We cannot let our seniors down. Democrats will fight to preserve Medicare to protect our seniors for generations to come.

STRENGTHEN AFFORDABLE CARE ACT—DON'T REPEAL IT

(Mrs. DEMINGS asked and was given permission to address the House for 1 minute.)

Mrs. DEMINGS. Mr. Speaker, I rise today to stand against the plan to repeal the Affordable Care Act.

I believe my job as a Member of Congress is to work every day to improve the quality of life for all Americans. If my colleagues and I are going to do our job, access to affordable, quality health care is the very foundation of that.

We know for a fact that the Affordable Care Act is working. Repealing it would put millions at risk of losing access to health care in a country that I know is the greatest. I ask today: Which family should not have access to quality health care?

Repealing the ACA would also have a crippling effect on our economy. Jobs will be lost. My State, Florida, is one that will be hit the hardest. Almost 181,000 Floridians would be at risk of losing their jobs almost immediately if the ACA were to be repealed.

Mr. Speaker, I urge my colleagues to think long and hard about the people and work to strengthen and not repeal the Affordable Care Act.

REPEALING WITHOUT REPLACING THE AFFORDABLE CARE ACT WOULD HARM OUR ECONOMY

(Mr. KRISHNAMOORTHI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KRISHNAMOORTHI. Mr. Speaker, I am Congressman RAJA KRISHNAMOORTHI from the great Eighth District of Illinois. I have the honor of representing the hardworking families of Chicago's west and northwest suburbs.

Before I took the oath of office last week, I was the president of small businesses in the Chicago area. As a small-business man, I stand here to say that repealing without replacing the Affordable Care Act would harm our economy and, with it, our working and middle class families.

Across our Nation, repealing without replacing the Affordable Care Act would destroy up to 3 million good-paying jobs and destroy $1.5 trillion in economic activity. Across Illinois, repealing without replacing the ACA would cost upwards of 100,000 jobs; and in the Eighth District alone, repealing without replacing the ACA would cost upwards of 4,000 jobs.

Middle class families need good-paying jobs and affordable health care. Repealing without replacing the ACA would, unfortunately, rob them of both.

DON'T MAKE AMERICA SICK AGAIN

(Mr. GENE GREEN of Texas asked and was given permission to address the House for 1 minute.)

Mr. GENE GREEN of Texas. Mr. Speaker, after years of attacking the Affordable Care Act, Republican's repeal plan will have cold, hard consequences for millions of Americans; not just the millions on the insurance exchange, but also those of our constituents who receive insurance through their employer coverage.

Beginning now, on a State-by-State basis, hospitals, doctors, patient advocates, and faith groups will be stepping forward to express the negative impacts of repealing the Affordable Care Act.

The Affordable Care Act has improved Americans' lives in the areas of healthcare coverage, consumer protections, costs, and quality.

Millions will lose health coverage. The individual insurance market will be in shambles. Hospitals in our States will lose billions and the economy will be hurt.

Without health insurance, people with chronic diseases will lose care and become sicker. Without healthcare coverage, people with chronic diseases die.

It is bad for patients, budgets, and the healthcare system as a whole. Every major law that has passed Congress needs to have oversight revisions to make sure it is as effective as intended.

Congress can amend any law, but doing so in a way that will cause millions of Americans to be without insurance is just wrong.

No repeal without a replacement.

REPLACE AFFORDABLE CARE ACT—DON'T REPEAL IT

(Mr. PALLONE asked and was given permission to address the House for 1 minute.)

Mr. PALLONE. Mr. Speaker, the Republican majority has declared its intent to immediately pass legislation to repeal the Affordable Care Act without a replacement. That means millions of Americans with health insurance today will lose their coverage.

That is people like Michelle from New Brunswick in my district who recently wrote to me and said: ''As a survivor of childhood cancer, I am deeply concerned about the repeal of the ACA, which could bar me from obtaining health insurance due to my pre-existing conditions.

''I accessed coverage from the ACA insurance exchange when I lost my job due to a health condition in 2014–2015. Because I had affordable coverage, I was able to obtain the necessary care needed to recover from the long-term effects from cancer. Now, I'm back on my feet, working, and contributing to the American economy.

''I urge you to please defend the ACA and help the 335,000-plus cancer survivors in New Jersey who depend on it.''

Mr. Speaker, the public deserves thorough and complete information on how working families will fare compared to today if the law is repealed.

Health care means life or death for American families. It is also nearly 18 percent of the Nation's gross domestic product. Often a hospital or health system is the largest employer in a county or town. We can't afford to be capricious with our approach to health care.

REPEAL OF THE AFFORDABLE CARE ACT

(Mr. YOHO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. YOHO. Mr. Speaker, I rise to bring attention to the burden ObamaCare has placed upon my constituents.

They have seen their healthcare costs rise while their quality of care has lowered. It is imperative that we repeal ObamaCare immediately.

I also emphasize to the folks here and at home that, as we repeal ObamaCare, we will make sure there is a stable transition period during the replacement so that people do not have the rug pulled out from under them. This transition period will give us the time we need to ensure our healthcare reform is full of truly patient-centered solutions that allow patients, families, and doctors to direct their health care.

Congress must focus on the principles of affordability, accessibility, and quality to provide the American people with genuine healthcare reform, but we can only get to that point by repealing ObamaCare now. I promise to read the bill before voting on it, unlike how it was passed.

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 to include extraneous material on H.R. 238.

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

There was no objection.

The SPEAKER pro tempore. Pursuant to House Resolution 40 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. 238.

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

□ 1239

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. 238) 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. DUNCAN of Tennessee 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 in support of H.R. 238, the Commodity End-User Relief Act.

The Commodity End-User Relief Act is a bipartisan bill to reauthorize the Commodity Futures Trading Commission, to make much-needed regulatory reforms, and, most importantly, to make statutory changes to protect end users and give them access to the tools they need to manage their risks.

Over the past 4 years, the House Committee on Agriculture has held almost two dozen hearings that have examined the Commission and have investigated the impacts of the Dodd-Frank Act on derivatives markets. Our witnesses, many of whom were market participants who were struggling to comply with burdensome rules and ambiguous portions of the underlying statute, were consistent in their call for relief. To address their concerns, H.R. 238 makes reforms that fall into three broad categories: customer protections, Commission reforms, and end-user relief.

Title I of the bill protects customers and the margin funds they deposit at their Futures Commission Merchants by codifying critical changes made during the collapse and bankruptcies of MF Global and Peregrine Financial Group.

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 thorough and robust cost-benefit analysis to help get future rulemakings right the first time. While the CFTC is already required to consider costs and benefits of the rules it proposes, its work has been called into question by the CFTC's inspector general, who reported the Commission staff seemed to view the process as more of a legal one than an economic one.

End users are the businesses that provide Americans with food, clothing, transportation, electricity, heat, and much more. Companies that produce, consume, and transport the commodities that make modern life possible use futures and swaps markets to reduce the uncertainty that their businesses face. Farmers hedge their crops in the spring so they know what 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 orders.

The fact is that no end user played any part in the financial crisis, and no end user currently poses a systemic risk to U.S. derivative markets. Yet, as the Agriculture Committee heard in countless hours of testimony, today it is more difficult and more expensive for them to manage their risks than it was for them 5 years ago. Some of these challenges are the result of ambiguities and oversights in the text of the Commodity Exchange Act, and some of them result from overzealous rulemakings by the Commission itself.

Today's legislation fixes statutory problems, like section 304, which amends the definition of ''financial entity'' to ensure that some end users don't lose their clearing exemption simply because a hedging strategy makes up for losses in a physical transaction; or like section 315, which makes small changes to the swaps' core principles to align them with conventions in the swaps industry, rather than the futures industry, easing compliance burdens for these newly regulated entities.

It also fixes problems that have grown out of the CFTC's own rulemakings. For example, section 308 sets aside a Commission rule that would automatically lower the transaction threshold triggering registration as a swap dealer. This costly, complex registration process was intended for large financial institutions, but because this registration threshold was set arbitrarily, it has swept up some commodity firms as well.

If the limits fall by 60 percent next year, it could sweep up to 100 more firms into the reach of Dodd-Frank. H.R. 238 would fix the level at its current $8 billion unless the Commission proposes a new rule with evidence of a needed reduction. Similarly, section 313 exempts religious pension plans and university endowments from a new rule that requires them to register as commodity pool operators simply because they use standardized hedging products.

What H.R. 238 does not do is roll back a single core tenet of title VII of Dodd-Frank. It does not change the execution, clearing, margining, capital, or reporting frameworks set up by that Act.

□ 1245

In fact, not a single witness who appeared before the House Committee on Agriculture ever asked us to fundamentally upend these principles. These are concepts that have been part of the swaps markets long before the financial reform happened. The Committee, the Commission, and the industry will continue to grapple with the details of these core tenets, seeking to provide the right mix of flexibility and oversight.

Before I close, I would like to thank members of the Agriculture Committee who sat through all these hearings and all the markups on this issue. Chairman AUSTIN SCOTT and Ranking Member DAVID SCOTT, two of my cosponsors on this legislation, have led most of the Committee's hearings on these issues, and they have done great work.

Together, we have put forward a bipartisan bill that makes narrowly targeted changes to provide relief from regulatory burdens on American businesses. The Commodity End-User Relief Act offers meaningful improvements for market participants without undermining the basic goals of title VII of Dodd-Frank, and it does so by providing the right relief to the right people.

I urge support of the Commodity End-User Relief Act with all its amendments, and I include for the RECORD letters of support from over 30 groups.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON FINANCIAL SERVICES,
Washington, DC, January 4, 2017.

Hon. K. MICHAEL CONAWAY,
Chairman, Committee on Agriculture, Washington, DC.

DEAR CHAIRMAN CONAWAY: I am writing concerning H.R. 238, the ''Customer Protection and End-User Relief Act.''

As a result of your having consulted with the Committee on Financial Services concerning provisions in the bill that fall within our Rule X jurisdiction, I agree to forgo action on the bill so that it may proceed expeditiously to the House Floor. The Committee on Financial Services takes this action with our mutual understanding that, by foregoing consideration of H.R. 238 at this time, we do not waive any jurisdiction over the subject matter contained in this or similar legislation, and that our Committee will be appropriately consulted and involved as this or similar legislation moves forward so that we may address any remaining issues that fall within our Rule X jurisdiction. Our Committee also reserves the right to seek appointment of an appropriate number of conferees to any House-Senate conference involving this or similar legislation, and requests your support for any such request.

Finally, I would appreciate your response to this letter confirming this understanding with respect to H.R. 238 and would ask that a copy of our exchange of letters on this matter be placed in the Congressional Record during floor consideration thereof.

Sincerely,

JEB HENSARLING,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON AGRICULTURE,
Washington, DC, January 4, 2017.

Hon. JEB HENSARLING,
Chairman, Committee on Financial Services, Washington, DC.

DEAR CHAIRMAN HENSARLING: Thank you for your letter regarding H.R. 238, ''Customer Protection and End-User Relief Act.'' I appreciate your support in bringing this legislation before the House of Representatives, and accordingly, understand that the Committee on Financial Services will forego action on the bill.

The Committee on Agriculture concurs in the mutual understanding that by foregoing

consideration of the bill at this time, the Committee on Financial Services does not waive any jurisdiction over the subject matter contained in this bill or similar legislation in the future. In addition, should a conference on this bill be necessary, I would support your request to have the Committee on Financial Services represented on the conference committee.

I will insert copies of this exchange in the Congressional Record during Floor consideration. I appreciate your cooperation regarding this legislation and look forward to continuing to work the Committee on Financial Services as this bill moves through the legislative process.

Sincerely,

K. MICHAEL CONAWAY,
Chairman.

CONGRESS OF THE UNITED STATES,
Washington, DC, January 6, 2017.

Hon. K. MICHAEL CONAWAY,
Chairman, Committee on Agriculture, Washington, DC.

DEAR CHAIRMAN CONAWAY: I write with respect to H.R. 238, the ''Commodity End-User Relief Act.'' As a result of your having consulted with us on provisions within H.R. 238 that fall within the Rule X jurisdiction of the Committee on the Judiciary, I forego any further consideration of this bill so that it may proceed expeditiously to the House floor for consideration.

The Judiciary Committee takes this action with our mutual understanding that by foregoing consideration of H.R. 238 at this time, we do not waive any jurisdiction over subject matter contained in this or similar legislation and that our committee will be appropriately consulted and involved as this bill or similar legislation moves forward so that we may address any remaining issues in our jurisdiction. Our committee also reserves the right to seek appointment of an appropriate number of conferees to any House-Senate conference involving this or similar legislation and asks that you support any such request.

I would appreciate a response to this letter confirming this understanding with respect to H.R. 238 and would ask that a copy of our exchange of letters on this matter be included in the Congressional Record during floor consideration of H.R. 238.

Sincerely,

BOB GOODLATTE,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON AGRICULTURE,
Washington, DC, January 4, 2017.

Hon. BOB GOODLATTE,
Chairman, Committee on the Judiciary, Washington, DC.

DEAR CHAIRMAN GOODLATTE: Thank you for your letter regarding H.R. 238, ''Customer Protection and End-User Relief Act.'' I appreciate your support in bringing this legislation before the House of Representatives, and accordingly, understand that the Committee on the Judiciary will forego action on the bill.

The Committee on Agriculture concurs in the mutual understanding that by foregoing consideration of the bill at this time, the Committee on the Judiciary does not waive any jurisdiction over the subject matter contained in this bill or similar legislation in the future. In addition, should a conference on this bill be necessary, I would support your request to have the Committee on the Judiciary represented on the conference committee.

I will insert copies of this exchange in the Congressional Record during Floor consideration. I appreciate your cooperation regarding this legislation and look forward to continuing to work the Committee on the Judiciary as this bill moves through the legislative process.

