

TO FACILITATE IMPLEMENTATION OF TITLE VII OF THE DODD-FRANK  
WALL STREET REFORM AND CONSUMER PROTECTION ACT, PROMOTE  
REGULATORY COORDINATION, AND AVOID MARKET DISRUPTION

—————  
JUNE 16, 2011.—Committed to the Committee of the Whole House on the State of  
the Union and ordered to be printed  
—————

Mr. BACHUS, from the Committee on Financial Services,  
submitted the following

R E P O R T

together with

MINORITY VIEWS

[To accompany H.R. 1573]

[Including cost estimate of the Congressional Budget Office]

The Committee on Financial Services, to whom was referred the bill (H.R. 1573) to facilitate implementation of title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act, promote regulatory coordination, and avoid market disruption, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. EFFECTIVE DATES.**

Section 712(f) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Public Law 111-203; 15 U.S.C. 8302(f)) is amended to read as follows:

“(f) RULES AND REGISTRATION BEFORE FINAL EFFECTIVE DATES.—

“(1) IN GENERAL.—Beginning on the date of enactment of this Act and notwithstanding the effective date of any provision of this Act, the Commodity Futures Trading Commission and the Securities and Exchange Commission may, in order to prepare for the effective dates of the provisions of this Act—

“(A) promulgate rules, regulations, or orders permitted or required by this Act;

“(B) conduct studies and prepare reports and recommendations required by this Act;

“(C) register persons under the provisions of this Act; and

“(D) exempt persons, agreements, contracts, or transactions from provisions of this Act, under the terms contained in this Act.

“(2) EFFECTIVE DATE.—(A) Notwithstanding paragraph (1), an action by the Commodity Futures Trading Commission or the Securities and Exchange Commission described in paragraph (1) shall not become effective before the effective

date applicable to the action under this Act, except as provided in paragraph (3).

“(B) Notwithstanding any provision of this Act (other than paragraph (3)), this title and the regulations under this title shall become effective on the latest of—

“(i) September 30, 2012;

“(ii) 90 days after the publication of the relevant final rule or regulation in the Federal Register or such later date as may be specified in the final rule or regulation; or

“(iii) the effective date otherwise applicable to this title.

“(3) EXCEPTIONS.—

“(A) CERTAIN DEFINITIONS.—Notwithstanding any other provision of this Act, in order to assist persons subject to this title in coming into compliance with the provisions of this title on a timely basis, the Commodity Futures Trading Commission and the Securities and Exchange Commission, in consultation with the Board of Governors, shall adopt definitions further defining the terms specified in subsection (d)(1) not later than 360 days after the date of the enactment of this Act. Such definitions shall become effective 90 days after their publication in the Federal Register.

“(B) REGULATORY REPORTING.—

“(i) SWAP DATA REPORTING.—Sections 2(h)(5) and 4r of the Commodity Exchange Act and the rules and regulations of the Commodity Futures Trading Commission issued under such sections shall become effective on the later of—

“(I) 90 days after the publication of the relevant final rule or regulation in the Federal Register, or such later date as may be specified in the final rule or regulation; or

“(II) the effective date otherwise applicable to such sections.

“(ii) SECURITY-BASED SWAP DATA REPORTING.—Sections 3C(e) and 13A(a) of the Securities Exchange Act of 1934 and the rules and regulations of the Securities and Exchange Commission issued under such sections shall become effective on the later of—

“(I) 90 days after the publication of the relevant final rule or regulation in the Federal Register, or such later date as may be specified in the rule or regulation; or

“(II) the effective date otherwise applicable to such sections.

“(iii) SWAP DATA REPOSITORIES.—To facilitate compliance, before September 30, 2012, with the regulatory reporting provisions of this section, the Commodity Futures Trading Commission and the Securities and Exchange Commission may authorize the reporting of swap data and security-based swap data to any person then conducting the business described in section 1a(48) of the Commodity Exchange Act (7 U.S.C. 1a(48)) or section 3(a)(75) of the Securities Exchange Act of 1934 (15 U.S.C. 78m), respectively, who has—

“(I) provided notice to the relevant Commission of its intention to register as a swap data repository or security-based swap data repository, as applicable; and

“(II) made such undertakings to the relevant Commission as such Commission has determined to be appropriate and in the public interest, consistent with this title.

“(C) CERTAIN CLEARING PROVISIONS.—Section 3C of the Securities Exchange Act of 1934 (15 U.S.C. 78c-3) (except for subsections (e) and (h) of such section) and the rules and regulations of the Securities and Exchange Commission under such section shall take effect on the date otherwise applicable to such section.

“(D) AUTHORITY RELATING TO SPECULATIVE TRADING.—Notwithstanding any other provision of this Act, this subsection shall not delay the use of any authority granted to the Securities and Exchange Commission and the Commodity Futures Trading Commission to address speculative trading, including the impact of such trading on the markets, users, or investors and consumers. The Commissions shall report to the appropriate committees of Congress on the use of such authority.

“(E) PROHIBITION ON FEDERAL BAILOUTS.—Notwithstanding paragraph (2), section 716 of this Act shall take effect on the date provided for in such section.”.

