U.S. Chamber of Commerce Center for Capital Markets Competitiveness

7th Annual Summit

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1615 H Street, NW

Remarks of House Financial Services Committee Ranking Member Maxine Waters

Thank You!

I am pleased to join you today at the U.S. Chamber of Commerce's Center for Capital Markets Competitiveness 7th Annual Summit. I'd like to thank the Chamber's President and CEO, Thomas Donohoe for kindly extending an invitation to me to speak. I'd also like to thank David Hirschmann, President of the Center for Capital Markets Competitiveness, and David's team for organizing this event.

This is the first time I've been invited to speak at the Chamber – and I hope it won't be the last. I want you to know that as Ranking Member of the Financial Services Committee I am committed to having an open door policy – and in fact, David along with Tom Quaadman visited me in my office about one month ago. I welcome your input and appreciate the fact that by extending this invitation to me today, you have offered an opportunity to interact in a different way than we have done previously.

Many of us on the Democratic side of the aisle have disagreed in the past with the Chamber about *how* to regulate financial institutions, markets, and consumer financial products. But I don't believe that this means that the Chamber doesn't support <u>any</u> regulation. That would be a mischaracterization of your position, and that is not something I have done or will do in the future. In fact, I recognize that in hearings of the Financial Services Committee, the Chamber has never indicated that they wanted a wholesale "repeal" of Dodd-Frank. I appreciate that the Chamber has avoided that kind of rhetoric that we still hear in some circles.

I view regulation of the financial industry as a means for ensuring fairness and maximizing productivity. And I believe that you do also. Where we may differ is in how to apply the rules, not whether we should have them at all.

Unfortunately we saw in 2008 that the existing rules and regulations governing our rapidly evolving financial system were insufficient to reign in irresponsible and sometimes illegal practices by some large banks and financial institutions. Incentives at some of these institutions went counter to market transparency, and risk across the entire system, especially in the trading of mortgage-backed securities and collateralized debt obligations was buried, invisible even to those investing in these products. Investors, and then taxpayers were completely exposed, and ultimately left with the bill.

I think it's important from this vantage point nearly 5 years on, not to forget where we were in 2008 when deeply justified fear pervaded the markets and threatened to undermine the foundations of the financial system as we've known it for the past 80 years.

So the response to the crisis was the Troubled Asset Relief Program (TARP), the Bush administration and level-headed, clear-eyed members of Congress, with the support of economists and business leaders, were faced with the difficult decision about how to stem the crisis. President Bush's Treasury Secretary Hank Paulson came to Congress with a bill approximately three pages long, asking for massive financial assistance for large financial institutions which could be at risk of failure. Members of Congress didn't have a clue. We didn't know how to respond at first – there was no precedent for dealing with this request or a potential crisis of this magnitude. No law, no guidance, no guidelines.

However, because regulatory oversight was inadequate to the task of instilling market discipline – in no small part because of industry lobbying to weaken the rules – TARP was deemed necessary in order to arrest the contagion and save the financial system and the U.S. economy from systemic failure. Many of our nation's largest financial institutions – including Citigroup, Bank of America, AIG, Goldman-Sachs, Wells Fargo, Morgan Stanley and others received billions of dollars.

While TARP wound up more than 3 pages long, and did its job of shoring up the financial markets, in its aftermath many Members said they wish they had not supported it. And Many campaigned saying that they had opposed it.

Having made the decision to bail out these large institutions, Congress later created a provision in the Wall Street reform law to help failing institutions wind down in way that minimizes the effect on the overall economy. It is known as Orderly Liquidation Authority.

The question we faced in late 2008 was how to repair the terrible damage to our economy. In response, Congress enacted and President Obama signed in to law the Wall Street Reform and Consumer Protection Act of 2010 Act.

Dodd-Frank establishes a Financial Stability Oversight Council specifically to monitor and address the risk posed by systemically important financial institutions. It creates a regulatory framework for unwinding these institutions if they fail, and explicitly prohibits taxpayer bailouts of their creditors or shareholders when they do. Unfortunately, there is at this time some saber-rattling from those who disagree with this provision in the law. Some say we should rely on the bankruptcy code. Some of our friends from the other side of the aisle, as well as some Democrats, are leading the bandwagon for efforts to break up the very largest financial institutions. Let me add at this point there's a lot of talk about it, but I've not seen any bill come forward. I've not seen a draft of any kind. I've not seen any real description of what it means to break up the large financial institutions."

