
Coalition for Derivatives End-Users

Similar letter sent to all Senate offices.

February 3, 2010

The Honorable Harry Reid
United States Senate
522 Hart Office Building
Washington, DC 20510

Dear Senator Reid:

The undersigned companies and trade associations—which represent American companies that use over-the-counter (OTC) derivatives to manage business risks including fluctuating currency rates, interest rates and commodity prices—support efforts by Congress to improve transparency, accountability and stability in the nation’s financial markets. We remain concerned however, that certain proposals for reform of the OTC derivatives market would place an extraordinary burden on and competitively disadvantage end-users in diverse sectors of the economy – including manufacturing, energy, healthcare, technology, commercial real estate and other industrial sectors.

OTC derivatives provide companies with access to lower cost capital and protect against risk—enabling businesses to grow, make new investments and retain and create jobs. In promoting market stability, central clearing, transparency and oversight, it is critical that policymakers preserve the ability of companies to manage their individual risk exposures by ensuring access to reasonably-priced OTC derivative products.

Some reform proposals would require OTC derivatives used by business end-users to be executed on exchanges, centrally cleared, or subject to daily mark-to-market collateral or onerous capital charges. Such requirements could prevent companies from using these important risk management tools in the course of their everyday business operations.

We applaud the efforts of many House Members to improve the derivatives title of H.R. 4173, the Wall Street Reform and Consumer Protection Act, and recognize the need to treat businesses that use derivatives to manage risk differently than other derivatives users. We encourage the Senate to strengthen these provisions to fully protect end-users from clearing, margining, and exchange-trading requirements that could discourage them from pursuing responsible risk-mitigation strategies. The loss of these important risk management tools would be detrimental to businesses, the economy, and job creation.

In order to promote U.S. competitiveness and economic growth, policymakers should ensure that any financial services reform effort allows U.S. business to manage their risks effectively. To that end, we request that any derivatives reform package considered by the Senate should include:

- A definition of “major swap participant” that excludes businesses whose derivatives use does not pose a threat to financial stability and that use OTC derivatives to hedge business risk;
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February 3, 2010

Page 2

- Explicit exemptions from central clearing, bilateral margining and exchange-trading requirements for business end-users;
- Clarification that any increases to capital charges should be based on actual risk of loss and aimed at promoting the safety and soundness of the financial system, and should not be assessed to penalize the use of OTC derivatives or otherwise create an incentive to centrally clear transactions; and
- Legislative certainty that any new requirements are applied prospectively, recognizing that market participants negotiated existing trades based on the laws and market practices in effect at the time of these transactions.

In today's challenging economy, access to customized derivatives helps businesses maintain operations, invest in new technologies, build new plants and retain and expand workforces.

Thank you for your thoughtful consideration of our request. We look forward to working with you and your staff to promote stability and transparency as part of the ongoing economic recovery.

Sincerely,

3M
A&D Insight, LLC
Acadia Realty Trust
Aerospace Industries Association of America, Inc.
Air Products and Chemicals, Inc.
Alcoa
Allegheny Energy
Allegheny Technologies Incorporated
Alliant Energy Corp.
Allstate Insurance Company
AMB Property Corporation
AMC Entertainment Inc.
Ameren Services
American Adhesive Coatings Company
American Electric Power
American Forest & Paper Association
American Gas Association
American Petroleum Institute
American Residential Communities
Anadarko Petroleum Corporation
Applied Materials, Inc.
ARAMARK Corporation
Arch Coal Inc.
Ashford Hospitality Trust

Associated Estates
Associated Industries of Massachusetts
Association for Financial Professionals (AFP)
Atmos Energy
Avista
Bayer Corporation
Black Diamond Minerals, LLC
Black Hills Corporation
Blyth, Inc.
Bobrick Washroom Equipment, Inc.
Bolton Emerson Americas
Boston Scientific Corporation
Business Roundtable
BP America
Cabot Corporation
Caribbean Property Group
Caterpillar Inc.
Chatham Financial
Chesapeake Energy Corporation
CIP Real Estate
CMS Energy
CNL Financial Group
Columbia Sussex Corporation
Community Health Systems

