

The Honorable Bill Frist
Majority Leader
United States Senate
Washington, D.C. 20510

The Honorable Tom Daschle
Democratic Leader
United States Senate
Washington, D.C. 20510

The Honorable Bill Frist and the Honorable Tom Daschle:

We urge you to oppose any financial derivatives, energy derivatives, metals derivatives and energy trading market provisions contained in S.509 that may be offered as amendments by Senator Feinstein to H.R. 6, the Energy Policy Act of 2003.

The provisions of S.509 (introduced by Senator Feinstein in March and referred to the Senate Agriculture Committee) include, in addition to other problematic provisions, language that would expand FERC jurisdiction, creating uncertainty and unnecessary jurisdictional confusion between the FERC and CFTC for financial and energy derivatives transactions. The amendment also contains specific provisions to expand FERC jurisdiction over "other financial transactions." In addition to creating legal uncertainty within the OTC derivatives markets, this provision would potentially call into question the CFTC's exclusive jurisdiction over futures and options on futures.

Provisions contained in S.509 are similar to the Feinstein amendment, which was offered to last year's Senate energy bill. The amendment was defeated in a cloture motion on April 10, 2002. In addition, key financial regulators have also opposed these types of provisions. The Chairman of the Board of Governors of the Federal Reserve, the Secretary of the Treasury, the Chairman of the Securities and Exchange Commission and the Chairman of the Commodity Futures Trading Commission, collectively known as the President's Working Group on Financial Markets (PWG), all opposed earlier versions of the proposed legislation.

We ask that you preserve the legal certainty achieved with passage of the Commodity Futures Modernization Act of 2000 and oppose any amendments relating to financial derivatives and the energy trading markets.

Sincerely,

American Bankers Association
ABA Securities Association
Association for Financial Professionals
The Bond Market Association
EMTA
Financial Services Roundtable
The Foreign Exchange Committee
Futures Industry Association
International Swaps and Derivatives Association
Managed Funds Association
National Mining Association
Securities Industry Association

cc: The United States Senate