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Chambliss Introduces End-User Protection Bill

WASHINGTON- Today, U.S. Sen. Saxby Chambliss, R-Ga., introduced the *End-User Protection Act*, which would clarify for the U.S. Commodity Futures Trading Commission (CFTC) how to best protect end-users – the individuals and businesses that use futures markets to both purchase commodities, and use derivatives to hedge their risks. Although Dodd-Frank specified that end-users should not be treated the same as banks - and in many instances should not be subject to the same registration and margin requirements as other market participants - the CFTC has not exempted true derivative end-users from the margin requirements applied by the Dodd-Frank Wall Street Reform and Consumer Protection Act to many derivatives contracts. This bill also fixes many unintended consequences created by Dodd-Frank.

"I have seen many instances of late where the commission, in its zeal to finalize rules, has not given due consideration to those farmers, ranchers and end-users which Dodd-Frank sought to protect," **said Chambliss, former chairman and ranking member of the U.S. Senate Committee on Agriculture, Nutrition and Forestry.** "Time and again, end-users brought their concerns to the commission and the end-user exemptions I helped to author were not honored. This bill ensures the CFTC will apply Dodd-Frank as Congress intended - not as they see fit."

Commodities end-users have struggled through an increasing burden of reforms that were never designed for them; increasing their cost of business and making the already high risks associated with farming even higher. This bill:

- Clarifies that non-financial end-users are exempt from the margin requirements applied by the Dodd-Frank Wall Street Reform and Consumer Protection Act to many derivatives contracts.
- Provides a new definition for a "financial entity" and further clarifies the intent of Congress for how inter-affiliate trades should be treated.
- Exempts from the rule those persons that would not ordinarily have to maintain communications records with the CFTC and allow members of a registered entity that is not registered or required to be registered with the commission in any capacity to maintain their own written records of each transaction in a commodity interest and any related cash or forward transactions.
- Repairs the long-standing "de minimis" exception. The CFTC addressed the de minimis issue through rulemaking and changed a longstanding practice of the "de minimis" exception. Though they attempted to address the need for a "de minimis" exception, they also set into motion an automatic drop in the level by over 60% several years in advance.
- Instructs the commission to perform true analysis of the cost and benefits of new rulemakings. Throughout the Dodd-Frank rulemaking process, industry participants have relayed concerns about the cost-benefit analyses performed by the CFTC. Commissioners as well have vocalized their concerns that the model the CFTC has used is deficient in several areas. This bill amends the Commodities Exchange Act (CEA) to ensure that the CFTC is required to provide thoroughly developed and reasonable estimates of the costs and benefits of its rulemakings.
- The term "bona fide hedging" has multiple definitions in several rules that the CFTC has examined or are in the process of examining. This bill clarifies the definition and makes clear that Congress does not intend for the CFTC to move forward with an overly restrictive definition.

During the 2010 Dodd-Frank debate, Chambliss was the ranking member of the U.S. Senate Committee on Agriculture, Nutrition and Forestry. He was vocal in his support of a strong end-user exemption, and offered an amendment the Dodd-Frank Wall Street Reform and Consumer Protection Act to tighten the definition of an end-user. He warned Congress and the CFTC that there would be ill-effects if end-users weren't protected, including higher costs for consumers if companies that used the markets to hedge risks were forced out by burdensome regulations. He has since continued to address end-user issues as a member of committee.

For text of this legislation, [click here](#). To watch Chambliss discuss this bill further, [click here](#).