



Industrial Energy Consumers of America

The Voice of the Industrial Energy Consumers

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December 10, 2009

U.S. House of Representatives
United States Capitol Building
Washington, DC 20515

H.R. 4173, Wall Street Reform and Consumer Protection Act of 2009

Dear Representative:

We would like to thank Representative Collin Peterson, Chairman of the House Agriculture Committee and his committee for their efforts on legislation to increase oversight and transparency of the over-the-counter (OTC) derivatives market, which is part of H.R. 4173, the Wall Street Reform and Consumer Protection Act of 2009. Both Chairman Frank and Peterson are to be commended for their leadership to deal with these enormously important and complex set of issues that if left unchecked will harm the competitiveness of US manufacturers and the economy in general.

The Industrial Energy Consumers of America is a nonpartisan association of leading manufacturing companies with \$900 billion in annual sales and with more than 850,000 employees nationwide. It is an organization created to promote the interests of manufacturing companies through research, advocacy, and collaboration for which the availability, use and cost of energy, power or feedstock play a significant role in their ability to compete in domestic and world markets. IECA membership represents a diverse set of industries including: plastics, cement, paper, food processing, brick, chemicals, fertilizer, insulation, steel, glass, industrial gases, pharmaceutical, aluminum and brewing.

Our companies enter into hedge transactions with the intent to consume the associated volume. We use the markets to mitigate the financial risk associated with these highly volatile commodities. We are not speculators and we did not contribute to the meltdown of our financial industry. It is for this reason we emphasize that bona-fide hedgers that transact with the intention to consume, not resell, should not be required to clear their transactions and incur costs that are un-necessary and harmful to our competitiveness.

In light of this, we urge your support to the following floor amendments.

#114 (Rep. Peterson) - Would provide that the CFTC would define the terms "Commercial Risk", "operating risk", and "balance sheet risk" for purposes of the Commodity Exchange Act.

#115 (Reps. Peterson and Frank) - Would provide for position limits for physical commodities, clearing of over-the counter transactions, increased transparency, reporting, and recordkeeping, and transparency of offshore trading. It also addresses jurisdictional issues in the context of swaps by providing for CFTC jurisdiction over swaps and SEC jurisdiction over swaps that are primarily based on securities (or narrow based security indexes). These two agencies are required to consult with each other and with banking regulators before regulating.

#129 Reps. Murphy, McMahon and Kratovil - Would replace the current definition of Major Swap Participant with the definition that was reported out of the House Agriculture Committee.

This limits the hedging to commercial risk (deleting "operating and balance sheet"), and restricts significant counterparty exposure to that which poses systemic risk.

#135 Rep. Lynch - Prohibits swaps dealers from controlling more than 20% of an exchange. Provides rules toward the equitable governance of clearing houses and swap exchange facilities.

#47 Rep. Stupak – Would require transparency in swaps contracts by requiring all non-cleared swaps be executed on a registered swap execution facility.

#48 Rep. Stupak, DeLauro, Larson, John, Van Hollen - Allows the CFTC & SEC to ban abusive swaps, amends proposed commercial risk definition to disregard balance sheet risk, and maintains any illegal swap will not be valid.

In order to prevent further weakening of legislation, we urge your opposition to the following floor amendments.

#66 Rep. Frank - Creating authority for the prudential regulators, the Credit Futures Trading Commission and the Securities and Exchange Commission, to set margin in swap and security-based swap transactions involving end users.

IECA encourages the House of Representatives to pass a strong bill that will encourage the Senate to take decisive action to improve market oversight, transparency, and accountability over commodity markets, increase oversight of the OTC market and empower federal regulators with the authority and resources to protect against fraud, manipulation and excessive speculation.

Sincerely,



Paul N. Cicio
President

Cc:

The Honorable Gary Gensler, Chairman, U.S. Commodity Futures Trading Commission
The Honorable Michael Dunn, Commissioner, U.S. Commodity Futures Trading Commission
The Honorable Jill Sommers, Commissioner, U.S. Commodity Futures Trading Commission
The Honorable Bart Chilton, Commissioner, U.S. Commodity Futures Trading Commission
The Honorable Scott D. O'Malia, Commissioner, U.S. Commodity Futures Trading Commission