**SEC. 2. IMPLEMENTATION ANALYSIS.**

Section 712 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Public Law 111–203; 15 U.S.C. 8302), as amended by section 1 of this Act, is amended by adding at the end the following:

“(g) IMPLEMENTATION ANALYSIS.—Notwithstanding any other provision of this title, the Commodity Futures Trading Commission and the Securities and Exchange Commission shall, before prescribing final rules and regulations under this title—

“(1) conduct public hearings and roundtables and take testimony of affected market participants, experts and other interested parties, and solicit public comment, regarding—

“(A) the time and resources that would be required of affected parties in order to develop systems and infrastructure necessary to comply with any rules and regulations proposed or then contemplated by the relevant Commission;

“(B) any alternative approaches capable of accomplishing the relevant Commission’s rulemaking objectives; and

“(C) the time and resources that would be required of affected parties in order to develop policies and procedures designed to comply with any rules and regulations proposed or then contemplated by the relevant Commission, and

“(2) take such testimony and comment into account in—

“(A) performing the cost-benefit analysis required under Federal law in connection with its adoption of the relevant final rules and regulations; and

“(B) determining the effective date of the relevant final rules and regulations.”.

**SEC. 3. REGULATORY COORDINATION.**

(a) COMMODITY FUTURES TRADING COMMISSION.—Section 2(a)(1) of the Commodity Exchange Act (7 U.S.C. 2(a)(1)) is amended by adding at the end the following:

“(J)(i) Notwithstanding any other provision of this Act, the Commission may exempt, in whole or in part, a person from the registration and related regulatory requirements of this Act that were added by title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act if and to the extent that the Commission determines that—

“(I) the person is subject to comprehensive supervision and regulation under a regulatory scheme administered by another regulatory authority or the appropriate governmental authorities in the person’s home country that is comparable to the relevant provisions of this Act,

“(II) adequate information-sharing arrangements are in effect between the Commission and the other regulatory authority, and

“(III) the exemption would be consistent with the public interest.

“(ii) The Commission may condition any such exemption on compliance with all or any part of the alternate regulatory scheme, and on such other terms as the Commission determines appropriate, and may deem any non-compliance with the alternate regulatory scheme or other terms a violation of the corresponding provisions of this Act.”.

(b) SECURITIES AND EXCHANGE COMMISSION.—The Securities Exchange Act of 1934 (15 U.S.C. 78m) is amended by inserting after section 4E the following:

**“SEC. 4F. EXEMPTIVE AUTHORITY.**

“(a) IN GENERAL.—Notwithstanding any other provision of this Act, the Commission may exempt, in whole or in part, a person from the registration and related regulatory requirements of this Act that were added by title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act if and to the extent that the Commission determines that—

“(1) the person is subject to comprehensive supervision and regulation under a regulatory scheme administered by another regulatory authority or the appropriate governmental authorities in the person’s home country that is comparable to the relevant provisions of this Act;

“(2) adequate information-sharing arrangements are in effect with the other regulatory authority; and

“(3) the exemption would be consistent with the protection of investors.

“(b) CONDITION ON COMPLIANCE.—The Commission may condition any such exemption on compliance with all or any part of the alternate regulatory scheme, and such other terms as the Commission determines appropriate, and may deem any noncompliance with the alternate regulatory scheme or other terms a violation of the corresponding provisions of this Act.”.

## PURPOSE AND SUMMARY

H.R. 1573, To facilitate implementation of title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act, promote regulatory coordination, and avoid market disruption, would extend the statutory deadline for the implementation of most provisions of Title VII of the Wall Street Reform and Consumer Protection Act (P.L. 111-203) by 15 months. The bill would not extend the deadline for the Commodity Futures Trading Commission (CFTC) and the Securities and Exchange Commission (SEC) to issue final rules defining key terms, such as swap, security based swap, swap dealer, security-based swap dealer, major swap participant, major security-based swap participant and eligible contract participant. The bill also would not extend the deadline for the reporting requirements in Sections 2(h)(5) and 4r of the Commodity Exchange Act and Sections 3C(e) and 13A(a) of the Securities Exchange Act of 1934. The bill would require the SEC to follow the original Dodd-Frank timeline to complete the rules to allow clearing of security-based swaps. To facilitate the reporting of swap data, the bill would give the CFTC and the SEC interim authority to designate swap data repositories that meet certain criteria. The bill also would not delay the use of any authority granted to the SEC and the CFTC to address speculative trading. In addition, the bill would require the CFTC and SEC, prior to prescribing any final rules required under Title VII, to hold roundtables and public hearings to receive testimony and factor it into the rule proposals. Lastly, H.R. 1573 would give the CFTC and SEC authority to exempt certain persons under the authority established in Title VII of the Dodd-Frank Act from registration or related regulatory requirements if they are subject to comparable regulation by a U.S. or foreign regulatory authority.