Sincerely,

K. MICHAEL CONAWAY,
Chairman.

SUPPORTERS OF HR 238, THE COMMODITY END-USER RELIEF ACT:

American Cotton Shippers Association, American Farm Bureau Federation, American Feed Industry Association, American Gas Association (AGA), American Public Power Association (APPA), American Soybean Association, Chamber of Commerce of the United States of America, Church Alliance of Church Benefits Programs, Commodity Markets Council, Edison Electric Institute (EEI), Futures Industry Association (FIA), Grain and Feed Association of Illinois, International Swaps and Derivative Association (ISDA), Kansas Grain and Feed Association, Michigan Agri-Business Association, Michigan Bean Shippers Association, National Association of Wheat Growers, National Cattlemen's Beef Association

National Corn Growers Association, National Cotton Council, National Council of Farmer Cooperatives, National Grain and Feed Association, National Milk Producers Federation, National Pork Producers Council, National Rural Electric Cooperatives Association (NRECA), National Sorghum Producers, Nebraska Grain and Feed Association, North American Millers Association, Northeast Agribusiness and Feed Alliance, Ohio AgriBusiness Association, SIFMA, South Dakota Grain and Feed Association, The Jewish Federations of North America, USA Rice, Wisconsin Agri-Business Association.

JANUARY 11, 2017.

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. 238, 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 306—Relief from burdensome and technologically infeasible recordkeeping requirements in commodity markets.

Section 308—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 311—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,

American Cotton Shippers Association, American Farm Bureau Federation, American Feed Industry Association, American Soybean Association, Grain and Feed Association of Illinois, Kansas Grain and Feed Association, Michigan Agri-Business Association, Michigan Bean Shippers, National Association of Wheat Growers, National Cattlemen's Beef Association, National Corn Growers Association, National Cotton Council.

National Council of Farmer Cooperatives, National Grain and Feed Association, National Milk Producers Federation, National Pork Producers Council, National Sorghum Producers, Nebraska Grain and Feed Association, North American Millers Association, Northeast Agribusiness and Feed Alliance, Ohio AgriBusiness Association, South Dakota Grain and Feed Association, USA Rice, Wisconsin Agri-Business Association.

AMERICAN GAS ASSOCIATION,
Washington, DC, January 9, 2017.

Hon. MIKE CONAWAY,
Chairman, Committee on Agriculture,
House of Representatives, Washington, DC.

DEAR CHAIRMAN CONAWAY: The American Gas Association (AGA) supports the Commodity End-User Relief Act (H.R. 238), 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 72 million residential, commercial and industrial natural gas customers in the U.S., of which 95 percent—just under 69 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.

H.R. 238 will benefit our industry by exempting end-user physical contracts from ''swaps'' and ''options'' regulation more applicable to sophisticated financial derivative transactions. Specifically, HR 238 would clarify that contracts containing delivery terms with volumetric optionality, but intended to result in the physical delivery of natural gas, will not be treated by the CFTC as swaps. Currently, the CFTC has provided some guidance on how physical natural gas contracts with volumetric optionality are to be reviewed for regulatory treatment, but considerable confusion and uncertainty still exists. This uncertainty has caused concern regarding the impact on the willingness of gas suppliers to offer flexible delivery volume terms, leaving gas utilities with fewer delivery options and more expensive contracts—costs ultimately passed to the consumer. HR 238 provides needed regulatory certainty to the physical natural gas marketplace, as requested by AGA and other industry stakeholders for several years.

H.R. 238 will also help the CFTC become a more responsive and well-equipped regulator by subjecting its rulemakings to administrative process reforms and judicial review. Current CFTC administrative rulemaking procedures are vague and provide insufficient avenues for the public to participate in and seek guidance on rulemakings. This bill would require the CFTC to comply with the Administrative Procedures Act to ensure public notice-and-comment on rules or guidance that have legally-binding effects.

Finally, H.R. 238 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.

Congress certainly did not intend to provide the CFTC a large new 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 with 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,

GEORGE LOWE,
Vice President, Federal Affairs,
American Gas Association.

AMERICAN PUBLIC POWER™ ASSOCIATION,
Arlington, VA, January 10, 2017.

Hon. K. MICHAEL CONAWAY,
Hon. COLLIN C. PETERSON,
Committee on Agriculture, House of Representatives, Washington, DC.

DEAR CHAIRMAN CONAWAY AND RANKING MEMBER PETERSON: On behalf of the American Public Power Association (APPA), I am writing in support of H.R. 238, the Commodity End-User Relief Act (CERA) of 2017. The legislation includes important relief for public power utilities and other end-users seeking to use swaps to hedge commercial-operations risks.

Community-owned, not-for-profit public power utilities power homes and businesses in 2,000 communities —from small towns to large cities. They safely provide reliable, low-cost electricity to more than 49 million Americans, while protecting the environment. These utilities generate or buy electricity from diverse sources. They employ 93,000 people and earn $58 billion in revenue each year. Public power supports local commerce and jobs and invests back into the community.

Public power utilities use swaps, options, forward contracts and other tools to manage commercial operations risks. As not-for-profit entities, their goal is to provide affordable and reliable power to customers. APPA supports the market clarity and oversight provided by the Commodity Exchange Act (CEA), and supports appropriately funding the Commodity Futures Trading Commission (CFTC). To date, however, implementation of the Dodd-Frank Act amendments to the CEA shows clear short-comings.

CERA would address these concerns, for example, by codifying CFTC rules allowing public power utilities to enter swaps with the full array of counterparties to swaps needed to hedge their commercial operations risks. CERA would also address issues related to the definition of ''bona fide hedging,'' swap reporting in illiquid markets, and forward contracts with volumetric optionality. These provisions would help public power utilities and other commercial end users.

On the whole, we believe these provisions will ensure that public power utilities can continue to make full use of financial tools necessary to keep electric power prices stable and affordable to our customers.

Thank for your time and consideration.

Sincerely,

SUSAN N. KELLY,
President & CEO.

CHAMBER OF COMMERCE OF THE UNITED STATES OF AMERICA,
Washington, DC, January 11, 2017.

TO THE MEMBERS OF THE U.S. HOUSE OF REPRESENTATIVES: The U.S. Chamber of Commerce strongly supports H.R. 238, the ''Commodity End-User Relief Act.'' H.R. 238 would reauthorize the Commodity Futures Trading Commission (''CFTC'') and enact a number of important reforms to provide regulatory relief for end users of the derivatives market. It would also promote accountability at the CFTC and protect Main Street businesses from onerous and unintended consequences of derivatives regulation.

The Chamber supports several amendments being offered to H.R. 238. Specifically, the Chamber supports Congressman Lucas' amendment to provide relief to Main Street businesses by clarifying the treatment of interaffiliate swaps. The amendment would drive down the cost of using derivatives by end-users and help Main Street businesses employ safe and effective risk management strategies on a more cost-effective basis.

The Chamber also supports the amendment sponsored by Congressman Duffy and Congressman Scott to clarify that the CFTC shall not have the authority to access proprietary source code without a subpoena. Their amendment would protect highly sensitive intellectual property, which would respect established due process rights and ensure that proprietary source code does not fall into the wrong hands as a result of a cyberattack or wrongdoing.

Finally, as the bill moves forward, the Chamber urges consideration of how best to address the cross-border regulation of derivatives. We strongly believe that H.R. 238 should appropriately reflect the potential impact of punitive or excessive cross-border rules on Main Street businesses seeking to prudently hedge their commercial and market risks, both in the U.S. and abroad. We look forward to continuing to work with the sponsors of H.R. 238 on this issue as the bill moves forward.

The Chamber commends the House of Representatives for prioritizing regulatory reform in the 115th Congress and urges the House to approve H.R. 238 and the amendments listed above as expeditiously as possible.

Sincerely,

JACK HOWARD.

CHURCH ALLIANCE,
January 9, 2017.

HON. MICHAEL CONAWAY,
Chairman, Committee on Agriculture,
House of Representatives, Washington, DC.

DEAR CHAIRMAN CONAWAY: On behalf of the Church Alliance, I write to thank you for your leadership on H.R. 238, the ''Commodity End-User Relief Act.''

The Church Alliance is a coalition of the chief executive officers of 37 church benefit programs. It includes mainline Protestant denominations, two branches of Judaism, and Catholic dioceses, schools and institutions. The benefit programs (''church plans'') provide retirement and health benefits to more than 1 million clergy, lay workers, and their family members.

H.R. 238 contains a provision expanding the church plan exemption from the commodity pool operator (''CPO'') and commodity trading advisor (''CTA'') rules under the Commodity Exchange Act (''CEA'') to include church plan-related accounts, such as endowments or foundations of churches and church-controlled nonprofits. The provision was included by a bipartisan, broadly-supported amendment during the House Agriculture Committee's consideration of CFTC reauthorization legislation in the 114th Congress.

Under current law, church plans are generally exempt from the CPO and CTA requirements; however, the exemption does not include church plan-related accounts. Church benefits boards often use investment managers or advisers that engage in commodities transactions for the purposes of diversification and hedging. Church benefits boards also have the ability to pool plan assets with other church-related funds purely for investment management purposes for the benefit of the church. This reduces investment fees for church-related entities, as well as benefit plan participants by providing economies of scale.

In contrast to the CEA and implementing regulations, the securities laws contain necessary exemptions for church plans and church plan-related accounts for the same reason noted above. Under these laws, church plans are not required to register or report as investment companies, register securities held, or disclose information about the securities they hold.

H.R. 238 similarly exempts church plans and church plan-related accounts from the commodity pool definition and from CTA registration requirements. The exemptions would provide parity between securities and commodities laws concerning church plans and church plan-related accounts. Additionally, the exemptions would reduce the cost to church plans and would ensure they have the full benefit of commodities investments that provide diversification, opportunities to hedge, and returns. The ultimate benefit would be to clergy and church lay worker participants in the retirement and welfare plans, who have devoted their lives to the work of the church.

We respectfully urge the enactment of CFTC reauthorization legislation which includes much-needed relief for church plans and church-plan related accounts from the CPO and CTA requirements, along the lines of H.R. 238, as soon as possible. Thank you for your leadership and support on this important issue.

Sincerely yours,

BARBARA A. BOIGEGRAIN.

COMMODITY MARKETS COUNCIL,
Washington, DC, January 9, 2017.

Chairman MIKE CONAWAY,
House Committee on Agriculture,
Washington, DC.

DEAR CHAIRMAN CONAWAY: We, the Commodity Markets Council (CMC), write in support of H.R. 238, a bill to reauthorize the Commodity Futures Trading Commission (''CFTC'').

CMC is a trade association that brings together exchanges and their industry counterparts. Its members include commercial end-users that utilize the futures and swaps markets for agriculture, energy, metal, and soft commodities. Its industry member firms also include regular users and members of swap execution facilities (each, a ''SEF'') as well as designated contract markets (each, a ''DCM''), such as the Chicago Board of Trade, Chicago Mercantile Exchange, ICE Futures US, Minneapolis Grain Exchange, NASDAQ

Futures, and the New York Mercantile Exchange. Along with these market participants, CMC members also include regulated derivatives exchanges.

The businesses of all CMC members depend upon the efficient and competitive functioning of the risk management products traded on DCMs, SEFs, and over-the-counter (''OTC'') markets. As a result, CMC is well-positioned to provide a consensus view of commercial end-users on the impact of the Commission's proposed regulations on derivatives markets. Its comments, however, represent the collective view of CMC's members, including end-users, intermediaries, exchanges, and benchmark providers.

CMC urges you to support this legislation to reauthorize the CFTC because the bill contains clarifications similar to those in H.R. 2289, the Commodity End-User Relief Act, from the last Congressional session (114th Congress), which passed the House Agriculture Committee and the U.S. House of Representatives with bipartisan support. We believe the provisions in this legislation would go a long way to addressing the unintended consequences Main Street businesses have suffered as a result of derivatives regulation intended for Wall Street.

Many of the fixes in this legislation are urgently needed to stop upcoming initiatives that will greatly harm end-users and drastically reduce the economic efficiency of hedges. Although the CFTC has recently made great strides in addressing end-users' concerns, some of the remedies needed can only be addressed by Congress.

We respectfully request your support for these non-controversial fixes that are of such importance to end-users. Thank you for your consideration and your continued leadership.

Sincerely,

GREGG DOUD,
President, Commodity Markets Council.

EDISON ELECTRIC INSTITUTE,
January 9, 2017.

Hon. PAUL RYAN,
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 RYAN, 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. 238, 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 electric companies. EEI's members provide electricity for 220 million Americans, operate in all 50 states and the District of Columbia, and directly and indirectly create jobs for more than 1 million Americans. With more than $100 billion in annual capital expenditures, the electric power industry is responsible for providing safe, reliable, affordable, and sustainable 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. 238 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.

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

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

I rise in opposition to this bill. The bill last Congress went too far; and the one in this Congress, in my opinion, is going too far as well. The Commission, in my opinion, just needs a simple reauthorization. I urge Members to consider this when deciding how to vote on the amendments that will be debated here on the floor.

Title II actually makes it more difficult for the Commission to function, and I am also concerned that title III's cross-border rulemaking mandate will result in a race to the bottom for multinational banks in the swaps market, which is a global market.

On top of that, this bill caps the agency's yearly budget at $250 million for the next 5 years, and it does this when every single witness before the Agriculture Committee last year told us that the agency needs more resources to do its work. Well, maybe that is the whole point—that this bill will leave the agency to not doing much, and I think that would be a mistake. We tried that once before, and we found ourselves in a real mess.

Since we last discussed reauthorization, the market situation has changed, and the CFTC has addressed many of our concerns through rulemaking. Yet, the Agriculture Committee wasn't given the chance to consider these issues before the bill was rushed to the floor here today. So we are moving forward, once again, without regular order.

Again, I oppose this bill and urge my colleagues to vote ''no.''

I reserve the balance of my time.

Mr. CONAWAY. Mr. Chairman, I yield 3 minutes to the gentleman from Arkansas (Mr. CRAWFORD), who is the subcommittee chairman for the General Farm Commodities and Risk Management Subcommittee.

Mr. CRAWFORD. Mr. Chairman, 5 years of bipartisan committee work has contributed to the drafting of H.R. 238, the Commodity End-User Relief Act. It is time we passed it for the sake of businesses across the United States who need greater certainty in managing their risk.

In advance of writing this legislation to reauthorize the CFTC, the House Committee on Agriculture held 22 hearings on the future of the Commission and the state of the derivatives industry. I mention the number 22 to highlight how extensive the data collection and deliberation has been.

To make this reauthorization as complete and thorough as possible, those 22 hearings collected feedback and testimony from every segment of the futures and swaps markets, from end users to regulators. We have used the testimony to draft legislation that will make derivatives markets work better for those who need them most: businesses trying to manage their risk.

But not only is this reauthorization language exhaustively researched, it has also already been approved by this Chamber multiple times, starting in the 113th Congress.

