problem in the Dodd-Frank Act, our denial of clearing relief to end-users with CTUs may be propagated overseas.

Throughout the legislative and regulatory process surrounding the Dodd-Frank Act, the Coalition has supported efforts to increase transparency in the derivatives markets and enhance financial stability for the U.S. economy through thoughtful new regulation while avoiding needless costs. We urge you to support the efforts to move this essential clarification in H.R. 2289.

Sincerely,

COALITION FOR DERIVATIVES END-USERS.

Mr. PETERSON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I oppose this legislation because it will roll back important financial regulations and interfere with the CFTC's ability to do its work. I am very concerned that H.R. 2289 will open the door to the types of things that created the financial mess that we are just beginning to get ourselves out of.

So let me be clear. I don't have an issue with many of the provisions that are relevant to end-user protections. In fact, the Dodd-Frank bill that I helped write states very clearly that end users were not the problem, and the CFTC has been very receptive to that fact and taken that into consideration as they have adopted rules.

One of my biggest concerns in this bill is the new cost-benefit analysis. This is, in my opinion, all cost and not a lot of benefit unless you are one of the nine big banks who, as far as I am concerned, have not learned a thing from the financial crisis. This not only adds an unneeded layer of government bureaucracy; it opens the doors to lawsuits from major banks seeking to delay or completely derail CFTC rulemakings.

I also have serious concerns with the trouble that will be caused by section 314, the cross-border section of this bill.

Chairman Massad has been negotiating extensively and in good faith with our European counterparts to harmonize their rules with ours. I have talked to the Chairman a number of times about this, and he has assured me and it has been independently verified that they are 85 percent of the way to getting a deal in this area. This provision in my opinion will cut the negotiators off at the knees. I am worried that this provision will take us back to where we were and what was happening prior to the financial crash. The big banks at that time that have offices both in London and New York were playing us against each other, getting the United States to water down rules by threatening to move their business elsewhere and vice versa, and that was verified on committee trips that we took over to Europe and in discussions with their regulators.

The cost-benefit requirement, as I said, along with the cross-border rule, will cost $45 billion over 5 years, according to the CBO. And again, this is a cost that I believe doesn't have a whole lot of benefit.

H.R. 2289 has a whole host of other problems. The bill unravels the transparency provided by Dodd-Frank, slows down CFTC staff ability to respond to industry concerns, mucks up the Commission's ability to issue guidance if rules need updating or clarification, and relitigates a disagreement between former commissioners that has no place in this bill.

This is a bad bill that can't be fixed. It should be defeated by the House. I urge my colleagues to oppose H.R. 2289.

Mr. Chairman, I have a statement from the administration where they have indicated their displeasure with this bill and the fact that they are going to recommend vetoing it.

I reserve the balance of my time.

STATEMENT OF ADMINISTRATION POLICY

H.R. 2289—COMMODITY END-USER RELIEF ACT

(Rep. Conaway, R–TX, June 2, 2015)

The Administration is firmly committed to strengthening the Nation's financial system through the implementation of key reforms to safeguard derivatives markets and ensure a stronger and fairer financial system for investors and consumers. The full benefit to the Nation's citizens and the economy cannot be realized unless the entities charged with establishing and enforcing the rules of the road have the resources to do so.

The Administration strongly opposes the passage of H.R. 2289 because it undermines the efficient functioning of the Commodity Futures Trading Commission (CFTC) by imposing a number of organizational and procedural changes and would undercut efforts taken by the CFTC over the last year to address end-user concerns. H.R. 2289 also offers no solution to address the persistent inadequacy of the agency's finding. The CFTC is one of only two Federal financial regulators funded through annual discretionary appropriations, and the funding the Congress has provided for it over the past five years has failed to keep pace with the increasing complexity of the Nation's financial markets. The changes proposed in H.R. 2289 would hinder the ability of the CFTC to operate effectively, thereby threatening the financial security of the middle class by encouraging the same kind of risky, irresponsible behavior that led to the great recession.

Prior to enactment of the Dodd-Frank Wall Street Reform and Consumer Protection Act, the derivatives markets were largely unregulated. Losses connected to derivatives rippled through that hidden network, playing a central role in the financial crisis. Wall Street Reform resulted in significant expansion of the CFTC's responsibilities, establishing a framework for standardized over-the-counter derivatives to be traded on regulated platforms and centrally cleared, and for data to be reported to repositories to increase transparency and price discovery. The changes proposed in H.R. 2289 would hinder the CFTC's progress in successfully implementing these critical responsibilities

and would unnecessarily disrupt the effective management and operation of the agency without providing the more robust and reliable funding that the agency needs.

In order to respond quickly to market events and market participants, the CFTC needs funding commensurate with its evolving oversight framework. The Administration looks forward to working with the Congress to authorize fee funding for the CFTC as proposed in the FY 2016 Budget request, a shift that would directly reduce the deficit. User fees were first proposed in the President's Budget by the Reagan Administration more than 30 years ago and have been supported by every Democratic and Republican Administration since that time. Fee funding would shift CFTC costs from the general taxpayer to the primary beneficiaries of the CFTC's oversight in a manner that maintains the efficiency, competitiveness, and financial integrity of the Nation's futures, options, and swaps markets, and supports market access for smaller market participants hedging or mitigating commercial or agricultural risk.

If the President were presented with H.R. 2289, his senior advisors would recommend that he veto the bill.

Mr. CONAWAY. Mr. Chairman, I yield myself 1 minute.

I remind my colleagues that the cost-benefit analysis provisions that are in this bill are remarkably similar to the bill last year, which garnered overwhelming support, including support out of the Agriculture Committee itself. Cost-benefit analysis is an important tool for any regulatory agency to have at its disposal to be able to use. This agency did not use the cost-benefit analysis rule that was in place because it was so weak and toothless that they just basically gave lip service to it, according to their own IG.

The cost-benefit analysis in this bill mirrors in most instances President Obama's executive order from January 2011 that required all nonindependent agencies to conduct cost-benefit analysis in a transparent manner to get to better rules in that regard.

Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. LAMALFA).

Mr. LAMALFA. Mr. Chairman, I thank my colleague, Chairman CONAWAY, for allowing me to speak today.

I rise today in support of H.R. 2289, the Commodity End-User Relief Act.

End users, such as our ranchers, farmers, manufacturers, and public utilities, face risks that they have no control over on a daily basis. For years now, they have used tools available to manage risks like volatile markets or changing interest rates, such as a farmer who uses futures contracts to establish a guaranteed price to offset the risk of a decrease in crop value before harvest or a grain company using derivatives to hedge commercial risks associated with buying wheat from a farmer. This is part of day-to-day operations that allow them to do their jobs and provide products in an affordable and accessible manner. However, the implementation of Dodd-Frank placed a number of costly burdens on our end users that limit their ability to use these tools.

It is important that we do all we can to erase this unintended and excessive red tape. One measure included in this bill today will do just that, which is my Public Power Risk Management Act, which passed with the full support of the House last year. Again, it is included in the bill today.

There are over 2,000 publicly owned utilities across the United States, including one in my district in the city of Redding, that have used swaps to manage their risk for years. However, Dodd-Frank put them at a major disadvantage to private utilities by limiting their ability to negotiate with swap dealers.

This bill would level the playing field permanently and ensure the 47 million Americans who rely on public power for electricity will not see their rates increase due to unnecessary regulatory policies. Our farmers, ranchers, and small businesses who pose no systemic risk to our financial system and certainly did not cause the financial crisis should not have to face costly bureaucratic overreach from policies originally intended to protect them in the first place.

I thank Chairman CONAWAY for his leadership on this bill. Let's help our agriculture community by passing this commonsense piece of legislation.

Mr. PETERSON. Mr. Chairman, I yield 5 minutes to the gentleman from Georgia (Mr. DAVID SCOTT).

Mr. DAVID SCOTT of Georgia. Mr. Chairman, as the ranking member of the subcommittee of jurisdiction over this bill, I would like to address the three major areas of contention here. We have put a lot of time, a lot of work in this over the years.

First, we want to deal with, as Mr. PETERSON brought up, some of his concerns and share how we are responding to that. I am a sponsor of this bill. We have worked on it. It is a similar bill to what we had before. The first area I want to deal with is cross border, and then I will go to cost-benefit analysis, and then end users.

What is important for the House and the people of this Nation to understand is that we operate in a global market, and our United States financial system is best served with deep financial liquidity. But if global regulations are not well harmonized, are not well coordinated, or we have good cross-border access, then these global markets will fragment into separate regulatory jurisdictions and become far less liquid, to the detriment of the United States financial system.

We know now that the derivatives swaps market is about an $815 trillion piece of the economy, and we must not—and I am sure we will not—put our financial system of the United States at a disadvantage on the world stage. By passing this bill, we will not do that. If we delay it again, we will be putting our financial system at a disadvantage on the stage.

Let me deal with the first concern that has been brought up. The claim that our legislation subverts the CFTC's authority to regulate foreign derivatives, this is flat-out false because at no point is an entity of the United States person able to escape U.S. rules that the CFTC, itself, has deemed equivalent. Let me read section 314 that has been referred to. In section (b)(2)(A) of 314, it clearly states that only the CFTC can make sure that foreign entities, regulations are comparable to the United States. At no point do we yield the power of the CFTC to any foreign entity unless the CFTC makes sure that that foreign entity has equivalent rules to our Nation.

Now, let me go to the claim that we are making it harder to challenge the cross border in 314. We are doing no such thing. It is important that if there is a country, if there is anybody in the world that wants to challenge, that wants to have a way of challenging the ruling of the CFTC, it is in our best interest to make sure that they go through a petition process, and the petition process is there to give the CFTC ample time—180 days—to review the challenge and be able to respond appropriately. And after the Commission makes its decision, we request them to report to the Congress. Now, how is that making it harder? As a matter of fact, it is making it easier and more transparent.

Now, the concern about the bill's attempts to rein in the CFTC's capacity to impose certain rules on Wall Street trades, this concern refers to what we refer to as U.S. persons and location tests. At no time, Mr. Chairman, does our bill state that U.S. persons are not subject to U.S. rules. Individuals and transactions are still allowed to be carved in definitions and, thus, subject to the same rules, the same tests, and regulations. And our own Commissioner Bowen, who is a Democrat serving on the CFTC, stated before my subcommittee, ''risk should be about risk and not about location.'' Tests should be about where the risk is, instead of where someone wrote something on a piece of paper.

Now let me deal with the business that our bill creates a presumption that each of the eight foreign jurisdictions with the largest swaps markets automatically have swap rules that are considered to be comparable to and as comprehensive as the United States requirements. Yes, they are correct, but that presumption comes only after the CFTC makes sure that those eight foreign markets have comparable rules to us. Here is what it says in section 1: ''The Commission shall determine, by rule or by order, whether the swaps regulatory requirements of foreign jurisdictions are comparable to and as comprehensive as United States requirements.''

I rest my case.

But now, Mr. Chairman, I want to turn to what is the most important cross-border issue, this business with the European Union. The European Union is discriminating against the United States.

The CHAIR. The time of the gentleman has expired.

Mr. PETERSON. I yield the gentleman an additional 2 minutes.

Mr. DAVID SCOTT of Georgia. The European Union is denying our country status in terms of equivalency of rules. Historically, we have always had that. But what is very interesting is they have already given this standing to jurisdictions that have the same regime as ours.

Why is that?

Something very strange is going on in the European Union. They are discriminating against our financial system when they will go ahead and approve other regimes that are equal to ours but not ours.

Why is this a terrible thing?

Because, Mr. Chairman, our clearinghouses can't do business in Europe if we are not qualified, if we do not have that equivalency. So by taking that equivalency away, they are keeping our clearinghouses and our businesses from being able to be used there because the other market participants will go elsewhere rather than come and do business with us.

There are millions of dollars at stake here, so we have got to certainly deal with that.

□ 1545

Mr. Chairman, I do want to say something about this cost-benefit analysis because this is not all truth is being told here. This cost-benefit analysis is being put on because it has the way of being able to make us more efficient.

Mr. PETERSON brought up the point of litigation; that is a legitimate concern, but here is what we did: we accepted and approved an amendment by Democratic Representative DELBENE and some Republicans to make sure that the CFTC's back door is protected. The amendment clearly states that the court must uphold the decision of the CFTC unless there has been an abuse of discretion.

In a court of law, abuse is a high threshold to attain.

The CHAIR. The time of the gentleman has again expired.

Mr. CONAWAY. Mr. Chairman, I yield the gentleman an additional 3 minutes.

Mr. DAVID SCOTT of Georgia. This is important, Mr. Chairman. I have got my name on this bill. I have put the work and time into this bill. It is important that I give the reasons why I am supporting this bill.

Now, this amendment says, as I said before, that a court must uphold the decision of the CFTC unless there has been an abuse of discretion. In a court of law, abuse is a high threshold to attain. If a firm wants to challenge the CFTC, they know right off that they better have beyond compelling facts to prove it.

The CFTC's abuse of power is a discretion. We are letting anyone know who would dare to pursue litigation against the CFTC that they better think twice.

Now, about the funding, Mr. Chairman, perhaps this cost analysis can help us build a case to take to the Appropriations Committee to get more money. The President has appropriately asked for more money for the CFTC.

Year after year after year, I have been asking for more money, but I do believe that if we put the cost-benefit analysis in there—and, again, Mr. Chairman, we have a section in there where this cost-benefit analysis would be more succinct if it is done with an economist. Cost benefit is an economic issue, a financial issue; an economist should be doing that, not a lawyer.

I believe, Mr. Chairman, that if we pass this bill, we will be taking a great step forward to be able to put our CFTC on the world stage to be able to negotiate the rules and regulations for the United States of America from a position of strength, not weakness. This is a very delicate time for us, and we are losing respect.

Look at the EU; look at how other nations are treating us. Could it be, Mr. Chairman, that we are losing this respect largely because in a way by continuing year after year—this is the third year of not reauthorizing CFTC—by us doing that, we are not respecting ourselves, Mr. Chairman?

Now, finally, Mr. Chairman, I do want to say this one thing about the end users. This is a very important piece of this bill. They can't wait another 3 years. They need this relief right away, and we need to do and be able to get them out of an identification of being a financial institution.

Let me tell you why that is. End users are businesses who use a single entity that allows their company to centralize functions such as credit and risk; however, when the banking laws come in on finance, they put them in that category.

The CHAIR. The time of the gentleman has again expired.

Mr. CONAWAY. Mr. Chairman, I yield myself such time as I may consume.

I enter into the RECORD a statement from the Chamber of Commerce and would like to read a couple of paragraphs from that.

''This bill also takes a practical approach to address one of the most problematic areas of regulatory implementation in the global derivatives market: cross-border harmonization. Many end users operate internationally and are struggling to meet the changing demands of multiple, conflicting, and sometimes duplicative regulatory regimes. H.R. 2289 would require the CFTC to move quickly to make substituted compliance determinations that would significantly reduce needless complexity and uncertainty for U.S. businesses, without reducing market transparency.

The Chamber also supports provisions in this bill intended to promote transparency and accountability in the CFTC's rulemaking process, including a requirement to conduct a cost-benefit analysis for new rules, and the establishment of an Office of the Chief Economist to support such analysis. Cost-benefit analysis has been a fundamental tool of effective government for more than three decades, and these requirements would help protect Main Street businesses, investors, and consumers from some of the unintended consequences of regulation.''

CHAMBER OF COMMERCE OF THE UNITED STATES OF AMERICA,

Washington, DC, June 8, 2015.

TO THE MEMBERS OF THE U.S. HOUSE OF REPRESENTATIVES: The U.S. Chamber of Commerce, the world's largest business federation representing the interests of more than three million businesses of all sizes, sectors, and regions, as well as state and local chambers and industry associations, and dedicated to promoting, protecting, and defending America's free enterprise system, strongly supports H.R. 2289, the ''Commodity End-User Relief Act,'' a bipartisan bill that would reauthorize the Commodity Futures Trading Commission (CFTC). This bill also includes a number of important reforms designed to promote smart regulation, enhance accountability at the CFTC, and protect Main Street businesses from onerous and unintended derivatives regulation.

