STATEMENT BY CONGRESSMAN BARNEY FRANK REGARDING ATTEMPTS TO UNDERMINE DERIVATIVES PROVISIONS IN THE FINANCIAL REFORM LAW

APRIL 2ND, 2012

Thoroughly hoping to take advantage of the fact that public attention is now focused on the budget and the healthcare bill, House Republicans are moving substantially to weaken the regulation of derivatives, which Congress adopted in 2010.

Unregulated, irresponsible derivative transactions are one of the major causes of the economic crisis. In the Financial Reform bill, we adopted provisions that allowed derivatives to perform their legitimate function for companies seeking to stabilize prices, while substantially reducing opportunities for abuse.

Two bills reported out by the Republican majority on the Financial Services Committee in their current form would re-deregulate derivatives in ways that would again make them a threat to our economy.

In both cases, Democratic Members, recognizing the desirability of fine-tuning legislation and being willing to adopt amendments that would give reassurance to the business community, even where we believe it is legally unnecessary, have supported legislative action. But the Democrats have also insisted on amendments to the two bills that are necessary to keep them from simply becoming potential routes to a return to the excesses of the recent past.

One bill would prohibit the SEC and the CFTC from ever acting to regulate derivative transactions engaged in by foreign subsidiaries and branches of American institutions, even where these transactions were being taken offshore primarily to evade regulation, or in cases where the activities of these American institutions' affiliates threatened the stability and safety of our economy. A Democratic amendment to the bill to provide for these safeguards was defeated on a straight party line vote in committee.

Second, Democrats agreed that we should reaffirm the policy in the financial reform law that makes voice brokerage permissible in derivative transactions, but the bill the Republicans are pushing removes any safeguard requiring that all derivative transactions, by whatever means conducted, must include price transparency before the transaction is concluded. Democrats sought at the committee markup to include language assuring that this would be the case, but to our dismay, Republicans instead sought to put the unamended version through the House under suspension of the rules last week, which would prevent Democrats from amending it. When we objected to legislation that would cut back substantially on our requirement that prices of all such transactions be transparent, the majority informed us that they intend to bring the bill to the floor of the House after the recess.

This means that in April two Republican-sponsored bills will be before the House, which would remove any ability of the SEC and the CFTC to regulate derivatives conducted overseas by foreign branches or subsidiaries of American institutions, even in cases where those could be damaging to our economy or had the purpose of evading our regulation.

And they would return significant derivatives activities to the days when they were conducted in secret.

Democrats will be pushing for these two very important amendments to these bills, and if they are rejected by the majority, we will work hard against both bills and urge the Senate and the President to reject them.