1320 Harbor Bay Parkway
Suite 145
Alameda, CA 94502
510.522.9600
510.522.9604 fax

March 25, 2011

VIA ELECTRONIC SUBMISSION

Mr. David Stawick
Secretary
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, N.W.
Washington, DC 20581

Re: CFTC Proposed Rule – Position Limits for Derivatives (RIN 3033-AD15 and 3038-AD16)

Dear Mr. Stawick:

United States Commodity Funds, LLC ("USCF") is pleased to have this opportunity to comment on the above-referenced proposed rule (the "Proposed Rule"). The Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Dodd-Frank Act") requires the Commodity Futures Trading Commission (the "CFTC") to set position limits for exchange-traded futures and options contracts and swaps and swaption contracts that are economically equivalent to such futures and options contracts. The CFTC has issued the Proposed Rule, which proposes certain initial position limits and a framework for establishing other limits to meet the Dodd-Frank Act's requirements.

The mere fact that the Dodd-Frank Act requires the CFTC to adopt position limits does not mean that such limits should be imposed in an overly restrictive fashion. Furthermore, regardless of the statutory mandate in the Dodd-Frank Act, USCF believes that the CFTC cannot escape the question of whether it is wise or appropriate to adopt rules that will inappropriately disrupt fair and open markets or that interfere with the ability of ordinary citizens to gain exposure to the commodity markets in a cost effective and efficient manner. As USCF has noted in previous comment letters filed with the CFTC,[1] as a general matter USCF strongly urges the

---

[1] For further discussions of why position limits do not achieve these goals and may instead create volatility in the financial markets, see the comment letter submitted to the CFTC by USCF on October 21, 2010 regarding Advance Comments on Position Limits and the Definition of "Major Swap Participant" Under the Dodd-Frank Wall Street

CFTC to exercise caution in implementing position limits so as not to create volatility or diminish liquidity in the market. USCF specifically believes that instead of preventing excessive speculation or manipulation in the marketplace, position limits will hamper the ability of USCF and other managers of publicly traded, unlevered, passive commodity funds to prudently meet the investment objectives of the commodity pools that they manage. The value of the exchange-traded pools managed by USCF to the hundreds of thousands of investors in such pools, and the several million investors in all similar pools currently in operation in the United States, could be adversely affected by the Proposed Rule.

Further, in order to prevent regulatory arbitrage, USCF believes that CFTC should continue to coordinate with foreign regulators regarding the form, timing and implementation of its position limits. The Dodd-Frank Act requires the CFTC to consult with designated contract markets to study the effects of position limits on excessive speculation and migration to trading venues abroad. USCF believes that any analysis of such effects and potential migration outside of the U.S. markets is a crucial first step that the CFTC must take before if can effectively set position limits. USCF particularly notes that the regulator for financial markets and commodities in the United Kingdom, the Financial Services Authority (the “FSA”), has published a report expressing grave concerns about the use of position limits as a regulatory tool.[2] USCF believes that other foreign regulators will similarly find that a regulatory regime involving position limits is either unnecessary or unworkable and thus reject such a regime.

While USCF does not believe that position limits are necessary to achieve any of the goals of the Dodd-Frank Act, including prevention and/or elimination of excessive speculation and manipulation in the derivatives markets, USCF generally agrees with the Proposed Rule as a fulfillment of the CFTC’s statutory mandate. However, in addition to its general concerns discussed above, USCF has several specific concerns with respect to the Proposed Rule, including (1) the application of initial spot-month position limits to economically equivalent swap and swaption contracts, (2) the calculation of the actual limits to be imposed and the public’s ability to comment on such actual limits, (3) the timing for implementation of position limits, (4) the legacy position limits for agricultural futures and options contracts and economically equivalent agricultural swaps and swaptions, (5) the potential costs and questionable necessity of visibility reporting and (6) grandfathering for economically equivalent swap and swaption contracts. USCF would also like to note that it supports the aggregation provisions contained in the Proposed Rule.

Reform and Consumer Protection Act and the comment letter submitted to the CFTC by USCF on April 22, 2010 regarding Proposed Federal Speculative Position Limits for Referenced Energy Contracts and Associated Regulations.

[2] “Reforming OTC Derivatives Markets – A UK Perspective,” published by the FSA in December 2009.

I. Background

A. *Structure of the Funds Managed by USCF*

As a commodity pool operator registered with the CFTC, USCF is general partner or sponsor of, and manages, the United States Oil Fund, LP ("USO"), the United States Natural Gas Fund, LP ("UNG"), the United States 12 Month Oil Fund, LP, the United States 12 Month Natural Gas Fund, LP, the United States Gasoline Fund, LP, the United States Heating Oil Fund, LP, the United States Short Oil Fund, LP, the United States Brent Oil Fund, LP and the United States Commodity Index Fund ("USCI") (each, a "Fund" and collectively, the "Funds"). Each of the Funds is an unlevered, passively managed, exchange-traded commodity pool that principally invests in futures contracts for commodities with the investment objective of having the net asset value ("NAV") of the units of each Fund reflect changes in percentage terms of the price of a given commodity futures contract or, in the case of USCI, daily changes in percentage terms of a commodities index. The specific commodity focus and investment strategy of each Fund varies; however, the structure and method of investing in all of USCF's Funds are nearly identical.[3] Units of each of the Funds are listed on the NYSE Arca, Inc. Publicly listed commodity pools such as ours, and those operated by other passive managers, are frequently referred to as "commodity ETFs," although such a description is not technically correct.[4]

