



FUTURES INDUSTRY ASSOCIATION

2001 Pennsylvania Avenue N.W. • Suite 600 • Washington, D.C. 20006-1807 • (202) 466-5460

Fax: (202) 296-3184

Oct 14 3 20 PM '98

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October 13, 1998

COMMENT

Ms. Jean A. Webb
Secretary of the Commission
Commodity Futures Trading Commission
Three Lafayette Center
1155 21st Street, N.W.
Washington, D.C. 20581

Re: Over-the-Counter Derivatives Concept Release

Dear Ms. Webb:

The Futures Industry Association ("FIA") submits this comment letter in response to request by the Commodity Futures Trading Commission ("Commission") for comments on its Over-the-Counter Derivatives Concept Release published in the Federal Register, 63 Fed. Reg. 26,114 (May 12, 1998) (the "Release").

I. BACKGROUND

FIA, a not-for-profit corporation, is a principal spokesperson for the futures industry. Its members include approximately 70 of the largest futures commission merchants ("FCMs") in the United States. Among its associate members are representatives from virtually all other segments of the national and international futures industry, including domestic and foreign futures exchanges. Reflecting the scope and diversity of its membership, FIA estimates that its members effect more than 80 per cent of all customer transactions executed on United States futures exchanges. In addition to the FCMs and futures exchange members, our organization also includes members who are commodity pools, dealers and end-users.

Many of these members and/or their affiliates are active participants in the over-the-counter ("OTC") derivatives markets and can attest to the important complementary role that OTC markets often play with respect to futures exchange markets. A significant percentage of transactions occurring on US futures exchanges are transacted by FCM members for their OTC derivatives affiliates or their customers, including FIA members that are end-users or commodity pools, in connection with hedging, or managing risks associated with, such affiliates' or customers' OTC derivatives positions. It is the view of our members that any regulatory action taken by the Commission in respect of OTC derivatives markets, as suggested by the Release, would invariably reduce the volume of OTC derivatives transactions entered into by or with US participants, which in turn would adversely affect the liquidity and volume of US futures exchange-traded markets. On the one hand, US participants driven from the OTC derivatives markets will no longer have the same needs to hedge and manage risk in the US futures markets. While on the other hand, in a more restrictive regulatory environment, foreign OTC derivatives

participants will also be less likely to utilize US futures markets or engage US FCMs to meet their hedging and risk management needs.

In addition to the adverse impact on our members from possible reductions in the liquidity and volume of US futures exchange activities, the markets for OTC derivatives transactions would also be detrimentally affected. By raising issues that may call into question the legal certainty and enforceability of OTC derivatives transactions, the Commission's Release could have just this effect to the detriment of US derivatives markets and our members.

As the Commission is aware, on June 10, 1998, the Subcommittee on Risk Management and Specialty Crops of the House of Representatives Committee on Agriculture held a hearing on the Concept Release at which representatives of various segments of the financial community, including FIA, testified. Enclosed with a copy of this letter is a copy of the written statement that FIA submitted to the subcommittee in connection with that hearing. FIA respectfully submits this statement and requests that it be made part of the record in this matter.

Given the significant derivatives activities of our members, we have a vested interest in the issues and questions posed by the Commission's Release. As discussed below, the Release raises various issues involving legal certainty, clearing and netting proposals, possible OTC derivatives participant requirements, and foreign competition that would materially impact most of our members. Especially in light of recent market turmoil, we urge the Commission to work with other US regulators to coordinate their activities to the extent possible through the President's Working Group on Financial Markets or other available means. Our members view this as prudent, efficient and necessary; many of them are subject to the supervision and authority of more than one regulator and find inconsistent regulatory treatment of instruments or activities to be inefficient and costly.

II. LEGAL CERTAINTY

The Release presents a host of questions in connection with the Commission's re-examination of "its approach to the over-the-counter...derivatives market."¹ After discussing the desire for legal certainty and the growth of the market since the January 1993 adoption of regulatory exemptions for swap agreements and hybrid instruments, the Release poses questions. These include, among other things, questions pertaining to the eligibility of transactions for existing exemptions, the scope of existing exemptions, and whether additional conditions should be added to existing exemptions. For example, the Release includes questions pertaining to possible modifications to the requirements of, and definitions contained in, the swaps exemption and hybrid exemption (e.g., see questions 8, 15, 16, 24, 28, 41 and 43), as well as reconsideration of the market participants eligible for such exemptions (e.g., see questions 29 through 32).

