By Christoher Dodd and Barney Frank:

Ben Protess' article on July 3 quotes Commodities Futures Trading Commission Chairman Gary Gensler as telling Wall Street lobbyists opposed to CFTC regulation of offshore derivative activity by U.S. financial institutions that they are asking him "to repeal Dodd-Frank" We agree, and we urge his colleagues on the Commission to join him in refusing to do so.

For us, this is much more than a question of pride of authorship. The failure to regulate derivatives as their role in our financial system expanded greatly was one of the most serious weaknesses in the regulatory system which we sought to correct. As Mr. Protess noted, it was the uncontrolled, irresponsible writing of derivative contracts by the London-based operations of AIG that was the precipitating event of the crisis in 2008. And any suggestion that U.S. financial entities learned enough from AIG's devastating misjudgments are undercut by the multi-billion dollar loss incurred by a bank generally considered to be among the most careful—J.P.Morgan Chase- in its London derivative trading. Remember that like AIG, although fortunately on a much smaller scale, J.P. Morgan Chase took some time before it could even figure out how deep its losses were.

Nor is it enough for the US to rely on foreign regulation of our important financial institutions. Only people who have never heard of AIG can deny that overseas failures by large domestic entities have direct impacts here.

At the time of the discovery of J.P. Morgan's large loss, it was generally acknowledged that English regulation of derivatives fell short of adequate. (Of course so did ours, which is why we adopted the financial reform bill and are pushing for its faithful implementation.)

Moreover, England is not the only foreign country in the world. An exemption for foreign derivatives activity by their affiliates of American institutions is a free pass no matter where that activity is located.

Some American institutions argue that subjecting their foreign activity—including what we know to be the riskiest—to American supervision will put them at a competitive disadvantage. This assumes that counterparties will prefer deals with the unregulated, with the lesser degree of assurance that this gives them of the reliability of their contracts, and their partners' ability to pay off their debts. And there is a counter argument from the stand point of concern for domestic economic efforts. Exempting the foreign activities of American banks from domestic regulation, given the preference they appear to have for a lack of rules, provides an incentive to move their business out of the U.S. to friendlier, i.e. laxer

jurisdictions. Again as Mr. Protess notes, under the law the CFTC "will ultimately defer to European regulators if they adopt rules similar to Dodd-Frank."

This effort by American institutions seeking the ability to engage in lightly-regulated derivatives activity is an example of a frequent tactic, which worked all too well in the past, but which we believe must be stopped. Like the teen-age child of divorced parents, American, British and other foreign companies seek to play one parent against another. "If you don't let me do this," they tell our regulators "I can go to country X and they'll treat me better". In drafting the law we consulted regularly with other nations to minimize this arbitrage, and Gary Gensler is absolutely right to reject this threat now. The likeliest outcome of our holding firm is that others will come up to our level of sensible regulation, rather than race to the bottom. Ours is hardly the only economy which suffered from the disastrous consequences of unregulated financial dealings, and has a powerful incentive to prevent a repetition.

The strict regulation of derivatives is one of the essential parts of the Financial Reform Bill. Exempting overseas derivatives activity of domestic financial institutions from the regulations that the bill calls for would represent a weakening of our defenses against another financial crisis.