

“The DATA Act (H.R. 2146) builds upon lessons learned by states in tracking federal funds under the American Recovery and Reinvestment Act. Unfortunately, funding is not provided for the Act’s numerous new requirements.

“Without funding for state compliance, governors cannot implement the bill and therefore do not support the passage of the DATA Act. Governors encourage Congress to work with them to develop a more workable solution that meets the needs of states.

GEORGE MASON UNIVERSITY, OFFICE OF THE VICE PRESIDENT, RESEARCH AND ECONOMIC DEVELOPMENT,

Fairfax, VA, April 24, 2012.

Hon. Gerry Connolly,  
House of Representatives,  
Washington, DC.

DEAR REPRESENTATIVE CONNOLLY: I am writing to you regarding H.R. 2146, the Digital Accountability and Transparency Act (DATA Act), which is scheduled to be considered on the House Floor tomorrow. George Mason University very much appreciates all your efforts to make the necessary changes in the bill so it would accomplish the goal of more accountability and transparency in federal spending by enhancing the reporting requirements of Federal agencies and recipients of federal funds. We support this goal and also recognize the sincere efforts of all those involved to meet the concerns of the various stakeholders. Nevertheless, we continue to oppose the bill for the following reasons.

The bill requires recipients to report, not less than quarterly, any transaction, basic location information, individual Federal awards by agency, the total amount of funds received and the amount of funds expended or obligated for an individual award per quarter, subawardees (or prime awardee depending on status of recipient) and any additional information requested. Mason has approximately 650 active awards totaling over \$285 million. Mason already reports on each of these, and to do so on a quarterly basis would require an additional 2½-3 additional FTEs. This is just the administrative cost to our Office of Sponsored Programs, not counting the time PIs would have to spend. Since State funds are dwindling and administrative costs allowed in indirect costs are capped at 26% the Act will impact our budget.

It should be noted that the Federal Demonstration Partnership found that the Recovery Act quarterly reporting resulted in each award costing an additional \$7900 to administer, for little useful information. Research is about creating and advancing knowledge and is less prone to duplication and abuse because researchers generally know their peers and their published work. We have several other concerns such as the FAST Commission and the penalties for non-compliance, but the cost of quarterly reporting is the most direct.

Again, thank you for all you do on behalf of George Mason University. I look forward to continuing to work with you. Please let me know if you have any questions.

Sincerely,

KERRY D. BOLOGNESE,  
Director of Federal Relations.

Ms. EDDIE BERNICE JOHNSON of Texas. Madam Speaker, I rise today to speak on H.R. 2146, the DATA Act. I join all of my colleagues on both sides of the aisle in supporting greater transparency in Federal grants and contracts. But the details in how we reach that goal are important. The bill as reported by the Committee on Oversight and Government

Reform would have created an extra level of bureaucracy and duplicative reporting of financial data in addition to an administrative tax on scarce Federal research dollars and an unfunded mandate imposed on our already struggling universities.

Research universities, the economic engines of our Nation, typically receive research grants from 6-7 Federal agencies, each with its own financial reporting requirements and data standards. The bill as introduced would simply have added one more agency, in the form of the new Commission, to which universities would have to report. This would have increased the administrative costs on Federal research dollars without providing any new information about funding to those institutions.

The amendment being considered today is a big improvement on the original bill in ensuring that financial reporting of Federal grants and contracts is standardized and consolidated to reduce the overall administrative burden on grant recipients such as universities while providing the increased transparency that is the goal of this bill. I want to express my appreciation to Chairman ISSA and Ranking Member CUMMINGS for working closely with the university groups to address these issues.

However, I believe that more work still needs to be done on this bill to guarantee that financial reporting is fully streamlined and agencies are required to comply with a consolidated reporting system. I understand that the transition will be difficult for all involved, including both the granting agencies and the grant recipients, but I also believe that a consolidated financial reporting system is good for the government and good for the taxpayer.