The Chamber is particularly supportive of provisions in H.R. 2289 that would help preserve the ability of commercial end users to manage their financial risks by using derivatives. This bill includes a critical fix that would ensure non-financial companies would be protected from burdensome and unnecessary regulations, consistent with Congress's clear intent under the Dodd-Frank Act almost five years ago. Non-financial companies that use centralized treasury units to manage their enterprise-wide risk should not be penalized for adopting this risk reducing structure, and H.R. 2289 acknowledges and would address this issue.

This bill also takes a practical approach to address one of the most problematic areas of regulatory implementation in the global derivatives market: cross-border harmonization. Many end users operate internationally and are struggling to meet the changing demands of multiple, conflicting, and sometimes duplicative regulatory regimes. H.R. 2289 would require the CFTC to move quickly to make substituted compliance determinations that would significantly reduce needless complexity and uncertainty for U.S. businesses, without reducing market transparency.

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Additionally, H.R. 2289 contains a number of sensible provisions that would promote principles of good governance, including providing market participants with better Commission oversight regarding ''no action'' letters issued by the CFTC staff, and a requirement that the CFTC develop internal risk control mechanisms in order to protect sensitive market data. These are common sense measures that would help make the CFTC a more effective and accountable regulator, and the Chamber appreciates their inclusion in this bill.

The Chamber strongly urges you to support H.R. 2289 and may consider including votes on, or in relation to, this bill in our annual How They Voted scorecard.

Sincerely,

R. BRUCE JOSTEN.

Mr. CONAWAY. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois (Mr. RODNEY DAVIS).

Mr. RODNEY DAVIS of Illinois. Mr. Chairman, I thank Chairman CONAWAY for his leadership on this issue.

I rise today in support of H.R. 2289, the Commodity End-User Relief Act.

The use of derivatives is an important tool that farmers, agribusinesses, and manufacturers in my district use to hedge the risks that come with doing their business. Because of the risk of price movements and commodities, such as corn and soybeans, these end users use derivatives to ensure they and their customers aren't negatively impacted by sudden changes in prices.

The CFTC has an important role in overseeing these end users, who responsibly use derivatives to hedge. Unfortunately, following the passage of Dodd-Frank in 2010, many of these responsible hedgers, including farmers right in my congressional district in central and southwestern Illinois, have been impacted by these new regulations that often treat them as speculators. Mr. Chairman, farmers aren't speculators. Farmers didn't cause the global financial crisis, and farmers shouldn't be treated like they did.

This bill includes language that I authored to address regulations that could directly increase transportation prices for consumers back home. Additionally, the final bill includes an amendment I offered at committee that removes unnecessary and duplicative regulations created by the CFTC that require certain registered investment companies, such as mutual funds, to be regulated by both the SEC and the CFTC.

This language, which was adopted unanimously in the committee, removes this duplicative burden in a manner that would not undermine investor protection because these companies would still be regulated by the SEC.

This bill is an important and necessary opportunity for Congress to use the reauthorization process as a means to improve the regulatory environment and the impact it has on responsible market participants, as well as exchanges like the CME Group, which is headquartered in my home State of Illinois.

Mr. Chairman, I am proud of the committee's work on this bill. I want to express my appreciation for the work of Chairman CONAWAY and what he has done to get us here, as well as Chairman AUSTIN SCOTT and Ranking Member DAVID SCOTT of the Commodity Exchanges, Energy, and Credit Subcommittee.

This is an important bill, and I urge my colleagues to vote ''yes.''

Mr. PETERSON. Mr. Chairman, I yield 2 minutes to the gentlewoman from Connecticut (Ms. DELAURO).

Ms. DELAURO. Mr. Chairman, I rise in opposition to this bill; yet again, this bill deliberately sets out to weaken one of our most important financial regulators, the Commodity Futures Trading Commission.

It fails to address the CFTC's biggest challenge, its flawed funding mechanism. It prioritizes Wall Street special interests over the economic security of our Nation's families.

This bill is a recipe for another financial disaster like the one that led to the Great Recession and cost nearly 9 million American jobs.

Americans are tired of casino banking and speculation. They want big banks and oil speculators held accountable. They want to increase the transparency of our markets, prevent market failures, and avoid future bailouts. That is the CFTC's job.

This bill takes us in the wrong direction. Instead of helping the CFTC fulfill its mandate in an increasingly complex global financial sector, the bill throws up roadblock after roadblock.

The CFTC is one of only two Federal financial regulators completely reliant upon the general fund. The Securities and Exchange Commission, the Federal Deposit Insurance Corporation, Federal Housing Finance Agency, and a host of others all collect user fees, so should the CFTC.

This is not a partisan proposition. The first President to propose user-fee funding for the CFTC was Ronald Reagan. Every President since then, Republican or Democrat, has done the same.

User fees would directly reduce the deficit while securing CFTC's funding for the long term. That is even more important now that the agency's responsibilities have been expanded in response to the bad behavior that created the financial crisis.

I submitted an amendment that would have dealt with this problem, but the majority refused to allow it to be heard.

We must avoid at all costs a return to the conditions that allowed the Great Recession to happen, and I urge my colleagues to vote ''no'' on this bill.

Mr. CONAWAY. Mr. Chairman, I yield myself such time as I may consume.

I would like to remind or at least acknowledge to the committee that CFTC's funding is up 49 percent since 2010 when the Dodd-Frank bill was presented, 49 percent increase in funding.

Mr. Chairman, I yield 3 minutes to the gentleman from Virginia (Mr. GOODLATTE), the former chairman of the House Agriculture Committee and the current chairman of the House Judiciary Committee.

Mr. GOODLATTE. Mr. Chairman, I thank Chairman CONAWAY for yielding me this time and thank him for his leadership on this important legislation.

I rise today to support H.R. 2289, the Commodity End-User Relief Act, a bill to reauthorize the Commodity Futures Trading Commission.

As we have heard today, the CFTC's mission is to foster a transparent, balanced, and functional marketplace. However, uncertainty and delays in the marketplace mean higher prices for families and small businesses across America. As the committee charged with ensuring the oversight of our commodity markets, it is our duty to ensure that those markets are functioning properly.

For the last several years, the Agriculture Committee, through the strong leadership of former Chairman FRANK LUCAS and current Chairman MIKE CONAWAY, has done an excellent job of educating Congress and the American public about the importance of our commodity markets and the need for a strong reauthorization of the CFTC.

I was also pleased to work closely with the Subcommittee on Commodity Exchanges, Energy, and Credit's Chairman AUSTIN SCOTT on this legislation. He and his staff have been leading an open and transparent process that involved all stakeholder groups and took input from across the country.

In an effort to help the CFTC achieve its mission, I worked with the committee and the CFTC to craft an amendment which was adopted in committee to address the issue of manufacturers being able to take timely delivery of aluminum for production at a fair price. These manufacturers support a broad set of industries from common drink cans to airplane parts.

The persistence of long, disruptive market queues for the delivery of aluminum at warehouses in the United States, licensed overseas, has attracted considerable concern for end users and the consumers of products which many Americans utilize on a daily basis.

My provision will prevent the unreasonable delay of delivery of such commodities stored in warehouses, which can cost end-user companies increased storage fees, potentially higher prices due to supply and demand implications from improper exchange contract design, and result in uneconomic commodity prices.

Specifically, the amendment directs the CFTC to report to Congress regarding the ongoing review of foreign board of trade applications of metal exchanges and the status of its negotiations with foreign regulators regarding aluminum warehousing.

Such status reports shall inform the CFTC in determining foreign boards of trade status for metals exchange applications, and such determination shall be made no later than September 30, 2016.

In closing, I would like to again applaud Chairman CONAWAY and subcommittee Chairman SCOTT for their hard work to get this bill to the floor today. This bipartisan bill takes steps to improve consumer protections for

farmers and ranchers, as well as implementing reforms, to ensure a more balanced regulatory approach that will help our markets thrive.

Mr. PETERSON. Mr. Chairman, I yield myself such time as I may consume.

With all due respect to my colleagues who have been claiming that the bill does this and does that, there are a lot of groups that have a different view.

There are over two-hundred-and-some groups that disagree with how the impacts of these bills were going to affect the markets, including the chairman of the Commodity Futures Trading Commission, who are the people who actually have to administer this law.

□ 1600

And we have a letter from the chairman that has a completely different point of view than Mr. SCOTT has and others in terms of how this will impact the situation. According to the chairman, you know, he is opposed to this. He says: ''I believe that many of the provisions in this bill before the committee are either unnecessary or impose requirements on the Commission that would make it harder to fulfill their mission. The bill limits the agency's ability to respond quickly to both market events and market participants. It will make it more difficult for us to make adjustments to rules and achieve greater global harmonization of swaps rules. With respect to the provisions pertaining to commercial end users' concerns, the agency has sufficient authority to address the goals outlined in the legislation and in most cases has already done so.''

He also states: ''I have concerns that title II of the bill includes language that would complicate the agency's longstanding statutory requirements to consider costs and benefits in its rulemaking, imposing additional, unworkable standards and creating confusion that is likely to lead to more lawsuits instead of policy grounded in data-driven analysis. Had this language been in effect, it would have been harder for the agency to positively respond over the past 10 months to market participants' concerns. Title II also imposes procedural requirements on the agency that, to my knowledge, are not followed by any other independent agency. These changes would make it difficult to manage the agency and to ensure accountability and could weaken the Commission for administrations to come.''

So there is a disagreement of opinion about how this bill will actually impact the marketplace and how it will actually work. And if, as was claimed, it wasn't going to have any effect, I would be here supporting it.

In my opinion, this is going to have significant impacts on the way the Commission does its work, and I think it is going to do more harm than good.

I reserve the balance of my time.

Mr. CONAWAY. Mr. Chairman, may I inquire as to how much time is left on both sides?

The CHAIR. The gentleman from Texas has 13 minutes remaining. The gentleman from Minnesota has 15 minutes remaining.

Mr. CONAWAY. I reserve the balance of my time.

Mr. PETERSON. Apparently, I have a speaker coming, but she is not here yet, so we could wrap up, I guess.

Mr. CONAWAY. I am prepared to close if you are, and I reserve the balance of my time.

Mr. PETERSON. Mr. Chair, I think I made clear my position. I was hoping that we could work out a bill here that could have support across the board, but I just think that there are areas we have gone into with this bill that are going to cause more harm than good, and I think it is not a good bill. It is not the kind of bill that we need to give the Commission the reauthorization that they need to do their job, so I ask my colleagues to oppose the bill.

I yield back the balance of my time.

Mr. CONAWAY. Mr. Chairman, I yield myself the balance of the time.

It should come as no surprise that those who are being regulated have a difference of opinion with the folks proposing regulations. In this instance, the roles are actually reversed.

Tim Massad is a good guy, a good friend of mine, and an individual I look forward to working with. He doesn't want to change the deal he has got.

Well, if you look back at all the testimony that has been delivered throughout all of our hearings, most of the folks on the regulated side, the end users, the banks, the brokers, the SEFs, everybody else, they didn't like what the CFTC was doing to them. So the CFTC was able to power through the objections, and I would like for us to do the same thing, because what we have asked the CFTC to do is rational, straightforward stuff with respect to the changes at the operations of the Committee itself.

Over the past 4 years, the Committee on Agriculture has heard dozens of witnesses testify about the upheaval end users have been facing while trying to use derivatives markets in the wake of the postcrisis financial reforms. While this Congress took affirmative steps in Dodd-Frank to protect end users from harm, today it is clear there is still work to be done.

It isn't enough to simply raise these issues and hope that the CFTC will take care of them for us. For one, sometimes they cannot. There are numerous small oversights in the statute that have huge implications for end users that we correct in this legislation.

The CEA prevents many end users from claiming their exemption because they conduct their hedging activity out of an affiliate specifically created to manage risks throughout the entire corporate enterprise. The Commission can't fix this req.

The CEA requires foreign regulators to indemnify the CFTC, even though that is a legal concept that does not exist in many foreign legal jurisdictions. The Commission can't fix it.

Currently, the CEA defines some utility companies as financial entities, stripping them of their status as end users. The Commission can't fix that.

The core principles of SEFs were lifted almost word for word from the core principles for future exchanges, even though SEFs and future exchanges operate completely differently and SEFs cannot perform many of the functions of a futures exchange. The Commission can't fix this.

Certainly, the Commission can and has tried to paper over these problems by issuing staff letters explaining how it would deal with incongruities of the law, but this isn't good enough. We know the problems, and we should fix them.

Sometimes, though, the problem isn't the statute. There are a number of end users that we have heard testimony about which the CFTC will not fix because the Commission simply disagrees with Congress about how to apply the law. We know these problems, too.

The Commission has promulgated a rule that reduces the transaction threshold, which triggers the requirement to register as a swap dealer from $8 billion to $3 billion, a 60 percent decline, while they are still studying the matter. We require that the CFTC complete the study and have a public vote on the matter before that automatic decrease occurs.

The Commission has proposed a new and significantly narrower method of granting bona fide hedge exemptions, upending longstanding hedging conventions for market participants. This proposal is also dramatically more labor intensive for the Commission to implement than the current process. We should insist that historic hedging practices be protected.

The Commission has dramatically expanded the recordkeeping requirements, requiring businesses to trade only for themselves and have no fiduciary obligations to customers to retain any record that would lead to a trade. This requirement demands that end users retain emails, texts, phone messages, and other records in which a potential trade or hedge was simply contemplated or discussed. We should clearly spell out that end users need only retain written records for actual transactions.

The challenges facing businesses that hedge their risks in derivative markets are real, and we have an opportunity today to fix some of those problems. Every dollar that a business can save by better managing risks is a dollar available to grow its business, to pay higher wages, to protect investors, or to lower the costs to consumers.

Over the past week, over 40 organizations representing thousands of American businesses have voiced their support for the important reforms of the Commodity End-User Relief Act. Businesses from agriculture producers, to

major manufacturers, to public utilities need every tool available to manage their businesses and reduce the uncertainties they face each and every day.

I urge my colleagues to support the Commodity End-User Relief Act to protect these companies and to ensure that they have the tools they need to compete in a global economy. I urge my colleagues to support H.R. 2289.

I yield back the balance of my time.

Ms. MAXINE WATERS of California. Mr. Chair, I rise today in strong opposition to H.R. 2289. The bill would obstruct our cop on the Wall Street beat, the Commodity Futures Trading Commission, from doing its job. The CFTC is charged with fostering open, transparent, competitive, and financially sound markets, mitigates systemic risk, and protects market participants, consumers, and the public from fraud, manipulation, and abusive practices related to derivatives. In sum, the CFTC protects farmers, manufacturers, municipalities, pension funds and retirees but would be thwarted from doing so if H.R. 2289 is enacted.

In the wake of the worst financial crisis since the Great Depression, Congress passed Wall Street Reform—and gave our derivatives regulator the authority necessary to oversee previously unregulated transactions in which parties agree to exchange—or ''swap''—the risks of one financial instrument with another. The most notorious of these are credit-default swaps, made famous by AIG and which fueled the 2008 crisis, bankrupted millions of homeowners and cost taxpayers trillions of dollars.

Nevertheless, under the guise of reauthorizing the CFTC, Republicans are proposing a bill that undermines its regulatory authority, imposes new procedural requirements on an overburdened and underfunded agency, and ultimately hamstrings the Commission's ability to protect the American people.

This bill imposes heavy administrative hurdles and new litigation risks on the CFTC by requiring the agency to conduct a cost-benefit analysis slanted towards industry—a tactic that has been pushed in the past by opponents of financial reform to prevent, delay or weaken any rules implementing the Dodd-Frank Act.