For years, these exemptions and other interpretations issued by the Commission set forth parameters that have guided market participants in developing and expanding significant OTC derivatives markets in the United States. The prospect of such fundamental changes to

¹ We note that the Release does not address the jurisdictional questions that may arise when analyzing OTC derivatives under U.S. law. At this time, we have not been asked to assess the jurisdictional issues, but see discussion in section IV below.

established exemptions and interpretations has created an unsettling effect² on the OTC derivatives markets and undermines the legal certainty and enforceability objectives pursued diligently over time.

A. The Desire for Legal Certainty

Congress has clearly stated in the past, and emphatically reiterated more recently, its desire that the Commission promote legal certainty with regard to swaps, hybrids and certain other contracts. In connection with the passage of the Futures Trading Practices Act of 1992 (the "FTPA"), the Conference Committee Report accompanying the FTPA encouraged the Commission to utilize newly granted exemptive power "promptly...in four areas where significant concerns of legal uncertainty have arisen: (1) hybrids, (2) swaps, (3) forwards, (4) bank deposits and accounts."³ In 1992, the size and importance of swap and hybrid markets in the United States required this legal certainty. As the Commission notes in I.A. and I.B of its Release, the current markets for swaps and hybrids are much larger today than they were in 1993, so we perceive an even more compelling need for legal certainty as to these instruments under U.S. law.

Moreover, members of Congress have reiterated Congress's desire for legal certainty to the Commission in more recent communications, including a letter, dated December 15, 1995, from the Honorable Pat Roberts, Chairman of the House Committee on Agriculture, and the Honorable Thomas J. Bliley, Jr., Chairman of the House Committee on Commerce to Commission Chairman Mary L. Schapiro. In her response dated January 19, 1996, Chairman Schapiro emphasized that the Commission was not deviating, and "will not deviate, from its historic practices," and she further explained that "Commission is very sensitive to questions of market and legal uncertainty in this regard and... the Commission will continue to bring to bear its exemptive and other authority to provide the level of legal certainty necessary to foster the continued success of these markets."

The Release has prompted similar concerns from the current Congress. For example, Senator Richard C. Shelby's letter, dated June 10, 1998, expressed concerns about the Release to Senator Thad Cochran, Chairman of the Senate Subcommittee on Agriculture, Rural Development and Related Agencies. In particular, Senator Shelby expressed two concerns: "First, the issuance of such a release is a radical departure from previous CFTC positions which is understandably unsettling to these markets. Second, Congress addressed the issue of appropriate regulation of these markets in 1992 and is the proper forum for any new regulatory scheme."As is evidenced by the enactment of the FTPA and subsequent communications, Congress has sought legal certainty for OTC derivatives transactions, including swap agreements. We share Senator Shelby's concerns that the Commission's issuance of the Release "is understandably unsettling to these markets" and evidences consideration of "radical departure[s] from previous CFTC positions."

² We believe that the Release has an unsettling effect notwithstanding its statement that "new regulatory obligations or restrictions will be applied prospectively only." The uncertainty surrounding the prospect of new regulatory obligations or restrictions, as discussed in sections II and IV below, could raise questions about current transactions and enhance the attraction of overseas markets.

³ H.Rep. No. 102-978, 102nd Cong., 2nd Sess.(1992) at 81.

The recent market turmoil that continues to threaten economies around the world has underscored the need for legal certainty now more than ever. In his opening statement to the House Banking and Financial Services Committee Hearing on Hedge Funds on October 1, 1998, Chairman James A. Leach observed that Chairperson Born's prepared statement to the Committee "confines itself to an argument for a policy that in the view of the other financial regulatory agencies increases the very risks, such as the problem of maintaining legal certainty on contracts when problems of this nature arise, that she decries."

B. The Consequences of Uncertainty.

The issuance of the Release, and its implication that the Commission contemplates action to address the questions posed therein, has reduced the level of legal certainty with respect to OTC derivatives transactions in the United States. Legal uncertainty in this market imposes substantial business and legal costs. The validity and/or enforceability of certain transactions could be brought into question by the Commission's consideration of changes to exemption requirements, even though the Commission stated its intention that the changes would be prospective only. For example, our members fear that certain transactions might be more readily challenged by an "out-of-the-money" counterpart arguing that the transaction was an illegal off-exchange futures contract and therefore unenforceable. A court evaluating the merits of such an argument may be understandably perplexed as to whether or not a transaction falls within a safe harbor or exemption if the regulatory agency that issued the relevant safe harbor or exemption has publicly expressed its consideration of curtailing it.

