Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rokita
Rooney
Ros-Lehtinen
Roskam
Ross
Rothfus
Roybal-Allard
Royce
Ruiz
Runyan
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Salmon
Sánchez, Linda T.
Sanchez, Loretta
Sanford
Scalise
Schakowsky
Schiff
Schneider
Schock
Schrader
Schwartz
Schweikert
Scott (VA)
Scott, Austin
Scott, David
Sensenbrenner
Serrano
Sessions
Sewell (AL)
Shea-Porter
Sherman
Shimkus
Shuster
Simpson
Sinema
Sires
Smith (MO)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (WA)
Southerland
Speier
Stewart
Stivers
Stockman
Stutzman
Swalwell (CA)
Takano
Terry
Thompson (CA)
Thompson (MS)
Thompson (PA)
Thornberry
Tiberi
Tipton
Titus
Tonko
Tsongas
Turner
Upton
Valadao
Van Hollen
Vargas
Veasey
Vela
Velázquez
Visclosky
Wagner
Walberg
Walden
Walorski
Walz
Waters
Watt
Waxman
Weber (TX)
Webster (FL)
Welch
Wenstrup
Whitfield
Williams
Wilson (FL)
Wilson (SC)
Wittman
Wolf
Womack
Woodall
Yarmuth
Yoder
Yoho
Young (AK)
Young (FL)
Young (IN)

NAYS—12

Conyers
Ellison
Enyart
Grayson
Hahn
Lofgren
Lowenthal
McGovern
Nadler
Nolan
Sarbanes
Tierney

NOT VOTING—11

Campbell
Cantor
Chu
Deutch
Markey
McCarthy (NY)
Meeks
Owens
Slaughter
Wasserman Schultz
Westmoreland

□ 1517

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

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. OWENS. Mr. Speaker, today, I briefly stepped off the floor to discuss a pressing issue related to the Northern Border. Consequently, I was not able to return in time for a vote (roll No. 215) to suspend the rules and pass the Business Risk Mitigation and Price Stabilization Act of 2013, H.R. 634. Had I been present for this vote, I would have voted "yea."

PERSONAL EXPLANATION

Mr. LAMBORN. Mr. Speaker, I was unavoidably detained due to a family medical emergency and was unable to vote on rollcall No. 212 and rollcall No. 213.

Had I been present, I would have voted "yea" on rollcall No. 212 and "yea" on rollcall No. 213.

SWAP DATA REPOSITORY AND CLEARINGHOUSE INDEMNIFICATION CORRECTION ACT OF 2013

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and pass the bill (H.R. 742) to amend the Securities Exchange Act of 1934 and the Commodity Exchange Act to repeal the indemnification requirements for regulatory authorities to obtain access to swap data required to be provided by swaps entities under such Acts, on which the yeas and nays were ordered.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arkansas (Mr. CRAWFORD) that the House suspend the rules and pass the bill.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 420, nays 2, not voting 12, as follows:

[Roll No. 216]

YEAS—420

Aderholt
Alexander
Amash
Amodei
Andrews
Bachmann
Bachus
Barber
Barletta
Barr
Barrow (GA)
Barton
Bass
Beatty
Becerra
Benishek
Bentivolio
Bera (CA)
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Black
Blackburn
Blumenauer
Bonamici
Bonner
Boustany
Brady (PA)
Brady (TX)
Braley (IA)
Bridenstine
Brooks (AL)
Brooks (IN)
Broun (GA)
Brown (FL)
Brownley (CA)
Buchanan
Bucshon
Burgess
Bustos
Butterfield
Calvert
Camp
Cantor
Capito
Capps
Capuano
Cárdenas
Carney
Carson (IN)
Carter
Cartwright
Cassidy
Castor (FL)
Castro (TX)
Chabot
Chaffetz
Cicilline
Clarke
Clay
Cleaver
Clyburn
Coble
Coffman
Cohen
Cole
Collins (GA)
Collins (NY)
Conaway
Connolly
Conyers
Cook
Cooper
Costa
Cotton
Courtney
Cramer
Crawford
Crenshaw
Crowley
Cuellar
Culberson
Cummings
Daines
Davis (CA)
Davis, Danny
Davis, Rodney
DeFazio
DeGette
Delaney
DeLauro
DelBene
Denham
Dent
DeSantis
DesJarlais
Diaz-Balart
Dingell
Doggett
Doyle
Duckworth
Duffy
Duncan (SC)
Duncan (TN)
Edwards
Ellison
Ellmers
Engel
Enyart
Eshoo
Esty
Farenthold
Farr
Fattah
Fincher
Fitzpatrick
Fleischmann
Fleming
Flores
Forbes
Fortenberry
Foster
Foxx
Frankel (FL)
Franks (AZ)
Frelinghuysen
Fudge
Gabbard
Gallego
Garamendi
Garcia
Gardner
Garrett
Gerlach
Gibbs
Gibson
Gingrey (GA)
Gohmert
Goodlatte
Gosar
Granger
Graves (GA)
Graves (MO)
Grayson
Green, Al
Green, Gene
Griffin (AR)
Griffith (VA)
Grijalva
Grimm
Guthrie
Gutierrez
Hahn
Hall
Hanabusa
Hanna
Harper
Harris
Hartzler
Hastings (FL)
Hastings (WA)
Heck (NV)
Heck (WA)
Hensarling
Herrera Beutler
Higgins
Himes
Hinojosa
Holding
Holt
Honda
Horsford
Hoyer
Hudson
Huelskamp
Huffman
Huizenga (MI)
Hultgren
Hunter
Hurt
Israel
Issa
Jackson Lee
Jeffries
Jenkins
Johnson (GA)
Johnson (OH)
Johnson, E. B.
Jones
Jordan
Joyce
Kaptur
Keating
Kelly (IL)
Kelly (PA)
Kennedy
Kildee
Kilmer
Kind
King (IA)
King (NY)
Kingston
Kinzinger (IL)
Kirkpatrick
Kline
Kuster
Labrador
LaMalfa
Lamborn
Lance
Langevin
Lankford
Larsen (WA)
Larson (CT)
Latham
Latta
Lee (CA)
Levin
Lewis
Lipinski
LoBiondo
Loebsack
Long
Lowenthal
Lowey
Lucas
Luetkemeyer
Lujan Grisham (NM)
Luján, Ben Ray (NM)
Lummis
Lynch
Maffei
Maloney, Carolyn
Maloney, Sean
Marchant
Marino
Massie
Matheson
Matsui
McCarthy (CA)
McCaul
McClintock
McCollum
McDermott
McGovern
McHenry
McIntyre
McKeon
McKinley
McMorris Rodgers
McNerney
Meadows
Meehan
Messer
Mica
Michaud
Miller (FL)
Miller (MI)
Miller, Gary
Miller, George
Moore
Moran
Mullin
Mulvaney
Murphy (FL)
Murphy (PA)
Nadler
Napolitano
Neal
Negrete McLeod
Neugebauer
Noem
Nolan
Nugent
Nunes
Nunnelee
O'Rourke
Olson
Owens
Palazzo
Pallone
Pascrell
Pastor (AZ)
Paulsen
Payne
Pearce
Pelosi
Perlmutter
Perry
Peters (CA)
Peters (MI)
Peterson
Petri
Pingree (ME)
Pittenger
Pitts
Pocan
Poe (TX)
Polis
Pompeo
Posey
Price (GA)
Price (NC)
Quigley
Radel
Rahall
Rangel
Reed
Reichert
Renacci
Ribble
Rice (SC)
Richmond
Rigell
Roby
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rokita
Rooney
Ros-Lehtinen
Roskam
Ross
Rothfus
Roybal-Allard
Royce
Ruiz
Runyan
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Salmon
Sanchez, Loretta
Sanford
Sarbanes
Scalise
Schakowsky
Schiff
Schneider
Schock
Schrader
Schwartz
Schweikert
Scott (VA)
Scott, Austin
Scott, David
Sensenbrenner
Serrano
Sessions
Sewell (AL)
Shea-Porter
Sherman
Shimkus
Shuster
Simpson
Sinema
Sires
Smith (MO)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (WA)
Southerland
Speier
Stewart
Stivers
Stutzman
Swalwell (CA)
Takano
Terry
Thompson (CA)
Thompson (MS)
Thompson (PA)
Thornberry
Tiberi
Tierney
Tipton
Titus
Tonko
Tsongas
Turner
Upton
Valadao
Van Hollen
Vargas
Veasey
Vela
Velázquez
Visclosky
Wagner
Walberg
Walden
Walorski
Walz
Waters
Watt
Waxman
Weber (TX)
Webster (FL)
Welch
Wenstrup
Westmoreland
Whitfield
Williams
Wilson (FL)
Wilson (SC)
Wittman
Wolf
Womack
Woodall
Yarmuth
Yoder
Yoho
Young (AK)
Young (FL)
Young (IN)

NAYS—2

Lofgren
Sánchez, Linda T.

NOT VOTING—12

Campbell
Chu
Deutch
Gowdy
Johnson, Sam
Markey
McCarthy (NY)
Meeks
Meng
Slaughter
Stockman
Wasserman Schultz

□ 1526

So (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

SWAP JURISDICTION CERTAINTY ACT

Mr. HENSARLING. Mr. Speaker, pursuant to House Resolution 256, I call up the bill (H.R. 1256) to direct the Securities and Exchange Commission and the Commodity Futures Trading Commission to jointly adopt rules setting forth the application to cross-border swaps transactions of certain provisions relating to swaps that were enacted as

part of the Dodd-Frank Wall Street Reform and Consumer Protection Act, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 256, the amendments recommended by the Committee on Financial Services, printed in the bill, are adopted. The bill, as amended, is considered read.

The text of the bill, as amended, is as follows:

H.R. 1256

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 ''Swap Jurisdiction Certainty Act''.

SEC. 2. JOINT RULEMAKING ON CROSS-BORDER SWAPS.

(a) JOINT RULEMAKING REQUIRED.—

(1) IN GENERAL.—Not later than 270 days after the date of enactment of this Act, the Securities and Exchange Commission and the Commodity Futures Trading Commission shall jointly issue rules setting forth the application of United States swaps requirements of the Securities Exchange Act of 1934 and the Commodity Exchange Act relating to cross-border swaps and security-based swaps transactions involving U.S. persons or non-U.S. persons.

(2) CONSTRUCTION.—The rules required under paragraph (1) shall be identical, notwithstanding any difference in the authorities granted the Commissions in section 30(c) of the Securities Exchange Act of 1934 (15 U.S.C. 78dd(c)) and section 2(i) of the Commodity Exchange Act (7 U.S.C. 2(i)), respectively, except to the extent necessary to accommodate differences in other underlying statutory requirements under such Acts, and the rules thereunder.

(b) CONSIDERATIONS.—The Commissions shall jointly issue rules that address—

(1) the nature of the connections to the United States that require a non-U.S. person to register as a swap dealer, major swap participant, security-based swap dealer, or major security-based swap participant under each Commission's respective Acts and the regulations issued under such Acts;

(2) which of the United States swaps requirements shall apply to the swap and security-based swap activities of non-U.S. persons, U.S. persons, and their branches, agencies, subsidiaries, and affiliates outside of the United States and the extent to which such requirements shall apply; and

(3) the circumstances under which a non-U.S. person in compliance with the regulatory requirements of a foreign jurisdiction shall be exempt from United States swaps requirements.

(c) RULE IN ACCORDANCE WITH APA REQUIRED.—No guidance, memorandum of understanding, or any such other agreement may satisfy the requirement to issue a joint rule from the Commissions in accordance with section 553 of title 5, United States Code.

(d) GENERAL APPLICATION TO COUNTRIES OR ADMINISTRATIVE REGIONS HAVING NINE LARGEST MARKETS.—

(1) GENERAL APPLICATION.—In issuing rules under this section, the Commissions shall provide that a non-U.S. person in compliance with the swaps regulatory requirements of a country or administrative region that has one of the nine largest combined swap and security-based swap markets by notional amount in the calendar year preceding issuance of such rules, or other foreign jurisdiction as jointly determined by the Commissions, shall be exempt from United States swaps requirements in accordance with the schedule set forth in paragraph (2), unless the Commissions jointly determine that the regulatory requirements of such country or administrative region or other foreign jurisdiction are not broadly equivalent to United States swaps requirements.

(2) EFFECTIVE DATE SCHEDULE.—The exemption described in paragraph (1) and set forth under the rules required by this section shall apply to persons or transactions relating to or involving—

(A) countries or administrative regions described in such paragraph, or any other foreign jurisdiction as jointly determined by the Commissions, accounting for the five largest combined swap and security-based swap markets by notional amount in the calendar year preceding issuance of such rules, on the date on which final rules are issued under this section; and

(B) the remaining countries or administrative regions described in such paragraph, and any other foreign jurisdiction as jointly determined by the Commissions, 1 year after the date on which such rules are issued.

(3) CRITERIA.—In such rules, the Commissions shall jointly establish criteria for determining that one or more categories of regulatory requirements of a country or administrative region described in paragraph (1) or other foreign jurisdiction is not broadly equivalent to United States swaps requirements and shall jointly determine the appropriate application of certain United States swap requirements to persons or transactions relating to or involving such country or administrative region or other foreign jurisdiction. Such criteria shall include the scope and objectives of the regulatory requirements of a country or administrative region described in paragraph (1) or other foreign jurisdiction as well as the effectiveness of the supervisory compliance program administered, and the enforcement authority exercised, by such country or administrative region or other foreign jurisdiction, and such other factors as the Commissions, by rule, jointly determine to be necessary or appropriate in the public interest.

(4) REQUIRED ASSESSMENT.—Beginning on the date on which final rules are issued under this section, the Commissions shall begin to jointly assess the regulatory requirements of countries or administrative regions described in paragraph (1), as the Commissions jointly determine appropriate, in accordance with the criteria established pursuant to this subsection, to determine if one or more categories of regulatory requirements of such a country or administrative region or other foreign jurisdiction is not broadly equivalent to United States swaps requirements.

(e) REPORT TO CONGRESS.—If the Commissions make the joint determination described in subsection (d)(1) that the regulatory requirements of a country or administrative region described in such subsection or other foreign jurisdiction are not broadly equivalent to United States swaps requirements, the Commissions shall articulate the basis for such a determination in a written report transmitted to the Committee on Financial Services and the Committee on Agriculture of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs and the Committee on Agriculture, Nutrition, and Forestry of the Senate within 30 days of the determination. The determination shall not be effective until the transmission of such report.

(f) DEFINITIONS.—As used in this Act and for purposes of the rules issued pursuant to this Act, the following definitions apply:

(1) The term ''U.S. person''—

(A) means—

(i) any natural person resident in the United States;

(ii) any partnership, corporation, trust, or other legal person organized or incorporated under the laws of the United States or having its principal place of business in the United States;

(iii) any account (whether discretionary or non-discretionary) of a U.S. person; and

(iv) any other person as the Commissions may further jointly define to more effectively carry out the purposes of this Act; and

(B) does not include the International Monetary Fund, the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, the African Development Bank, the United Nations, their agencies and pension plans, and any other similar international organizations and their agencies and pension plans.