Each of the Funds has thousands of investors (for example, USO and UNG had approximately 176,000 and 394,000 investors, respectively, during the course of 2010) and, except for in a handful of situations typically during the period when a Fund initially offers its units to the public and has few investors, to USCF's knowledge, a very small number of individual investors have ever held more than 5% of the outstanding units of any Fund.[5] Exchange-traded commodity funds break down the historic barriers that have prevented individual "retail" investors from investing in commodities as a means for such investors to protect against higher commodity prices. Based on discussions with other managers of similar passive commodity funds, USCF estimates that in 2010, between 3,000,000 and 4,000,000 retail investors in the United States held investments in exchange-traded commodity funds such as the Funds.

---

[3] Although it operates in a similar fashion as the other Funds, USCI is structured as a statutory trust whereas USCF's other Funds are structured as limited partnerships.

[4] ETFs, or exchange-traded funds, are generally considered to be exchange-traded vehicles that are registered with the U.S. Securities Exchange Commission (the "SEC") under the Investment Company Act of 1940, while publicly listed commodity pools are generally registered under the Securities Act of 1933 and the Securities Exchange Act of 1934 ("1934 Act").

[5] Each of the Funds are registered under the 1934 Act and therefore investors holding 5% or more of a Fund's units are required to disclose their holdings and intentions under Section 13 of the 1934 Act. To date, only seven individual investors (not including USCF's seed investment in USCI) have made such filings for all of the Funds combined.

B. *Effects of Position Limits on the Funds and Similar Investment Vehicles*

USCF has directly made the case to the CFTC that the Funds' collective investments in futures contracts have not in fact contributed to either the volatility or run ups (or run downs) in energy prices experienced over the last several years.[6] In addition, the Senate Permanent Subcommittee on Investigations' 2009 report lacked direct causal evidence with respect to whether so-called "massive passives" have adversely affected the functioning of the futures markets and contributed to price fluctuations. Similarly, the Interagency Task Force on Commodity Markets' Interim Report on Crude Oil published by the CFTC and other regulators (the "Interim Report") found no direct causal relationship between speculative activity and the run-up in oil prices during 2007-2008. The Interim Report specifically stated that:

> If a group of market participants has systemically driven prices, detailed daily position data should show that that group's position changes preceded price changes. The Task Force's preliminary analysis, based on the evidence available to date, suggests that changes in futures market participation by speculators have not systemically preceded price changes. On the contrary, most speculative traders typically alter their positions following price changes, suggesting that they are responding to new information—just as one would expect in an efficiently operating market.[7]

The CFTC itself, in the Interim Report and otherwise, has specifically concluded that financial investors in general, and exchange-traded commodity funds in particular, tended to be net sellers of crude oil futures contracts during the mid-2007 to mid-2008 run up in oil prices, were net buyers of such futures contracts during the fall in oil prices between mid-2008 and early 2009 and were once again net sellers during the rise in oil prices between early 2009 and early 2010.[8]

With respect to the usefulness of position limits for other market participants, as noted above, the FSA recently cast serious doubts on the usefulness of position limits to moderate price volatility in a white paper dated December 2009. The FSA specifically stated that:

---

[6] *See* the comment letter submitted to the CFTC by USCF on June 16, 2009 regarding the CFTC's Concept Release on Whether to Eliminate the Bona Fide Hedge Exemption for Certain Swap Dealers and Create a New Limited Risk Management Exemption From Speculative Position Limits, 74 FR 12282 (March 24, 2009) and the testimony of John Hyland, Chief Investment Officer of USCF, before the CFTC on August 5, 2009. *See also* the current report on Form 8-K dated March 21, 2011, filed by USO with the SEC.

[7] Interagency Task Force on Commodity Markets, Interim Report on Crude Oil, published in July 2008, at page 3.

[8] *See* Interagency Task Force on Commodity Markets, Interim Report on Crude Oil, published in July 2008; CFTC Staff Report on Commodity Swap Dealers & Index Traders with Commission Recommendations, dated September 2008, CFTC Trader Activity and Derivative Pricing Study, dated December 4, 2008; and the Memorandum to Secretary of the U.S. Treasury Timothy Geithner from CFTC Chairman Gary Gensler, dated August 21, 2009. *See also*, studies conducted by recognized energy market academics including Philip K. Verleger, Jr., Stephen Craig Pirrong, Dwight R. Sanders and Scott H. Irwin.