I share with some of my colleagues other concerns that have been expressed about this bill, but today I speak only in my role as Ranking Member of the Committee on Science, Space, and Technology. I hope that Chairman ISSA and Ranking Member CUMMINGS will maintain their open dialogue with the universities and other Federal grant and contract recipients about the details of this bill as it moves forward. I believe we all share the goal of increased transparency while keeping U.S. research dollars directed to ground-breaking research that is the foundation of our economic growth, rather than to additional paperwork.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. ISSA) that the House suspend the rules and pass the bill, H.R. 2146, as amended.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

SMALL BUSINESS CREDIT AVAILABILITY ACT

Mr. LUCAS. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 3336) to ensure the exclusion of small lenders from certain regulations of the Dodd-Frank Act, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 3336

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 “Small Business Credit Availability Act”.

SEC. 2. CLARIFICATION OF SWAP DEALER DEFINITION.

Section 1a(49) of the Commodity Exchange Act (7 U.S.C. 1a(49)) is amended by striking all that follows subparagraph (A)(iv) through subparagraph (C) and inserting the following: “provided however, in no event shall an insured depository institution, an institution chartered and operating under the Farm Credit Act of 1971, or a United States uninsured branch or agency of a foreign bank that has a prudential regulator be considered to be a swap dealer to the extent that it enters into a swap—

“(I) with a customer that is seeking to manage risk in connection with an extension of credit by the institution to, on behalf of, or for the benefit of, the customer; or

“(II) to offset the risks arising from a swap that meets the requirement of subclause (I).

“(B) INCLUSION.—A person may be designated as a swap dealer for a single type or single class or category of swap or activities and considered not to be a swap dealer for other types, classes, or categories of swaps or activities.

“(C) EXCEPTIONS.—

“(i) The term ‘swap dealer’ does not include a person that enters into swaps for such person’s own account, either individually or in a fiduciary capacity, but not as part of regular business activities as described in subparagraph (A).

“(ii) In determining whether a person is a ‘swap dealer’ within the meaning of subparagraph (A), the following shall not be considered as part of the determination:

“(I) any swap entered into for a person’s own account for the purpose of hedging or mitigating commercial risk; and

“(II) any swap entered into for a person’s own account for the purpose of meeting State or local governmental regulatory compliance purposes.

“(iii) In determining whether a person is a ‘swap dealer’ within the meaning of subparagraph (A)(iii), any swap which involves a capacity contract, a renewable energy credit, an emissions allowance, or an emissions offset shall not be considered as part of that determination, if—

“(I) the contract, credit, allowance, or offset is utilized to meet obligations under State or local law or regulation for that person; and

“(II) the swap is entered into for that person’s own account.”.

SEC. 3. EXCLUSIONS FROM FINANCIAL ENTITY DEFINITION.

Section 2(h)(7)(C)(ii) of the Commodity Exchange Act (7 U.S.C. 2(h)(7)(C)(ii)) is amended to read as follows:

“(ii) EXCLUSION.—Such definition shall not include an entity that is a small bank, savings association, farm credit system institution, non-profit cooperative lender controlled by electric cooperatives, or credit union if the aggregate uncollateralized outward exposure plus aggregate potential outward exposure of the entity with respect to its swaps does not exceed \$1,000,000,000.”.

SEC. 4. CLARIFICATION OF THE EXEMPTIONS FOR CAPTIVE FINANCE COMPANIES FROM THE DEFINITION OF MAJOR SWAP PARTICIPANT AND FROM THE SWAP CLEARING REQUIREMENT.

(a) EXCLUSION FROM DEFINITION OF MAJOR SWAP PARTICIPANT.—Section 1a(33)(D) of the Commodity Exchange Act (7 U.S.C. 1a(33)(D)) is amended to read as follows:

“(D) EXCLUSION OF CERTAIN CAPTIVE FINANCE ENTITIES.—

“(i) IN GENERAL.—The definition under this paragraph shall not include an entity whose primary business is providing financing that facilitates the sale or lease of products by or on behalf of the parent company or another subsidiary of the parent company, and uses derivatives only for the purpose of hedging underlying commercial risks in a consolidated financing and leasing portfolio, at least 90 percent of which, as of the end of its preceding fiscal year, is qualifying financing (including loans, notes, installment sales contracts, receivables, and operating and financing leases).