(2) The term ''United States swaps requirements'' means the provisions relating to swaps and security-based swaps contained in the Commodity Exchange Act (7 U.S.C. 1a et seq.) and the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) that were added by title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act (15 U.S.C. 8301 et seq.) and any rules or regulations prescribed by the Securities and Exchange Commission and the Commodity Futures Trading Commission pursuant to such provisions.

(g) CONFORMING AMENDMENTS.—

(1) SECURITIES EXCHANGE ACT OF 1934.—Section 36(c) of the Securities Exchange Act of 1934 (15 U.S.C. 78mm(c)) is amended by inserting ''or except as necessary to effectuate the purposes of the Swap Jurisdiction Certainty Act,'' after ''to grant exemptions,''.

(2) COMMODITY EXCHANGE ACT.—Section 4(c)(1)(A) of the Commodity Exchange Act (7 U.S.C. 6(c)(1)(A)) is amended by inserting ''or except as necessary to effectuate the purposes of the Swap Jurisdiction Certainty Act,'' after ''to grant exemptions,''.

The SPEAKER pro tempore. Debate shall not exceed 1 hour, with 40 minutes equally divided and controlled by the chair and ranking minority member of the Committee on Financial Services and 20 minutes equally divided and controlled by the chair and ranking minority member of the Committee on Agriculture.

The gentleman from Texas (Mr. HENSARLING) and the gentlewoman from California (Ms. WATERS) each will control 20 minutes. The gentleman from Texas (Mr. CONAWAY) and the gentleman from Georgia (Mr. DAVID SCOTT) each will control 10 minutes.

The Chair recognizes the gentleman from Texas.

GENERAL LEAVE

Mr. HENSARLING. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days within which to revise and extend their remarks and submit extraneous material for the RECORD on H.R. 1256, currently under consideration.

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

There was no objection.

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

□ 1530

Mr. Speaker, the legislation before the House this afternoon, H.R. 1256, the

Swap Jurisdiction Certainty Act, is a bipartisanship response to what many view to be, frankly, regulatory red tape overreach and the adverse consequences that it can have on the millions of our fellow countrymen who are either unemployed or underemployed—the impact that it could have on the competitiveness of our U.S. employers and job creators.

Mr. Speaker, I need not tell anyone in this body that we regrettably continue to be in the middle of a nonrecovery recovery. If it weren't for the fact that so many people have actually left the job force—the working participation rate—our unemployment rate would be even higher. Many have just given up.

We know that for many, even though America has, in the past, produced 3½ percent economic growth and is probably capable of 4 or 5 percent economic growth with the right economic policies, regrettably, we find ourselves mired in 1½ to 2 percent GDP growth, which means, Mr. Speaker, a lot of American dreams go unfulfilled and a lot of our constituents lay awake at night wondering how are they going to pay the bills.

So, Mr. Speaker, jobs continue to be job number one, I believe, of the United States House of Representatives. But, regrettably, those who create jobs, those who employ our constituents, are drowning in a sea of red tape. There's been an over 50 percent increase in regulations under the Obama administration. We know that it is directly correlated to the lackluster economic growth that we see in the Nation today.

I still vividly remember that one small business person in east Texas came up to me—he had a small cabinetry shop. Even though it was still profitable, he shut it down. He shut it down because of the red tape burden that crushed him and the jobs of 17 people who worked in east Texas. And he said, Congressman, it got to the point I just thought my Federal Government didn't want me to succeed.

Mr. Speaker, we always have to be vigilant in ensuring that the red tape burden doesn't strangle the jobs and hopes and aspirations of the American people. So that brings us to H.R. 1256, the Swap Jurisdiction Certainty Act.

Now, many of you who may be tuning in to this debate may not be quite familiar with the world of derivatives, but it's a way that many farmers, ranchers, manufacturers hedge risk in order to become successful companies and employ people and sell their goods and services at competitive prices. An outfit like John Deere will use a derivative. They may do an interest rate swap as they finance a tractor for some farmer in rural east Texas that I may represent. That derivative is directly linked to the cost and the availability of that tractor.

What we are trying to do with H.R. 1256 is make sure that those who are trying to access derivatives, to hedge risk, to create and sustain jobs, don't automatically overnight have huge swaps of the global market pulled out from under them because, if they do, all of a sudden it could be that somebody can't finance that tractor anymore.

Companies like Southwest Airlines that operate in my hometown of Dallas, Texas, they hedge their fuel cost; and if they can't access global markets, who knows about the success of their hedges. Then, all of a sudden, the price of a trip for grandparents to fly in from Kansas City to see their grandkids in Dallas, Texas, just became more prohibitive, it just became more expensive.

An outfit like Coors, they'll hedge their aluminum cost through swaps, maybe their wheat costs through swaps. And I don't know about other Members, but I represent a lot of hardworking people in the Fifth District of Texas; and let me tell you, sometimes on a hot August afternoon after working, putting in 40 hours at the Pepsi bottling plant or maybe putting it in at some of the other factories that we may have in Mesquite, somebody might just want to go to the 7–Eleven and buy a six-pack. In America that ought to be their right. And the inability—the inability—to access global markets for swaps ultimately can actually inflate that cost. That's not something I care to deny to hardworking Americans who want that.

This is a very simple and bipartisan bill. Mr. Speaker, this passed. We had a hearing in the Financial Services Committee and we had a markup in the Financial Services Committee. It passed with 100 percent of the Republican vote. It passed with almost two-thirds of the Democratic vote. You would think that we might be under the suspension calendar for this one, but in order to respect the wishes of the ranking member, we are having a more prolonged debate in addition to the one that we've already had in the committee.

But, Mr. Speaker, ultimately, this bill will do two things. It will tell the Securities and Exchange Commission and the Commodity Futures Trading Commission, You need to issue one joint rule when it comes really to American end users being able to access global markets, not one suggestion and one rule, two different rules—one rule. One rule. Let's take down a little complexity here.

Mr. Speaker, after Dodd-Frank, we're about to celebrate its 3rd anniversary next month. After 3 years of deliberating, maybe it's time to actually come out with a rule and create a little certainty for the people at Coors and at Southwest Airlines and at all the other employers and John Deere. Maybe it's time to create a little certainty. So the bill says, Okay, let's get this done in 9 months. You've had almost 3 years. It's time to get it done.

And last but not least, in order not to pull the rug out from under these people on day one, it says, Do you know what? The nine largest markets, we are going to have a presumption that their regimes are broadly equivalent to the U.S. and not immediately deny access.

Now, at any given time, if the CFTC and SEC come to the conclusion that these regimes are not broadly equivalent, that somehow they present risk to our economy, with the stroke of a pen they can change that presumption. But not on day one, not on day one, Mr. Speaker.

So, for the sake of economic growth, for the sake of jobs, to provide some certainty in a struggling economy, I would urge all—all—of my colleagues to support this bipartisan legislation that was voice voted in the Ag Committee, voice voted, and had unanimous—unanimous—consent of all Republicans and almost two-thirds of the Democrats on the Financial Services Committee, urge all my colleagues to support H.R. 1256.

I reserve the balance of my time.

Ms. WATERS. Mr. Speaker, I yield myself such time as I may consume.

I would like to try to clear up some of the misunderstandings of what this bill is about. The more we debate it, the better Members understand the impact of this bill on our economy.

The gentleman from Texas, the chairman, just talked about how generous they are in allowing this debate to take place. Members, let me tell you what really happened. The fact of the matter is there has been an attempt to hide H.R. 1256 in this DOD bill. What business does it have in this bill? Why is it the Rules Committee determined that it would be a closed rule?

The first reason is that they tried to get away without having amendments to the bill. I had an amendment that I offered in committee that was not accepted, an amendment that if there were an open rule, I would have been able to offer this amendment on the floor. But, no, they close-ruled this bill to keep any amendments from being heard, to be debated, to be voted on, because they know that if Members really discover what these derivatives are all about and how they could create such risk that we'll be put in the position of bailing out failed institutions all over again, that Members would not support this kind of bill.

□ 1540

This country has been through a terrible financial crisis. Part of the reason is that we allowed our banks and financial institutions to place unregulated bets on the mortgage markets. Remember AIG? What did AIG do? It made a really big bet that the mortgage market would go up, and it lost, and the taxpayer was put in the position of having to bail it out. The Dodd-Frank Act enabled us to put a stop to that kind of betting going on, hidden from the rest of us, finally dragging that activity out into the sunlight.

The CFTC and the SEC are finally putting in place rules of the road to

prevent any one institution from threatening our livelihood again, but this bill wants to drag some of that activity back into the shadows, allowing banks and others, once again, to enter into transactions without even our regulators being able to see them.

You may say that this bill just concerns the limits on how far U.S. law goes. So why is it so important that the CFTC and SEC have discretion over the rules on cross-border initiatives? Because the exposure that a foreign branch or subsidiary of a U.S. institution takes in foreign markets comes back home to the U.S. Moreover, U.S. banks and corporations may find that those they do business with have much more hidden exposure because of foreign transactions. This bill says that we will have to rely on the foreign regulators to protect us. We shouldn't have to rely on foreign regulators who don't even have regulatory regimes to protect us. We should protect ourselves by making sure that anybody our branches and our subsidiaries are doing business with have comparable rules. Those countries must have comparable rules to the U.S. rules in order to protect us.

To put it simply, this bill would delay the implementation of the Wall Street Reform Act's derivatives provisions by months, if not years, and would preserve the kind of opacity in our markets that led to taxpayers' bailing out AIG just 5 short years ago.

For example, while Europe has made considerable progress on its swaps' clearing and reporting rules, Europe's framework for implementing trading and internal business conduct standards have been caught up in delays. It is unclear at this point how strong those requirements ultimately will be. This bill increases the incentives for other jurisdictions to avoid making the tough decisions to put in a strong financial framework.

I reserve the balance of my time.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will remind all persons in the gallery that they are here as guests of the House and that any manifestation of approval or disapproval of proceedings or other audible conversation is in violation of the rules of the House.

Mr. HENSARLING. I yield myself 30 seconds just to say to the gentlelady that she had the opportunity to offer her amendment in committee, and her amendment was defeated. Second of all, as she raises the specter of bailout, she has also said before that Dodd-Frank ended bailouts, so I don't know which it is. I would also say nothing in the bill changes the rulemaking authority of the CFTC or the SEC, and it delays nothing, but it was just 6 months ago that the ranking member sent a letter to the chairman of the CFTC:

> I request that you provide for phased-in compliance and appropriate short-term relief from relevant title VII provisions.

So she, herself, was asking for a delay.

I now yield 5 minutes to the chairman of the Subcommittee on Capital Markets and Government Sponsored Enterprises, the author of this legislation, the gentleman from New Jersey (Mr. GARRETT).

Mr. GARRETT. I thank the gentleman from Texas for yielding. I also want to thank the gentleman from Delaware (Mr. CARNEY), the gentleman also from Texas (Mr. CONAWAY) and the gentleman from Georgia (Mr. SCOTT), who all, along with us, were able to work together in a bipartisan manner on this legislation.

I want to begin my comments today by clearing up what might be called a knee-jerk reaction that some commentators have made about our efforts on this legislation.

Today's legislation is not about deregulating the swap markets or creating loopholes for market participants. In fact, this bill is just the opposite of that. You see, there is broad bipartisan support for appropriately regulating the swap markets and for shining the proverbial light of day, if you will, on what was once an opaque marketplace. I agree that bringing greater additional transparency and clarity to this market is a positive thing for all—for American consumers and taxpayers as well.

Yet I have significant concerns about how the ongoing Dodd-Frank implementation of this appropriate regulation is being conducted. Only in Washington, D.C., would you have two, not one, regulatory bodies tasked to work together to implement rules required by Congress and then have them working down two separate, entirely different tracks on rules that will impact literally hundreds of American businesses and thousands of investors.

What you have is one agency over here. It's moving forward with a 100-page informal guidance, and the other, on the other hand, has just released a 1,000-page formal rule proposal. One proposal applies U.S. regulations to transactions taking place entirely outside the U.S. between the U.S. nonpersons, and the other creates a new, detailed substitute compliance framework. So it's hard to imagine a scenario in which these two proposals are more different. In effect, we have two very powerful U.S. regulators. Both of them have literally hundreds upon hundreds of millions of dollars in budget and thousands of staff, but at the end of the day, they cannot sit down together and work out a common proposal.

That's not what Dodd-Frank wanted them to do. They wanted them to come together, and that's what this legislation would effectuate. H.R. 1256, the Swap Jurisdiction Certainty Act, will restore that much-needed sanity to the rule-writing of this extraterritorial application of U.S. swaps regulation.

Again, given that there has been some confusion and a great deal of mischaracterization by some commentators on the impact of this legislation, let me take a moment to make certain everyone understands exactly what it does and the effects it will have. You see, the legislation before us allows the CFTC and the SEC to continue to enjoy significant discretion and also flexibility as to how they implement the rules. We are not removing any of their current authority. In fact, we are adding to it, and we are enhancing it.

First and foremost, the legislation specifically requires the SEC and the CFTC to have the same or identical cross-border rules. I think it's difficult—maybe it's impossible—for anyone to suggest that it is appropriate for two domestic U.S. regulatory bodies to have two different standards governing very similar parts of the market. So, by simply requiring the agencies to get together and have identical rules, the bill will limit the ability for potential arbitrage opportunities for the market participants, and it will ensure that we have standard identical regulatory regimes for both types of swaps. There is a great deal of ongoing discussion right now about how to limit this, about how to limit regulatory arbitrage opportunities for market participants. Under this new regime, the most glaring area of potential in this area is if the SEC and the CFTC have different rules;

Secondly, the legislation would require a formal rule, not a guidance, to be issued. Currently, the CFTC is moving down the path of instituting a more amorphous guidance, if you will, which really has questionable legal authority. So, without a formal rule in place that carries the force of law, there is a valid concern that some entities won't feel the need to even abide by this guidance from the CFTC or, if it's challenged by a court, will feel that it might carry considerably less weight. So, by requiring a formal rule, the bill will then ensure that the force of law will apply without question;

Finally, the legislation specifically authorizes the SEC and CFTC to regulate swap transactions between the U.S. and foreign entities. Now, this is important if the regulators are concerned about the importation of systemic risk. Why is this important? Because under current law, it is really questionable what authority these agencies actually have to regulate potential transactions between the U.S. and foreign participants. We add this to it and give them that explicit authority.

□ 1550

So if the regulators are concerned about any foreign country not living up to the Obama administration's G–20 commitments that was established back in 2009, then these regulators will be able to work together to specifically authorize under the act.

This expansion and enhancement, if you will, of the regulators' current authority—I would think it should be well received by the administration.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. HENSARLING. I yield the gentleman an additional 45 seconds.