The bill also makes it much more difficult for the CFTC to regulate and oversee derivatives transactions involving the foreign operations of megabanks like Citigroup, JP Morgan, and Bank of America. Earlier this Congress, Republicans overreached when they tried to pass a provision weakening the Volcker Rule's ban on banks taking bets with taxpayer dollars. H.R. 2289 is cut from the same cloth—instead allowing these same institutions to avoid U.S. law by setting up shop in a foreign jurisdiction, even though the risk may still be borne by U.S. taxpayers. There is even a provision in this bill that absurdly directs the CFTC to ignore the physical location of a bank's swap trader when determining whether the derivative was conducted inside the United States for purposes of applying U.S. law.

And all of this is done without providing one red cent to pay for these new burdens. CBO estimates that this bill costs at least $45 million, but the Republicans wouldn't even let the House consider an amendment to pay for it, offered by Representative DELAURO. The result is that H.R. 2289 will deplete the CFTC's modest resources currently spent enforcing against fraud.

But don't take my word for it. The Commission's own Chairman says the bill makes it harder for the CFTC to fulfill its mission and creates ''unintended loopholes and uncertainties.'' The White House says the bill ''[threatens] the financial security of the middle class.'' And public interest groups, such as the Consumer Federation of America, and some industry groups, have weighed in as well, voicing their strong opposition to the bill.

While not necessarily surprising, Republicans on the Agricultural Committee refused to work with Ranking Member PETERSON to improve this bill—despite his deep commitment to making the Commission work better for farmers, ranchers and manufacturers. Even though several of the megabanks that directly benefit from H.R. 2289 pled guilty to manipulating our foreign exchange markets, Republicans also rejected my amendment, which sought to ensure that these banks' admissions of violating our laws have real collateral consequences and are not merely symbolic.

Ultimately, this legislation is part of an ongoing, multifaceted Republican effort to undercut financial reform laws and regulations that protect consumers, investors and the economy. That's why it should come as no surprise that Koch Industries, for instance, spent $2.8 million lobbying to ensure the passage of this bill alone. The playbook is well-known: create huge loopholes and carve-outs for special interests, while simultaneously underfunding the cop with the authority to ensure compliance with the law.

I urge my colleagues to join me in voting ''No'' on this bill.

Mr. VAN HOLLEN. Mr. Chair, just yesterday, I signed a letter with five other Ranking Members on this side of the aisle in opposition to this poorly conceived Commodity Futures Trading Commission (CFTC) Reauthorization bill—which is also opposed by the Obama Administration, CFTC Chairman Massad, and a whole host of consumer groups.

For those who aren't familiar with it, the Commodity Futures Trading Commission (CFTC) has a very important job: it regulates the futures and options markets in the agricultural sector, including commodity-related derivatives. While there's no question that the appropriate use of these financial instruments can help farmers and commercial end users hedge their commercial risk, recent history clearly demonstrates that the unregulated abuse of these kinds of products can distort markets, hurt consumers and put our entire economy at risk. The CFTC's authority was allowed to expire in 2013, so its reauthorization is long overdue. Having said that, today's legislation has multiple major defects. I will briefly describe three.

First, Title II of H.R. 2289 imposes new bureaucratic requirements on an agency whose activities are already governed by the Commodity Exchange Act, the Paperwork Reduction Act, the Congressional Review Act, and the Regulatory Flexibility Act. With all due respect, the bureaucracy does not need more bureaucracy. In this case, it simply needs to do its job policing our financial markets. If enacted into law, Title II of this bill would undermine the CFTC's ability to do its job and subject the commission to unnecessary and costly litigation risk.

Second, Title III of H.R. 2289 requires a complex new rulemaking for our international derivatives markets. While I support the goal of harmonizing global rules in this area, this provision of the bill interferes with the CFTC's ongoing negotiations to achieve that objective and instead substitutes and attempts to predetermine the majority's preferred outcome for those negotiations. In my judgment, the CFTC should be allowed to complete its negotiations unfettered by the dictates of this legislation.

Finally, the non-partisan Congressional Budget Office estimates that all of the additional requirements placed on the CFTC by this legislation will require 30 new employees at a cost of $45 million over the next five years—a cost this bill does not even attempt to pay for. Moreover, an amendment to permit the CFTC to collect user fees to close that gap and help pay for the CFTC's operations was not even afforded the opportunity for an up or down vote on the floor of the House today.

Mr. Chair, the reauthorization of the CFTC is an important subject, worthy of a far more thoughtful bill than we are being asked to consider today. I strongly urge a no vote, and I yield back the balance of my time.

The CHAIR. All time for general debate has expired.

Pursuant to the rule, the bill shall be considered for amendment under the 5-minute rule.

In lieu of the amendment in the nature of a substitute recommended by the Committee on Agriculture, printed in the bill, it shall be in order to consider as an original bill for the purpose of amendment under the 5-minute rule an amendment in the nature of a substitute consisting of the text of Rules Committee Print 114–18. That amendment in the nature of a substitute shall be considered as read.

The text of the amendment in the nature of a substitute is as follows:

H.R. 2289

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Commodity End-User Relief Act''.

SEC. 2. TABLE OF CONTENTS.

The table of contents of this Act is as follows:

TITLE I—CUSTOMER PROTECTIONS

SEC. 101. ENHANCED PROTECTIONS FOR FUTURES CUSTOMERS.

Section 17 of the Commodity Exchange Act (7 U.S.C. 21) is amended by adding at the end the following:

''(s) A registered futures association shall—

''(1) require each member of the association that is a futures commission merchant to maintain written policies and procedures regarding the maintenance of—

''(A) the residual interest of the member, as described in section 1.23 of title 17, Code of Federal Regulations, in any customer segregated funds account of the member, as identified in section 1.20 of such title, and in any foreign futures and foreign options customer secured amount funds account of the member, as identified in section 30.7 of such title; and

''(B) the residual interest of the member, as described in section 22.2(e)(4) of such title, in any cleared swaps customer collateral account of the member, as identified in section 22.2 of such title; and

''(2) establish rules to govern the withdrawal, transfer or disbursement by any member of the association, that is a futures commission merchant, of the member's residual interest in customer segregated funds as provided in such section 1.20, in foreign futures and foreign options customer secured amount funds, identified as provided in such section 30.7, and from a cleared swaps customer collateral, identified as provided in such section 22.2.''.

SEC. 102. ELECTRONIC CONFIRMATION OF CUSTOMER FUNDS.

Section 17 of the Commodity Exchange Act (7 U.S.C. 21), as amended by section 101 of this Act, is amended by adding at the end the following:

''(t) A registered futures association shall require any member of the association that is a futures commission merchant to—

''(1) use an electronic system or systems to report financial and operational information to the association or another party designated by the registered futures association, including information related to customer segregated funds, foreign futures and foreign options customer secured amount funds accounts, and cleared swaps customer collateral, in accordance with such terms, conditions, documentation standards, and regular time intervals as are established by the registered futures association;

''(2) instruct each depository, including any bank, trust company, derivatives clearing organization, or futures commission merchant, holding customer segregated funds under section 1.20 of title 17, Code of Federal Regulations, foreign futures and foreign options customer secured amount funds under section 30.7 of such title, or cleared swap customer funds under section 22.2 of such title, to report balances in the futures commission merchant's section 1.20 customer segregated funds, section 30.7 foreign futures and foreign options customer secured amount funds, and section 22.2 cleared swap customer funds, to the registered futures association or another party designated by the registered futures association, in the form, manner, and interval prescribed by the registered futures association; and

''(3) hold section 1.20 customer segregated funds, section 30.7 foreign futures and foreign options customer secured amount funds and section 22.2 cleared swaps customer funds in a depository that reports the balances in these accounts of the futures commission merchant held at the depository to the registered futures association or another party designated by the registered futures association in the form, manner, and interval prescribed by the registered futures association.''.

SEC. 103. NOTICE AND CERTIFICATIONS PROVIDING ADDITIONAL CUSTOMER PROTECTIONS.

Section 17 of the Commodity Exchange Act (7 U.S.C. 21), as amended by sections 101 and 102 of this Act, is amended by adding at the end the following:

''(u) A futures commission merchant that has adjusted net capital in an amount less than the amount required by regulations established by the Commission or a self-regulatory organization of which the futures commission merchant is a member shall immediately notify the Commission and the self-regulatory organization of this occurrence.

''(v) A futures commission merchant that does not hold a sufficient amount of funds in segregated accounts for futures customers under section 1.20 of title 17, Code of Federal Regulations, in foreign futures and foreign options secured amount accounts for foreign futures and foreign options secured amount customers under section 30.7 of such title, or in segregated accounts for cleared swap customers under section 22.2 of such title, as required by regulations established by the Commission or a self-regulatory organization of which the futures commission merchant is a member, shall immediately notify the Commission and the self-regulatory organization of this occurrence.

''(w) Within such time period established by the Commission after the end of each fiscal year, a futures commission merchant shall file with the Commission a report from the chief compliance officer of the futures commission merchant containing an assessment of the internal compliance programs of the futures commission merchant.''.

SEC. 104. FUTURES COMMISSION MERCHANT COMPLIANCE.

(a) IN GENERAL.—Section 4d(a) of the Commodity Exchange Act (7 U.S.C. 6d(a)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B);

(2) by inserting ''(1)'' before ''It shall be unlawful''; and

(3) by adding at the end the following new paragraph:

''(2) Any rules or regulations requiring a futures commission merchant to maintain a residual interest in accounts held for the benefit of customers in amounts at least sufficient to exceed the sum of all uncollected margin deficits of such customers shall provide that a futures commission merchant shall meet its residual interest requirement as of the end of each business day calculated as of the close of business on the previous business day.''.

(b) CONFORMING AMENDMENT.—Section 4d(h) of such Act (7 U.S.C. 6d(h)) is amended by striking ''Notwithstanding subsection (a)(2)'' and inserting ''Notwithstanding subsection (a)(1)(B)''.

SEC. 105. CERTAINTY FOR FUTURES CUSTOMERS AND MARKET PARTICIPANTS.

Section 20(a) of the Commodity Exchange Act (7 U.S.C. 24(a)) is amended—

(1) by striking ''and'' at the end of paragraph (4);

(2) by striking the period at the end of paragraph (5) and inserting ''; and''; and

(3) by adding at the end the following:

''(6) that cash, securities, or other property of the estate of a commodity broker, including the trading or operating accounts of the commodity broker and commodities held in inventory by the commodity broker, shall be included in customer property, subject to any otherwise unavoidable security interest, or otherwise unavoidable contractual offset or netting rights of creditors (including rights set forth in a rule or bylaw of a derivatives clearing organization or a clearing agency) in respect of such property, but only to the extent that the property that is otherwise customer property is insufficient to satisfy the net equity claims of public customers (as such term may be defined by the Commission by rule or regulation) of the commodity broker.''.

TITLE II—COMMODITY FUTURES TRADING COMMISSION REFORMS

SEC. 201. EXTENSION OF OPERATIONS.

Section 12(d) of the Commodity Exchange Act (7 U.S.C. 16(d)) is amended by striking ''2013'' and inserting ''2019''.

SEC. 202. CONSIDERATION BY THE COMMODITY FUTURES TRADING COMMISSION OF THE COSTS AND BENEFITS OF ITS REGULATIONS AND ORDERS.

Section 15(a) of the Commodity Exchange Act (7 U.S.C. 19(a)) is amended—

(1) by striking paragraphs (1) and (2) and inserting the following:

''(1) IN GENERAL.—Before promulgating a regulation under this Act or issuing an order (except as provided in paragraph (3)), the Commission, through the Office of the Chief Economist, shall assess and publish in the regulation or order the costs and benefits, both qualitative and quantitative, of the proposed regulation or order, and the proposed regulation or order shall state its statutory justification.

''(2) CONSIDERATIONS.—In making a reasoned determination of the costs and the benefits, the Commission shall evaluate—

''(A) considerations of protection of market participants and the public;

''(B) considerations of the efficiency, competitiveness, and financial integrity of futures and swaps markets;

''(C) considerations of the impact on market liquidity in the futures and swaps markets;

''(D) considerations of price discovery;

''(E) considerations of sound risk management practices;

''(F) available alternatives to direct regulation;

''(G) the degree and nature of the risks posed by various activities within the scope of its jurisdiction;

''(H) the costs of complying with the proposed regulation or order by all regulated entities, including a methodology for quantifying the costs (recognizing that some costs are difficult to quantify);

''(I) whether the proposed regulation or order is inconsistent, incompatible, or duplicative of other Federal regulations or orders;

''(J) the cost to the Commission of implementing the proposed regulation or order by the Commission staff, including a methodology for quantifying the costs;

''(K) whether, in choosing among alternative regulatory approaches, those approaches maximize net benefits (including potential economic and other benefits, distributive impacts, and equity); and

''(L) other public interest considerations.''; and

(2) by adding at the end the following:

''(4) JUDICIAL REVIEW.—Notwithstanding section 24(d), a court shall affirm a Commission assessment of costs and benefits under this subsection, unless the court finds the assessment to be an abuse of discretion.''.

SEC. 203. DIVISION DIRECTORS.

Section 2(a)(6)(C) of the Commodity Exchange Act (7 U.S.C. 2(a)(6)(C)) is amended by inserting '', and the heads of the units shall serve at the pleasure of the Commission'' before the period.

SEC. 204. OFFICE OF THE CHIEF ECONOMIST.

(a) IN GENERAL.—Section 2(a) of the Commodity Exchange Act (7 U.S.C. 2(a)) is amended by adding at the end the following:

''(17) OFFICE OF THE CHIEF ECONOMIST.—

''(A) ESTABLISHMENT.—There is established in the Commission the Office of the Chief Economist.

''(B) HEAD.—The Office of the Chief Economist shall be headed by the Chief Economist, who shall be appointed by the Commission and serve at the pleasure of the Commission.

''(C) FUNCTIONS.—The Chief Economist shall report directly to the Commission and perform such functions and duties as the Commission may prescribe.

''(D) PROFESSIONAL STAFF.—The Commission shall appoint such other economists as may be necessary to assist the Chief Economist in performing such economic analysis, regulatory cost-benefit analysis, or research any member of the Commission may request.''.

(b) CONFORMING AMENDMENT.—Section 2(a)(6)(A) of such Act (7 U.S.C. 2(a)(6)(A)) is amended by striking ''(4) and (5) of this subsection'' and inserting ''(4), (5), and (17)''.

SEC. 205. PROCEDURES GOVERNING ACTIONS TAKEN BY COMMISSION STAFF.

Section 2(a)(12) of the Commodity Exchange Act (7 U.S.C. 2(a)(12)) is amended—

(1) by striking ''(12) The'' and inserting the following:

''(12) RULES AND REGULATIONS.—

''(A) IN GENERAL.—Subject to the other provisions of this paragraph, the''; and

(2) by adding after and below the end the following new subparagraph:

''(B) NOTICE TO COMMISSIONERS.—The Commission shall develop and publish internal procedures governing the issuance by any division or office of the Commission of any response to a formal, written request or petition from any member of the public for an exemptive, a no-action, or an interpretive letter and such procedures shall provide that the commissioners be provided with the final version of the matter to be issued with sufficient notice to review the matter prior to its issuance.''.

SEC. 206. STRATEGIC TECHNOLOGY PLAN.

Section 2(a) of the Commodity Exchange Act (7 U.S.C. 2(a)), as amended by section 204(a) of this Act, is amended by adding at the end the following:

''(18) STRATEGIC TECHNOLOGY PLAN.—

''(A) IN GENERAL.—Every 5 years, the Commission shall develop and submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a detailed plan focused on the acquisition and use of technology by the Commission.

''(B) CONTENTS.—The plan shall—

''(i) include for each related division or office a detailed technology strategy focused on market surveillance and risk detection, market data collection, aggregation, interpretation, standardization, harmonization, normalization, validation, streamlining or other data analytic processes, and internal management and protection of data collected by the Commission, including a detailed accounting of how the funds provided for technology will be used and the priorities that will apply in the use of the funds; and

''(ii) set forth annual goals to be accomplished and annual budgets needed to accomplish the goals.''.