“(ii) DEFINITIONS.—In this subparagraph:

“(I) QUALIFYING FINANCING.—The term ‘qualifying financing’ means—

“(aa) any financing or lease of, or that includes, a product; or

“(bb) any financing to or for the benefit of an affiliate of the entity, a distribution entity, or any customer or affiliate of a distribution entity,

except that the term does not include any financing that does not facilitate the sale of a product manufactured by the entity or its affiliates, as determined by the Commission.

“(II) PRODUCT.—The term ‘product’ means—

“(aa) any good that is manufactured or sold by an affiliate of the entity; and

“(bb) any service that is provided by an affiliate of the entity.

“(III) DISTRIBUTION ENTITY.—The term ‘distribution entity’ means a person whose primary business is the sale, lease or servicing of a product that is manufactured by the entity or its affiliates.

“(IV) AFFILIATE.—The term ‘affiliate’ means, with respect to an entity—

“(aa) a person that reports information or prepares financial statements on a consolidated basis with the entity, or for which a parent company reports information or prepares financial statements on a consolidated basis for the person and the entity; or

“(bb) a person of which the entity or the parent of the entity holds 50 percent or more of the equity interests.

“(V) PERSON.—The term ‘person’ means an individual, partnership, corporation (including a business trust), limited liability company, joint stock company, trust, unincorporated association, joint venture or other entity, or a government or any political subdivision or agency thereof.”

(b) EXCLUSION FROM SWAP CLEARING REQUIREMENT.—Section 2(h)(7)(C)(iii) of such Act (42 U.S.C. 2(h)(7)(C)(iii)) is amended to read as follows:

“(iii) EXCLUSION OF CERTAIN CAPTIVE FINANCE ENTITIES.—Such term shall not include an entity excluded from the definition of major swap participant by reason of section 1a(33)(D).”

#### SEC. 5. EFFECTIVE DATE.

The amendments made by this Act shall take effect as if they had been included in subtitle A of title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

#### SEC. 6. IMPLEMENTATION.

The amendments made by this Act to the Commodity Exchange Act shall be implemented—

(1) without regard to—

(A) chapter 35 of title 44, United States Code; and

(B) the notice and comment provisions of section 553 of title 5, United States Code;

(2) through the promulgation of an interim final rule, pursuant to which public comment will be sought before a final rule is issued, and

(3) such that paragraph (1) shall apply solely to changes to rules and regulations, or

proposed rules and regulations, that are limited to and directly a consequence of such amendments.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Oklahoma (Mr. LUCAS) and the gentleman from Minnesota (Mr. PETERSON) each will control 20 minutes.

The Chair recognizes the gentleman from Oklahoma.

#### GENERAL LEAVE

Mr. LUCAS. Madam Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 3336.

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

There was no objection.

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

Madam Speaker, I rise to voice my support for this bill. First and foremost, I would like to thank my committee's ranking member, Mr. PETERSON, and his staff for their diligent work on this bill on behalf of end-users and small business lenders. We have a longstanding tradition of bipartisanship at the Agriculture Committee, and their work was invaluable. I'd like to thank Representative HARTZLER for her leadership on H.R. 3336 on behalf of the small business institutions and the businesses they serve.

I would like to acknowledge and thank Representative HULTGREN and Representative BOREN, whose legislation, H.R. 3527, will not be considered today. As a result of their leadership and Mr. PETERSON's support, many of the critical issues for end-users addressed in H.R. 3527 were resolved by the CFTC in its final “definitions rule.”

I think we can reasonably feel assured that agricultural cooperatives and other end-users out in the countryside won't be unnecessarily deemed “swap dealers” and regulated like the largest financial institutions. As I said from the outset, if the CFTC on its own resolves concerns we have raised for months in our committee room, we would not proceed with legislation. And that's what we've done with H.R. 3527. However, concerns with the implementation of title VII remain, and so we are here today to proceed with H.R. 3336. This bill addresses issues that are important to community and farm credit banks—organizations which are instrumental to the economic vitality of our towns and rural communities.

In the Dodd-Frank Act, Congress was careful to ensure that new regulations wouldn't impose unnecessary costs on small institutions that might deter them from extending credit to businesses across America. Small banks pose very little risk to our financial system. Within the banking system, 96 percent of the notional value of derivatives is held by the five largest banks. The very small remaining percentage of the derivatives exposure in our financial system is spread across hun-

dreds of small institutions. That's why Congress never intended for these community lenders to be regulated the same as the largest global financial institutions.