## BACKGROUND AND NEED FOR LEGISLATION

H.R. 1573 was introduced by Chairman Bachus and Representatives Lucas, Garrett and Conaway to extend the statutory deadline for the implementation of most provisions of Title VII to provide regulators with sufficient time to develop rules to reform the U.S. derivatives marketplace and avoid placing U.S. markets at a competitive disadvantage with the rest of the world. The Committee held hearings on February 15 and March 16, 2011 examining the implementation of Title VII of the Dodd-Frank Act. The Committee received testimony from a broad spectrum of witnesses, including regulators, end-users, and financial market participants. An overwhelming majority of witnesses expressed concerns that the compressed statutory deadlines and sheer volume of regulations mandated by Title VII were having a negative impact on the implementation process at the SEC and CFTC. The witnesses were concerned that the statutory deadlines forced the agencies to prioritize speed over deliberation, making it difficult for stakeholders to comment and calling into question the economic analysis associated with each proposed rule. Witnesses also expressed concerns that many of the SEC and CFTC's rule proposals exceed or conflict with congressional intent, are inconsistent with proposals from other regulatory agencies, and may be detrimental to U.S. businesses, financial markets, and the overall economy.

The Dodd-Frank implementation deadlines are also out of step with the derivatives reform efforts taking place in the rest of the world. In September of 2009, the leaders of the G-20 Nations agreed to implement certain over the counter (OTC) derivatives reforms by the end of December of 2012. Many of the witnesses at the hearings, along with a broad cross-section of industry and academic commentators, have cited concerns about the U.S. moving on a much faster timetable than the European Union (EU) or Asian regulators, creating the potential for regulatory arbitrage and negative consequences to the competitiveness of U.S. businesses. The expedited pace of rulemaking diminishes the opportunity for regulators to coordinate and harmonize international regulatory regimes, creates opportunities for regulatory arbitrage, and gives foreign countries a “learn from our mistakes” advantage. While it would not be possible or wise to tie the timing of our regulatory reforms to unpredictable deadlines of the EU and other jurisdictions, slowing the process down would enhance the opportunity for coordination and greater consistency among regulatory regimes.

H.R. 1573 would give the regulatory agencies an additional 15 months to promulgate most rules required by Title VII. A common concern, particularly among market participants, was that the sequence of rule proposals made it difficult for them to comment meaningfully. For example, one of the last rules proposed by the CFTC in its initial rulewriting phase was the definition of “swap arguably the building block for the entire title. Thus, stakeholders were asked to comment on each rule prescribing a regulatory regime without clarification regarding the scope of the products impacted. In addition, the CFTC proposed rules to govern “major swap participants” and “swap dealers” before a rule had been proposed to actually define who qualifies as a major swap participant and swap dealer. To provide for a more rational sequence of rule proposals, H.R. 1573 would not extend the deadline for the definitions required under Section 712(d)(1) to provide clarity to market participants about their regulatory status, and to facilitate constructive public comment on the succeeding rules prescribing the relevant regulatory requirements.

H.R. 1573 also would not extend the deadline for the regulatory reporting requirements applicable to swaps and security-based swaps. This provision will ensure that transparency and reporting of all swap transactions is not delayed, thereby providing the regulatory agencies access to market data to monitor for systemic risk and to further inform the rulemaking process by providing swap market data that the agencies currently do not have. To facilitate the reporting of swap data and encourage further development of swap data repositories, H.R. 1573 would give the regulatory agencies interim authority to designate swap data repositories during the period in which the regulations governing swap data repositories are being finalized.

The bill also would require the CFTC and the SEC to hold additional public roundtables and hearings to take testimony from affected market participants prior to the finalization of any rules. Providing stakeholders additional time to offer input will help to mitigate unintended consequences of poorly vetted proposals, and permit comment once all rules have been proposed and can be con-

sidered in light of their interdependence and cumulative impact on the markets.

#### HEARINGS

On February 15, 2011, the Committee held an oversight hearing on the implementation of Title VII of the Dodd-Frank Act entitled “Assessing the Regulatory, Economic and Market Implications of the Dodd-Frank Derivatives Title.”

Witnesses included:

- The Honorable Mary Schapiro, Chairman, U.S. Securities and Exchange Commission
- The Honorable Gary Gensler, Chairman, U.S. Commodity Futures Trading Commission
- The Honorable Daniel K. Tarullo, Member, Federal Reserve Board of Governors
- Mr. Craig Reiners, Director of Commodity Risk Management, MillerCoors, on behalf of the Coalition for Derivatives End-Users
- Mr. Donald F. Donahue, Chairman & Chief Executive Officer, The Depository Trust & Clearing Corporation (DTCC)
- Mr. Terry Duffy, Executive Chairman, CME Group
- Mr. Don Thompson, Managing Director and Associate General Counsel, JPMorgan, on behalf of the Securities Industry and Financial Markets Association (SIFMA)
- Mr. Jamie Cawley, Chief Executive Officer, Javelin, on behalf of the Swaps and Derivatives Market Association (SDMA)
- Mr. Christopher Giancarlo, Executive Vice President, Corporate Development, GFI Group Inc.

