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March 2, 2004

Rob Esson
Senior Manager, Global Insurance Markets
International Insurers Department
National Association of Insurance Commissioners
2301 McGee St Ste 800
Kansas City, MO 64108-2604

Ernst N. Csiszar, President
National Association of Insurance Commissioners
Director of Insurance, State of South Carolina
300 Arbor Lake Drive
Suite 1200
Columbia, South Carolina 29223

Re: Draft White Paper entitled “Weather Financial Instruments (Temperature): Insurance or Capital Markets Products?”

Dear Messrs Esson and Csiszar:

The Bond Market Association (the “Association”)¹ welcomes the opportunity to submit its comments to the National Association of Insurance Commissioners (“NAIC”) in connection with the Draft White Paper entitled “*Weather Financial Instruments (Temperature): Insurance or Capital Markets Products?*” (the “draft White Paper”) being circulated by a working group of the NAIC’s Property & Casualty (C) Committee. Concern over the conclusions drawn in the draft White Paper was brought to our attention by members of our Risk-Linked Securities Committee.

The Association joins the International Swaps and Derivatives Association (“ISDA”), the Weather Risk Management Association (“WRMA”) and the State of New York Insurance Department in the view that weather derivatives do not constitute insurance products, but rather clearly fall within the purview of capital markets products. Weather

¹ The Association represents securities firms and banks that underwrite, distribute and trade in fixed income securities, both domestically and internationally. More information about the Association is available on its website at <http://www.bondmarkets.com>. This comment letter was prepared in consultation with the Association’s Risk-Linked Securities Committee.

derivatives do not constitute insurance contracts because the terms of insurance contracts or policies require that the buyer suffer a loss in order to receive payment. The concept of a purchaser's loss is not a component, or triggering event of, a weather derivative contract.

Weather derivative contracts are, by their nature, most like other derivative contracts. Payment on a weather derivative contract, for example, a Heating Degree Day (HDD) or Cooling Degree Day (CDD) put option, is dependent only upon whether the relevant weather component (in this case, temperature) attains or fails to attain the specified level. The payment calculation of a fixed or a floating amount is based on an equation involving an average of daily temperature measurements as recorded by a data center. In other words, the contract is a derivative contract because its value is derived from the index of recorded weather data. Weather derivative contracts are properly documented under confirmations and Master Agreements based on the ISDA form.

The Association concurs with all of the points raised in the WRMA letter dated January 23, 2004, and similarly concludes that weather derivative contracts contain none of the elements of insurance. Should you have any questions or desire any clarification or additional information regarding any of the matters discussed above, please do not hesitate to contact the undersigned at 646-637-9220.

Sincerely,

/s/ Michele C. David

Michele C. David
Vice President and
Assistant General Counsel

cc: ***The Bond Market Association***
 Risk-Linked Securities Committee
 Micah Green, President
 Paul Saltzman, General Counsel
 George Miller, Deputy General Counsel
 Lynnette Hotchkiss, Senior Vice President