

Coalition for Derivatives End-Users

July 15, 2013

The Honorable Harry Reid
Majority Leader
U.S. Senate
522 Hart Senate Office Building
Washington, DC 20510

The Honorable Mitch McConnell
Minority Leader
U.S. Senate
317 Russell Senate Office Building
Washington, DC 20510

The Honorable Tim Johnson
Chairman, Committee on Banking,
Housing and Urban Affairs
U.S. Senate
534 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Michael Crapo
Ranking Member, Committee on Banking,
Housing and Urban Affairs
U.S. Senate
534 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Debbie Stabenow
Chairman, Committee on Agriculture,
Nutrition and Forestry
U.S. Senate
328A Russell Senate Office Building
Washington, DC 20510

The Honorable Thad Cochran
Ranking Member, Committee on Agriculture,
Nutrition and Forestry
U.S. Senate
328A Russell Senate Office Building
Washington, DC 20510

Re: End-User Support for S. 888, to Provide End User Exemptions from Certain Provisions of the Commodity Exchange Act and the Securities Exchange Act of 1934

Dear Majority Leader Reid, Republican Leader McConnell, Chairman Johnson, Ranking Member Crapo, Chairman Stabenow and Ranking Member Cochran:

The undersigned companies—members of the Coalition of Derivatives End Users, which represents hundreds of non-financial companies that use derivatives to manage risk—write in strong support of S. 888, *a bill to provide end user exemptions from certain provisions of the Commodity Exchange Act and the Securities Exchange Act of 1934*, introduced with bipartisan support by Senators Johanns, Tester, Baucus, Blunt, Crapo, Donnelly, Fischer, Hagan, Heitkamp, Heller, Klobuchar, Moran, Shelby, Toomey, and Warner. This vital bill simply matches the language of Dodd-Frank with the intent of Congress to prevent margin from being imposed by federal regulators on non-financial companies hedging day-to-day business risk. As Senators Dodd and Lincoln wrote to Congressmen Frank and Peterson -- who agreed -- “[t]he legislation does not authorize the regulators to impose margin on end users.” We commend you and the other members of the U.S. Senate for working to advance this bill in the 113th Congress, and we ask now that you help us move the bill to the President’s desk for enactment.

The bill is urgently needed because regulations proposed by the Prudential Banking Regulators have interpreted the Act as mandating that margin be imposed on all swaps, including those entered into by non-financial end users. Such mandatory margin requirements would divert working capital away from productive uses and into margin accounts, without reducing systemic risk. A Coalition survey found that a 3% initial margin requirement on the S&P 500 companies

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could reduce capital spending by \$5.1 billion to \$6.7 billion, costing 100,000 jobs or more. This survey data is a sample of the broad impact that margin requirements would have on non-financial end users who engage in less than 10 percent of all derivatives trading but employ over 94 percent of private sector workers.

There is broad bipartisan support for S. 888 in Congress. S. 888 is identical to H.R. 634, *the Grimm-Peters-Scott-McIntyre "Business Risk Mitigation and Stabilization Act of 2013"*, which passed the House on June 12th by a vote of 411-12 with no member speaking against the bill during floor debate. Moreover, on July 17, 2012, Federal Reserve Chairman Ben S. Bernanke testified to the Senate Committee on Banking, Housing, and Urban Affairs that "nonfinancial end users and the economy benefits from the use of derivatives" and the Federal Reserve is "comfortable with [the] proposal" to exempt non-financial end users from posting margin.

We respectfully request your support in advancing S. 888 through the Senate on a bipartisan basis, by reaching an agreement that would allow for expedited consideration. Throughout the legislative and regulatory processes surrounding the Dodd-Frank Act, the Coalition has advocated for strong regulation that brings transparency to the derivatives market and imposes thoughtful new regulatory standards that enhance financial stability while avoiding needless costs. It is critical that we resolve this issue quickly and give companies the legal certainty the bill provides. Otherwise, end users will be forced to begin setting aside or raising funds to meet these unintended requirements later this year. Through this legislation, we can let end users get back to what Main Street does best: innovate, grow, and create jobs.

Sincerely,

Air Products & Chemicals
Ameren Corporation
American Honda Finance Corporation
Apache Corporation
Blyth, Inc.
Calumet Specialty Products Partners, L.P.
Cargill, Inc.
Caterpillar Inc.
Cummins Inc.
Deere & Company
Delphi Automotive
Devon Energy Corporation
DuPont
DuPont Fabros Technology, Inc.
Eaton
EnerVest, Ltd.
EV Energy Partners
FMC Corporation

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Ford Motor Company
General Motors Company
HCA Holdings, Inc.
Hersha Hospitality Trust
Honeywell
IBM Corporation
Johnson & Johnson
Lockheed Martin Corporation
Magellan Midstream Partners
McDonald's Corporation
Medtronic, Inc.
Microsoft
MillerCoors
Newfield Exploration Company
Nissan North America
Owens-Illinois, Inc.
Peabody Energy
Sealed Air Corporation
Simon Property Group
Southwestern Energy Company
The Boeing Company
The Coca-Cola Company
The Dow Chemical Company
The JBG Companies
Time Warner Inc.
Toyota Motor Credit Corporation
United States Steel Corporation
United Technologies Corporation
Vanguard Natural Resources, LLC
Volvo Group North America
WESCO International, Inc.
Whirlpool Corporation
Zimmer, Inc.

cc: Members of the U.S. Senate