United States Senate

COMMITTEE ON
AGRICULTURE, NUTRITION, AND FORESTRY
WASHINGTON, DC 20510-6000
202-224-2035

December 16, 2010

The Honorable Gary Gensler
Chairman
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street NW
Washington, DC 20581

Re: CFTC's Implementation of Position Limits

Dear Chairman Gensler:

I am writing in regard to the expanded powers granted by the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank") to the Commodity Futures Trading Commission ("CFTC") with respect to position limits. As you know, the CFTC is authorized to set aggregate position limits "as appropriate" across all markets. In the past, the CFTC has examined position limits as a means of preventing excessive speculation or sudden price fluctuations in the commodities markets. I support this authority. Going forward, I urge the CFTC to continue to keep these important twin goals in mind as it considers and initially sets position limits, so that investors who are fully collateralized and may pose little or no systemic risk are not arbitrarily limited and that we do not negatively impact valuable market liquidity.

I am mindful of the CFTC's discretion to set aggregate position limits by "group or class of traders." Further, Dodd-Frank encourages the CFTC to consider how position limits may impact particular classes of persons or swaps. As the CFTC seeks to implement position limits, I urge the CFTC not to unnecessarily disadvantage market participants that invest in diversified and unleveraged commodity indices. These investors often serve as an important, fully collateralized source of liquidity. At the same time, they are natural counterparties to producers who are seeking to reduce their commodity price risk. In this vein, as I have said previously, it is "my expectation that the CFTC will address the soundness of prudential investing by pension funds, index funds and other institutional investors in unleveraged indices of commodities that may also serve to provide agricultural and other commodity contracts with the necessary liquidity to assist in price discovery and hedging for the commercial users of such contracts."

In addition to enhancing liquidity and facilitating greater price discovery for commercial end-users, diversified, unleveraged index funds are an effective way to diversify their portfolios and hedge against inflation. Unnecessary position limits placed on mutual fund investors could limit their investment options, potentially substantially reduce market liquidity, and impede price discovery. Such limits might also have the unintended consequence of forcing investors to rely on higher-cost managers with little experience, insufficient compliance and trade flow infrastructure, and limited risk management capabilities associated with effectively managing commodity index risk.

Such a comprehensive approach to setting position limits would not be contrary to the public interest or to the purposes of the Commodity Exchange Act and Dodd-Frank. In drafting the position limits provision, Congress sought to eliminate excessive speculation and market manipulation while protecting the efficiency of the markets. Consequently, as Chairman of the Senate Committee on Agriculture, Nutrition and Forestry, I encouraged the CFTC to differentiate between "trading activity that is unleveraged or fully collateralized, solely exchange-traded, fully transparent, clearinghouse guaranteed, and poses no systemic risk" and highly leveraged swaps trading in its implementation of position limits.

I repeat my request again today. As it contemplates position limits, I encourage the CFTC to carefully consider how such limits may impact particular types of investment vehicles and classes of investors. I hope that the CFTC will implement position limits in a manner that protects ordinary investors and ensures that the commodity markets continue to benefit from the liquidity and price stability provided by unleveraged broad-based index investments.

Sincerely,

Blanche L. Lincoln

Senator Blanche L. Lincoln
Chairman
Committee on Agriculture, Nutrition, and Forestry