Compass Minerals
ConAgra Foods, Inc.
ConGlobal Industries
Constellation Energy
Cordillera Energy Partners III, LLC
Craton Capital Management, LLC
Cummins Inc.
Cybex International Inc
Dean Foods Company
Deere & Company
Devon Energy Corporation
Dominion
Donahue Schriber Realty Group L.P.
Douglas Emmett
Duke Energy
Dynergy Inc.
Eagle Rock Energy Partners, L.P.
Eaton Corporation
Ecolab Inc.
Edison Electric Institute
Edison International
El Paso Corporation
Emdeon
Enbridge Energy Company, Inc.
EnCana Oil & Gas (USA) Inc.
Energy Future Holdings Corp.
Entertainment Properties Trust
EOG Resources, Inc.
Exelon Corporation
Financial Executives International
First Capitol Ag
FMC Corporation
Ford Motor Company
Forest City Enterprises, Inc.
Formation Capital
FPL Group
GID Investment Advisers LLC
Glimcher Realty Trust
Golden Living
Goodrich Corporation
Hampshire Real Estate
HCA Inc.
HCR ManorCare
Health Care REIT, Inc.
Heritage Feeders, L.P.
Hersha Hospitality Trust
Hess Corporation
Host Hotels & Resorts, Inc.
Hyundai Capital America / Hyundai Motor
Finance Company
IBM
Independent Petroleum Association of America
Independent Petroleum Association
of Mountain States (IPAMS)
Jungs Station Associates
Kansas City Power & Light Company
KBS Real Estate Investment Trust, Inc.
Kelly-Moore Paint Co., Inc.
Kerzner Istithmar Limited
Kilroy Realty Corporation
Legacy Partners Residential, Inc.
Lexmark International, Inc.
LINN Energy
Loews Corporation
Marlin Steel Wire Products, LLC
Medtronic, Inc.
Mid-America Apartment Communities, Inc.
MidAmerican Energy Holdings Company
MillerCoors
Mississippi Manufacturers Association
MVP Management Corporation
National Association of Corporate Treasurers
National Association of Manufacturers
National Association of Real Estate
Investment Trusts
National Grid
National Gypsum Company
National Mining Association
National Retail Properties, Inc.
Newfield Exploration Company
Nissan North America, Inc.
Novation Partners
Novelis Inc.
Ocean Properties LTD.
ONEOK, Inc.
Portland General Electric
Public Service Enterprise Group
Puget Sound Energy
Quadrangle Development Corporation
Questar Corporation
Regency Centers Corporation
Rolls-Royce North America
Ryder System, Inc.
Sealed Air Corporation
Simon Property Group
Simons Petroleum, Inc.
Southern Union Gas Services, Ltd.
Southwestern Energy Company
Sprinkle Financial Consultants LLC
St. Mary Land & Exploration Co.
Strategic Hotels & Resorts, Inc
Superior Graphite Co.
Superior Woodcraft, Inc.
Swift Energy Company
Targa Resources, Inc.
Teradata Corporation
Texas Independent Producers and
Royalty Owners Association
Texas Oil & Gas Association
Texas Pipeline Association
The AES Corporation
The Boeing Company

The Commonwealth Group
The Durst Organization
The Procter & Gamble Company
The Real Estate Roundtable
The Timken Company
The Walt Disney Company
Thomas Properties Group, Inc.
Timberlane Village associates
UM Holdings Ltd
U.S. Chamber of Commerce

United Technologies Corporation
Vectra Management Group
Vermeer
W. R. Grace
Walker Center Associates, LLC
Weingarten Realty Investors
Whiting Petroleum Corporation
Xcel Energy
Zilber Ltd
Zimmer, Inc