

**Congress of the United States**  
**House of Representatives**  
Washington, DC 20515

June 23, 2010

The Honorable Barney Frank  
Chairman  
House Committee on Financial Services  
2129 Rayburn House Office Bldg.  
Washington, D.C. 20515

The Honorable Christopher J. Dodd  
Chairman  
Senate Committee on Banking, Housing, and Urban Affairs  
534 Dirksen Senate Office Bldg.  
Washington, D.C.

Dear Chairman Frank and Dodd:

We write to urge you to preserve the strong Senate language regulating the derivatives markets in the final financial reform legislation. Effective regulation of the \$600 trillion derivatives market is fundamental to our financial security because the significant unregulated over-the-counter market was a fundamental cause of the financial crisis, and without change will remain an ever present danger. Effective regulation also is necessary because unchecked speculation in these markets causes price fluctuations in vital commodities including food and oil that hurt businesses and consumers.

Warren Buffett has called unregulated derivatives 'financial weapons of mass destruction' and Nobel prize-winning economist Joseph Stiglitz asserted, "If [Congress] fails to pass strict oversight of dangerous over-the-counter derivatives and swaps the U.S. economy will continue to be vulnerable to significant financial risk."

In particular, we strongly urge you to preserve the following aspects of the Senate bill:

**Broad clearing and exchange trading requirements to make the market safe**

The Senate bill applies crucial elements of derivatives reform including requiring transparency and the posting of margin to make the system safer for approximately 90 percent of all trades. The House language would exempt 40 to 50 percent of transactions. Despite Wall Street claims to the contrary, the Senate language excludes businesses using derivatives trades to hedge commercial risk from these requirements, although it permits them to clear and exchange trade.

Where it differs from the House bill is in clearly limiting exceptions to commercial entities hedging commercial risk. The House language would allow financial firms to take advantage of the exceptions it provides, creating an enormous loophole, while the Senate language expressly prevents financial firms from doing so.

### **Reporting requirements that allow regulators and participants to understand the market**

The Senate bill requires real time reporting to regulators and the public on transactions in the multi-trillion dollar derivatives market, allowing businesses that use swaps to shop around for the best prices, and ensure that regulators can monitor the markets to prevent systemic risk. Conversely, the House language would allow the public to see only “aggregate” data from swaps transactions. This means that businesses would not be able to access information to allow them to shop for best prices.

### **Capital and Margin Requirements**

The Senate bill ensures that whenever a financial institution trades swaps there are clear capital and margin requirements to increase stability in our financial markets. We are concerned that the House bill’s ambiguous language creates a loophole that could allow any financial institution that is not ‘systemically risky’ to trade swaps without money to back up its trades.

### **Fiduciary Duty**

Revised Senate language collaboratively drafted between the Senate Agriculture and HELP Committees imposes a heightened standard of care on swaps dealers when they give advice or recommend swaps transactions to government entities, pension funds, endowments, and retirement plans. This is essential to combating the kind of abuses that have left government entities and non-profits across the country struggling under staggering derivatives-related debts, and to giving essential protections to less sophisticated institutional investors, including pension funds and endowments, and the taxpayers and workers on whose behalf they invest.

### **Separation of derivatives market making from commercial banking (Section 716)**

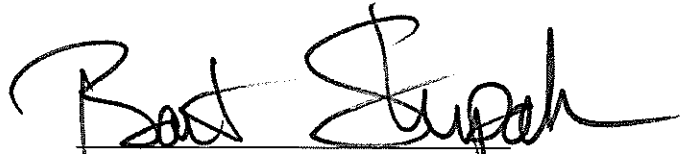
The Senate bill includes important provisions that remove the ongoing Federal subsidy to the derivatives businesses of the five large banks that dominate this market. This language will help ensure that taxpayers are not supporting this risky activity with deposit insurance or other benefits. It will increase transparency and safety by making sure that derivatives market making activities are separately capitalized. As a result, it will also redirect bank capital towards lending and investment in Main Street, rather than empty speculation.

It is crucial to ensure that the legislation is effective by closing the enforcement gap left when the Senate Banking and Agriculture Committee versions of the bill were combined, and ensure that rules cannot be evaded by clearinghouses simply refusing to clear trades that the regulators have ordered to clear. Rules to prevent domination of the clearinghouses by the biggest traders, like the language of the Lynch amendment in the House, in addition to the rulemaking authority on conflicts of interests provided to the regulators in the Senate bill are also important.

