United States Senate

WASHINGTON, DC 20510

June 18, 2012

The Honorable Timothy Geithner
Secretary
U.S. Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, D.C. 20220

Dear Secretary Geithner:

We are writing to ask that you, as the chairman of the Financial Stability Oversight Council, take stronger, faster action to implement the Dodd–Frank Wall Street Reform and Consumer Protection Act provisions designed to reduce excessive speculation, manipulation, and systemic risk created by trading in the $700 trillion derivatives market. Nearly four years after trading in derivatives markets brought the United States economy to its knees, and nearly two years after the Dodd-Frank Act passed, these critical market protections should be in place and in force – but they are not.

Recent multi-billion dollar losses in the derivatives markets, such as those occurring at JPMorgan Chase, have reminded us of why we needed to replace our failed derivatives regulatory regime. If this can happen to JPMorgan Chase, which prides itself on its risk management capability, it can happen elsewhere. With these failures fresh in our minds, we call on the Financial Stability Oversight Council to unite its efforts in order to implement the law aggressively in the following ways:

- **Definitions**: CFTC and SEC are scheduled to publish their definitions of swaps, security-based swaps, and other key terms from the Dodd-Frank Act this month, and any further delay of such a basic requirement is entirely unacceptable. A number of provisions essential to effective regulation of derivatives – including limits on excessive speculation, swaps dealer registration, and public real-time reporting – will not go into effect until these key terms are defined. It's past time for the two year debate over definitions to end, and implementation of the law to begin.

- **Limits on Excessive Speculation**: CFTC has proposed limits on excessive speculation, but it has not yet begun to enforce them. The Dodd-Frank Act specifically required that these limits be imposed more than a year ago. It's past time to enforce speculative position limits.

- **Mandatory Clearing**: Federal regulators have not yet identified any derivatives that must be cleared – even though CFTC Chairman Walter Lukken testified in 2008: "While wholesale regulatory reform will require careful consideration, centralized clearing is one immediate and proven solution that could help mitigate the risks associated with these (credit default swap) products." It's past time to implement the Dodd-Frank Act's requirement that derivatives be cleared, when feasible.

- **Transparent Markets**: Federal regulators have not yet instituted transparent, real-time reporting of derivatives trading by American traders, both here and abroad. A lack of transparency left regulators in the dark regarding the size of JPMorgan Chase's London Whale credit default swap positions – something that is simply unacceptable four years after AIG's London trading unit prompted a record-breaking Federal bailout. It's past time to require transparency and real-time reporting.

- **Volcker Rule**: The lack of Volcker Rule enforcement allowed JPMorgan Chase to bet FDIC insured deposits – guaranteed by the U.S. taxpayer – in a barely-regulated credit default swap market. The JPMorgan Chase losses also demonstrate that this rule must be strongly enforced, and it must include strict limitations on speculative trading and proprietary trading practices disguised as hedging or market-making. It's past time to establish and enforce a strong Volcker Rule.

- **Offshore Loopholes**: And finally, London-based traders for AIG and now JPMorgan Chase lost billions of dollars on derivatives bets that had direct, negative consequences throughout their entire firms. AIG would have failed if not for hundreds of billions of dollars in taxpayer bailout funds. JPMorgan Chase has lost at least $2 billion and counting. The swaps booked in London often have a direct and significant effect on U.S. commerce, and the Dodd-Frank Act directed Federal regulators to oversee these trades if they have such effects. It's past time to close these offshore loopholes.

A secretive, speculative marketplace is inefficient – rewarding traders at the expense of price discovery, price stability, and product costs for all Americans. We understand that regulating America's financial markets is a difficult and complicated task, but this complexity can no longer be an excuse for failing to implement the law Congress passed nearly two years ago. It is simply unacceptable to not provide the financial markets with the oversight necessary to protect American businesses and families from the devastation of derivatives market failures.

Sincerely,

Dianne Feinstein
United States Senator

Carl Levin
United States Senator

Maria Cantwell
United States Senator

Tom Harkin
United States Senator

Jack Reed
United States Senator

Richard J. Durbin
United States Senator

Bernie Sanders
United States Senator

Jeff Merkley
United States Senator

Barbara Boxer
United States Senator

Frank R. Lautenberg
United States Senator

Daniel K. Inouye
United States Senator

Patty Murray
United States Senator

Richard Blumenthal
United States Senator

Sherrod Brown
United States Senator

Jim Webb
United States Senator