In the 113th Congress, the Committee completed H.R. 4413, which passed the House with strong bipartisan support. In the 114th Congress, we put forward the Commodity End-User Relief Act of 2015, which was very similar to H.R. 4413, and also passed the House with support from both parties. Now, not only is H.R. 238 virtually identical to the reauthorization bill, which passed the House last Congress, H.R. 238 also includes the amendments that were adopted on the House floor during debate.

I will turn my focus toward the people that this tested and proven language will help, largely end users. Although end users are not investors, speculators, or risk takers, they have borne the brunt of many of the consequences of new regulations.

Derivatives are used by a huge swath of businesses for risk management purposes, including manufacturers, farmers, ranchers, and other businesses that buy or sell products overseas, pension funds, insurance companies, and others who face risks that the prices for their business inputs and outputs frequently fluctuate.

Mr. Chairman, I urge my colleagues to support this long overdue legislation.

Mr. PETERSON. Mr. Chairman, I yield 2 minutes to the gentlewoman from the Virgin Islands (Ms. PLASKETT).

Ms. PLASKETT. Mr. Chairman, I rise today to speak in opposition to H.R. 238 and express my concerns with the process and the need for this legislation at this time.

As we all know, the Commodity Futures Trading Commission is an independent Federal regulatory agency that, after the 2008 financial crisis, took on more responsibility to bring

greater transparency and oversight to the multihundred-trillion-dollar derivatives market.

This new bill, H.R. 238, has new mandates and steps in it which will force the Commodity Futures Trading Commission to redirect funding from its core mission to satisfy some of the new mandates within this rule.

H.R. 238 sets a flat reauthorization level of $250 million per year for the next 5 years, despite the annual average budget requests of the agency of well over $300 million since passage of Dodd-Frank. Freezing the funding level makes the new rules almost impossible to enforce. While we understand the need for the end users, the work of this group must go forward.

This punitive level effectively caps the CFTC budget and is a substantial departure from past reauthorization language providing for such funding as may be necessary for CFTC to carry out its expanded authorities under Dodd-Frank.

H.R. 238 will make it more difficult for CFTC to function and stifles its ability to respond quickly to the rapidly changing markets it regulates.

I thank Chairman CONAWAY for having allowed us in the last Congress to have many hearings and discussions about this bill; but we have not even, as a matter, organized the Agriculture Committee in the 115th Congress to bring this matter to the floor at this time. Therefore, the substance of the bill, as well as the process by which it is coming to this floor, are to be questioned at this time.

I urge my colleagues to vote against the bill.

Mr. CONAWAY. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois (Mr. DAVIS), who is the subcommittee chairman for the Subcommittee on Biotechnology, Horticulture, and Research.

Mr. RODNEY DAVIS of Illinois. Mr. Chairman, I rise today in strong support of this legislation.

Farming is an inherently risky business. Yet, I am incredibly grateful to the farmers in my district and across the country who proudly take on these risks in order to provide our country and many countries across this globe with a sustainable, abundant food supply. Given the importance of agriculture to our Nation's food supply, it makes sense to provide farmers, agribusinesses, and manufacturers the tools to hedge the risks that come with doing their business.

Because of the risks of price movements in commodities, such as corn and soybeans, these end users use derivatives to ensure they and their customers aren't negatively impacted by sudden price changes.

This legislation reauthorizes the CFTC, which has been without a statutory authorization for almost 4 years. That is unacceptable, Mr. Chairman. If we are serious about getting back to regular order in regards to the appropriations process, the authorizing committees must hold up their end of the bargain.

The derivatives industry has been through major reforms during the past few years. This legislation recognizes and appreciates the transformation of this industry while providing Congress with an opportunity to use the reauthorization process as a means to improve the regulatory environment and the impact it has on responsible market participants.

In that vein, this legislation also includes an amendment I offered at the Committee that would remove unnecessary and duplicative regulations created by the CFTC that requires certain registered investment companies, such as mutual funds, to be regulated by both the SEC and the CFTC.

Costly, burdensome, redundant regulations have real-world impacts. Congress needs to shift its focus back to policies that promote strong and healthy markets. This is a great start.

Mr. Chairman, I am proud of the Committee's work on this bill. I want to express my appreciation for Chairman CONAWAY's leadership and work to get us here.

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

Mr. PETERSON. Mr. Chairman, I yield 4 minutes to the gentleman from Massachusetts (Mr. MCGOVERN).

Mr. MCGOVERN. Mr. Chairman, I rise in strong opposition to H.R. 238, legislation to reauthorize the Commodity Futures Trading Commission, better known as the CFTC. Instead of working through regular order to produce an authorization bill that both Democrats and Republicans could have supported, the majority in this House rushed to the floor a deeply flawed piece of legislation that hamstrings the CFTC and undermines its ability to react to changing market conditions.

The burdensome requirements in this legislation and the lack of appropriate funding are nothing more than a misguided attempt by Republicans to make it more difficult for the Commission to function—to make it harder to protect consumers and make it more difficult to rein in the abuses of Wall Street.

I strongly object to the authorization level in this legislation. Basically, my Republican friends are flat funding the CFTC for 5 years, and that is despite calls from the former and current chairman asking us to provide additional resources to the agency to enhance their ability to police Wall Street.

Now, Dodd-Frank significantly expanded the Commission's role in overseeing our financial markets, and the Commission has done its part to create rules that will help to prevent another financial crisis, despite the fact that Congress has not provided appropriate funding.

Now, I get it. My Republican friends don't like Dodd-Frank. Ever since they took back control of the House, they have tried to dismantle the law piece by piece, which was enacted to protect consumers and protect our markets in the wake of that terrible financial crisis that practically ruined our economy.

Now, Republicans say they don't like regulation, and it seems they especially don't like any regulation on Wall Street. Have they forgotten the recent financial crisis that nearly destroyed our economy? Have they forgotten who was primarily responsible for that crisis? Apparently, they have. Now, I am not for endless and unnecessary regulation. Nobody is. But I do think it is appropriate for us to create commonsense rules that protect our markets and protect our constituents' hard-earned dollars.

I find it troubling the Republican leaders in this House don't want to provide necessary resources to the Commission to patrol Wall Street. Without cops on the beat, who will ensure Wall Street actors aren't gaming the system and putting the economy at risk for another meltdown. I ask my Republican friends: When will Main Street take priority over Wall Street?

I also take issue with the various provisions of this bill that will both slow the agency's work and create new avenues for costly and lengthy legal battles.

By the way, implementing these provisions will cost the Commission an additional $45 million over the next 5 years and will require an additional 30 full-time employees. So in addition to underfunding an already overworked agency, we are creating a situation where even more resources will be needed to satisfy burdensome and unnecessary requirements. Now, that means fewer dollars for the Commission to carry out its core mission of combating abuse and fraud in our markets and ensuring end users, investors, and the public are protected.

Now, Mr. Chairman, our constituents didn't send us to Washington to ignore bad actors in our financial markets. They certainly didn't send us to Washington to create a regulatory environment that could put us on a path toward another downturn. So who are we here to represent, the Wall Street banks or our hardworking constituents who deserve elected Representatives who do everything in their power to prevent another financial crisis?

I would also like to say a few words about the cross-border requirements imposed by this bill, requirements that would hamstring the Commission's efforts to regulate the global swaps industry in cooperation with regulators around the globe.

My colleagues across the aisle keep saying that this bill is essential to help farmers, ranchers, utilities, and Main Street small business. But the farmers in this country don't have a London office to trade their swaps, they don't have a derivatives desk in Tokyo, and they aren't trading interest rate swaps in Geneva.

The CHAIR. The time of the gentleman has expired.

Mr. PETERSON. Mr. Chairman, I yield an additional 1 minute to the gentleman from Massachusetts.

Mr. MCGOVERN. Mr. Chair, let's be clear about who the cross-border provision in this bill is designed to help. It isn't end users. It isn't farmers. It isn't manufacturers or utilities or Main Street businesses. It is the small group of multinational financial firms that have controlled the swaps market from the beginning. We have seen what happens when they are left to their own devices. Crises in the swaps market do not respect national borders and boundaries. And that is why our regulators from the Commission have been engaged with their international counterparts in crafting rules for these markets since 2009.

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They should be encouraged in that effort in every way possible through funding and expansive authority to get the rules right. This bill provides neither.

Mr. Chairman, I urge my colleagues to oppose this misguided legislation.

Mr. CONAWAY. Mr. Chairman, I would like to point out for the RECORD that over the past two fiscal years, since 2013, the CFTC has received a 29 percent increase in funding. It has gone from $194 million to its current level of $250 million. I think you would be hard-pressed to find any other agency throughout this government that has gotten a 29 percent increase in its resources over that timeframe.

I now yield 3 minutes to the gentlewoman from Missouri (Mrs. HARTZLER), a valuable member of the Ag Committee.

Mrs. HARTZLER. Mr. Chairman, I rise today in support of the Commodity End-User Relief Act. I thank the chairman for the countless hours that he and members and staff of the Ag Committee have put into crafting this bill, which is designed to provide relief to the end users across the Nation that were never intended to be burdened by these rules and regulations.

I have heard from many end users in my district about the need for commonsense reforms to our financial regulations that are encapsulated in this bill. These financial regulations affect entities and the people I represent and rely on every day, from the rural electric cooperatives that use these financial tools to keep energy prices as low and as stable as possible for rural Missourians, to the local grain elevators and farmers that manage their price risk using futures and options at a time when prices are low. And times are hard in farm country. Regulatory relief for Main Street is way past due on these regulations that were designed to regulate Wall Street.

During this debate, I have heard some of my colleagues' concerns that this bill has not followed regular order. But we have spent countless hours in briefings, hearings, and markups on this very bill. Many of us even took a trip to Chicago to visit the CFTC office and to tour key industry facilities. In the 6 years that I have served on this committee, we have held 22 hearings on the future of the Commission and the state of the derivatives industry. We held two separate markups on previous versions of this reauthorization in the 113th and 114th Congresses, followed by passage of these bills on the House floor. In fact, the bill we are taking up today is almost identical to the bill passed on this floor last Congress. Every single amendment to this bill offered by a Member of the House will be voted on today, including my amendment to provide relief to farmers, agricultural cooperatives, and grain elevators from burdensome reporting requirements. The process of considering the bill has been fair and open.

I thank the chairman for bringing up this much-needed bill to provide regulatory relief to my constituents through this fair and open process. I encourage my colleagues to support this bill.

Mr. PETERSON. Mr. Chairman, I yield 3 minutes to the gentleman from Arizona (Mr. O'HALLERAN), a new member to the House and a new member of the committee, and somebody who actually has experience in this business during his storied career.

Mr. O'HALLERAN. Mr. Chairman, I thank the ranking member with whom I look forward to serving on the Agriculture Committee on behalf of the people of Arizona.

Mr. Chairman, I rise today to express my deep opposition to H.R. 238. I am troubled by the way this legislation, the Commodity End-User Relief Act, has been brought to the floor. This bill was only introduced last week. It is being rushed to a vote.

I am especially bothered by the attempt to bring this bill to the floor outside the rules of regular order. There were no committee hearings. There were no markups held by the committee, and the Members of the Agriculture Committee have been denied the opportunity to discuss the merits of this legislation.

As a freshman member of the 115th Congress, I am especially bothered that this bill has been brought to the floor before the Agriculture Committee has even been fully organized. As a new member of the Ag Committee, I am troubled that my colleagues think they can bypass the important feedback provided during the committee process. I represent over 80 communities in my district with a wide range of opinions and interests. Hearing from my constituents and getting feedback is critical to my duties as their Representative in Congress. We should include their voices in the policymaking process, not just special interests that have the resources to keep lobbyists here in Washington.

The committee process allows members to gather critical information, have a positive discussion, and make necessary changes to the legislation. As everyone on this floor knows, the committee process is essential to ensuring that the interests of the American people are truly represented in the legislation and brought to the floor. I understand that this bill was brought up in the 114th Congress where it was reviewed by the committee. It is only right that we maintain our democratic principles and ensure that H.R. 238 fully undergoes committee review in this Congress.

Mr. Chairman, this is not a partisan concept. These are the values I held as a Republican State legislator, as a police officer working in the community, and as a community leader.

Mr. Chairman, I ask: If this legislation was sent through the committee in the last Congress, is it not going to the committee again?

This process subverts the rules of this Congress, which, I might add, were established only last week. Bypassing the normal rules of order marginalizes the voice of the American people in the legislative process and forces a vote on legislation that is not complete.

I encourage my colleagues to make sure that the voice of the American people is heard and this legislation is brought up under the rules of regular order. For this reason, I ask my colleagues to join me in opposing this legislation before us.

Mr. CONAWAY. Mr. Chairman, I am proud to yield 3 minutes to the gentleman from Florida (Mr. YOHO), another valuable member of the Agriculture Committee.

Mr. YOHO. Mr. Chairman, I appreciate the opportunity to speak in favor of H.R. 238, the Commodity End-User Relief Act.

I thank Chairman CONAWAY for his leadership and his continued commitment to positive reforms through the Agriculture Committee. It has been a privilege to work with him on issues impacting our Nation's rural communities.

I also thank Subcommittee Chairman AUSTIN SCOTT for his work in bringing this bill to the floor yet again.

This bill will provide much-needed relief to the end users of this country in the wake of the Dodd-Frank Wall Street reform bill. End users in the bill are the farmers and ranchers and public utilities across our country. When costs increase for them, they increase for all Americans. The farmer was not the reason for the economic recession that began in 2008. The rancher was not the reason, nor was the power company.

So why bring them under the umbrella of the Dodd-Frank Wall Street reform?

Rural America is not Wall Street. It is this view held by some of my colleagues on the other side of the aisle that has alienated so many in rural America.

The Agriculture Committee has approved this measure four times through regular order in the committee. Its commonsense reforms have

garnered bipartisan support in the 114th Congress and the 113th Congress. It is my hope that with this new administration taking office next week, these commonsense changes will finally be signed into law.

I implore my fellow colleagues to listen to rural America. Remember, they are not Wall Street.

I thank Chairman CONAWAY, Subcommittee Chairman AUSTIN SCOTT, and Ranking Member DAVID SCOTT for making this a priority. I urge my colleagues to support this bill.

Mr. PETERSON. Mr. Chairman, I yield 4 minutes to the gentlewoman from California (Ms. MAXINE WATERS), the ranking member of the Financial Services Committee.

