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Commodity Futures Trading Commission  
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United States

Chris Barnard  
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- **17 CFR Part 180**
- **RIN Number 3038-AD27**
- **Prohibition of Market Manipulation**

Dear Mr. Stawick.

Thank you for giving us the opportunity to comment on your proposed rules "Prohibition of Market Manipulation".

You are proposing new rules, CFTC Rules 180.1 and 180.2, which implement new anti-manipulation authorities in section 753 of the Dodd-Frank Wall Street Reform and Consumer Protection Act. The proposed rules expand and codify the CFTC's authority to prohibit manipulation. These rules are overdue and grant the CFTC enforcement powers specific to the nature, term and complexity of sales contracts for commodities, futures contracts or related options and swaps etc ("instruments").

The proposed rules prohibit actions which intentionally or recklessly:

- a) use or employ any manipulative device, scheme or artifice to defraud;
- b) make any untrue or misleading statement of a material fact or to omit to state a material fact necessary in order to make the statement made not untrue or misleading;
- c) engage in any act, practice, or course of business, which operates or would operate as a fraud or deceit upon any person;
- d) deliver or cause to be delivered for transmission through a false or misleading or inaccurate report concerning crop or market information or conditions that affect or tend to affect the price of any commodity in interstate commerce, knowing, or acting in reckless disregard of the fact that such report is false, misleading or inaccurate.
- e) Furthermore it shall be unlawful for any person to manipulate the price of any swap, or of any commodity in interstate commerce, or for future delivery on or subject to the rules of any registered entity.

The proposed rules would apply to both positive misconduct and misconduct by omission. This is entirely appropriate given the ongoing nature of the rights and obligations underlying the instruments.

The scienter<sup>1</sup> requirements have effectively been changed to include acting recklessly in addition to acting knowingly. Again this is entirely appropriate, and maintains consistency with existing provisions elsewhere.

In my judgement the proposed rules are complete and address the full scope of potentially fraudulent, manipulative, or deceptive conduct that pertains to the relevant instruments. The proposed rules should not negatively affect the nature of the instruments' markets. I would argue that the proposed rules are likely to lead to more responsible behaviour, and clearer and more complete communication between market participants, which can only benefit markets.

Implementation costs should be minimal, as these extend, in parallel, existing provisions. The benefits in terms of potential price efficiency and thus confidence and integrity in the instruments' markets should be considerable, and should by far outweigh the costs of implementing the proposed rules.

Yours sincerely

Chris Barnard

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<sup>1</sup> Specific intent or prior knowledge of wrongdoing.