> The FSA's regulatory aim (as defined by legislation) is on maintaining fair and orderly markets, not limiting price movements or volatility. In any event, we do not believe a case has been made which demonstrates that prices of commodities, or other financial derivatives, can be effectively controlled through the mandatory operation of regulatory tools such as position limits, whether on exchange or OTC. Analysis of market data where position limits are already in use suggests that this has not shown a reduction in volatility or absolute price movements compared to contracts where they are not.
>
> We also consider that limiting financial participation more generally would hamper market efficiency. To use oil markets as an example, increased participation has brought significant benefits, such as greater depth and liquidity. In particular we believe greater liquidity should be encouraged in this market, particularly if it facilitates the hedging of the longer maturities that are more closely aligned to the petroleum investment and production cycle. This in turn would enable producers to invest in long term products with greater certainty, knowing today what prices they can sell at once the production comes on-stream.
>
> To restrict participation to producers and end-users, and to exclude, or even limit, financial players would, in the view of the UK Authorities, be unlikely to have a controlling effect on market prices, and potentially be detrimental to efficient markets and the price formation process in general.[9]

Furthermore, the importance of exchange-traded, unlevered, passive investment vehicles like the Funds was recognized in the Congressional record while the Dodd-Frank Act was under consideration and was more recently recognized in a December 16, 2010 letter from former Senator Blanche Lincoln[10] to Chairman Gensler. In her letter, former Senator Lincoln noted that investment vehicles like the Funds serve as an important, fully collateralized source of liquidity. Senator Lincoln went on to note that, "In addition to enhancing liquidity and facilitating greater price discovery for commercial end-users, diversified, unleveraged index funds are an effective way [for investors] 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." USCF agrees with the positions of former Senator Lincoln and urges the CFTC consider the points raised in her letter when fulfilling its statutory mandate to set position limits at levels that not only prevent excessive speculation and prevent market manipulation but also ensure sufficient market

---

[9] "Reforming OTC Derivatives Markets – A UK Perspective," published by the FSA in December 2009.

[10] Senator Lincoln was Chairman of the Senate Agricultural Committee when Congress passed the Dodd-Frank Act.

liquidity for *bona fide hedgers* and ensure that the price discovery function of the underlying market is not disrupted.[11]

C. *Investment Objectives of The Funds*

While the specific investments and strategies of each Fund vary, each Fund's general objective is to allow both retail and institutional investors to easily gain exposure to the market for a specific commodity (or index of commodities in the case of USCI) in an efficient and cost effective manner. USCF and other passive managers do not assume any of the credit risk associated with the funds they manage and, unlike active fund managers, do not even make any of the investment decisions for such funds. The Funds and other similar exchange-traded, passive commodity funds merely purchase and sell commodity futures contracts to facilitate the buy/sell decisions of their investors.

Commodity prices impact all investors either directly or indirectly and there has been a growing appreciation by investors that it may be appropriate to address the escalation and volatility of commodity prices through participation in the financial markets. Investors have several avenues of participation, including directly buying and selling exchange-traded commodity futures contracts. If each of the Funds' investors individually elected to gain exposure to the commodity markets through the purchase and sale of exchange-traded commodity futures contracts, the position limits to be imposed by the Proposed Rule would be of little consequence because it is extremely doubtful that any Fund investor would ever hold enough futures contracts to be impacted by these limits.[12] Thus, it is only because such investors seek to obtain their financial exposure to the commodity markets collectively in a simpler, less risky, unlevered and economically efficient manner through the Funds that they will likely suffer from the adverse effects of position limits.[13]

---

[11] 7 U.S.C. 6a(a)(3)

[12] Although it is theoretically possible that the positions of a single investor in one of the Funds could breach the limits set out in the Proposed Rule because of such investor's indirect interests in a Funds' investments (assuming that the relative levels of investor ownership in the Funds remains the same) this would be very unlikely. We believe mechanisms could be put in place that would assure that any investor in the Funds whose positions could breach the limits would be identified.

[13] As USCF has noted in its previous comments to the CFTC, USCF continues to believe that the position limits required by the Dodd-Frank Act should have actually been imposed at the individual investor level (*i.e.,* the CFTC should "look through" to the individual investors in the Funds and other exchange-traded, unlevered passive commodity funds) because these investors are making the investment decisions that cause the purchase or sale of the futures/options contracts and economically equivalent swap/swaption contracts subject to the position limits. Such a "look through" would eliminate any negative impact that position limits may have on those investors who choose to invest in exchange traded, unlevered, passive funds as a less risky and more efficient way to protect themselves against volatility in commodity prices.

II. The Proposed Rule

In order to minimize the negative impact on the derivatives markets that may result from the position limits to be imposed by the CFTC, USCF urges the CFTC to consider the following issues with respect to the Proposed Rule.

