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United States Senate

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

WASHINGTON, DC 20510–6250

February 10, 2014

VIA ONLINE SUBMISSION (http://comments.cftc.gov)

Ms. Melissa D. Jurgens
Secretary
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, N.W.
Washington, D.C. 20581

RE: Proposed Rules on Position Limits for Derivatives (RIN: 3038-AD82)

Dear Ms. Jurgens:

The purpose of this letter is to express support for the proposed rules of the U.S. Commodity Futures Trading Commission (CFTC or Commission) to establish speculative position limits on commodities currently exempt from such trading limitations; apply those limits to a variety of commodity-related instruments including options, derivatives, and swaps; and strengthen the rule for aggregating positions as required by Section 737 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act).[1] These proposed rules, which are now more than three years overdue, are critical to stopping price manipulation and excessive speculation, and promoting fairer pricing and more efficient commodity markets.

The proposed rules request comment on a variety of issues. This letter addresses five of them: (1) it supports the Commission's finding that position limits are necessary and appropriate; (2) it supports the revised exemptions for bona fide hedge transactions; (3) it recommends reducing the proposed position limits as generally too high and striking the proposed higher limit for positions taken in cash-settled contracts; (4) it opposes the proposed changes to the aggregation rule and respectfully recommends restoring the previous revisions; and (5) it supports the Commission's cost-benefit analysis.

A. Battling Excessive Speculation and Price Manipulation

For years now, American families and businesses have been subjected to roller coaster commodity prices increasingly unconnected to fundamental market forces of supply and demand. Oil and gasoline prices remain high despite reduced demand and increased supplies. Propane and natural gas prices have undergone sudden recent price hikes, despite increasing domestic

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[1] Position Limits for Derivatives, 78 Fed. Reg. 75680 (proposed Dec. 12, 2013); Aggregation of Positions, 78 Fed. Reg. 68946 (proposed Nov. 15, 2013).

production.[2] Food costs continue to rise and fall unexpectedly. This price volatility places another burden on middle class families and businesses still struggling to recover from the recent recession.

Evidence that some commodity traders engage in unfair trading practices can be seen in actions taken by federal regulators charging large and small traders with manipulating or attempting to manipulate commodity prices. JPMorgan recently paid $410 million to settle charges that it manipulated electricity prices in California,[3] while Barclays Bank is contesting $435 million in penalties in connection with a federal complaint that it distorted electricity prices to make money in related derivative markets.[4] In 2010, a trader at Shell Oil was found guilty of manipulating natural gas prices on eight separate occasions.[5] Optiver, a small trader in the Netherlands, was found guilty of attempting to manipulate crude oil prices,[6] while traders associated with three energy companies Parnon Energy, Arcadia Petroleum, and Arcadia Energy, face similar charges.[7] Traders at two hedge funds, Moore Capital and Golden, were charged and one pled guilty to manipulating palladium and platinum prices.[8] In 2008, BP pled guilty to attempting to manipulate propane gas prices.[9]

In addition to the problems caused by price manipulation, speculators continue to pour billions of dollars into U.S. commodity markets, increasing risks that excessive speculation will distort prices and intensify price volatility. Speculators that do not use the commodities they trade now comprise a majority of many commodity markets, including more than 80% of oil market participants in 2011, as calculated by the CFTC.[10] CFTC data shows that, in 2011 alone, commodity index traders and swap dealers poured over $300 billion of speculative funds into U.S. commodity markets,[11] while commodity-related exchange traded products brought in another $120 billion.[12] In addition, members of the mutual fund industry established at least 40 commodity related mutual funds that, by 2011, had accumulated assets of over $50 billion.[13] One nonprofit calculated that, in 2011, excessive speculation had added $30 to the cost of a

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[2] See, e.g., "This Week in Propane," Energy Information Administration (EIA) (Feb. 3, 2014), http://www.eia.gov/oog/info/twip/twip_propane.html; "Monthly Natural Gas Gross Production Report," EIA, (Jan. 31, 2014), http://www.eia.gov/oil_gas/natural_gas/data_publications/eia914/eia914.html.

[3] In Re Make-Whole Payments, 144 FERC ¶ 61,068 (July 30, 2013) (Order Approving Stipulations and Consent Agreement).

[4] In re Barclays Bank PLC, 144 FERC ¶ 61,041 (July 16, 2013) (Order Assessing Civil Penalties).

[5] CFTC v. Dizona, Case No. 08-20418 (5th Cir. 2010).