Ms. MAXINE WATERS of California. Mr. Chairman, I rise today in strong opposition to H.R. 238, a bill that would hamstring the ability of the Commodity Futures Trading Commission to protect our Nation's farmers, manufacturers, municipalities, and retirees. Indeed, the agency has weighty responsibility to oversee our commodity, futures, and swaps markets to ensure that they are not only fair to market participants, but also that they are protected from manipulation, fraud, and abuse.

Such misconduct in these markets can impact everything from the price of oil, natural gas, and bread, to the interest rates on mortgages, credit cards, auto loans, and student loans.

As we saw in the financial crisis, fraud and abuse in the swaps markets can lead to systemic risks. Recall that credit default swaps, made famous by AIG, fueled the crisis, bankrupted millions of homeowners, and cost taxpayers trillions of dollars. To prevent that from happening again, Congress, in the Dodd-Frank Act, gave the CFTC new authority over the swaps market and required it to adopt reforms which, thanks to its hard work, are largely in place.

But rather than applaud the work of the CFTC and provide it with funds it needs to do its job, Republicans continue to seek to undermine its regulatory authority, impose new procedural hurdles, and ultimately thwart its ability to protect the American people.

For example, H.R. 238 would impose onerous burdens and introduce new litigation risks by requiring the CFTC to conduct what is known as cost-benefit analysis slanted toward the industry, tying the CFTC's hands and setting up roadblocks to prevent them from doing their job and protect investors. This is a tactic used by opponents of financial reform to prevent, delay, weaken, and now under a Trump administration, repeal any rules implementing the Dodd-Frank Act.

This bill also would make it harder for the CFTC to police the overseas derivatives operations of megabanks like Citigroup, J.P. Morgan and Bank of America, even though the risk may still be borne by U.S. taxpayers. It also creates an unreasonable and hard-to-overturn presumption that the regulations of the largest eight foreign swaps markets are equivalent to U.S. regulation, allowing global megabanks to opt out of CFTC regulation.

H.R. 238 is simply a bad bill, but not leaving well-enough alone, Republicans are attempting to make it worse through multiple amendments. Troublingly, the Lucas amendment would create loopholes in our swaps regime by exempting trades between affiliates. Therefore, such trades would not have to comply with certain reporting, clearing, or initial margin requirements, creating a dangerous blind spot in the markets. What is more, the amendment is in direct contravention to already-provided, targeted relief, including the inter-affiliate clearing exemption that Congress passed in a bipartisan fashion in the 2016 Consolidated Appropriations Act, which contained numerous safeguards to ensure appropriate CFTC oversight.

I urge my colleagues to join me in opposing that and other harmful amendments, and oppose H.R. 238.

Mr. CONAWAY. Mr. Chairman, I would like to point out for the RECORD that the cost-benefit analysis rules in this bill are modeled after Executive Order 13563, which President Obama signed into the executive order status, and they are forward-looking. Nothing in our bill would require what might be a much-needed re-look at the Dodd-Frank rules done in the past. The cost-benefit analysis would require any future rulemaking to comply.

I yield 3 minutes to the gentleman from California (Mr. LAMALFA), another valuable member of the Agriculture Committee.

Mr. LAMALFA. Mr. Chairman, I thank Chairman CONAWAY for his leadership and the opportunity to speak today.

I rise today in strong support of H.R. 238, the Commodity End-User Relief Act. For the last 2 years, as a member of the Agriculture Committee, I have worked continuously to improve the operations of the Commodity Futures Trading Commission.

Through a great deal of bipartisan hearings, members were able to hear from everyone at the table—the regulators, market participants, and end users alike. When discussing how to ensure robust markets, consumer protections, and relief for end users, H.R. 238 truly represents a true agreement. After all, the end users are our customers. They are the whole reason for this legislation and this entity to begin with.

Another important provision included in this bill is language I had previously introduced, the Public Power Risk Management Act, which ensures that 47 million Americans who rely on public power for electricity will not see their rates increase due to unintended consequences of Dodd-Frank.

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There are 2,000 publicly owned utilities across this country, including one in my own district in the city of Redding, who have used swaps to manage their risk for years, and this bill safeguards their ability to do so while protecting taxpayers from high, unnecessary costs.

Our farmers, ranchers, manufacturers—again, the end users—and other businesses who pose no systemic risk to our financial system and did not cause the financial crisis should not have to face costly red tape from policies meant to protect them in the first place.

I want to thank, again, Chairman CONAWAY for leading on this issue and for the hard work in committee, all the conversations, all the background it takes to get this done and put the light on the practical effects of the unintended consequences on the actual customers, the end users.

This bill is about American producers and consumers. I am proud to be part of this work product we have on the floor today, and I urge my colleagues to support this measure.

Mr. PETERSON. Mr. Chairman, 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 13½ minutes remaining. The gentleman from Minnesota has 14½ minutes remaining.

Mr. CONAWAY. Mr. Chair, I yield 3 minutes to the gentleman from Georgia (Mr. AUSTIN SCOTT), who is the chairman of the Subcommittee on Commodity Exchanges, Energy, and Credit.

Mr. AUSTIN SCOTT of Georgia. Mr. Chairman, I rise today in support of H.R. 238, the Commodity End-User Relief Act. It is simply good governance to reauthorize the Commodity Futures Trading Commission, which has been operating without authorization since 2013. I think this legislation represents the kind of thoughtful and bipartisan approach to policymaking that is often lacking in this place.

In the 114th Congress, I served as chairman of the Subcommittee on Commodity Exchanges, Energy, and Credit, and during several of the hearings on this reauthorization, we heard diverse perspectives from end users, from market participants, and from regulators. That testimony, coupled with the testimony from numerous other hearings at the subcommittee and full committee level in past Congresses, was instrumental in drafting the legislation before us today, which is the same legislation that passed the House of Representatives last Congress in June 2015.

This bill includes needed reforms to clarify congressional intent, minimize regulatory burdens, and, most importantly, preserve the ability of necessary risk management markets to serve those who need them.

Time and again we have heard how end users—who, I want to point out, were not the cause of the financial crisis—have been the collateral damage of

Dodd-Frank reforms. These end users are our farmers, ranchers, manufacturers, and electric and gas utilities, and they rely on the derivatives markets to manage their risk, thereby helping to keep consumer costs low.

It is essential that we provide end users with much-needed relief and clarity in order to prevent the cost of unnecessary regulatory burdens that lead to increased costs and uncertainty being shouldered by the American citizens in my district and across the country.

I want to note that this legislation in no way undermines the goals of Dodd-Frank. Instead, it simply eases the regulatory burden on those who use the derivatives markets not so they can speculate, but so they can hedge risk. Ultimately, this bill is about protecting the American producer and the American consumer.

I want to close by thanking Chairman CONAWAY for his strong leadership on the House Committee on Agriculture, and the ranking member of the Commodity Exchanges, Energy, and Credit Subcommittee and my colleague from Georgia (Mr. DAVID SCOTT), who has been a steady partner throughout this effort.

We have worked diligently to produce legislation that provides needed reforms to ensure our regulatory framework protects the integrity of our markets, while not limiting the ability of end users to access those tools to conduct their business.

Mr. Chairman, I believe the CFTC should be reauthorized, and I am proud to support H.R. 238, the Commodity End-User Relief Act, and I urge my colleagues to join me in voting for this legislation.

Mr. PETERSON. Mr. Chairman, if I could inquire from Chairman CONAWAY if he has any more speakers?

Mr. CONAWAY. I have no further speakers.

Mr. PETERSON. Is the gentleman prepared to close?

Mr. CONAWAY. Mr. Chairman, may I inquire as to who has the right to close?

The CHAIR. The gentleman from Texas has the right to close.

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

In closing, I just wish that I could support a reauthorization bill, a clean bill for the CFTC that came through the Committee on Agriculture in regular order, but that is not what has happened.

I want to thank Chairman CONAWAY for his work in the last Congress, trying to find common ground, and I hope that we can get back to regular order in the future in the committee.

So again, Mr. Chairman, I urge my colleagues to oppose H.R. 238, and I yield back the balance of my time.

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

As I close, I want to remind us of the need to act today. But before I do, I also want to thank the ranking member. While we may vote differently on this bill, he and I generally work well together on a myriad of issues that face not only production agriculture, but rural America as well, and I thank him for his work, even though we may not vote exactly the same way today.

Over the past 4 years, the Committee on Agriculture heard dozens of witnesses about the upheaval end users have been facing while trying to use derivative markets in the wake of the post-crisis financial reforms. While this Congress took affirmative steps in Dodd-Frank to protect end users from harm, today it is clear that there is still work to be done. have been facing while trying to use derivative markets in the wake of the post-crisis financial reforms. While this Congress took affirmative steps in Dodd-Frank to protect end users from harm, today it is clear that 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 big implications for end users that we must correct in this legislation.

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

The core principles for SEFs, which were added to the CEA by Dodd-Frank, were lifted almost word for word from the core principles for futures exchanges, even though swaps exchanges and futures exchanges operate completely differently and SEFs cannot perform many of the functions of a futures exchange. The Commission cannot fix this.

Certainly, the Commission can and has tried to paper over these problems, issuing staff letters explaining how it will deal with incongruities in the law. But that isn't good enough. We know the problems. We should fix them, and fix them now.

Sometimes, though, the problem isn't the statute. There are a number of end-user issues 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 also.

The Commission has promulgated a rule that reduces the transaction threshold to be considered a swap dealer from $8 billion to $3 billion, a 60 percent decline, while it is still studying the matter. We should require that the CFTC complete the study and have a public vote on that matter.

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

The Commission has issued a new rule on ownership, control, and reporting that it knows isn't working. They have delayed its implementation for over 3 years by continuing to parcel out temporary reprieves. We should insist the Commission amend the rule so that market participants know definitively what their compliance obligations are.

The definition of swap does not exclude transactions that are wholly contained within a single company and not market facing. Regulators have used this leeway to require businesses and financial institutions to follow rules that are, quite frankly, inappropriate for risk management purposes and costly for the companies to use them. We should amend the statute, to make it clear that inter-affiliate transactions should not be regulated the same way as publicly transacted swaps.

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

Over the past week, over 30 organizations representing thousands of American businesses have voiced their support for the important reforms in the Commodity End-User Relief Act. Businesses from farm country to major manufacturers, to public utilities need every tool available to manage their businesses and reduce the uncertainties they face each day in today's global economy.

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

Mr. Chairman, I yield back the balance of my time.

Mr. GOODLATTE. Mr. Chair, I rise today to first express my great appreciation to Chairman MICHAEL CONAWAY and Subcommittee Chairman AUSTIN SCOTT for their hard work in crafting H.R. 238, the Commodity End-User Relief Act, legislation to reauthorize the Commodity Futures Trading Commission (CFTC). Chairman Conaway and Subcommittee Chairman AUSTIN SCOTT held four hearings throughout the 114th Congress regarding the CFTC and its future, during which time they invited input from a wide variety of interested stakeholders. I believe that they have struck the right balance in providing the CFTC with the authorizations necessary for the agency to do its job, while increasing oversight, instituting reforms to protect end-users from regulatory overreach, and improving consumer protection against fraud or mismanagement.

I am also pleased to see that since the House of Representatives last acted to reauthorize the CFTC, in light of many years of concern about aluminum markets and warehousing practices, the London Metal Exchange has implemented additional reforms to their aluminum warehousing practices and

contracts. Now that the London Metal Exchange has been recognized by the CFTC as a Foreign Board of Trade, I look forward to continuing my review of these reforms and their impact on aluminum markets and end users, while remaining hopeful that these changes will accomplish their intended goal.

Once again, I would like to thank all those involved in bringing this bill to the floor, Chairman MICHAEL CONAWAY, Subcommittee Chairman AUSTIN SCOTT, and Ranking Member DAVID SCOTT. I ask my colleagues to join me in supporting this legislation.

Mr. CONAWAY. Mr. Chair, I include in the RECORD the following letters of support for H.R. 238:

JANUARY 11, 2017.

Hon. PAUL RYAN,
Speaker, House of Representatives, Washington, DC.
Hon. NANCY PELOSI,
Democratic Leader, House of Representatives, Washington, DC.

DEAR SPEAKER RYAN AND LEADER PELOSI: FIA supports H.R. 238, the ''Commodity End User Relief Act''. Notably, this legislation reauthorizes the Commodity Futures Trading Commission (CFTC), which has been without statutory authorization for almost four years. In addition to reauthorizing the CFTC, Congress has historically taken the opportunity of reauthorization to periodically review and enhance the CFTC's authorities. This is essential in a regulatory environment where the marketplace is extremely dynamic. Given the constantly evolving structure to which these regulatory authorities apply, it is prudent for Congress to consider updating the statute in response to market changes. We commend the House Committee on Agriculture for efforts to build upon previous work and advance this legislation.

H.R. 238 contains prudent internal risk controls to safeguard market data and improved customer protections sought by the market participants who rely on derivatives to manage their risks. These are examples of policy enhancements that have garnered tremendous favor in recent years as evidenced by the bi-partisan support they have received in previous Congressional sessions.

As noted above, the constant evolution of the markets regulated by the CFTC has advanced even since the last time the House of Representatives passed similar legislation, which warrants the introduction of new statutory updates expected to be offered as floor amendments. In particular, FIA would like to lend our support to the bi-partisan Duffy/Scott amendment protecting critical intellectual property that is key to the innovative culture in the United States. Additionally, we commend Congresswoman Hartzler for her amendment recognizing the need to improve the quality of information submitted for the Commission's surveillance and large trader reporting programs.

We look forward to seeing this effort advance to the Senate where we expect to have continued dialogue on refinements.

Sincerely,

President and CEO.

INTERNATIONAL SWAPS AND DERIVATIVES ASSOCIATION, INC.,
Washington, DC, January 11, 2015.

Hon. PAUL RYAN,
Speaker, House of Representatives, Washington, DC.
Hon. NANCY PELOSI,
Democratic Leader, House of Representatives, Washington, DC.

DEAR SPEAKER RYAN AND LEADER PELOSI: We are writing to express the International Swaps and Derivatives Association, Inc.'s (''ISDA'') support for H.R. 238, the Commodity End-User Relief Act. The legislation was introduced on January 4, 2017.

