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

June 11, 2003

The Honorable Michael D. Crapo
United States Senate
111 Russell Senate Office Building
Washington, DC 20510

The Honorable Zell B. Miller
United States Senate
257 Dirken Senate Office Building
Washington, DC 20510

Dear Senators Crapo and Miller:

Thank you for your letter of June 10, 2003, requesting the views of the President's Working Group on Financial Markets (PWG) on proposed Senate Amendment #876 to S.14, the pending energy bill. As this amendment is similar to a proposed amendment on which you sought the views of the PWG last year, we reassert the positions expressed in the PWG's response dated September 18, 2002, a copy of which is enclosed. The proposed amendment could have significant unintended consequences for an extremely important risk management market -- serving businesses, financial institutions, and investors throughout the U.S. economy. For that reason, we believe that adoption of this amendment is ill-advised.

We would also point out that, since we wrote that letter last year, various federal agencies have initiated actions against wrongdoing in the energy markets. As you note, the CFTC has brought formal actions against Enron, Dynegy, and El Paso for market manipulation, wash (or roundtrip) trades, false reporting of prices, and operation of illegal markets. The Securities and Exchange Commission, the Federal Energy Regulatory Commission, and the Department of Justice have also initiated formal actions in the energy sector. Some of these actions have already resulted in substantial monetary penalties and other sanctions. These initial actions alone make clear that wrongdoers in the energy markets are fully subject to the existing enforcement authority of federal regulators.

The Commodity Futures Modernization Act of 2000 brought important legal certainty to the risk management marketplace. Businesses, financial institutions, and investors throughout the economy rely upon derivatives to protect themselves from market volatility triggered by unexpected economic events. This ability to manage risks makes the economy more resilient and its importance cannot be underestimated. In our judgment, the ability of private counterparty surveillance to effectively regulate these markets can be undermined by inappropriate extensions of government regulation.

Yours truly,

John W. Snow
Secretary
Department of the Treasury

Alan Greenspan
Chairman
Board of Governors of the Federal Reserve System

William H. Donaldson
Chairman
U.S. Securities and Exchange Commission

James E. Newsome
Chairman
Commodity Futures Trading Commission

Enclosure