November 14, 2011

Representative E. Scott Garrett
Chairman, Subcommittee on Capital Markets
and Government-Sponsored Enterprises
House Committee on Financial Services
2244 Rayburn House Office Building
Washington, DC 20515-3005

Representative Francisco Canseco
1339 Longworth House Office Building
Washington, DC 20515-4323

Dear Mr. Chairman and Mr. Canseco:

On behalf of the American Benefits Council (the "Council") and the Committee on Investment of Employee Benefits ("CIEBA"), we are writing today in support of H.R. 3045, the Retirement Income Protection Act of 2011, and H.R. 2586, the Swap Execution Facility Clarification Act.

The Council is a public policy organization representing principally Fortune 500 companies and other organizations that assist employers of all sizes in providing benefits to employees. Collectively, the Council's members either sponsor directly or provide services to retirement and health plans that cover more than 100 million Americans.

CIEBA represents more than 100 of the country's largest corporate sponsored pension funds. Its members manage more than $1 trillion of defined benefit and defined contribution plan assets, on behalf of 17 million plan participants and beneficiaries. CIEBA members are the senior corporate financial officers who individually manage and administer ERISA-governed corporate retirement plan assets.

Pension plans subject to the Employee Retirement Income Security Act of 1974 ("ERISA") use swaps[1] to manage the risk resulting from the volatility inherent in determining the present value of a pension plan's liability, as well as to manage plan funding obligations imposed on companies maintaining defined benefit plans. The risk being managed is largely interest rate risk. If swaps were to become materially less available or become significantly more costly to pension plans, funding volatility and cost could increase substantially. This would put Americans' retirement assets at greater risk and force companies in the aggregate to reserve billions of additional dollars to satisfy possible funding obligations, most of which may never need to be contributed to the plan because the risks being reserved against may not materialize.

[1] For convenience of presentation, the references in this letter to swaps, swap dealers, and major swap participants include security-based swaps, security-based swap dealers, and major security-based swap participants, respectively.

Those greater reserves would have an enormous effect on the working capital that would be available to companies to create new jobs and for other business activities that promote economic growth. The greater funding volatility could also undermine the security of participants' benefits.

The Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Dodd-Frank Act") directed the Securities and Exchange Commission (the "SEC") and the Commodity Futures Trading Commission (the "CFTC") to impose business conduct standards on swap dealers and major swap participants ("MSPs"), with heightened standards applicable when dealers and MSPs enter into swaps with a "Special Entity" (which includes ERISA plans). These rules were intended to protect ERISA plans that enter into swaps. As proposed by the CFTC and, to a lesser extent, the SEC, these standards would have very harmful effects on ERISA plans and could operate to eliminate their ability to use swaps. H.R. 3045 would address this issue very effectively and preserve ERISA plans' access to this critical risk management tool.

The CFTC's proposed regulations regarding swap execution facilities ("SEFs") could, if not modified, inadvertently have the effect of dramatically increasing the cost of swaps traded through SEFs. The cost increases would be attributable in part to proposed rules that would expose "request for quotes" to multiple parties prior to execution. This in turn could make it much more expensive for the dealer to hedge the trade; that anticipated additional cost would likely be passed on to the counterparty, the ERISA plan in our case. H.R. 2586 would address this issue very effectively without jeopardizing any of the important Dodd-Frank protections and objectives.

We applaud you, Mr. Chairman and Mr. Canseco, for your leadership in sponsoring these bills, which we strongly support.

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