Since 1985, ISDA has worked to make the global derivatives markets safer and more efficient. Today, ISDA has over 850 member institutions from 66 countries. These members comprise a broad range of derivatives market participants, including corporations, investment managers, government and supranational entities, insurance companies, energy and commodities firms, and international and regional banks. In addition to market participants, members also include key components of the derivatives market infrastructure, such as exchanges, intermediaries, clearing houses and repositories, as well as law firms, accounting firms and other service providers. Information about ISDA and its activities is available on the Association's web site: www.isda.org.

H.R. 238 would codify new regulatory customer protections and enhance oversight of the Commodity Futures Trading Commission. The Commodity End-User Relief Act would also ease the regulatory burdens placed on end-users. These are measures that ISDA supports.

Please also note that, while ISDA appreciates and supports the Commodity End-User Relief Act, we look forward to working with Congress to ensure that the cross-border provisions of the bill are further addressed during the course of the legislative process.

ISDA urges you to vote for H.R. 238. Thank you for your consideration of our views. If you have any questions, please do not hesitate to contact our Head of US Public Policy Christopher Young.

Sincerely,

SCOTT O'MALIA,
Chief Executive Officer.

THE JEWISH FEDERATIONS®,
OF NORTH AMERICA,
Washington DC, January 11, 2017.

Hon. K. MICHAEL CONAWAY,
Chairman, House Agriculture Committee, Washington, DC.

DEAR CHAIRMAN CONAWAY: The Jewish Federations of North America (JFNA) is writing to express our support for H.R. 238, the ''Commodity End-User Relief Act.'' We are particularly supportive of section 313 of the bill which provides for the exemption of qualified charitable organizations from designation and regulation as commodity pool operators.

JFNA is the national organization that represents and serves 149 Jewish Federations across the United States and North America. In their communities, Jewish Federations and related Jewish community foundations serve as the central address for fundraising and support for an extensive network of Jewish health, education and social services in their area. Part of the charitable mission of Jewish federations and Jewish community foundations is to help grow the endowment assets of their organizations as well as those of related Jewish agencies and synagogues who have entrusted their endowment funds with them. This is accomplished through pooling investment assets to maximize financial return, minimize cost and risk, and take advantage of investment expertise and economies of scale. Increased endowment dollars translate into more current support of essential program activities as well as helping to assure the long-term viability of Jewish organizations and institutions. The enactment of H.R. 238 will harmonize the registration exemptions between securities and commodities laws and regulations and exempt qualified charities from registering their pooled funds as commodity pools or as commodity pool operators. This exemption will eliminate confusion, spare needless legal costs, and ensure that such organizations as Jewish federations and foundations can continue to invest in widely diversified instruments in order to maximize returns to their beneficiaries who use such investment income to provide additional social services to the most needy among us.

Thank you again for efforts to ensure the enactment of the Commodity End-User Relief Act. JFNA and the federation system stand ready to help you in any way to achieve this important goal. If you have any questions regarding JFNA and its involvement in this issue I urge you to contact Steven Woolf, JFNA Senior Tax Policy Counsel.

Sincerely,

WILLIAM C. DAROFF,
Senior Vice President for Public Policy & Director, of the Washington Office.

NRECA,
Arlington, VA, January 10, 2017.

Hon. MIKE CONAWAY,
Chairman, House Committee on Agriculture, Washington, DC.
Hon. COLLIN PETERSON,
Ranking Member, House Committee on Agriculture, Washington, DC.

DEAR CHAIRMAN CONAWAY AND RANKING MEMBER PETERSON: The National Rural Electric Cooperative Association (NRECA) supports the Commodity End User Relief Act (H.R. 238), legislation to reauthorize the Commodity Futures Trading Commission (CFTC) to be considered on the House floor this week.

NRECA is the national service organization representing over 900 not-for-profit, member-owned, rural electric cooperative systems, which serve 42 million customers in 47 states. NRECA estimates that cooperatives own and maintain 2.5 million miles or 42 percent of the nation's electric distribution lines covering three-quarters of the nation's landmass. Cooperatives serve approximately 18 million businesses, homes, farms, schools and other establishments in 2,500 of the nation's 3,141 counties.

Electric cooperatives are commercial end-users and not financial entities. NRECA believes that Congressional oversight is essential to help ensure that the CFTC is implementing the Dodd-Frank Act as Congress intended. To that end, NRECA supports H.R. 238 as a means to ensure that resources at the CFTC are prioritized to protect against systemic risk to our financial system, and to regulate swap dealers and large traders, and not fruitlessly focused on the everyday commodity transactions with which end-users hedge commercial risks arising from ongoing business operations.

Importantly, H.R. 238 amends the Commodity Exchange Act (CEA) in a very narrow but critical way: to clarify Congressional intent that the CFTC shall not regulate as ''swaps'' nonfinancial commodity contracts that are intended to be physically settled, whether those contracts are forward contracts or commodity trade options. Our members use these physical contracts to manage supply and demand for energy resources, and to keep the lights on for American businesses and consumers. NRECA is also particularly interested in H.R. 238 language that reduces onerous recordkeeping requirements, as well as a codified resolution to the utility special entity requirement that would otherwise negatively impact such utilities and their customers.

NRECA appreciates the Committee's continued work on CFTC reauthorization legislation this Congress, and urges Members of Congress to support H.R. 238 when it is considered by the House of Representatives.

Sincerely,

JIM MATHESON,
CEO, NRECA.

SIFMA®,
Washington, DC, January 10, 2017.

Hon. PAUL D. RYAN,
Speaker, House of Representatives, Washington, DC.

Hon. NANCY PELOSI,
Democratic Leader, House of Representatives, Washington, DC.

DEAR SPEAKER RYAN AND LEADER PELOSI: SIFMA and its member firms support H.R. 238, Commodity End-User Relief Act, bipartisan legislation that seeks to reauthorize the Commodity Futures Trading Commission (CFTC) to better protect swaps customers, provide market certainty for end-users, and make basic reforms to improve the functioning of the CFTC.

SIFMA also supports the inter-affiliate amendment sponsored by Rep. Frank Lucas (R–Okla.), which includes language to clarify exemptions from swap rules, as well as requirements for reporting, risk management, and anti-evasion as it relates to such transactions.

Further, SIFMA appreciates efforts to establish a workable framework for cross-border regulation of derivatives transactions. We look forward to continuing to work with the Committee in an effort to consider this important issue. SIFMA urges you to vote for H.R. 238. Thank you for your consideration of our views.

Sincerely,

ANDY BLOCKER,
EVP, Public Policy and Advocacy, SIFMA.

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.

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 115–2. 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. 238

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''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:

''(t) 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:

''(u) 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:

''(v) 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.

''(w) 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.

''(x) 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 to read as follows:

''(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $250,000,000 for each of fiscal years 2017 through 2021 to carry out this Act.''.

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, hose 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:

''(16) 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 (16)''.

(c) SENSE OF THE CONGRESS.—It is the sense of the Congress that the Commodity Futures Trading Commission should take all appropriate actions to encourage applications for positions in the Office of the Chief Economist from members of minority groups, women, disabled persons, and veterans.

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:

''(17) 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;

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

''(iii) include a summary of any plan of action and milestones to address any known information security vulnerability, as identified pursuant to a widely accepted industry or Government standard, including—

''(I) specific information about the industry or Government standard used to identify the known information security vulnerability;

''(II) a detailed time line with specific deadlines for addressing the known information security vulnerability; and

''(III) an update of any such time line and the rationale for any deviation from the time line.''.

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;''.

TITLE III—END-USER RELIEF

SEC. 301. 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. 302. 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. 303. 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;

''(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. 304. 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 303(b) of this Act, is amended by redesignating paragraphs (7) through (52) as paragraphs (8) 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. 305. REPORTING OF ILLIQUID SWAPS SO AS TO NOT DISADVANTAGE CERTAINON-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. 306. 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. 307. RELIEF FOR END-USERS WHO USE PHYSICAL CONTRACTS WITH VOLUMETRIC OPTIONALITY.

Section 1a(48)(B)(ii) of the Commodity Exchange Act (7 U.S.C. 1a(47)(B)(ii)), as so redesignated by section 304(b)(1) of this Act, 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. 308. COMMISSION VOTE REQUIRED BEFORE AUTOMATIC CHANGE OF SWAP DEALER DE MINIMIS LEVEL.

Section 1a(50)(D) of the Commodity Exchange Act (7 U.S.C. 1a(49)(D)), as so redesignated by section 304(b)(1) of this Act, 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. 309. 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. 310. 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. 311. 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. 312. 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-United States 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-United States persons and United States 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 United States person or non-United States 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-United States person or any transaction between 2 non-United States 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 United States person or a transaction between a United States person and a non-United States 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-United States person or a transaction between 2 non-United States 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 United States 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) UNITED STATES PERSON.—The term ''United States 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 United States 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. 313. EXEMPTION OF QUALIFIED CHARITABLE ORGANIZATIONS FROM DESIGNATION AND REGULATION AS COMMODITY POOL OPERATORS.

(a) EXCLUSION FROM DEFINITION OF COMMODITY POOL.—Section 1a(11) of the Commodity Exchange Act (7 U.S.C. 1a(10)), as so redesignated by section 304(b)(1) of this Act, 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 section 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 second 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. 314. 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. 315. 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''; and

(B) 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. 316. 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. 317. TREATMENT OF CERTAIN FUNDS.

(a) AMENDMENT TO THE DEFINITION OF COMMODITY POOL OPERATOR.—Section 1a(12) of the Commodity Exchange Act (7 U.S.C. 1a(11)), as so redesignated by section 304(b)(1) of this Act, 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(13) of such Act (7 U.S.C. 1a(12)), as so redesignated by section 304(b)(1) of this Act, 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 (12)(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(19)(A)(x) of the Commodity Exchange Act (7 U.S.C. 1a(18)(A)(x)), as so redesignated by section 304(b)(1) of this Act, 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(41)), as so redesignated by section 304(b)(1) of this Act, 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 first 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 second 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 of such Act (7 U.S.C. 6i) 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 first 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(13)(B)(vi) of the Commodity Exchange Act (7 U.S.C. 1a(12)(B)(vi)), as so redesignated by section 304(b)(1) of this Act, is amended by striking ''derivatives transaction execution facility'' and inserting ''swap execution facility''.

(b) Section 1a(35) of such Act (7 U.S.C. 1a(34)), as so redesignated by section 304(b)(1) of this Act, is amended by striking ''or derivatives transaction execution facility'' each place it appears.

(c) Section 1a(36)(B)(iii)(I) of such Act (7 U.S.C. 1a(35)(B)(iii)(I)), as so redesignated by section 304(b)(1) of this Act, 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,''; and

(5) 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''.

(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 derivatives transaction execution facility''.

(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''.

(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(e) of such Act (7 U.S.C. 6c(g)), as so redesignated by section 402(a) of this Act, 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'' the first place it appears.

(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(19)(A)(x) of the Commodity Exchange Act (7 U.S.C. 1a(18)(A)(x)), as so redesignated by section 304(b)(1) of this Act, 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(13)(A)(i)(II) of the Commodity Exchange Act (7 U.S.C. 1a(12)(A)(i)(II)), as so redesignated by section 304(b)(1) of this Act, 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 second 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 first 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 (2)(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), as amended by sections 101 through 103 of this Act, is amended by redesignating subsection (q), as added by section 233(5) of Public Law 97–444, and subsections (s) through (w) as subsections (r) through (x), 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 that amendment in the nature of a substitute shall be in order except those printed in part B of House Report 115–3. 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. ADERHOLT

The CHAIR. It is now in order to consider amendment No. 1 printed in part B of House Report 115–3.

Mr. ADERHOLT. 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:

Add at the end of title II the following:

SEC. 213. ELIMINATION OF CERTAIN LEASING AUTHORITY OF THE COMMISSION.

Section 12(b)(3) of the Commodity Exchange Act (7 U.S.C. 16(b)(3)) is amended—

(1) by striking ''including, but not limited to,'' and inserting ''excluding''; and

(2) by adding at the end the following new sentence: ''In the case of an existing lease contract entered into under this paragraph, the Commission may not extend the lease term, but may agree to any other contract modification that does not result in any additional cost to the Federal Government.''.

The CHAIR. Pursuant to House Resolution 40, the gentleman from Alabama (Mr. ADERHOLT) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Alabama.

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

Mr. Chairman, I present to you an amendment, as the chairman of the Appropriations Subcommittee for Agriculture, that provides funding oversight for the Commodity Futures Trading Commission, known as the CFTC.

This amendment that is before us this afternoon is a simple, yet a very necessary solution to issues identified at the CFTC regarding its leasing practices by its own inspector general and the Government Accountability Office.

This amendment, Mr. Chairman, would allow the CFTC to manage its leases through a third party, such as the General Services Administration.

Up until now, the CFTC has demonstrated they have not responsibly managed their own leases, and such missteps have created a number of problems for the agency itself. These include poor management and oversight of the agency's leasing practices, resulting in millions of dollars in excess space and leasing costs.

The GAO legal division has identified instances of the CFTC violating the appropriations law with regard to its leasing payments and contracts.

GAO is further reviewing four additional legal issues that are related to the CFTC's leasing contracts, and we expect the issuance of opinions in the near future that will justify the need for this very amendment that we are talking about this afternoon.

Let me add that at the CFTC, they are experts at their oversight of the commodity and the futures and the swap markets. However, the CFTC is not expert in leasing practices, and they should be relieved from the burden of doing this as we move forward.

I would ask my colleagues to support this amendment at the desk.

I yield back the balance of my time.

Mr. PETERSON. Mr. Chairman, I rise in opposition to this amendment.

The CHAIR. The gentleman from Minnesota is recognized for 5 minutes.

Mr. PETERSON. Mr. Chairman, I rise in opposition to this amendment.

According to the CFTC, there is a drafting error in this amendment. I don't know exactly what it is, but they claim that there is a drafting error.

They also claim that it prohibits the CFTC from entering into leases going forward. They have expressed concern that this prohibition will affect their ability to enter into contracts with GSA in emergency situations and in order to sublease unused space.

This is one of the problems that I have with this bill in skipping the process of consideration in the Committee on Agriculture. If we would have done that, we would have had a chance to go over this and figure out exactly what is going on and who is right and who is wrong and what the situation is.

So, according to them, there are problems. We haven't gone through regular order, so I reluctantly oppose the amendment.

I yield back the balance of my time.

Mr. ADERHOLT. Mr. Chairman, this amendment has been vetted by the House Legislative Counsel and the staff at the CFTC.