On March 16, 2011, the Subcommittee on Capital Markets and Government Sponsored Enterprises held a hearing entitled “Legislative Proposals to Promote Job Creation, Capital Formation, and Market Certainty.”

Witnesses included:

- Mr. Kenneth A. Bertsch, President and CEO, Society of Corporate Secretaries & Governance Professionals
- Mr. Tom Deutsch, Executive Director, American Securitization Forum
- Ms. Pam Hendrickson, Chief Operating Officer, The Riverside Company
- Mr. David Weild, Senior Advisor, Grant Thornton, LLP
- Mr. Luke Zubrod, Director, Chatham Financial
- Mr. Damon Silvers, Policy Director and Special Counsel, AFL-CIO

#### COMMITTEE CONSIDERATION

The Committee on Financial Services met in open session on May 24, 2011 and ordered H.R. 1573, To facilitate implementation of title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act, as amended, favorably reported to the House by a record vote of 30 yeas and 24 nays (Record vote no. FC-42).

#### COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. A motion by Chair-

man Bachus to report the bill, as amended, to the House with a favorable recommendation was agreed to by a record vote of 30 yeas and 24 nays (Record vote no. FC-42). The names of Members voting for and against follow:

## RECORD VOTE NO. FC-42

Representative	Aye	Nay	Present	Representative	Aye	Nay	Present
Mr. Bachus	X			Mr. Frank (MA)		X	
Mr. Hensarling	X			Ms. Waters		X	
Mr. King (NY)				Mrs. Maloney		X	
Mr. Royce	X			Mr. Gutierrez		X	
Mr. Lucas	X			Ms. Velázquez		X	
Mr. Paul	X			Mr. Watt		X	
Mr. Manzullo	X			Mr. Ackerman			
Mr. Jones				Mr. Sherman			
Mrs. Biggert	X			Mr. Meeks		X	
Mr. Gary G. Miller (CA)	X			Mr. Capuano		X	
Mrs. Capito	X			Mr. Hinojosa		X	
Mr. Garrett	X			Mr. Clay		X	
Mr. Neugebauer	X			Mrs. McCarthy (NY)			
Mr. McHenry				Mr. Baca		X	
Mr. Campbell	X			Mr. Lynch		X	
Mrs. Bachmann	X			Mr. Miller (NC)		X	
Mr. McCotter	X			Mr. David Scott (GA)		X	
Mr. McCarthy (CA)	X			Mr. Al Green (TX)		X	
Mr. Pearce	X			Mr. Cleaver		X	
Mr. Posey	X			Ms. Moore		X	
Mr. Fitzpatrick	X			Mr. Ellison		X	
Mr. Westmoreland	X			Mr. Perlmutter		X	
Mr. Luetkemeyer	X			Mr. Donnelly		X	
Mr. Huizenga	X			Mr. Carson		X	
Mr. Duffy	X			Mr. Himes		X	
Ms. Hayworth	X			Mr. Peters		X	
Mr. Renacci	X			Mr. Carney		X	
Mr. Hurt	X						
Mr. Dold							
Mr. Schweikert	X						
Mr. Grimm	X						
Mr. Canseco	X						
Mr. Stivers	X						
Mr. Fincher	X						

During consideration of H.R. 1573, the following amendments were considered:

1. An amendment offered by Ms. Velázquez, no. 6, to require the CFTC and the SEC to invite small business and consumer protection advocates to roundtables and to expand the SEC's and CFTC's jurisdiction to evaluate the impact on small businesses and consumers of financial products caused by postponements of and exemptions from rules and regulations under title VII of the Dodd-Frank Act, was not agreed to by a record vote of 23 yeas and 30 nays (Record vote no. FC-40).

## RECORD VOTE NO. FC-40

Representative	Aye	Nay	Present	Representative	Aye	Nay	Present
Mr. Bachus		X		Mr. Frank (MA)	X		
Mr. Hensarling		X		Ms. Waters	X		
Mr. King (NY)				Mrs. Maloney	X		
Mr. Royce		X		Mr. Gutierrez	X		
Mr. Lucas		X		Ms. Velázquez	X		
Mr. Paul		X		Mr. Watt	X		
Mr. Manzullo		X		Mr. Ackerman			

## RECORD VOTE NO. FC-40—Continued

Representative	Aye	Nay	Present	Representative	Aye	Nay	Present
Mr. Jones				Mr. Sherman			
Mrs. Biggert		X		Mr. Meeks	X		
Mr. Gary G. Miller (CA)		X		Mr. Capuano	X		
Mrs. Capito		X		Mr. Hinojosa	X		
Mr. Garrett		X		Mr. Clay	X		
Mr. Neugebauer		X		Mrs. McCarthy (NY)			
Mr. McHenry				Mr. Baca	X		
Mr. Campbell		X		Mr. Lynch	X		
Mrs. Bachmann		X		Mr. Miller (NC)	X		
Mr. McCotter		X		Mr. David Scott (GA)	X		
Mr. McCarthy (CA)		X		Mr. Al Green (TX)	X		
Mr. Pearce		X		Mr. Cleaver	X		
Mr. Posey		X		Ms. Moore			
Mr. Fitzpatrick		X		Mr. Ellison	X		
Mr. Westmoreland		X		Mr. Perlmutter	X		
Mr. Luetkemeyer		X		Mr. Donnelly	X		
Mr. Huizenga		X		Mr. Carson	X		
Mr. Duffy		X		Mr. Himes	X		
Ms. Hayworth		X		Mr. Peters	X		
Mr. Renacci		X		Mr. Carney	X		
Mr. Hurt		X					
Mr. Dold							
Mr. Schweikert		X					
Mr. Grimm		X					
Mr. Canseco		X					
Mr. Stivers		X					
Mr. Fincher		X					

