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August 8, 2011

The Honorable Ben Bernanke
Chairman
Board of Governors of the Federal Reserve System
20th Street and Constitution Ave, NW
Washington, DC 20551

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

The Honorable Martin Gruenberg
Acting Chairman
Federal Deposit Insurance Corporation
550 17th St NW
Washington, DC 20429

The Honorable John Walsh
Acting Comptroller
Office of the Comptroller of the Currency
250 E St SW
Washington, DC 20219

Dear Chairman Bernanke, Chairman Gensler, Acting Chairman Gruenberg and Acting Comptroller Walsh:

I write to you today concerning recent regulations under the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank", P.L. 111-203) and the need for international harmonization and cooperation regarding derivatives regulations.

Rules recently proposed under Title VII of Dodd-Frank would apply margin requirements to all transactions from a U.S. financial institution, even if these transactions occur outside of the U.S. and if they are conducted by a foreign subsidiary and a foreign customer. Under the proposals, margin requirements do not apply to foreign banks doing business with foreign citizens, but they do apply to foreign subsidiaries and affiliates of U.S. banks doing business with foreign citizens. This disparate treatment has implications for the competitiveness of U.S. companies.

While strong oversight is certainly needed and I agree that the proposal would reduce the risk posed by large U.S. institutions, this is not necessarily the only way to achieve the same goal. Dodd-Frank specifically limited the foreign application of swap requirements without the proper level of foreign coordination unless there is a "direct and significant connection" with U.S. activities. Obviously, a balance must be struck that simultaneously meets the statutory obligations of Dodd-Frank while harmonizing international standards.

I believe that the broad extraterritorial scope of the proposed rule is a second-best solution at the current time. A better solution than imposing such a requirement quickly and unilaterally is to first try working with other countries to implement similar requirements. So I would strongly urge you to work closely with your international counterparts as they continue to adopt standards as we already have. Ideally, these standards would closely mirror one another to reduce the opportunity for avoiding important regulations. If such attempts at international harmonization fail, then I would urge you to revisit the proposed rule at that later time.

Thank you for your kind consideration of this important matter. I look forward to your response.

Sincerely,

A handwritten signature in black ink that reads "Robert Menendez". The signature is written in a cursive, flowing style with a prominent initial "R" and a long, sweeping tail.

ROBERT MENENDEZ
United States Senator