A. *Application of Initial Spot-Month Position Limits to Swaps*

Pursuant to the Proposed Rule, the CFTC will set initial spot-month position limits at levels currently imposed by the regulated exchanges. However, unlike the position limits currently imposed by the regulated exchanges, which only apply to a trader's positions in exchange-traded futures and options contracts, the CFTC's initial spot-month position limits would apply to a trader's positions in exchange-traded futures and options contracts combined with the trader's positions in economically equivalent swap and swaption contracts. Such swap and swaption contracts are currently traded in the largely unregulated over-the-counter market for which the CFTC has relatively little data or other information. The Dodd-Frank Act and several rules proposed by the CFTC thereunder require swap market participants, swap execution facilities and derivatives clearing organizations to report such data and other information to the CFTC. However, it is not clear at this time when such information will actually be reported or, more importantly, when the CFTC will be able to analyze such information. Accordingly, assuming that the CFTC's initial spot-month position limits will take effect prior to the CFTC and the other regulators having a thorough understanding of the over-the-counter derivatives market, USCF believes that such initial spot-month position limits should only apply to those futures and options contracts that are currently traded on the regulated exchanges and that the spot-month position limits be re-evaluated and re-proposed for comment once the CFTC has had a chance to collect and consider the additional information.

B. *Calculation of Non-Spot-Month Position Limits*

Clarification that one limit will be imposed. With respect to position limits outside of the spot month, USCF interprets the Proposed Rule as imposing one limit for a trader's positions in both referenced futures and options contracts and economically equivalent swap and swaption contracts in a single month and in all months combined. For example, assuming that the non-spot-month position limit for a particular commodity futures contract (based on a calculation of open interest that includes both the open interest for the listed futures and options contracts as well as the open interest for economically equivalent swap and swaption contracts) is 10,000 contracts, a trader could hold 10,000 futures contracts and 0 economically equivalent swap contracts, 0 futures contracts and 10,000 economically equivalent swap contracts, 5,000 futures contracts and 5,000 economically equivalent swap contracts or any other combination of futures and options contracts and economically equivalent swap and swaption contracts provided that the aggregate number of contracts held by the trader does not exceed 10,000. Additionally, a trader

may hold all 10,000 of such contracts in one month (other than the spot month), or it may hold them throughout any number of different months.

While the foregoing example is relatively straightforward, USCF believes that the Proposed Rule confuses this issue by setting forth the calculation for combined position limits (*i.e.,* position limits for futures/options contracts and swap/swaption contracts combined) with respect to a given commodity in a single month or in all months combined in proposed Reg. §151.4(d)(1) and then stating in proposed Reg. §151.4(d)(2) that the single-month and all-months-combined position limits for contracts in a given commodity that are of the same class (*i.e.,* futures/options contracts or swap/swaption contracts) will equal the all-months-combined aggregate position limit.

Assuming that the CFTC intends to impose one overall limit as described in the foregoing paragraph, USCF believes that the CFTC should combine proposed Reg. §151.4(d)(1) and proposed Reg. §151.4(d)(2) and state that "Except as otherwise authorized in §151.5, no person may hold or control positions, separately or in combination, net long or net short, in referenced contracts in the same commodity when such positions, in all months combined (including the spot month) are in excess of a position limit fixed by the Commission at 10 percent of the first 25,000 contracts of average all-months-combined aggregated open interest, as calculated by the Commission pursuant to paragraph (e) of this section, with a marginal increase of 2.5 percent thereafter."[14] As discussed in its comment letter to the CFTC dated October 21, 2010, USCF agrees with such an approach to non-spot-month position limits as consistent with the Dodd-Frank Act's objective of not unnecessarily distinguishing between exchange-traded futures and options contracts and cleared or uncleared swap and swaption contracts.

Calculation of open interest before establishing position limits. Pursuant to proposed Reg. §151.4(h), non-spot-month position limits will be set by January 31 of each calendar year based on open interest for a given commodity in the immediately preceding calendar year. Accordingly, the CFTC could fix non-spot-month position limits on January 31, 2012, based on 2011 open interest levels. Proposed Reg. §151.4(e) requires the CFTC to account for both open interests in a referenced contract's futures and options contracts and open interests in a referenced contract's swap and swaption contracts. Although the CFTC has a limited amount of information about cleared swap contracts and has proposed reporting rules pursuant to which it will obtain the information it needs to calculate open interest for all of referenced contract's economically equivalent swap and swaption contracts, USCF is concerned that the CFTC may

---

[14] However, as indicated below, USCF also believes that these position limits, including the percentages and number of contracts used to determine the actual limits, should not be set until the CFTC has acquired the relevant data regarding open interests and reevaluated whether the position limits are still appropriate. Market participants should then have had the opportunity to comment on such limits in light of the data considered by the CFTC.

not have such information for 2011 in time to impose meaningful position limits on January 31, 2012.[15]

Given that any such position limits would apply to a trader's combined positions in futures/options contracts and swap/swaption contracts, USCF believes that it is imperative that the CFTC obtain and analyze a complete set of data for open interests in a referenced contract's swap and swaption contracts before establishing the position limits. It is unclear how the CFTC could ensure that position limits applicable to swap and swaption contracts would not create volatility or diminish liquidity in the markets without a thorough understanding of the largely unregulated over-the-counter derivatives market in which such swap and swaption contracts are currently traded. If the CFTC is not able to do so for the 2011 calendar year prior to January 31, 2012, then the CFTC should not set position limits for the non-spot-months until 2013. Moreover, in order to meet the Dodd-Frank Act's objectives for position limits and in order to comply with the Administrative Procedures Act, the CFTC should re-propose the actual non-spot-month position limits for comment once it has had an opportunity to review and analyze the relevant market data including the actual levels of open interest.