2. An amendment offered by Ms. Velázquez, no. 7, to require the SEC and the CFTC to consider consumer protection and to provide notice and opportunity for comment when exercising their exemptive authorities, was not agreed to by a record vote of 24 yeas and 30 nays (Record vote no. 41).

## RECORD VOTE NO. FC-41

Representative	Aye	Nay	Present	Representative	Aye	Nay	Present
Mr. Bachus		X		Mr. Frank (MA)	X		
Mr. Hensarling		X		Ms. Waters	X		
Mr. King (NY)				Mrs. Maloney	X		
Mr. Royce		X		Mr. Gutierrez	X		
Mr. Lucas		X		Ms. Velázquez	X		
Mr. Paul		X		Mr. Watt	X		
Mr. Manzullo		X		Mr. Ackerman			
Mr. Jones				Mr. Sherman			
Mrs. Biggert		X		Mr. Meeks	X		
Mr. Gary G. Miller (CA)		X		Mr. Capuano	X		
Mrs. Capito		X		Mr. Hinojosa	X		
Mr. Garrett		X		Mr. Clay	X		
Mr. Neugebauer		X		Mrs. McCarthy (NY)			
Mr. McHenry				Mr. Baca	X		
Mr. Campbell		X		Mr. Lynch	X		
Mrs. Bachmann		X		Mr. Miller (NC)	X		
Mr. McCotter		X		Mr. David Scott (GA)	X		
Mr. McCarthy (CA)		X		Mr. Al Green (TX)	X		
Mr. Pearce		X		Mr. Cleaver	X		
Mr. Posey		X		Ms. Moore	X		
Mr. Fitzpatrick		X		Mr. Ellison	X		
Mr. Westmoreland		X		Mr. Perlmutter	X		
Mr. Luetkemeyer		X		Mr. Donnelly	X		
Mr. Huizenga		X		Mr. Carson	X		
Mr. Duffy		X		Mr. Himes	X		
Ms. Hayworth		X		Mr. Peters	X		



## RECORD VOTE NO. FC-41—Continued

Representative	Aye	Nay	Present	Representative	Aye	Nay	Present
Mr. Renacci .....		X	.....	Mr. Carney .....	X	.....	.....
Mr. Hurt .....		X	.....				
Mr. Dold .....			.....				
Mr. Schweikert .....		X	.....				
Mr. Grimm .....		X	.....				
Mr. Canseco .....		X	.....				
Mr. Stivers .....		X	.....				
Mr. Fincher .....		X	.....				

The following amendments and motion were also considered by the Committee:

1. An amendment offered by Mr. Bachus, no. 1, to require SEC to promulgate rules to allow clearing of securities-based-swaps within the original Dodd Frank Act timeline, was agreed to by voice vote.

2. An amendment offered by Mr. Lynch, no. 2, to allow the CFTC and the SEC to address speculative trading and require them to report to Congress on the use of such authority, was agreed to by voice vote.

3. An amendment offered by Mr. Garrett, no. 3, to change the effective date of title VII of the Dodd-Frank Act to September 30, 2012, was agreed to by voice vote.

4. An amendment offered by Mr. Lynch, no. 4, to keep the effective date of Section 716 of the Dodd-Frank Act as July 21, 2012, was agreed to by voice vote.

5. An amendment offered by Mr. Lynch, no. 5, to limit the SEC and CFTC's exemptive authority as originally provided for in title VII of the Dodd-Frank Act, was agreed to by voice vote.

6. A motion offered by Mr. Bachus to move the previous question on H.R. 1573, was agreed to by voice vote.

## COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee has held hearings and made findings that are reflected in this report.

## PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee establishes the following performance related goals and objectives for this legislation:

The purposes of H.R. 1573 is to: (1) extend the statutory deadline for the implementation of most provisions of Title VII of the Wall Street Reform and Consumer Protection Act (P.L. 111-203) by 15 months, except the deadline for the CFTC and the SEC's authorities to issue final rules defining key terms, such as swap, security based swap, swap dealer, security-based swap dealer, major swap participant, major security-based swap participant and eligible contract participant; (2) extend the deadline for the reporting requirements in Sections 2(h)(5) and 4r of the Commodity Exchange Act and Sections 3C(e) and 13A(a) of the Securities Exchange Act of 1934; (3) require the SEC to follow the original Dodd-Frank timeline to complete the rules to allow clearing of security-based swaps; (4) give the CFTC and the SEC interim authority to des-

ignite swap data repositories that meet certain criteria; (5) delay the use of any authority granted to the SEC and the CFTC to address speculative trading; (6) require the CFTC and SEC, prior to prescribing any final rules required under Title VII, to hold additional roundtables and public hearings to receive testimony and factor it into the rule proposals; and (7) give the CFTC and SEC authority to exempt certain persons under the authority established in Title VII of Dodd-Frank from registration or related regulatory requirements if they are subject to comparable regulation by a U.S. or foreign regulatory authority.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX  
EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE ESTIMATES

