

Congress of the United States

Washington, DC 20515

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Chairman

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October 3, 2011

OFFICE OF THE
SECRETARIAT

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

COMMENT

Dear Chairman Gensler:

As the Commodity Futures Trading Commission (CFTC) enters the next stage of rulemakings under Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank), it must use resources efficiently and have a narrow focus on mandatory rulemakings. This approach will aid in the goal of mitigating systemic risk while not unduly interfering with market operations. We recently, however, became aware of the CFTC's efforts to adopt significant rulemaking not required under the Dodd-Frank Act that would amend certain exclusions and exemptions to the CFTC's Commodity Pool Operator (CPO) registration requirement

As we have seen with similar efforts to impose additional fees and costs on an industry absent meaningful cost-benefit analysis, we have significant concerns that this proposal will lead to a loss of benefits for our constituents. Again, this proposed rulemaking is outside of the scope of the Dodd-Frank Act and should be delayed until major rulemakings required under Dodd-Frank are completed. In addition, the CFTC should first collect relevant data to guide the rulemaking, including, but not limited to how many entities are currently using the exemptions proposed to be eliminated, thus giving an accurate picture of the number of affected entities. The costs associated with the Commission's registration requirements will likely result in higher costs for many of our constituents that have invested their savings in investment plans that have exposure to the futures markets.

Our understanding is that the proposed rule would require CFTC registration for certain registered investment companies (RICs) that are already subject to the jurisdiction of the Securities and Exchange Commission (SEC). To date, we are not aware of any evidence of harm arising out of the failure of RICs or their advisers to be registered with the CFTC. Further, the rulemaking's marketing restriction will likely require registration of funds that use futures, options or swaps in very limited amounts, or possibly not at all, and funds that just use these instruments for hedging purposes. These provisions may unnecessarily restrict investment strategies and impair fund disclosure if the costs of CFTC registration are determined to be too high. Likewise, the changes proposed for commodity pool operators under the CFTC's Rule 4.13 are duplicative because under Section 403 of Dodd-Frank, they are expected to be subject to significant regulatory requirements mandated by the Investment Advisor Act of 1940.

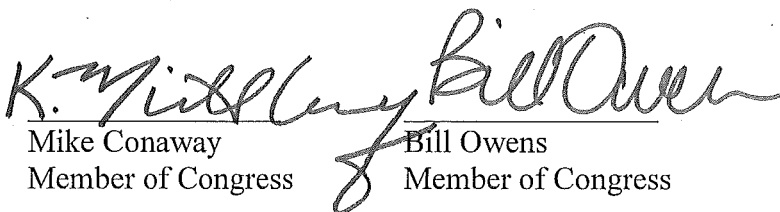
To ensure that market participants can fully understand the ultimate cost of this rulemaking, we urge the Commission appropriately focus on entities requiring additional oversight without creating duplicative and unnecessary regulation.

We appreciate your attention to this important issue.

Sincerely,



Jack Kingston
Member of Congress



Mike Conaway
Member of Congress

Bill Owens
Member of Congress

cc:

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