The CHAIR. The gentleman from Alabama has yielded back. Does the gentleman from Alabama seek unanimous consent to reclaim the balance of the time?

Mr. ADERHOLT. Mr. Chairman, I ask unanimous consent to reclaim my time.

The CHAIR. Is there objection to the request of the gentleman from Alabama?

There was no objection.

Mr. ADERHOLT. The amendment has been vetted by the House Legislative Counsel and the staff at the CFTC. I understand and I can appreciate any concerns that the ranking member would have.

Let me say, as we move forward, we will take any of this into account as we move forward on this process, any technical changes that are necessary before this bill becomes law, and we will be happy to work with the ranking member as we move forward with this amendment.

□ 1330

Mr. PETERSON. Will the gentleman yield?

Mr. ADERHOLT. I yield to the gentleman from Minnesota.

Mr. PETERSON. Again, we are being told by the CFTC that this is not the case.

So, again, I don't know who is right or wrong, and I appreciate your offer to work with us to get to the bottom of this. Again, this is the problem that you have when you don't go through regular order.

Mr. ADERHOLT. Reclaiming my time, I would just add that, for this amendment, we will work with any concerns that they may have and try to fix anything that may be, but this is something that needs to be addressed, as there are real problems at the CFTC regarding the leasing issue.

I would ask my colleagues to support this amendment.

Mr. Chairman, I yield back the balance of my time.

The CHAIR. The question is on the amendment offered by the gentleman from Alabama (Mr. ADERHOLT).

The amendment was agreed to.

AMENDMENT NO. 2 OFFERED BY MR. AUSTIN SCOTT OF GEORGIA

The CHAIR. It is now in order to consider amendment No. 2 printed in part B of House Report 115–3.

Mr. AUSTIN SCOTT of Georgia. 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:

At the end of title II, add the following:

SEC. 213. REFORM OF THE CUSTOMER PROTECTION FUND.

Section 23(g) of the Commodity Exchange Act (7 U.S.C. 26(g)) is amended—

(1) in paragraph (2)—

(A) in the matter preceding subparagraph (A), by striking ''or fiscal year limitation'';

(B) in subparagraph (A), by striking ''; and'' and inserting '', without fiscal year limitation;''; and

(C) in subparagraph (B), by striking ''thereunder.'' and inserting '', the total amount of which shall not exceed $5,000,000 per fiscal year.'';

(2) in paragraph (3)(A), by striking ''unless the balance of the Fund at the time the monetary judgment is collected exceeds $100,000,000'' and inserting '', but only to the extent that the resulting balance of the Fund does not exceed $50,000,000''; and

(3) by redesignating paragraph (5) as paragraph (6) and inserting after paragraph (4) the following:

''(5) REVERSION TO TREASURY.—Notwithstanding the preceding provisions of this subsection, to the extent the balance of the Fund exceeds $50,000,000, the excess amount shall be deposited in the Treasury of the United States as miscellaneous receipts.''.

The CHAIR. Pursuant to House Resolution 40, the gentleman from Georgia (Mr. AUSTIN SCOTT) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Georgia.

AUSTIN SCOTT of Georgia. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise to offer the Scott amendment to H.R. 238, the Commodity End-User Relief Act.

This commonsense amendment brings much needed reforms and guidance for the consumer protection fund at the Commodity Futures Trading Commission. The drafters of Dodd-Frank envisioned the consumer protection fund to be capped at $100 million. However, through agency interpretations, this fund currently has a balance of nearly $250 million.

While the fund is certainly well-intended and can be used to pay whistleblower awards and fund customer education initiatives, there is no limit on the amount of the fund that can be spent on these customer education initiatives.

There is also a very broad definition of what constitutes a customer education initiative. For instance, the vast majority of the fund is currently being spent on programs like advertising, opening offices in cities with little need, and paying for CFTC staff travel.

This amendment would do two things. First, it would place a hard cap, one which administrators can't bypass, on the fund of $50 million. This would simply make a commonsense decision to return approximately $200 million to the Treasury and keep the fund from carrying an excessive balance in the future. Should whistleblower payouts exceed $50 million, the Treasury would place additional money into the fund.

The amendment's second reform would limit spending on customer education initiatives to $5 million per year. This limit would bring discipline to the provision that has been used to spend millions in advertising and social media outreach.

The Congressional Budget Office informally indicates that these changes would save more than $40 million and would preserve the customer protection fund while making commonsense reforms to protect taxpayer resources.

I encourage adoption of my amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. PETERSON. Mr. Chairman, I rise in opposition to the amendment.

The CHAIR. The gentleman from Minnesota is recognized for 5 minutes.

Mr. PETERSON. Mr. Chair, as was indicated, this places a $5 million limit on expenditures.

Again, I don't know if it is a drafting error or a difference of opinion, but, according to the CFTC, they claim that this amendment does things that were not explained and were not, in their opinion, made clear in the amendment. I don't know if they are calling it an error, or whatever it is, but there is a provision in there that says that this fund, once it gets above $100 million, can't go above $50 million.

So what this does is it basically limits the amount, once they get an amount to go back into the fund to replenish it. Again, I am not exactly sure who is right or who is wrong here, but it is another example of, I think, something that could have been avoided if this would have come through the Agriculture Committee in regular order.

The CFTC's education initiatives to help consumers protect themselves have been successful since this initiative began. The main expense is the Web site BrokerCheck. The whistleblower awards have increased recently and have been shown to be an effective method of enforcing the Commodity Exchange Act.

So, again, I would ask opposition to the amendment and again make the point that, had we gone through the committee process, we could have resolved this and probably been on the same page.

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

The CHAIR. The gentleman from Minnesota has yielded back.

The gentleman from Georgia yielded back his time. Does the gentleman wish to request unanimous consent to reclaim the balance of his time?

Mr. AUSTIN SCOTT of Georgia. Yes, Mr. Chair.

The CHAIR. Without objection, so ordered.

There was no objection.

Mr. AUSTIN SCOTT of Georgia. Mr. Chairman, I would point out that there is over $200 million in the account. If somebody were going to make $200 million subject to the appropriations process, I imagine any bureaucrat would object if that was going to happen to their agency.

But the fact of the matter is, that is one of the ways that we as Members of Congress are able to make sure that taxpayer funds are spent where we expect them to be spent. This does not in any way, shape, or form hinder the ability to pay out to whistleblowers. I firmly believe we should be paying whistleblowers.

If the fund needs additional resources, we have the ability to appropriate it, but it would prevent the agency from maintaining balances well in excess of what was anticipated in the Dodd-Frank legislation.

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

The CHAIR. The question is on the amendment offered by the gentleman from Georgia (Mr. AUSTIN SCOTT).

The amendment was agreed to.

AMENDMENT NO. 3 OFFERED BY MR. CONAWAY

The CHAIR. It is now in order to consider amendment No. 3 printed in part B of House Report 115–3.

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 32, after line 3, insert the following:

(L) Section 3a(68)(A)(i) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(68)(A)(i)) is amended by striking ''(47)(B)(x)'' and inserting ''(48)(B)(x)''.

(M) Section 3C(g)(3)(A)(v) of the Securities Exchange Act of 1934 (15 U.S.C. 78c-3(g)(3)(A)(v)) is amended by striking ''1a(10)'' and inserting ''1a(11)''.

(N) Section 6(g)(5)(B)(i) of the Securities Exchange Act of 1934 (15 U.S.C. 78f(g)(5)(B)(i)) is amended—

(i) in sublcause (I), by striking ''1a(18)(B)(ii)'' and inserting ''1a(19)(B)(ii)''; and

(ii) in subclause (II), by striking ''1a(18)'' and inserting ''1a(19)''.

(O) Section 15F(h)(5)(A)(i) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-10(h)(5)(A)(i)) is amended by striking ''1a(18)'' and inserting ''1a(19)''.

Page 50, line 21, strike ''1a(10)(C)'' and insert ''1a(11)(C)''.

The CHAIR. Pursuant to House Resolution 40, 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 is a pretty straightforward amendment. It proposes certain technical corrections within the bills. This would have normally been handled by the Rules Committee without need for a particular amendment, but because, as I said yesterday, the language of H.R. 238 is the exact language out of last year's June 15 bill, except for things that we dropped and limiting the appropriations to $250 million.

So, in the spirit of total transparency, I bring this amendment forward so the full body can work its will on this technical correction that would have normally been fixed by the Rules Committee.

Mr. PETERSON. Will the gentleman yield?

Mr. CONAWAY. I yield to the gentleman from Minnesota.

Mr. PETERSON. Mr. Chair, I support the amendment.

Mr. CONAWAY. Mr. Chair, 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.

AMENDMENT NO. 4 OFFERED BY MR. CONAWAY

The CHAIR. It is now in order to consider amendment No. 4 printed in part B of House Report 115–3.

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 40, line 4, strike ''paragraphs (2) and (5) of subsection (a)'' and insert ''paragraph (1)''.

Add at the end of title III the following:

SEC. 318. REQUIREMENTS RELATED TO POSITION LIMITS.

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

(1) by striking paragraphs (2), (3), (5), and (6); and

(2) by redesignating paragraphs (4) and (7) as paragraphs (2) and (3), respectively.

(b) BONA FIDE HEDGING TRANSACTION DEFINITION.—Section 4a(c)(2)(A)(i) of such Act (7 U.S.C. 6a(c)(2)(A)(i)) is amended by inserting ''normally'' before ''represents''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this section.

The CHAIR. Pursuant to House Resolution 40, 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, the amendment I offer today will clarify amendments made to the Commodity Exchange Act by Dodd-Frank and require the CFTC to actually determine that position limits will, in fact, help reduce excessive speculation before they implement those new rules.

This past fall, my colleagues and I all ran for reelection promising to reduce government regulation and eliminate rules that needlessly burden the economy. As we consider the CFTC's ongoing work, we should look no further than the position limits rulemaking to begin that task.

Position limits are a tool that have merit and purpose in regulating the commodities market. Today, designated contract markets core principle V requires every U.S. exchange to impose, as is necessary and appropriate, position limits or position accountability levels on the contracts they offer.

Further, there are several agricultural contracts that have long-established and well understood federally mandated position limits. My amendment will not change any of those existing position limits regime.

Prior to Dodd-Frank, the law was clear: if the Commission wanted to impose position limits, it first had to make a determination that such limits would diminish, eliminate, or prevent the burdens of excessive speculation. Post-Dodd-Frank, the courts have ruled that additions to the statute have rendered it ambiguous.

Chairman Massad and I have disagreed for the past 3 years about how to read the statute. So today, my amendment fixes the ambiguity by affirmatively requiring the Commission to determine that position limits will serve to reduce the burdens of excessive speculation before they put them in place.

It is important that the Commission affirmatively determines the need for position limits because limits are an unmistakable burden on market participants.

The current position limits proposal will cost market participants substantially in time and money to comply with. Most importantly, it fundamentally changes the way hedgers can seek relief from the rules.

Agricultural producers and processors, power companies, and other commercial hedgers may have fewer bona fide hedges. What is more, they might get a hedge exemption, only to get a call from Washington telling them their hedge is invalid and they must liquidate their position.

The proposal also imposes new recordkeeping and reporting obligations on Futures Commission Merchants, exchanges, and market participants. Less well understood, but no less important, is the impact that position limits in later months might have on market liquidity.

Position limits do not have anything to do with the long-term price of commodities. The price of oil, no matter how high it climbs or how low it falls, is driven by supply and demand.

Congress itself recognized this when it characterized the burdens of excessive speculation as the sudden or unreasonable fluctuations or unwarranted changes in the price of a commodity. There is nothing sudden about a year's-long run-up or a year's-long decline in commodity prices.

That said, I agree there is a role for position limits to play in the management of our commodity markets, especially in managing the convergence of prices at the expiration of a contract. But limits are a regulatory tool to promote orderly markets, not a silver bullet to lower commodity prices for consumers.

As a tool, they need to be calibrated to the unique characteristics and historical patterns of each commodity. We cannot impose them in blind faith that more regulation automatically improves markets.

My amendment is agnostic about the merits of position limits, but it is clear about the need for the government to justify its rules that restrict economic activity.

As this Congress sets about reducing regulatory burdens, it is important that we start by requiring the CFTC to make a determination about the need for further regulations before they act.

Mr. Chair, I reserve the balance of my time.

Mr. PETERSON. Mr. Chair, I claim the time in opposition to the amendment.

The CHAIR. The gentleman from Minnesota is recognized for 5 minutes.

Mr. PETERSON. Mr. Chairman, I yield my time to the gentleman from Connecticut (Mr. COURTNEY), who was one of the original folks who brought this forward and one of the original authors, I think, of this provision. So I am going to let him carry the day on the opposition to this amendment.

The CHAIR. The gentleman from Connecticut will control the time in opposition.

Mr. COURTNEY. Mr. Chairman, I thank Mr. PETERSON and Mr. CONAWAY, with whom I did serve on the Agriculture Committee with for a number of years, and I recall well some of the discussion and debate as Chairman Gensler appeared before the committee on article 7 of the Dodd-Frank Act.

Although, I didn't author that position, former-Senator Dodd is a constituent of mine. So I guess that is close enough to the work that was done creating this section.

Again, let's be very clear about what this amendment does. It is not about clarifying anything. It is about stripping from the law article 7 of Dodd-Frank, which was a congressional mandate to establish position limits for speculative trading.

Again, this was not done in a vacuum. It was done because there has been an explosion of speculative trading that is taking place in commodities markets. We had testimony in the Congress back in 2010 that it had grown from 22 percent to 67 percent speculation on Wall Street. Goldman Sachs—when, again, we were dealing with close to $4 a gallon for gas—had a report which said that 27 percent of that price was due to speculation. So, Congress appropriately instructed CFTC to come back with a regulatory plan to limit speculative positions in a reasonable way.

Again, no one quarrels with the fact that end users, whether it is farms, ranchers, airlines, or businesses of all sorts, should be able to exercise options in market swaps.

□ 1345

In those instances, these are firms and businesses which actually take physical possession and control of the commodity. Again, what Goldman Sachs and other analysts had demonstrated is that what has been a burgeoning trend is that firms were beginning to take dominant position in markets that, again, were not even close or remotely involved in the actual production, processing, or use of the commodities that were in question.

So again, CFTC has begun an arduous, painful process of trying to craft a rule. In fact, just a few weeks ago, on December 5, the CFTC voted unanimously to again move that process along and come up with a draft of a balanced, reasonable rule, so it is not a dead-end situation.

