

November 12, 2002

The Honorable J. Dennis Hastert
The Speaker
U.S. House of Representatives

The Honorable Thomas A. Daschle
Majority Leader
U.S. Senate

The Honorable Richard Gephardt
Democratic Leader
U.S. House of Representatives

The Honorable Trent Lott
Republican Leader
U.S. Senate

The undersigned organizations strongly urge your assistance in securing favorable passage of the bankruptcy reform conference report to H.R. 333, which includes the Financial Contracts Provisions. These provisions strengthen and clarify the enforceability of early termination and close-out netting provisions and related collateral arrangements in U.S. insolvency proceedings. They have bipartisan support, have passed the House on at least four occasions without opposition, reflect years of work with the President's Working Group on Financial Markets and include much needed improvement of the payment risk reduction and netting provisions of the Bankruptcy Code and bank insolvency laws.

The legal uncertainty created by the Bankruptcy Code's treatment of financial contracts has resulted in U.S. companies receiving less favorable credit treatment from their trading counterparties than companies that are not subject to the U.S. insolvency laws. The disparate treatment of financial contracts under different insolvency regimes increases risks associated with cross-border insolvencies by providing an incentive for debtors (or their creditors) to initiate insolvency proceedings in different or in multiple jurisdictions. Enactment of these provisions would improve harmonization between U.S. insolvency laws and other jurisdictions such as England, Canada, Australia, France, Germany and Japan. Additionally, these uncertainties have been a major impediment to the adoption of cross-product netting documentation developed by the industry. Removing these uncertainties will make it easier for providers of credit to ascertain their risks thereby assisting in providing needed credit to American businesses.

Many of the undersigned organizations delivered this message to you in November 2001. Federal regulators including Treasury Secretary Paul O'Neill, Federal Reserve Chairman Alan Greenspan, FDIC Chairman Donald Powell, CFTC Chairman Jim Newsome and OCC Comptroller John Hawke have urged enactment of these provisions. SEC and OTS officials have also supported passage of the netting provisions. **We urge you and your leadership team to pass the Conference Report to H.R. 333 prior to adjournment so that yet another opportunity for enactment of these provisions is not missed.**

Sincerely,

**American Bankers Association
ABA Securities Association
The Bond Market Association
Emerging Markets Traders Association
The Foreign Exchange Committee
Futures Industry Association
The Financial Services Roundtable
International Swaps and Derivatives Association
Investment Company Institute
Managed Funds Association
The New York Clearing House Association, L.L.C.
The Options Clearing Corporation
Securities Industry Association**