Also, the Release could make it more difficult for knowledgeable attorneys to render the same enforceability opinions as to certain complex and/or novel transactions as they might have been able to so render before the issuance of the Release. We are concerned that enforceability concerns arising from these questions could likely result in more transactions occurring outside of the U.S.⁴ This would be unfortunate not only for our members, but also generally for the U.S. financial services industry and its customers and end-users.

III. CLEARING AND NETTING PROPOSALS.

In addition to the Release's focus on various exemptions, the Release also addresses clearing and multi-lateral transaction execution facility ("MTEF") issues. The Commission discussed its consideration of proposals for potentially beneficial risk-reducing clearing and collateral netting services that could be offered to participating OTC derivatives market participants (the "Proposals").⁵ Sections III.B.3 and III.B.4 of the Release include questions about the availability of the swaps exemption or the 1989 Policy Statement Concerning Swap Transactions (the "Policy Statement") for swap agreements that may be cleared and/or netted under any Proposals. If a Proposal could permit US OTC derivatives market participants to improve their risk management and/or to remain competitive in a global marketplace, we support such market and technological improvements and encourage broad access to such clearing and/or

⁴ See the discussion of foreign competition in Section IV below.

⁵ Although we acknowledge that the Commission is considering a petition from The London Clearing House Limited for an exemption from the Commodity Exchange Act, as amended (the "Act") for its proposed clearing facility for swap agreements, the Commission's jurisdiction over the proposed facility may not be clear.

netting facilities. (See, for example, questions 33 through 37 and 43.) We would be troubled if the Commission's actions deterred US OTC derivatives market participants from utilizing, and deriving the benefits from, such facilities. We do not believe that swap participants who avail themselves of potentially risk-reducing clearing and/or netting facilities should be viewed by the Commission as having made their swap agreements ineligible for relief afforded by the swaps exemption or Policy Statement and therefore less legally certain. The Commission should not construe that the mere eligibility of an OTC instrument for a clearing or netting facility creates the indicia of fungibility and standardization that would automatically convert or transform a bilaterally negotiated swap into an off-exchange futures contract.

IV. OTC DERIVATIVES PARTICIPANT ISSUES AND FOREIGN COMPETITION

The Release asks, among other things, whether or not OTC derivatives market participants should be subject to (i) registration requirements and notice filings, (ii) capital requirements, (iii) internal control guidelines, (iv) sales practice rules, and (v) recordkeeping and reporting requirements. (See questions 44 through 70.)

The jurisdictional basis for the Commission's purview over OTC derivatives market participants has not been established. Although the Commission has "exclusive jurisdiction" over futures contracts and commodity options, it is not clear that a variety of OTC derivative instruments, including swap agreements, fall under the Commission's "exclusive jurisdiction" as either futures contracts or commodity options.⁶ In issuing the Policy Statement, the Commission stated that swaps "are not appropriately regulated as futures contracts or option contracts."⁷ Also, the Federal Register release accompanying the swaps exemption explained that the "issuance of [the] rule should not be construed as reflecting any determination that the swap agreements covered by the terms [thereof] are subject to the [Commodity Exchange Act, as amended], as the Commission has not made and is not obligated to make any such determination."⁸

Because the Commission's jurisdiction is instrument-based and limited exclusively to futures contracts and certain options contracts, any regulatory requirements in connection with OTC derivatives transactions that the Commission may impose could only have legal effect to the extent that those transactions are futures contracts or commodity options within the meaning of the Act. Accordingly, any such Commission action could have a profound effect on, for example, swap transactions in the United States, particularly with respect to any transactions where the Commission is excluded from exercising its exemptive authority⁹ or where pertinent

⁶ CEA § 2 (a) (1) (A) (i), See also footnote 1.

⁷ 54 Fed. Reg. 30,694 (July 21, 1989).

⁸ 58 Fed. Reg. 5580 (January 22, 1993) (footnote omitted). Whether or not swap agreements were futures contracts, they would be exempt from regulation as set forth in the swaps exemption. In addition, as recently as January 19, 1996, then Commission Chairman Schapiro stated, in a letter described above, that "the Commission has not taken a position on whether swap agreements are futures contracts."

