Congress of the United States
Washington, DC 20515

January 29, 2015

Lloyd C. Blankfein
Chairman and Chief Executive Officer
Goldman Sachs Group, Inc.
200 West Street
New York, NY 10282

Dear Mr. Blankfein:

We are writing today to request information about how your institution will alter its swaps trading practices in response to the passage of Section 630 of the 2015 Consolidated and Further Continuing Appropriations Act, which gutted Section 716 of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

According to the latest Quarterly Report on Bank Trading and Derivatives Activities issued by the Office of the Comptroller of the Currency (OCC), the notional value of derivative contracts held by insured U.S. commercial banks, savings associations, and trust companies stands at $236.8 trillion.[1] Four large commercial banks—JPMorgan Chase, Citibank, Goldman Sachs, and Bank of America—hold 93% of these derivatives contracts.[2] Contracts for swaps, a type of derivative in which two counterparties exchange financial obligations, account for $146 trillion of the $236.8 trillion notional total.[3] As economist Joseph Stiglitz has noted, these transactions "played a key role in transforming a financial downturn into a global economic calamity" in 2008.[4]

Section 716 of Dodd-Frank Act prohibited federal assistance from the Federal Deposit Insurance Corporation (FDIC) and the Federal Reserve to institutions classified as "swaps entities," and required federally insured depository institutions (IDIs) to "push out" covered swaps transactions to separate subsidiaries that did not and could not benefit from a government backstop. The covered swaps transactions have an estimated value of up to $14 trillion.[5] The

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[1] Office of the Comptroller of the Currency, *Quarterly Report on Bank Trading and Derivatives Activities Second Quarter 2014*, 1 (2014) (online at http://www.occ.treas.gov/topics/capital-markets/financial-markets/trading/derivatives/dq214.pdf).

[2] *Id.*

[3] *Id.* at 10.

[4] Letter from Joseph Stiglitz, Economists' Committee for Stable, Accountable, Fair and Efficient Financial Reform, to the United States Senate (May 14, 2010) (online at http://www.peri.umass.edu/fileadmin/pdf/other_publication_types/SAFERbriefs/Stiglitz_Lincoln_amendmentMay14.pdf).

[5] *See Swaps Push Out Estimate*, Tabb Group (Dec. 16, 2014); *see also What's at Stake in Swaps Market as Congress Tussles Over Dodd-Frank*, Wall Street Journal (Dec. 11, 2014) (online at http://blogs.wsj.com/moneybeat/2014/12/11/whats-at-stake-in-swaps-market-as-congress-tussles-over-dodd-frank/).

goal of Section 716 was to ensure that taxpayers were not put at risk when large banks or financial entities engaged in risky swaps trades.

On December 11, 2014, the House of Representatives inserted into an omnibus appropriations bill provisions modifying Section 716. Section 630 of the 2015 Consolidated and Further Continuing Appropriations Act, which was signed by the President on December 16, 2014, limited the restriction on risky trades, stating that the prohibition in Section 716 of Dodd-Frank "shall not apply to any covered depository institution that limits its swap and security based swap activities to ... hedging and other similar risk mitigating activities," engages in "non-structured finance swap activities," or acts as a swaps entity for swaps meeting a certain credit quality standard.[6]

The omnibus bill passed after intense lobbying from the financial industry. Recommendations from Citigroup were reportedly "reflected in more than 70 lines" of the 85-line bill that provided the language for repealing Section 716, and "[t]wo crucial paragraphs, prepared by Citigroup in conjunction with other Wall Street banks, were copied nearly word for word" into the legislation.[7] On the night of the House vote, JPMorgan chief executive Jamie Dimon reportedly "telephoned individual lawmakers to urge them to vote for it."[8]

Experts state that Section 630 "neuters the swaps push-out rule, since it effectively lets in nearly all swaps activities,"[9] and economist Paul Krugman argues that Section 630 is a "significant" blow to financial reform and amounts to "letting Wall Street play games with government-guaranteed funds."[10] And though proponents of Section 630 claimed that it was intended to help smaller businesses and financial institutions, John Carney, writing in the *Wall Street Journal*, contends that claim "rings hollow." Instead, the change was likely motivated by a handful of big banks looking to goose "short-term profit," "along with reluctance to give up what is essentially a taxpayer subsidy."[11]

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[6] H.R. 83, 113th Cong. (2014).

[7] *Banks' Lobbyists Help in Drafting Financial Bills*, New York Times (May 23, 2013) (online at http://dealbook.nytimes.com/2013/05/23/banks-lobbyists-help-in-drafting-financial-bills/?_r=0).

[8] *Jamie Dimon Himself Called to Urge Support for the Derivatives Rule in the Spending Bill*, Washington Post (Dec. 11, 2014) (online at http://www.washingtonpost.com/blogs/wonkblog/wp/2014/12/11/the-item-that-is-blowing-up-the-budget-deal/).

[9] Scott Patterson, *What's at Stake in Swaps Market as Congress Tussles Over Dodd-Frank*, Wall Street Journal (Dec. 11, 2014) (online at http://blogs.wsj.com/moneybeat/2014/12/11/whats-at-stake-in-swaps-market-as-congress-tussles-over-dodd-frank/).

[10] Paul Krugman, *Wall Street's Revenge: Dodd-Frank Damaged in the Budget Deal*, New York Times (Dec. 14, 2014) (online at http://www.nytimes.com/2014/12/15/opinion/paul-krugman-dodd-frank-damaged-by-the-budget-bill.html).

[11] John Carney, *Ratings Game Behind Big Banks' Derivative Play*, Wall Street Journal (Dec. 12, 2014) (online at http://www.wsj.com/articles/ratings-game-behind-big-banks-derivatives-play-heard-on-the-street-1418417119).

To aid in our oversight of the impact of Section 630, we request that you provide the following information:

(1) the definition of the term "hedging" and "risk management purposes" that your firm will use to determine which swaps trades can now be made under Section 630;

(2) the total value of derivatives contracts your institution holds for each of "hedging" and "risk management purposes" and the total value of swaps derivatives contracts your institution holds for each of these purposes;

(3) the types of transactions included in the term "structured finance swap" as used in Section 630 of the omnibus bill and the value of these transactions;

(4) copies of your institution's application to the Federal Reserve to delay implementing Section 716, including any supplemental materials provided with this application;

(5) a description of any "operation and credit risks" your institution would have experienced had it been required to implement the provisions of Section 716 and any information related to actuarial measures of risk associated with the swaps your institution would have "pushed out" under Section 716 absent the changes in Section 630 of the omnibus bill; and

(6) the total value of swaps your institution would have "pushed out" under Section 716 absent the changes in Section 630 of the omnibus bill and the total value of swaps your institution now expects to "push out."

Please provide this information by February 26, 2015. We also request a briefing from the appropriate official from your institution by February 19. If you have any questions about this request, please contact Brandon Reavis at (202) 225-4741. Thank you for your cooperation with this matter.

Sincerely,

Elizabeth Warren
Ranking Member
Subcommittee on Economic Policy

Elijah E. Cummings
Ranking Member
Committee on Oversight and
Government Reform