



### 1. Commercial Risk

The definition of "Commercial risk" should be narrowly tailored to apply only to those entities whose businesses activities expose them to risk from physical commodity price fluctuations. "Commercial risk" should not include risk that is purely financial in nature, including balance sheet risk.

### 2. Major Swap Participant

It was the intent of Congress to require that only large market participants be captured under this definition. I am supportive of the exclusion for "positions held for hedging or mitigating commercial risk," but again, this should not be defined so broadly as to create a new loophole for financial speculators to avoid requirements under the new law.

### 3. Captive Finance Affiliates

The major swap participant definition also includes an exception for captive finance affiliates we similarly encourage the Commission not to allow the exception to be abused or too broadly interpreted.

### 4. Swap

The legislative definition excludes forward delivery contracts (and options on such contracts) for commodities that are intended to be "physically settled." Any exemption for forward delivery contracts and options should be limited to bona fide commercial end-users.

### • Governance & Possible Limits on Ownership & Control - Swap Dealers

The CFTC must establish both a meaningful limit on individual ownership and a limit on collective ownership if the proposed rule is to have the intended effect of limiting conflict of interest, assuring transparency and open competition, and preventing clearinghouses and exchanges from catering to the interests of a few large participants in the financial community. This requires both a cap on ownership for individual entities, as well as a sector-wide aggregate cap on banks.

### • End-User Exception

The end-user exception should remain narrowly tailored to those businesses that produce, refine, process, market or consume an underlying commodity and counter-parties buying or selling a position to an end-user. Purely financial risk, including broad terms such as "balance sheet risk," should not be considered legitimate "commercial" risk.

### • New Registration Requirements for Foreign Boards of Trade (FBOTs)

I support the requirement that FBOTs register with the CFTC and make their trading data available, as well as requiring that they adopt position limits and implement prohibitions on manipulation and excessive speculation. They should also be subject to ownership caps as described above.

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- **Anti-Manipulation & Disruptive Trading Practices**

I strongly support prohibitions on “insider trading” based on nonpublic information, prohibitions on manipulation and trading on false information, and new authority to identify swaps that are “abusive” by virtue of being potentially detrimental to either the stability of the market or its participants. I urge the CFTC to be thorough in its interpretation and enforcement of these new authorities.

I also encourage the Commission to scrutinize the use of computerized/algorithm-based trading programs to determine if their application and use in the commodities markets has a disruptive affect on market stability or function.

- **Position Limits, Aggregate Position Limits & the Bona Fide Hedging Definition**

I support enforcement of the strongest possible speculative position limits under the Dodd Frank Act for exempt commodities such as energy, rather than simply the promulgation of formulae for establishing limits that can be then imposed at some later date.

Due to their approach to commodity trading, index funds treats finite commodities as an “asset class” rather than as vital resources to American industries, businesses and consumers. I believe that the Commission should establish separate and more aggressive limits on the positions of Exchange Traded Funds and Notes, including index funds.

- **Conclusion**

American businesses and consumers are relying on the CFTC to vigorously enforce these rules in a manner which will restore confidence, stability and transparency to the derivatives markets, especially in the energy commodities markets. All Americans depend on these markets to insulate both energy consuming businesses and individuals, (and the broader economy), from fraud, manipulation, and disruptive/abusive trading, and from excessive volatility, speculation and unwarranted price spikes.

The Dodd-Frank Reform Act provides the Commission with a number of powerful tools in this regard; I hope that the CFTC will use them to their fullest extent.

Thank you in advance for your consideration.

Sincerely,

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