⁹ Pursuant to the 1992 Jurisdictional Accord, Section 2(a)(1)(B) provides that the Commission has no jurisdiction "to designate a board of trade as a contract market for any transaction whereby any party to such transaction acquires any put, call, or other option on one or more securities..." If the Commission

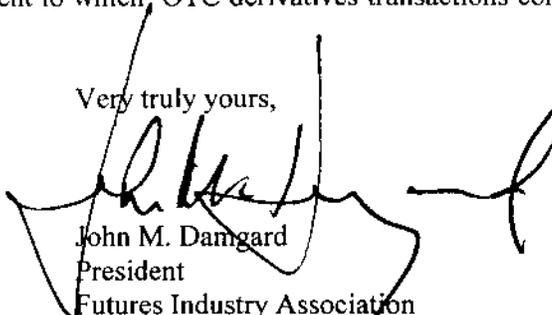
aspects of the relevant exemptive authority might be altered in connection with the Release's re-evaluation of the established Policy Statement and swaps exemption.

In addition, if the Commission did impose the regulatory burdens and costs associated with, for example, registration and capital requirements on U.S. OTC derivatives market participants, it is quite conceivable that the U.S. OTC derivatives transactions would be executed in foreign markets. Many OTC derivatives activities already occur in London or other offshore locations. We suspect that, but for various legal and regulatory reasons, some of these transactions might have occurred in the United States. We remain concerned that additional OTC derivatives transactions could move offshore.

V. CLOSING

In closing, we encourage the Commission to coordinate all of its activities in respect of OTC derivatives markets with other US regulators through the President's Working Group on Financial Markets and to look to Congress for further direction in defining the scope of the Commission's responsibilities in this area. Particularly in consideration of the current market turmoil, our members are deeply concerned about the possibility of disturbing established U.S. OTC derivatives markets and imposing additional risks on and costs to U.S. OTC derivatives market participants. We believe that international financial markets are competitive; any action taken by the Commission (or other governmental or regulatory agencies) that casts doubt on the legal certainty and enforceability of OTC derivatives transactions or imposes additional costs, regulatory or otherwise, may limit the extent to which OTC derivatives transactions continue to be conducted in the United States.

Very truly yours,



John M. Damgard
President
Futures Industry Association

cc: The Honorable Brooksley E. Born, Esq.
The Honorable John E. Tull, Jr.
The Honorable Barbara P. Holum
The Honorable David D. Spears
The Honorable James E. Newsome
I. Michael Greenberger, Esq.

Attachment (John M. Damgard Testimony)

contends that swap agreements are futures contracts, and it has exclusive jurisdiction over futures contracts pursuant to the Act, it would raise questions regarding swap transactions that are linked to securities.

TESTIMONY OF JOHN M. DAMGARD
PRESIDENT
FUTURES INDUSTRY ASSOCIATION
BEFORE THE SUBCOMMITTEE ON RISK MANAGEMENT
AND SPECIALTY CROPS
COMMITTEE ON AGRICULTURE
US HOUSE OF REPRESENTATIVES
JUNE 10, 1998

Mr. Chairman, Members of the Subcommittee, my name is John M. Damgard. I am president of the Futures Industry Association ("FIA"). FIA is the national trade association of the commodity futures and options industry. Our regular membership is comprised of approximately 70 of the largest futures brokerage firms—known as futures commission merchants or FCMs—in the United States. Among our associate members are representatives from virtually all other segments of the futures industry, both national and international. Reflecting the scope and diversity of our membership, FIA estimates that our members effect more than 80 percent of all customer transactions executed on US contract markets.

FIA is pleased to be here today to discuss the Concept Release on Over-the-Counter ("OTC") Derivative Instruments issued by the Commodity Futures Trading Commission ("CFTC" or "Commission") on May 7, 1998. As the Members of the Subcommittee are aware, the concept release has been the cause of considerable controversy within the financial community, both public and private. The Commission has emphasized that it has issued the release for the purpose of collecting information and that it has made no decision regarding the possible regulation of these instruments. Nonetheless, the concept release goes well beyond a simple request for information on the nature of the OTC derivatives markets today; it has the distinct flavor of an advance notice of proposed rulemaking.

To many in the financial community, even the threat of additional regulation of the OTC derivatives by the CFTC is misguided as a matter of public policy. More troubling, such a course flies in the face of the provisions of section 4(c) of the Commodity Exchange Act ("Act") and the legislative history that underlies this section. This history makes clear that Congress has reserved to itself the determination of the appropriate scope of regulation of the OTC derivatives markets. The CFTC's charge in 1992 was simple and straightforward. The Commission was to use the exemptive powers granted under this section to act "swiftly" to bring "certainty and stability to existing and emerging markets so that financial innovation and market development can proceed in an effective and competitive manner."