Moreover, by requiring that securitizers of MBS and CDOs retain a percentage of underlying risk, Dodd-Frank disincentivizes securitization from becoming a vehicle for dodging risk, or for passing it on to purchasers of debt.

Some in the business community were concerned that Congress would overreact and put in place restrictions on economic activity which would not only fail to prevent another crisis, but would hamper markets and stunt long term economic growth. Some opposed the legislation on narrower grounds, seeking to protect advantages that their companies had maintained previously.

Still others felt very strongly that the act's provisions didn't go far enough in reigning in and penalizing the riskiest and most destructive practices, or the most egregious practitioners.

Nevertheless, Congress worked with the Obama administration in laboring to design, often with considerable input from the Chamber of Commerce and other industry organizations, as well as from consumer advocates and other stake holders, comprehensive, common-sense, pro market legislation which is designed to reduce systemic risk, strengthen financial institutions, and protect consumers and taxpayers. While the Chamber did not agree on all aspects of the law as it was passed, it did play a role by voicing its concerns and having input into the legislative process.

As an active member of the House-Senate conference committee which drafted the Act's final text, my priorities were protecting investors and consumers, giving regulators better tools to help safeguard against another financial crisis, and ensuring that the financial system and the overall economy rests on a safer, more stable foundation. At the same time I believe we shaped a system which maintains the highest opportunity to let markets function efficiently, and which rewards companies and their shareholders for farsighted investment and success.

As we have worked to implement Dodd-Frank, we have made some progress toward those goals. The stock market has reached an all-time high. Unemployment is at the lowest point in four years, although still stubbornly high. Housing starts are finally rising and business confidence overall is slowly improving. These indicators strongly suggest that that the underlying spirit of the Wall Street Reform Act is positively impacting the financial system. But we still have a long way to go. However, as a member of the conference committee which negotiated the final text of the law, I have a responsibility to protect and help implement Dodd-Frank. I am certainly not open to wholesale revisions to the Act, or receptive to packages of bills which, taken as a whole, essentially repeal its key provisions or dismantle it piece by piece.

But I want you to know that where specific provisions of the Act are shown to be detrimental to our goal of creating transparent and stable markets, I am open to discussing truly technical areas that require clarification.

Legislation that was considered by the House Financial Services Committee last year is a good case in point. I supported a bill which would have clarified the intent of Dodd-Frank to exempt end-users of derivatives from posting margin.

There were other bills which passed out of committee which attempted to modify Dodd-Frank in some way. And some of these will be revisited. And I maintain that there may be some room for modification in some areas. Again, I strongly oppose any attempt to dismantle the main provisions of Dodd-Frank. But again, I think there is some room to revisit, modify and clarify.

For example, I opposed legislation addressing the SEC's and CFTC's authority to regulate oversees swaps because I felt that it would have essentially undermined the intent of Title 7, by limiting the ability of our regulators to protect against exposure to the financial system from overseas risk stemming from the trading of derivatives.

On the other hand, an example of more cooperative spirit is our work with colleagues across the aisle on the JOBS Act. Despite my initial concerns that investor protections needed to be strengthened, I recognized the importance of easing capital formation for entrepreneurs in an era when IPOs have slumped to the lowest level since before the crisis, raising only $112 billion worldwide this year. Likewise, Democrats on the committee saw the utility in Crowd Funding as a capital formation tool for small businesses. So, although we will continue to closely monitor implementation of the JOBS Act to ensure that investor protections remain robust, we were able to work effectively in this instance with Republicans in responding to the needs of the marketplace. I would like to think that the Chamber shares my circumspect, nuanced view on this issue. In fact, I had an amendment to the JOBS Act that would have preserved the firewall between the research and underwriting divisions of investment banks when it came to the House floor. Though my amendment didn't pass the House of Representatives, I know that the Chamber shared my concerns, and I even read your comment letter on the floor of the House.

