

Enron/Cadwalader Bankruptcy Proposal

Question: Do you support the Enron/Cadwalader proposal to modify the financial contract netting provisions in the Bankruptcy bill?

Answer:

- We do not support the major provisions in the Enron/Cadwalader proposal because they undo a difficult balancing of competing objectives that the Working Group worked hard over two years to achieve.
- Specifically, we do not support the expansion of the definition of forward contract merchant to any entity that at any time has had a forward contract with the debtor. We believe that this is too broad.
- Also, we do not support the expansion of the definition of swap contract to cover virtually any transaction documented as a swap. That is too broad.
- We believe that the close-out netting provisions before Congress are useful improvements in current law. They help ensure that markets can continue to operate efficiently in the event of bankruptcy. However, provisions that go way beyond the goal of protecting financial markets should only be considered in the context of explicit consideration of modifying the automatic stay in the Code.

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