

Christopher Kirkpatrick, Secretary
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581
United States
www.cftc.gov

Chris Barnard
Germany

12 November 2015

- **17 CFR Part 150**
- **RIN Number 3038-AD82**
- **Aggregation of Positions**

Dear Mr. Kirkpatrick.

Thank you for giving us the opportunity to comment on your supplemental notice of proposed rulemaking on Aggregation of Positions.

On October 3, 2014, the CFTC published in the Federal Register a notice of proposed modifications to part 150 of its regulations. The modifications addressed the policy for aggregation under the CFTC's position limits regime for futures and option contracts on nine agricultural commodities set forth in part 150. The CFTC also noted that if its proposed 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 are finalized, the proposed modifications would also apply to the position limits regime for those contracts and swaps. The CFTC is now proposing a revision to its proposed modification to the aggregation provisions of part 150, which addresses when aggregation is required on the basis of ownership of a greater than 50 percent interest in another entity.

Revised proposed rule

The CFTC is now proposing to eliminate the financial statement consolidation and certification requirements in respect of greater than 50% ownership in owned entities. Therefore persons with ownership or equity interests in an owned entity of up to and including 100 percent would be allowed to disaggregate the positions of the owned entity if the following conditions under proposed § 150.4(b)(2)(i) are met:

Such person, including any entity that such person must aggregate, and the owned entity:

- (A) Do not have knowledge of the trading decisions of the other;
- (B) Trade pursuant to separately developed and independent trading systems;
- (C) Have and enforce written procedures to preclude each from having knowledge of, gaining access to, or receiving data about, trades of the other. Such procedures must include document routing and other procedures or security arrangements, including separate physical locations, which would maintain the independence of their activities;
- (D) Do not share employees that control the trading decisions of either; and
- (E) Do not have risk management systems that permit the sharing of trades or trading strategy.

Importantly these disaggregation criteria require that the entities do not have knowledge of each other's trading, and have enforced written procedures precluding such knowledge. Although it is difficult to eliminate knowledge-leakage,¹ I would nevertheless support these revised proposals as reasonable and practicable.

Yours sincerely

C.R.B.

Chris Barnard

¹ See for example Statement of Paul A. Volcker before the Committee on Banking, Housing, and Urban Affairs of the United States Senate, February 2, 2010, describing as naive the view that "Chinese Walls can remain impermeable against the pressures to seek maximum profit and personal remuneration". Available at: http://www.centerforfinancialstability.org/forum/volker_senate_testimony_on_financial_reforms_201002.pdf