C. *Timing for Imposition of Position Limits*

USCF strongly disagrees with proposed Reg. § 151.4(h)(3), which permits the CFTC to make effective the initial spot-month, single-month and all-months-combined position limits on any date pursuant to a CFTC order. USCF believes that any such order (or rule or other method for imposing position limits) should first be issued in proposed form to allow traders sufficient opportunity to comment on the actual limits to be imposed. As noted above, at this time, other than data that is available for certain cleared swaps, neither the CFTC nor market participants have the data necessary to calculate open interests for swaps and swaptions. Accordingly, traders have no way of knowing the levels at which the CFTC will impose position limits outside the spot-month and cannot provide meaningful comments on such limits.

Once the CFTC has obtained and analyzed data and other information about the over-the-counter derivatives market, the CFTC will be able to propose actual non-spot-month position limits (and spot-month position limits applicable to economically equivalent swap and swaption contracts) on which traders will be able to provide meaningful comments in accordance with the Administrative Procedures Act and will be able to adjust their trading strategies accordingly. USCF believes that making non-spot-month position limits effective by order without providing

---

[15] USCF understands that the CFTC does not anticipate issuing final large trader reporting rules until later in the Spring of 2011 and that it does not anticipate issuing final rules regarding reporting of all swap data until the Summer of 2011. Under the Dodd-Frank Act, such rules could not take effect until at least 60 days after they are proposed. Accordingly, it is likely that the CFTC will not start to receive comprehensive information about the over-the-counter derivatives market until Fall of 2011 at the absolute earliest. USCF does not believe that the CFTC would be able to effectively analyze such data in time to set position limits by January 31, 2012.

traders the opportunity to comment or adjust their trading strategies to comply with such limits would be extremely disruptive and not accomplish anything besides unnecessary volatility in the financial markets. Furthermore, to the extent that the positions of the Funds or any similar exchange-traded, passive investment funds were in violation of such limits, such disruption and volatility would have the greatest negative impact on the individual retail investors who rely on such funds to hedge their exposure to the commodity markets. This outcome would be contrary to the objectives of the Dodd-Frank Act, the Proposed Rule and the CFTC's goals of creating safety and soundness in the commodity markets.

D. *Legacy Position Limits*

Pursuant to proposed Reg. §151.4(d)(3), upon the effectiveness of a final version of the Proposed Rule, the CFTC would impose all-months-combined position limits for nine agricultural commodity futures and options and economically equivalent swap and swaption contracts. These "legacy" limits would be set at the same levels as the existing all-months-combined position limits for futures and options contracts in these agricultural commodities. USCF believes that the CFTC should remove these legacy limits from the Proposed Rule and impose non-spot month position limits for futures/options contracts and swap/swaption contracts for the nine agricultural commodities listed in proposed Reg. §151.4(d)(3) in the same manner that it applies the non-spot month position limits in proposed Reg. §151.4(d)(1)-(2) to futures/options contracts and swap/swaption contracts for all referenced commodities once it has acquired and considered all relevant data. Specifically, as discussed above, USCF believes that once the CFTC has determined open interests for purposes of calculating non-spot month position limits for contracts in *all* referenced commodities (including agricultural commodities), the CFTC should publish for public comment a proposed rule setting actual position limits.

As indicated by the Chicago Board of Trade's April 6, 2010 petition to the CFTC, the legacy limits are based on open interest levels for 2004 and do not reflect significant increases in open interest for these contracts since such time. Accordingly, USCF believes that the legacy limits should have been omitted from the Proposed Rule (or updated to reflect current market conditions) even if they were just applicable to futures and options contracts for the nine agricultural commodities.[16] The fact that the Proposed Rule would apply these limits, which are not suitable for current open interests in futures and options contracts for the nine enumerated agricultural commodities, to such futures and option contracts *and* economically equivalent swap and swaption contracts only provides further justification for their removal from the Proposed Rule.

---

[16] Pursuant to the Proposed Rule, position limits will be reset on March 1 of each year based on open interest for the just-ended calendar year, indicating that the CFTC itself believes that position limits should reflect current open interest as opposed to older data that may no longer reflect current market conditions.

Other than the fact that the CFTC currently imposes non-spot month position limits for these nine agricultural commodity futures and options contracts, USCF does not know of any justification for treating futures/options and swap/swaption contracts for such commodities differently than futures/options and swap/swaption contracts for other commodities. Furthermore, even if the CFTC did have a justifiable reason for treating such futures/options and swap/swaption contracts differently, imposing limits based on data that is more than six years old, that does not reflect the current commodity markets, and that does not take the open interest for swap and swaption contracts into account at all would only diminish liquidity without achieving any of the objectives of the Proposed Rule or the Dodd-Frank Act.

