

## COMMITTEE LETTER

### Regarding Legal Certainty Provisions of the Commodity Futures Modernization Act of 2000

July 18, 2000

The Honorable James A. Leach  
Chairman  
Committee on Banking and Financial Services  
2186 Rayburn House Office Building  
Washington, D.C. 20515

Dear Chairman Leach:

The undersigned industry organizations commend to you those provisions of H.R. 4541, as reported by the House Agriculture Committee, that would provide "legal certainty" with respect to the status of over-the-counter (OTC) derivatives under the Commodity Exchange Act. These provisions enjoy broad and bipartisan support within the Congress and build upon the unanimous recommendations of the Secretary of the Treasury, the Chairman of the Board of Governors of the Federal Reserve System, the Chairman of the Securities and Exchange Commission, and the Chairman of the Commodity Futures Trading Commission, as set forth in the report of the President's Working Group on Financial Markets, "Over-the-Counter Derivatives Markets and the Commodity Exchange Act" (November 1999).

Legislation to provide legal certainty for OTC derivatives and Treasury Amendment products is an important public policy objective for which the undersigned have worked actively for many years. Ensuring that OTC derivatives transactions will continue to be enforceable in accordance with their terms, in the words of the President's Working Group, will foster "an environment of legal certainty . . . [that] will help to reduce systemic risk in the financial markets and enhance the competitiveness of the U.S. financial sector."

H.R. 4541 would provide *statutory* legal certainty for a broad range of OTC derivatives, including virtually all OTC transactions based on financial commodities, as well as many other OTC transactions such as those based on energy commodities and “hybrid” transactions. In addition, H.R. 4541 would retain and strengthen the so-called Treasury Amendment to the Commodity Exchange Act, which provides legal certainty for OTC transactions in foreign currencies, government securities, and other similar, enumerated commodities.

We believe that the legal certainty provisions of H.R. 4541 provide a workable and pragmatic resolution to the issues involved and should provide the catalyst for final and bipartisan congressional action this year. We look forward to working with the other congressional committees, which will now consider this legislation, and with other key members of Congress, the Administration, the regulatory agencies, and the interested parties in the private sector, to achieve this result.

Very truly yours,

*The Ad Hoc Coalition of Commercial and Investment Banks*

*The American Bankers Association*

*The ABA Securities Association*

*The Bond Market Association*

*The Emerging Markets Traders Association*

*The Financial Services Roundtable*

*The Foreign Exchange Committee*

*The Futures Industry Association*

*The International Swaps and Derivatives Association*

*The Securities Industry Association*