



1901 N. FORT MYER DRIVE • SUITE 500 • ARLINGTON, VA 22209-1604 • 703-351-8000 • FAX 703-351-9160

January 3, 2010

David Stawick
Secretary
United States Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, D.C. 20581

Re: Anti disruptive Practices Authority Contained in the *Dodd/Frank Wall Street Reform and Consumer Protection Act*. RIN No. 3038-AD26.

Dear Mr. Stawick:

The Petroleum Marketers Association of America ("PMAA") submits these comments in response to the Commodity Futures Trading Commission's (the "Commission") Advance Notice of Proposed Rulemaking and Request for Comments ("ANPR") on Anti disruptive Practices Authority Contained in Section 747 of the *Dodd-Frank Wall Street Reform and Consumer Protection Act* ("Dodd-Frank"). PMAA appreciates the opportunity to comment on Section 747 and the Commission's ANPR questions. PMAA and its members share the Commission's commitment to open, fair and competitive markets.

Congressional enactment of Section 747 of Dodd-Frank, articulates clearly Congress' intent that the Commission review and implement rules to govern conduct and trading practices that would be deemed disruptive to the market place. Section 747 of the CEA, as amended by Dodd-Frank Section 747 paragraph (6) clearly vests the Commission with the authority to establish rules regulating market participant behavior.

(6) Rulemaking authority.—The Commission may make and promulgate such rules and regulations as, in the judgment of the Commission, are reasonably necessary to prohibit the trading practices described in paragraph (5) and any other trading practice that is disruptive of fair and equitable trading.

PMAA recommends the following to the Commission:

During the legislative and regulatory process, including public comments and workshops, the Commission has heard many concerns relating to disruptive practices. The clear intent of Dodd-Frank was to empower the Commission to anticipate issues and activities relating to market disruption and provide an enhanced regulatory framework to ensure orderly markets. Technology has changed the way business is done on the exchanges. Algorithmic trading presents special challenges for regulators. Importantly, algorithmic trading is more than a simple human designed machine executed trading strategy.

In the brave new world of "Genetic Algorithms" and "Artificial Intelligence," computer code is designed to self modify, change its own code and to adapt to a dynamic trading environment. The Commission must closely regulate these types of Algorithms used to conduct trading. The Commission should develop regulations that are based on the potential of the Algorithm to initiate trading strategies that "evolve" without the affirmative input or

authorization or the programmer. Accountability must rest with the entity that introduces or utilizes Algorithms that due to there design have the potential to disrupt the orderly functions of the markets.

1. Pursuant to its rulemaking authority, the Commission should clearly define "orderly execution," "violates bids or offers" and "spoofing." The Commission should also clarify that Algorithmic trading software will be evaluated based on the programs ability to self modify. This is in fact an intentional design and outcomes will be subject to evaluation under this rule. Subsequent disruptive actions initiated by an Algorithm should be subjected to and fully actionable by the rules put forth by the Commission.
2. The Commission in the exercise of its statutory rulemaking authority should design a rule that integrates new regulatory requirements with the existing obligations of the exchanges to address and prevent disruptive trading practices. The exchanges must have established policies and procedures to address possible market disruption concerns.
3. Commission should exercise supportive authority and responsibilities with exchanges. The Commission should insure that market disruptions are not used by market participants to gain illicit profits through unfair advantages. The Commission must be given the oversight tools to react in constantly changing markets in order to address new dangers of market disruption.
4. The Commission should articulate specific duties of supervision to supplement the general duty to supervise contained in Commission Regulation 166.3. "Each Commission registrant ... must diligently supervise the handling by its partners, officers, employees and agents ... of all commodity interest accounts carried, operated, advised or introduced by the registrant and all other activities of its partners, officers, employees and agents (or persons occupying a similar status or performing a similar function) relating to its business as a Commission registrant. The Commission should clearly articulate responsibilities related to utilization of all Algorithmic trading processes.

We appreciate the opportunity to provide comments to the Commission regarding Dodd-Frank Section 747.

Sincerely,

A handwritten signature in black ink, appearing to read "Dan Gilligan". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Dan Gilligan
PMAA President