□ 1400

This bill aims to restore Congressional intent by exempting small banks, credit unions, nonprofit cooperative lenders, and farm credit institutions from costly clearing requirements under Dodd-Frank. It also ensures that banks can continue to provide risk management tools to their borrowers.

In addition, thanks to the leadership of Representatives SCHILLING, OWENS, and MCINTYRE, provisions of H.R. 3336 will ensure captive finance affiliates of manufacturing companies like John Deere and Caterpillar are eligible for the same exemptions as their parent companies and other end-users. These affiliates are an important source of credit to consumers and businesses and promote our manufacturing sector.

Lastly, through the hard work of Representatives COSTA, CARDOZA, and BACA, H.R. 3336 clarifies that utilities will not be miscast as swap dealers because they enter into contracts that are required by State law. The legislation clarifies that complying with State laws alone won't also draw new and costly Federal regulations.

There are many Members on both sides of the aisle at the Ag Committee who have spent time getting this bill to where it is today. We have been careful not to create loopholes or to stray from congressional intent. The bill does not open the door for large financial players to evade regulations or engage in speculative or highly risky activities.

Madam Speaker, in this economy, it all comes back to jobs. To create new jobs, businesses need access to credit to make new investments. This bill ensures that businesses maintain access to credit from community lenders.

So I urge my colleagues to support H.R. 3336 and ensure that America's small businesses can continue to access the credit they need to build our economy.

Madam Speaker, I reserve the balance of my time.

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

Madam Speaker, today, the House considers H.R. 3336, a bill which makes clarifying changes to the Dodd-Frank Act. Like two other Dodd-Frank bills that the House passed previously—H.R. 2779, the inter-affiliate bill, and H.R. 2682, the margin bill—this legislation was crafted in a bipartisan manner.

As the Ag Committee continues to oversee the implementation of Dodd-Frank, I firmly believe that the CFTC is ultimately going to get the rules and regulations right. If you look at the Dodd-Frank rules that have already been completed, by and large they have been bipartisan and responsive to the

concerns that we have heard during our oversight hearings.

For example, during a legislative hearing last year, we heard concerns about business conduct standards and the potential impact it could have on pension plans' ability to use swaps to hedge risk. When the commission approved a bipartisan final rule establishing these business conduct standards, the general response from the pension community was satisfaction.

More recently, the CFTC approved last week—again with a bipartisan vote of 4–1—rules defining who will be subject of Dodd-Frank's new oversight. Again, the general view from the end-user community is that the rule addresses their concerns. In fact, I believe one of the bills the committee voted on earlier, H.R. 3527, which rewrote the swap dealer definition, now no longer seems necessary.

I talk frequently with CFTC Chairman Gensler, and from what he has told me, I am confident that the remaining concerns that H.R. 3336 seeks to address will ultimately be resolved satisfactorily by the CFTC. I think somebody used this bill to send a message to the CFTC, and since that message is consistent with the original intent of Dodd-Frank, I have no objection to it.

As originally considered by the committee, H.R. 3336 is meant to address concerns raised by farm credit institutions, credit unions, and small banks that worry about being forced to clear. Under current law, the CFTC is supposed to develop an asset-based exemption from clearing. When you look at the swap activity of some of the banks, questions were raised whether a fixed-asset test was appropriate. The risk-based test contained in the bill will, I think, prove more than adequate and certainly will provide incentives to banks to more robustly back up their swap positions, to the extent that they are not doing so now.

During the committee's markup of H.R. 3336, Representatives MCINTYRE and OWENS raised concerns they heard on behalf of captive finance companies which fear that the exemptions provided to them under the Dodd-Frank law will not be implemented properly. This bill not only addresses those concerns, it closed a potential loophole in Dodd-Frank which could have allowed captive finance companies to use the original Dodd-Frank exemption to engage in speculation or swap activities unrelated to the commercial business without proper oversight.

