

COMMODITY FUTURES TRADING COMMISSION

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April 9, 1991

The Honorable Richard Lugar
Ranking Minority Member
Committee on Agriculture
United States Senate
SR-328A Russell Senate Office Building
Washington, D.C. 20510

Dear Senator Lugar:

As you are aware, numerous discussions have occurred in recent weeks between the Department of the Treasury, the Federal Reserve Board, the Commodity Futures Trading Commission, and representatives of the securities and futures industries. These discussions have been aimed at clarifying and conforming our mutual intent regarding Title III of S. 207, the Futures Trading Practices Act of 1991, as reported by the Committee on March 6, 1991.

In accordance with the agreement, I am transmitting to you proposed technical statutory changes to effectuate the agreement reached at the Committee's mark-up. Also enclosed is an explanation of the changes, as well as a statement agreed to between the CFTC and the Department of the Treasury that clarifies our mutual understanding of certain aspects of Title III. The technical changes to the provisions of Title III will ensure the Administration's support for S. 207 and make unnecessary further amendments to Title III. In brief, the changes are designed to assure that:

* The "swaps" market will continue to develop in a competitive and innovative environment while permitting swaps dealers to reduce risk through certain margining and payment-netting arrangements.

* Exemptions from all requirements of the Commodity Exchange Act will be issued for commodity-indexed deposits in insured banks if the exemptions are not contrary to the public interest.

* The new "predominant purpose" test will clarify, not expand, the scope of the CFTC's jurisdiction, and will not alter any other agency's jurisdictional boundaries.

Title III of S. 207, as proposed to be amended, is significant because it will put an end to the regulatory disputes which have delayed passage of CFTC reauthorization legislation since 1989. It achieves long-standing Administration goals of providing more Federal oversight over margins for stock index futures and options, and removing regulatory uncertainties related to the

development of new and innovative financial instruments. Finally, it seeks to preserve the existing jurisdictions of the regulators, while providing a more objective determination of where new hybrid products will be regulated in the future.

Your cooperation and support for the clarification of our views has been essential to the successful conclusion of this lengthy debate. Your continued support in ensuring the Senate's adoption of these changes is appreciated.

Sincerely,

Wendy L. Gramm
Chairman

Enclosures