



Via Hand Delivery

May 1, 2013

The Honorable Debbie Stabenow
Chairman
Committee on Agriculture, Nutrition
and Forestry
United States Senate
Washington, DC 20510

The Honorable Thad Cochran
Ranking Member
Committee on Agriculture, Nutrition
and Forestry
United States Senate
Washington, DC 20510

Dear Madam Chairwoman and Ranking Member Cochran:

I am writing on behalf of the Council of Institutional Investors ("CII"), a nonpartisan, nonprofit association of pension funds, other employee benefit funds, endowments and foundations with combined assets that exceed \$3 trillion. Council members are large, long-term investors responsible for protecting the retirement savings of millions of American workers and retirees.¹

The purpose of this letter is to respond to your March 5, 2013, request for input on the Commodity Futures Trading Commission ("CFTC") and "related issues including market oversight, agency oversight and resources, and statutory authorities."² As long-term investors, we respectfully request that the Committee carefully consider the following two issues relating to the CFTC:

1. Implementation and enforcement of the central clearing and trading requirements of the Wall Street Reform and Consumer Protection Act ("Dodd-Frank")

In our view, the most important provisions of Title VII of Dodd-Frank are those that provide that over-the-counter ("OTC") derivatives should generally be centrally cleared and exchange traded. Central clearing substantially reduces counterparty risk, and exchange trading provides valuable pre-and post-trade transparency to investors, regulators, and other market participants.³

¹ For more information about the Council of Institutional Investors ("CII") and its members, please visit our Web site at http://www.cii.org/about_us.

² Letter from Chairman Stabenow & Ranking Member Cochran to Stakeholders (Mar. 5, 2013) (on file with CII), available at <http://www.ag.senate.gov/newsroom/press/release/stabenow-cochran-cftc-reauthorization-letter>.

³ See, e.g., Investors' Working Group, U.S. Financial Regulatory Reform: The Investors' Perspective 11 (July 2009) (on file with CII), available at http://www.cii.org/files/issues_and_advocacy/dodd-frank_act/07_01_09_iwg_report.pdf (Recommending that "Congress and the Administration should enact legislation overturning the exemptive provisions of the CFMA and requiring standardized and (standardizable)

Moreover, an important by-product of increased transparency for OTC derivatives is the reduction of transaction costs for institutional investors.⁴ We, therefore, urge the Committee to use its oversight of the CFTC to ensure that there is rigorous implementation and enforcement of the clearing and trading requirements of Dodd-Frank.

2. Sufficient, stable and long-term funding

Rigorous implementation and enforcement of the clearing and trading provisions of Dodd-Frank requires that the CFTC has sufficient, stable and long-term funding.⁵ As you are aware, funding for the CFTC has simply not kept pace with the growth in the markets it is responsible for overseeing.

Over approximately the past twenty years the futures markets have grown fivefold while the staff of the CFTC has grown by only seven percent.⁶ Even more alarming, as a result of Dodd-Frank the CFTC now directly oversees the swaps markets *which are eight times larger than the futures markets.*⁷

In order to properly safeguard investors and the financial markets, we believe the CFTC should have a funding mechanism that would ensure that it has the necessary resources to hire a staff of sufficient size and skill, and obtain and maintain the technology needed, to effectively oversee the nation's swaps and futures markets and respond to technological changes as they are adopted in the marketplace.⁸ The funding mechanism should also allow the CFTC to engage in more predictable long-term planning.

Regardless of the CFTC's funding mechanism, Council members and many other market participants rely, in significant part, on a strong and active CFTC to develop and enforce the market rules necessary to promote transparency and lower the risk of the derivatives markets. We, therefore, urge the Committee to evaluate the

derivatives contracts to be traded on regulated derivatives exchanges and cleared through regulated derivatives clearing operations.”).

⁴ *Id.*

⁵ See *id.* at 9 (Recommending that “[r]egulators should have enhanced independence through stable, long-term funding that meets their needs.”).

⁶ Hearing Before the H. Subcomm. on Agric., Rural Dev., Food & Drug Admin., and Related Agencies, 113th Cong. 9 (Apr. 12, 2013) (Testimony of Gary Gensler, Chairman, Commodity Futures Trading Commission) (on file with CII), available at <http://appropriations.house.gov/uploadedfiles/hhrg-113-ap01-wstate-genslerg-20130412.pdf>.

⁷ *Id.*

⁸ See, e.g., Investors' Working Group at 8.

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resources the CFTC needs to fulfill its mission and actively support sufficient, stable, and long-term funding that provides the CFTC the tools that are critical to performing its important role for investors and the financial markets.

We appreciate the opportunity to share with you our views. Please feel free to contact me at (202) 261-7081 or jeff@cii.org if you should have any questions regarding CII or the contents of this letter.

Sincerely,

A handwritten signature in black ink that reads "Jeff Mahoney". The signature is written in a cursive style with a long horizontal flourish at the end.

Jeff Mahoney
General Counsel