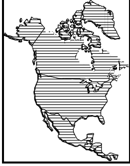


Industrial Energy Consumers of America

The Voice of the Industrial Energy Consumers

1155 15th Street, NW, Suite 500 • Washington, D.C. 20005
Telephone 202-223-1661• Fax 202-530-0659 • www.ieca-us.org

March 28, 2011

VIA- EMAIL: secretary@cftc.gov

David A. Stawick
Secretary
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581

Re: "Position Limits for Derivatives: Proposed Rule," 76 Fed. Reg. 4752 (January 26, 2011)

The Industrial Energy Consumers of America (IECA) is grateful for the opportunity to submit comments to the Commodity Futures Trading Commission (CFTC) on its proposal to implement speculative position limits for futures, options and swaps contracts in certain energy commodities. IECA supports the adoption of speculative position limits for energy contracts, including natural gas. During the period of 2000 to 2008, natural gas was one of the most volatile commodities in the world which directly and negatively impacted the manufacturing sector. Reducing excessive speculation will help stabilize prices.

The Industrial Energy Consumers of America is a nonpartisan association of leading manufacturing companies with $800 billion in annual sales and with more than 750,000 employees nationwide. It is an organization created to promote the interests of manufacturing companies through advocacy, and collaboration for which the availability, use and cost of energy, power or feedstock play a significant role in their ability to compete in domestic and world markets. IECA membership represents a diverse set of industries including: plastics, cement, paper, food processing, brick, chemicals, fertilizer, insulation, steel, glass, industrial gases, pharmaceutical, aluminum and brewing.

Natural gas is a vital fuel and feedstock for the manufacturing sector and its price often determines whether energy intensive industry is globally competitive and whether we create or lose jobs. Natural gas is also important in determining the price of electricity because natural gas fired power generation often sets the marginal price for electricity in a growing portion of the country. This means that if the price of natural gas goes up, so will the price of electricity.

Commodity market abuse has always been a concern among legislators and regulators. Regulatory action to curb its impact started in the 1920s and the Commodity Exchange Act of 1936 was the first statute to comprehensively regulate the futures markets. Through time, the market has continued to grow in size and complexity which means action must be taken to continually update market rules. Setting speculative position

limits on futures, options and swaps that would apply across different trading venues to contracts based on the same underlying commodity is warranted to stop unbridled speculation.

However, the proposed speculative position limits are too large and are not a solution to excessive speculation. The CFTC itself notes that had the proposed formula on position limits been in place in 2008 and 2009 - would have only impacted one trader.

Reducing the total volume of speculative positions "relative" to bonafide hedger positions is the best way to reduce excessive speculation. We urge the CFTC to take action to reduce total speculative volumes, bar speculative exemptions and passive long ETFs. As proposed, the speculative position limits will only help prevent market manipulation.

It is very important for the CFTC to clearly distinguish the differences between the two types of speculators. There is the traditional speculator that has an important role to play so long as their volumes do not become too large. The second type, the passive speculators have no positive role and whose presence decreases liquidity and significantly and negatively impacts price discovery.

The commodity futures, options and swaps market is special and unlike any other. It was created to serve the needs of buyers and sellers of consumable commodities and the managing of financial risk associated with these transactions – not retail investors and not as an investment asset class akin to investing in stocks and bonds.

Market participants must be willing to take possession of the underlying commodity. In fact, that is one way to distinguish between the traditional speculator and those who only speculate to gamble rather than take the other side of a deal with a bona fide energy producer of consumer. The commodity market is different and special because it trades a "consumable" product and the price of the commodity, by design, reflects the underlying supply and demand of the product.

In the 1990s these markets worked well with prices reflecting the underlying supply versus demand of the physical natural gas market. Since around 2000, the volume traded by speculators and passive speculators has increased so significantly that it negatively impacts price discovery and has transformed this market from a "commodity" to an "asset" class investment.

As an asset class investment, the retail investor doesn't really care about the supply or demand of the underlying commodity. Their priority is that they have made an investment in an area that diversifies their investment assets. And, when they invest in these passive index funds, the fund rolls the current month position to the next month without any regard to the price of the commodity. They are completely insensitive to price.

This creates a significant problem because while investors do not rely upon stocks and bonds and other asset class investments to feed families and run factories – we do with energy and food commodities. If there are too many speculators relative to underlying commodity and too many go "long", prices will rise. The reverse is also true if too many go "short".

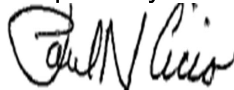
A well functioning market whose price reflects the supply and demand of the commodity is critical. Consumers like ourselves "must" buy and depend upon this market for our livelihood to competitively produce the products that our customers require. We are connected and completely dependent upon this market and treating the commodity market as an investment asset class is a significant deterrent to a well functioning market.

Unfortunately, the contract position volumes of the traditional and passive speculators have grown so large relative to the total size of the market and the positions volume of bonafide hedgers that the price discovery of the underlying commodity is threatened.

For illustration, in 1998, physical hedgers represented 77 percent of the market, traditional speculators were 16 percent and index speculators were 7 percent. In 2008, physical hedgers were only 31 percent, while traditional speculators rose to 28 percent and index speculators rose to 41 percent of the total.[1] This trend is unsustainable and it is for this reason we are very supportive of CFTC action to set speculative position limits.

We need speculative position limits, imposed by the CFTC in all consumable commodity derivates markets that will significantly reduce speculator dominance.
The CFTC has a responsibility to police the commodities futures markets for fraud, manipulation and excessive speculation. Previous Commissions have shirked this responsibility and all consumers have suffered as a result. The commission should not delay in doing its job and fulfilling its current responsibility.

Respectfully submitted,



Paul Cicio
President

[1] Source: CFTC, Goldman Sachs, Standard & Poors, Dow Jones, calculations based upon CFTC CIT report.