E. *Visibility Reporting*

Proposed Reg. §151.6 would impose reporting requirements for traders who exceed enumerated position levels of futures/options and swap/swaption contracts for five metals and four energy commodities. While USCF understands that the CFTC needs information about trading activity in those commodity contracts subject to the Proposed Rule, USCF questions the necessity and usefulness of the additional reporting requirements in proposed Reg. §151.6. Pursuant to other proposed regulations including regulations that specifically impose reporting requirements on large traders, the CFTC will obtain the information it needs to calculate open interests for economically equivalent swap and swaption contracts and any other information it needs to set position limits. USCF agrees with proposed Reg. §151.6(e), which waives visibility reporting requirements to the extent that the information required to be reported pursuant to such requirements is reported to the CFTC pursuant to another rule or regulation. However, USCF does not believe that the costs and administrative burdens that market participants will bear as a result of the Proposed Rule's additional visibility reporting requirements will outweigh the relatively small amount of additional information that the CFTC will obtain from a relatively small number of market participants.

To the extent that the CFTC retains the visibility reporting requirements in its final version of the Proposed Rule, USCF believes that market participants should be required to make 401, 402S, 404 and 404A filings no more than twice a year as opposed to each month in which a market participant exceeds a visibility level. As noted above, pursuant to other CFTC rules and regulations, the CFTC will receive information about a trader's positions in futures and options contracts and economically equivalent swap and swaption contracts upon execution of such contracts. While the additional information required to be reported by proposed Reg. §151.6 may prove interesting or marginally useful to the CFTC, USCF does not believe that it is the type of information that the CFTC needs to obtain and analyze on a monthly basis.

F. *Grandfathering*

Pursuant to proposed Reg. §151.11(f)(1), positions acquired in good faith prior to the effective date of any bylaw rule, regulation or resolutions specifying a position limit will be

exempt from such position limit. USCF believes that the Proposed Rule should clarify that swap and swaption contracts with regularly scheduled "reset" dates based on the tenor of economically equivalent futures or option contracts will become subject to the position limits imposed pursuant to the Proposed Rule upon the first reset date after the effectiveness of such position limits. Otherwise, before the effectiveness of any applicable position limits, a trader could enter into a very long-term economically equivalent swap contract that resets based on the expiration dates for an economically equivalent futures contract in order to evade position limits. Such evasion would put USCF and other traders who currently invest primarily in exchange-traded futures contracts at a competitive disadvantage and would thwart the intent of the Proposed Rule.

G. *Aggregation*

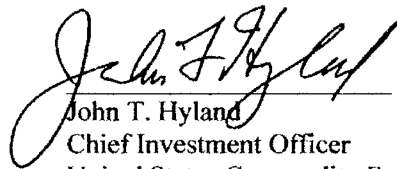
As a final point, USCF agrees with the Proposed Rule's aggregation requirements. Positions of exchange-traded, passively managed investment vehicles such as the Funds, which are not commonly owned and which do not have identical trading strategies should not be aggregated for purposes of imposing position limits. As noted above, USCF continues to believe that position limits should be imposed with respect to the individual investors in such funds who make the actual buy/sell decisions (a so-called "look through" approach). However, to the extent that such position limits are not imposed at the individual investor level, USCF agrees that such limits should not be imposed on passive managers who do not enter into transactions for their own account and do not own or even control the investment decisions of the exchange-traded funds that they manage. Such a position is supported by former Senator Blanche Lincoln's July 15, 2010 colloquy in which she noted that "it may not be appropriate to aggregate the positions of entities advised by the same advisor where such entities have different and systemically determined investment objectives." Each of the Funds is a separate legal entity with separate investors and separate investment objectives. Aggregating the positions held by the separate Funds would only diminish liquidity and hurt the individual investors in such funds without providing any protection to the overall financial system or otherwise furthering the objectives of the Dodd-Frank Act.

III. Conclusion

We appreciate the CFTC's efforts to ensure well-regulated, transparent derivatives markets. However, we do not believe that the imposition of restrictive position limits will further the CFTC's efforts in this area. In fact, the unintended consequences of the position limits to be imposed pursuant to the Proposed Rule may lead to more volatility, less liquidity and, as a result, more risk for investors in the commodity markets. Given that Dodd-Frank Act requires the CFTC to impose position limits, we strongly urge the CFTC to modify and clarify the Proposed Rule as discussed herein. We also urge the CFTC to continue to be mindful of the questionable necessity of position limits, the negative impacts that such limits could have on individual retail investors in exchange-traded, unlevered passive investment vehicles such as the Funds and the need for market participants to have meaningful opportunities to comment on any

regulations to which they will be subject. By taking these steps, the CFTC can ensure that all investors have safe, transparent, and cost-effective access to the hedging benefits provided by the financial energy markets.

* * *



John T. Hyland
Chief Investment Officer
United States Commodity Funds LLC

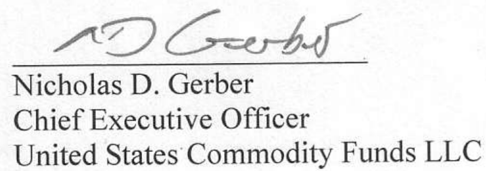
Nicholas D. Gerber
Chief Executive Officer
United States Commodity Funds LLC

Cc: James M. Cain, Sutherland Asbill & Brennan LLP

regulations to which they will be subject. By taking these steps, the CFTC can ensure that all investors have safe, transparent, and cost-effective access to the hedging benefits provided by the financial energy markets.