SEC. 207. INTERNAL RISK CONTROLS.

Section 2(a)(12) of the Commodity Exchange Act (7 U.S.C. 2(a)(12)), as amended by section 205 of this Act, is amended by adding at the end the following:

''(C) INTERNAL RISK CONTROLS.—The Commission, in consultation with the Chief Economist, shall develop comprehensive internal risk control mechanisms to safeguard and govern the storage of all market data by the Commission, all market data sharing agreements of the Commission, and all academic research performed at the Commission using market data.''.

SEC. 208. SUBPOENA DURATION AND RENEWAL.

Section 6(c)(5) of the Commodity Exchange Act (7 U.S.C. 9(5)) is amended—

(1) by striking ''(5) SUBPOENA.—For'' and inserting the following:

''(5) SUBPOENA.—

''(A) IN GENERAL.—For''; and

(2) by adding after and below the end the following:

''(B) OMNIBUS ORDERS OF INVESTIGATION.—

''(i) DURATION AND RENEWAL.—An omnibus order of investigation shall not be for an indefinite duration and may be renewed only by Commission action.

''(ii) DEFINITION.—In clause (i), the term 'omnibus order of investigation' means an order of the Commission authorizing 1 of more members of the Commission or its staff to issue subpoenas under subparagraph (A) to multiple persons in relation to a particular subject matter area.''.

SEC. 209. APPLICABILITY OF NOTICE AND COMMENT REQUIREMENTS OF THE ADMINISTRATIVE PROCEDURE ACT TO GUIDANCE VOTED ON BY THE COMMISSION.

Section 2(a)(12) of the Commodity Exchange Act (7 U.S.C. 2(a)(12)), as amended by sections 205 and 207 of this Act, is amended by adding at the end the following:

''(D) APPLICABILITY OF NOTICE AND COMMENT RULES TO GUIDANCE VOTED ON BY THE COMMISSION.—The notice and comment requirements of section 553 of title 5, United States Code, shall also apply with respect to any Commission statement or guidance, including interpretive rules, general statements of policy, or rules of Commission organization, procedure, or practice, that has the effect of implementing, interpreting or prescribing law or policy and that is voted on by the Commission.''.

SEC. 210. JUDICIAL REVIEW OF COMMISSION RULES.

The Commodity Exchange Act (7 U.S.C. 1 et seq.) is amended by adding at the end the following:

''SEC. 24. JUDICIAL REVIEW OF COMMISSION RULES.

''(a) A person adversely affected by a rule of the Commission promulgated under this Act may obtain review of the rule in the United States Court of Appeals for the District of Columbia Circuit or the United States Court of Appeals for the circuit where the party resides or has the principal place of business, by filing in the court, within 60 days after publication in the Federal Register of the entry of the rule, a written petition requesting that the rule be set aside.

''(b) A copy of the petition shall be transmitted forthwith by the clerk of the court to an officer designated by the Commission for that purpose. Thereupon the Commission shall file in the court the record on which the rule complained of is entered, as provided in section 2112 of title 28, United States Code, and the Federal Rules of Appellate Procedure.

''(c) On the filing of the petition, the court has jurisdiction, which becomes exclusive on the filing of the record, to affirm and enforce or to set aside the rule in whole or in part.

''(d) The court shall affirm and enforce the rule unless the Commission's action in promulgating the rule is found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law; contrary to constitutional right, power, privilege, or immunity; in excess of statutory jurisdiction, authority, or limitations, or short of statutory right; or without observance of procedure required by law.''.

SEC. 211. GAO STUDY ON USE OF COMMISSION RESOURCES.

(a) STUDY.—The Comptroller General of the United States shall conduct a study of the resources of the Commodity Futures Trading Commission that—

(1) assesses whether the resources of the Commission are sufficient to enable the Commission to effectively carry out the duties of the Commission;

(2) examines the expenditures of the Commission on hardware, software, and analytical processes designed to protect customers in the areas of—

(A) market surveillance and risk detection; and

(B) market data collection, aggregation, interpretation, standardization, harmonization, and streamlining;

(3) analyzes the additional workload undertaken by the Commission, and ascertains where self-regulatory organizations could be more effectively utilized; and

(4) examines existing and emerging post-trade risk reduction services in the swaps market, the notional amount of risk reduction transactions provided by the services, and the effects the services have on financial stability, including—

(A) market surveillance and risk detection;

(B) market data collection, aggregation, interpretation, standardization, harmonization, and streamlining; and

(C) oversight and compliance work by market participants and regulators.

(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Comptroller General of the United States shall submit

to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that contains the results of the study required by subsection (a).

SEC. 212. DISCLOSURE OF REQUIRED DATA OF OTHER REGISTERED ENTITIES.

Section 8 of the Commodity Exchange Act (7 U.S.C. 12) is amended by adding at the end the following:

''(j) DISCLOSURE OF REQUIRED DATA OF OTHER REGISTERED ENTITIES.—

''(1) Except as provided in this subsection, the Commission may not be compelled to disclose any proprietary information provided to the Commission, except that nothing in this subsection—

''(A) authorizes the Commission to withhold information from Congress; or

''(B) prevents the Commission from—

''(i) complying with a request for information from any other Federal department or agency, any State or political subdivision thereof, or any foreign government or any department, agency, or political subdivision thereof requesting the report or information for purposes within the scope of its jurisdiction, upon an agreement of confidentiality to protect the information in a manner consistent with this paragraph and subsection (e); or

''(ii) making a disclosure made pursuant to a court order in connection with an administrative or judicial proceeding brought under this Act, in any receivership proceeding involving a receiver appointed in a judicial proceeding brought under this Act, or in any bankruptcy proceeding in which the Commission has intervened or in which the Commission has the right to appear and be heard under title 11 of the United States Code.

''(2) Any proprietary information of a commodity trading advisor or commodity pool operator ascertained by the Commission in connection with Form CPO-PQR, Form CTA-PR, and any successor forms thereto, shall be subject to the same limitations on public disclosure, as any facts ascertained during an investigation, as provided by subsection (a); provided, however, that the Commission shall not be precluded from publishing aggregate information compiled from such forms, to the extent such aggregate information does not identify any individual person or firm, or such person's proprietary information.

''(3) For purposes of section 552 of title 5, United States Code, this subsection, and the information contemplated herein, shall be considered a statute described in subsection (b)(3)(B) of such section 552.

''(4) For purposes of the definition of proprietary information in paragraph (5), the records and reports of any client account or commodity pool to which a commodity trading advisor or commodity pool operator registered under this title provides services that are filed with the Commission on Form CPO-PQR, CTA-PR, and any successor forms thereto, shall be deemed to be the records and reports of the commodity trading advisor or commodity pool operator, respectively.

''(5) For purposes of this section, proprietary information of a commodity trading advisor or commodity pool operator includes sensitive, nonpublic information regarding—

''(A) the commodity trading advisor, commodity pool operator or the trading strategies of the commodity trading advisor or commodity pool operator;

''(B) analytical or research methodologies of a commodity trading advisor or commodity pool operator;

''(C) trading data of a commodity trading advisor or commodity pool operator; and

''(D) computer hardware or software containing intellectual property of a commodity trading advisor or commodity pool operator;''.

SEC. 213. REPORT ON STATUS OF ANY APPLICATION OF METALS EXCHANGE TO REGISTER AS A FOREIGN BOARD OF TRADE; DEADLINE FOR ACTION ON APPLICATION.

(a) REPORT TO CONGRESS.—Within 90 days after the date of the enactment of this section, the Commodity Futures Trading Commission shall submit to the Congress a written report on—

(1) the status of the review by the Commission of any application submitted by a metals exchange to register with the Commission under section 4(b)(1) of the Commodity Exchange Act; and

(2) the status of Commission negotiations with foreign regulators regarding aluminum warehousing.

(b) DEADLINE FOR ACTION.—Not later than September 30, 2016, the Commission shall take action on any such application submitted to the Commission on or before August 14, 2012.

TITLE III—END-USER RELIEF

SEC. 301. RELIEF FOR HEDGERS UTILIZING CENTRALIZED RISK MANAGEMENT PRACTICES.

(a) IN GENERAL.—

(1) COMMODITY EXCHANGE ACT AMENDMENT.—Section 2(h)(7)(D)(i) of the Commodity Exchange Act (7 U.S.C. 2(h)(7)(D)(i)) is amended to read as follows:

''(i) IN GENERAL.—An affiliate of a person that qualifies for an exception under subparagraph (A) (including an affiliate entity predominantly engaged in providing financing for the purchase of the merchandise or manufactured goods of the person) may qualify for the exception only if the affiliate enters into the swap to hedge or mitigate the commercial risk of the person or other affiliate of the person that is not a financial entity, provided that if the hedge or mitigation of such commercial risk is addressed by entering into a swap with a swap dealer or major swap participant, an appropriate credit support measure or other mechanism must be utilized.''.

(2) SECURITIES EXCHANGE ACT OF 1934 AMENDMENT.—Section 3C(g)(4)(A) of the Securities Exchange Act of 1934 (15 U.S.C. 78c-3(g)(4)(A)) is amended to read as follows:

''(A) IN GENERAL.—An affiliate of a person that qualifies for an exception under paragraph (1) (including affiliate entities predominantly engaged in providing financing for the purchase of the merchandise or manufactured goods of the person) may qualify for the exception only if the affiliate enters into the security-based swap to hedge or mitigate the commercial risk of the person or other affiliate of the person that is not a financial entity, provided that if the hedge or mitigation of such commercial risk is addressed by entering into a security-based swap with a security-based swap dealer or major security-based swap participant, an appropriate credit support measure or other mechanism must be utilized.''.

(b) APPLICABILITY OF CREDIT SUPPORT MEASURE REQUIREMENT.—The requirements in section 2(h)(7)(D)(i) of the Commodity Exchange Act and section 3C(g)(4)(A) of the Securities Exchange Act of 1934, as amended by subsection (a), requiring that a credit support measure or other mechanism be utilized if the transfer of commercial risk referred to in such sections is addressed by entering into a swap with a swap dealer or major swap participant or a security-based swap with a security-based swap dealer or major security-based swap participant, as appropriate, shall not apply with respect to swaps or security-based swaps, as appropriate, entered into before the date of the enactment of this Act.

SEC. 302. INDEMNIFICATION REQUIREMENTS.

(a) DERIVATIVES CLEARING ORGANIZATIONS.—Section 5b(k)(5) of the Commodity Exchange Act (7 U.S.C. 7a-1(k)(5)) is amended to read as follows:

''(5) CONFIDENTIALITY AGREEMENT.—Before the Commission may share information with any entity described in paragraph (4), the Commission shall receive a written agreement from each entity stating that the entity shall abide by the confidentiality requirements described in section 8 relating to the information on swap transactions that is provided.''.

(b) SWAP DATA REPOSITORIES.—Section 21(d) of such Act (7 U.S.C. 24a(d)) is amended to read as follows:

''(d) CONFIDENTIALITY AGREEMENT.—Before the swap data repository may share information with any entity described in subsection (c)(7), the swap data repository shall receive a written agreement from each entity stating that the entity shall abide by the confidentiality requirements described in section 8 relating to the information on swap transactions that is provided.''.

(c) SECURITY-BASED SWAP DATA REPOSITORIES.—Section 13(n)(5)(H) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(n)(5)(H)) is amended to read as follows:

''(H) CONFIDENTIALITY AGREEMENT.—Before the security-based swap data repository may share information with any entity described in subparagraph (G), the security-based swap data repository shall receive a written agreement from each entity stating that the entity shall abide by the confidentiality requirements described in section 24 relating to the information on security-based swap transactions that is provided.''.

SEC. 303. TRANSACTIONS WITH UTILITY SPECIAL ENTITIES.

Section 1a(49) of the Commodity Exchange Act (7 U.S.C. 1a(49)) is amended by adding at the end the following:

''(E) CERTAIN TRANSACTIONS WITH A UTILITY SPECIAL ENTITY.—

''(i) Transactions in utility operations-related swaps shall be reported pursuant to section 4r.

''(ii) In making a determination to exempt pursuant to subparagraph (D), the Commission shall treat a utility operations-related swap entered into with a utility special entity, as defined in section 4s(h)(2)(D), as if it were entered into with an entity that is not a special entity, as defined in section 4s(h)(2)(C).''.

SEC. 304. UTILITY SPECIAL ENTITY DEFINED.

Section 4s(h)(2) of the Commodity Exchange Act (7 U.S.C. 6s(h)(2)) is amended by adding at the end the following:

''(D) UTILITY SPECIAL ENTITY.—For purposes of this Act, the term 'utility special entity' means a special entity, or any instrumentality, department, or corporation of or established by a State or political subdivision of a State, that—

''(i) owns or operates, or anticipates owning or operating, an electric or natural gas facility or an electric or natural gas operation;

''(ii) supplies, or anticipates supplying, natural gas and or electric energy to another utility special entity;

''(iii) has, or anticipates having, public service obligations under Federal, State, or local law or regulation to deliver electric energy or natural gas service to customers; or

''(iv) is a Federal power marketing agency, as defined in section 3 of the Federal Power Act.''.

SEC. 305. UTILITY OPERATIONS-RELATED SWAP.

(a) SWAP FURTHER DEFINED.—Section 1a(47)(A)(iii) of the Commodity Exchange Act (7 U.S.C. 1a(47)(A)(iii)) is amended—

(1) by striking ''and'' at the end of subclause (XXI);

(2) by adding ''and'' at the end of subclause (XXII); and

(3) by adding at the end the following:

''(XXIII) a utility operations-related swap;''.

(b) UTILITY OPERATIONS-RELATED SWAP DEFINED.—Section 1a of such Act (7 U.S.C. 1a) is amended by adding at the end the following:

''(52) UTILITY OPERATIONS-RELATED SWAP.—The term 'utility operations-related swap' means a swap that—

''(A) is entered into by a utility to hedge or mitigate a commercial risk;

''(B) is not a contract, agreement, or transaction based on, derived on, or referencing—

''(i) an interest rate, credit, equity, or currency asset class; or

''(ii) except as used for fuel for electric energy generation, a metal, agricultural commodity, or crude oil or gasoline commodity of any grade; or

''(iii) any other commodity or category of commodities identified for this purpose in a rule or order adopted by the Commission in consultation with the appropriate Federal and State regulatory commissions; and

''(C) is associated with—

''(i) the generation, production, purchase, or sale of natural gas or electric energy, the supply of natural gas or electric energy to a utility, or the delivery of natural gas or electric energy service to utility customers;

''(ii) fuel supply for the facilities or operations of a utility;

''(iii) compliance with an electric system reliability obligation;

''(iv) compliance with an energy, energy efficiency, conservation, or renewable energy or environmental statute, regulation, or government order applicable to a utility; or

''(v) any other electric energy or natural gas swap to which a utility is a party.''.

SEC. 306. END-USERS NOT TREATED AS FINANCIAL ENTITIES.

(a) IN GENERAL.—Section 2(h)(7)(C)(iii) of the Commodity Exchange Act (7 U.S.C. 2(h)(7)(C)(iii)) is amended to read as follows:

''(iii) LIMITATION.—Such definition shall not include an entity—

''(I) whose primary business is providing financing, and who uses derivatives for the purpose of hedging underlying commercial risks related to interest rate and foreign currency exposures, 90 percent or more of which arise from financing that facilitates the purchase or lease of products, 90 percent or more of which are manufactured by the parent company or another subsidiary of the parent company; or

''(II) who is not supervised by a prudential regulator, and is not described in any of subclauses (I) through (VII) of clause (i), and—

''(aa) is a commercial market participant; or

''(bb) enters into swaps, contracts for future delivery, and other derivatives on behalf of, or to hedge or mitigate the commercial risk of, whether directly or in the aggregate, affiliates that are not so supervised or described.''.

