



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C.

SECRETARY OF THE TREASURY

November 3, 2005

The Honorable Michael G. Oxley
Chairman
Committee on Financial Services
United States House of Representatives
Washington, DC 20515

Dear Chairman Oxley:

As Chairman of the President's Working Group on Financial Markets (PWG) and on behalf of its members, I am enclosing a joint PWG letter which transmits legislative and report language that addresses the retail foreign currency fraud issues raised by the 7th Circuit's decision of last year in *CFTC v. Zelener*. The enclosed letter also transmits legislative language to establish statutory deadlines for the resolution of issues related to portfolio margining and certain security indexes. The PWG will continue to monitor the very recent events concerning Refco and its affiliates as the facts unfold to determine whether or not any measures may be needed to address any additional issues that the situation raises.

Sincerely,

John W. Snow

Department of the Treasury
Board of Governors of the Federal Reserve System
U.S. Securities and Exchange Commission
U.S. Commodity Futures Trading Commission

The Honorable Michael G. Oxley
Chairman
Committee on Financial Services
United States House of Representatives
Washington, DC 20515

The Honorable Barney Frank
Ranking Member
Committee on Financial Services
United States House of Representatives
Washington DC 20515

Dear Chairman Oxley and Ranking Member Frank:

As representatives of the President's Working Group on Financial Markets (PWG) testified before the Senate Banking Committee on September 8, 2005, the PWG principals have reached agreement on an approach to address the retail foreign currency fraud issues raised by the 7th Circuit's decision of last year in *CFTC v. Zelener*. As promised, we are enclosing legislative and accompanying report language that would implement the PWG's agreement. This legislative language is supported by each member of the PWG and is drafted as an amendment to section 2(c)(2) of the Commodity Exchange Act (CEA).

The PWG's amendment confirms the CFTC's anti-fraud jurisdiction over retail foreign currency transactions similar to those that were involved in the *Zelener* case that are offered by persons not already regulated by another financial regulator. The amendment also would grant the CFTC authority to require certain persons involved in soliciting and recommending retail foreign currency futures and similar transactions to register with the CFTC, if such persons are not already regulated by another financial regulator. It is the view of the PWG that it is not necessary at this time to deal with anti-fraud jurisdiction over other products or instruments other than retail foreign currency as set forth in the attached proposed amendment.

In addition to retail foreign currency fraud issues, the PWG members have discussed the complex issues related to 1) the implementation of risk-based portfolio margining systems for security futures products and security options, and 2) resolution of definitional issues relating to narrow-based security indexes. As part of these discussions, the PWG is committed to resolving the portfolio margining system and narrow-based index issues within the time frames set forth below.

With regard to portfolio margining, the SEC has committed to approving self regulatory organization (SRO) rules that permit the use of a risk-based portfolio margining methodology to determine margin requirements for portfolios that include security futures products and for security options by June 30, 2006. In the event that the SEC does not approve such SRO rules, the SEC will promulgate rules to permit risk-based portfolio margining for security options by September 30, 2006, and the SEC and CFTC will do so jointly for security futures products by the same date.

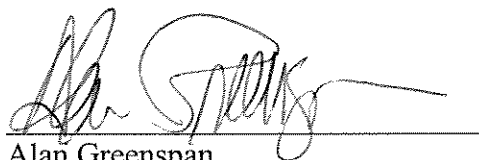
With regard to futures on indexes composed of debt securities, the CFTC and SEC have committed to use joint authority to accommodate the trading of such products by excluding certain debt securities from the definition of "narrow-based security index" by June 30, 2006, and permit trading of futures based on such indexes. The CFTC and the SEC also have committed to resolve whether it is appropriate to exclude certain foreign security indexes from the definition of "narrow-based security index" by June 30, 2006.

We are enclosing legislative language that directs the PWG, working through its member agencies, to resolve these issues within the time periods described above. For both the portfolio margining and narrow-based index issues, the PWG will continue its efforts to resolve these important issues by meeting as appropriate and ensuring open and ongoing communication and discussion among the PWG members and staff. In addition, the PWG will continue to focus on developing a consistent approach to regulatory oversight of margin requirements. Thank you for the opportunity to provide input into your important work of reauthorizing the CFTC and related legislative issues. We look forward to working with your Committee and your counterparts in the Senate as this process moves forward.

Sincerely,



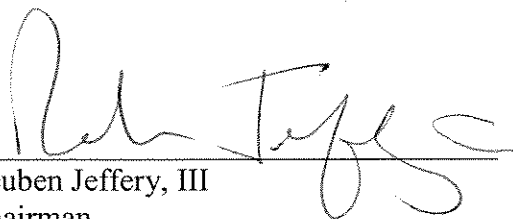
John W. Snow
Secretary of the Treasury



Alan Greenspan
Chairman, Board of Governors
of the Federal Reserve System



Christopher Cox
Chairman
Securities and Exchange Commission



Reuben Jeffery, III
Chairman
Commodity Futures Trading Commission