

United States Senate

WASHINGTON, DC 20510

May 15, 2012

The Honorable Gary Gensler
Chairman
Commodity Futures Trading
Commission
1155 21st Street, NW
Washington, DC 20581

The Honorable Mary L. Shapiro
Chairman
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

Dear Chairman Gensler and Chairman Shapiro,

We are writing to urge your swift action to issue a final rule on the definition of swaps, security-based swaps, and other key terms that must be defined in order to implement the Dodd–Frank Wall Street Reform and Consumer Protection Act. Defining these terms is an essential step enabling the Commodity Futures Trading Commission (CFTC) to fulfill its obligations, including stopping manipulation and excessive speculation in oil markets.

The CFTC recently established limits on speculative trading in oil futures and over-the-counter derivatives, which have the potential to reduce excessive speculation in our energy markets substantially. These limits will limit risky speculative oil trading on exchanges, foreign boards of trade, and over-the-counter derivatives markets on an aggregate basis.

Unfortunately, these limits will not take effect until the regulation defining a “swap” is issued. Further, the definition of “swap” must be broad enough to make these limits effective. We are deeply concerned that the ongoing work to develop regulations implementing the Dodd-Frank derivatives provisions leaves our energy and oil markets operating without sufficient protections against excessive speculation or its effects. We are also concerned that industry continues to push regulators to limit the definition of a “swap” to exclude much of their trading activity. We urge you to make completion of the necessary definitions a high priority of your respective agencies until effective and comprehensive limits on excessive speculative trading are in force.

Each day that passes without a definition for “swap” allows speculation in over-the-counter oil markets to continue without risk management tools and undermines effective oversight on regulated exchanges. The ability of the CFTC

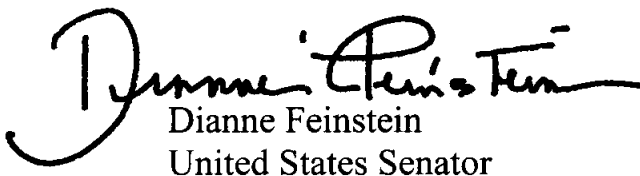
to take decisive action to limit speculative trading is substantially hindered by the current lack of clarity regarding the products to be regulated.

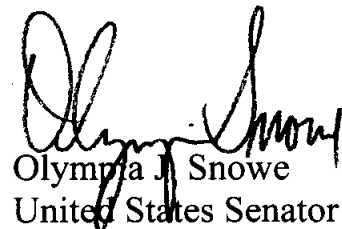
We understand that defining swaps, security-based swaps, and other key terms is an active effort at both the SEC and the CFTC, and we appreciate the extensive work being conducted by both agencies. However, the notice of proposed rulemaking to define swaps was issued more than 20 months ago, and the deadline to submit comments was September 20, 2010. We believe it is past time to issue a final definition. Further delay is detrimental to consumers who ultimately pay the cost if prices are distorted by manipulation or large speculative positions. This clarity will also greatly aid the few firms that must revise their practices to comply with these new, important rules.

We thank you both for your efforts to implement the Dodd-Frank legislation in a manner that protects consumers and markets. It is our sincere hope that the SEC and CFTC can work together to issue final definitions that will limit excessive speculation expeditiously.

We look forward to your prompt attention to this important issue. If you have any questions or concerns, please do not hesitate to contact us in our Washington, DC offices.

Sincerely,


Dianne Feinstein
United States Senator


Olympia J. Snowe
United States Senator


Carl Levin
United States Senator


Tom Harkin
United States Senator



Maria Cantwell
United States Senator