

# The Investors' Working Group

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May 26, 2010

The Honorable Christopher J. Dodd  
Chairman  
United States Senate Committee on Banking,  
Housing, and Urban Affairs  
534 Dirksen Senate Office Building  
Washington, DC 20510

The Honorable Richard Shelby  
Ranking Member  
United States Senate Committee on Banking,  
Housing, and Urban Affairs  
534 Dirksen Senate Office Building  
Washington, DC 20510

The Honorable Barney Frank  
Chairman  
United States House of Representatives  
Committee on Financial Services  
2129 Rayburn House Office Building  
Washington, DC 20515

The Honorable Spencer Bachus  
Ranking Member  
United States House of Representatives  
Committee on Financial Services  
2129 Rayburn House Office Building  
Washington, DC 20515

Dear Chairmen Dodd and Frank, and Ranking Members Shelby and Bachus:

Last year we participated in the Investors' Working Group ("IWG"), an independent task force formed expressly to provide the investor perspective on future financial regulatory reform. This high-level task force issued a report—*U.S. Financial Regulatory Reform: The Investors' Perspective*—that offers a number of recommendations intended to instill important investor protections into our financial markets system.<sup>1</sup>

As sponsors of the IWG, we write to add our views to what will likely be an acrimonious conclusion to the debate over the appropriate regulation of OTC derivatives. We encourage you to reject commercial interests that will attack rigor and transparency. As the Senate and House prepare to take matters to the Conference Committee, we encourage close attention to any exemptions from reporting, central clearing and exchange trading of such instruments. It is precisely these instruments that represent the biggest systemic risk to our markets.

We strongly support provisions that encourage rigorous limits on OTC derivatives markets. The approach taken in both the Senate and House seems to leave significant loopholes for the continued use and non-reporting of OTC derivatives where they are customized and certain "end users" are involved. We have previously called for legislation requiring "standardized (and standardizable) derivatives contracts to be traded on regulated derivatives exchanges and cleared through regulated derivatives clearing operations." For all the commonly understood reasons, the IWG supported strict oversight that provided: greater transparency about pricing; identity of market participants and counterparties; the potential for margin requirements and position limits; and a fuller regulatory understanding of the magnitude of aggregate leverage and systemic exposures. It is now up to you to ensure regulatory effectiveness and responsibility in an area full of gaps.

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<sup>1</sup> [https://www.cfainstitute.org/ethics/Documents/us\\_investors\\_working\\_group\\_report.pdf](https://www.cfainstitute.org/ethics/Documents/us_investors_working_group_report.pdf)

Please examine the growing din of commercial interests seeking to ensure that various loopholes and exceptions either remain or are expanded. It would be a serious shortcoming of any regulatory reform legislation if it were to allow “business as usual” in this critical realm. If we fail to clearly delineate a limited scope for continued off-exchange, non-transparent activities, be assured that industry will simply structure activities to avoid regulation and disclosure. The mistakes of the past twenty-four months will have been repeated.

## Conclusion

We strongly encourage and support Congressional efforts in moving toward a final set of comprehensive reforms that focus on investor protection. Pivotal to this effort is the enactment of final legislation that substantially strengthens the oversight and regulation of OTC derivatives. If you want further information or testimony on this important issue, please do not hesitate to call upon either of us at (212) 756-7728 for Kurt Schacht, or (916) 795-4079 for Joe Dear.

Sincerely,



Kurt Schacht, CFA  
Managing Director, CFA Institute  
Co-Sponsor, Investors' Working Group



Joe Dear  
Chair, Council of Institutional Investors  
Co-Sponsor, Investors' Working Group



**About the Investors' Working Group:** The Investors' Working Group (IWG) is an independent, nonpartisan commission co-sponsored by the Council of Institutional Investors and the CFA Institute to recommend ways to improve the regulation of U.S. financial markets. The IWG was established to ensure that investor views are heard in debate about how to modernize the financial regulatory system. Co-chairs of the IWG are William H. Donaldson, CFA, and Arthur Levitt Jr.

**About the IWG sponsors:** The [Council of Institutional Investors](#) is a nonprofit association of public, union and corporate pension funds with combined assets that exceed \$3 trillion. The Council is a leading voice for good corporate governance, strong shareholder rights and related investment issues. [CFA Institute](#) is the global association for investment professionals. It administers the CFA and CIPM curriculum and exam programs worldwide; publishes research; conducts professional development programs; and sets voluntary, ethics-based professional and performance-reporting standards for the investment industry.