Centre for Financial Market Integrity
CFA INSTITUTE

7 December, 2009

Senator Mark R. Warner
459A Russell Senate Office Building
Washington DC 20510-4605

Fax: 202-224-2530

Dear Senator Warner:

We very much appreciated the opportunity for several members of the Investors' Working Group to meet with you on November 19th to discuss systemic risk oversight. We now write in our capacity as individual members of the IWG to express support for several areas that we discussed and believe are critical in implementing the most effective form of systemic risk oversight.

There is little doubt that of all the reform measures that can be considered in the context of the recent financial crisis and aimed at preventing a reoccurrence, the *process* by which we oversee and manage systemic risk is vital. We are most concerned about ensuring an effective, up-front process that will identify systemic vulnerabilities as they are developing.

To be effective, this surveillance process must be maintained by highly skilled staff that are independent of existing regulators, including the Federal Reserve and the Treasury. As we discussed, the myriad of conflicts and political pressures faced daily by existing functional regulators make it nearly impossible for them to objectively detect and remediate growing bubbles. We agree there must be a fully independent Chairman and staff responsible to actively and continuously investigate and formulate risk mitigation plans. Those plans would then be presented to a council much like the financial stability agency that was proposed in Chairman Dodd's bill for collective deliberation and implementation.

In our view, this council does not require a separate, new agency and should include at least three members that are independent of existing regulators. In the event the council cannot reach agreement on the implementation of risk mitigation steps as proposed by the independent Chairman and staff, we support a process that would allow the three independent members, joined by the Federal Reserve chair, to make the final determination on implementation.

Furthermore, we note that in Chairman Dodd's approach, the council would be charged with determining whether a firm should be required to wind down and terminate business. This so-called "resolution authority" is an important component of proper systemic management and we support the council's role in this function. However, we are concerned that Chairman Dodd's bill gives the council nearly unlimited resources and powers to accomplish resolution. We are very concerned about two things in this regard.

First, it appears the council would have access to whatever funds and techniques it feels necessary to stabilize firms or even whole sectors, without congressional oversight. We fear this creates a permanent TARP-like facility with few checks and balances on the resources that can be tapped in the name of stabilization. Second, it must be clear what the governance mechanism would be to resolve any disputes over the very difficult and highly-charged, decision of who is "stabilized" and who is forced to go out of business. A mechanism similar to that outlined in the fourth paragraph of this letter would be appropriate.

We very much appreciate the significance of these structural decisions. They are critical for ensuring we do not repeat the circumstances of last year. We know bubbles will occur, but they must not be permitted to grow in both size and complexity to the point of economic collapse.

We appreciate your efforts to ensure a highly skilled, independent and properly structured systemic risk oversight process. We will be happy to provide whatever additional commentary and support that might be helpful in achieving this goal. Please let us know if we may be of help.

Sincerely,

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Former Chair, U.S. Securities and Exchange Commission

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