Also, during the markup, Representative COSTA raised concerns on behalf of California utilities, which fear being classified as swap dealers for entering into transactions necessary to comply with State regulations. Working with members of the California delegation, we were able to adequately address these concerns as well.

Given that the legislation clarifies what Congress intended to do with the original Dodd-Frank law, I urge my colleagues to support its passage.

And with that, Madam Speaker, I reserve the balance of my time.

Mr. LUCAS. Madam Speaker, I would like to yield 4 minutes to the gentlewoman from Missouri (Mrs. HARTZLER), who is the primary sponsor of our important piece of legislation today.

Mrs. HARTZLER. Thank you, Mr. Chairman, for bringing this forth and for the bipartisan support for this bill.

I'm pleased to bring the Small Business Credit Availability Act forward today in order to help small businesses, American manufacturers, farmers, and consumers to access the credit they need in order to grow our economy.

Madam Speaker, we need jobs in our country. We need manufacturing to stay strong in America, and we need small businesses to be able to grow. They can't do that if Washington stands in their way.

The Small Business Credit Availability Act removes the onerous barriers to credit imposed by the 2009 Dodd-Frank bill governing a bank's ability to offer low-rate fixed loans to small businesses and manufacturers. This bill also removes the barriers to low-rate fixed loans for credit unions, farm credit banks, rural electric cooperative infrastructure lenders, and finance companies who offer credit to their customers.

Without this bill, the Farm Credit Council alone expects that substantial new costs between \$6 million and \$27.2 million a year will be added to their cost of doing business, all for new processes and red tape that are not needed.

It is important that local businesses, local manufacturers, and local farmers be able to access low-rate interest loans from local financial entities. This bill keeps the business in the local communities, where it belongs, by reducing the costly new regulations imposed by the 2009 bill. In addition, it clarifies a provision of Dodd-Frank to ensure that manufacturers will be able to continue to provide credit to customers who buy their products.

We need to do everything we can to keep manufacturing here in America, and H.R. 3336 helps do that.

Lastly, our bill clarifies that State utilities are unduly burdened by Dodd-Frank when complying with State law as they enter into contracts. It's time for Washington to cut the unnecessary red tape that hampers job creation. By passing the Small Business Credit Availability Act, Congress will remove the barriers and clear the way for local entities to do business at home and create jobs while doing it.

I urge all my colleagues to support this vital bill.

Mr. PETERSON. Madam Speaker, I now yield such time as he may consume to the distinguished gentleman from California (Mr. COSTA).

Mr. COSTA. Madam Speaker, I rise today in support of H.R. 3336, the Small Business Credit Availability Act.

This bipartisan measure received unanimous support in the House Committee on Agriculture and ensures, as

the previous speakers have indicated, that small financial entities such as community banks, farm credit system institutions, and credit unions will not be burdened with costly regulations resulting from the reform of our financial system. That was never Congress' intent.

I appreciate very much the work of Chairman LUCAS and Ranking Member PETERSON and their staffs, as well as the bill's sponsor, Representative HARTZLER, to reach an agreement with not only myself, but my colleagues, Congressmen BACA and CARDOZA, who are also on the committee, as well as the California delegation on the underlying text of this bill. Without your support, obviously we could not address this issue pertaining to California.

While we work to maintain the viability of small businesses recognized in H.R. 3336, we also must look for ways to avoid unintended consequences resulting from the implementation of the Dodd-Frank Act on other entities, in this case, such as utilities.

□ 1410

It's always the difficult challenge we have in Congress, the law of unintended consequences, that we must respond to.

Because of California's regulatory environment, I expressed concerns in the committee that California's energy providers, our utility companies, might be or would be inadvertently, as we believe, swept up by the "swap dealer" definition, which is the efforts that the committee has addressed. Over several weeks, we worked together with the staff and the utilities to develop language that provides the clarity needed to ensure that companies within California that provide energy for all businesses and residences—which are ultimately California's ratepayers—are not penalized by the Federal regulators for simply complying with State law.

H.R. 3336 includes language clarifying that the actions undertaken to comply with State or local laws or regulations are excluded in determining whether or not an entity is considered a swap dealer. Let me be specific. The language clarifies that resource adequacy contracts entered into to satisfy California's Public Utilities Commission procurement requirements, renewable energy credits used to satisfy the California Renewable Portfolio Standard, and emission allowances to satisfy California's greenhouse regulations should not—and this is the key line—should not be considered in determining whether or not an entity is a swap dealer.