[6] CFTC v. Optiver, Case No. 08-06560 (S.D.N.Y. 2012).

[7] CFTC v. Parnon Energy, Case No. 1:11-CV-03543 (S.D.N.Y. 2011).

[8] In re Christopher Louis Pia, CFTC Docket No. 11-17 (July 25, 2011) (Order Instituting Proceeding Pursuant to Sections 6(c)); CFTC v. Joseph Welsh, Case No. 12 CV 01873 (S.D.N.Y. 2012).

[9] CFTC v. BP Products, Case No. 06C 3503 (E.D. Ill. 2008).

[10] See "Excessive Speculation and Compliance with the Dodd-Frank Act," hearing before the Permanent Subcommittee on Investigations, S. Hrg. 112-313 (testimony of CFTC Chairman Gary Gensler) (Nov. 3, 2011), at 32-33.

[11] See id., chart entitled, "Commodity Index Participation in U.S. Commodity Futures and Swaps, 2007-2011," at 110.

[12] See id., chart entitled, "Increase in Commodity Related Exchange Traded Products, 2004-2011," at 111.

[13] See "Compliance with Tax Limits on Mutual Fund Commodity Speculation," hearing before the Permanent Subcommittee on Investigations, S. Hrg. 112-343 (Jan. 26, 2012), at 44.

barrel of crude oil, increased gasoline expenditures per average American family by 15 percent, and imposed additional costs across the economy totaling $200 billion.[14]

To address the twin threats of price manipulation and excessive speculation, Congress enacted provisions in the 2010 Dodd-Frank Act giving the CFTC broad new authority to set position limits on speculators that buy and sell commodities. The CFTC and regulated futures exchanges already limit the number of futures contracts that one trader can hold for commodities like wheat to prevent excessive speculation and price manipulation. It is long past time to put the same type of position limits in place for related derivative markets and for energy commodities and derivatives that have a vital impact on the American economy, including commodities and derivatives related to crude oil and gasoline.

Subcommittee Investigations. Since 2002, the Permanent Subcommittee on Investigations, which I chair, has conducted a series of investigations into how our commodity markets function, focusing in particular on the role of excessive speculation on commodity prices. Those investigations have shown how excessive speculation in futures and derivatives markets has distorted prices, overwhelmed normal supply and demand factors, produced hedging failures, and pushed up prices at the expense of consumers and American business. Those investigations have also shown that traders are actively trading commodities simultaneously in the cash, futures, and derivatives markets, affecting prices in all three and requiring their cross-market trades to be viewed, not in isolation, but in the aggregate. The investigations have also repeatedly demonstrated the importance of position limits in curbing abusive trading practices.

In 2006, the Subcommittee released a report which found that billions of dollars in commodity index trading on the crude oil market had helped to push up futures prices in 2006, caused a corresponding increase in cash prices, and was responsible for an estimated $20 out of the then $70 cost for a barrel of oil that year.[15] Much of that increase was due to speculators who were buying and selling oil futures contracts to profit from the changing prices. In 2007, a report released by the Subcommittee showed how a single hedge fund, Amaranth, made huge speculative trades on the natural gas market using futures on a regulated futures exchange and swaps on an unregulated electronic energy exchange, bypassed position limits, pushed up futures prices, and increased natural gas prices for consumers and American business alike.[16]

In 2009, the Subcommittee examined how the activities of many traders, in the aggregate, constituted excessive speculation in the wheat market.[17] Specifically, the investigation found

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[14] See "Excessive Speculation and Oil Price Shock Recessions," study by Consumer Federation of America (Oct. 2011), http://www.consumerfed.org/pdfs/SpeculationReportOctober13.pdf, also cited in "Excessive Speculation and Compliance with the Dodd-Frank Act," hearing before the Permanent Subcommittee on Investigations, S. Hrg. 112-313 (testimony of Public Citizen's Energy Program) (Nov. 3, 2011), at 10.

[15] "The Role of Market Speculation in Rising Oil and Gas Prices: A Need to Put the Cop Back on the Beat," hearing before the Permanent Subcommittee on Investigations, S. Hrg. 109-65 (June 27, 2006). See also "Speculation in the Crude Oil Market," joint hearing before the Permanent Subcommittee on Investigations and the Subcommittee on Energy, S. Hrg. 110-382 (Dec. 11, 2007).

[16] "Excessive Speculation in the Natural Gas Market," hearing before the Permanent Subcommittee on Investigations, S. Hrg. 110-235 (June 25 and July 9, 2007).