Mr. GARRETT. Finally, in a formal Statement of Administration Policy, the administration argues that the bill will somehow slow down implementation of title VII. This can't be further from the truth. By requiring the agencies to work together and put the same rule, this will remove legal obstacles here in Washington and ensure that we have the appropriate regulatory framework sooner rather than later. It will remind the people saying that we will somehow slow down implementation of these rules that, no, that cannot be further from the truth. Dodd-Frank was passed almost 3 years ago, and we're no closer today than we were 3 years ago to getting this done.

Mr. Speaker, let us restore, then, some common sense and some clarity to the rulemaking process and actually bring it some additional transparency. Let us not play into the narrative that the rest of the country has of a dysfunctional Washington. Let us make sure that our financial regulators are actually working together and not trying to allow some to front-end each other.

Let us pass this legislation.

Ms. WATERS. Mr. Speaker, at this time I enter into the RECORD three letters of opposition to this bill. One is from the Executive Office of the President of the United States Office of Management and Budget; Americans for Financial Reform; and American Federation of Labor and Congress of Industrial Organizations.

AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS,

Washington, DC, June 11, 2013.

DEAR REPRESENTATIVE: The AFL-CIO opposes the ''Swaps Jurisdiction Certainty Act'' (H.R. 1256) scheduled for floor consideration this week. If passed, this bill would undermine the framework Congress put in place in the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 to prevent risky derivatives trading from contributing to another global financial crisis. It would impose major new procedural hurdles that would impede the Commodity Futures Trading Commission's (CFTC) ability to move forward with effective rules designed to prevent risks that arise from overseas derivatives trading from impacting the U.S. economy.

The 2008 financial crisis provided vivid illustrations of how derivatives transactions conducted by U.S. institutions in overseas markets can wreak havoc on the U.S. economy—both the AIG bailout and the Lehman Brothers failure were caused to a large extent by offshore derivatives trades.

As we saw with AIG and Lehman Brothers, U.S. institutions can easily conduct derivatives transactions outside U.S. borders that put U.S. financial institutions at risk. With this in mind, Congress granted the CFTC, which regulates around 90 percent of U.S. derivatives markets, authority in Section 722(d) of Dodd-Frank to oversee derivatives transactions that ''have a direct and significant connection with activities in, or effect on, commerce of the United States.''

The CFTC has issued proposed guidance that strikes an appropriate balance. It protects U.S. taxpayers and the U.S. economy while allowing overseas subsidiaries of U.S. banks to be regulated under 'substituted compliance' by their local regulator when the CFTC makes a specific determination that the relevant foreign rules are as strong as the U.S. rules.

H.R. 1256 would seriously undermine the CFTC's ability to protect U.S. taxpayers from risks that arise from overseas derivatives trading by creating a presumption that these transactions are exempt from U.S. regulation. To overcome this presumption, the CFTC and the Securities and Exchange Commission (SEC) would be required to determine that the foreign country rules are not 'broadly comparable' to U.S. rules, issue joint rules, and make formal reports to Congress.

The CFTC's ability to effectively oversee offshore derivatives transactions that create risks to the U.S. economy is central to whether Title VII is ultimately successful in mitigating the risks in the derivatives markets that nearly brought down the economy less than five years ago.

Don't let another AIG or Lehman Brothers happen under your watch. Vote against the ''Swaps Jurisdiction Certainty Act'' (H.R. 1256) and prevent a major loophole from undermining the basic derivatives market protections that Congress so sensibly put in place when it passed Dodd-Frank in 2010.

Sincerely,

WILLIAM SAMUEL,
Director, Government Affairs Department.

AMERICANS FOR FINANCIAL REFORM,

Washington, DC, June 11, 2013.

DEAR REPRESENTATIVE, on behalf of Americans for Financial Reform, we are writing to express our opposition to HR 1256, the ''Swaps Jurisdiction Certainty Act''. This legislation is supported by Wall Street because it opens a back door in financial regulation that could allow the largest international banks to evade U.S. derivatives regulation by transacting through their foreign subsidiaries.

Proper oversight of foreign subsidiaries is critical for any derivatives regulation to be effective. In the financial crisis, AIG required a $160 billion public bailout for activities conducted through its London office, and more recently JP Morgan's 'London Whale' lost the company $6 billion. Bloomberg News has documented that large Wall Street banks routinely transact well over half of their swaps business through foreign subsidiaries. For this reason, the Dodd-Frank Act granted the Commodity Futures Trading Commission (CFTC), which regulates some 90 percent of U.S. derivatives transactions, oversight over all derivatives transactions that have ''a direct and significant connection with'' U.S. commerce. Yet HR 1256 would block and hinder this oversight in numerous ways, including by establishing a presumption that derivatives regulations in major foreign markets are adequate to satisfy U.S. derivatives protections. By doing so, it could encourage U.S. financial firms to outsource operations to foreign jurisdictions with weaker rules.

The proper oversight of international derivatives transactions is crucial to effective regulation of U.S. derivatives markets. Financial transactions that are nominally booked in overseas subsidiaries of U.S. banks create risk for the U.S. parent. We have learned this lesson in many crises, most recently in the massive derivatives losses experienced at JP Morgan's London office, and most painfully in the world financial collapse of 2008. As the chair of the Commodity Futures Trading Commission (CFTC) has stated:

Swaps executed offshore by U.S. financial institutions can send risk straight back to our shores. It was true with the London and Cayman Islands affiliates of AIG, Lehman Brothers, Citigroup and Bear Stearns. A decade earlier it was true, as well, with Long-Term Capital Management. The nature of modern finance is that large financial institutions set up hundreds, if not thousands of ''legal entities'' around the globe. . .

Many of these far-flung legal entities, however, are still highly connected back to their U.S. affiliates.

The CFTC, the agency assigned to regulate some 90 percent of U.S. derivatives markets, is already addressing this vital issue. The agency has proposed guidance that would protect U.S. taxpayers and the U.S. economy by preserving jurisdiction over derivatives transactions executed through foreign entities which impact the U.S. economy. The CFTC's balanced approach would apply Dodd-Frank oversight to such transactions, but also allow foreign entities to be regulated under 'substituted compliance' by their local regulator when the agency finds that the relevant foreign rules are as strong as the U.S. rules.

Crucially, the CFTC has taken the position that 'substituted compliance' under foreign rules would only be permitted in cases where the U.S. regulators found foreign regulation to be genuinely equivalent to the relevant U.S. regulation. Maintaining this principle is critical to protecting U.S. taxpayers from the risks of offshore swaps by U.S. institutions. If it is not maintained, we could see a 'race to the bottom' as derivatives transactions move to the least regulated jurisdictions to take advantage of lax rules. This is particularly dangerous since foreign countries are not exposed to the risks to the U.S. taxpayer created due to derivatives losses in foreign subsidiaries of U.S. banks.

HR 1256 would seriously undermine the capacity of regulators to assure that U.S. derivatives transactions conducted through foreign entities are subject to regulations that meet U.S. standards. It does this in several ways.

First, HR 1256 would effectively create a presumption that overseas derivatives transactions will be ruled by foreign country rulemaking rather than U.S. rulemaking. The current CFTC guidance only permits 'substituted compliance' when U.S. regulators determine that relevant foreign rules are as strong as the U.S. rules. But HR 1256 instead establishes a strong statutory presumption that transactions in the world's major derivatives markets will be governed by foreign regulatory rules in the host country rather than U.S. rules. The statutory presumption that foreign rules govern could only be overturned if both the CFTC and SEC make a joint determination, supported by a formal report to Congress, that the foreign country rules are not 'broadly comparable' to U.S. rules. This determination could be challenged in court on the basis of the 'broadly comparable' language in HR 1256, creating significant litigation risk.

Thus, U.S. regulators would face major new hurdles in applying derivatives rules to overseas transactions, even where these transactions clearly posed a risk to the U.S. economy. This would not only weaken protections for U.S. financial markets, it would weaken the U.S. negotiating position in pressing foreign governments for adequate derivatives rules. The statutory roadblocks to properly enforcing U.S. derivatives rules that are created by HR 1256 would undercut the U.S. government before negotiations are even begun. They create numerous additional opportunities for Wall Street to undermine effective regulation.

Second, HR 1256 strips the CFTC of authority to independently determine derivatives rules for overseas transactions. It requires

any such rules to be passed by a joint rulemaking between the SEC and CFTC, which must specify identical rules. The SEC regulates less than 10 percent of the gross notional swaps market, and has jurisdiction over different types of swaps than the CFTC does. Furthermore, the agencies are already required to harmonize their regulation where appropriate. A joint rulemaking is not needed for coordination, as the agencies regulate different derivatives markets. But it would hinder and delay the CFTC's work to regulate extraterritorial derivatives transactions. The purpose of this joint rulemaking requirement is simply to add more hurdles and more delay before any action can be taken, making effective regulation less likely.

In addition to the impact of additional bureaucratic hurdles, in this case a joint rulemaking requirement would also represent a dramatic roll back of the statutory mandate granted to the CFTC in overseeing 90% of the swaps market. Section 722(d) of the Dodd-Frank Act grants the CFTC jurisdiction over all activities that have a ''direct and significant connection with activities in, or effect on, commerce of the United States''. This is clearly the appropriate jurisdiction to protect U.S. taxpayers and the U.S. economy—it is obviously critical that U.S. regulators have jurisdiction over potentially risky transactions that are directly connected to the U.S. economy. Yet the SEC has no such clear statement of jurisdiction in the Dodd-Frank Act. The effect of requiring joint rulemaking would be to eliminate the CFTC's clear grant of jurisdiction over those transactions that are directly connected to U.S. commerce.

This long and complex legislation raises other issues as well. However, the core issue is that oversight of swaps transactions in foreign subsidiaries of U.S. banks is not a side issue in derivatives regulation. It is at the heart of effective oversight of these vast and complex markets. The thousands of subsidiaries of major global banks allow them to transmit cash flows and risk from derivatives contracts around the world with unprecedented ease. If derivatives transactions impacting the U.S. market that are conducted through foreign subsidiaries are not properly regulated, then no regulation of U.S. derivatives markets can be effective. The numerous additional statutory restrictions created by HR 1256 to block U.S. oversight of derivatives transactions conducted overseas would undermine derivatives regulation as a whole and weaken protections against financial instability.

Thank you for your consideration. For more information please contact AFR's Policy Director, Marcus Stanley at marcus@ourfinancialsecurity.org or 202–466–3672.

Sincerely,

AMERICANS FOR FINANCIAL REFORM:

AARP; A New Way Forward; AFL-CIO; AFSCME; Alliance For Justice; American Income Life Insurance; American Sustainable Business Council; Americans for Democratic Action, Inc; Americans United for Change; Campaign for America's Future; Campaign Money; Center for Digital Democracy; Center for Economic and Policy Research; Center for Economic Progress; Center for Media and Democracy; Center for Responsible Lending; Center for Justice and Democracy; Center of Concern; Center for Effective Government; Change to Win; Clean Yield Asset Management; Coastal Enterprises Inc.; Color of Change.

Common Cause; Communications Workers of America; Community Development Transportation Lending Services; Consumer Action; Consumer Association Council; Consumers for Auto Safety and Reliability; Consumer Federation of America; Consumer Watchdog; Consumers Union; Corporation for Enterprise Development; CREDO Mobile; CTW Investment Group; Demos; Economic Policy Institute; Essential Action; Green America; Greenlining Institute; Good Business International; HNMA Funding Company; Home Actions; Housing Counseling Services; Home Defender's League; Information Press; Institute for Global Communications.

Institute for Policy Studies: Global Economy Project; International Brotherhood of Teamsters; Institute of Women's Policy Research; Krull & Company; Laborers' International Union of North America; Lawyers' Committee for Civil Rights Under Law; Main Street Alliance; Move On; NAACP; NASCAT; National Association of Consumer Advocates; National Association of Neighborhoods; National Community Reinvestment Coalition; National Consumer Law Center (on behalf of its low-income clients); National Consumers League; National Council of La Raza; National Council of Women's Organizations; National Fair Housing Alliance; National Federation of Community Development Credit Unions; National Housing Resource Center; National Housing Trust; National Housing Trust Community Development Fund; National NeighborWorks Association; National Nurses United; National People's Action; National Urban League.

Next Step; OpenTheGovernment.org; Opportunity Finance Network; Partners for the Common Good; PICO National Network; Progress Now Action; Progressive States Network; Poverty and Race Research Action Council; Public Citizen; Sargent Shriver Center on Poverty Law; SEIU; State Voices; Taxpayer's for Common Sense; The Association for Housing and Neighborhood Development; The Fuel Savers Club; The Leadership Conference on Civil and Human Rights; The Seminal; TICAS; U.S. Public Interest Research Group.

UNITE HERE; United Food and Commercial Workers; United States Student Association; USAction; Veris Wealth Partners; Western States Center; We the People Now; Woodstock Institute; World Privacy Forum; UNET; Union Plus; Unitarian Universalist for a Just Economic Community.

List of State and Local Partners:

Alaska PIRG; Arizona PIRG; Arizona Advocacy Network; Arizonans For Responsible Lending; Association for Neighborhood and Housing Development NY; Audubon Partnership for Economic Development LDC, New York NY; BAC Funding Consortium Inc., Miami FL; Beech Capital Venture Corporation, Philadelphia PA; California PIRG; California Reinvestment Coalition; Century Housing Corporation, Culver City CA; CHANGER NY; Chautauqua Home Rehabilitation and Improvement Corporation (NY); Chicago Community Loan Fund, Chicago IL; Chicago Community Ventures, Chicago IL.