My colleagues, we should understand that the situation we're dealing with in these examples, these transactions, are closely regulated by California's Public Utilities Commission or the California Air Resources Board, and they pose no systemic risk to our financial systems or to the ratepayers.

While California is currently affected, it is possible that these concerns could be shared by energy providers in other States. That's why the committee, in their wisdom, chose to address this issue to help not only California, but possibly to extend to other States that might be similarly affected. For these reasons, I encourage my colleagues to support this bill.

I once again want to thank the chairman, thank Ranking Member PETERSON, Chairman LUCAS, and the author of the bill, Representative HARTZLER.

Mr. LUCAS. Madam Speaker, I yield 4 minutes to the gentleman from Illinois (Mr. SCHILLING).

Mr. SCHILLING. Thank you, Chairman LUCAS.

I rise in support of H.R. 3336, the Small Business Credit Availability Act.

Madam Speaker, I've only been in Congress for a little over a year, but I have found the House Committee on Agriculture to be very bipartisan, and I believe that it is in large part due to the leadership of Chairman LUCAS and Ranking Member PETERSON.

I come to the floor today to speak in support of a bipartisan provision in the bill that is important to the American manufacturing sector—and particularly to Illinois companies like John Deere and Caterpillar, which employ almost 150,000 men and women.

Many of the manufacturers here at home have what are called "captive finance affiliates" whose function is to provide loans and leases to customers to purchase the goods they make. The credit that captive finance companies provide is essential to agricultural producers, construction contractors, and manufacturers, and the jobs they support here at home.

Congress provided an exemption in the current law for captive finance affiliates so that when they hedge risks associated with providing loans to their customers, they receive the same exemptions available to the parent company and other end-users. However, there is a lack of guidance in the CFTC's implementation of the exemption, leading to concern that these captive finance companies could be subject to mandatory clearing requirements or regulated as major swap participants. There is bipartisan agreement that this is not what Congress originally intended.

H.R. 3336 will provide the needed clarification for our manufacturers and their captive affiliates. It does so while also providing safeguards against abuse. First and foremost, this only applies to entities that use derivatives to manage their risks, meaning they cannot use derivatives to speculate. In addition, these entities cannot engage in financing that does not facilitate the sale of their manufactured products. The CFTC will have the authority to prevent affiliates from qualifying for this exemption.

Again, I appreciate the bipartisan nature of providing certainty on this

issue. I want to thank Chairman LUCAS, Ranking Member PETERSON, Congressman BILL OWENS, Congressman MIKE MCINTYRE, and Congressman RANDY NEUGEBAUER for their efforts on this issue. I also really want to thank the majority and minority House Ag Committee and their staff for their work on this issue, especially Ryan McKee and Clarke Ogilvie. It is important to provide certainty for our folks back home.

Mr. PETERSON. I reserve the balance of my time.

Mr. LUCAS. Madam Speaker, I yield 3 minutes to the gentleman from Texas (Mr. CONAWAY).

Mr. CONAWAY. Thank you, Mr. Chairman.

Madam Speaker, I rise today in strong support of H.R. 3336, the Small Business Credit Availability Act.

Today's bill makes several narrow changes to the law which will further clarify exactly how Congress intended for the CFTC to implement the new swap dealer registration requirements under Dodd-Frank.

In the law, Congress authorized the CFTC to exclude small financial institutions that provide swaps in connection with loans from the heavy regulations as swap dealers. We did so because we understood the importance of allowing these institutions the ability to package together loans and hedging instruments.

Offering loans in this way allows small financial institutions to offset some of their underlying risk and offer lower loan rates to local farmers, ranchers, and small businesses. These lower loan rates mean the businesses that sustain our rural communities will have greater access to the capital they need to continue to invest in their growing businesses.

With the Entity Definitions recently released by the CFTC—although not yet published in the Federal Reserve—the CFTC took steps towards resolving the issues addressed by H.R. 3336. However, it left some undone. Unfortunately, the current rule is silent on the commodity swaps for agricultural businesses, is unnecessarily restrictive of farm credit system institutions, and applies arbitrary time restrictions on excluded swaps.

