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November 15, 2010

Commodity Futures Trading Commission
Three Lafayette Centre
115521st Street NW
Washington, DC 20581

Re: RIN 3038-AD01

Dear Chairman Gensler,

Our country took a great step forward when it passed the recent Wall Street reform legislation, HR4173. As this legislation moves through your commission, I encourage you to uphold its intent to foster openness and accountability, especially when it comes to the regulation of the derivatives market.

The bill required that derivatives exchanges be processed through clearinghouses. These clearinghouses would act as independent agencies, whose involvement in the process would increase transparency and hedge against the reckless direct trading between big banks that destabilized the stock market and crashed our economy. But to ensure that they perform the prescribed function, we need to the regulatory process to ensure that these clearinghouses are not manipulated by their ownership.

Currently you are considering two rules that would apply to the ownership of such clearinghouses: the 20/40 Rule and the 5% Rule. The 20/40 Rule follows the spirit of HR4173 by limiting the ownership of a clearinghouse by any number of big banks to 40% overall, which effectively prevents them from holding a controlling interest. The 5% Rule does not apply any such aggregate limits, meaning that 11 such banks could join forces to gain majority interest in a given clearinghouse.

If these banks owned 55% of a clearinghouse, they would essentially be watching themselves. We saw how well such an arrangement worked the last time, when their reckless activities dragged down our economy, drove up unemployment, and destabilized retirements for everyday Americans. If we are to avoid repeating the mistakes of the past, such a co-opting of the clearinghouses must be prevented: therefore, we urge you to uphold the 20/40 Rule, but remove the 5% Rule from consideration.

Thank you.

Sincerely,

Tim Paulson
Executive Director