As has been reported, what they basically were looking at was a fundamental or a basic limit of roughly about 25 percent of a commodity could not be controlled by one firm. The end users that I spoke to, as this rule has been making its way, actually think that the CFTC is being too generous in terms of allowing an individual firm to control up to 25 percent of a market. I think a lot of Americans would understand that that kind of position really would provide for an opportunity to manipulate market prices.

In fact, there are some end users who think the rule should be very simple, that you have to take actual physical possession of the commodity in order to be able to hedge a position or engage in a future option. Again, the CFTC did not go to that radical extreme. Again, they tried to listen to the thousands of comments—Chairman Gensler, Chairman Massad—to try to fashion a rule that allowed a healthy market but did not allow situations which were occurring during high gas and oil prices.

In Connecticut, we had home heating oil suppliers who were describing situations where the price of the heating oil by the time the truck left the garage and came back was going up 10, 15 cents just during that short period of time for no reason at all. There wasn't like a refinery explosion or some incident that was happening overseas. It was, again, the movement on Wall Street of people who were profiting not from use of the commodity but, in fact, just from the movement on the price. That is really what CFTC has been hard at work doing.

This amendment will basically shut that down. It is not a clarification. It basically takes away what was Congress' instruction to CFTC.

Again, I respectfully oppose this amendment. I think we should allow the Commission, which is going to have a Republican Chairman in a few weeks, to continue to work on this issue and to provide protection for the true end users, the people who actually use the commodities, as well as consumers. Whether it is those who get their home heating oil tank full, their gas tank full, whether it is farmers and ranchers who are dealing with things like feed costs, we should have a healthy system of making sure that individuals or firms cannot have a dominant position in terms of controlling commodities.

This is not an arcane, esoteric issue for Americans. This affects bread-and-butter issues in terms of how much they pay for essential goods and commodities for them and their families. I would strongly urge the Members to not accept this amendment. I urge a ''no'' vote.

Mr. Chairman, I yield back the balance of my time.

Mr. CONAWAY. Mr. Chairman, how much time do I have remaining?

The CHAIR. The gentleman from Texas has 1½ minutes remaining.

Mr. CONAWAY. Mr. Chairman, the CFTC prepared a draft report this past year. Quoting from page 142 of that draft, it says the Masters Hypothesis, which my colleague—who I do have great respect for—said the mere presence of passives distorts the marketplace, that is what Masters Hypothesis said. The CFTC found there are no reputable economic studies which fully endorse this view of how the commodity futures markets work.

I would like to close with this comment from another study by the chief economist: ''Comment letters on either side declaring that the matter is settled in their favor among respectable economists is simply incorrect. The best economists on both sides of the debate concede that there is legitimate debate afoot. This analysis paper documents that the academic debate amongst economists about the magnitude, prevalence, and pervasiveness of the risk of outsized market positions has reputable and legitimate standard-bearers for opposing positions.''

I agree with that in full. All we are asking the CFTC to do, Mr. Chairman, is to do the work to prove that the specific position list they want to implement, should they believe one is needed, that they would have to go through regular order, their regular order, to make that happen. I encourage a ''yes'' vote on the amendment.

Mr. Chairman, 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 question was taken; and the Chair announced that the ayes appeared to have it.

Mr. COURTNEY. Mr. Chairman, I demand a recorded vote.

The CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Texas will be postponed.

AMENDMENT NO. 5 OFFERED BY MR. DUFFY

The CHAIR. It is now in order to consider amendment No. 5 printed in part B of House Report 115–3.

Mr. DUFFY. 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:

Add at the end of title III the following:

SEC. 318. PROCEDURE FOR OBTAINING CERTAIN INTELLECTUAL PROPERTY.

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

''SEC. 4u. PROCEDURE FOR OBTAINING CERTAIN INTELLECTUAL PROPERTY.

''The Commission is not authorized to compel persons to produce or furnish algorithmic trading source code or similar intellectual property to the Commission, unless the Commission first issues a subpoena.''.

The CHAIR. Pursuant to House Resolution 40, the gentleman from Wisconsin (Mr. DUFFY) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Wisconsin.

Mr. DUFFY. Mr. Chairman, I appreciate the support of the gentleman from Texas and his insight in this amendment. I was a prosecutor in a former life, and we care a lot about due process, making sure that the government can't take something from a private individual just because they want to take it.

As an American, I know that protecting intellectual property is a cornerstone of our free enterprise system. That is why I am concerned about the CFTC's rule on automated trading,

which takes the unprecedented step of requiring a wide array of market participants engaged in algorithmic trading to maintain a source code repository and make it available for inspection by the CFTC or the Department of Justice without a subpoena.

Now, this is highly sensitive source code. This is intellectual property that helps the functionality of our marketplace, and to think that this kind of sensitive data can be taken by the Federal Government without a subpoena should shock our conscience. There are times when the government should get this information; but if they should have it, they should be able to use a subpoena and lay out the cause and the case for why they need to have it.

That is not just my only concern. But the CFTC is potentially going to be taking this source code from all different market players and holding it in a warehouse or a repository, and so we have a concern for hacking. It has been a big conversation as of late. But instead of a foreign entity hacking in to individual companies, they just have to hack the CFTC and they get all the source code. Just think of the malicious things that can happen if you have the source code of market players, how you can disrupt it, how you can take it down. It is absolutely frightening.

So I think we should have great pause, take a little time to reflect on our Constitution, and continue to respect and support due process, which means, if the government wants this information, they should have a subpoena, lay out their case, and that is the avenue by which they get it, not just because they want it.

Mr. Chairman, I reserve the balance of my time.

Mr. PETERSON. Mr. Chairman, I claim the time in opposition to the amendment.

The CHAIR. The gentleman from Minnesota is recognized for 5 minutes

Mr. PETERSON. Mr. Chairman, this amendment addresses a problem that the CFTC is already well on its way to resolving in its proposed rule on automated trading. It requires that the Commission must vote to issue a subpoena to collect source code from high-frequency trading firms before the Commission can examine it.

I support the protections for the source code as intellectual property. I know Commissioner—soon to be Chairman, I think—Giancarlo has made this a priority, but this amendment I think is poorly drafted. Again, I don't want to harp on this too much, but it is something that could have been resolved had we had a committee process to do this bill.

One of the questions I have: I don't quite understand why this language is in the bill regarding similar intellectual property. The people at the CFTC, they don't know what this means, they don't know why you put that language in there, and they think it is going to cause a lot of problems. So we are trying to get at the source code. I have a problem with that. But why is this language in there?

Would the gentleman be willing to explain to me why that is in there and what it means?

Mr. DUFFY. Will the gentleman yield?

Mr. PETERSON. I yield to the gentleman from Wisconsin.

Mr. DUFFY. I appreciate the gentleman for yielding.

Again, as an American, when the government wants to take very secure intellectual property and data, we do have this belief that they should be able to get a subpoena to access it. Again, we don't have a disagreement that the CFTC, in circumstances, we want them to get access to this information.

Mr. PETERSON. Right.

Mr. DUFFY. But highly sensitive intellectual property, we think, similar data, should require a subpoena.

Mr. PETERSON. What is that intellectual property that the CFTC might go after? They don't know what it is. I don't know what it is. Is there some reason?

The source code is what the issue is, right?

Mr. DUFFY. If the gentleman would yield, is the gentleman saying that if the government just wants highly sensitive and intellectual property they should be able to go in and just ask for it and require it to be delivered?

Mr. PETERSON. This isn't the government. It is the CFTC. It is a very specific part of the government.

Mr. DUFFY. But it is the government.

Mr. PETERSON. Well, right. I don't know what it means. They think it is problematic, and I think it is another example of where we would have been better off with regular order.

I oppose the amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. DUFFY. Mr. Chairman, I just want to clarify that in the proposed rule there is no requirement for a subpoena. That doesn't exist. Now, they might have told you that they want to reform that rule, but that is not the way the proposed rule stands today. Again, if our government wants information from the private sector, we all believe they should have a subpoena for it, number one.

Again, on the concern of hacking, I wrote the Chair of the CFTC and asked for additional information about how they can preserve and protect this very sensitive information, and, in essence, they said: We can protect it because we say we can protect it. That doesn't give me great confidence.

Mr. Chairman, I yield back the balance of my time.

The CHAIR. The question is on the amendment offered by the gentleman from Wisconsin (Mr. DUFFY).

The amendment was agreed to.

AMENDMENT NO. 6 OFFERED BY MR. LAMALFA

The CHAIR. It is now in order to consider amendment No. 6 printed in part B of House Report 115–3.

Mr. LAMALFA. 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:

At the end of title III, insert the following:

SEC. _____. DETERMINATION OF PREDOMINANT ENGAGEMENT.

Section 2(h)(7)(C) of the Commodity Exchange Act (7 U.S.C. 2(h)(7)(C)), as amended by section 314 of this Act, is amended by adding at the end the following:

''(v) In determining whether a person is predominantly engaged in a business or activity for purposes of clause (i)(VIII), there shall be excluded revenues and assets that are, or result from, any transaction that is entered into solely for purposes of hedging or mitigating commercial risk (as defined by the Commission for purposes of subparagraph (A)(ii)).''.

The CHAIR. Pursuant to House Resolution 40, the gentleman from California (Mr. LAMALFA) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from California.

Mr. LAMALFA. Mr. Chairman, my amendment is a simple, straightforward one, bringing clarity to the law and relief, again, to the end users, such as farmers, ranchers, and manufacturers that use swaps to hedge commercial risks associated with their business, including volatile markets and price fluctuations on a day-to-day basis. This critical financial tool allows them to do their jobs and provide products in an affordable and accessible manner, keeping consumer costs low.

Discussing Dodd-Frank, Congress always intended that these end users should not have to clear the swaps entered to hedge these commercial risks and provide the end-user exemption to that end.

The Commodity Exchange Act defines as a financial entity a person predominantly engaged in certain financial activities. The Fed's rulemaking when defining financial activities repeatedly states the rule is for the purpose of title I; therefore, bringing it in to title VII was something they did not have in mind when issuing their definitions of predominantly engaged for financial entities. Therefore, financial entities cannot rely on this end-user exception.

However, because of a catchall in the definition of financial entities, end users who engage in successful hedging programs could be regarded as financial entities, thereby creating barriers and unnecessary restrictions to their business operations. This completely turns the concept of being an end user in title VII on its head.

My amendment today ensures end users will not lose their ability to rely on the end-user exception, which is a clearing requirement due simply to the position performance of a transaction entered into solely to mitigate commercial risk.

Mr. Chairman, I yield back the balance of my time.

Mr. PETERSON. Mr. Chairman, I claim the time in opposition.

The Acting CHAIR (Mr. MCCLINTOCK). The gentleman from Minnesota is recognized for 5 minutes.

Mr. PETERSON. Mr. Chair, I am not exactly sure why this is needed, but I don't have any problem with the amendment.

I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from California (Mr. LAMALFA).

The amendment was agreed to.

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AMENDMENT NO. 7 OFFERED BY MR. LUCAS

The Acting CHAIR. It is now in order to consider amendment No. 7 printed in part B of House Report 115–3.

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

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

At the end of title III, insert the following:

SEC. _____. TREATMENT OF TRANSACTIONS BETWEEN AFFILIATES.

Section 1a(48) of the Commodity Exchange Act (7 U.S.C. 1a(47)), as so redesignated by section 304(b)(1) of this Act, is amended by adding at the end the following:

''(G) TREATMENT OF TRANSACTIONS BETWEEN AFFILIATES.—

''(i) EXEMPTION FROM SWAP RULES.—An agreement, contract, or transaction described in subparagraphs (A) through (F) shall not be regulated as a swap under this Act if all of the following apply with respect to the agreement, contract, or transaction:

''(I) AFFILIATION.—1 counterparty, directly or indirectly, holds a majority ownership interest in the other counterparty, or a third party, directly or indirectly, holds a majority ownership interest in both counterparties.

''(II) FINANCIAL STATEMENTS.—The affiliated counterparty that holds the majority interest in the other counterparty or the third party that, directly or indirectly, holds the majority interests in both affiliated counterparties, reports its financial statements on a consolidated basis under generally accepted accounting principles or International Financial Reporting Standards, or other similar standards, and the financial statements include the financial results of the majority-owned affiliated counterparty or counterparties.

''(ii) REPORTING REQUIREMENT.—If at least 1 counterparty to an agreement, contract, or transaction that meets the requirements of clause (i) is a swap dealer or major swap participant, that counterparty shall report the agreement, contract, or transaction pursuant to section 4r, within such time period as the Commission may by rule or regulation prescribe—

''(I) to a swap data repository; or

''(II) if there is no swap data repository that would accept the agreement, contract or transaction, to the Commission .

''(iii) RISK MANAGEMENT REQUIREMENT.—If at least 1 counterparty to an agreement, contract, or transaction that meets the requirements of clause (i) is a swap dealer or major swap participant, the agreement, contract, or transaction shall be subject to a centralized risk management program pursuant to section 4s(j) that is reasonably designed to monitor and to manage the risks associated with the agreement, contract, or transaction.

''(iv) VARIATION MARGIN REQUIREMENT.—Affiliated counterparties to an agreement, contract, or transaction that meets the requirements of clause (i) shall exchange variation margin to the extent prescribed under any rule promulgated by the Commission or any prudential regulator pursuant to section 4s(e).

''(v) ANTI-EVASION REQUIREMENT.—An agreement, contract, or transaction that meets the requirements of clause (i) shall not be structured to evade the Dodd-Frank Wall Street Reform and Consumer Protection Act in violation of any rule promulgated by the Commission pursuant to section 721(c) of such Act.''.

The Acting CHAIR. Pursuant to House Resolution 40, the gentleman from Oklahoma (Mr. LUCAS) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Oklahoma.

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

Mr. Chairman, I rise today in support of the Lucas amendment to H.R. 238. This amendment works to provide much-needed relief and certainty for American companies by clarifying how the internal risk reducing transactions amongst the businesses' own affiliates are regulated. Many businesses of all types and sizes in our country use derivatives to manage the risks they face within their daily operations. Interaffiliate swaps are a commonly used and effective internal risk management tool these businesses rely upon.