(b) COMMERCIAL MARKET PARTICIPANT DEFINED.—

(1) IN GENERAL.—Section 1a of such Act (7 U.S.C. 1a), as amended by section 305(b) of this Act, is amended by redesignating paragraphs (8) through (52) as paragraphs (9) through (53), respectively, and by inserting after paragraph (6) the following:

''(7) COMMERCIAL MARKET PARTICIPANT.—The term 'commercial market participant' means any producer, processor, merchant, or commercial user of an exempt or agricultural commodity, or the products or byproducts of such a commodity.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 1a of such Act (7 U.S.C. 1a) is amended—

(i) in subparagraph (A) of paragraph (18) (as so redesignated by paragraph (1) of this subsection), in the matter preceding clause (i), by striking ''(18)(A)'' and inserting ''(19)(A)''; and

(ii) in subparagraph (A)(vii) of paragraph (19) (as so redesignated by paragraph (1) of this subsection), in the matter following subclause (III), by striking ''(17)(A)'' and inserting ''(18)(A)''.

(B) Section 4(c)(1)(A)(i)(I) of such Act (7 U.S.C. 6(c)(1)(A)(i)(I)) is amended by striking ''(7), paragraph (18)(A)(vii)(III), paragraphs (23), (24), (31), (32), (38), (39), (41), (42), (46), (47), (48), and (49)'' and inserting ''(8), paragraph (19)(A)(vii)(III), paragraphs (24), (25), (32), (33), (39), (40), (42), (43), (47), (48), (49), and (50)''.

(C) Section 4q(a)(1) of such Act (7 U.S.C. 6o-1(a)(1)) is amended by striking ''1a(9)'' and inserting ''1a(10)''.

(D) Section 4s(f)(1)(D) of such Act (7 U.S.C. 6s(f)(1)(D)) is amended by striking ''1a(47)(A)(v)'' and inserting ''1a(48)(A)(v)''.

(E) Section 4s(h)(5)(A)(i) of such Act (7 U.S.C. 6s(h)(5)(A)(i)) is amended by striking ''1a(18)'' and inserting ''1a(19)''.

(F) Section 4t(b)(1)(C) of such Act (7 U.S.C. 6t(b)(1)(C)) is amended by striking ''1a(47)(A)(v)'' and inserting ''1a(48)(A)(v)''.

(G) Section 5(d)(23) of such Act (7 U.S.C. 7(d)(23)) is amended by striking ''1a(47)(A)(v)'' and inserting ''1a(48)(A)(v)''.

(H) Section 5(e)(1) of such Act (7 U.S.C. 7(e)(1)) is amended by striking ''1a(9)'' and inserting ''1a(10)''.

(I) Section 5b(k)(3)(A) of such Act (7 U.S.C. 7a-1(k)(3)(A)) is amended by striking ''1a(47)(A)(v)'' and inserting ''1a(48)(A)(v)''.

(J) Section 5h(f)(10)(A)(iii) of such Act (7 U.S.C. 7b-3(f)(10)(A)(iii)) is amended by striking ''1a(47)(A)(v)'' and inserting ''1a(48)(A)(v)''.

(K) Section 21(f)(4)(C) of such Act (7 U.S.C. 24a(f)(4)(C)) is amended by striking ''1a(48)'' and inserting ''1a(49)''.

SEC. 307. REPORTING OF ILLIQUID SWAPS SO AS TO NOT DISADVANTAGE CERTAIN NON-FINANCIAL END-USERS.

Section 2(a)(13) of the Commodity Exchange Act (7 U.S.C. 2(a)(13)) is amended—

(1) in subparagraph (C), by striking ''The Commission'' and inserting ''Except as provided in subparagraph (D), the Commission''; and

(2) by redesignating subparagraphs (D) through (G) as subparagraphs (E) through (H), respectively, and inserting after subparagraph (C) the following:

''(D) REQUIREMENTS FOR SWAP TRANSACTIONS IN ILLIQUID MARKETS.—Notwithstanding subparagraph (C):

''(i) The Commission shall provide by rule for the public reporting of swap transactions, including price and volume data, in illiquid markets that are not cleared and entered into by a non-financial entity that is hedging or mitigating commercial risk in accordance with subsection (h)(7)(A).

''(ii) The Commission shall ensure that the swap transaction information referred to in clause (i) of this subparagraph is available to the public no sooner than 30 days after the swap transaction has been executed or at such later date as the Commission determines appropriate to protect the identity of participants and positions in illiquid markets and to prevent the elimination or reduction of market liquidity.

''(iii) In this subparagraph, the term 'illiquid markets' means any market in which the volume and frequency of trading in swaps is at such a level as to allow identification of individual market participants.''.

SEC. 308. RELIEF FOR GRAIN ELEVATOR OPERATORS, FARMERS, AGRICULTURAL COUNTERPARTIES, AND COMMERCIAL MARKET PARTICIPANTS.

The Commodity Exchange Act (7 U.S.C. 1 et seq.) is amended by inserting after section 4t the following:

''SEC. 4u. RECORDKEEPING REQUIREMENTS APPLICABLE TO NON-REGISTERED MEMBERS OF CERTAIN REGISTERED ENTITIES.

''Except as provided in section 4(a)(3), a member of a designated contract market or a swap execution facility that is not registered with the Commission and not required to be registered with the Commission in any capacity shall satisfy the recordkeeping requirements of this Act and any recordkeeping rule, order, or regulation under this Act by maintaining a written record of each transaction in a contract for future delivery, option on a future, swap, swaption, trade option, or related cash or forward transaction. The written record shall be sufficient if it includes the final agreement between the parties and the material economic terms of the transaction.''.

SEC. 309. RELIEF FOR END-USERS WHO USE PHYSICAL CONTRACTS WITH VOLUMETRIC OPTIONALITY.

Section 1a(47)(B)(ii) of the Commodity Exchange Act (7 U.S.C. 1a(47)(B)(ii)) is amended to read as follows:

''(ii) any purchase or sale of a nonfinancial commodity or security for deferred shipment or delivery, so long as the transaction is intended to be physically settled, including any standalone or embedded option for which exercise results in a physical delivery obligation;''.

SEC. 310. COMMISSION VOTE REQUIRED BEFORE AUTOMATIC CHANGE OF SWAP DEALER DE MINIMIS LEVEL.

Section 1a(49)(D) of the Commodity Exchange Act (7 U.S.C. 1a(49)(D)) is amended—

(1) by striking all that precedes ''shall exempt'' and inserting the following:

''(D) EXCEPTION.—

''(i) IN GENERAL.—The Commission''; and

(2) by adding after and below the end the following new clause:

''(ii) DE MINIMIS QUANTITY.—The de minimis quantity of swap dealing described in clause (i) shall be set at a quantity of $8,000,000,000, and may be amended or changed only through a new affirmative action of the Commission undertaken by rule or regulation.''.

SEC. 311. CAPITAL REQUIREMENTS FOR NON-BANK SWAP DEALERS.

(a) COMMODITY EXCHANGE ACT.—Section 4s(e) of the Commodity Exchange Act (7 U.S.C. 6s(e)) is amended—

(1) in paragraph (2)(B), by striking ''shall'' and inserting the following: ''and the Securities and Exchange Commission, in consultation with the prudential regulators, shall jointly''; and

(2) in paragraph (3)(D)—

(A) in clause (ii), by striking ''shall, to the maximum extent practicable,'' and inserting ''shall''; and

(B) by adding at the end the following:

''(iii) FINANCIAL MODELS.—To the extent that swap dealers and major swap participants that are banks are permitted to use financial models approved by the prudential regulators or the Securities and Exchange Commission to calculate minimum capital requirements and minimum initial and variation margin requirements, including the use of non-cash collateral, the Commission shall, in consultation with the prudential regulators and the Securities and Exchange Commission, permit the use of comparable financial models by swap dealers and major swap participants that are not banks.''.

(b) SECURITIES EXCHANGE ACT OF 1934.—Section 15F(e) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-10(e)) is amended—

(1) in paragraph (2)(B), by striking ''shall'' and inserting the following: ''and the Commodity Futures Trading Commission, in consultation with the prudential regulators, shall jointly''; and

(2) in paragraph (3)(D)—

(A) in clause (ii), by striking ''shall, to the maximum extent practicable,'' and inserting ''shall''; and

(B) by adding at the end the following:

''(iii) FINANCIAL MODELS.—To the extent that security-based swap dealers and major security-based swap participants that are banks are permitted to use financial models approved by the prudential regulators or the Commodity Futures Trading Commission to calculate minimum capital requirements and minimum initial and variation margin requirements, including the use of non-cash collateral, the Commission shall, in consultation with the Commodity Futures Trading Commission, permit the use of comparable financial models by security-based swap dealers and major security-based swap participants that are not banks.''.

SEC. 312. HARMONIZATION WITH THE JUMPSTART OUR BUSINESS STARTUPS ACT.

Within 90 days after the date of the enactment of this Act, the Commodity Futures Trading Commission shall—

(1) revise section 4.7(b) of title 17, Code of Federal Regulations, in the matter preceding paragraph (1), to read as follows:

''(b) Relief available to commodity pool operators. Upon filing the notice required by paragraph (d) of this section, and subject to compliance with the conditions specified in paragraph

(d) of this section, any registered commodity pool operator who sells participations in a pool solely to qualified eligible persons in an offering which qualifies for exemption from the registration requirements of the Securities Act pursuant to section 4(2) of that Act or pursuant to Regulation S, 17 CFR 230.901 et seq., and any bank registered as a commodity pool operator in connection with a pool that is a collective trust fund whose securities are exempt from registration under the Securities Act pursuant to section 3(a)(2) of that Act and are sold solely to qualified eligible persons, may claim any or all of the following relief with respect to such pool:''; and

(2) revise section 4.13(a)(3)(i) of such title to read as follows:

''(i) Interests in the pool are exempt from registration under the Securities Act of 1933, and such interests are offered and sold pursuant to section 4 of the Securities Act of 1933 and the regulations thereunder;''.

SEC. 313. BONA FIDE HEDGE DEFINED TO PROTECT END-USER RISK MANAGEMENT NEEDS.

Section 4a(c) of the Commodity Exchange Act (7 U.S.C. 6a(c)) is amended—

(1) in paragraph (1)—

(A) by striking ''may'' and inserting ''shall''; and

(B) by striking ''future for which'' and inserting ''future, to be determined by the Commission, for which either an appropriate swap is available or'';

(2) in paragraph (2)—

(A) in the matter preceding subparagraph (A), by striking ''subsection (a)(2)'' and all that follows through ''position as'' and inserting ''paragraphs (2) and (5) of subsection (a) for swaps, contracts of sale for future delivery, or options on the contracts or commodities, a bona fide hedging transaction or position is''; and

(B) in subparagraph (A)(ii), by striking ''of risks'' and inserting ''or management of current or anticipated risks''; and

(3) by adding at the end the following:

''(3) The Commission may further define, by rule or regulation, what constitutes a bona fide hedging transaction, provided that the rule or regulation is consistent with the requirements of subparagraphs (A) and (B) of paragraph (2).''.

SEC. 314. CROSS-BORDER REGULATION OF DERIVATIVES TRANSACTIONS.

(a) RULEMAKING REQUIRED.—Within 1 year after the date of the enactment of this Act, the Commodity Futures Trading Commission shall issue a rule that addresses—

(1) the nature of the connections to the United States that require a non-U.S. person to register as a swap dealer or a major swap participant under the Commodity Exchange Act and the regulations issued under such Act;

(2) which of the United States swaps requirements apply to the swap activities of non-U.S. persons and U.S. persons and their branches, agencies, subsidiaries, and affiliates outside of the United States, and the extent to which the requirements apply; and

(3) the circumstances under which a U.S. person or non-U.S. person in compliance with the swaps regulatory requirements of a foreign jurisdiction shall be exempt from United States swaps requirements.

(b) CONTENT OF THE RULE.—

(1) CRITERIA.—In the rule, the Commission shall establish criteria for determining that 1 or more categories of the swaps regulatory requirements of a foreign jurisdiction are comparable to and as comprehensive as United States swaps requirements. The criteria shall include—

(A) the scope and objectives of the swaps regulatory requirements of the foreign jurisdiction;

(B) the effectiveness of the supervisory compliance program administered;

(C) the enforcement authority exercised by the foreign jurisdiction; and

(D) such other factors as the Commission, by rule, determines to be necessary or appropriate in the public interest.

(2) COMPARABILITY.—In the rule, the Commission shall—

(A) provide that any non-U.S. person or any transaction between two non-U.S. persons shall be exempt from United States swaps requirements if the person or transaction is in compliance with the swaps regulatory requirements of a foreign jurisdiction which the Commission has determined to be comparable to and as comprehensive as United States swaps requirements; and

(B) set forth the circumstances in which a U.S. person or a transaction between a U.S. person and a non-U.S. person shall be exempt from United States swaps requirements if the person or transaction is in compliance with the swaps regulatory requirements of a foreign jurisdiction which the Commission has determined to be comparable to and as comprehensive as United States swaps requirements.

(3) OUTCOMES-BASED COMPARISON.—In developing and applying the criteria, the Commission shall emphasize the results and outcomes of, rather than the design and construction of, foreign swaps regulatory requirements.

(4) RISK-BASED RULEMAKING.—In the rule, the Commission shall not take into account, for the purposes of determining the applicability of United States swaps requirements, the location of personnel that arrange, negotiate, or execute swaps.

(5) No part of any rulemaking under this section shall limit the Commission's antifraud or antimanipulation authority.

(c) APPLICATION OF THE RULE.—

(1) ASSESSMENTS OF FOREIGN JURISDICTIONS.—Beginning on the date on which a final rule is issued under this section, the Commission shall begin to assess the swaps regulatory requirements of foreign jurisdictions, in the order the Commission determines appropriate, in accordance with the criteria established pursuant to subsection (b)(1). Following each assessment, the Commission shall determine, by rule or by order, whether the swaps regulatory requirements of the foreign jurisdiction are comparable to and as comprehensive as United States swaps requirements.

(2) SUBSTITUTED COMPLIANCE FOR UNASSESSED MAJOR MARKETS.—Beginning 18 months after the date of enactment of this Act—

(A) the swaps regulatory requirements of each of the 8 foreign jurisdictions with the largest swaps markets, as calculated by notional value during the 12-month period ending with such date of enactment, except those with respect to which a determination has been made under paragraph (1), shall be considered to be comparable to and as comprehensive as United States swaps requirements; and

(B) a non-U.S. person or a transaction between 2 non-U.S. persons shall be exempt from United States swaps requirements if the person or transaction is in compliance with the swaps regulatory requirements of any of such unexcepted foreign jurisdictions.

(3) SUSPENSION OF SUBSTITUTED COMPLIANCE.—If the Commission determines, by rule or by order, that—

(A) the swaps regulatory requirements of a foreign jurisdiction are not comparable to and as comprehensive as United States swaps requirements, using the categories and criteria established under subsection (b)(1);

(B) the foreign jurisdiction does not exempt from its swaps regulatory requirements U.S. persons who are in compliance with United States swaps requirements; or

(C) the foreign jurisdiction is not providing equivalent recognition of, or substituted compliance for, registered entities (as defined in section 1a(41) of the Commodity Exchange Act) domiciled in the United States,

the Commission may suspend, in whole or in part, a determination made under paragraph (1) or a consideration granted under paragraph (2).

(d) PETITION FOR REVIEW OF FOREIGN JURISDICTION PRACTICES.—A registered entity, commercial market participant (as defined in section 1a(7) of the Commodity Exchange Act), or Commission registrant (within the meaning of such Act) who petitions the Commission to make or change a determination under subsection (c)(1) or (c)(3) of this section shall be entitled to expedited consideration of the petition. A petition shall include any evidence or other supporting materials to justify why the petitioner believes the Commission should make or change the determination. Petitions under this section shall be considered by the Commission any time following the enactment of this Act. Within 180 days after receipt of a petition for a rulemaking under this section, the Commission shall take final action on the petition. Within 90 days after receipt of a petition to issue an order or change an order issued under this section, the Commission shall take final action on the petition.

