FEDERAL DEPOSIT INSURANCE CORPORATION, Washington, DC 20429

OFFICE OF THE CHAIRMAN

April 8, 1991

Dear Mr. Chairman:

I am writing to follow up on our previous comments submitted to the Senate Agriculture Committee regarding S. 207, the Futures Trading Practices Act of 1991.

Sections 302 and 303 of S. 207 contain provisions which relate to financial institutions insured by the Federal Deposit Insurance Corporation. These provisions generally would allow the Commodity Futures Trading Commission (CFTC) to regulate under the Commodity Exchange Act certain financial products, including certain swap agreements, deposit accounts, and hybrid instruments. In addition, Section 302 would allow the CFTC to exempt such instruments from regulation if it determined that an exemption would be in the public interest.

Banks regulated by the FDIC and the other federal banking regulators currently operate under a comprehensive system of federal and state regulation designed to protect depositors and ensure the safety and soundness of insured institutions. We are concerned that S. 207 would impose an additional unnecessary layer of federal regulation and supervision on depository institutions. We are also concerned that this additional layer of regulation could increase the cost of developing new banking products and services and stifle innovation in the industry.

It is not clear to us why the cumbersome exemptive procedure in Section 302 should be used in place of a simple exemption for deposits issued by federally insured banks and certain foreign banks regulated under U.S. law. The statutory exemption will provide certainty and eliminate confusion. If any abuses exist, we stand ready to work with other regulatory agencies, such as the CFTC, to address those problems.

With best wishes.

Sincerely,

L. William Seidman
Chairman

Honorable Patrick Leahy
Chairman
Committee on Agriculture,
Nutrition and Forestry
United States Senate
Washington, D.C. 20510