COMMODITY MARKETS OVERSIGHT COALITION

An Alliance of Commodity Derivatives End-Users and Consumers

January 11, 2012

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

Re: Position Limits for Derivatives," 76 7 FR 71626 (11-18-2011)
(Supplemental Comments on the Final Interim Rule for Conditional-Spot-Month Limits)

Dear Mr. Stawick:

Members of the Commodity Markets Oversight Coalition (CMOC) are pleased to submit this letter to the Commodity Futures Trading Commission ("CFTC" or Commission") on its Interim Final Rulemaking RIN 3038-AD17 regarding Position Limits for Commodity Derivatives.

I. Introduction

The Commodity Markets Oversight Coalition (CMOC) is an independent, non-partisan and non-profit alliance of groups that represent commodity-dependent industries, businesses and end-users such as airlines, farmers, petroleum marketers, gasoline station owners, home heating fuel businesses, and American consumers who rely on commodity derivatives markets as a hedging and price discovery tool. CMOC advocates for government policies that promote stability and confidence in the commodities markets, seek to prevent fraud, manipulation and excessive speculation, and preserve the interests of bona fide hedgers and consumers.

II. Conditional Spot-Month Speculative Limit Proposal

CMOC fully supports the Commission's Interim Final Rule which reversed its previous position from its Notice of Proposed Rulemaking which allowed separate "conditional spot month position limits" for certain cash-settled contracts under Section 151.4(a)(2) to have up to five times the spot month limit (or 125 percent of deliverable supply). Additionally, the Commission's Interim Final Rule did not allow five times leverage in the cash-settled contract if the trader did not have a hedge exemption or if they held positions exclusively in cash-settled contracts. CMOC was pleased with the final outcome and urges the Commission to uphold its Interim Final Rule with regard to the conditional-spot-month position limit section.

Given that the spot month is the period when the futures price converges with the underlying spot price as time approaches the contract's month of delivery, allowing five times leverage in the cash-settled "look alike" contract, could be susceptible to arbitrageurs shorting or buying financially-settled contracts. This event could potentially disrupt the liquidation of the physically-settled futures contracts. Since the physically-settled contract and the linked cash-settled contract are economically equivalent, this could result in a traders' migration to the cash-settled contract rather than trading in the physically-settled contract which could potentially prevent hedgers from fulfilling the delivery of physical contract due to less liquidity in the physically-settled contract. The very definition of these contracts as "look-alikes" means what occurs in the financially-settled markets directly affects what occurs in the physical market.

In a letter to the CFTC dated August 17, 2011, Mr. Jeff Borchardt, President and CEO of the Kansas City Board of Trade, argues that there is "the potential for a speculator holding large positions in the financial contract (that settles to the price of the core contract) to influence the price of the core contract (to the benefit of the financial contract positions) by withholding a significant quantity of deliverable supply from the market when the core contract nearby month spread pricing indicates that physical delivery should occur to foster convergence. In fact, the speculator is prevented from

participating in the physical delivery process, since their conditional financial position limit prohibits them from holding a position in the core contract spot month."[1] CMOC agrees with Mr. Borchardt's comments.

III. The Notice of Proposed Rulemaking Would Negatively Impact Commodity End-Users

Volatility and increased options costs would likely ensue if the financial-settled contract was able to enjoy five times leverage which could disrupt or unduly influence the price discovery function of the physical market leaving CMOC member companies very few options to hedge effectively. There is the possibility that options costs may exceed profit margins for many of CMOC member companies because higher conditional-spot-month limits may restrict the physical players' ability to compete for spot month speculative trading interests. Companies won't be able to hedge, whether in the petroleum, airline or agriculture business, and it would affect long-term planning for these companies.

The adoption of the Notice of Proposed Rulemaking issued on Jan. 26, 2011 with regard to conditional-spot-month limits may have increased the threat of price manipulation, especially in the final days of trading in the spot month of all commodity futures contracts, which calls for physical delivery. Additionally, CMOC believed that the conditional-spot-month limit established in the Commission's Notice of Proposed Rulemaking would have negatively impacted designated contract markets (DCMs) and exempt commercial markets (ECMs) while allowing passive investors (i.e., index funds) to evade more stringent spot-month limits.

CMOC sent a letter to the Commission, dated August 26, 2011, which urged the Commission to uphold Dodd-Frank statutory requirements by treating the physically-settled contract and the cash-settled "look alike" contract the same – requiring a position limit ratio of one-to-one. Given that most cash-settled contracts take place on unregulated exchanges granted through the Commission's "no-action letters," there's no need to treat physically-settled contracts and cash-settled "look alike" contracts differently since they are economically equivalent. The intent of Congress was not to allow regulatory arbitrage via position limits through favorable treatment of over-the-counter (OTC) exchanges at the expense of regulated DCMs.

Again, CMOC applauds the CFTC's Final Interim Rule with regard to the conditional-spot-month limits for the 27 regulated commodities and urges the Commission not to reverse its position when the Interim Final Rule is codified into the Code of Federal Regulations.

Respectively Submitted,

National and Regional Associations

American Bakers Association
American Feed Industry Association
Airlines for America
American Trucking Associations
Gasoline & Automotive Service Dealers of America, Inc.
Industrial Energy Consumers of America
Institute for Agriculture and Trade Policy
National Association of Oil & Energy Service Professionals
National Association of Shell Marketers
National Association of Truckstop Operators
New England Fuel Institute
Petroleum Marketers Association of America
R-CALF USA
The Organization for Competitive Markets

State Associations

Colorado & Wyoming Petroleum Marketers and Convenience Store Association

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[1] See Kansas City Board of Trade Comment Letter on Position Limits dated August 17, 2011, available on the Commission's website

Florida Petroleum Marketers Association
Fuel Merchants Association of New Jersey
Independent Connecticut Petroleum Association
Louisiana Oil Marketers & Convenience Store Association
Maine Energy Marketers Association
Massachusetts Oilheat Council
Montana Petroleum Marketers & Convenience Store Association
New Mexico Petroleum Marketers Association
New York Oil Heating Association
North Dakota Petroleum Marketers Association
Oil Heat Council of New Hampshire
Oil Heat Institute of Long Island
Oil Heat Institute of Rhode Island
Petroleum Marketers & Convenience Store Association of Kansas
Petroleum Marketers & Convenience Stores of Iowa
Vermont Fuel Dealers Association
West Virginia Oil Marketers and Grocers Association