[17] "Excessive Speculation in the Wheat Market," hearing before the Permanent Subcommittee on Investigations, S. Hrg. 110-235 (July 21, 2009).

that commodity index traders, who were offsetting part of their exposure to commodity index instruments sold to third parties, were buying large numbers of long wheat futures, and as a result helped cause unwarranted increases in the price of wheat futures contracts relative to the price of wheat in the cash markets. The resulting price differential between markets impaired the ability of participants in the grain market, such as farmers, grain wholesalers, bakers, and others to hedge their price risks. The investigation also found that the index traders had an aggregate effect on futures prices, in part because the CFTC had granted some of them waivers or exemptions from the position limits otherwise applicable to speculators, allowing them to accumulate wheat positions that were multiple times larger than other market participants.

In 2011 and 2012, the Subcommittee presented evidence of the ongoing massive increase in speculative trading that has taken place in U.S. food, energy, and other commodity markets.[18] By the time of the 2011 hearing, speculators that used to comprise a minority of market participants had begun to dominate the trading of commodities.[19] The 2012 hearing focused on the role of mutual funds, which had successfully convinced the Internal Revenue Service to approve several proposals to circumvent longstanding limits on the proportion of funds that mutual funds could invest in commodities.[20] The hearings also showed how many of these speculators were able to trade certain commodity futures and swaps without having to comply with any position limits to curb price manipulation or excessive speculation.

Together, these Subcommittee investigations have demonstrated that the failure to impose and enforce effective position limits have led to greater speculation and increased price volatility in U.S. commodity markets. They also provide strong support for the Dodd-Frank decision to require the Commission to impose position limits on all types of commodity futures, swaps, and options. To further support the proposed rules, this letter asks that each of the referenced hearing records be made part of the administrative record.

2011 Rule. In response to the Dodd-Frank Act, in October 2011, the Commission promulgated final rules that imposed position limits on 28 physical commodities and amended existing rules regarding how traders are required to aggregate positions held by related entities before applying the relevant position limits.[21]

Within one month of their promulgation, industry representatives challenged the position limits rules in court.[22] A key issue was whether the Dodd-Frank Act had required the Commission to establish position limits for physical commodities to prevent trading abuses or left the issue to the Commission's discretion. Nineteen Senators, myself included, filed amicus briefs in the U.S. District and Circuit Courts demonstrating that Congress had mandated the setting of position limits. Nevertheless, on September 28, 2012, the U.S. District Court for the District of Columbia vacated the rules and remanded the matter to the Commission.

[18] "Excessive Speculation and Compliance with the Dodd-Frank Act," hearing before the Permanent Subcommittee on Investigations, S. Hrg. 112-313 (Nov. 3, 2011).
[19] Id. at 32-33.
[20] "Compliance with Tax Limits on Mutual Fund Commodity Speculation," hearing before the Permanent Subcommittee on Investigations, S. Hrg. 112-343 (Jan. 26, 2012).
[21] See Position Limits for Futures and Swaps; Final Rule and Interim Final Rule, 76 Fed. Reg. 71626 (Oct. 28, 2011).
[22] See International Swaps and Derivatives Association v. CFTC, Case No. 1:11-CV-2146-RLW (D.D.C. 2012).

The District Court determined that the wording used in the Dodd-Frank Act was ambiguous, and that "prior to imposing position limits, the Commission [must] find that position limits are necessary to 'diminish, eliminate, or prevent' the burden" on commerce as set out in the Commodities Exchange Act.[23] The Commission appealed the decision to the D.C. Circuit Court, while also working on a revised rule with the required finding.

In November 2013, the Commission withdrew its appeal and proposed the revised rules now subject to public comment. While I agree with the position taken by the Commission that the Dodd-Frank Act required it to issue the position limit rules in question and disagree with the conclusion of the District Court, I commend the Commission for advancing the process by completing a new set of proposed rules.

2013 Proposed Rules. The newly proposed rules seek to fulfill the same purpose as the Commission's 2011 final rules, while complying with the decision of the District Court. The 2013 proposed rules are substantially similar to the 2011 final rules, but utilize the Commission's experience and expertise to determine the necessity of the position limits rather than rely exclusively on the mandate from the Dodd-Frank Act.[24]

The proposed rules would help put an end to market manipulation and excessive speculation in U.S. commodity prices by creating the regulatory infrastructure needed to establish position limits across U.S. commodity trading venues, including futures and related derivatives markets, and across a variety of commodity related instruments. The proposed position limits would apply to 28 referenced commodities in the agricultural, metals, and energy markets. Section 737 of the Dodd-Frank Act explicitly directed these new position limits to be developed to "diminish, eliminate, or prevent excessive speculation"; "deter and prevent market manipulation, squeezes, and corners," and ensure the market's price discovery function "is not disrupted."