Chicago Consumer Coalition; Citizen Potawatomi CDC, Shawnee OK; Colorado PIRG; Coalition on Homeless Housing in Ohio; Community Capital Fund, Bridgeport CT; Community Capital of Maryland, Baltimore MD; Community Development Financial Institution of the Tohono O'odham Nation, Sells AZ; Community Redevelopment Loan and Investment Fund, Atlanta GA; Community Reinvestment Association of North Carolina; Community Resource Group, Fayetteville A; Connecticut PIRG; Consumer Assistance Council; Cooper Square Committee (NYC); Cooperative Fund of New England, Wilmington NC; Corporacion de Desarrollo Economico de Ceiba, Ceiba PR; Delta Foundation, Inc., Greenville MS; Economic Opportunity Fund (EOF), Philadelphia PA; Empire Justice Center NY; Empowering and Strengthening Ohio's People (ESOP), Cleveland OH; Enterprises, Inc., Berea KY; Fair Housing Contact Service OH; Federation of Appalachian Housing; Fitness and Praise Youth Development, Inc., Baton Rouge LA; Florida Consumer Action Network; Florida PIRG; Funding Partners for Housing Solutions, Ft. Collins CO.;

Georgia PIRG; Grow Iowa Foundation, Greenfield IA; Homewise, Inc., Santa Fe NM; Idaho Nevada CDFI, Pocatello ID; Idaho Chapter, National Association of Social Workers; Illinois PIRG; Impact Capital, Seattle WA; Indiana PIRG; Iowa PIRG; Iowa Citizens for Community Improvement; JobStart Chautauqua, Inc., Mayville NY; La Casa Federal Credit Union, Newark NJ; Low Income Investment Fund, San Francisco CA; Long Island Housing Services NY; MaineStream Finance, Bangor ME; Maryland PIRG; Massachusetts Consumers' Coalition; MASSPIRG; Massachusetts Fair Housing Center; Michigan PIRG; Midland Community Development Corporation, Midland TX; Midwest Minnesota Community Development Corporation, Detroit Lakes MN; Mile High Community Loan Fund, Denver CO; Missouri PIRG; Mortgage Recovery Service Center of L.A.; Montana Community Development Corporation, Missoula MT.;

Montana PIRG; Neighborhood Economic Development Advocacy Project; New Hampshire PIRG; New Jersey Community Capital, Trenton NJ; New Jersey Citizen Action; New Jersey PIRG; New Mexico PIRG; New York PIRG; New York City Aids Housing Network; New Yorkers for Responsible Lending; NOAH Community Development Fund, Inc., Boston MA; Nonprofit Finance Fund, New York NY; Nonprofits Assistance Fund, Minneapolis M; North Carolina PIRG; Northside Community Development Fund, Pittsburgh PA; Ohio Capital Corporation for Housing, Columbus OH; Ohio PIRG; OligarchyUSA; Oregon State PIRG; Our Oregon; PennPIRG; Piedmont Housing Alliance, Charlottesville VA; Michigan PIRG; Rocky Mountain Peace and Justice Center, CO; Rhode Island PIRG; Rural Community Assistance Corporation, West Sacramento CA; Rural Organizing Project OR; San Francisco Municipal Transportation Authority; Seattle Economic Development Fund; Community Capital Development; TexPIRG; The Fair Housing Council of Central New York; The Loan Fund, Albuquerque NM; Third Reconstruction Institute NC; Vermont PIRG; Village Capital Corporation, Cleveland OH; Virginia Citizens Consumer Council; Virginia Poverty Law Center; War on Poverty—Florida; WashPIRG; Westchester Residential Opportunities Inc.; Wigamig Owners Loan Fund, Inc., Lac du Flambeau WI; WISPIRG.;

Small Businesses

Blu; Bowden-Gill Environmental; Community MedPAC; Diversified Environmental Planning; Hayden & Craig, PLLC; Mid City Animal Hospital, Phoenix AZ; The Holographic Repatterning Institute at Austin; UNET.

STATEMENT OF ADMINISTRATION POLICY

H.R. 1256—SWAP JURISDICTION CERTAINTY ACT

(Rep. Garrett, R–NJ, and 3 cosponsors, June 11, 2013)

The Administration is firmly committed to strengthening the Nation's financial system through the implementation of key reforms to derivatives markets. However, the Administration opposes passage of H.R. 1256, which would modify Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act. The Dodd-Frank Act puts in place a number of requirements that bring transparency to and enhance the stability of derivatives markets. These reforms will collectively strengthen the weak and outdated regulatory regime that played a significant role in the crisis that caused devastating damage to the U.S. economy and the financial well-being of American families.

Regulators are making significant progress with a number of derivatives-related reforms. As part of these efforts, regulators are already coordinating to address the issues raised in H.R. 1256, while taking into account the characteristics of the particular markets they regulate. Given these ongoing coordination efforts, passage of this bill would be premature and disruptive to the current and ongoing implementation of the reforms. The Administration believes regulators should be given the time necessary to complete their work. The Administration consequently opposes passage of H.R. 1256, which would preempt ongoing work and slow the implementation of these vital reforms.

I yield 2 minutes to the gentlewoman from New York (Mrs. CAROLYN B. MALONEY).

Mrs. CAROLYN B. MALONEY of New York. I thank the gentlelady for yielding and for her leadership.

Mr. Speaker, I rise today in opposition to H.R. 1256, the Swap Jurisdiction Certainty Act.

I oppose this bill, as does the Obama administration, because it would fundamentally undermine Dodd-Frank's derivatives reforms and would create a loophole big enough to drive an AIG-sized truck through.

Many of the derivatives that brought down AIG in 2008 were executed through one of its foreign branches, and many of the counterparties on those derivatives were European banks. These derivatives were a big factor in the AIG bailout that cost our taxpayers $182 billion and in the financial crisis that cost our economy well over $12 trillion.

H.R. 1256 would require the CFTC and the SEC to issue a joint rule detailing how U.S. derivatives rules would apply to transactions between U.S. and foreign companies or individuals. However, the bill then requires the agencies to exempt foreign companies from U.S. rules unless both agencies determine that the derivatives rules in the foreign country are broadly equivalent to U.S. rules, a vague standard that would weaken both the CFTC and the SEC's proposed rules governing crossborder transactions.

In the modern financial system, risk knows no borders. Problems in a U.S. bank's foreign office flow right back to the parent company here in the U.S., and it is the U.S. parent company that ultimately bears the loss. This is especially true in derivatives, which are traded in a global and highly interconnected market. For these regulations to be truly effective, however, they must cover derivatives executed in the foreign branches and guaranteed affiliates of U.S. banks.

I urge my colleagues to vote against this bill.

Mr. Speaker, I rise today in opposition to H.R. 1256, the Swap Jurisdiction Certainty Act.

I oppose this bill and the Obama Administration opposes because it would fundamentally undermine Dodd-Frank's derivatives reforms, and would create a loophole big enough to drive an AIG-sized truck through.

Many of the derivatives that brought down AIG in 2008 were executed through one of its foreign branches, and many of the counterparties on those derivatives were European banks. These derivatives were a big factor in the AIG bailout that cost taxpayers $182 billion, and in the financial crisis that cost our economy over $12 trillion. Why would we want to repeat the same mistake?

H.R. 1256 would require the CFTC and the SEC to issue a joint rule detailing how U.S. derivatives rules would apply to transactions between U.S. and foreign companies or individuals. However, the bill then requires the agencies to exempt foreign companies from U.S. rules unless both agencies determine that the derivatives rules in the foreign country are "broadly equivalent" to U.S. rules—a vague standard that would weaken both the CFTC and the SEC's proposed rules governing cross-border transactions.

In the modern financial system, risk knows no borders. Problems in a U.S. bank's foreign office flow right back to the parent company here in the U.S., and it is the U.S. parent company that ultimately bears the loss. This is especially true for derivatives, which are traded in a global and highly interconnected market.

For these regulations to be truly effective, however, they must cover derivatives executed in the overseas branches and guaranteed affiliates of U.S. banks. This is what the CFTC has proposed, and what the supporters of this bill are seeking to prevent.

We cannot afford to outsource derivatives regulation to foreign jurisdictions when it is U.S. taxpayers, and not the taxpayers of the foreign jurisdiction, who are ultimately bearing the risks. We learned the hard way with AIG that risk in the derivatives market flows across borders. Why would we want to repeat the same mistake?

In response to the financial crisis, Congress enacted Dodd-Frank, which imposes commonsense rules on the derivatives market, such as capital and margin requirements for U.S. derivatives dealers. These rules will make the financial system safer by ensuring that U.S. banks that deal derivatives are sufficiently capitalized, and have the ability to pay off all of their derivatives without government help.

H.R. 1256 would undermine these basic reforms. This is why I oppose the bill, why the Obama administration opposes the bill, and I would urge my colleagues to vote against the bill.

Mr. HENSARLING. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. NEUGEBAUER), chairman of the Housing and Insurance Subcommittee.

Mr. NEUGEBAUER. Mr. Speaker, I rise in support of H.R. 1256.

One of the things that I think people demand out of their government is transparency and regular order, and one of the things about this bill is there has been a lot of transparency and a lot of debate and discussion about it.

In fact, this bill was marked up in the previous Congress, both in the House Agriculture Committee and the House Financial Services Committee. You would have thought we would have just brought that bill back here and put it on suspension. That's not what's happening. It was sent back to the House Financial Services Committee and the House Agriculture Committee.

In fact, during that process in the Financial Services Committee, some issues that Mr. Frank, the ranking member of last year, brought up were incorporated into this markup. When it was over in the House Agriculture Committee—and I have the opportunity to sit on both of those committees—some changes that were recommended by the ranking member, COLLIN PETERSON, were incorporated into that bill. In fact, that bill passed on voice vote in the House Agriculture Committee.

Mr. KILDEE offered some language that would limit the bill to the nine largest swap jurisdictions as was alluded to earlier. Those were incorporated into this bill.

The ranking member of the full committee did bring up an amendment, and interestingly enough some of her own Members did not support that amendment.

So what I would say about H.R. 1256 is that it's going to bring some certainty to a very uncertain process. The fact that it has been 3 years and these two agencies have not been able to come together and come out with a common rule doesn't make sense. I think it's one of the things that frustrates people about government, that two different agencies would have different rules about the same thing.

Then I think the third thing, too, as was alluded to by the chairman, is that these are important markets to our businesses, whether they be large or small. They rely on foreign participants to come into the markets and provide opportunities to hedge, whether it's crops or ingredients in the manufacturing process.

Basically, what we're doing is we're saying that the SEC and the CFTC still have the authority that was given to them in the original Dodd-Frank bill, but we need some harmonization not only within those agencies, but with the other countries that are involved in regulating the foreign entities, as well.

Ms. WATERS. Mr. Speaker, I will enter into the RECORD the amendment

that I would have offered had they not come up with a closed rule.

Page 5, strike line 1 and all that follows through page 7, line 6, and insert the following:

(d) GENERAL APPLICATION TO FOREIGN JURISDICTIONS.—

(1) GENERAL APPLICATION.—In issuing rules under subsection (b), the Commissions shall provide that persons in compliance with the regulatory requirements of a country or administrative region that has one of the nine largest combined swap and security-based swap markets by notional amount in the calendar year preceding issuance of such rules or any other foreign jurisdiction as jointly determined by the Commissions may satisfy the corresponding categories of United States swaps requirements through such compliance upon the making of a joint determination by the Commissions pursuant to subsection (d)(2).

(2) DETERMINATIONS.—The Commissions shall jointly determine whether one or more categories of regulatory requirements of a foreign jurisdiction as jointly determined by the Commissions, are broadly equivalent to corresponding United States swaps requirements, with such determinations initially to be made as follows:

(A) Initial determinations regarding a country or administrative region described under paragraph (1), or any other foreign jurisdiction as jointly determined by the Commissions, accounting for the five largest combined swap and security-based swap markets by notional amount in the calendar year preceding issuance of rules under subsection (b) shall be made within 180 days after issuance of such rules.

(B) Initial determinations regarding a country or administrative region described under paragraph (1), or any other foreign jurisdiction as jointly determined by the Commissions, accounting for the next five largest combined swap and security-based swap markets by notional amount in the calendar year preceding issuance of rules under subsection (b) shall be made within 360 days after issuance of such rules.

(C) Initial determinations regarding a country or administrative region described under paragraph (1), or any other foreign jurisdiction as jointly determined by the Commissions, shall be made within 540 days after issuance of rules under subsection (b).

(3) CRITERIA.—In such rules, the Commissions shall jointly establish criteria for determining that one or more categories of regulatory requirements of a country or administrative region described under paragraph (1) or other foreign jurisdiction are broadly equivalent to corresponding United States swaps requirements, and shall jointly determine the appropriate application of certain United States swap requirements to persons or transactions relating to or involving such country or administrative region or other foreign jurisdiction as jointly determined by the Commission to the extent that the Commissions have determined that certain regulatory requirements of such country or administrative region or other foreign jurisdiction are broadly equivalent to corresponding United States swaps requirements.

(4) RIGHT TO PETITION.—A market participant or group of market participants may request a determination with respect to a particular category or categories of foreign regulatory requirements with regard to a foreign jurisdiction or jurisdictions. Any determination made regarding such a request shall be available to all market participants.

Page 7, line 7, strike ''(4)'' and insert ''(5)''.

I yield 1½ minutes to the gentleman from Massachusetts (Mr. CAPUANO).

Mr. CAPUANO. Mr. Speaker, I thank the gentlewoman for yielding.

Look, this bill is not going to create jobs in America. This bill is all about foreign swaps. If we're going to create jobs, we're going to create them in foreign countries.

By the way, Dodd-Frank exempts foreign swaps activities from derivatives regs, except when they have—and this is a quote from the bill—''direct and significant connection with activities in, or effect on, commerce of the United States.''

Other than that, if they don't affect us; they're not subject to regulation. Simple. But if they're done in a foreign country and they affect us, if it's just a way to get around our regs, they're subject to United States regulation. It's really kind of simple.

By the way, according to The Wall Street Journal, the sixth largest banks of the United States combined have 22,621 subsidiaries. That's an average of 3,770 subsidiaries each. Why? In order to get around this kind of regulation.

I don't blame them. I'm not against swaps. I'm not against swaps conducted on foreign soil. I simply want them subjected to United States regulation. I don't think it's that difficult. I don't understand why we have to do this, except to say, Here's a big open door. This is a huge hole to the regulatory process of the United States of America.

I understand that some Members of this body don't like any regulation, and I respect that. But get up and say it.

Mr. HENSARLING. Mr. Speaker, may I inquire as to how much time remains on both sides.

The SPEAKER pro tempore. The gentleman from Texas has 3¼ minutes remaining, and the gentlewoman from California has 12 minutes remaining.

Mr. HENSARLING. At this time, Mr. Speaker, I yield 2 minutes to the gentleman from Florida (Mr. CRENSHAW).

□ 1600

Mr. CRENSHAW. Mr. Speaker, I thank the gentleman for yielding.

This seems to be one of the most straightforward, commonsense pieces of legislation that I have seen in a long time.

As chairman of the subcommittee on Appropriations that overseas the budget of the SEC, we have hearings from time to time to make sure that the SEC is doing their job—that is to protect investors, to make sure that capital markets are fair and stable. Here we have a situation where a certain amount of instability has been created because you have two different agencies that are writing different rules about what's called the over-the-counter commodities market. That's a global market, and it is very important to an awful lot of people. It seems to me that if we're going to have that kind of regulation, you would think that the SEC would coordinate with the other agency, the Commodity Futures Trading Commission, and they would publish one rule that people can understand and live by. But that's not the case.

You don't have the similarities that you need; you don't have them mirroring each other. All this bill does is simply say: Look, if we're going to ask for this kind of regulation, let's make sure that these two agencies publish the same rule. Otherwise you've got all kinds of uncertainty, all kinds of turmoil. If you're a regulated individual or entity or company, how do you know what to comply with unless this happens?

Now, I don't want to have to put language in the appropriations bill that kind of encourages folks to do that. It's simple, just pass this bill. It sounds to me like we're going to. It's a bipartisan bill, and I encourage everyone to vote ''yes'' and move on.

Ms. WATERS. I yield 1½ minutes to the gentleman from Massachusetts (Mr. LYNCH).

Mr. LYNCH. Mr. Speaker, I thank the gentlelady for yielding.

