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Hearing on Financial Regulatory Overhaul before the House Committee on Agriculture
Statement of Scott Morrison
Senior Vice President and Chief Financial Officer, Ball Corporation and
Chairman, National Association of Corporate Treasurers

February 10, 2011

Good afternoon, my name is Scott Morrison. I am Senior Vice President and Chief Financial Officer of Ball Corporation and Chairman of the National Association of Corporate Treasurers ("NACT"), an organization of Treasury professionals of several hundred of the largest public and private companies in this country. Collectively, we are also a member of the Coalition for Derivatives End-Users ("Coalition"). The Coalition represents thousands of companies across the United States that employ derivatives to manage risks they face in connection with their day-to-day businesses. It is a privilege to have the opportunity to speak with you today on behalf of both our company, and the NACT about the new derivatives legislation. Ball Corporation is based in Colorado and we operate over 30 manufacturing locations in the US. We operate in nearly 70% of the states represented by the Agriculture Committee I am addressing today. We also operate another 25 locations around the world. We are a 131 year old publicly traded company with deep roots in supplying packaging to the food, beverage and consumer product industries in the US; our customers include Coca-Cola, Pepsi, Miller Coors and Anheuser Busch InBev along with ConAgra Foods, Abbott Labs and numerous family-owned beverage fillers and food packers. Approximately 75% of our 14,500 employees reside in the United States.

We understand and support the efforts of this committee to reduce systemic risk throughout the financial system to avoid the issues that contributed to the financial turmoil that boiled over in 2008 and also we applaud your efforts to increase transparency in the over-the-counter ("OTC") derivatives markets. While I would agree that the reckless and over-leveraged use of derivatives by systemically significant institutions can have dire consequences, the prudent use of derivatives by manufacturers such as ourselves and the vast majority of end users like us should not be put into the same category. For end users like ourselves the prudent use of derivatives provides us a critical risk management tool to reduce commercial risk and volatility in our normal business operations allowing us to create sustainable and prosperous businesses. I am here today to share with you our perspective on these matters and want to specifically address three areas of the legislation: an appropriate end user exemption; margin requirements; and the need to avoid overly complex clearing and reporting. I would like to take a minute to address each in greater detail.

Our use of derivatives is driven by the desire to reduce commercial risk associated with our business. Ball's largest business (beverage can manufacturing) involves buying over $3 billion of aluminum coils per year, converting those coils into cans and selling them to large beverage and food companies mentioned earlier. As aluminum is an actively traded commodity, we are able to use OTC swaps to exactly match the prices and timing of when we buy coils of aluminum to when we sell the completed cans. This risk management technique allows us to prudently manage our costs and reduce volatility of price changes during the manufacturing process as well as over the life of multi-year contracts. We have used this risk management process for over 15 years with no adverse consequences. We clearly are not a trading operation. Our policies state that speculation is forbidden – a policy consistently applied by end users generally. While our use of derivates can be substantial, our hedges are executed to reduce commercial risk. Not executing the swaps would create more volatility in our business outcomes. We believe a broad end user exemption is a critical feature of derivatives legislation. During the regulatory process, we have sought to ensure that the exemption provided for by Congress would not be unduly narrowed. In particular, we have urged regulators to give thoughtful consideration to key definitions, including major swap participant and swap dealer, to ensure that manufacturers and other end users like us are not regulated as if we dealt in speculative swaps.

The second area I would like to address is that of margin to be posted on future or even previously entered into contracts; this requirement would be particularly troublesome to end users like Ball Corporation. Retroactive application of a margin requirement would upset the reasonable expectations we had when entering into existing risk management contracts. These expectations are negotiated extensively in ISDA agreements that we have with our financial counterparties. Those arrangements have already included a credit cost that we have paid, so retroactive application of margin requirements would essentially double our costs. A requirement for end users like Ball Corporation to post margin to its counterparties would have a serious impact on our ability to invest in and grow our business. For example, Ball Corporation is currently investing significant amounts of capital in plant expansions we are currently executing in Texas, Indiana, California and Colorado. Those expansions alone are investments totaling well in excess of $150 million and will add several hundred jobs when complete. Tying up capital for initial and variation margin could put those types of projects at risk at a time when our economy can ill afford it. The impact of posting initial margin for us can easily exceed $100 million, while the change in value on our trades over time could easily surpass $300 million in required capital that would be removed from productive economic use. Notably, diverting more than $400mm of working capital into margin accounts would have a direct and adverse impact on our ability to grow our business and create and maintain jobs. In short, margin requirements will cost the communities in which we are located literally hundreds of good, new jobs.

The third area to focus on is avoiding the creation of rigid and expensive trading requirements that could cause the unintended consequence of companies either retaining more risk or to seek risk management alternatives overseas. We are not a "trading house" so our activity in derivatives is not daily or even weekly. In addition, by utilizing over-the-counter swaps we are able to customize our hedges to perfectly match the underlying exposure. If we were required to use only standardized or exchange traded hedge products we would not create the risk offset we currently achieve today and this would result in both accounting and real economic volatility. Though end users are not directly subject to such requirements, excessive capital requirements imposed on our financial counterparties could significantly increase our costs. Though these capital requirements should be appropriate for the risk of the product, they should not be increased in such a manner so as to deter prudent use of uncleared over-the-counter derivatives by end users. The end result and unintended consequence of margin requirements applied to end users or excessive capital requirements applied to our financial counterparties could be to reduce the risk management activity of end users, a result which would actually increase systemic risk or even push transactions offshore. Neither of these would be favorable to our economy.

