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U.S. COMMODITY FUTURES TRADING COMMISSION
Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581

John E. Tull, Jr.
Commissioner

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MEMORANDUM

To: Public Comment File: Concept Release on Over-the-Counter Derivatives, 63 F.R. 26144 (May 12, 1998)

From: Office of Commissioner John E. Tull, Jr. 

Date: August 4, 1998

Re: Meeting with Representatives of various representatives interested in Over-the-Counter Derivatives

On August 4, 1998, Commissioner Tull met with several individuals interested in Over-the-Counter transactions and specifically the CFTC's Concept Release concerning those instruments. Also present were David Condon and Madge Hamilton, legal advisers to Commissioner Tull. Those industry representatives attending the meeting were:

Mark Brickell — J.P. Morgan and International Securities Dealers Association ("ISDA")
Donald Moorehead — Patton Boggs Law Firm and ISDA
Mary Whalen — Williams & Jensen Law Firm and Securities Industry Association ("SIA")
Michael Stein — Morgan Stanley

Don Moorhead and Mark Brickell summarized ISDA's interest in working with the CFTC to find non-legislative means of (to paraphrase their choice of words) "calming the over-the-counter markets." Mary Whalen expressed similar views on behalf of SIA.

In an effort to avoid a legislatively mandated stand-still in response to the CFTC's Concept Release, Mr. Brickell promised to draft within the week a written statement of terms ISDA would propose that would 1) "calm the markets," 2) be something that the Commission could accept without compromising on the principles¹ clearly delineated in the Concept Release

¹ That is, first, some swaps—though not all—are or may be futures and, second, that the Commission is obligated by the Commodity Exchange Act to oversee OTC instruments meeting

and subsequent public testimony before and correspondence with various members of the U.S. House and Senate, and 3) be signed by Mr. Brickell on behalf of ISDA representing its final position on a non-legislative resolution to the controversy surrounding the CFTC's Concept Release.

the legal definition of a future and that are not subject to current statutory (e.g. under the "Treasury Amendment") or regulatory (e.g. CFTC Part 34 or Part 35) relief.