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LOUISIANA

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COMMENT

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JUL 20 7 15 PM '98 United States Senate

WASHINGTON, DC 20510-1804
July 16, 1998

The Honorable Brooksley Born
Commodity Futures Trading Commission
3 Lafayette Center
1155 21st Street, N.W.
Washington, D.C. 20581

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CFTC
COMMODITY FUTURES
TRADING COMMISSION
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SECRETARY

Dear Chairwoman Born,

I am writing to express my strong concerns regarding the adverse market implications of the CFTC's recent concept release regarding derivatives. From my personal experience as Louisiana's State Treasurer for eight years, I know firsthand the value of derivative financial products to the wide range of private and public sector entities in this country and abroad. Furthermore, I am fully aware of the sensitivity of the markets regarding the need for legal certainty that swaps and other derivatives that were negotiated with the clear understanding that they were not futures remain so. To upset that legal uncertainty would be devastating. Unfortunately, the issuance of CFTC's concept release is perceived by the markets as posing just that kind of jeopardy.

I fully realize that our nation's financial markets work best when they are free to operate without unnecessary regulation. Having said that, I firmly believe that there is a proper role for regulation that addresses legitimate causes of abuse or concern. But, even necessary regulation should facilitate, rather than impede the operation of the markets. It should also create a healthy environment for derivative instruments and other financial innovations which are important to manage financial risk. In this regard, I am deeply troubled by a CFTC initiative, that as I understand, proceeds upon the assumption that OTC swaps and derivatives are futures. If this is the case, it is contrary to the opinion of others, as evidenced by the overwhelming understanding of the markets and prior and current federal financial regulators.

Over the past few weeks, I have watched as the markets have grown increasingly uneasy concerning the impact of the concept release and the CFTC's resistance to resolving the attendant controversies. Consequently, there is much concern about the enormous potential for market disruption and subsequent potential for the off-shore flight of the U.S.-based OTC derivatives sector. It is clear to me that such actions are not in the nation's public interest.

I am also told that one of the stumbling blocks to resolving this issue has been an insistence that the SEC suspend issuance of its so-called "broker-dealer lite" regulations under the theory that the SEC's proposal infringes upon the CFTC's jurisdiction over futures. "Broker-dealer lite" should not create a jurisdictional impediment to resolving this controversy quickly, particularly since the SEC proposal is limited to broker-dealers and instruments clearly within their jurisdiction under the securities laws.

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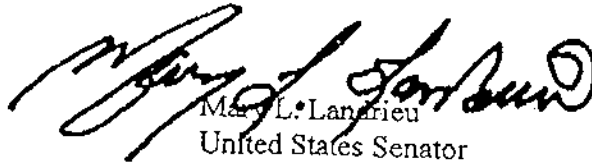
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The appropriate place for Congress to wrestle with these complex issues is within the context of CFTC reauthorization. Therefore, it is imperative that the CFTC resolve the instant controversy as soon as possible, in such a manner that will allow this and other issues to be considered comprehensively next year, without prejudice from CFTC's activities in the balance of 1998.

I look forward to discussing these issues further before the hearing later this month and look forward to hearing your views.

With kindest regards, I am

Sincerely,


Mary L. Landrieu
United States Senator

MLL/dd