Additionally, because of the importance of this market to main street businesses like Ball Corporation, we believe it is critical to get the regulation right. The current rulemaking timeline is aggressive, and may force regulators to prioritize speed over quality. Doing so could hurt companies' ability to manage their risks. We would urge Congress to provide regulators with more time for rulemaking, *and* for regulators to allow market participants sufficient time for implementation. This is critical to ensuring that market participants have ample opportunity to provide useful feedback, and to ensuring this important market continues to function with minimal disruption. Chairman Gensler has reached out to businesses for input on a realistic implementation timeline. That is a positive step and one that we appreciate greatly. However, developing a workable implementation timeline still would not fix the problem of too many rules being promulgated over too little time. The statutory effective date must be extended for end-users to be able to participate meaningfully in the regulatory development process.

As regulators go about the important work of finalizing the rules that address the lessons learned of the financial crisis, it is of the utmost importance that they do so in a manner that does not break those things that functioned well. I am confident that the way in which these products are utilized by our company, and end users generally, provides important benefits to the economy, including reduced volatility and greater stability to a significant sector of the economy. Though it may be tempting to view all derivatives as risky financial products that were central to the credit crisis, we must remember that these are important tools upon which thousands of companies depend to managing risks in the real economy. Thank you for your time and I am happy to answer any questions that you have.

## Scott C. Morrison

***Senior Vice President & Chief Financial Officer***

## Ball Corporation History

- 2010-present; senior vice president and chief financial officer
- 2002-2009; vice president and treasurer
- 2000-2002; treasurer

## Previous Work Experience

- Managing director/senior banker, corporate banking, Bank One, Indianapolis
- First vice president, corporate banking, First Chicago, Indianapolis
- Assistant vice president, vice president, NBD Bank, Detroit

## Boards/Professional Activities

- Member, board of directors, Jefferson County Economic Council
- Member, National Association of Corporate Treasurers
- Member, Treasury Management Association

## Education

- 1988; MBA, Wayne State University, Detroit
- 1984; bachelor's degree, finance, Indiana University, Bloomington

## Personal

- Born July 10, 1962, in East Chicago, Ind.

Ball Corporation is a supplier of high-quality packaging products and of aerospace and other technologies and services.

Committee on Agriculture
U.S. House of Representatives
Required Witness Disclosure Form

House Rules* require nongovernmental witnesses to disclose the amount and source of Federal grants received since October 1, 2008.

Name: Scott C. Morrison

Organization you represent (if any): Ball Corporation & National Association of Corporate Treasurers ("NACT")

1. Please list any federal grants or contracts (including subgrants and subcontracts) you have received since October 1, 2008, as well as the source and the amount of each grant or contract. House Rules do NOT require disclosure of federal payments to individuals, such as Social Security or Medicare benefits, farm program payments, or assistance to agricultural producers:

Source: ____________ Amount: ____________

Source: ____________ Amount: ____________

2. If you are appearing on behalf of an organization, please list any federal grants or contracts (including subgrants and subcontracts) the organization has received since October 1, 2008, as well as the source and the amount of each grant or contract:

Source: ____________ Amount: ____________

Source: ____________ Amount: ____________

Please check here if this form is NOT applicable to you: X

Signature: [signature]

* Rule XI, clause 2(g)(4) of the U.S. House of Representatives provides: *Each committee shall, to the greatest extent practicable, require witnesses who appear before it to submit in advance written statements of proposed testimony and to limit their initial presentations to the committee to brief summaries thereof. In the case of a witness appearing in a nongovernmental capacity, a written statement of proposed testimony shall include a curriculum vitae and a disclosure of the amount and source (by agency and program) of each Federal grant (or subgrant thereof) or contract (or subcontract thereof) received during the current fiscal year or either of the two previous fiscal years by the witness or by any entity represented by the witness.*

PLEASE ATTACH DISCLOSURE FORM TO EACH COPY OF TESTIMONY.

Committee on Agriculture
U.S. House of Representatives
Information Required From Nongovernmental Witnesses

House rules require nongovernmental witnesses to provide their resume or biographical sketch prior to testifying. If you do not have a resume or biographical sketch available, please complete this form.

1. Name: Scott C. Morrison
2. Organization you represent: Ball Corporation & National Association of Corporate Treasurers ("NACT")
3. Please list any occupational, employment, or work-related experience you have which add to your qualification to provide testimony before the Committee: I was Vice President and Treasurer of Ball Corporation a Fortune 500 traded company from 2001-2010. Prior to Ball I worked in Corporate banking for 16 years and have a deep understanding of how derivatives work.
4. Please list any special training, education, or professional experience you have which add to your qualifications to provide testimony before the Committee: I have an undergraduate Bachelor of Science degree from Indiana University with an emphasis in Finance. I have an MDA in Finance from Wayne State University.
5. If you are appearing on behalf of an organization, please list the capacity in which you are representing that organization, including any offices or elected positions you hold: Senior Vice President & CFO of Ball Corporation and Chairman of the National Association of Corporate Treasurers.

PLEASE ATTACH THIS FORM OR YOUR BIOGRAPHY TO EACH COPY OF TESTIMONY.