B. Specific Issues

Finding of Necessity. In response to the ruling of the District Court, the proposed rules include an extensive and convincing justification for imposing position limits on traded commodities, explaining why they are necessary to diminish, eliminate, or prevent the burden on commerce that the Commodities Exchange Act was designed, in part, to relieve.[25]

As part of the analysis, the Commission analyzed two past examples of price manipulation to inform its decision-making process, the 1979-80 silver crisis and a 2006 natural gas market manipulation. In 1979, the Hunt brothers began to accumulate vast amounts of silver futures, despite having no production or consumption interests in the market. Their actions caused silver prices to inflate over 800% within a year, shocking and disrupting the silver market, until the Chicago Board of Trade introduced emergency rules imposing position limits

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[23] International Swaps and Derivatives Association v. CFTC, 887 F. Supp. 2d 259, 270 (D.D.C. 2012) (quoting 7 U.S.C. § 6a(a)).
[24] See Position Limits for Derivatives, 78 Fed. Reg. 75680, 75682 (proposed Dec. 12, 2013).
[25] See id. at 75758-81.

on silver speculators. Those position limits immediately restricted the amount of futures that the Hunt brothers could accumulate and eliminated their ability to dominate the silver market and distort prices, demonstrating the utility of position limits.

Second, the Commission illustrated the need for position limits by examining the facts associated with the 2006 natural gas price manipulation by hedge fund Amaranth. The Commission analysis drew on both the Subcommittee's 2007 investigation into this matter as well as its own legal proceedings against Amaranth later that year.[26] The evidence before the Subcommittee showed that, from early 2006 until its September 2006 collapse, Amaranth dominated trading in the U.S. natural gas futures and swaps markets, by accumulating massive natural gas holdings in delivery months stretching out as far as five years into the future, on both the NYMEX and ICE exchanges. At the time, NYMEX examined a trader's position if it exceeded 12,000 natural gas futures contracts in any one month; Amaranth sometimes held as many as 100,000 contracts in a month. During 2006, Amaranth controlled as much as 40% of all outstanding contracts on NYMEX for natural gas in the winter season, including as much as 75% of the outstanding contracts to deliver natural gas in November 2006, demonstrating how, when operating without a limit, a single small trader can build massive positions. The evidence also showed that Amaranth's large positions and trades had a direct effect on U.S. natural gas prices, caused significant price movements, and increased price volatility. In addition, when NYMEX directed Amaranth to reduce its positions, Amaranth responded by reducing its futures holdings on NYMEX, but increasing its look-alike swap holdings on ICE which had no position limits. It was able to continue its large trading strategy, which continued to impact natural gas prices. The Commission properly relied on this case to show the necessity of position limits in both futures and swaps markets to diminish, eliminate and prevent price manipulation and excessive speculation.

In addition to these two specific cases, the Commission reviewed a wide array of studies and reports discussing the efficacy of position limits. The Commission found that, despite the lack of a clear consensus on the effectiveness of position limits in restraining trading abuses, the research warranted acting on the side of caution. Reaching that conclusion is both reasonable and within the competence of the Commission. It also appropriately reflects Congressional action in enacting the Dodd-Frank Act which requires the Commission to impose appropriate position limits on speculators trading physical commodities. The Commission's analysis and findings, paired with the concrete examples, provide a comprehensive explanation of the principles and reasoning behind establishing position limits. Contrary to the complaints of some critics, it would be a waste of time and resources for the Commission to expand the proposed rules beyond the existing justification to repeat the same analysis, reach the same conclusions, and issue the same findings for each of the 28 commodities.

Specifying Limits. In addition to explaining the necessity for position limits, the 2013 proposed rules lay out the process the Commission would use to develop individual position limits for specific commodities. Essentially, the proposed process would use actual market data

[26] See "Excessive Speculation in the Natural Gas Market," hearing before the Permanent Subcommittee on Investigations, S. Hrg. 110-235 (June 25 and July 9, 2007); "Amaranth Entities Ordered to Pay a $7.5 Million Civil Fine in CFTC Action Alleging Attempted Manipulation of Natural Gas Futures Prices," press release prepared by CFTC (Aug. 12, 2009), http://www.cftc.gov/PressRoom/PressReleases/pr5692-09.

to set a spot month limit to prevent speculators from holding more than 25% of the estimated spot-month deliverable supply of the commodity. It would also impose a non-spot month limit equal to 10 percent of the relevant commodity contract's first 25,000 of open interest plus 2.5 percent of the open interest thereafter. Both limits would be recalibrated every two years.