H.R. 3336 would strengthen the rule passed by the CFTC by expanding the scope of the exemption to protect the way rural America has long done business. The farms, ranches, and small businesses in the district I represent have never been and never will be a part of the systemic failure of our financial system. Neither they nor the small institutions that serve them ought to be considered as a threat.

Today's legislation is carefully tailored to ensure that we do not shackle small businesses and family farms with rules that ought to apply and are meant to police the largest Wall Street banks.

I want to thank Ms. HARTZLER for the work that she's done on shep-

herding this bill through committee. She has been a staunch advocate for protecting small businesses from the overreach of Dodd-Frank. I would also like to thank Ranking Member BOSWELL, my counterpart on the General Farm Committees and Risk Management Subcommittee; our chairman, Mr. LUCAS; and our ranking member, Mr. PETERSON, for their continued efforts at comity and bipartisanship on the House Agriculture Committee.

Like many bills moved through our committee this year, H.R. 3336 passed with unanimous bipartisan support. This is a testament to the leadership on both sides of the aisle and to the carefully crafted bill that Ms. HARTZLER introduced.

With those remarks, Madam Speaker, I urge swift adoption of the Small Business Credit Availability Act.

Mr. LUCAS. Madam Speaker, I would note to my colleague, the ranking member, I have one additional speaker, and then myself for whatever close I may have.

Mr. PETERSON. I reserve the balance of my time.

Mr. LUCAS. Madam Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. HULTGREN).

Mr. HULTGREN. Chairman LUCAS, thank you so much for your support on this issue. It has been a pleasure working with you and your staff during my first term here in Congress and on the Ag Committee.

In the committee this year, we have worked hard to protect farms and small businesses from Dodd-Frank red tape. That's why I rise today in strong support of Representative VICKY HARTZLER's bill.

H.R. 3336 reduces unnecessary regulatory burdens on small financial institutions to ensure they can continue to provide capital to small businesses in their communities.

The bill ensures that small financial and farm credit institutions will continue to be able to provide swaps to their loan customers without being considered or registered as swap dealers.

I am pleased that the CFTC has come out with a ruling more favorable than the original legislation, but I think it's important still to note that this bill ensures that the CFTC provides an exemption from clearing for small financial institutions that are hedging their own risks.

I also want to thank my Illinois colleague, Congressman BOBBY SCHILLING, for his work on this bill. He added a provision particularly important for companies like John Deere and Caterpillar, which has facilities in my district.

□ 1420

Mr. PETERSON. Madam Speaker, again, this bill clarifies what was the original intent of the Dodd-Frank deliberations. Some of what's in this bill, I think, has already been resolved, but there are some clarifications here. If

there is duplication, it doesn't do any harm, so we support this bill and encourage that it be adopted.

I yield back the balance of my time.

Mr. LUCAS. Madam Speaker, I yield myself the balance of my time.

I think, as we've heard here today, this piece of legislation is an effort, in a very bipartisan way, to address some of the issues in Dodd-Frank that need to be fixed. If you care about production agriculture, if you care about Main Street business, if you care about the people who work in the factories that produce the products and do the things that make this great economy move forward, then you'll support H.R. 3336.

It won't affect the five biggest financial institutions that do 96 percent of this kind of business, but it will help the people who really toil and struggle every day to make a living. It will help the small communities where those good folks live. It's a positive effort to address issues that have come to light in the course of the Ag Committee's exhaustive hearings.

I simply thank my colleague, Congresswoman HARTZLER, for working diligently on this bill. I thank the ranking member and my colleagues.

Let's vote for H.R. 3336. Let's try and help the folks back home.

With that, Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oklahoma (Mr. LUCAS) that the House suspend the rules and pass the bill, H.R. 3336, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mrs. MALONEY. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

#### MOTION TO INSTRUCT CONFEREES ON H.R. 4348, SURFACE TRANSPORTATION EXTENSION ACT OF 2012, PART II

Mr. MICA. Madam Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4348) to provide an extension of Federal-aid highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a multiyear law reauthorizing such programs, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference requested by the Senate.