I rise today in strong opposition to the bill before this House today, H.R. 1256, the Swaps Jurisdiction Certainty Act. It should be called the Wall Street Bailout Certainty Act because that's the actual effect this is going to have. It will do serious and irrevocable harm to our efforts to rein in the reckless behavior of Wall Street.

In the words of our own Commodity Futures Trading Commission Chairman Gary Gensler, this bill will ''blow a hole'' in the hard-fought derivatives reforms we passed 3 years ago. Section 722 of the Dodd-Frank Act gives the CFTC authority to regulate overseas derivatives that have a direct and significant effect on the commerce of the United States.

If my colleagues need an example, I harken to the ranking member's example of why this cross-border authority is so critically important, and that's the case of AIG, the insurance giant. AIG engaged in increasingly complex and risky derivatives bets on the subprime mortgage market out of its AIG Financial Products subsidiary in London. And because there was virtually no oversight of derivatives markets, AIG Financial Products was able to deal in the shadows. And when the housing bubble burst, no one, not its directors, not its counterparties, not even its regulators, knew just how deeply in trouble AIG was.

So while we have adopted a number of regulations within Dodd-Frank, this bill will allow all of the companies that would be regulated to escape that regulation by doing these derivative deals through their foreign subsidiaries. And the four biggest derivative dealers in this country have over 3,000 foreign subsidiaries each. So this is an escape hatch for them. Vote ''no'' on this bill.

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

Ms. WATERS. I yield 1½ minutes to the gentleman from Texas (Mr. AL GREEN).

Mr. AL GREEN of Texas. Mr. Speaker, the question before us is whether we will outsource American economic stability in this quadrillion-dollar derivatives market to foreign subsidiaries of American companies. Will we outsource this quadrillion-dollar market?

Now, a quadrillion is a big number. If you stack dollar bills one on the other, a quadrillion will take you all of the way from the Earth to the Sun. It's important for us to remember that AIG outsourced to a foreign subsidiary. It was in London. And, of course, we know what happened with AIG.

Finally, I will say this. We're trying to jump-start the economy, it seems. We have to be careful what we do when we try these jump starts because this derivatives market has within it interest rate derivatives. These derivatives, if there's a spike in interest rates, can have an enormous impact on the world's economy.

So let us be careful when we jump-start. Sometimes when we do common things, like jump-starting our cars, it works fine. But on other occasions, we can have an explosion. Let's be careful as we jump-start the derivatives market.

Mr. HENSARLING. I continue to reserve the balance of my time.

Ms. WATERS. I yield 1½ minutes to the gentleman from Minnesota (Mr. ELLISON).

Mr. ELLISON. Mr. Speaker, I will get right to the point: AIG, Citibank, and Lehman are recent examples of institutions where the U.S. parent was hurt by those firms' problems abroad. Lehman had 3,300 subsidiaries at the time they declared bankruptcy, and its London subsidiary had more than 130,000 outstanding swaps contracts, many of them guaranteed by Lehman Brothers Holdings, headquartered in the U.S.

Bank of America, for example, has more than 2,000 subsidiaries, with 38 percent of them in foreign jurisdictions. Bank of America's books its derivatives not only in the U.S. but also in the U.K. and in Ireland.

Now, a very simple fact, Mr. Speaker, is that Dodd-Frank, the bill that has been deconstructed before our very eyes, while the ink is still wet on the page, requires that all foreign or U.S. firms transacting with U.S. persons comply with derivatives market reform. We're taking that apart right now. That's a shame, and it's going to put that guy who wants to buy beer in Texas at risk for his job and his house and everything else.

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

Ms. WATERS. I yield 1½ minutes to the gentlewoman from Connecticut (Ms. DELAURO).

Ms. DELAURO. I stand in strong opposition to this bill, which weakens Dodd-Frank regulations over derivatives markets and allows foreign banks and swaps traders to engage in the same risky behavior that caused an economic meltdown a few short years ago.

We are here to represent the American people, not the big banks. And after the 2008 financial crisis that triggered the worse recession since the Great Depression, the American people want to see more accountability from Wall Street, not less. That's why we passed Dodd-Frank in the first place, to end dangerous speculation by financial institutions and prevent more bailouts.

The bill before us tries to exempt from oversight any swap transaction in which one of the parties is not based in the United States. In other words, it effectively guts the derivatives regulation in the Dodd-Frank Act.

When AIG nearly destroyed the economy, their affiliate was based out of London as a branch of a French-registered bank. Lehman Brothers had 3,300 legal entities here and abroad when it failed. Citigroup set up numerous structured investment vehicles overseas to move positions off its balance sheet. But when those investments were about to fail, Citigroup in the U.S. assumed the huge debt, and was ultimately bailed out by U.S. taxpayers.

The notion that we should let big banks evade Dodd-Frank oversight if they set up a subsidiary in another major economy first is absurd. A vote for this bill is a vote for more risky derivatives transactions, more bad behavior, and more bailouts. I urge my colleagues to stand up for the American people, the American taxpayers, and vote this down.

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

Ms. WATERS. I yield an additional 1 minute to the gentleman from Massachusetts (Mr. CAPUANO).

Mr. CAPUANO. What this bill says is if you do this activity in the United States of America, you'll be subject to certain regulations. If you do the exact same activity through a subsidiary in a foreign country, you will not be subject to our regulation. That's an open invitation to move American jobs offshore. It's an encouragement to move American jobs offshore. It is blatantly obvious. How that is good for the American economy, I don't know. Why would we want to say to any American company some foreign regulator is better than us?

Now I know we are going to have this debate in other matters later on this week, saying just the opposite. So in this case, foreign regulators are better, but in other cases, they're not. It's kind of stunning. We actually did it this morning on another matter.

I want to join with the AFL–CIO in making a pretty clear warning to my colleagues: if this bill becomes law, I regretfully agree that there will come a day that you'll regret this vote, as many of us, not me, but many of us regret the vote for the PATRIOT Act.

□ 1610

Ms. WATERS. I yield 1 minute to the gentleman from Massachusetts (Mr. LYNCH.)

Mr. LYNCH. Mr. Speaker, I thank the gentlelady for yielding.

Let me just make one final point on this. What this bill will do now is to give the Cayman Islands or London or some other jurisdiction the ability to write derivatives rules that cover U.S. affiliates.

Now, the problem with that very idea is that the Cayman Islands or any other jurisdiction has no interest in protecting the U.S. taxpayer. That's the truth.

When the bailout for AIG came, it was $160 billion in U.S. currency, supported by the U.S. taxpayer, that bailed AIG out. So any of these foreign affiliates that go under in foreign jurisdictions, those foreign jurisdictions, whether it be the Cayman Islands or any other jurisdiction, have no interest, they have no dog in the fight to protect the American taxpayer.

That's the problem with this bill. That's the bottom line. We should vote against it. This is a disgrace. But it does show the power of Wall Street, I'll say that.

Mr. HENSARLING. I yield myself 15 seconds, Mr. Speaker, to say, one, if this is a disgrace, you need to inform almost two-thirds of your Members who voted for it in committee. Second of all, nothing in this amends Dodd-Frank. Third of all, you all tell us Dodd-Frank ended ''too big to fail,'' so the specter of bailout I simply do not understand. You need to make up your mind.

I reserve the balance of my time.

Ms. WATERS. I yield myself as much time as I may consume to refute.

The gentleman from Texas keeps talking about we make the claim that we ended ''too big to fail.'' That's what we're trying to do. That's what we're standing up against, what you're attempting to do in this piece of legislation.

Derivatives are an important part of the reform of Dodd-Frank. It is important because we're trying to create transparency. The over-the-counter derivatives market that has been working for so long in the shadows we cannot continue to have.

Mr. HENSARLING. Will the gentlewoman yield?

Ms. WATERS. I yield to the gentleman from Texas.

Mr. HENSARLING. If I misquoted the gentlelady, I apologize, but I thought I had seen earlier quotes where the gentlelady posited that Dodd-Frank ended ''too big to fail.'' If I was incorrect, I apologize to the gentlelady, but I thought you had said that on more than one occasion.

Ms. WATERS. Reclaiming my time, the gentleman from Texas knows how it works. We have Dodd-Frank reform, and it has to be implemented. You know the living wills have to be done. You know that we have to put in place all that it takes to have the orderly liquidation procedure. And it is important that you understand, and that all of our Members understand, that derivatives are an important part of reform.

If we allow this bill that presumes that other countries are comparable to us in their regulatory regimes without even checking, without vetting, without asking any questions, without requiring anything, then we absolutely put our own country at risk, and we put at risk the American taxpayers who will have to bail out the major financial institutions if we allow you to pass a bill like this, presuming that they are okay, that these countries are okay.

The other thing is—I know and understand now. I understand very well that if we allow this presumption to take place, then you'll just go to court and you'll argue that you have the presumption, and you'll try and tie up the CFTC all over again.

I reserve the balance of my time.

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

Ms. WATERS. I yield 1 minute to the gentleman from Texas (Mr. AL GREEN).

Mr. AL GREEN of Texas. Thank you, Madam Ranking Member.

It's important to note the amount in derivatives that we're talking about. We're talking about a quadrillion dollars—a quadrillion dollars—more than the entire economy of the world, a quadrillion dollars, and the impact a quadrillion dollars can have on the world's economy.

Some of this money is in interest rate derivatives. If there's a spike in interest rates, we're not sure what the ultimate impact on the world's economy will be. If I am wrong, everything will be all right; but if I'm right, everything will be all wrong, and it will be too late for us to take corrective action.

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

Ms. WATERS. I yield myself the balance of my time.

Mr. Speaker and Members, I'm very disappointed and worried that this bill has been brought to the floor under a closed rule, as have more than one-third of the bills so far this Congress.

I believe there are important issues concerning the structure of this bill, particularly the bill's presumption that the rules of the nine largest foreign markets will be broadly equivalent to our own. The bill would require the SEC and the CFTC to act in order to allow U.S. rules to apply to transactions, even though the risk of the transactions will ultimately be imported back to the United States.

My amendment would have the reverse of this presumption, directing the SEC and CFTC to jointly consider the regulatory framework of these countries to provide appropriate exemptions when jurisdictions have derivatives rules that are truly broadly equivalent to our own.

A closed rule prevents us from considering these issues. Why do they have a closed rule? Why did they try to hide this bill inside the DOD?

They don't want this debate. They didn't want an opportunity for any amendments. They don't care that foreign countries would be determining our fate when they set up their regulatory regimes, which won't be comparable to ours.

We owe it to the American people to do better than we have done. We have had the subprime meltdown. We've had the economic crisis. Why throw us back into that simply because you're trying to protect Wall Street?

Our citizens don't deserve that. They deserve for us to stand up and protect them from having to bail out these big institutions that will fail.

We have gone through AIG. We have gone through JP Morgan, the London Whale, the $6 billion failure. Why should we do that again?

I yield back the balance of my time.

Mr. HENSARLING. Mr. Speaker, how much time do we have?

The SPEAKER pro tempore (Mr. WOMACK). The gentleman from Texas is advised that he has 1½ minutes remaining.

Mr. HENSARLING. Mr. Speaker, in order to close for the bipartisan majority, I will yield the remainder of our time to the author of the bill, the gentleman from New Jersey (Mr. GARRETT).

Mr. GARRETT. I thank the gentleman from Texas, and the bipartisan manner from Mr. CARNEY and Mr. SCOTT as well, working together to get this bill passed.

And I am welcome to the debate that we are having here, but I do find it amazingly ironic that I have to come to the floor and stand here in the position of former Member Barney Frank and defend Dodd-Frank to the allegations from the other side of the aisle to the idea that there's some sort of escape hatch here, or a pole blown out, or that we're outsourcing regulation, when, in fact, if you read the legislation, you'll realize it does none of those things.

Now, I understand that Dodd-Frank was a piece of legislation that was well over 2,000 pages, and maybe some who voted in favor of it did not understand the complexity of it and what was involved; but the bill before us today is only 11 pages long, so everyone should be able to have read it and understand it.

So when the gentleman from Massachusetts refers to section 722(d) being affected by it and other portions of Dodd-Frank being changed by it, he should understand, by reading the 11 pages, none of Dodd-Frank or 722 or those other sections were altered in one way, shape, or form or other.

What was done was to install and enforce and carry out the will of Dodd-Frank in the area to make sure that the two regulatory agencies dealing with the respective areas here, the SEC and the CFTC, actually do what former Chairman Frank wanted Dodd-Frank to do, and that is to issue a rule and issue a rule that would be effective, in their judgement, for the betterment of the economy and for the regulated entities involved.

And with that, I see my time is up. I encourage a ''yes'' vote on this legislation.

□ 1620

Mr. CONAWAY. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, I rise today to urge my colleagues to pass H.R. 1256, the Swap Jurisdiction Certainty Act. Swaps are important tools that our farmers, ranchers, and businesses rely on to hedge the risks of competing in a global marketplace. Yet later this month, guidance the CFTC issued could fundamentally disrupt these markets here at home and around the world unless Congress acts today.

Last summer, the CFTC issued its proposed crossborder guidance to the marketplace for review and comment, explaining how it would regulate swaps entered into by foreign companies. What was produced was startling in its reach—the guidance declares that almost any swap entered into by anyone with any interest related to the United States falls under the jurisdiction of the CFTC and the Dodd-Frank Act.

As chairman of the General Farm Commodities and Risk Management Subcommittee, I held a hearing on this issue last December with Commissioners Sommers and Chilton from the CFTC and regulators from the European Union and Japan. Each witness agreed that it was imperative that we get the crossborder application of Dodd-Frank correct and that the U.S. not try to police swap markets around the world.

Respect for equivalent, but not necessarily identical, regulatory standards has been a cornerstone of international banking regulations for decades. The CFTC as rewritten the principles of international cooperation with this guidance, insisting that it alone can and should manage the global swaps markets. Predictably, this was met with universal outcry from foreign governments and international regulators.

But today's bill is about far more than just the pride of international regulators. If the CFTC's guidance stands and equivalence is no longer recognized, the global derivatives market can become regionalized as institutions and customers transact a majority of their business within their home jurisdictions. Such an outcome would concentrate specific risks in various economies and sectors of the world.

Here at home, American end users who use swaps to manage everyday business risks may have fewer counterparties to work with. Fewer counterparties means that there will be less competition and liquidity in the market, leading to higher costs for end users and a concentration of higher risk in the United States.

Not only has the CFTC failed to cooperate with international regulators, it's failed to do so at home, as well, leading the SEC to propose a separate rule governing the small slice of swaps

markets that it regulates. Today, there are two different sets of rules for when market participants are subject to U.S. law, depending on what instrument is being traded.

The Swap Jurisdiction Certainty Act will end this mess. It first requires that the CFTC and the SEC cooperate on a single, joint rule for the extraterritorial application of Dodd-Frank regulations. Second, it requires the CFTC and the SEC to recognize the competence of certain sophisticated foreign regulators, unless they can both agree that the regulators have failed to produce equivalent requirements.

For all the back and forth today, this is a simple, straightforward bill. In a nutshell, it requires the CFTC and the SEC to cooperate, both with each other and with the rest of the world—exactly what they should have been doing all along.

I'd like to thank my counterpart on the Financial Services Committee, Mr. GARRETT, for his work on bringing this legislation to the floor today. I would, as well, like to thank Ranking Member DAVID SCOTT, who continues to be a thoughtful and productive partner on issues in the Agriculture Committee. And, finally, I'd like to thank Chairman FRANK LUCAS who never lets us forget that our constituents depend on these markets to manage their businesses and protect themselves in an uncertain world.

With that, I urge swift passage of the legislation and reserve the balance of my time.

Mr. DAVID SCOTT of Georgia. Thank you, Mr. Chairman. I yield myself such time as I may consume.

Let me say at the outset that what has been clearly brought to our attention today is a great need for leadership. That's what this is about. Derivatives are here. The other side pointed out very magnificently we're dealing with a $600 trillion piece of the world economy. It must have rules. It must have regulations. This is the duty and the responsibility of the United States Congress to do so. To do otherwise would indeed weaken Dodd-Frank. What this bill does is strengthen Dodd-Frank.

Now, I serve on both the Agriculture Committee and the Financial Services Committee. I'm also the ranking member of the General Farm Commodity and Risk Management Subcommittee. I mention those things because I have been intimately involved in this issue for a long time, and I know the consequences if we do not respond.

Now, why do we need this bill? Dodd-Frank has been approved almost 3 years; but right today, we still do not know what swaps activities will be subject to U.S. regulation and which ones will be subject to foreign regulations. If something is shameful, that is shameful.

In section 722, the Dodd-Frank Act limits the CFTC's jurisdiction over swaps transactions outside the United States for those that have ''direct and significant connection with activities in or effect on commerce in the United States.'' However, section 722, the same section, limits the SEC's jurisdiction over security-backed swaps outside the United States, as well. That brings confusion.

What is the proper thing to do? Ask these two agencies to harmonize. Give us one rule so that that will apply. That's what this bill does. We are dealing with a global market. We cannot put our American banking system at a disadvantage competitively. That is what will weaken Dodd-Frank. That is what will bring about another crisis beyond what we already have.

So, Mr. Speaker, what we need to do is understand that on the foreign market, what are we dealing with? We're not dealing with every nation in the world. We are dealing with only the nine largest economies, and we must make sure that their regulatory regimes are as strong as ours. That is the responsibility of the SEC and the CFTC. That's what this bill is.

As far as AIG and as far as all of the other debacles that have happened, we're all upset about that. That's why we must move with this legislation.

Now, very briefly, much has been said about what has happened as if we've done nothing about it. Mr. Speaker, we've put clearing in so that all swaps transactions must be cleared. Clearing of swap contracts will eliminate bilateral credit risk, and it transfers that risk to clearinghouses which requires market participants to post margins, put up their own money. That's how you prevent another calamity.

The margin requirements are there also for uncleared swaps. And the clearing rules and the margin rules taken together mean that all swap contracts will be fully secured by high-quality liquid assets, and this is what will prevent another scenario.

And so I started what I said with what is desperately needed here: leadership. To allow this crossborder to go unanswered any longer is weakening us. Mr. Gensler, who is the chairman of the CFTC, next week will be meeting in Montreal with the European regulators. Leadership is needed. There is a July 23 deadline that all of the international markets must meet to deal with rules and regulations.

□ 1630

The wrong thing for us to do is not to pass this bill. And I assure my colleagues, my Democratic and Republican friends, I've gone through the safeguards we've put in here. This will not happen again. It will not happen again because we have strengthened Dodd-Frank. And the head of our Fed, Chairman Bernanke, said in his own words, We need this cross-border protection; we need this legislation.

So with that, I reserve the balance of my time because I have some other speakers that we'd like to hear from.

Mr. CONAWAY. Mr. Speaker, I yield 2 minutes to a former member of the Agriculture Committee and the subcommittee, the gentleman from North Carolina (Mr. HUDSON).

Mr. HUDSON. Mr. Speaker, I rise today in strong support of H.R. 1256, the Swap Jurisdiction Certainty Act, which requires the CFTC and the SEC to cooperate on a single rule for how U.S. derivatives regulations are applied overseas.

This bill and several others we will consider today are critically important to the work we have begun in the House Agriculture Committee to reform Dodd-Frank and make this bill less onerous for our farmers and bankers.

As Commissioner Jill Sommers noted, it appears as though the CFTC was ''guided by what could only be called the 'Intergalactic Commerce Clause''' as they prepared their cross-border guidance when it was released last summer.

How foreign institutions comply with Dodd-Frank is of enormous consequence. The CFTC has taken the position that virtually everyone everywhere is a U.S. person and subject to its jurisdiction. Without question, this expansive claim of jurisdiction is going to raise the cost for farmers and end users in my home State of North Carolina to hedge their risk and diminish global competitiveness of our domestic financial firms, which employ many people back home in North Carolina.

The CFTC is risking all this to an end that no one seems to fully understand. Their actions are making financial regulatory reform more burdensome and more complicated, while serving only to alienate the CFTC and U.S. markets from the rest of the world.

The Swap Jurisdiction Certainty Act would force the CFTC to cooperate with the SEC on a single standard for cross-border application of swaps regulations. In addition, the bill is narrowly tailored to guarantee that the top nine foreign swaps markets will be recognized by the CFTC and SEC as having comparable rules so foreign firms would be governed by the laws of their home countries.

This bill does not allow unchecked swaps markets to spring up in Caribbean island nations or the four corners of Southeast Asia, as some on the other side of the aisle have alluded. Instead, it directs the CFTC to do what it should have done in the first place: to cooperate with its fellow regulators both down the street and around the world.

I urge its adoption.

Mr. DAVID SCOTT of Georgia. I yield 1½ minutes to the gentleman from Delaware (Mr. CARNEY).

Mr. CARNEY. I would like to thank Mr. SCOTT for yielding time and for his leadership on this issue.

I rise today in support of H.R. 1256. It will lead to a stronger, more robust set of regulations for the derivatives market.

Let me be clear, this is not an effort to roll back Title VII of Dodd-Frank or to weaken its reach overseas. In fact, its intent is to harmonize regulations for cross-border swaps transactions, to eliminate confusion, and to prevent the establishment of two sets of rules in certain jurisdictions, which we know will leave us vulnerable to companies who would want to exploit those loopholes. In fact, this is a goal that our former chair and ranking member articulated well in a letter that he cosigned with Senator TIM JOHNSON to the regulators dated October 4, 2011, in which he says:

U.S. regulators should work with other international regulators to seek broad harmonization of appropriately tough and effective standards. Should current harmonization efforts ultimately fail or prove a race to the bottom that would undermine effective regulation, the U.S. would of course reserve the right to proceed to extend the application of its standards to overseas operations.

That's exactly what this bill does: it calls on the CFTC and the SEC to issue joint regulations in overseas markets, and in the G8 plus Hong Kong, in those markets where there are already rigorous regulations, the CFTC to determine whether our regulations are strong enough. If they are not, they can apply our regulations there.

So this bill is a good bill to create one set of regulations around the world that will be strong and clear and consistent.

Mr. Speaker, I rise today to support H.R. 1256. It will lead to a stronger, more robust set of regulations for the derivatives market.

Let me be clear, this is not an effort to roll back Title 7 of Dodd-Frank or to weaken its reach overseas.

In fact its intent is to harmonize regulations for cross-border swaps transactions.

To eliminate confusion.

And to prevent the establishment of two sets of rules in certain jurisdictions—which we know leaves us vulnerable to companies who want to exploit loopholes when there's a patchwork of regulations.

Unfortunately, since the passage of Dodd-Frank, the CFTC and SEC have moved forward with conflicting proposals to enforce Dodd-Frank derivatives law in markets overseas.

This bill has one goal: to create clear, strong and consistent rules governing derivatives transactions for U.S. companies operating around the world.

It does this in two ways.

First: it tells the SEC and CFTC to coordinate and issue their swaps regulations jointly. That way, we have one set of regulations that companies have to follow.

Under current law, the two agencies can issue overlapping, or even conflicting regulations. In fact, that's exactly what they've done.

This is confusing and burdensome for U.S. firms. But more importantly, it creates opportunities for firms to exploit inconsistencies and loopholes in the regulations.

This bill requires one consistent set of regulations to close loopholes and eliminate confusion.

Second: this bill acknowledges the strong regulatory commitment some nations have already made to regulate swaps.

The bill says that since these countries are moving forward with derivatives regulations that are comparable to ours in scope and rigor, companies engaged in derivatives transactions in these countries can follow those regulations.

During consideration of this bill in the Financial Services Committee, I supported an amendment offered by the Ranking Member that would have flipped the presumption in the bill.

Instead of presuming that certain countries have broadly equivalent regulations to ours, it would've directed the regulators to proactively make that determination. That amendment didn't pass. But there is a failsafe in this bill.

But, this is critical. Under this bill, if the SEC and CFTC look at these countries' regulations and determine that they are not in fact as strong or robust as our regulations, the agencies can require that companies operating in those countries follow U.S. law.

Our regulators remain in control.

Without this bill, firms operating overseas, even in the nine countries where most of this business takes place, will have to comply both with U.S. regulation, and the regulations of those countries.

Again, this leaves us vulnerable to firms that want to exploit this patchwork regulatory framework. Or worse, it could drive derivative trading away from US firms and further away from the view of our regulators.

The SEC, just a few weeks ago, proposed a draft rule that acknowledges the need for harmonization between our rules and the rules of other countries.

Here's the bottom line.

The goal is really simple, and that is to reach an accommodation where we have strong regulatory requirements that are consistent across borders, that are strong, but that do not create loopholes or confusion in those markets.

Mr. CONAWAY. Mr. Speaker, may I inquire as to how much time remains on each side?

The SPEAKER pro tempore. The gentleman from Texas has 4½ minutes remaining. The gentleman from Georgia has 2 minutes remaining.

Mr. CONAWAY. Mr. Speaker, I yield 2 minutes of my time to the gentleman from Georgia (Mr. SCOTT) for his use.

The SPEAKER pro tempore. Without objection, the gentleman from Georgia will control the time.

There was no objection.

Mr. DAVID SCOTT of Georgia. With that, I'd like to yield 1½ minutes to the gentleman from Florida (Mr. MURPHY).

Mr. MURPHY of Florida. I thank the gentleman from Georgia for yielding.

I rise in support of H.R. 1256.

Title VII of Dodd-Frank contains important structural reforms to the derivatives market so that complicated, unregulated financial instruments can never bring our economy to its knees again. However, no law is perfect, and we should look for ways to improve Wall Street Reform to keep unintended consequences from trickling down to Main Street.

The bill before us would put SEC and CFTC on the same page, giving American businesses the ability to compete with foreign companies on a level playing field. This will not destabilize the global financial system because the bill demands a broadly equivalent swaps regime as Title VII.

The global derivatives market deserves smart regulations, not duplicative or conflicting requirements. I urge my colleagues to support this commonsense, technical adjustment.

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

The SPEAKER pro tempore. The gentleman from Georgia is advised that he has 3 minutes remaining.

Mr. DAVID SCOTT of Georgia. With that, I yield 1½ minutes to the gentlewoman from Wisconsin (Ms. MOORE).

Ms. MOORE. I thank the gentleman from Georgia.

I rise today to support H.R. 1256, the Swap Jurisdiction Certainty Act.

I proudly supported the Dodd-Frank Wall Street Reform Act because I believed that regulations of derivatives were desperately needed, and today I stand here to support what is a very modest change because I believe that the inability of the CFTC and the SEC to come together on a definition of ''U.S. persons'' is centrally important to effective cross-border rules and regulations and rules of the road.

Now, I did support the gentlelady from California's amendment for switching the presumption. Because of the closed rules, we were unable to take that up at this time, and I believe it would have improved the bill. However, although this amendment was not adopted, I believe that the regulators will continue to have the authority to regulate any overseas swaps transactions under U.S. rules if they conclude that it is appropriate.

I believe that without this bill we could find U.S. companies going outside not only the jurisdiction of the United States and our losing our competitiveness, but those swaps activities could migrate away from U.S. companies overseas to companies outside of the reach of U.S. regulators. So I would urge my colleagues to support this important legislation.

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

Mr. DAVID SCOTT of Georgia. With no other speakers, Mr. Speaker, let me just close by saying, with the international, interconnected, complex nature of financial markets and the sizeable role the derivatives play within the global economy—as I mentioned, $600 trillion—international harmonization of rulemaking between the CFTC and the SEC is critical, and a coordinated regulatory cooperation between the nine largest global partners keeping our financial institutions at a competitive position is critical. That's what this bill does.

I urge all of my colleagues to support this important and timely piece of legislation.

I yield back the balance of my time.

□ 1640

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

We have heard from a number of foreign governments around the world on their entities' regulatory schemes and—let me just say—strong disagreement with the cross-border guidance that Chairman Gensler and the CFTC proposed.

We have heard from Ministers of Finance from the United Kingdom, the European Commission, France, Brazil, Germany, South Africa, Russia, and Switzerland. We've heard from the European Securities and Markets Authority. In Australia, we've heard from the Reserve Bank of Australia and the Australian Securities and Investments Commission. The Hong Kong Secretary for Financial Services and the Treasury. Japan has weighed in with the Japan Financial Services Agency and the Bank of Japan. The Monetary Authority of Singapore, the Swiss Financial Market Supervisory Authority, and from the UK we've heard from the Chancellor of the Exchequer and the Financial Services Authority.

I would like to submit for the RECORD two of those letters; one to Secretary Lew from a number of folks, and the other is to Chairman Gensler from England, the European Union, Japan, as well as France. Mr. Speaker, all of these letters are posted on the Agriculture Committee's Web site for constituents and others to read and get a flavor of what our fellow regulators around the world are saying about this. None of them have any interest in an unregulated market. They all see the risks that we see.

This bill simply asks the SEC and the CFTC to get along, come to a conclusion, whatever that might be, and then deal equitably with their fellow regulators around the world. These are bright, smart people, just like we are. For us to argue that we have the only perfect scheme to regulate derivatives is a bit wrongheaded. This bill goes a long way to fixing that.

I would urge my colleagues to support the bill, vote in favor of it, and I yield back the balance of my time.

18 APRIL 2013.

CROSS-BORDER OTC DERIVATIVES REGULATION

DEAR SECRETARY LEW: We, the undersigned, are writing to express our concern at the lack of progress in developing workable cross-border rules as part of reforms of the OTC derivatives market.

We are already starting to see evidence of fragmentation in this vitally important financial market, as a result of lack of regulatory coordination. We are concerned that, without clear direction from global policymakers and regulators, derivatives markets will recede into localised and less efficient structures, impairing the ability of business across the globe to manage risk. This will in turn dampen liquidity, investment and growth.

We share a common commitment with respect to OTC derivatives reform, and are implementing rules across very different markets with different characteristics and different risk profiles, to support this global initiative. We believe the basic principles on which cross-border rules should be based are clear and widely shared, and we summarise them in the annex to this letter. An approach in which jurisdictions require that their own domestic regulatory rules be applied to their firms' derivatives transactions taking place in broadly equivalent regulatory regimes abroad is not sustainable. Market places where firms from all our respective jurisdictions can come together and do business will not be able to function under such burdensome regulatory conditions.

A coherent collective solution is therefore needed for cross-border derivatives, and regulators must work together to avoid outright conflicts in regulation and minimise overlaps as far as possible. In this regard, mutual recognition, substituted compliance, exemptions, or a combination of these would all be a valid approach, and careful consideration should be given with respect to registration requirements for firms operating across borders.

Recent experience shows that these discussions can only proceed if they are based on a shared understanding of the overall outcome being sought. For this reason, we are writing to urge that jurisdictions consider carefully the attached principles to avoid cross-border conflicts and support the Pittsburgh G20 reforms. We hope that these principles might provide a useful foundation for regulatory discussions to make progress.

We urge all authorities to work with us to achieve an outcome that meets the principles outlined in this letter and we, in turn, commit to continue to work to address the areas of concern which are most fundamental to others. To this end, this letter is copied to the Chairman of the FSB; the Chairman of the CFTC; the Chairman of the SEC; the Chairman of the U.S. Senate Committee on Agriculture, Nutrition and Forestry; and the Chairman of the US House of Representatives Committee on Agriculture.

Yours sincerely

GUIDO MANTEGA,
Minister of Finance, Government of Brazil.

PIERRE MOSCOVICI,
Minister of Finance, Government of France.

TARO ASO,
Deputy Prime Minister, Minister of Finance, Minister of State for Financial Services, Government of Japan.

PRAVIN GORDHAN,
Minister of Finance, Government of South Africa.

GEORGE OSBORNE,
Chancellor of the Exchequer, UK Government.

MICHEL BARNIER,
Commissioner for Internal Market and Services, European Commission.

WOLFGANG SCHÄUBLE,
Minister of Finance, Government of Germany.

ANTON SILUANOV,
Minister of Finance, Government of Russia.

EVELINE WIDMER-SCHLUMPF,
Finance Minister, Government of Switzerland.

OCTOBER 17, 2012.

U.S. CROSS BORDER SWAPS RULES

Hon. GARY GENSLER,
Chairman, Commodity Futures Trading Commission, Washington, DC.

DEAR CHAIRMAN GENSLER: We, the undersigned, would like to share our concerns with you about the implementation of the current phase of post-crisis regulatory reform, as you reflect on the final shape of the CFTC cross border rules for swaps.

Faithfully implementing the reforms adopted by the G20 in 2009 in Pittsburgh on the clearing and electronic trading of standardised OTC derivatives in a non-discriminatory way remains of the utmost importance. As you know, Europe has adopted legislation on clearing and is in the final stages of negotiation on the trading aspect of the G20 Pittsburgh reforms. In Japan, clearing requirements will be effective in November and legislation on trading platforms was recently approved by the Diet. While there may be differences in some areas of detail, we believe the US, the Member States of the EU and Japan are now set to implement these historic reforms in a broadly consistent way in our respective jurisdictions.

This is a significant achievement, capturing the large majority of the global swaps market. But as has been continuously stressed by G20 leaders since 2009, domestic legislation alone does not fulfil the political aim that was agreed in Pittsburgh and reaffirmed in Toronto in 2010. Regulation across the G20 needs to be carefully implemented in a harmonised way that does not risk fragmenting vital global financial markets.

For all its past faults, the derivatives market has allowed financial counterparties across the globe to come together to conduct more effective risk management and, as a result, support economic development. Done properly this should be of benefit to all. At a time of highly fragile economic growth, we believe that it is critical to avoid taking steps that risk a withdrawal from global financial markets into inevitably less efficient regional or national markets.

We of course recognise and understand the need for US and other regulators to satisfy themselves on the adequacy of regulation in other jurisdictions. But we would urge you before finalising any rules, or enforcing any deadlines, to take the time to ensure that US rulemaking works not just domestically but also globally. We should collectively adopt cross border rules consistent with the principle that equivalence or substituted compliance with respect to partner jurisdictions, and consequential reliance on the regulation and supervision within those jurisdictions, should be used as far as possible to avoid fragmentation of global markets. Specifically, this principle needs to be enshrined in CFTC cross border rules, so that all US persons wherever they are located can transact with non-US entities using a proportionate substituted compliance regime.

We assure you our regulatory authorities stand ready to work closely with you to ensure an effective cross border regime is implemented at the earliest possible opportunity and provide you with the necessary information and reassurance regarding our respective regulatory frameworks.

Yours sincerely,

GEORGE OSBORNE,
Chancellor of the Exchequer, UK Government.

MICHEL BARNIER,
Commissioner for Internal Market and Services, European Commission.

IKKO NAKATSUKA
Minister of State for Financial Services, Government of Japan.
PIERRE MOSCOVICI,
Minister of Finance, Government of France.

Mr. BLUMENAUER. Mr. Speaker, I supported the passage of the Dodd-Frank Wall Street Reform Act in 2010 to rein in Wall Street, end taxpayer bailouts of big banks, and protect consumers. Under this Act, the CFTC and the SEC were charged with regulating a number of previously unregulated or under-regulated Wall Street and financial service sector activities that led in large part to the 2008 crisis, including the $700 trillion derivatives market.

While Congress has a responsibility to ensure that the reforms enacted under Dodd-Frank are clear and effective—and many may still require clarification from Congress—the bill under consideration today, H.R. 1526, is premature and potentially damaging. I therefore do not support this legislation.

Regulators at the CFTC and the SEC continue to make progress on implementing important regulations of the derivatives market. Given this progress and the fact that this is an ongoing process, intervening and micromanaging the rulemaking process at this stage would only delay the positive benefits these changes will have for Americans.

I also have concerns that this legislation sets a policy that would make it more difficult for regulators to ensure that U.S. derivatives transactions conducted overseas through foreign entities are subject to the new rules, potentially opening up a hole in the regulatory process. In requiring that the CFTC and the SEC issue a joint determination along with a formal report to Congress to establish that another country's rules are not ''broadly comparable'' to U.S. rules, this legislation creates an extra layer of bureaucracy on these already overburdened agencies that will hinder their effectiveness.

Regulating the derivatives market is a huge and important job. This legislation slows this progress without benefit to the American people or our economy.

Mr. MARKEY. Mr. Speaker, I rise in opposition to the bill being considered today, H.R. 1256, the Swap Jurisdiction Certainty Act. Although couched as an innocuous bill to ensure that US banks have clarity about how swaps and derivatives trades are to be managed between U.S. and non-U.S. entities, in reality this bill will significantly impede efforts to apply strong regulations on Wall Street banks trading in these financial products.

The size of the global swaps market is staggering. According to the Bank for International Settlements, at the end of last year, the total notional value of outstanding over-the-counter swaps was over 632 trillion dollars. Again, 632 trillion dollars. In comparison, the gross domestic product of the entire United States was just 15.1 trillion dollars at the end of last year. The swaps market is over 40 times larger than the entire U.S. economy; in fact, the swaps market is 10 times larger than the entire global economy.

This market is also truly global in scope. Many of our major Wall Street banks, such as J.P. Morgan, Bank of America, and Goldman Sachs, have significant foreign subsidiaries. Bank of America alone has subsidiaries in approximately 40 countries. Given the massive size of this market, we need the strongest possible rules over swaps transactions in foreign subsidiaries that could adversely affect U.S. banks and bank holding companies.

Unfortunately, this bill will prevent our primary regulator of the swaps market, the Commodity Futures Trading Commission, from finalizing strong regulations. The CFTC has spent years crafting strong rules governing cross-border swaps and derivatives and has received a large amount of industry input on these rules. The most recent draft was circulated on May 16, 2013. If this bill passes, that entire process will be stopped in its tracks, even as the rules are supposed to be finalized within the next 30 days. Enacting this bill now is tantamount to tripping the CFTC at the finish line.

Even beyond the poor timing of this bill, the bill will substantially weaken the CFTC's ability to regulate the global swaps market. Under the text of H.R. 1256, the CFTC and the SEC are to jointly release rules governing cross-border swaps. Yet, as part of that rulemaking, the CFTC and SEC are required to assume that a foreign person in compliance with the regulations of any of the nine largest combined swap jurisdictions is also in compliance with all U.S. swaps rules. Given that the United States sets the global standard in financial matters, this provision effectively makes all global swaps rules only as strong as the rules of the weakest country among the nine largest jurisdictions. In other words, it will prompt a regulatory race to the bottom, which is a recipe for disaster.

Have we learned nothing from the excesses of the Bush Administration, when financial deregulation allowed excessively risk derivatives driving a financial market collapse? Just five years after that experience, this is a bill that allows for increased deregulation of some of Wall Street's most dangerous financial products at a time when we need more regulation of swaps. It was only one year ago that J.P. Morgan experienced its ''London Whale'' fiasco, where bad decisions by J.P. Morgan personnel in London resulted in New York based J.P. Morgan taking a loss of $6.2 billion. No one in senior management, risk, legal, or compliance was aware of the risks or liabilities being assumed by people in the London office. Yet, if CFTC's cross-border swaps rules were in place, maybe that disaster would not have happened.

U.S. based swaps dealers are increasingly fragmented, and we need strong central rules to minimize the risk of swaps trading causing another financial crisis. At a time when we are just four years removed from the worst recession since the Great Depression, a recession sparked by insufficient regulation of the swaps market, this bill is the wrong solution for the wrong problem at the wrong time. I urge my colleagues to vote no on H.R. 1256.

Mr. VAN HOLLEN. Mr. Speaker, I have substantial sympathy with those seeking regulatory clarity and with U.S. companies wishing to avoid being competitively disadvantaged when operating abroad. At the same time, one of the hard-learned lessons from the recent financial crisis is that outsized risk readily crosses national boundaries, which is why prudential regulation of cross-border derivatives transactions that can impact our economy was embedded in the Dodd-Frank Wall Street Reform law.

The problem with today's legislation is that it seeks to achieve regulatory certainty for these kinds of transactions by effectively substituting foreign derivatives rules for our own safeguards unless the Commodity Futures Trading Commission (CFTC) and the Securities and Exchange Commission (SEC) both agree that the foreign rules in question are not ''broadly equivalent'' to our own.

Like the Administration, I would prefer for Americans to rely on U.S. law for protection in this area, and for our regulators to finish their work on these important safeguards in coordination with their foreign counterparts—rather than presume that foreign regulation, and in some cases foreign regulation that hasn't even been written yet, will be sufficient to do the job.

The SPEAKER pro tempore. All time for debate has expired.

Pursuant to House Resolution 256, the previous question is ordered on the bill, as amended.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT

Mr. SEAN PATRICK MALONEY of New York. Mr. Speaker, I have a motion to recommit at the desk.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. SEAN PATRICK MALONEY of New York. I am in its current form.

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

The Clerk read as follows:

Page 7, after line 24, insert the following:

(4) ADDITIONAL CRITERIA ON CHINA, IRAN, AND OTHER COUNTRIES WHO ENGAGE IN CYBER ATTACKS OR VIOLATE THE IRAN SANCTIONS ACT.—The Commissions shall determine that the regulatory requirements of a country, administrative region, or other foreign jurisdiction are not broadly equivalent to United States swaps requirements if the Commissions determine that such country, administrative region, or other foreign jurisdiction—

(A) engages in cyber attacks and does not have, or has but does not enforce, laws to deter cyber attacks against U.S. person, including U.S. companies, and the Government of the United States; and

(B) is in violation of, or does not enforce comparable restrictions to, the Iran Sanctions Act of 1996, the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010, the Iran Threat Reduction and Syria Human Rights Act of 2012, and the International Emergency Economic Powers Act.

Page 8, line 1, strike ''(4)'' and insert ''(5)''.

Page 11, after line 2, insert the following:

(g) EXCLUSIONS OF CORPORATIONS THAT VIOLATE IRAN SANCTIONS ACT OR ENGAGE IN CYBER ATTACKS.—A non-U.S. person shall not receive the exemption provided in subsection (d) if the Commissions determine such person has—

(1) been the subject of a civil or criminal proceeding for violating the Iran Sanctions Act of 1996, the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010, the Iran Threat Reduction and Syria Human Rights Act of 2012, or the International Emergency Economic Powers Act; or

(2) been the subject of a civil or criminal proceeding related to cyber attacks on the

Government of the United States or U.S. companies.

Page 11, line 3, strike ''(g)'' and insert ''(h)''.

Mr. SEAN PATRICK MALONEY of New York (during the reading). I ask unanimous consent to dispense with the reading.

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

Mrs. WAGNER. I object, Mr. Speaker.

The SPEAKER pro tempore. Objection is heard.

The Clerk will read.

The Clerk continued to read.

The SPEAKER pro tempore. The gentleman from New York is recognized for 5 minutes in support of his motion.

Mr. SEAN PATRICK MALONEY of New York. Thank you, Mr. Speaker.

I rise today to offer the final amendment to the bill. It will not kill the bill or send it back to the committee. If adopted, the bill will immediately proceed to final passage as amended.

I rise to offer this motion to recommit because this bill in its current form misses an opportunity to do more, and we should not let that opportunity pass.

The underlying legislation has the goal of extending reasonable accommodations to like-minded friends and allies around the globe. A stronger, better coordinated global regulatory framework is, of course, a goal that we all share.

My amendment is simple. It says that the accommodations we extend to our friends must not be extended to those who actively seek to harm the United States—our citizens, our allies, our corporations—by violating the Iran Sanctions Act or by engaging in cyber attacks against the United States.

The dangers of a nuclear Iran are real. They are made even more real by actors who continue to bypass American and U.N. sanctions.

Iran is an existential threat to our friend and our ally Israel. Iran is a growing menace in the Middle East, arming both the Syrian regime and Hezbollah, and undermining peace in Iraq. Iran is actively pursuing the development of a nuclear capability, which we cannot allow.

We cannot let countries or corporations who do not share our values reap the benefits of this bill. That's why my amendment would target countries and corporations and deny them the benefits of this bill if they violate the Iran Sanctions Act.

We have very strong laws on the books blocking any violation of the Iran Sanctions Act, here or abroad, either by countries or corporations who don't share our values. That's a good thing.

In fact, the President just recently issued a new Executive order further tightening these sanctions, particularly in the financial sector. That's why this final amendment is key to keeping this legislation aligned with these efforts to keep Iran isolated from the international community and to eliminate any new sources of funding to the Iranian regime.

My amendment also targets countries that engage in cyber attacks against our country or our corporations. Countries like Iran and other countries such as China try to undermine the United States, our companies, our infrastructure, our systems every day, thousands of times a day.

Cyber attacks result in a huge economic loss to our intellectual property to the tune of hundreds of billions of dollars annually, not to mention the extreme danger to our national security, our banks, our infrastructure.

My amendment doesn't allow transactions under this bill that would harm either the United States or Israel. We cannot and should not walk away from making this bill better, and I urge my colleagues to support my amendment.

I yield back the balance of my time.

Mrs. WAGNER. Mr. Speaker, I rise in opposition to the motion.

The SPEAKER pro tempore. The gentlewoman from Missouri is recognized for 5 minutes.

Mrs. WAGNER. Mr. Speaker, my friends on the other side of the aisle just refuse to face the fact that 3 years ago with the passage of Dodd-Frank they created some of the most complex and confusing rules our economy has ever seen.

It is by no means a coincidence that the difficulties faced by farmers and small businesses and families in obtaining credit today is a direct result of Dodd-Frank's chilling effect on our capital markets.

The bill that we are considering today has nothing to do with cyber attacks. Although this is an important matter, this issue has nothing to do with cyber attacks. If it was so important, I'm wondering why it was not offered in either committee where we were fully debating this particular bill.

□ 1650

Our system is broken, absolutely broken, at the Federal regulatory level. The SEC and the CFTC have promulgated two completely different regulations to govern cross-border swap transactions. The delay and disorder on this issue end today.

Mr. Speaker, disparate regulations governing the same behavior hinder the capital markets and hurt the economy. I am hopeful that a bipartisan vote on this legislation will send a strong signal to our regulators in Washington that finally, after 3 years, they need to come together for the good of economic growth and prosperity. I urge a ''no'' vote on the motion to recommit and a ''yes'' vote on H.R. 1256.

I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. SEAN PATRICK MALONEY of New York. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 and clause 9 of rule XX, this 15-minute vote on the motion to recommit will be followed by 5-minute votes on the question on passage of H.R. 1256, if ordered; and the motion to suspend the rules and pass H.R. 1038.

The vote was taken by electronic device, and there were—yeas 194, nays 230, not voting 10, as follows:

[Roll No. 217]

YEAS—194

Andrews
Barber
Barrow (GA)
Bass
Beatty
Becerra
Bera (CA)
Bishop (GA)
Bishop (NY)
Blumenauer
Bonamici
Brady (PA)
Braley (IA)
Brown (FL)
Brownley (CA)
Bustos
Butterfield
Capps
Capuano
Cárdenas
Carney
Carson (IN)
Cartwright
Castor (FL)
Castro (TX)
Cicilline
Clarke
Clay
Cleaver
Clyburn
Cohen
Connolly
Conyers
Cooper
Costa
Courtney
Crowley
Cuellar
Cummings
Davis (CA)
Davis, Danny
DeFazio
DeGette
Delaney
DeLauro
DelBene
Dingell
Doggett
Doyle
Duckworth
Duncan (TN)
Edwards
Ellison
Engel
Enyart
Eshoo
Esty
Farr
Fattah
Foster
Frankel (FL)
Fudge
Gabbard
Gallego
Garamendi
Garcia
Grayson
Green, Al
Green, Gene
Gutierrez
Hahn
Hanabusa
Hastings (FL)
Heck (WA)
Higgins
Himes
Hinojosa
Holt
Honda
Horsford
Hoyer
Huffman
Israel
Jackson Lee
Jeffries
Johnson (GA)
Johnson, E. B.
Jones
Kaptur
Keating
Kelly (IL)
Kennedy
Kildee
Kilmer
Kind
Kirkpatrick
Kuster
Langevin
Larsen (WA)
Larson (CT)
Lee (CA)
Levin
Lewis
Lipinski
Loebsack
Lofgren
Lowenthal
Lowey
Lujan Grisham (NM)
Luján, Ben Ray (NM)
Lynch
Maffei
Maloney, Carolyn
Maloney, Sean
Matheson
Matsui
McCollum
McDermott
McGovern
McIntyre
McNerney
Meng
Michaud
Miller, George
Moran
Murphy (FL)
Nadler
Napolitano
Neal
Negrete McLeod
Nolan
O'Rourke
Owens
Pallone
Pascrell
Pastor (AZ)
Payne
Pelosi
Perlmutter
Peters (CA)
Peters (MI)
Peterson
Pingree (ME)
Pocan
Price (NC)
Quigley
Rahall
Rangel
Richmond
Roybal-Allard
Ruiz
Ruppersberger
Rush
Ryan (OH)
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schiff
Schneider
Schrader
Schwartz
Scott (VA)
Scott, David
Serrano
Sewell (AL)
Shea-Porter
Sherman
Sinema
Sires
Slaughter
Smith (WA)
Speier
Swalwell (CA)
Takano
Thompson (CA)
Thompson (MS)
Tierney
Titus
Tonko
Tsongas
Van Hollen
Vargas
Veasey
Vela
Velázquez
Visclosky
Walz
Waters
Watt
Waxman
Welch
Wilson (FL)
Yarmuth

NAYS—230

Aderholt
Alexander
Amash
Amodei
Bachmann
Bachus
Barletta
Barr
Barton
Benishek
Bentivolio
Bilirakis
Bishop (UT)
Black
Blackburn
Bonner
Boustany
Brady (TX)

Bridenstine
Brooks (AL)
Brooks (IN)
Broun (GA)
Buchanan
Bucshon
Burgess
Calvert
Camp
Cantor
Capito
Carter
Cassidy
Chabot
Chaffetz
Coble
Coffman
Cole
Collins (GA)
Collins (NY)
Conaway
Cook
Cotton
Cramer
Crawford
Crenshaw
Culberson
Daines
Davis, Rodney
Denham
Dent
DeSantis
DesJarlais
Diaz-Balart
Duffy
Duncan (SC)
Ellmers
Farenthold
Fincher
Fitzpatrick
Fleischmann
Fleming
Flores
Forbes
Fortenberry
Foxx
Franks (AZ)
Frelinghuysen
Gardner
Garrett
Gerlach
Gibbs
Gibson
Gingrey (GA)
Gohmert
Goodlatte
Gosar
Gowdy
Granger
Graves (GA)
Graves (MO)
Griffin (AR)
Griffith (VA)
Grijalva
Grimm
Guthrie
Hall
Hanna
Harper
Hartzler
Hastings (WA)
Heck (NV)
Hensarling
Herrera Beutler
Holding
Hudson
Huelskamp
Huizenga (MI)
Hultgren
Hunter
Hurt
Issa
Jenkins
Johnson (OH)
Johnson, Sam
Jordan
Joyce
Kelly (PA)
King (IA)
King (NY)
Kingston
Kinzinger (IL)
Kline
Labrador
LaMalfa
Lamborn
Lance
Lankford
Latham
Latta
LoBiondo
Long
Lucas
Luetkemeyer
Lummis
Marchant
Marino
Massie
McCarthy (CA)
McCaul
McClintock
McHenry
McKeon
McKinley
McMorris Rodgers
Meadows
Meehan
Messer
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mullin
Mulvaney
Murphy (PA)
Neugebauer
Noem
Nugent
Nunes
Nunnelee
Olson
Palazzo
Paulsen
Pearce
Perry
Petri
Pittenger
Pitts
Poe (TX)
Polis
Pompeo
Posey
Price (GA)
Radel
Reed
Reichert
Renacci
Ribble
Rice (SC)
Rigell
Roby
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rokita
Rooney
Ros-Lehtinen
Roskam
Ross
Rothfus
Royce
Runyan
Ryan (WI)
Salmon
Sanford
Scalise
Schock
Schweikert
Scott, Austin
Sensenbrenner
Sessions
Shimkus
Shuster
Simpson
Smith (MO)
Smith (NE)
Smith (NJ)
Smith (TX)
Southerland
Stewart
Stivers
Stockman
Stutzman
Terry
Thompson (PA)
Thornberry
Tiberi
Tipton
Turner
Upton
Valadao
Wagner
Walberg
Walden
Walorski
Weber (TX)
Webster (FL)
Wenstrup
Whitfield
Williams
Wilson (SC)
Wittman
Wolf
Womack
Woodall
Yoder
Yoho
Young (AK)
Young (FL)
Young (IN)

NOT VOTING—10

Campbell
Chu
Deutch
Harris
Markey
McCarthy (NY)
Meeks
Moore
Wasserman Schultz
Westmoreland

□ 1716

Messrs. CALVERT, ROGERS of Alabama, YOUNG of Indiana, and CAMP changed their vote from ''yea'' to ''nay.''

Mr. HUFFMAN and Ms. WILSON of Florida changed their vote from ''nay'' to ''yea.''

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Ms. WATERS. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 301, noes 124, not voting 9, as follows:

[Roll No. 218]

AYES—301

Aderholt
Alexander
Amash
Amodei
Bachmann
Bachus
Barber
Barletta
Barr
Barrow (GA)
Barton
Benishek
Bentivolio
Bera (CA)
Bilirakis
Bishop (GA)
Bishop (UT)
Black
Blackburn
Bonner
Boustany
Brady (TX)
Brooks (AL)
Brooks (IN)
Broun (GA)
Brownley (CA)
Buchanan
Bucshon
Burgess
Butterfield
Calvert
Camp
Cantor
Capito
Cárdenas
Carney
Carson (IN)
Carter
Cassidy
Chabot
Chaffetz
Clay
Clyburn
Coble
Coffman
Cole
Collins (GA)
Collins (NY)
Conaway
Connolly
Cook
Cooper
Costa
Cotton
Cramer
Crawford
Crenshaw
Crowley
Cuellar
Culberson
Cummings
Daines
Davis, Rodney
Delaney
DelBene
Denham
Dent
DeSantis
DesJarlais
Diaz-Balart
Duckworth
Duffy
Duncan (SC)
Duncan (TN)
Ellmers
Esty
Farenthold
Fincher
Fitzpatrick
Fleischmann
Fleming
Flores
Forbes
Fortenberry
Foster
Foxx
Franks (AZ)
Frelinghuysen
Gabbard
Gallego
Garcia
Gardner
Garrett
Gerlach
Gibbs
Gibson
Gingrey (GA)
Gohmert
Goodlatte
Gosar
Gowdy
Granger
Graves (GA)
Graves (MO)
Griffin (AR)
Griffith (VA)
Grijalva
Grimm
Guthrie
Gutierrez
Hahn
Hall
Hanabusa
Hanna
Harper
Harris
Hartzler
Hastings (WA)
Heck (NV)
Heck (WA)
Hensarling
Herrera Beutler
Himes
Holding
Horsford
Hudson
Huelskamp
Huizenga (MI)
Hultgren
Hunter
Hurt
Israel
Issa
Jenkins
Johnson (GA)
Johnson (OH)
Johnson, Sam
Jordan
Joyce
Kelly (IL)
Kelly (PA)
Kilmer
Kind
King (IA)
King (NY)
Kingston
Kinzinger (IL)
Kirkpatrick
Kline
Kuster
Labrador
LaMalfa
Lamborn
Lance
Lankford
Larsen (WA)
Latham
Latta
Lipinski
LoBiondo
Long
Lowey
Lucas
Luetkemeyer
Lummis
Maffei
Maloney, Sean
Marchant
Marino
Massie
Matheson
McCarthy (CA)
McCaul
McClintock
McHenry
McIntyre
McKeon
McKinley
McMorris Rodgers
McNerney
Meadows
Meehan
Meng
Messer
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moore
Mullin
Mulvaney
Murphy (FL)
Murphy (PA)
Neugebauer
Noem
Nugent
Nunes
Nunnelee
Olson
Owens
Palazzo
Paulsen
Pearce
Perlmutter
Perry
Peters (CA)
Peters (MI)
Peterson
Petri
Pittenger
Pitts
Poe (TX)
Polis
Pompeo
Posey
Price (GA)
Quigley
Radel
Rahall
Reed
Reichert
Renacci
Ribble
Rice (SC)
Richmond
Rigell
Roby
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rokita
Rooney
Roskam
Ross
Rothfus
Royce
Ruiz
Runyan
Ruppersberger
Ryan (WI)
Salmon
Sanchez, Loretta
Sanford
Scalise
Schneider
Schock
Schrader
Schwartz
Schweikert
Scott, Austin
Scott, David
Sensenbrenner
Sessions
Sewell (AL)
Sherman
Shimkus
Shuster
Simpson
Sinema
Smith (MO)
Smith (NE)
Smith (NJ)
Smith (TX)
Southerland
Stewart
Stivers
Stockman
Stutzman
Terry
Thompson (MS)
Thompson (PA)
Thornberry
Tiberi
Tipton
Turner
Upton
Valadao
Vargas
Veasey
Vela
Wagner
Walberg
Walden
Walorski
Weber (TX)
Webster (FL)
Wenstrup
Whitfield
Williams
Wilson (SC)
Wittman
Wolf
Womack
Woodall
Yoder
Yoho
Young (AK)
Young (FL)
Young (IN)

NOES—124

Andrews
Bass
Beatty
Becerra
Bishop (NY)
Blumenauer
Bonamici
Brady (PA)
Braley (IA)
Bridenstine
Brown (FL)
Bustos
Capps
Capuano
Cartwright
Castor (FL)
Castro (TX)
Cicilline
Clarke
Cleaver
Cohen
Conyers
Courtney
Davis (CA)
Davis, Danny
DeFazio
DeGette
DeLauro
Dingell
Doggett
Doyle
Edwards
Ellison
Engel
Enyart
Eshoo
Farr
Fattah
Frankel (FL)
Fudge
Garamendi
Grayson
Green, Al
Green, Gene
Hastings (FL)
Higgins
Hinojosa
Holt
Honda
Hoyer
Huffman
Jackson Lee
Jeffries
Johnson, E. B.
Jones
Kaptur
Keating
Kennedy
Kildee
Langevin
Larson (CT)
Lee (CA)
Levin
Lewis
Loebsack
Lofgren
Lowenthal
Lujan Grisham (NM)
Luján, Ben Ray (NM)
Lynch
Maloney, Carolyn
Matsui
McCollum
McDermott
McGovern
Michaud
Miller, George
Moran
Nadler
Napolitano
Neal
Negrete McLeod
Nolan
O'Rourke
Pallone
Pascrell
Pastor (AZ)
Payne
Pelosi
Pingree (ME)
Pocan
Price (NC)
Rangel
Roybal-Allard
Rush
Ryan (OH)
Sánchez, Linda T.
Sarbanes
Schakowsky
Schiff
Scott (VA)
Serrano
Shea-Porter
Sires
Slaughter
Smith (WA)
Speier
Swalwell (CA)
Takano
Thompson (CA)
Tierney
Titus
Tonko
Tsongas
Van Hollen
Velázquez
Visclosky
Walz
Waters
Watt
Waxman
Welch
Wilson (FL)
Yarmuth

NOT VOTING—9

Campbell
Chu
Deutch
Markey
McCarthy (NY)
Meeks
Ros-Lehtinen
Wasserman Schultz
Westmoreland

□ 1723

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PUBLIC POWER RISK MANAGEMENT ACT OF 2013

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and pass the bill (H.R. 1038) to provide equal treatment for utility special entities using utility operations-related swaps, and for other purposes, on which the yeas and nays were ordered.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. LAMALFA) that the House suspend the rules and pass the bill.