

To House Financial Services Chair and Ranking, Separate but identical letter to Senate Banking Chair and Ranking

We commend your efforts to examine how our nation's financial services regulatory system can be improved to preserve our economy and ensure our continued global leadership and competitiveness. As you undertake your review of potential regulatory enhancements, we encourage you to recognize the strong and independent authority of the Commodity Futures Trading Commission (CFTC). While we understand that the CFTC is not under the Committee's jurisdiction, we are concerned by reports that attempt to connect it to broader issues of systemic risk. We believe that merging CFTC or combining its current functions with any other financial regulator would inevitably weaken an agency that has not been part of nor contributed to the current economic crises.

The CFTC has a separate and very distinct regulatory framework which reflects underlying differences between the futures and securities markets. The differences are organic, not accidental, dating back to the fundamental purposes for the establishment of futures contracts for U.S. agricultural commodities more than 150 years ago. The many critical differences between capital formation and risk transfer markets must be recognized, as well as the prevailing regulatory standards in the global marketplace where both designated contract markets and agricultural producers compete.

Self regulation under the CFTC's principles-based regulatory regime coupled with a strong central counterparty clearing system that marks open positions to a legitimate market price twice a day works. Principles-based regulation in U.S. futures markets has spurred unparalleled growth, innovation and competition in the futures. As a result, exchange-traded derivatives markets have effectively competed with and outperformed global futures and options exchanges, as well as with the less-regulated cash and exempt over-the-counter derivatives markets.

The market regulation and customer protection mechanisms in U.S. futures markets are unmatched and have been demonstrably effective for many decades, including during more recent market volatility and disruptive market conditions. These systems cannot be compromised. Throughout the recent turmoil in financial markets, the strong performance of CFTC regulated futures exchanges stands as a stark distinction from other financial markets.

In contrast, the securities industry regulatory framework is many decades old and outdated compared to the more modern system of regulation for futures markets. The core differences between the regulation of futures markets and federal securities regulation would be nearly impossible to harmonize given the irreconcilable differences between securities markets, which support capital formation, and futures markets, which exist to discover prices. At a minimum, the adoption of a principles-based regulatory oversight structure like that already provided by Congress for U.S. futures markets is necessary before any merger could occur.

The governing philosophy of the CFTC has allowed it to maintain a strong track record of oversight and enforcement, despite the breakdown in systems and procedures that we

have witnessed in other regulators, including the Securities Exchange Commission (SEC). To combine an effectively functioning agency like the CFTC with under-performing financial regulators, especially without first resolving serious problems in the other agencies, would invariably weaken CFTC. Any effort to homogenize the regulatory regimes is certain to cause more harm than good.

Thank you for your consideration of our views.