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, May 26, 2011.*

Hon. SPENCER BACHUS,  
*Chairman, Committee on Financial Services,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1573, a bill to facilitate implementation of title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act, promote regulatory coordination, and avoid market disruption.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Susan Willie.

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

*H.R. 1573—A bill to facilitate implementation of title VII of the  
Dodd-Frank Wall Street Reform and Consumer Protection Act,  
promote regulatory coordination, and avoid market disruption*

H.R. 1573 would extend the effective date for certain regulations that are being developed by the Commodity Futures Trading Commission (CFTC) and the Securities and Exchange Commission

(SEC); those regulations relate to entities that trade in, or assist in the trading of, financial instruments known as over-the-counter derivatives. The bill also would require the agencies to solicit comments from the public regarding implementation of proposed regulations and to consider that information when analyzing costs and benefits of the final regulations. Finally, the bill would authorize the agencies to exempt certain entities from regulation if those entities are subject to comparable requirements of another financial regulator in the United States or in the entity's home country.

Based on information from the CFTC and the SEC, CBO estimates that implementing the provisions of H.R. 1573 would not significantly affect the staffing levels or spending of either agency. Enacting H.R. 1573 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

H.R. 1573 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

On May 11, 2011, CBO transmitted an estimate for H.R. 1573, as ordered reported by the House Committee on Agriculture on May 4, 2011. The bills have some differences but because those differences would not affect the agencies' implementation costs, the CBO cost estimates for both versions of H.R. 1573 are the same.

The CBO staff contact for this estimate is Susan Willie. The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

#### FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

#### ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

#### APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of the section 102(b)(3) of the Congressional Accountability Act.

#### EARMARK IDENTIFICATION

H.R. 1573 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.

#### SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

##### *Section 1. Effective dates*

This section would extend the statutory deadline for the implementation of certain provisions of Title VII of the Wall Street Reform and Consumer Protection Act (P.L. 111-203) to September 30, 2011. This section would not extend the deadline for the CFTC and the SEC to issue final rules further defining key terms in Section

712(d)(1) of the Title, including: swap, security based swap, swap dealer, security-based swap dealer, major swap participant, major security-based swap participant and eligible contract participant.

This section also would not extend the deadline for the swap and security-based swap data reporting requirements in Sections 2(h)(5) and 4r of the Commodity Exchange Act and Sections 3C(e) and 13A(a) of the Securities Exchange Act of 1934. To facilitate the reporting of swaps data, this section would give the CFTC and the SEC interim authority to designate swap data repositories that meet certain criteria. This section also would require the SEC to follow the original Dodd-Frank timeline to complete the rules to allow clearing of security-based swaps. Finally, this section would not delay the use of any authority granted to the SEC and the CFTC to address speculative trading, and also provides that Section 716 of the Act will take effect on July 16, 2012.

*Section 2. Implementation analysis*

This section would require the CFTC and the SEC to hold additional public roundtables and hearings to take testimony from affected market participants related to: (a) the time and resources that would be required to develop systems and infrastructure necessary to comply with any rules or regulations proposed; (b) any alternative approach to accomplish the rulemaking objectives; and (c) the time and resources that would be required to develop policies and procedures designed to comply with proposed rules and regulations prior to the finalization of any rules.

*Section 3. Regulatory coordination*

This section would provide the CFTC and SEC with authority to exempt, in whole or in part, a person from the registration and related regulatory requirements that were added by Title VII of the Dodd-Frank Act if the CFTC and SEC determine that: the person is subject to comprehensive supervision under a comparable regulatory scheme in another country; adequate information-sharing arrangements are in effect between the agencies and foreign regulator; and that the exemption is consistent with the public interest.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

**DODD-FRANK WALL STREET REFORM AND CONSUMER PROTECTION ACT**

\* \* \* \* \*

**TITLE VII—WALL STREET  
TRANSPARENCY AND ACCOUNTABILITY**

\* \* \* \* \*

## Subtitle A—Regulation of Over-the-Counter Swaps Markets

### PART I—REGULATORY AUTHORITY

\* \* \* \* \*

#### SEC. 712. REVIEW OF REGULATORY AUTHORITY.

(a) \* \* \*

\* \* \* \* \*

**[(f) RULES AND REGISTRATION BEFORE FINAL EFFECTIVE DATES.—**Beginning on the date of enactment of this Act and notwithstanding the effective date of any provision of this Act, the Commodity Futures Trading Commission and the Securities and Exchange Commission may, in order to prepare for the effective dates of the provisions of this Act—

**[(1)** promulgate rules, regulations, or orders permitted or required by this Act;

**[(2)** conduct studies and prepare reports and recommendations required by this Act;

**[(3)** register persons under the provisions of this Act; and

**[(4)** exempt persons, agreements, contracts, or transactions from provisions of this Act, under the terms contained in this Act,

provided, however, that no action by the Commodity Futures Trading Commission or the Securities and Exchange Commission described in paragraphs (1) through (4) shall become effective prior to the effective date applicable to such action under the provisions of this Act.]