(e) REPORT TO CONGRESS.—If the Commission makes a determination described in this section through an order, the Commission shall articulate the basis for the determination in a written report published in the Federal Register and transmitted to the Committee on Agriculture of the House of Representatives and Committee on Agriculture, Nutrition, and Forestry of the Senate within 15 days of the determination. The determination shall not be effective until 15 days after the committees receive the report.

(f) DEFINITIONS.—As used in this Act and for purposes of the rules issued pursuant to this Act, the following definitions apply:

(1) U.S. PERSON.—The term ''U.S. person''—

(A) means—

(i) any natural person resident in the United States;

(ii) any partnership, corporation, trust, or other legal person organized or incorporated under the laws of the United States or having its principal place of business in the United States;

(iii) any account (whether discretionary or non-discretionary) of a U.S. person; and

(iv) any other person as the Commission may further define to more effectively carry out the purposes of this section; and

(B) does not include the International Monetary Fund, the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, the African Development Bank, the United Nations, their agencies or pension plans, or any other similar international organizations or their agencies or pension plans.

(2) UNITED STATES SWAPS REQUIREMENTS.—The term ''United States swaps requirements'' means the provisions relating to swaps contained in the Commodity Exchange Act (7 U.S.C. 1a et seq.) that were added by title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act (15 U.S.C. 8301 et seq.) and any rules or regulations prescribed by the Commodity Futures Trading Commission pursuant to such provisions.

(3) FOREIGN JURISDICTION.—The term ''foreign jurisdiction'' means any national or supranational political entity with common rules governing swaps transactions.

(4) SWAPS REGULATORY REQUIREMENTS.—The term ''swaps regulatory requirements'' means any provisions of law, and any rules or regulations pursuant to the provisions, governing swaps transactions or the counterparties to swaps transactions.

(g) CONFORMING AMENDMENT.—Section 4(c)(1)(A) of the Commodity Exchange Act (7 U.S.C. 6(c)(1)(A)) is amended by inserting ''or except as necessary to effectuate the purposes of the Commodity End-User Relief Act,'' after ''to grant exemptions,''.

SEC. 315. EXEMPTION OF QUALIFIED CHARITABLE ORGANIZATIONS FROM DESIGNATION AND REGULATION AS COMMODITY POOL OPERATORS.

(a) EXCLUSION FROM DEFINITION OF COMMODITY POOL.—Section 1a(10) of the Commodity

Exchange Act (7 U.S.C. 1a(10)) is amended by adding at the end the following:

''(C) EXCLUSION.—The term 'commodity pool' shall not include any investment trust, syndicate, or similar form of enterprise excluded from the definition of 'investment company' pursuant to sections 3(c)(10) or 3(c)(14) of the Investment Company Act of 1940.''.

(b) INAPPLICABILITY OF PROHIBITION ON USE OF INSTRUMENTALITIES OF INTERSTATE COMMERCE BY UNREGISTERED COMMODITY TRADING ADVISOR.—Section 4m of such Act (7 U.S.C. 6m) is amended—

(1) in paragraph (1), in the 2nd sentence, by inserting '': Provided further, That the provisions of this section shall not apply to any commodity trading advisor that is: (A) a charitable organization, as defined in section 3(c)(10)(D) of the Investment Company Act of 1940, or a trustee, director, officer, employee, or volunteer of such a charitable organization acting within the scope of the employment or duties of the person with the organization, whose trading advice is provided only to, or with respect to, 1 or more of the following: (i) any such charitable organization, or (ii) an investment trust, syndicate or similar form of enterprise excluded from the definition of 'investment company' pursuant to section 3(c)(10) of the Investment Company Act of 1940; or (B) any plan, company, or account described in section 3(c)(14) of the Investment Company Act of 1940, any person or entity who establishes or maintains such a plan, company, or account, or any trustee, director, officer, employee, or volunteer for any of the foregoing plans, persons, or entities acting within the scope of the employment or duties of the person with the organization, whose trading advice is provided only to, or with respect to, any investment trust, syndicate, or similar form of enterprise excluded from the definition of 'investment company' pursuant to section 3(c)(14) of the Investment Company Act of 1940'' before the period; and

(2) by adding at the end the following:

''(4) DISCLOSURE CONCERNING EXCLUDED CHARITABLE ORGANIZATIONS.—The operator of or advisor to any investment trust, syndicate, or similar form of enterprise excluded from the definition of 'commodity pool' by reason of section 1a(10)(C) of this Act pursuant to section 3(c)(10) of the Investment Company Act of 1940 shall provide disclosure in accordance with section 7(e) of the Investment Company Act of 1940.''.

SEC. 316. SMALL BANK HOLDING COMPANY CLEARING EXEMPTION.

Section 2(h)(7)(C) of the Commodity Exchange Act (7 U.S.C. 2(h)(7)(C)) is amended by adding at the end the following:

''(iv) HOLDING COMPANIES.—A determination made by the Commission under clause (ii) shall, with respect to small banks and savings associations, also apply to their respective bank holding company (as defined in section 2 of the Bank Holding Company Act of 1956), or savings and loan holding company (as defined in section 10 of the Home Owners' Loan Act of 1933)), if the total consolidated assets of the holding company are no greater than the asset threshold set by the Commission in determining small bank and savings association eligibility under clause (ii).''.

SEC. 317. CORE PRINCIPLE CERTAINTY.

Section 5h(f) of the Commodity Exchange Act (7 U.S.C. 7b–3(f)) is amended—

(1) in paragraph (1)(B), by inserting ''except as described in this subsection,'' after ''Commission by rule or regulation'';

(2) in paragraph (2), by amending subparagraph (D) to read as follows:

''(D) have reasonable discretion in establishing and enforcing its rules related to trade practice surveillance, market surveillance, real-time marketing monitoring, and audit trail given that a swap execution facility may offer a trading system or platform to execute or trade swaps through any means of interstate commerce. A swap execution facility shall be responsible for monitoring trading in swaps only on its own facility.'';

(3) in paragraph (4)(B), by adding at the end the following: ''A swap execution facility shall be responsible for monitoring trading in swaps only on its own facility.'';

(4) in paragraph (6)(B)—

(A) by striking ''shall—'' and all that follows through ''compliance with the'' and insert ''shall monitor the trading activity on its facility for compliance with any'';

(B) by striking ''or through''; and

(C) by adding at the end the following: ''A swap execution facility shall be responsible for monitoring positions only on its own facility.'';

(5) in paragraph (8), by striking ''to liquidate'' and all that follows and inserting ''to suspend or curtail trading in a swap on its own facility.'';

(6) in paragraph (13)(B), by striking ''1-year period, as calculated on a rolling basis'' and inserting ''90-day period, as calculated on a rolling basis, or conduct an orderly wind-down of its operations, whichever is greater''; and

(7) in paragraph (15)—

(A) in subparagraph (A), by adding at the end the following: ''The individual may also perform other responsibilities for the swap execution facility.'';

(B) in subparagraph (B)—

(i) in clause (i), by inserting '', a committee of the board,'' after ''directly to the board'';

(ii) by striking clauses (iii) through (v) and inserting the following:

''(iii) establish and administer policies and procedures that are reasonably designed to resolve any conflicts of interest that may arise;

''(iv) establish and administer policies and procedures that reasonably ensure compliance with this Act and the rules and regulations issued under this Act, including rules prescribed by the Commission pursuant to this section; and''; and

(iii) by redesignating clause (vi) as clause (v);

(C) in subparagraph (C), by striking ''(B)(vi)'' and inserting ''(B)(v)''; and

(D) in subparagraph (D)—

(i) in clause (i)—

(I) by striking ''In accordance with rules prescribed by the Commission, the'' and inserting ''The''; and

(II) by striking ''and sign''; and

(ii) in clause (ii)—

(I) in the matter preceding subclause (I), by inserting ''or senior officer'' after ''officer'';

(II) by amending subclause (I) to read as follows:

''(I) submit each report described in clause (i) to the Commission; and''; and

(III) in subclause (II), by inserting ''materially'' before ''accurate''.

SEC. 318. TREATMENT OF FEDERAL HOME LOAN BANK PRODUCTS.

(a) Section 1a(2) of the Commodity Exchange Act (7 U.S.C. 1a(2)) is amended—

(1) in subparagraph (B), by striking ''and'';

(2) in subparagraph (C), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(D) is the Federal Housing Finance Agency for any Federal Home Loan Bank (as defined in section 2 of the Federal Home Loan Bank Act).''.

(b) Section 402(a) of the Legal Certainty for Bank Products Act of 2000 (7 U.S.C. 27(a)) is amended—

(1) by striking ''or'' at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting ''; or''; and

(3) by adding at the end the following:

''(8) any Federal Home Loan Bank (as defined in section 2 of the Federal Home Loan Bank Act).''.

SEC. 319. TREATMENT OF CERTAIN FUNDS.

(a) AMENDMENT TO THE DEFINITION OF COMMODITY POOL OPERATOR.—Section 1a(11) of the Commodity Exchange Act (7 U.S.C. 1a(11)) is amended by adding at the end the following:

''(C)(i) The term 'commodity pool operator' does not include a person who serves as an investment adviser to an investment company registered pursuant to section 8 of the Investment Company Act of 1940 or a subsidiary of such a company, if the investment company or subsidiary invests, reinvests, owns, holds, or trades in commodity interests limited to only financial commodity interests.

''(ii) For purposes of this subparagraph only, the term 'financial commodity interest' means a futures contract, an option on a futures contract, or a swap, involving a commodity that is not an exempt commodity or an agricultural commodity, including any index of financial commodity interests, whether cash settled or involving physical delivery.

''(iii) For purposes of this subparagraph only, the term 'commodity' does not include a security issued by a real estate investment trust, business development company, or issuer of asset-backed securities, including any index of such securities.''.

(b) AMENDMENT TO THE DEFINITION OF COMMODITY TRADING ADVISOR.—Section 1a(12) of such Act (7 U.S.C. 1a(12)) is amended by adding at the end the following:

''(E) The term 'commodity trading advisor' does not include a person who serves as an investment adviser to an investment company registered pursuant to section 8 of the Investment Company Act of 1940 or a subsidiary of such a company, if the commodity trading advice relates only to a financial commodity interest, as defined in paragraph (11)(C)(ii) of this section. For purposes of this subparagraph only, the term 'commodity' does not include a security issued by a real estate investment trust, business development company, or issuer of asset-backed securities, including any index of such securities.''.

TITLE IV—TECHNICAL CORRECTIONS

SEC. 401. CORRECTION OF REFERENCES.

(a) Section 2(h)(8)(A)(ii) of the Commodity Exchange Act (7 U.S.C. 2(h)(8)(A)(ii)) is amended by striking ''5h(f) of this Act'' and inserting ''5h(g)''.

(b) Section 5c(c)(5)(C)(i) of such Act (7 U.S.C. 7a-2(c)(5)(C)(i)) is amended by striking ''1a(2)(i))'' and inserting ''1a(19)(i))''.

(c) Section 23(f) of such Act (7 U.S.C. 26(f)) is amended by striking ''section 7064'' and inserting ''section 706''.

SEC. 402. ELIMINATION OF OBSOLETE REFERENCES TO DEALER OPTIONS.

(a) IN GENERAL.—Section 4c of the Commodity Exchange Act (7 U.S.C. 6c) is amended by striking subsections (d) and (e) and redesignating subsections (f) and (g) as subsections (d) and (e), respectively.

(b) CONFORMING AMENDMENTS.—

(1) Section 2(d) of such Act (7 U.S.C. 2(d)) is amended by striking ''(g) of'' and inserting ''(e) of''.

(2) Section 4f(a)(4)(A)(i) of such Act (7 U.S.C. 6f(a)(4)(A)(i)) is amended by striking ''(d), (e), and (g)'' and inserting ''and (e)''.

(3) Section 4k(5)(A) of such Act (7 U.S.C. 6k(5)(A)) is amended by striking ''(d), (e), and (g)'' and inserting ''and (e)''.

(4) Section 5f(b)(1)(A) of such Act (7 U.S.C. 7b-1(b)(1)(A)) is amended by striking '', (e) and (g)'' and inserting ''and (e)''.

(5) Section 9(a)(2) of such Act (7 U.S.C. 13(a)(2)) is amended by striking ''through (e)'' and inserting ''and (c)''.

SEC. 403. UPDATED TRADE DATA PUBLICATION REQUIREMENT.

Section 4g(e) of the Commodity Exchange Act (7 U.S.C. 6g(e)) is amended by striking ''exchange'' and inserting ''each designated contract market and swap execution facility''.

SEC. 404. FLEXIBILITY FOR REGISTERED ENTITIES.

Section 5c(b) of the Commodity Exchange Act (7 U.S.C. 7a-2(b)) is amended by striking ''contract market, derivatives transaction execution

facility, or electronic trading facility'' each place it appears and inserting ''registered entity''.

SEC. 405. ELIMINATION OF OBSOLETE REFERENCES TO ELECTRONIC TRADING FACILITIES.

(a) Section 1a(18)(A)(x) of the Commodity Exchange Act (7 U.S.C. 1a(18)(A)(x)) is amended by striking ''(other than an electronic trading facility with respect to a significant price discovery contract)''.

(b) Section 1a(40) of such Act (7 U.S.C. 1a(40)) is amended—

(1) by adding ''and'' at the end of subparagraph (D); and

(2) by striking all that follows ''section 21'' and inserting a period.

(c) Section 4a(e) of such Act (7 U.S.C. 6a(e)) is amended—

(1) in the 1st sentence—

(A) by striking ''or by any electronic trading facility'';

(B) by striking ''or on an electronic trading facility''; and

(C) by striking ''or electronic trading facility'' each place it appears; and

(2) in the 2nd sentence, by striking ''or electronic trading facility with respect to a significant price discovery contract''.

(d) Section 4g(a) of such Act (7 U.S.C. 6g(a)) is amended by striking ''any significant price discovery contract traded or executed on an electronic trading facility or''.

(e) Section 4i(a) of such Act (7 U.S.C. 6i(a)) is amended—

(1) by striking '', or any significant price discovery contract traded or executed on an electronic trading facility or any agreement, contract, or transaction that is treated by a derivatives clearing organization, whether registered or not registered, as fungible with a significant price discovery contract''; and

(2) by striking ''or electronic trading facility''

(f) Section 6(b) of such Act (7 U.S.C. 8(b)) is amended by striking ''or electronic trading facility'' each place it appears.

(g) Section 12(e)(2) of such Act (7 U.S.C. 16(e)(2)) is amended by striking ''in the case of—'' and all that follows and inserting ''in the case of an agreement, contract, or transaction that is excluded from this Act under section 2(c) or 2(f) of this Act or title IV of the Commodity Futures Modernization Act of 2000, or exempted under section 4(c) of this Act (regardless of whether any such agreement, contract, or transaction is otherwise subject to this Act).''.

SEC. 406. ELIMINATION OF OBSOLETE REFERENCE TO ALTERNATIVE SWAP EXECUTION FACILITIES.

Section 5h(h) of the Commodity Exchange Act (7 U.S.C. 7b-3(h)) is amended by striking ''alternative'' before ''swap''.

SEC. 407. ELIMINATION OF REDUNDANT REFERENCES TO TYPES OF REGISTERED ENTITIES.

Section 6b of the Commodity Exchange Act (7 U.S.C. 13a) is amended in the 1st sentence by striking ''as set forth in sections 5 through 5c''.

SEC. 408. CLARIFICATION OF COMMISSION AUTHORITY OVER SWAPS TRADING.

Section 8a of the Commodity Exchange Act (7 U.S.C. 12a) is amended—

(1) in paragraph (7)—

(A) by inserting ''the protection of swaps traders and to assure fair dealing in swaps, for'' after ''appropriate for'';

(B) in subparagraph (A), by inserting ''swaps or'' after ''conditions in''; and

(C) in subparagraph (B), by inserting ''or swaps'' after ''future delivery''; and

(2) in paragraph (9)—

(A) by inserting ''swap or'' after ''or liquidation of any''; and

(B) by inserting ''swap or'' after ''margin levels on any''.

