American Bakers Association

Serving the Baking Industry Since 1897

February 10, 2014

Attn: Melissa Jurgens, Secretary
Commodity Futures Trading Commission
Three Lafayette Center
1155 21st Street, N.W.
Washington, DC 20581

Re: Notice of Proposed Rulemaking, "Position Limits for Derivatives," RIN 3038-AD99, 78 *Fed. Reg.* 75680, *et seq.* (December 12, 2013).

Dear Ms. Jurgens:

The American Bakers Association (ABA) supports the Commodity Future Trading Commission's efforts to impose position limits in the commodities markets. Bakers and other food producers have been suffering from the impact of extreme volatility since 2007, and ABA believes that much of this volatility has been caused by index funds operating in the agricultural markets.

ABA is the Washington D.C.-based voice of the wholesale baking industry. Since 1897, ABA has represented the interests of bakers before the U.S. Congress, federal agencies, and international regulatory authorities. ABA advocates on behalf of more than 700 baking facilities and baking company suppliers. ABA members produce bread, rolls, crackers, bagels, sweet goods, tortillas and many other wholesome, nutritious, baked products for America's families. The baking industry generates more than $102 billion in economic activity annually and employs more than 633,000 highly skilled people.

The baking industry has battled increasing market volatility, specifically in the wheat market, for a number of years. Current wheat market volatility represents millions of dollars daily in undue financial risk to bakers and all other traditional wheat market participants, including both producers and end users. Extreme volatility, whether it increases or decreases futures prices, dramatically undermines the utility of the futures markets as tools for price discovery for our members. In order to decrease market volatility and allow the markets to react appropriately to fundamental supply and demand factors, ABA urges the CFTC to move forward with implementing position limits within the wheat futures markets, keeping existing limits at the current level.

Historical Intent of the Wheat Futures Markets

Since the inception of grain exchanges over 150 years ago, bakers and other wheat users have utilized these markets to purchase necessary ingredients. The wheat futures markets were created

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to allow producers (sellers) and wheat users (buyers) to "price their goods efficiently and manage risks associated with price changes."[1] The primary purpose the market is to "address price risk management needs of buyers and sellers [and to] promote fair trade and to prevent trade abuses in wheat, oats and corn."[2]

Futures markets cannot function correctly should the original intent change. As stated in the Senate Permanent Subcommittee on Investigation's report titled, *Excessive Speculation in the Wheat Market*:

> "The history of the commodity futures markets demonstrates that futures markets cannot exist if they do not accomplish their intended purpose of enabling the producers, merchants, and end-users of a commodity to establish prices and effectively manage risks."[3]

ABA believes the original intent of these wheat and other agricultural markets have changed. These markets have been altered as new investment opportunities in agricultural commodities have arisen. With the influx of these "buy and hold" investors, commodity prices rose to record levels in 2008 driven in part by the impact of index funds investing in the markets. Buyers and sellers are no longer able to adequately rely upon these markets for genuine price discovery.

Removing Hedge Exemptions

ABA urges the CFTC to reexamine the current hedge exemptions that index funds continue to enjoy. Index funds are erroneously defined by CFTC as commercial hedgers and thus have received exemptions from contract limits. These investors currently operate in the markets under no natural limit unlike all traditional commercial hedgers, such as wheat producers and bakers. Index funds are not true commercial hedgers as they do not "produce or consume the commodity in its ordinary course of business."[4] As such, index funds should not be given hedge exemptions, but should be classified as non-commercial participants such as the speculators, who are required to operate in the markets under contract limits. Similar to action in 2009 to cut back on these exemptions,[5] ABA urges the CFTC to move forward with removing all contract limit exemptions for index fund investors in the agricultural markets to decrease volatility and to allow for true price discovery.

Conclusion

The Commodity Exchange Act states that "excessive speculation in any commodity under contracts of sale of such commodity for future delivery…causing sudden or unreasonable fluctuations or unwarranted changes in the price of such commodity, is an undue and unnecessary burden on interstate commerce in such commodity."[6] Today's volatility, caused in part by the impact of index funds in the market, more than qualifies as excessive speculation since it has caused unreasonable and unwarranted fluctuations in the wheat markets.

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[1] Senate Permanent Subcommittee on Investigations, *Excessive Speculation in the Wheat Market*. Pg. 55

[2] Minneapolis Grain Exchange: About MGEX: <http://www.mgex.com/history.html>

[3] *Excessive Speculation in the Wheat Market*. Pg. 56

[4] Holbrook Working, Economic Functions of Futures Markets, reprinted in Selected Writings of Holbrook Working (Chicago Board of Trade, 1985), Pg. 274.

[5] *CFTC Withdraws Two No-Action Letters Granting Relief from Federal Speculative Limits on Soybeans, Corn and Wheat Contracts*, August 19, 2009. Found at <http://www.cftc.gov/PressRoom/PressReleases/pr5695-09.html>

[6] *Commodity Exchange Act, s 4a(a).*

Again, ABA supports CFTC's proposal to impose position limits in the commodities markets. While there is more that needs to be done, ABA thanks the Commission for its hard work and focus on this issue

Sincerely,

Robb MacKie
ABA President & CEO