*(f) RULES AND REGISTRATION BEFORE FINAL EFFECTIVE DATES.—*

*(1) IN GENERAL.—Beginning on the date of enactment of this Act and notwithstanding the effective date of any provision of this Act, the Commodity Futures Trading Commission and the Securities and Exchange Commission may, in order to prepare for the effective dates of the provisions of this Act—*

*(A) promulgate rules, regulations, or orders permitted or required by this Act;*

*(B) conduct studies and prepare reports and recommendations required by this Act;*

*(C) register persons under the provisions of this Act; and*

*(D) exempt persons, agreements, contracts, or transactions from provisions of this Act, under the terms contained in this Act.*

*(2) EFFECTIVE DATE.—(A) Notwithstanding paragraph (1), an action by the Commodity Futures Trading Commission or the Securities and Exchange Commission described in paragraph (1) shall not become effective before the effective date applicable to the action under this Act, except as provided in paragraph (3).*

*(B) Notwithstanding any provision of this Act (other than paragraph (3)), this title and the regulations under this title shall become effective on the latest of—*

*(i) September 30, 2012;*

- (ii) 90 days after the publication of the relevant final rule or regulation in the Federal Register or such later date as may be specified in the final rule or regulation; or
- (iii) the effective date otherwise applicable to this title.

(3) **EXCEPTIONS.**—

(A) **CERTAIN DEFINITIONS.**—Notwithstanding any other provision of this Act, in order to assist persons subject to this title in coming into compliance with the provisions of this title on a timely basis, the Commodity Futures Trading Commission and the Securities and Exchange Commission, in consultation with the Board of Governors, shall adopt definitions further defining the terms specified in subsection (d)(1) not later than 360 days after the date of the enactment of this Act. Such definitions shall become effective 90 days after their publication in the Federal Register.

(B) **REGULATORY REPORTING.**—

(i) **SWAP DATA REPORTING.**—Sections 2(h)(5) and 4r of the Commodity Exchange Act and the rules and regulations of the Commodity Futures Trading Commission issued under such sections shall become effective on the later of—

(I) 90 days after the publication of the relevant final rule or regulation in the Federal Register, or such later date as may be specified in the final rule or regulation; or

(II) the effective date otherwise applicable to such sections.

(ii) **SECURITY-BASED SWAP DATA REPORTING.**—Sections 3C(e) and 13A(a) of the Securities Exchange Act of 1934 and the rules and regulations of the Securities and Exchange Commission issued under such sections shall become effective on the later of—

(I) 90 days after the publication of the relevant final rule or regulation in the Federal Register, or such later date as may be specified in the rule or regulation; or

(II) the effective date otherwise applicable to such sections.

(iii) **SWAP DATA REPOSITORIES.**—To facilitate compliance, before September 30, 2012, with the regulatory reporting provisions of this section, the Commodity Futures Trading Commission and the Securities and Exchange Commission may authorize the reporting of swap data and security-based swap data to any person then conducting the business described in section 1a(48) of the Commodity Exchange Act (7 U.S.C. 1a(48)) or section 3(a)(75) of the Securities Exchange Act of 1934 (15 U.S.C. 78m), respectively, who has—

(I) provided notice to the relevant Commission of its intention to register as a swap data repository or security-based swap data repository, as applicable; and

(II) made such undertakings to the relevant Commission as such Commission has determined

*to be appropriate and in the public interest, consistent with this title.*

*(C) CERTAIN CLEARING PROVISIONS.—Section 3C of the Securities Exchange Act of 1934 (15 U.S.C. 78c-3) (except for subsections (e) and (h) of such section) and the rules and regulations of the Securities and Exchange Commission under such section shall take effect on the date otherwise applicable to such section.*

*(D) AUTHORITY RELATING TO SPECULATIVE TRADING.—Notwithstanding any other provision of this Act, this subsection shall not delay the use of any authority granted to the Securities and Exchange Commission and the Commodity Futures Trading Commission to address speculative trading, including the impact of such trading on the markets, users, or investors and consumers. The Commissions shall report to the appropriate committees of Congress on the use of such authority.*

*(E) PROHIBITION ON FEDERAL BAILOUTS.—Notwithstanding paragraph (2), section 716 of this Act shall take effect on the date provided for in such section.*

*(g) IMPLEMENTATION ANALYSIS.—Notwithstanding any other provision of this title, the Commodity Futures Trading Commission and the Securities and Exchange Commission shall, before prescribing final rules and regulations under this title—*

*(1) conduct public hearings and roundtables and take testimony of affected market participants, experts and other interested parties, and solicit public comment, regarding—*