SEC. 409. ELIMINATION OF OBSOLETE REFERENCE TO THE COMMODITY EXCHANGE COMMISSION.

Section 13(c) of the Commodity Exchange Act (7 U.S.C. 13c(c)) is amended by striking ''or the Commission''.

SEC. 410. ELIMINATION OF OBSOLETE REFERENCES TO DERIVATIVE TRANSACTION EXECUTION FACILITIES.

(a) Section 1a(12)(B)(vi) of the Commodity Exchange Act (7 U.S.C. 1a(12)(B)(vi)) is amended by striking ''derivatives transaction execution facility'' and inserting ''swap execution facility''.

(b) Section 1a(34) of such Act (7 U.S.C. 1a(34)) is amended by striking ''or derivatives transaction execution facility'' each place it appears.

(c) Section 1a(35)(B)(iii)(I) of such Act (7 U.S.C. 1a(35)(B)(iii)(I)) is amended by striking ''or registered derivatives transaction execution facility''.

(d) Section 2(a)(1)(C)(ii) of such Act (7 U.S.C. 2(a)(1)(C)(ii)) is amended—

(1) by striking '', or register a derivatives transaction execution facility that trades or executes,'';

(2) by striking '', and no derivatives transaction execution facility shall trade or execute such contracts of sale (or options on such contracts) for future delivery''; and

(3) by striking ''or the derivatives transaction execution facility,''.

(e) Section 2(a)(1)(C)(v)(I) of such Act (7 U.S.C. 2(a)(1)(C)(v)(I)) is amended by striking '', or any derivatives transaction execution facility on which such contract or option is traded,''.

(f) Section 2(a)(1)(C)(v)(II) of such Act (7 U.S.C. 2(a)(1)(C)(v)(II)) is amended by striking ''or derivatives transaction execution facility'' each place it appears.

(g) Section 2(a)(1)(C)(v)(V) of such Act (7 U.S.C. 2(a)(1)(C)(v)(V)) is amended by striking ''or registered derivatives transaction execution facility''.

(h) Section 2(a)(1)(D)(i) of such Act (7 U.S.C. 2(a)(1)(D)(i)) is amended in the matter preceding subclause (I)—

(1) by striking ''in, or register a derivatives transaction execution facility''; and

(2) by striking '', or registered as a derivatives transaction execution facility for,''.

(i) Section 2(a)(1)(D)(i)(IV) of such Act (7 U.S.C. 2(a)(1)(D)(i)(IV)) is amended by striking ''registered derivatives transaction execution facility,'' each place it appears.

(j) Section 2(a)(1)(D)(ii)(I) of such Act (7 U.S.C. 2(a)(1)(D)(ii)(I)) is amended to read as follows:

''(I) the transaction is conducted on or subject to the rules of a board of trade that has been designated by the Commission as a contract market in such security futures product; or''.

(k) Section 2(a)(1)(D)(ii)(II) of such Act (7 U.S.C. 2(a)(1)(D)(ii)(II)) is amended by striking ''or registered derivatives transaction execution facility''.

(l) Section 2(a)(1)(D)(ii)(III) of such Act (7 U.S.C. 2(a)(1)(D)(ii)(III)) is amended by striking ''or registered derivatives transaction execution facility member''.

(m) Section 2(a)(9)(B)(ii) of such Act (7 U.S.C. 2(a)(9)(B)(ii)) is amended—

(1) by striking ''or registration'' each place it appears;

(2) by striking ''or derivatives transaction execution facility'' each place it appears;

(3) by striking ''or register'';

(4) by striking ''registering,'';

(5) by striking ''or registering,'' each place it appears; and

(6) by striking ''registration,''.

(n) Section 2(c)(2) of such Act (7 U.S.C. 2(c)(2)) is amended by striking ''or a derivatives transaction execution facility'' each place it appears.

(o) Section 4(a)(1) of such Act (7 U.S.C. 6(a)(1)) is amended by striking ''or derivatives transaction execution facility'' each place it appears.

(p) Section 4(c)(1) of such Act (7 U.S.C. 6(c)(1)) is amended—

(1) by striking ''or registered'' after ''designated''; and

(2) by striking ''or derivative transaction execution facility''.

(q) Section 4a(a)(1) of such Act (7 U.S.C. 6a(a)(1)) is amended by striking ''or derivatives transaction execution facilities'' each place it appears.

(r) Section 4a(e) of such Act (7 U.S.C. 6a(e)) is amended—

(1) by striking '', derivatives transaction execution facility,'' each place it appears; and

(2) by striking ''or derivatives transaction execution facility''.

(s) Section 4c(g) of such Act (7 U.S.C. 6c(g)) is amended by striking ''or derivatives transaction execution facility'' each place it appears.

(t) Section 4d of such Act (7 U.S.C. 6d) is amended by striking ''or derivatives transaction execution facility'' each place it appears.

(u) Section 4e of such Act (7 U.S.C. 6e) is amended by striking ''or derivatives transaction execution facility''.

(v) Section 4f(b) of such Act (7 U.S.C. 6f(b)) is amended by striking ''or derivatives transaction execution facility'' each place it appears.

(w) Section 4i of such Act (7 U.S.C. 6i) is amended by striking ''or derivatives transaction execution facility''.

(x) Section 4j(a) of such Act (7 U.S.C. 6j(a)) is amended by striking ''and registered derivatives transaction execution facility''.

(y) Section 4p(a) of such Act (7 U.S.C. 6p(a)) is amended by striking '', or derivatives transaction execution facilities''.

(z) Section 4p(b) of such Act (7 U.S.C. 6p(b)) is amended by striking ''derivatives transaction execution facility,''.

(aa) Section 5c(f) of such Act (7 U.S.C. 7a-2(f)) is amended by striking ''and registered derivatives transaction execution facility''.

(bb) Section 5c(f)(1) of such Act (7 U.S.C. 7a-2(f)(1)) is amended by striking ''or registered derivatives transaction execution facility''.

(cc) Section 6 of such Act (7 U.S.C. 8) is amended—

(1) by striking ''or registered'';

(2) by striking ''or derivatives transaction execution facility'' each place it appears; and

(3) by striking ''or registration'' each place it appears.

(dd) Section 6a(a) of such Act (7 U.S.C. 10a(a)) is amended—

(1) by striking ''or registered'';

(2) by striking ''or a derivatives transaction execution facility''; and

(3) by inserting ''shall'' before ''exclude''.

(ee) Section 6a(b) of such Act (7 U.S.C. 10a(b)) is amended—

(1) by striking ''or registered''; and

(2) by striking ''or a derivatives transaction execution facility''.

(ff) Section 6d(1) of such Act (7 U.S.C. 13a-2(1)) is amended by striking ''derivatives transaction execution facility,''.

SEC. 411. ELIMINATION OF OBSOLETE REFERENCES TO EXEMPT BOARDS OF TRADE.

(a) Section 1a(18)(A)(x) of the Commodity Exchange Act (7 U.S.C. 1a(18)(A)(x)) is amended by striking ''or an exempt board of trade''.

(b) Section 12(e)(1)(B)(i) of such Act (7 U.S.C. 16(e)(1)(B)(i)) is amended by striking ''or exempt board of trade''.

SEC. 412. ELIMINATION OF REPORT DUE IN 1986.

Section 26 of the Futures Trading Act of 1978 (7 U.S.C. 16a) is amended by striking subsection (b) and redesignating subsection (c) as subsection (b).

SEC. 413. COMPLIANCE REPORT FLEXIBILITY.

Section 4s(k)(3)(B) of the Commodity Exchange Act (7 U.S.C. 6s(k)(3)(B)) is amended to read as follows:

''(B) REQUIREMENTS.—A compliance report under subparagraph (A) shall—

''(i) include a certification that, under penalty of law, the compliance report is materially accurate and complete; and

''(ii) be furnished at such time as the Commission determines by rule, regulation, or order, to be appropriate.''.

SEC. 414. MISCELLANEOUS CORRECTIONS.

(a) Section 1a(12)(A)(i)(II) of the Commodity Exchange Act (7 U.S.C. 1a(12)(A)(i)(II)) is amended by adding at the end a semicolon.

(b) Section 2(a)(1)(C)(ii)(III) of such Act (7 U.S.C. 2(a)(1)(C)(ii)(III)) is amended by moving the provision 2 ems to the right.

(c) Section 2(a)(1)(C)(iii) of such Act (7 U.S.C. 2(a)(1)(C)(iii)) is amended by moving the provision 2 ems to the right.

(d) Section 2(a)(1)(C)(iv) of such Act (7 U.S.C. 2(a)(1)(C)(iv)) is amended by striking ''under or'' and inserting ''under''.

(e) Section 2(a)(1)(C)(v) of such Act (7 U.S.C. 2(a)(1)(C)(v)) is amended by moving the provision 2 ems to the right.

(f) Section 2(a)(1)(C)(v)(VI) of such Act (7 U.S.C. 2(a)(1)(C)(v)(VI)) is amended by striking ''III'' and inserting ''(III)''.

(g) Section 2(c)(1) of such Act (7 U.S.C. 2(c)(1)) is amended by striking the 2nd comma.

(h) Section 4(c)(3)(H) of such Act (7 U.S.C. 6(c)(3)(H)) is amended by striking ''state'' and inserting ''State''.

(i) Section 4c(c) of such Act (7 U.S.C. 6c(c)) is amended to read as follows:

''(c) The Commission shall issue regulations to continue to permit the trading of options on contract markets under such terms and conditions that the Commission from time to time may prescribe.''.

(j) Section 4d(b) of such Act (7 U.S.C. 6d(b)) is amended by striking ''paragraph (2) of this section'' and inserting ''subsection (a)(2)''.

(k) Section 4f(c)(3)(A) of such Act (7 U.S.C. 6f(c)(3)(A)) is amended by striking the 1st comma.

(l) Section 4f(c)(4)(A) of such Act (7 U.S.C. 6f(c)(4)(A)) is amended by striking ''in developing'' and inserting ''In developing''.

(m) Section 4f(c)(4)(B) of such Act (7 U.S.C. 6f(c)(4)(B)) is amended by striking ''1817(a)'' and inserting ''1817(a))''.

(n) Section 5 of such Act (7 U.S.C. 7) is amended by redesignating subsections (c) through (e) as subsections (b) through (d), respectively.

(o) Section 5b of such Act (7 U.S.C. 7a-1) is amended by redesignating subsection (k) as subsection (j).

(p) Section 5f(b)(1) of such Act (7 U.S.C. 7b-1(b)(1)) is amended by striking ''section 5f'' and inserting ''this section''.

(q) Section 6(a) of such Act (7 U.S.C. 8(a)) is amended by striking ''the the'' and inserting ''the''.

(r) Section 8a of such Act (7 U.S.C. 12a) is amended in each of paragraphs (1)(E) and (3)(B) by striking ''Investors'' and inserting ''Investor''.

(s) Section 9(a)(2) of such Act (7 U.S.C. 13(a)(2)) is amended by striking ''subsection 4c'' and inserting ''section 4c''.

(t) Section 12(b)(4) of such Act (7 U.S.C. 16(b)(4)) is amended by moving the provision 2 ems to the left.

(u) Section 14(a)(2) of such Act (7 U.S.C. 18(a)(2)) is amended by moving the provision 2 ems to the left.

(v) Section 17(b)(9)(D) of such Act (7 U.S.C. 21(b)(9)(D)) is amended by striking the semicolon and inserting a period.

(w) Section 17(b)(10)(C)(ii) of such Act (7 U.S.C. 21(b)(10)(C)(ii)) is amended by striking ''and'' at the end.

(x) Section 17(b)(11) of such Act (7 U.S.C. 21(b)(11)) is amended by striking the period and inserting a semicolon.

(y) Section 17(b)(12) of such Act (7 U.S.C. 21(b)(12)) is amended—

(1) by striking ''(A)''; and

(2) by striking the period and inserting ''; and''.

(z) Section 17(b)(13) of such Act (7 U.S.C. 21(b)(13)) is amended by striking ''A'' and inserting ''a''.

(aa) Section 17 of such Act (7 U.S.C. 21) is amended by redesignating subsection (q), as added by section 233(5) of Public Law 97–444, and subsection (r) as subsections (r) and (s), respectively.

(bb) Section 22(b)(3) of such Act (7 U.S.C. 25(b)(3)) is amended by striking ''of registered'' and inserting ''of a registered''.

(cc) Section 22(b)(4) of such Act (7 U.S.C. 25(b)(4)) is amended by inserting a comma after ''entity''.

The CHAIR. No amendment to the amendment in the nature of a substitute shall be in order except those printed in House Report 114–136. Each such amendment may be offered only in the order printed in the report, by a Member designated in the report, shall be considered read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

AMENDMENT NO. 1 OFFERED BY MR. CONAWAY

The CHAIR. It is now in order to consider amendment No. 1 printed in House Report 114–136.

Mr. CONAWAY. Mr. Chairman, I have an amendment at the desk.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 3, line 7, strike ''(s)'' and insert ''(t)''.

Page 4, line 15, strike ''(t)'' and insert ''(u)''.

Page 6, line 9, strike ''(u)'' and insert ''(v)''.

Page 6, line 16, strike ''(v)'' and insert ''(w)''.

Page 7, line 4, strike ''(w)'' and insert ''(x)''.

Page 12, line 10, strike ''(17)'' and insert ''(16)''.

Page 13, line 6, strike ''(17)'' and insert ''(16)''.

Page 14, line 8, strike ''(18)'' and insert ''(17)''.

Page 30, line 18, strike ''or''.

Page 33, line 12, strike ''(8)'' and insert ''(7)''.

Page 33, line 13, strike ''(9)'' and insert ''(8)''.

Page 38, line 8, strike ''1a(47)(B)(ii)'' and insert ''1a(48)(B)(ii)''.

Page 38, line 9, after the parenthetical phrase, insert '', as so redesignated by section 306(b)(1) of this Act,''.

Page 38, line 21, strike ''1a(49)(D)'' and insert ''1a(50)(D)''.

Page 38, line 22, after the parenthetical phrase, insert '', as so redesignated by section 306(b)(1) of this Act,''.

Page 52, line 15, strike ''1a(10)'' and insert ''1a(11)''.

Page 52, line 16, after the parenthetical phrase, insert '', as so redesignated by section 306(b)(1) of this Act,''.

Page 55, line 13, strike ''subsection,'' and insert ''subsection''.

Page 56, line 11, insert ''and'' after the semicolon.

Page 56, strike line 12.

Page 56, line 13, strike ''(C)'' and insert ''(B)''.

Page 59, line 16, strike ''1a(11)'' and insert ''1a(12)''.

Page 59, line 17, after the parenthetical phrase, insert '', as so redesignated by section 306(b)(1) of this Act,''.

Page 60, line 18, strike ''1a(12)'' and insert ''1a(13)''.

Page 60, line 19, after the parenthetical phrase, insert '', as so redesignated by section 306(b)(1) of this Act,'' after ''(7 U.S.C. 1a(12))''.

Page 61, line 3, strike ''(11)(C)(ii)'' and insert ''(12)(C)(ii)''.

Page 62, line 7, strike ''(d),'' and insert '', (d),''.

Page 62, line 10, strike ''(d),'' and insert '', (d),''.

Page 62, line 13, strike ''(e)'' and insert ''(e),''.

Page 63, line 9, strike ''1a(18)(A)(x)'' and insert ''1a(19)(A)(x)''.

Page 63, line 10, after the parenthetical phrase, insert '', as so redesignated by section 306(b)(1) of this Act,''.

Page 63, line 13, strike ''1a(40)'' and insert ''1a(41)''.

Page 63, line 14, after the parenthetical phrase, insert '', as so redesignated by section 306(b)(1) of this Act,''.

