Congress of the United States
Washington, DC 20515

October 13, 2009

The Honorable Barney Frank
Chairman
U.S. House Committee on Financial Services
2252 Rayburn HOB
Washington, D.C. 20510

Dear Chairman Frank:

We appreciate your work and that of the House Financial Services Committee in developing legislation to regulate the over-the-counter (OTC) derivatives markets. This is a pressing issue which must be a part of any comprehensive reform of our financial industry. However, we are concerned with a number of provisions of the proposed legislation that would either exempt energy companies and financial speculators from regulation, or open up new loopholes for continued and expanded speculation in our nation's energy derivatives markets.

According to Commodity Futures Trading Commission (CFTC) data, from January 2008 through the end of June 2008 index investors poured $55 billion into major commodity indexes, pushing the price of crude oil from $99 per barrel to $140 per barrel. As a result, gasoline prices spiked to a national average of more than $4 a gallon, with prices reaching more than $5 a gallon in some regions of the country.

That same market collapsed over the course of the next six months, with prices plummeting to $30 per barrel by December 2008 as investors withdrew $73 billion from the market. This was not a coincidence. The dramatic drop in oil prices was occurring at the same time index investors fled the market. From January 2009 through May 2009, the price rose from $35 per barrel to $70 per barrel as index investors came back into the market and poured in $35 billion into major commodity indexes.

The CFTC, Government Accountability Office (GAO), Federal Energy Regulatory Commission (FERC), Energy Information Administration (EIA), Senate Permanent Subcommittee on Investigations, and House Energy and Commerce Oversight and Investigations Subcommittee have all issued reports and held hearings on speculation in the energy derivatives markets. These reports, market experts, and regulators agree that speculation is a significant contributor to increasing energy costs, and reform of OTC derivatives markets are necessary to prevent future abuse.

U.S. Treasury Secretary Timothy Geithner has advocated for strong requirements on OTC derivatives through transparent exchanges. CFTC Chairman Gary Gensler has similarly

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supported comprehensive reform of all derivatives in all markets, including closing loopholes that have allowed speculation and setting aggregate position limits on all commodities. Including these provisions is vital for a successful reform of our energy derivatives markets. Loopholes, such as those contained in the House Financial Services Committee draft legislation, would allow trading to occur under little to no regulatory regime and allow excessive speculation to continue.

The American Clean Energy and Security Act (H.R. 2454) included strong requirements for all OTC energy trading to be regulated by the Commodity Futures Trading Commission (CFTC), moves all OTC energy trading onto derivatives clearing organizations, closes loopholes for evading regulation by trading overseas or through energy swaps, and imposes strong aggregate position limits that are essential for curbing excessive speculation. Given that this legislation has been passed by the U.S. House of Representatives, it should be used as a starting point for reform of the OTC markets.

The legislation proposed in the U.S. House Financial Services Committee imposes no provisions similar to those contained in H.R. 2454. In fact, the proposed legislation weakens current law governing U.S. companies trading on foreign boards of trade. Exemptions for energy traders by regulators and Congress over the years led to excessive speculation and rising energy costs, and that speculation continues to occur in today's markets.

As Congress crafts financial market reforms, our priority should be closing these loopholes to protect consumers, not creating new avenues for speculators to take advantage of consumers. As the committee moves toward a markup of derivatives legislation, we urge you to include strong provision to protect consumers and the overall economy from abuses in the OTC markets.

Sincerely,

Bart Stupak
Member of Congress

Maurice Hinchey
Member of Congress

Tom Perriello
Member of Congress

Peter Visclosky
Member of Congress

Carol Shea-Porter
Member of Congress

Peter Welch
Member of Congress

John Hall
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John Olver
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Marcy Kaptur
Member of Congress

Pete Stark
Member of Congress

CC: Congressman Colin Peterson
Chairman, House Agriculture Committee