Unfortunately, derivatives reforms implemented under Dodd-Frank fail to distinguish the difference between interaffiliate transactions and transactions executed between unaffiliated third parties. Such internal transactions ensure firms to centralize their risk management activities between affiliate counterparties and do not create additional counterparty exposure outside of a corporate group. This amendment, therefore, clarifies that interaffiliate swaps are not subject to the same regulatory requirements as external, market-facing swaps between third parties.

In addition, this amendment is consistent with the CFTC's attempts to provide similar relief through rule exceptions and no-action letters. While such actions by the CFTC have provided relief, they do not provide a workable, clear, and predictable set of regulations that market participants can effectively operate under.

This amendment will keep in place appropriate regulatory reforms and provide much-needed regulatory and legal certainty for U.S. companies. Please join me in supporting this needed reform.

Mr. Chairman, I reserve the balance of my time.

Ms. MAXINE WATERS of California. Mr. Chairman, I rise in opposition.

The Acting CHAIR. The gentlewoman is recognized for 5 minutes.

Ms. MAXINE WATERS of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in opposition to my friend Mr. LUCAS' amendment. This amendment rejects the bipartisan compromise negotiated over 4 years to strike the right balance regarding interaffiliate swaps. Indeed, Democrats like Ms. MOORE and Republicans like Mr. STIVERS carefully negotiated a way to balance the needs of operating companies like airlines and refineries. This amendment, however, would exempt swaps between affiliates, including megabanks like Goldman Sachs and J.P.Morgan, from the mandatory margin, clearing, trade execution, capital, and every other protection under Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010.

While we generally agree that swaps between affiliated corporate entities do not pose a systemic threat, we are deeply troubled about this desire to undermine all swaps rules and harm our economy.

During testimony on a similar version of this amendment, the CFTC's former chairman, Gary Gensler, stated that such an exemption would provide a big loophole around our derivatives rules and that it would ''blow a hole in Dodd-Frank.''

Specifically, the amendment exempts affiliate swaps no matter where the affiliate resides. So, an affiliate could reside in a foreign jurisdiction that lacks any swaps regulation and share its risks with a U.S. affiliate, but our regulators would be prohibited from imposing any safeguards such as initial margin or capital requirements. Why would we pass such a self-inflicted wound?

With that, Mr. Chairman, I urge all Members to vote ''no'' on this amendment.

I yield back the balance of my time.

Mr. LUCAS. Mr. Chairman, I yield myself the remainder of my time simply to note to my colleagues the goal of this amendment is to allow business entities to efficiently manage their risk. If that risk is managed internally where it is no threat to third parties then they should have the ability to do it in the most efficient fashion. As I noted in my earlier comments, CFTC has provided similar relief through rule exceptions and no-action letters. What we are trying to do here is clarify this situation.

As far as one of the previous chairmen of the CFTC, while a very enthusiastic regulator, I would note that I and many participants down through the years have disagreed with his interpretations on several things. But, with that, I have the greatest respect for my colleague over there. This is a sincere difference of opinion.

Mr. Chairman, I yield the remainder of my time to the gentleman from Texas (Mr. CONAWAY) who is the chairman of the full committee.

Mr. CONAWAY. Mr. Chairman, I support the gentleman's amendment.

I would point out that at the end of his amendment is an antievasion requirement which would allow the CFTC to watch for the kinds of things that

the gentlewoman from California was worried about in which foreign markets might be involved and other things. So there are, structured in the Lucas amendment, protections to avoid a crafty, interaffiliate kind of circumstance that she was concerned about.

Mr. LUCAS. Mr. Chairman, I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Oklahoma (Mr. LUCAS).

The amendment was agreed to.

AMENDMENT NO. 8 OFFERED BY MRS. HARTZLER

The Acting CHAIR. It is now in order to consider amendment No. 8 printed in part B of House Report 115–3.

Mrs. HARTZLER. Mr. Chairman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

At the end of the bill, add the following:

SEC. _____. DELAY IN FULL IMPLEMENTATION OF THE FINAL RULE ON OWNERSHIP AND CONTROL REPORTING.

The Commodity Futures Trading Commission may not enforce non-compliance with the final rule titled ''Ownership and Control Reports, Forms 102/2S, 40/40S, and 71'' (78 FR 69178; November 18, 2013) until the Commission votes to approve a final rule that has been amended to—

(1) provide that the reportable trading volume level shall be at least 300 contracts;

(2) provide that the reporting entity shall not be required to provide natural person controller data; and

(3) provide that the reporting entity is not obligated to supply data that violates foreign privacy laws.

The Acting CHAIR. Pursuant to House Resolution 40, the gentlewoman from Missouri (Mrs. HARTZLER) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from Missouri.

Mrs. HARTZLER. Mr. Chairman, I rise today to offer an amendment to bring certainty to farmers, agricultural cooperatives, and grain elevators across Missouri and the country that are having problems complying with burdensome reporting requirements at the CFTC. Dodd-Frank never intended to regulate end users like independent grain elevators who work on behalf of Missouri farmers to help manage their price risk. My amendment works to correct this oversight and provide a stable environment for all players in the industry.

My amendment is simple. It would require the Commission to address three outstanding concerns to the Ownership and Control Reports rule, better known as the OCR rule, before the Commission can begin enforcement, which, by the way, the CFTC is not enforcing presently. This industry currently is operating under a no-action relief letter, meaning the OCR rule is not being enforced due to the inability of the industry to meet the stringent requirements of the CFTC regulations. That could change, and the problem needs to be addressed.

Specifically, my amendment does three things. First, it increases the threshold from 50 to 300 contracts per day per commodity for those market participants that need to comply with this rule. This will exempt low-volume entities like grain elevators and small agricultural cooperatives from the reporting requirements for large trading firms and major players in these markets. Even with the new threshold established by my amendment, the CFTC will still gather ownership and control information on the major players and midsized traders.

Second, my amendment removes a small but very burdensome portion of the long list of reporting requirements under the final OCR rule. My amendment removes the natural person controller requirements which require farmer cooperatives and grain elevators to report specifically personally identifiable information on individual employees. The CFTC has never required such granular information for many of my constituent businesses, and such requirements are making Futures Commission Merchants much less willing to work with small and medium-sized entities in the countryside. Even with the small changes made by my amendment, the CFTC will still be properly equipped to track ownership and account control data across the market.

Finally, this amendment will require the CFTC to ensure that current regulations do not conflict with current foreign privacy laws. Having a large, open, liquid market is important to managing risk, and operating on an international basis is a valuable aspect of a commodity market. The CFTC should be responsible for dealing with other governments on privacy concerns. It is inappropriate to push that burden onto the firms and customers that it regulates.

This amendment is supported by a wide range of industry and farmers groups, and I encourage my colleagues to support my amendment to provide relief from the regulatory burdens of this rule on small cooperatives, grain elevators, and farmers who are merely hedging their legitimate market risk and serving their customers' interests.

Mr. Chairman, I reserve the balance of my time.

Mr. PETERSON. Mr. Chairman, I rise in opposition.

The Acting CHAIR. The gentleman from Minnesota is recognized for 5 minutes.

Mr. PETERSON. Mr. Chairman, this amendment contains several troubling drafting—some people call them—errors or, I guess, questions. It prevents the CFTC from enforcing noncompliance with the final rule that includes more forms than were targeted.

When we did our part of the Dodd-Frank bill, one of the things that I thought was really not controversial was that we were going to try to find out, once and for all, who owned all of these swaps; who was on what side of positions. This is what caused the problem in the first place with the financial meltdown. When Lehman Brothers went down and we allowed them to go broke, it created this big panic, AIG didn't know if they could cover their swaps or not, and it was going to unravel the whole situation because these firms that were trading didn't know who held what and what was going on. That was the underlying problem. So what we were trying to do is get some understanding of where everybody was in this market. When we were doing the bill, we made it very clear, and I put in the legislation, that end users were not covered. That shouldn't have been an issue.

The problem with this amendment is it looks like it is going to include more than just that. So, I guess, again, this is a final example in this bill of a process moving too quickly and a lack of regular order.

Finally, it contains a section on foreign privacy laws that could result in the agencies seeing a reduced scope of market in their surveillance activities that may not be the intention. But, again, without the chance to consider this provision in regular order, we are not sure, and concerns that some people have remain unaddressed. So this could have been resolved during the process. It hasn't been. In its present form, I oppose the amendment.

Mr. Chairman, I yield back the balance of my time.

Mrs. HARTZLER. Mr. Chairman, I yield myself the remainder of my time.

Mr. Chairman, I would remind our colleagues that this rule is right now under a no-action relief letter because it isn't working, and that is what this amendment does is to fix this problem. So I believe this amendment is very important. It makes a few commonsense changes to the OCR rule that will provide regulatory relief to farmers, agricultural cooperatives, and grain elevators while allowing the CFTC to adequately regulate the futures industry.

So, Mr. Chairman, I urge my colleagues to support this amendment.

I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentlewoman from Missouri (Mrs. HARTZLER).

The amendment was agreed to.

Mr. CONAWAY. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. HULTGREN) having assumed the chair, Mr. MCCLINTOCK, Acting 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. 238) 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.

SEC REGULATORY ACCOUNTABILITY ACT

GENERAL LEAVE

Mr. HENSARLING. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to submit extraneous material on H.R. 78, to improve the consideration by the Securities and Exchange Commission of the costs and benefits of its regulations and orders.

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

There was no objection.

The SPEAKER pro tempore. Pursuant to House Resolution 40 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. 78.

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

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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. 78) to improve the consideration by the Securities and Exchange Commission of the costs and benefits of its regulations and orders, with Mr. MCCLINTOCK 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. HENSARLING) and the gentlewoman from California (Ms. MAXINE WATERS) each will control 30 minutes.

The Chair recognizes the gentleman from Texas.

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

I rise in support of H.R. 78, the SEC Regulatory Accountability Act.

I thank the gentlewoman from Missouri (Mrs. WAGNER) for leading this effort in the House.

This bill is technically about something called economic analysis or cost-benefit analysis. That may sound like Ph.D. economics, but it is really about kitchen table economics because, Mr. Chairman, it is truly about whether we are going to have a stronger economy—one that creates good-paying jobs so that parents can afford to raise their children today and these same children can have a brighter future tomorrow. It is about making sure we have an accountable government that expands personal opportunity, not government bureaucracy.

Mr. Chairman, I think we all know that small businesses are truly America's job engine. They create nearly two-thirds of all new jobs in our economy. Our economy works better for all when small businesses can focus on creating jobs and on serving their customers rather than navigating needless government red tape.

Unfortunately, for America's small businesses, bureaucratic red tape has no better friend than the Obama administration. It has issued more than 4,400 final regulations, with an astronomical cost to all of us of $1 trillion. Just since the election on November 8, the Obama administration had cynically issued 145 midnight regulations with a cost of more than $21 billion.

For anyone who believes that this doesn't hurt our small businesses, they need to listen to their constituents, because I certainly listen to mine. I heard from a small business owner named Chris, who is back in my district and who wrote me:

> We have seen wave after wave of Federal regulations affect our ability to grow. The costs associated with additional reporting, auditing, and compliance are massive. The money spent is significant and costs jobs and potential jobs.

Mr. Chairman, he is exactly right. The true cost of Washington red tape cannot just be measured in dollars. The true cost includes the jobs not created, the small businesses not started, and the dreams of our children not fulfilled. Ill-advised laws like the Dodd-Frank Act empower unelected, unaccountable bureaucrats to callously hand down crushing regulations without adequately considering what impact those regulations have on jobs.

As one former SEC Commissioner testified before the Financial Services Committee, which I have the honor of chairing, these Washington elites have forgotten the key to sensible regulation:

> The most appropriate regulatory solution should be the one that imposes the least burden on society while maximizing potential benefits even if that means choosing not to regulate at all.

Although the Securities and Exchange Commission is one of the few Washington agencies that engages in at least some base level of economic analysis, putting this requirement into law is definitely preferable to current agency procedures. After all, the SEC's recent interest in economic analysis came only on the heels of numerous Federal courts throwing out some of its regulations because the Commission failed to adequately take into account, again, the true costs and benefits of its rules.

Passing this bill will erase any doubt that the Securities and Exchange Commission must conduct sound economic analysis. It must consider the impact of their rules on our jobs and our family budgets. That is what cost-benefit analysis is all about.

Mr. Chairman, we may hear today from the usual suspects—the opponents of this bill—that somehow this is meant to hinder the rulemaking process and encourage litigation against the SEC. You will hear these same people say, once again, that this is somehow dangerous. Mr. Chairman, what is dangerous is being ignorant of the impact the proposed regulations will have on our economy and on the American people's wallets before they get implemented. That is what is dangerous.

What is interesting, Mr. Chairman, is that Presidents, frankly, of both parties seem to agree. Even Presidents Clinton and Obama directed independent agencies to engage in, essentially, exactly the same procedures that H.R. 78 would make into law. Such irony, Mr. Chairman, that some Democrats will come to the floor today and oppose codifying into law Clinton and Obama policy. Again, the irony of it all.

I urge all Members to join me in supporting this bill because we must hold Washington accountable to the American people. We must build a stronger, healthier economy so struggling Americans can get back to work and achieve financial independence.

Mr. Chairman, I reserve the balance of my time.

Ms. MAXINE WATERS of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, just as I opposed the bill before us today in the previous three Congresses, I rise in opposition to it now. Republicans have crafted H.R. 78 to tie the hands of the Securities and Exchange Commission, the SEC, and to prevent it from issuing new rules to address market failures and protect investors. At the same time, the bill would enable the Trump administration to easily repeal important Dodd-Frank rules by tilting the SEC's decisions toward what is best for industry and, worse, what enriches the President-elect and his cronies.

Before I discuss H.R. 78, I think it is important to point out that 14 members of the Financial Services Committee, as well as the millions of Americans they represent, are being denied the opportunity to discuss this bill through hearings and markups. We are barely into the second week of this Congress and the Republican leadership is completely ignoring regular order—despite Speaker RYAN's declaration less than a week ago of a return to regular order—by skipping the committee process to bring this bill to the floor; but this is par for the course.

In the other Chamber, Senate Republican leadership is similarly jamming Donald Trump's conflicted nominees through the confirmation process even before the FBI has completed background checks. And with barely 10 days until his inauguration, Donald Trump has already given up on ''draining the swamp'' and has broken his promise to hold Wall Street accountable by nominating Wall Street insiders to nearly every key economic and regulatory post.

Let me turn back to the problems with H.R. 78.