URGENT

July 25, 2008

The Honorable Harry Reid
Majority Leader
United States Senate
S-221 Capitol
Washington, DC 20510

The Honorable Mitch McConnell
Republican Leader
United States Senate
S-230 Capitol
Washington, DC 20510

Re: Adverse Retirement Plan Implications of Energy Speculation Legislation (S. 3268)

Dear Majority Leader Reid and Republican Leader McConnell:

We are writing today to express concerns about the implications of S. 3268, the "Stop Excessive Energy Speculation Act of 2008", on employer-sponsored retirement plans and the tens of millions of American workers and retirees who rely on these plans for their retirement security. We represent organizations that assist employers of all sizes, and their service providers, in providing retirement benefits to employees.

We are very concerned that the serious implications of S. 3268 on retirement plans and retirement plan participants have not been sufficiently evaluated. We are also concerned that this legislation relating to energy policy could unintentionally harm the long-term financial security of American workers and their families.

Employer-sponsored defined benefit plans invest for the long-term and do so in a wide range of asset classes in order to diversify plan investments and reduce to the greatest extent possible the risk of large losses. These strategies are central to employers' fiduciary obligations to act prudently and solely in the interest of the plan's participants and beneficiaries. Plan fiduciaries are subject to extremely demanding legal obligations under the Employee Retirement Income Security Act (ERISA). ERISA was drafted to preserve the fiduciary's flexibility to select the investments that will allow them to carry out their mission of providing retirement benefits to employees. Commodities are one of a broad range of asset classes upon which fiduciaries rely. Commodities serve as a modest but important element of the investments held by employer-sponsored defined benefit pensions because commodity returns are uncorrelated with stocks and bonds and because they provide an important protection against inflation.

For the same reasons, commodities are used in many of the diversified "single fund" solutions (lifecycle funds, target retirement date funds) that have been developed to simplify investing for the tens of millions of Americans participating in defined contribution plans such as 401(k), 403(b) and governmental 457 plans. These single fund solutions, which policymakers have encouraged through legislation and regulation, make investing easier while giving workers access to professionally managed, diversified portfolios.

The restrictions imposed on commodities investing under S. 3268 would greatly limit the ability of employer-sponsored defined benefit and defined contribution plans to use this important asset class. The result will be less ability to diversify investments, manage investment volatility and provide a buffer against inflation. Unfortunately, it is the employees and retirees who depend on employer retirement plans for their income in retirement who will ultimately suffer. We hope, with this in mind, that the implications for retirement plans and plan participants will be examined more fully before S. 3268 is considered further.

We sincerely appreciate your consideration of our views on this important matter. Please let us know if we can provide additional information or address any questions you may have.

Sincerely,

American Bankers Association
American Benefits Council
American Council of Life Insurers
The ERISA Industry Committee
The Financial Services Roundtable
Investment Company Institute
Managed Funds Association
Profit Sharing/401(k) Council of America
Securities Industry and Financial Markets Association
U.S. Chamber of Commerce