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- 17 CFR Part 151
- RIN Number 3038-AD82
- **Aggregation, Position Limits for Futures and Swaps**

Dear Mr. Stawick.

Thank you for giving us the opportunity to comment on your Notice of proposed rulemaking: Aggregation, Position Limits for Futures and Swaps.

On November 18, 2011, you published in the Federal Register a final rule and interim final rule, which establish a position limits regime for 28 exempt and agricultural commodity futures and options contracts and the physical commodity swaps that are economically equivalent to such contracts.¹ In response to a petition for exemptive relief under the Commodity Exchange Act (CEA) and certain comments to your interim final rule for spot-month limits for cash-settled contracts, you are proposing certain modifications to your policy for aggregation under the position limits regime in CFTC regulations.

Aggregation of positions

I broadly support your proposed rules concerning aggregation of positions. The Dodd-Frank Wall Street Reform and Consumer Protection Act specifically amended the CEA,² requiring you to set limits on the number of positions and the aggregate number of positions held by any person, and "to the maximum extent practicable...

¹ See CFTC rule: Position Limits for Futures and Swaps, 76 FR 71626, November 18, 2011.

² See Dodd-Frank Act, Section 737.

- (i) to diminish, eliminate, or prevent excessive speculation as described under this section;
- (ii) to deter and prevent market manipulation, squeezes, and corners;
- (iii) to ensure sufficient market liquidity for bona fide hedgers; and
- (iv) to ensure that the price discovery function of the underlying market is not disrupted.”³

The key wording here is “to the maximum extent practicable”, rather than “to the maximum extent”. Therefore such position limits should be reasonable.

In your final rule on Position Limits for Futures and Swaps, you stated in the commentary on the aggregation of accounts that: “The fundamental rationale for the aggregation of positions or accounts is the concern that a single trader, through common ownership or control of multiple accounts, may establish positions in excess of the position limits and thereby increase the risk of market manipulation or disruption.” I agree with this. You state further that: “Such concern is mitigated in circumstances involving client accounts managed under the discretion and control of an independent trader and subject to effective information barriers.”⁴ I agree with these statements here, and generally.

Proposed § 151.7(b) on Aggregation of positions provides acceptable aggregation relief to a person who does not have greater than a 50% ownership or equity interest in an owned entity, subject to demonstrating compliance with certain conditions. I would argue that these conditions are sufficient and complete in order to demonstrate independence and meet the statutory objectives, and are also practicable and reasonable. Therefore I support these proposed rules.

Yours sincerely

C.R.B.

Chris Barnard

³ See Dodd-Frank Act, Section 737(a)(3)(B).

⁴ See 76 FR 71652 for these statements.