The CFTC has a long history of applying sensible position limits that have helped to ensure fair prices responsive to the forces of supply and demand. The proposed process for specifying individual commodity limits is based upon that past experience, which is both reasonable and understandable. It is also of concern, however, that in some cases the proposed limits would far exceed the position limits and accountability levels that have been used by some exchanges in recent years, including the Chicago Mercantile Exchange (CME), to prevent price manipulation and excessive speculation, and would result in a significant relaxation of existing restrictions for some commodities. In order to ensure the effectiveness of the limits in curbing trading abuses, the Commission should consider reducing them for some commodities, including those where the new limit would reportedly exceed an existing CME limit by tenfold.[27]

Eliminating Higher Limit for Cash-Settled Contracts. The proposed rules also contain a controversial proposal to allow cash-settled contracts to operate under higher position limits in the spot month than contracts that can be settled with physical delivery. Under the proposed approach, traders holding positions in a cash-settled contract would be subject to a spot-month position limit up to five times higher than the normal limit, or up to 125% of deliverable supply. The proposed higher limit for cash settled contracts is ill-advised. It would not only raise the affected position limits to levels where they would be effectively meaningless, it would also introduce market distortions favoring certain contracts and certain exchanges over others, and potentially disrupt important markets, including the U.S. natural gas market that is key to U.S. manufacturing.

The Commission has not in the past and should not in the future discourage the trading of physically settled contracts. It should also strive to treat all speculators in an equal and dispassionate manner, subject to the same limits that prevent price manipulation and excessive speculation. The Commission justified the higher limit as a method to prevent unnecessary burdens on interstate commerce, but also recognized the opportunity for speculative traders to use cash-settled contracts to affect prices. In order to ensure effective position limits to diminish, eliminate, and prevent price manipulation and excessive speculation, prevent potentially discriminatory market pressures, and simplify the regulatory process, the Commission should eliminate the proposed difference in position limits.

Exempting Bona Fide Hedges. Another key issue involves the proposed rule's revised exemption to position limits for "bona fide hedging transactions and positions" in line with Section 737 of the Dodd-Frank Act. The proposed rule would apply that exemption to swaps, as well as futures and options, to carry out the purposes of the statute.

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[27] See "CFTC anti-speculation plan may not be so tough, data shows," Reuters, Tom Polansek and Douwe Miedema (Nov 6, 2013), http://www.reuters.com/article/2013/11/06/cme-commodities-limits-idUSL2N0IR0NM20131106.

Like the 2011 rules, the 2013 proposed rules properly refrain from providing a general exemption to financial firms seeking to hedge their financial risks from the sale of commodity-related instruments such as index swaps, Exchange Traded Funds (ETFs), and Exchange Traded Notes (ETNs). Those commodity-related financial instruments are designed to allow investors to profit from changes in commodity prices without having to purchase the actual commodities or manage a portfolio of commodity investments; they are inherently speculative and, in the aggregate, can have a significant effect on commodity prices. That's because most derivative dealers and broker-dealers selling commodity-related financial instruments offset their financial risk by injecting substantial funds into the agricultural, metals, or energy markets to accumulate passive, long, speculative positions, affecting prices in the futures, swaps, and cash commodity markets. The result is that markets designed to respond to the supply and demand of market participants that use commodities in their businesses are being overwhelmed by the artificial supply and demand forces generated by financial speculators seeking to profit solely from changes in commodity prices.

Traders that buy and sell commodity-related financial instruments do not utilize the underlying physical commodities themselves, but seek to hedge risks created by the financial instruments designed to produce profits from commodity price changes. Those inherently speculative transactions should not be exempt from the law's position limit requirements whose very purpose is to curb price manipulation and excessive speculation. Instead, the new position limits should be designed to apply to financial firms dealing in commodity-related instruments like index swaps, ETFs, and ETNs without waivers or exemptions. Applying position limits in an even-handed manner to all market participants other than true hedgers is essential to curb harmful volatility and price swings in commodity prices caused by speculative demand.