Page 64, line 10, strike ''4i(a)'' and insert ''4i''.

Page 64, line 10, strike ''6i(a)'' and insert ''6i''.

Page 66, line 18, strike ''1a(12)(B)(vi)'' and insert ''1a(13)(B)(vi)''.

Page 66, line 19, after the parenthetical phrase, insert '', as so redesignated by section 306(b)(1) of this Act,''.

Page 66, line 22, strike ''1a(34)'' and insert ''1a(35)''.

Page 66, line 22, after the parenthetical phrase, insert '', as so redesignated by section 306(b)(1) of this Act,''.

Page 67, line 1, strike ''1a(35)(B)(iii)(I)'' and insert ''1a(36)(B)(iii)(I)''.

Page 67, line 2, after the parenthetical phrase, insert '', as so redesignated by section 306(b)(1) of this Act,''.

Page 69, strike lines 6 through 9 and insert the following:

(4) by striking '', registering,''; and

(5) by striking ''registration,''.

Page 69, line 12, strike ''each place it appears''.

Page 69, line 20, strike ''derivative'' and insert ''derivatives''.

Page 69, strike lines 22 through 24 and insert the following:

(q) Section 4a(a)(1) of such Act (7 U.S.C. 6a(a)(1)) is amended—

(1) by striking ''or derivatives transaction execution facilities''; and

(2) by striking ''or derivatives transaction execution facility''.

Page 70, line 7, strike ''4c(g)'' and insert ''4c(e)''.

Page 70, line 7, after the parenthetical phrase, insert '', as so redesignated by section 402(a) of this Act,''.

Page 71, line 21, strike ''before 'exclude'.'' and insert ''before 'exclude' the first place it appears.''.

Page 72, line 8, strike ''1a(18)(A)(x)'' and insert ''1a(19)(A)(x)''.

Page 72, line 9, after the parenthetical phrase, insert '', as so redesignated by section 306(b)(1) of this Act,''.

Page 73, line 5, strike ''1a(12)(A)(i)(II)'' and insert ''1a(13)(A)(i)(II)''.

Page 73, line 6, after the parenthetical phrase, insert '', as so redesignated by section 306(b)(1) of this Act,''.

Page 75, line 7, strike ''(1)(E)'' and insert ''(2)(E)''.

Page 76, line 6, after the parenthetical phrase, insert '', as amended by sections 101 through 103 of this Act,''.

Page 76, beginning on line 8, strike ''subsection (r) as subsections (r) and (s)'' and insert ''subsections (s) through (w) as subsections (r) through (x)''.

The CHAIR. Pursuant to House Resolution 288, the gentleman from Texas (Mr. CONAWAY) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Texas.

Mr. CONAWAY. Mr. Chairman, this amendment corrects the technical errors found by legislative counsel in the

process of preparing the Ramseyer for the reported bill, including section, subsection, and paragraph references, punctuation, and pluralization. I urge my colleagues to support this amendment.

I yield back the balance of my time.

The CHAIR. The question is on the amendment offered by the gentleman from Texas (Mr. CONAWAY).

The amendment was agreed to.

The CHAIR. It is now in order to consider amendment No. 2 printed in House Report 114–136.

It is now in order to consider amendment No. 3 printed in House Report 114–136.

□ 1615

AMENDMENT NO. 4 OFFERED BY MS. MOORE

The CHAIR. It is now in order to consider amendment No. 4 printed in House Report 114–136.

Ms. MOORE. Mr. Chair, I have an amendment at the desk.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 27, strike line 4 and all that follows through page 28, line 2, and insert the following:

(b) SWAP DATA REPOSITORIES.—Section 21 of such Act (7 U.S.C. 24a) is amended—

(1) in subsection (c)(7)—

(A) in the matter preceding subparagraph (A), by striking ''all'' and inserting ''swap''; and

(B) in subparagraph (E)—

(i) in clause (ii), by striking ''and'' at the end; and

(ii) by adding at the end the following:

''(iv) other foreign authorities; and''; and

(2) by striking subsection (d) and inserting the following:

''(d) CONFIDENTIALITY AGREEMENT.—Before the swap data repository may share information with any entity described in subsection (c)(7), the swap data repository shall receive a written agreement from each entity stating that the entity shall abide by the confidentiality requirements described in section 8 relating to the information on swap transactions that is provided.''.

(c) SECURITY-BASED SWAP DATA REPOSITORIES.—Section 13(n)(5) of the Securities Exchange Act of 1934 25 (15 U.S.C. 78m(n)(5)) is amended—

(1) in subparagraph (G)—

(A) in the matter preceding clause (i), by striking ''all'' and inserting ''security-based swap''; and

(B) in subclause (v)—

(i) in subclause (II), by striking ''; and'' and inserting a semicolon;

(ii) in subclause (III), by striking the period at the end and inserting ''; and''; and

(iii) by adding at the end the following:

''(IV) other foreign authorities.''; and

(2) by striking subparagraph (H) and inserting the following:

''(H) CONFIDENTIALITY AGREEMENT.—Before the security-based swap data repository may share information with any entity described in subparagraph (G), the security-based swap data repository shall receive a written agreement from each entity stating that the entity shall abide by the confidentiality requirements described in section 24 relating to the information on security-based swap transactions that is provided.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect as if enacted on July 21, 2010.

The CHAIR. Pursuant to House Resolution 288, the gentlewoman from Wisconsin (Ms. MOORE) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from Wisconsin.

Ms. MOORE. Mr. Chair, my amendment is simple. It really seeks to harmonize the regulatory regime for both the security- and commodity-based swaps. I am so pleased to be joined on a bipartisan basis with Representatives RICK CRAWFORD, BILL HUIZENGA, and SEAN PATRICK MALONEY in offering this amendment.

As we all know, Mr. Chairman, the regulation of the swaps market is under the jurisdiction of both the Securities and Exchange Commission and the Commodity Futures Trading Commission. As such, legislation that amends the swap regulation must be addressed in both the securities law and the Commodity Exchange Act.

Mr. Chairman, I have worked with Chairman HENSARLING, Ranking Member WATERS, and the Committee on Financial Services, and we have offered the same language to amend the securities law section of a bill. This amendment in committee, Mr. Chairman, was adopted by a voice vote.

This amendment makes the same minor change to the Commodity Exchange Act section so that the regulatory regime is the same for both security- and commodity-based swaps.

This section of H.R. 2289 mirrors legislation, H.R. 1847, sponsored by Representative CRAWFORD and has enjoyed broad bipartisan support and passed both the Committee on Financial Services and Committee on Agriculture without controversy and with the support and blessing of the SEC.

So why the amendment? Foreign regulators and some industry participants reached out to the SEC seeking to tighten the language to narrow the requirement to share data to clarify that swap data repositories are only required to share data related to the swap trade.

The amendment will in no way weaken swap regulation or inhibit the aggregation of swap data; rather, the amendment will make a narrow modification to protect market participant information. This change is supported by both industry and the SEC.

This bill has global impact on swap participants and regulators, so I think it is important to get it right. I applaud the SEC for working with industry to refine the bill, and I want to thank the chairman and ranking members of both the Committee on Financial Services and the Committee on Agriculture for working with me on this amendment and to the sponsor and cosponsors of this legislation for also working with me for their support on this amendment.

I do have some concerns about the underlying bill. The cost-benefit analysis, I think, will hamper the regulatory ability of the CFTC, but I do urge the adoption of this amendment.

I reserve the balance of my time.

Mr. CRAWFORD. Mr. Chairman, I claim time in opposition, although I do not oppose the amendment.

The CHAIR. Without objection, the gentleman from Arkansas is recognized for 5 minutes.

There was no objection.

Mr. CRAWFORD. Mr. Chair, I would like to thank the cosponsors of this amendment. I would like to thank the gentlewoman from Wisconsin for introducing the amendment and the cosponsors—Ms. MOORE, Mr. HUIZENGA, Mr. MALONEY—for joining me in efforts to help bring transparency to the global swap markets.

While I may not agree with every position in the Dodd-Frank law, today, I believe we are working towards its bipartisan goal of giving regulators the tools they need to improve systemic risk mitigation in global financial markets.

I think everyone agrees that the lack of transparency into the over-the-counter derivatives market escalated the financial crisis of 2008. In order to provide market transparency, the Dodd-Frank law requires posttrade reporting to swap data repositories, or SDRs, so that regulators and market participants have access to real-time market data that will help identify systemic risk in the financial system.

So far, we have made great strides in reaching this goal, but unfortunately, a provision in the law threatens to undermine our progress unless we fix it.

Currently, Dodd-Frank includes a provision requiring a foreign regulator to indemnify a U.S.-based SDR for any expenses arising from litigation relating to a request for market data. Although well intentioned, the effect has been a reluctance of foreign regulators to comply, which threatens to fragment global data on swap markets and making it harder for regulators to see a complete picture of the marketplace.

Without effective coordination between international regulators and SDRs, monitoring and mitigating global systemic risk is severely limited. H.R. 2289 includes a bipartisan provision that removes the indemnification provisions in Dodd-Frank.

This provision received broad bipartisan support when it came to the floor as a stand-alone last year, passing the House by a vote of 420–2. Additionally, both the CFTC and the SEC support the fix.

This amendment makes a small technical change to make clear that only swap data can be shared with foreign regulators. It will ensure that regulators will have access to a global set of swap market data, which is essential to maintaining the highest degree of market transparency and systemic risk mitigation.

Again, I thank the gentlewoman for introducing the amendment.

I reserve the balance of my time.

Ms. MOORE. Mr. Chair, how much time do I have remaining?

The CHAIR. The gentlewoman from Wisconsin has 2 minutes remaining.

Ms. MOORE. Mr. Chair, I yield the balance of my time to the gentlewoman from Minnesota (Ms. MCCOLLUM).

Ms. MCCOLLUM. Mr. Chair, I thank the gentlewoman from Wisconsin (Ms. MOORE), and I rise in full support of her amendment, but I join Ranking Member PETERSON in his opposition of the bill before us.

Although reauthorization of the Commodity Exchange Act is an important endeavor, this legislation rolls back critical Dodd-Frank reforms and places unnecessary restrictions on the Commodity Futures Trading Commission. The changes proposed in this underlying bill would stifle the Commission's capacities to respond to a rapidly changing market and would add unneeded layers of government bureaucracy.

The underlying bill, H.R. 2289, threatens the financial stability of hard-working Americans by encouraging the same type of risky behavior that led to the recession just 7 years ago.

I urge my colleagues to join me in supporting the Moore amendment. However, I urge my colleagues to use great caution and join me in voting against the underlying bill.

Ms. MOORE. Mr. Chair, I yield back the balance of my time.

Mr. CRAWFORD. I yield 1 minute to the gentleman from Texas (Mr. CONAWAY), the distinguished chairman of the full committee.

Mr. CONAWAY. Mr. Chair, I don't oppose the amendment. It does improve the bill. We appreciate that. I am looking forward to supporting the amendment. I would also expect support on the underlying bill itself.

We have had a good discussion on why this bill is the right answer, bringing the right relief to the right people at the right time and does not do the things that have been spoken of in terms of rolling back Dodd-Frank.

This is a very light touch on Dodd-Frank, and it improves a bill that I don't think anybody would argue is perfect, but maybe they do argue that Dodd-Frank is perfect. I don't think it is perfect, and it does need these light touches.

Mr. CRAWFORD. Mr. Chair, I thank the chairman. I would urge adoption of the amendment, as well as support of the underlying bill.

I yield back the balance of my time.

The CHAIR. The question is on the amendment offered by the gentlewoman from Wisconsin (Ms. MOORE).

The amendment was agreed to.

AMENDMENT NO. 5 OFFERED BY MRS. WALORSKI

The CHAIR. It is now in order to consider amendment No. 5 printed in House Report 114–136.

Mrs. WALORSKI. Mr. Chairman, I have an amendment made in order by the rule.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 24, line 2, strike ''and''.

Page 24, line 4, strike the period and insert ''; and''.

Page 24, after line 4, insert the following:

(3) the status of consultations with all United States market participants including major producers and consumers.

The CHAIR. Pursuant to House Resolution 288, the gentlewoman from Indiana (Mrs. WALORSKI) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from Indiana.

Mrs. WALORSKI. Mr. Chairman, I would like to thank Congressman GOODLATTE and Chairman CONAWAY for their continued leadership in support of my amendment.

My amendment today would encourage the CFTC to keep both U.S. producers and users of aluminum firmly in mind as they proceed in their work. We might take it for granted, but aluminum is part of our everyday life. It is used in everything from food packaging to commercial buildings and homes to automotive and air transportation.

In my home State of Indiana, aluminum is home to 10,000 industry jobs that account for over $5 billion in economic activity every year. About 1,800 of those workers are employed at an integrated facility in southern Indiana that boasts the largest operating smelter in the United States and is one of eight still in use in the country.

My amendment would require the CFTC provide this body with an update of the status of its consultations with U.S. producers and consumers of aluminum. To better protect the thousands of workers in my district and businesses and consumers across the country, we must ensure the CFTC is operating in a transparent manner where the rules are designed to help fair and open price discovery.

It is imperative that everyone who participates in the physical aluminum market have confidence in the system, and my amendment will ensure the protection of our workers, businesses, and consumers.

I ask my colleagues to join me in support of my amendment.

I reserve the balance of my time.

The CHAIR. Does any Member claim time in opposition? If not, the gentlewoman from Indiana is recognized.

Mrs. WALORSKI. Mr. Chair, may I inquire how much time I have remaining?

The CHAIR. The gentlewoman from Indiana has 3½ minutes remaining.

Mrs. WALORSKI. Mr. Chair, I yield 2 minutes to the gentleman from Virginia (Mr. GOODLATTE).

Mr. GOODLATTE. Mr. Chair, I thank the gentlewoman for yielding me the time.

As someone who has worked very hard to ensure that this CFTC reauthorization process is transparent for commodity purchasers, users, and the markets that facility these transactions, I was pleased to work with Mrs. WALORSKI on her amendment to bring further transparency and openness to the issue of aluminum warehousing.

Her amendment would clarify that the bill's required report on the status of any application of metal exchange to register as a foreign board of trade should also include the status of consultations with all U.S. market participants, including major producers and consumers.

I applaud her for offering this targeted amendment to improve the underlying legislation and help everyone in the aluminum market have the best information possible to strengthen aluminum supplies and bring the best cost for consumers, helping to create jobs and grow our economy.

I support her amendment.

Mrs. WALORSKI. Mr. Chair, I yield back the balance of my time.

The CHAIR. The question is on the amendment offered by the gentlewoman from Indiana (Mrs. WALORSKI).

The amendment was agreed to.

Mr. CONAWAY. Mr. Chair, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. LAMALFA) having assumed the chair, Mr. SIMPSON, Chair of the Committee of the Whole House on the state of the Union, reported that that Committee, having had under consideration the bill (H.R. 2289) to reauthorize the Commodity Futures Trading Commission, to better protect futures customers, to provide end-users with market certainty, to make basic reforms to ensure transparency and accountability at the Commission, to help farmers, ranchers, and end-users manage risks, to help keep consumer costs low, and for other purposes, had come to no resolution thereon.

PERMISSION TO CONSIDER AMENDMENTS OUT OF SEQUENCE DURING FURTHER CONSIDERATION OF H.R. 2289, COMMODITY END-USER RELIEF ACT

Ms. PLASKETT. Mr. Speaker, I ask unanimous consent that during further consideration of H.R. 2289, pursuant to House Resolution 288, amendment Nos. 2 and 3 printed in House Report 114–136 may be considered out of sequence.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from the Virgin Islands?

There was no objection.

COMMODITY END-USER RELIEF ACT

The SPEAKER pro tempore. Pursuant to House Resolution 288 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the state of the Union for the further consideration of the bill, H.R. 2289.

Will the gentleman from Idaho (Mr. SIMPSON) kindly resume the chair.

□ 1630

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole