April 8, 2011

The Honorable Frank Lucas
Chairman
House Committee on Agriculture
1301 Longworth House Office Building
Washington, DC 20515

The Honorable Collin Peterson
Ranking Member
House Committee on Agriculture

The Honorable Tim Johnson
Chairman
U.S. Senate Committee on Banking, Housing, and Urban Affairs

The Honorable Richard C. Shelby
Ranking Member
U.S. Senate Committee on Banking, Housing, and Urban Affairs

The Honorable Debbie Stabenow
Chairwoman
U.S. Senate Committee on Agriculture, Nutrition, and Forestry

The Honorable Pat Roberts
Ranking Member
U.S. Senate Committee on Agriculture, Nutrition, and Forestry

The Honorable Spencer Bachus
Chairman
House Financial Services Committee

The Honorable Barney Frank
Ranking Member
House Financial Services Committee

Re: Dodd-Frank Act Title VII Final Rule Publication

Dear Chairmen and Ranking Members:

The undersigned organizations represent thousands of U.S. companies that use over-the-counter derivatives to manage business risks due to changing commodity prices, fluctuating currency exchange rates, and variable interest rates. While we support efforts to enhance transparency in the derivatives markets and minimize unnecessary regulatory burdens on end-users, we are concerned about the difficultly of promulgating the complex and numerous rules required under Dodd-Frank within the short timeline dictated by the Act. We strongly urge Congress to extend the deadline for final rule publication to allow regulators sufficient time to develop a transparent and orderly system that minimizes unintended consequences.

Dodd-Frank requires federal agencies to write nearly 240 rules—most in a single year. The extraordinary pace of Dodd-Frank rulemaking is apparent: Harvard Law Professor Hal Scott calculated that, on average, the Securities and Exchange Commission (SEC) issued fewer than 10 new rules per year before the crisis, but has issued 59 rules since Dodd-Frank was enacted in July 2010. Similarly, the Commodity Futures Exchange Commission (CFTC) issued fewer than six new rules per year before the crisis, but has issued 37 rules since enactment of Dodd-Frank. This represents a pace of rulemaking six times the rate before enactment of Dodd-Frank.

Moreover, virtually none of the proposed rules are finalized, and only 11 of the 105 rules the CFTC and SEC must promulgate by July 15 are complete. One rule that has not yet been proposed concerns margin requirements. While we had believed, based on the clear language of

Title VII and the unequivocal statements of the bill managers, that margin rules would not apply to end-users, we understand that some regulators are nevertheless intending to impose such requirements. These regulations were originally expected to be proposed in December 2010. Now, we are told to expect them in April. For a rule such as this, which could cost the economy billions of dollars in liquidity and more than 100,000 jobs, to be promulgated under the exigency of a looming deadline is both shortsighted and potentially damaging. But the problem can be avoided.

Similarly, the CFTC and SEC are still working to complete their proposal for the definitional components. We are approximately four months away from the July 2011 deadline and the proposed definition of a swap has not been released. However, industry is expected to comment on regulations affecting swaps and swap dealers – like position limits and reporting requirements.

While we recognize the need to establish a derivatives regulatory regime quickly, it is more important that it be established correctly. Derivatives provide U.S. businesses with the stability and certainty they need to drive economic growth and job creation. The businesses of all the undersigned organizations depend on the efficient and competitive functioning of risk management products. We support the intent of the Dodd Frank bill to reduce systemic risk and improve transparency; however, it has become apparent that as Dodd Frank's current July 15 deadline approaches, regulators need more time to develop a carefully calibrated regulatory system that will protect the economy and promote job growth and investment.

Thank you in advance for considering our request. We look forward to working with Congress and regulators to help implement rules that will strengthen the derivatives market without unduly burdening end-users and the economy at large.

Sincerely,

Agricultural Retailers Association
American Cotton Shippers' Association
American Petroleum Institute
American Farm Bureau Federation
American Soybean Association
Association for Financial Professionals
Business Roundtable
Commodity Markets Council
Edison Electric Institute
Financial Executives International
National Association of Corporate Treasurers
National Association of Manufacturers
National Association of Wheat Growers
National Corn Growers Association
National Council of Farmer Cooperatives
Natural Gas Supply Association
National Grain & Feed Association
The Real Estate Roundtable
U.S. Chamber of Commerce