FIA shares many of the concerns that have been expressed by the various representatives of the financial community in this regard. We welcome this opportunity to explain why a successful resolution of this matter is so important to FIA and its members.

FIA Has a Critical Interest in a Stable OTC Derivatives Market

FIA's interest in a prompt resolution of this controversy is both direct and indirect. As noted above, FIA's members effect more than 80 percent of all customer transactions executed on US futures exchanges. The economic success of our members, therefore, is tied directly to the success of the futures markets in the United States and around the world. In this regard, it must be emphasized that the OTC derivatives markets and the regulated futures markets are closely linked.

In light of the proprietary nature of this information, we are unable to provide the Subcommittee with specific statistics. Nonetheless, our members are confident that a substantial portion of the transactions that occur on US contract markets are effected on behalf of their OTC derivatives dealer affiliates and end-users that use the futures markets to hedge or otherwise manage the risks associated with their OTC derivatives positions. If the volume of OTC derivative transactions is significantly reduced, or OTC derivatives participants are compelled by government action to effect these transactions overseas, the volume of US exchange-traded futures and options transactions will be reduced accordingly, to the detriment of the markets and our members. Regretfully, by calling into question the legal enforceability of OTC derivative transactions, the CFTC's concept release could have just this effect.

Moreover, it is appropriate to note that many of FIA's member firms have affiliates that are OTC derivatives dealers and end-users. Consequently, any action by the CFTC, or any other governmental agency, that casts doubt on the legal enforceability of the transactions these entities enter into may have a substantial, though indirect, adverse effect on our member firms.

Public Policy Demands Interagency Coordination

In taking this position, FIA does not mean to imply that federal review of the OTC derivatives markets is inappropriate. Nor do we mean to imply that the CFTC does not have a role to play in any such review. To the contrary, given the interrelationships among the markets, the Commission's participation in any such review would be expected.

Our position is simply that this review cannot be conducted—and any decisions with respect to the appropriate regulation of these markets, if any, cannot be made—by the CFTC alone. As the General Accounting Office noted in a 1996 report to this Subcommittee, OTC derivatives dealer activities in the US are

conducted primarily by seven banks, five securities firms and three insurance companies or their affiliates. Consequently, in a separate report to this Subcommittee one year later, the GAO concluded:

Swaps and other OTC derivatives involve institutions and activities in which federal bank regulators and SEC have traditionally had a supervisory or oversight role. . . . As a result, any policy questions raised by the ongoing development of OTC derivatives and exchange-traded futures markets cross traditional jurisdictional lines and involve not only CFTC but also federal bank regulators and SEC. The cooperative efforts of these agencies, working with the Department of the Treasury and the financial industry, will be required to address such questions.

The GAO further noted that the President's Working Group on Financial Markets provides a forum through which to coordinate interagency activities and address the significant policy questions that cross jurisdictional lines. We agree with the GAO. As a matter of public policy, any review of the OTC derivatives markets should be coordinated through the Working Group.

Such interagency coordination was clearly contemplated by this Subcommittee in 1992. As the Members of the Subcommittee will recall, in connection with the adoption of section 4(c) of the Act, the Conferees specifically directed the Commission to conduct a study of the OTC derivatives markets in consultation with the Securities and Exchange Commission and the Board of Governors of the Federal Reserve System. This study was to address, among other issues:

- The size, scope, activities, and potential risks presented by the OTC derivatives markets;
- The need for additional regulatory controls that should be applicable to OTC derivative products;
- How any such regulatory controls could be implemented in a cost-effective manner; and
- Whether a single federal regulatory agency should regulate the exchange or off-exchange trading of and markets for derivative products.

Significantly, the Commission itself has previously recognized that a coordinated interagency approach to the OTC derivatives markets is essential. In this regard, in response to the Conferees' directive, the Commission conducted a study and filed a report with the Subcommittee in 1993, in which it concluded that the "systems and public policy issues suggested by these products are not confined to a

single market or the province of a single regulator." The Commission, therefore, recommended the creation of an interagency council "to consider common approaches to such issues as market information access, transparency, internal management controls, and the development of clearing facilities of OTC derivatives." We are not aware of any developments in the OTC derivatives markets since that time that would warrant a different conclusion.

