



Commodity Futures Trading Commission

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Statement

Dissent of Commissioner Bart Chilton on the Memorandum of Understanding Between the Federal Reserve Board, the CFTC, and the SEC Regarding Central Counterparties for Credit Default Swaps

November 14, 2008

While I generally support the sharing of information between federal financial regulators, as appropriate, I dissent from the signing of the above-referenced MOU. Specifically, I voice significant reservations regarding the implicit message this action may send to the marketplace.

The CFTC is unique among the signatories in that it is the only party that has experience in regulating these types of products. Indeed, the CFTC is the expert federal financial oversight regulator for clearing derivative products. I am concerned that, by our approval of this action, we are sending the message that other regulatory bodies have the same or similar levels of expertise in this area. That is simply not the case.

In addition, given our experience with previous MOUs, I believe it is critically important to reiterate that such documents do not in any way expand or contract the Congressionally-mandated jurisdictions of the respective signatories. I am also concerned that there are not sufficiently aggressive enforcement provisions included in this MOU.

Last, and perhaps most importantly, while clearing of credit default swaps most certainly should be promoted, it is a necessary, but insufficient step toward addressing our current market problems. Legislative changes are needed to provide real protections for consumers and businesses, and should entail not only mandatory clearing, but also authority to directly oversee these markets and to act when there are market disturbances that negatively affect the regulated on-exchange markets. In addition, agencies should utilize meaningful administrative and regulatory authorities to ensure that market integrity and customer protection issues are given the highest priority. Nothing less than a sure-footed regulator specifically empowered by Congress to oversee this industry should be accepted by consumers and businesses alike.