* * *

John T. Hyland
Chief Investment Officer
United States Commodity Funds LLC



Nicholas D. Gerber
Chief Executive Officer
United States Commodity Funds LLC

Cc: James M. Cain, Sutherland Asbill & Brennan LLP

Exhibit A

[See attached Current Report on Form 8-K dated March 21, 2011, filed by USOF with the SEC.]

8-K 1 v215406_8k.htm

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, DC 20549

FORM 8-K

CURRENT REPORT
PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

Date of Report (Date of earliest event reported): March 21, 2011

UNITED STATES OIL FUND, LP
(Exact name of registrant as specified in its charter)

Delaware	**001-32834**	**20-2830691**
(State or other jurisdiction of incorporation)	(Commission File Number)	(I.R.S. Employer Identification No.)

1320 Harbor Bay Parkway, Suite 145
Alameda, California 94502
(Address of principal executive offices) (Zip Code)

Registrant's telephone number, including area code: **(510) 522-9600**

Not Applicable
(Former name or former address, if changed since last report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (see General Instruction A.2. below):

- ☐ Written communication pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- ☐ Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- ☐ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- ☐ Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Item 8.01. Other Events

On July 6, 2009, United States Oil Fund ("USO") filed a current report on Form 8-K in response to published reports suggesting that 2008's run-up in crude oil prices were the result of the investments made in the crude oil futures market by large, un-levered and passive index funds. Many of these reports cited USO as an example of such a fund whose buying and selling activities were alleged to be causing unusually wide swings in crude oil prices.

Since the run-up in crude oil prices in 2008, crude oil prices retreated in late 2008 through early 2009 but started to rise again in mid-2009 through 2010. Crude oil prices finished 2010 at approximately $90 per barrel and continue to increase in early 2011 to over $100 per barrel. The increases in crude oil prices in January and February 2011 were against a background of violence in oil-producing Middle Eastern countries, including Egypt, Libya and Bahrain. These fluctuations have again given rise to published reports suggesting that large, unlevered and passive index funds, such as USO, are to blame for the recent increase in crude oil prices.

In response to the previous increase in crude oil prices in 2008, the Commodity Futures Trading Commission ("CFTC") produced a report, the "Interim Report on Crude Oil" (July 2008) (the "Report") that specifically addressed the question of the impact of financial investors (speculators) in the crude oil futures market. The Report found no evidence that financial investors (speculators) were the driving force behind higher oil prices. Follow-up studies conducted by the CFTC have not led the staff of the CFTC to change its conclusion found in the Report.[1]

The Report stated in the Executive Summary that:

"If a group of market participants has systematically driven prices, detailed daily position data should show that the that group's position changes preceded price changes. The Task Force's preliminary analysis, based on the evidence available to date, suggests that changes in futures market participation by speculators have not systematically preceded price changes. On the contrary, most speculative traders typically alter their positions following price changes, suggesting that they are responding to new information – just as one would expect in an efficiently operating market."

Nevertheless, United States Commodity Funds LLC (the "General Partner") continues to observe commentators continuing to make the same unsubstantiated claims. The General Partner believes these reports significantly mischaracterize USO's impact on the market price of oil and is providing updated factual information to rebut these reports. The General Partner and USO in no way intend that the information included in this Form 8-K be considered an "offer" of USO's units.

The chart below compares the price of the NYMEX front month light, sweet crude oil contract ("CL") to the actual size of USO's crude oil futures contracts holdings. The time period covered by this chart is from the period January 1, 2007 to February 28, 2011. The CL price, shown on the right hand axis is in dollars per barrel. USO's crude oil futures contract holdings, shown on the left hand axis, are in 1,000-barrel contract equivalents.

The data shows that during the run-up in crude oil prices from January 2007, at $53 a barrel, to July 2008, at roughly $145 a barrel, USO's holdings in crude oil futures contracts declined.

Furthermore, the increase in crude oil contracts held by USO that occurred in late 2008, and continued to February 2009, coincided with a period of time when crude oil prices trended lower, not higher.