The Legislative History of Section 4(c) Confirms Intent of Congress to Determine the Appropriate Scope of Regulation of OTC Derivatives Markets

The publication of the concept release conflicts with the explicit intent of Congress in enacting section 4(c). The legislative history of this section confirms our belief that Congress reserved to itself the decision with respect to the appropriate regulation, if any, of the OTC derivatives markets. First, as noted above, in adopting section 4(c), the Conferees specifically directed the Commission, as a part of its study, to report to the Subcommittee on the need for additional regulatory controls with respect to the OTC derivatives markets and whether such regulation should be vested in a single federal regulator. The Conferees directed that the CFTC undertake this study because "the Conferees have found that it would be useful in the development of legislation relating to markets for financial products to acquire more extensive and specific information in their regard than is currently available." Clearly, if the OTC derivatives markets are to be regulated, Congress intended to make this decision. The Conferees did not expect the Commission to exercise its "broad exemptive powers" under section 4(c) to regulate the OTC derivatives markets.

Moreover, as the Members of the Subcommittee will recall, section 4(c) of the Act was adopted precisely because the legal status of swap agreements and other OTC derivative instruments under the Commodity Exchange Act was unclear. Although OTC derivative products are significantly different from exchange-traded futures and options contracts, OTC derivatives markets participants were concerned that the CFTC or a court could determine that such instruments were futures or options contracts. In that event, they would be unlawful unless traded on or subject to the rules of a designated contract market.

In an attempt to resolve this legal uncertainty, the Commission, in 1989, issued its Policy Statement Concerning Swap Transactions ("Policy Statement"). Reflecting its view that swap transactions are not appropriately regulated under the Act, the Commission established a non-exclusive safe harbor for transactions that met the standards set forth in the Policy Statement.

Although the Policy Statement provided considerable comfort to swaps market participants, a degree of legal uncertainty remained. To address this issue, Congress was encouraged to adopt an amendment to the Act, which would authorize

the Commission to exempt swap transactions from regulation. In response, in 1992, Congress added a new section 4(c) to the Act.

Significantly, in adopting this amendment, Congress made no specific determination that swaps and similar over-the-counter derivative instruments are subject to the Commission's jurisdiction. As important, the Conferees made clear that the Commission was not required to make such a finding, either. To quote from the Conference Report:

The Conferees do not intend that the exercise of exemptive authority by the Commission would require any determination beforehand that the agreement, instrument, or transaction for which an exemption is sought is subject to the Act. Rather, this provision provides flexibility for the Commission to provide legal certainty to novel instruments where the determination as to jurisdiction is not straightforward. Rather than making a finding as to whether a product is or is not a futures contract, the Commission may proceed directly to issuing an exemption.

In granting the Commission such exemptive authority, the Conferees make no decision concerning whether swaps and hybrids are futures subject to regulation under the Act. If the Commission does not, or has not granted, an exemption to such an instrument, this fact alone should not be construed to mean that such instrument is subject to the Act.

Relying on this legislative history, the Commission has never formally determined that swap transactions are either futures or options and, therefore, subject to its jurisdiction. To the contrary, when it adopted the exemptions with respect to swap agreements and hybrid instruments in 1993 and earlier, in 1989, when it adopted its Policy Statement with respect to swap transactions, the Commission affirmatively refused to make such a finding.

In issuing the concept release, the Commission again did not address its statutory authority over swap transactions. However, by raising the prospect of regulation, the Commission nonetheless has implied that swap and hybrid transactions are within the scope of its jurisdiction. Moreover, in a comment letter to the Securities and Exchange Commission earlier this year, the Commission explicitly stated that certain swap transactions are subject to its statutory jurisdiction. As a result, the status of OTC derivative products under the Act is again unclear, and OTC market participants are concerned that the legal certainty that the exemptions with respect to swap agreements and hybrid instruments were designed to provide have been critically undermined.

In these circumstances, it is essential that the Committee give some direction to the Commission. FIA respectfully suggests that any review of the OTC derivatives markets be conducted by the Working Group. To the extent the Group determines that additional oversight or regulation of these markets may be called for, the Working Group can submit a report to the Agriculture Committee for your consideration. In this regard, FIA notes that CFTC reauthorization hearings may well begin next year and would provide an opportunity to address this issue.

In the interim, it is essential that the status quo prior to the concept release be maintained in order to preserve the legal certainty for these instruments, which the Agriculture Committee directed the Commission to provide in 1992. We would support any action by this Committee, or as has been suggested by some, any legislation, that accomplishes this purpose.

Thank you for your consideration. I would be pleased to answer any questions the Subcommittee may have.