

April 21, 2010

The Honorable Blanche Lincoln, Chairman
Senate Committee on Agriculture
328A Russell Senate Office Building
Washington, DC 20510

The Honorable Saxby Chambliss, Ranking Member
Senate Committee on Agriculture
328A Russell Senate Office Building
Washington, DC 20510

Dear Chairman Lincoln and Ranking Member Chambliss:

I am writing to you on behalf of the members of the American Bankers Association (ABA) to express our concern with Section 106 of the draft bill entitled, "The Wall Street Transparency and Accountability Act of 2010." We are concerned that this provision would have major negative implications for banks that deal in or use derivatives, including regional and community banks with loan-level hedging programs.

Section 106 will have an impact far beyond disruption to the largest Wall Street derivatives dealers. It will significantly impact the ability of regional and community banks to manage interest rate risk. It also will diminish the ability of regional and community banks to provide long-term fixed rate loans to small business customers.

Regional and community banks utilize interest rate swaps primarily in two different ways. The first is in connection with loan-level hedging programs. In this context, the overall objectives of the program are to give commercial borrowers longer term (usually 7-10 years) fixed rate loans, and give the bank a floating rate cash flow (consistent with its deposit liabilities) so that it can effectively manage its interest rate exposure over the term of the loan. In order to achieve these laudable objectives, banks commonly issue a floating rate loan to the commercial borrower, and simultaneously engage in an interest rate swap transaction with the borrower where the borrower pays a fixed rate to the bank, and the bank pays a floating rate to the commercial customer. On a net basis, this allows the commercial customer to convert its floating interest rate expense into fixed interest rate expense, protecting itself from rising interest rates. The bank would then typically enter into a mirror image swap with a large dealer to hedge its interest rate exposure so that the bank effectively matches its interest rate exposure on its loans (assets) and liabilities (deposits).

Under proposed section 106, the regional or community bank would be precluded from any form of federal assistance, which is defined to include FDIC insurance, if it engaged in these transactions. It is highly unlikely that these banks would be able to spin this swap activity off into a subsidiary as this would require diverting capital from the depository institution. **As a consequence, we anticipate that this provision would deter many regional and community banks from making longer term fixed rate loans to small business borrowers.**

Regional and community banks also engage in balance sheet swaps to manage the bank's overall interest rate risk. In engaging in these transactions, banks could be considered "major swap participants" under the proposed legislation as the definition of "major swap participant" is drafted very broadly and leaves many determinations to the CFTC/SEC for a later date. Therefore, under proposed Section 106, the bank would again be prohibited from engaging in these transactions, which allow the banks to manage balance sheet interest rate exposure without depriving the bank of its ability to avail itself of FDIC insurance programs.

For all of these reasons, ABA believes that the provisions of Section 106 should be eliminated from the derivatives title being considered by the Agriculture Committee. Thank you for considering ABA's views on this important issue.

Sincerely,

A handwritten signature in black ink that reads "Floyd E. Stoner". The signature is written in a cursive style with a prominent flourish at the end.

Floyd E. Stoner
Executive Vice President, Congressional Relations & Public Policy