The proposed rule is designed to establish and enforce position limits that will ensure these speculative forces stop exacerbating the roller coaster prices which benefit their financial positions, while at the same time destroying the traditional relationship between commodity prices and fundamental market principles of supply and demand.

The 2013 proposed rule also refashions the provisions describing the bona fide hedges exempt from speculative limits. In response to comments and its own analysis, the 2013 rule has recalibrated the provisions to clarify when firms are engaging in hedges of physical commodities versus other types of transactions.

To ensure only bona fide hedgers operate free of position limits, the Commission should ensure that the new reporting requirements required by the proposed rules direct traders to identify the specific risk being hedged against at the time a trade is initiated, enable traders and regulators to monitor the termination or unwinding of a hedge when the underlying risk has been sold or otherwise resolved, and create a practical audit trail for individual trades. The Commission should also design the reporting requirements to discourage traders from attempting to mask speculative trades under the guise of hedges. By mandating clear identification of hedging transactions at the time they are initiated, trade-specific information, and practical audit trails, the proposed reporting requirements offer powerful tools to enable the Commission to carry out its oversight and enforcement responsibilities under the law.

Aggregating Positions. Still another key issue involves the proposed aggregation rules, which are critical to the effective functioning of position limits by preventing traders from using multiple entities to execute their trades and thereby circumvent the intended limits. The current rule aggregates positions held in accounts where a person controls the trading. At the same time, in a major relaxation of the 2011 rule, the proposal would not require the aggregation of accounts where one person holds an up to 50% ownership interest in another entity, if the person qualifies under a variety of certifications, including a certification that the person does not control the trading decisions of the entity or share employees that control the entity's trading decisions. Additionally, the proposal would provide an exemption from aggregation where a person owns more than 50% of another entity, providing that the person certifies that it does not control the entity's trading decisions, and the entity's positions either qualify as bona fide hedging positions or do not exceed 20 percent of any position limit.

Under the guise of creating narrow exceptions, the 2013 proposed rule would open major loopholes in the aggregation requirements. While persons seeking aggregation exemptions would have to file notices with the Commission, the proposed rule would allow the requested exemptions to become automatically effective without any affirmative review by Commission personnel. The CFTC's limited resources would also make it virtually impossible for the agency to make timely, informed decisions about whether one person in fact "controls" the trading decisions of another and whether all proffered certifications are accurate. The Commission's inability to conduct the needed fact-intensive, time-consuming, and sensitive inquiries would render these ostensibly narrow exceptions virtually unenforceable as a practical matter. The better alternative would be to eliminate them altogether and return to the provisions in the 2011 rule. Alternatively, the percentages should be reduced from 50 to 25 percent in order to prevent blatantly abusive practices, and an initial and periodic approval of the certifications by the Commission should be required before an exemption becomes effective.

Cost Benefit Analysis. Finally, the 2013 proposal contains an analysis by the Commission recognizing its longstanding authority to use position limits as a regulatory tool, while fulfilling its statutory mandate to consider the costs and benefits of its actions.[28] The Commission's unique statutory provisions require it to consider five specific factors involving market and public concerns when evaluating the costs and benefits of a proposed rule. The Commission correctly identified the prevention and reduction of artificial price disruptions to commodity markets as a positive benefit that would protect both market participants and the public, and that would outweigh the cost imposed on certain speculative traders. Additionally, the Commission correctly observed that the sound risk management practices required by the proposed rules would benefit speculators, end users, and consumers.

Rules preventing price manipulation and excessive speculation go to the core of effective commodity markets, since they are central to ensuring fair, open, and efficient markets.[29] Rules that protect the market's core functionality, while difficult to quantify, create a net benefit to the

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[28] 7 U.S.C. 19(a).

[29] See the Commodity Exchange Act whose purpose is to "to deter and prevent price manipulation or any other disruptions to market integrity; [and] to ensure the financial integrity of all transactions subject to this chapter and the avoidance of systemic risk." 7 U.S.C. § 5(b).

public and the markets by helping to ensure the markets' continued stability, fairness, and profitability.

Until the 2013 proposed rules are adopted and effective position limits are put in place, the American economy will continue to be vulnerable to price manipulation and excessive speculation and the violent price swings they can produce, and American business and consumers will continue to be at risk. The Commission should to act with expedition to finalize the proposed rules and establish effective position limits to curb price manipulation and excessive speculation in U.S. commodity markets.

Thank you for this opportunity to comment on the proposed rule.

Sincerely,

Carl Levin
Chairman
Permanent Subcommittee on Investigations