---

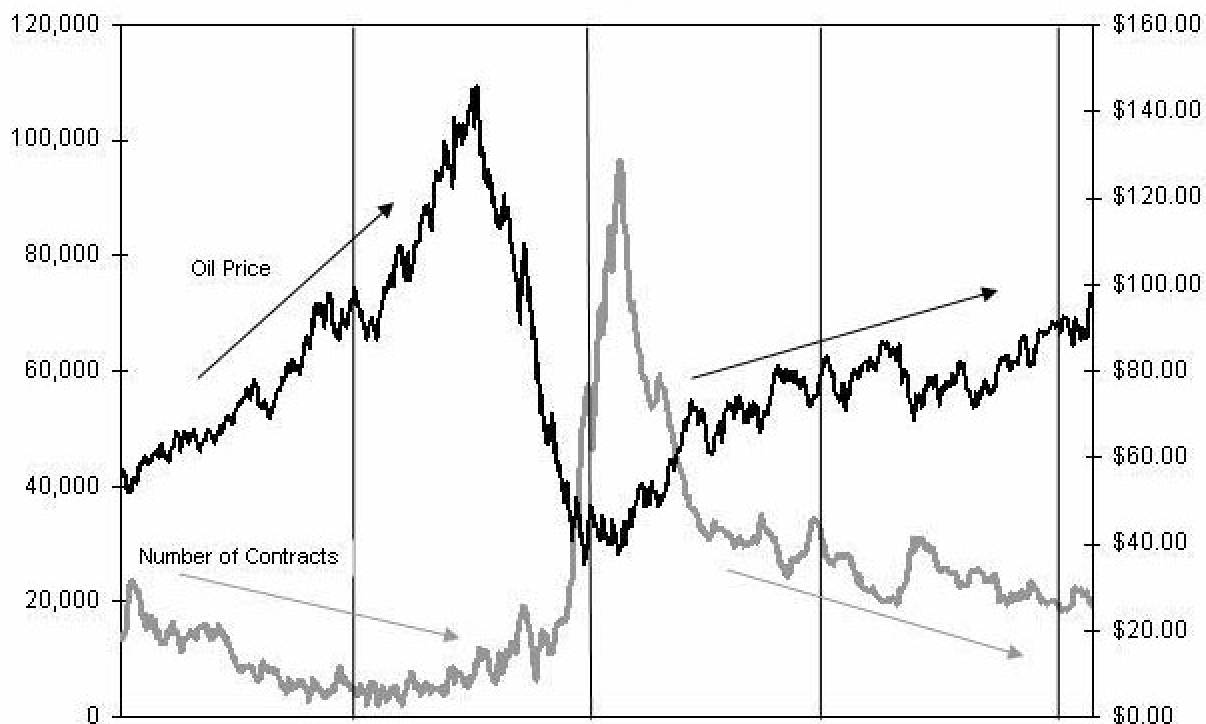
[1] *See* Memorandum dated August 21, 2009 to United States Secretary of the Treasury Timothy Geithner from CFTC Chairman Gary Gensler, regarding Impact of Position Limits on Volatility in Energy Futures Markets.

Finally, the most recent increase in crude oil prices, which began in February of 2009 and continues to the present, coincides with a period in which USO was a net seller of futures contracts, not a net buyer. The largest number of crude oil futures contracts held by USO occurred when crude oil prices were approximately $42 a barrel in early 2009, or near the low point during the period of time presented in the chart below. Since February 2009, crude oil prices have rebounded and closed in February 2011 near $100 per barrel. However, during that same time period, USO was a net seller of crude oil futures contracts and finished the year with approximately one-fourth as many crude oil futures contracts at the end of February 2011 compared with the number of crude oil futures contracts held in February 2009.

The data presented in the chart does not support the theory that USO's activities drove oil prices significantly higher in 2008 or is currently driving oil prices significantly higher and suggests that, if anything, USO's activities of selling as prices rise and buying as prices fall were a moderating influence on oil prices.

The data comparing USO's holdings in oil futures contracts clearly shows that changes in USO's holdings follow changes in the price of crude oil rather than precede them. In addition, changes in USO's holdings tend to move in the inverse direction of the changes in oil prices; USO tends to be a buyer after prices go down and a seller after prices go up.

USO Oil Contract Holdings (left-hand axis)
Crude Oil Price (right-hand axis)
4 years ending 2/28/2011



In sum, the General Partner strongly believes that the activities of USO have not caused the extreme swings in the price of crude oil as alleged in some published articles. However, due to the nature of these claims about USO and its investing practices, USO management believes it has a legitimate concern that the activities of USO could be negatively impacted to the detriment of its thousands of unitholders, unless such claims are publicly refuted.

The General Partner is of the view that the best source of information regarding its investment objective and the risks associated with an investment in USO is its most current prospectus and the periodic reports it files with its regulators, including the Securities and Exchange Commission ("SEC"). Copies of the most current version of the foregoing can be found at USO's website, www.unitedstatesoilfund.com, or through the SEC on its website, www.sec.gov. Copies are also available on request from the General Partner. In addition, on a daily basis, USO publishes on its website its holdings and net asset value.

Certain matters discussed in this current report on Form 8-K, including any statements that are predictive in nature or concern future market and economic conditions, our future performance, or our future actions and their expected results are "forward-looking statements" within the meaning of the Private Securities Litigation Reform Act of 1995. Forward-looking statements are based on current expectations and projections about future events and are not guarantees of future performance. We do not have a specific policy or intent of updating or revising forward-looking statements. Actual events and results may differ materially from those expressed or forecasted in forward-looking statements due to a number of factors. Please see our periodic reports and other filings with the SEC for a further discussion of these and other risks and uncertainties applicable to our business. The forward-looking statements and projections contained in this current report on Form 8-K are excluded from the safe harbor protection provided by Section 21E of the Securities Exchange Act of 1934.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

UNITED STATES OIL FUND, LP

By: United States Commodity Funds, LLC its general partner

Date: March 21, 2011

By: /s/ Howard Mah
Name: Howard Mah
Title: Chief Financial Officer