*(A) the time and resources that would be required of affected parties in order to develop systems and infrastructure necessary to comply with any rules and regulations proposed or then contemplated by the relevant Commission;*

*(B) any alternative approaches capable of accomplishing the relevant Commission’s rulemaking objectives; and*

*(C) the time and resources that would be required of affected parties in order to develop policies and procedures designed to comply with any rules and regulations proposed or then contemplated by the relevant Commission, and*

*(2) take such testimony and comment into account in—*

*(A) performing the cost-benefit analysis required under Federal law in connection with its adoption of the relevant final rules and regulations; and*

*(B) determining the effective date of the relevant final rules and regulations.*

\* \* \* \* \*

**COMMODITY EXCHANGE ACT**

\* \* \* \* \*

**SEC. 2. JURISDICTION OF COMMISSION; LIABILITY OF PRINCIPAL FOR ACT OF AGENT; COMMODITY FUTURES TRADING COMMISSION; TRANSACTION IN INTERSTATE COMMERCE.**

**(a) JURISDICTION OF COMMISSION; COMMODITY FUTURES TRADING COMMISSION.—**

(1) JURISDICTION OF COMMISSION.—

(A) \* \* \*

\* \* \* \* \*

*(J)(i) Notwithstanding any other provision of this Act, the Commission may exempt, in whole or in part, a person from the registration and related regulatory requirements of this Act that were added by title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act if and to the extent that the Commission determines that—*

*(I) the person is subject to comprehensive supervision and regulation under a regulatory scheme administered by another regulatory authority or the appropriate governmental authorities in the person's home country that is comparable to the relevant provisions of this Act,*

*(II) adequate information-sharing arrangements are in effect between the Commission and the other regulatory authority, and*

*(III) the exemption would be consistent with the public interest.*

*(ii) The Commission may condition any such exemption on compliance with all or any part of the alternate regulatory scheme, and on such other terms as the Commission determines appropriate, and may deem any noncompliance with the alternate regulatory scheme or other terms a violation of the corresponding provisions of this Act.*

\* \* \* \* \*

**SECURITIES EXCHANGE ACT OF 1934**

**TITLE I—REGULATION OF SECURITIES EXCHANGES**

\* \* \* \* \*

**SEC. 4F. EXEMPTIVE AUTHORITY.**

*(a) IN GENERAL.—Notwithstanding any other provision of this Act, the Commission may exempt, in whole or in part, a person from the registration and related regulatory requirements of this Act that were added by title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act if and to the extent that the Commission determines that—*

*(1) the person is subject to comprehensive supervision and regulation under a regulatory scheme administered by another regulatory authority or the appropriate governmental authorities in the person's home country that is comparable to the relevant provisions of this Act;*

*(2) adequate information-sharing arrangements are in effect with the other regulatory authority; and*

*(3) the exemption would be consistent with the protection of investors.*

*(b) CONDITION ON COMPLIANCE.—The Commission may condition any such exemption on compliance with all or any part of the alternate regulatory scheme, and such other terms as the Commission determines appropriate, and may deem any noncompliance with the*



*alternate regulatory scheme or other terms a violation of the corresponding provisions of this Act.*

\* \* \* \* \*

## MINORITY VIEWS

H.R. 1573 is a first step in the Republican plan to re-deregulate the financial practices that led to the economic crisis that began in 2008. And the effort begins with one of the areas where abuses were most widespread and damaging—derivatives.

H.R. 1573 does not merely “give the agencies more time to adopt derivatives rules,” it explicitly prevents the agencies from making any rules effective before October of 2012, almost two and a half years after enactment of financial reform legislation. Moving the effective date provided by the bill from December 31, 2012, to September 30, 2012, does not change that reality.

Moreover, H.R. 1573 as introduced and as proposed by the Agriculture Committee also defers the effective date for the CFTC’s expanded authority to establish position limits in derivatives related to the commodity markets. However, because of the efforts of Committee Democrats led by Congressman Lynch, and supported by Chairman Bachus, over the objection of most Committee Republicans, this was modified in Committee. However, we anticipate when this bill comes to the floor, leadership will push for the Agriculture Committee version, which would suspend the CFTC’s pending efforts to deal with this issue. With prominent market participants and analysts estimating that speculative trading adds as much as \$20 to \$30 to the price of a barrel of oil, we do not have the luxury of waiting another year and half before the CFTC can adopt position limits that will cover all of the commodity derivatives markets in the energy sector.

Both the CFTC and the SEC have a heavy task ahead of them in building a new system to regulate the swaps markets for the first time. This is particularly the case given the scant resources they have received as a result of Republican efforts to cut the budgets of both agencies. Time spent on bills of this sort takes scarce resources away from where they should be focused—establishing rules to help us avoid repeating the mistakes that led our economy to the brink of collapse and led to the deepest recession in seven decades.

BARNEY FRANK.  
EMANUEL CLEAVER.  
KEITH ELLISON.  
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WM. LACY CLAY.  
RUBÉN HINOJOSA.  
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