



May 11, 2010

The Honorable Harry Reid  
United States Senate  
Washington, D.C. 20510

RE: Bingaman Amendment SA3892 to S. 3217 - Wall Street Reform Bill

Dear Majority Leader Reid,

The undersigned strongly oppose Amendment # 3892 offered by Senator Bingaman to grant the Federal Energy Regulatory Commission the authority to supersede the regulatory judgment of the Commodity Futures Trading Commission over natural gas and electricity futures, swaps and options markets. Since 1974, the CFTC has operated under the sound statutory principle that it has exclusive responsibility for futures markets and their important price discovery function. Congress realized long ago that if more than one agency was in charge, then no one would be in charge, especially in a market crisis.

This regulatory approach has worked well, so well that it has been uniformly embraced by the courts and has formed the foundation for the Obama Administration's reforms of the swap markets. The Amendment therefore attempts to "fix" a regulatory model that is not only not broken but in fact takes an intelligent approach to regulatory supervision and cooperation.

Should Congress, ultimately, seek to further address the regulatory oversight of these important markets we believe the language included in the House of Representatives financial regulatory reform legislation, H.R. 4173, contains appropriate compromise language regarding authority over the regulation of Financial Transmission Rights. There is ample historical evidence that the CFTC will act responsibly to exempt from its authority FTRs (as it has indicated it will) and other similar instruments that are of primary jurisdiction of the FERC.

In our view, the Bingaman Amendment will lead to additional, costly, and unnecessary, regulatory burden that provides no tangible benefit to markets or investors. In fact, the amendment may lead to agency competitiveness and regulatory arbitrage, both of which are problematic given the FERC's lack of regulatory experience over the important futures, options and swaps markets in electricity and natural gas.

We strongly urge you to oppose the Bingaman amendment -- #3892.

Sincerely,

CME Group  
Commodity Markets Council  
Futures Industry Association  
IntercontinentalExchange  
Managed Funds Association

cc: Senator Mitch McConnell, Minority Leader, U.S. Senate  
Senator Blanche Lincoln, Chairman, Senate Committee on Agriculture, Nutrition and Forestry  
Senator Saxby Chambliss, Ranking Member, Senate Committee on Agriculture, Nutrition and Forestry  
Senator Christopher Dodd, Chairman, Senate Committee on Banking, Housing and Urban Affairs  
Senator Richard Shelby, Ranking Member, Senate Committee on Banking, Housing and Urban Affairs  
Senator Jeff Bingaman, Chairman, Committee on Energy and Natural Resources  
Senator Lisa Murkowski, Ranking Member, Committee on Energy and Natural Resources  
Members of the Senate Committee on Agriculture, Nutrition and Forestry  
Members of the Senate Committee on Banking, Housing and Urban Affairs  
Members of the Committee on Energy and Natural Resources