Support for community banks is another area where I am optimistic that we can work cooperatively with the Republican majority on the Committee. I recently held an extended special session for the Democratic caucus of the House Financial Services Committee. I encouraged the Democratic Committee Members to use their recess to meet with community

banks in their districts. The idea of encouraging Members to hold these meetings was so they could hear directly from these constituents and document their concerns. I too held a meeting with local banks in my district two weeks ago, and found it extremely informative. Based on the issues I've heard and learned about, I am encouraged that we can work across the aisle to address some concerns about regulation and capitalization, and to make sure that these smaller institutions remain strong and productive in their communities.

I know that you have some concerns with implementation of Title 2 of Dodd-Frank which, as I've mentioned, establishes an Orderly Liquidation Authority, but I believe we must fully implement this new regulatory regime, and give it time to work, before assessing whether it has been completely effective or requires additional statutory revision.

The Orderly Liquidation Authority delegates to the prudential regulators a regulatory framework containing tools like the requirement that institutions file living wills. This will allow the regulators to help unwind failing financial institutions far more safely and effectively then was possible in 2008.

It bears repeating that Section 214 explicitly states that "the taxpayers shall bear no losses from the exercise of the any authority under Title 2."

So, when Chairman Paul Ryan proposes in his budget resolution that the OLA be repealed, I hope you understand what the impact of such a repeal would be on our financial markets. I couldn't believe more strongly that the establishment of this regulatory structure puts our financial system and the broader economy on a much sounder, more stable footing.

Of course there will be important policy areas on which we will disagree. But I strongly believe that this doesn't mean we will have to be disagreeable, or that we won't benefit from an ongoing dialogue on the issues that divide us.

Such as the C.F.P.B. Congress tasked the Consumer Financial Protection Bureau with regulatory oversight for consumer financial products like the mortgages which were at the root

cause of the financial crisis. In doing so, our intent was absolutely clear; in order to discharge its important new responsibilities, the Bureau would be run by a single director with a budget that was not subject to the annual appropriations process.

I'm well aware of the Chamber's opposition to the structure of the Consumer Financial Protect Bureau. During the drafting of the Act, the Chambers' views were well represented.

But I believe that the President certainly has a right to nominate his choice to head the agency, and for that choice to be granted an up or down vote in the Senate. I must admit, it bothered me that the nomination process is being held hostage in hopes of restructuring the agency, and as an excuse to fight against the idea that consumer financial products need to be regulated by a single federal agency. This does not help bipartisan efforts to resolve our differences. Clearly, the subprime meltdown demonstrated the need for consumer financial products to be a focus of government oversight and to be regulated by a single agency.

I could not give a speech to you without making reference to the fact that the Chamber has been supportive of a number of federal lawsuits challenging discreet provisions of Dodd Frank. As a member of the conference committee, I was responsible for one of these provisions – the proxy access rule – included in the final text. The SEC, in what I believe was a dutiful effort to be fair in its rule making process, spent many hours conducting cost benefit analysis before publishing its proxy access proposed rule, but it wound up being sued on claims that its efforts were insufficient. I am not seeking to impugn the motives of those who honestly believe that the cost benefit analysis conducted was truly insufficient. I can't help but wonder, however, if the true motive here was to stop implementation of this particular tool for shareholder protection. Moreover, I am concerned that strategy will be used more broadly as a way to attempt to dismantle provisions in Dodd-Frank.

I was also directly involved in the effort to include the Conflict Minerals provision in Dodd-Frank. Congress's intent here was simply to help curb economic activity which funds atrocities in the Congo. For example, it requires that publicly traded companies disclose whether they use conflict minerals from the Democratic Republic of the Congo region – and if so, that they describe how they assess whether the products are "DRC Conflict Free." The Chamber has launched a lawsuit challenging the validity of that section of the law. I am open to hearing

legitimate concerns about the level of cost benefit analysis conducted by the SEC in issuing the proposed rule, but if the real reason behind the challenge is to thwart Congress's intent with regard to the ongoing tragedy in Congo, then again, this is an area where we will vigorously, if respectfully, continue to disagree.

We can disagree about provisions that went in to the Wall Street Reform Act. But we must remember that only a few years ago, markets were gripped by uncertainty and fear, and this country was on the brink of a situation reminiscent of the Great Depression.

Congress acted to pass legislation to address the causes of the crisis, and it was signed into law. At some point we all have an obligation to respect and uphold laws even when we disagree during the legislative process.

I think the way to start doing that is to have open and continuing dialogue. I appreciate your gesture in that direction by inviting me here to speak to you today.

Thank you.