The Clerk read the title of the bill.

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

There was no objection.

Mr. RAHALL. Madam Speaker, I have a motion at the desk.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. Rahall moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendment to the bill H.R. 4348 be instructed to recede from disagreement to the amendment of the Senate.

The SPEAKER pro tempore. Pursuant to clause 7 of rule XXII, the gentleman from West Virginia (Mr. RAHALL) and the gentleman from Florida (Mr. MICA) each will control 30 minutes.

The Chair recognizes the gentleman from West Virginia.

Mr. RAHALL. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, the long-term authorization of surface transportation programs expired on September 30, 2009. Since that time, Congress has enacted nine separate Surface Transportation Extension Acts, allowing us to continue limping along, patching together our Nation's surface transportation system. These short-term, start-and-stop Surface Transportation Extension Acts are undermining our surface transportation system.

Running these programs through short-term extensions creates tremendous uncertainty among State departments of transportation, public transit agencies, and highway and transit contractors that delay critical highway and transit projects, costing good-paying jobs each step of the way.

With more than 2.5 million construction and manufacturing workers still out of work, it is far past time for Congress to enact surface transportation legislation that will remove this uncertainty, create and sustain family-wage jobs, and restore our Nation's economic growth.

That's why I offer this motion today. We have an opportunity before us to move quickly to pass legislation that can remove this uncertainty and get America back to work.

Over a month ago, the Senate passed S. 1813, known as MAP-21, by an overwhelmingly bipartisan vote of 74-22. Now, each of us in this body knows how difficult it is for the other body to agree on just about anything. But, unlike the House, the Senate was able to come together to pass bipartisan legislation that will provide States with the certainty that they need to move forward with highway and transit projects and get Americans back to work. It is time for the House, believe it or not, to follow the other body's lead and pass S. 1813.

Certainly, S. 1813 is not the exact bill that I would have written. However, the Senate bill is a dramatic improvement over what House Republicans proposed in their now-dead partisan reauthorization bill known as H.R. 7, which was reported by the Transportation and Infrastructure Committee, but never acted upon by the full House.

Last week, in an effort to facilitate a conference with the Senate on MAP-21,

the House of Representatives passed H.R. 4348, another surface transportation extension bill. I supported the House passage of H.R. 4348 as a vehicle to go to conference on the Senate bill.

I said then—taking Republicans at their word that they are serious about moving this process forward—passage of that short-term extension bill would allow us to quickly convene a conference with the Senate on its bipartisan, multiyear surface transportation reauthorization bill, which passed with the support of three-quarters of the other body.

A long-term bill will provide the certainty that States need to invest and proceed with their plans long on the books. It will provide the certainty that highway and transit contractors desperately need to give them the confidence to hire that one more worker. That is what surface transportation is all about, putting Americans back to work and sustaining our economic competitiveness.

If there are issues that we must change, we can address those through a technical corrections bill that will make the necessary policy changes to improve the bill. That is not unprecedented. We've done it before.

There is nothing to prevent the Congress from enacting S. 1813 and then continuing to work to develop further bicameral, bipartisan changes to further improve surface transportation programs and policies. But American workers should not have to wait any longer as Congress searches for agreement. The time for political games is over.

So my motion is simple, very simple. It instructs House conferees to agree to the Senate bill. Enactment of MAP-21 will put in place 18 months worth of funding, provide state DOTs and public transit agencies the certainty they need to advance projects, and provide contractors the certainty they need to hire that one more worker. Out-of-work Americans simply cannot wait any longer.

I reserve the balance of my time.

Mr. MICA. Madam Speaker, I rise in opposition to the motion to instruct and yield myself such time as I may consume.

Madam Speaker, I want to take a little bit of time to explain to you and my colleagues and others who may be listening to this debate about what's happening now. The other side of the aisle has just offered a motion to instruct, and we're going to conference on an important piece of legislation. That's the transportation bill that sets the transportation policy for the United States of America.

For all of our transportation projects, those projects that would be eligible, we identify the terms of participation for States and local governments and everyone who is going to receive Federal funds for transportation projects. So all of that is very important.

It is important that we put people to work. When I go back home, I talk to