

# ISDA

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Letters to the Editor  
The Wall Street Journal  
4300 Route 1 North  
South Brunswick, New Jersey 08852

Dear Sirs:

Your Dec. 13 article “Enron Lobbied Hard to Limit Oversight of Trading Operations” contains two interesting items of evidence but uses them to reach an unsupportable conclusion.

First, you correctly write that that Enron’s collapse doesn’t appear to have been caused by its derivatives trading. Second, you note the position of most regulators and financial industry executives that the financial system remains sound in the face of the Enron situation. One of the reasons the markets continue to function smoothly is due to the robust netting and collateral provisions of OTC derivatives contracts in the form of the ISDA Master Agreements, which protect derivative counterparties by creating an enforceable legal structure relating to the consequences of bankruptcy and insolvency.

If OTC derivatives did not cause the bankruptcy and the bankruptcy does not pose a risk to the markets, the logical conclusion is that there is no argument for additional derivatives regulation. But the article claims just the opposite. Further, your discussion about the Commodity Futures Modernization Act of 2000 (CFMA) is interesting but appears to be largely irrelevant to the Enron situation. The fact is that the CFMA updated an extremely outdated regulatory structure and incorporated forward-looking provisions to promote innovation, competition, efficiency, liquidity and transparency in the financial system.

It is unclear based upon the substance of the article how additional regulation of Enron’s derivatives trading operations would have prevented or mitigated Enron’s financial difficulties. In fact, Enron’s successful derivatives trading platform, EnronOnline, provided a highly innovative means of servicing its customers and is still considered a viable trading business as demonstrated by recent interest in its acquisition by other market participants. Advocating regulation for regulation’s sake is bad policy and could severely affect the U.S. role in global financial activity.

Sincerely,

A handwritten signature in cursive script, appearing to read "Robert G. Pickel".

Robert G. Pickel  
Executive Director and Chief Executive Officer  
International Swaps and Derivatives Association  
New York