Thank you for your attention to these important issues.

Sincerely,

  
ROSA DeLAURO

  
BART STUPAK

  
JACKIE SPEIER

  
JOHN LARSON

  
GEORGE MILLER

  
STEPHEN LYNCH

  
RAUL GRIJALVA


  
PETE STARK

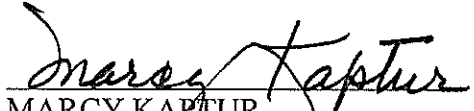
  
JIM MCGOVERN


  
ALAN GRAYSON


  
CHRIS CARNEY

  
MIKE THOMPSON

  
CHELLIE PINGREE

  
MARCY KAPTUR

  
HANK JOHNSON

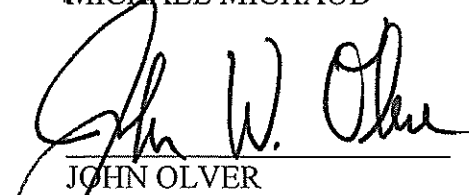
  
BRAD MILLER

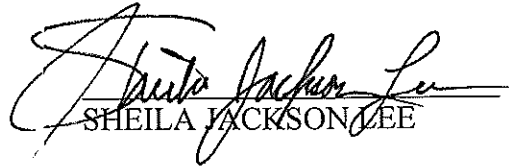
  
RUSH HOLT

  
LINDA SANCHEZ

  
MICHAEL MICHAUD

  
LYNN WOOLSEY

  
JOHN OLVER

  
SHEILA JACKSON-LEE

  
PETER DeFAZIO

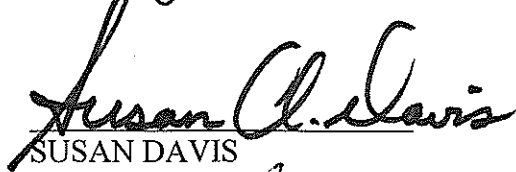
  
SHELLEY BERKLEY

  
KEITH ELLISON

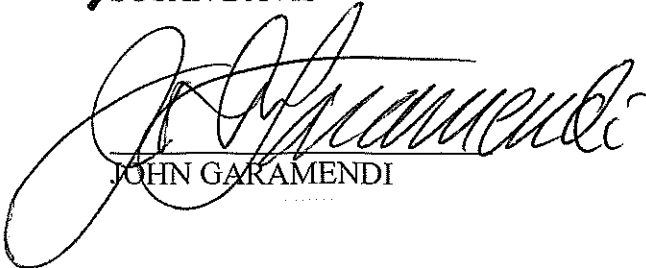
  
DALE KILDEE

  
BETTY MCCOLLUM

  
BETTY SUTTON

  
SUSAN DAVIS

  
DIANE WATSON

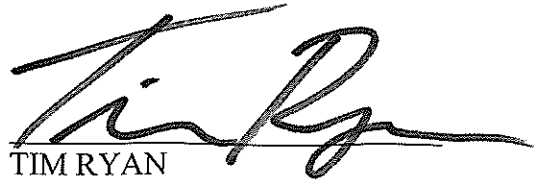
  
JOHN GARAMENDI

  
LUCILLE ROYBAL-ALLARD

  
JUDY CHU

  
JIM McDERMOTT

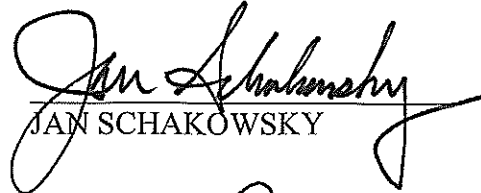
  
ZOE LOFGREN

  
TIM RYAN

  
BILL PASCRELL

  
LOIS CAPPS

  
JOHN LEWIS

  
JAN SCHAKOWSKY

  
STEVE COHEN

  
BRUCE BRALEY

  
TOM PERRIELLO

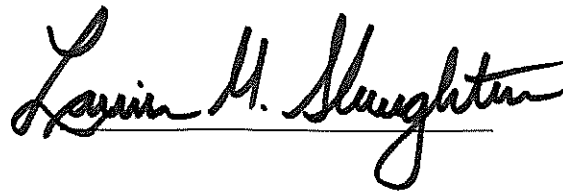
  
CAROL SHEA-PORTER

  
SAM FARR

  
PETER WELCH

  
BARBARA LEE

  
HOYT HIGHTOWER

  
LAVINIA M. NEUGHTEN

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_