



July 13, 2016

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

Re: Supplemental Notice of Proposed Rulemaking, “Position Limits for Derivatives: Certain Exemptions and Guidance,” RIN 3038-AD99, 81 *Fed. Reg.* 38458, *et seq.* (June 13, 2016).

Dear Mr. Kirkpatrick:

The Petroleum Marketers Association of America (PMAA) and the New England Fuel Institute (NEFI) together represent more than 8,000 petroleum marketers that own or supply motor fuels to 100,000 convenience stores and gasoline stations, and that deliver heating fuels to more than eight million homes and businesses in the United States. These companies rely on functional commodity derivatives (i.e., futures, options and swaps) markets to minimize exposure to price volatility and to provide customers with the most affordable product possible.

We appreciate the opportunity to provide the Commission with our thoughts on the Supplemental Notice of Proposed Rulemaking (“supplemental rulemaking”) on Position Limits published in the Federal Register on June 13, 2016. Our comments will be restricted to Part D of the supplemental rulemaking which concerns “Exchange Recognition of Positions as Non-Enumerated Bona Fide Hedges.”¹ Please note that PMAA and NEFI mean for this letter to compliment, rather than supplant, previous comments on the December 2013 proposed rule that were submitted by our organizations independently and in conjunction with allied organizations in the Commodity Markets Oversight Coalition.

In countless comment letters and testimony before the Commission and relevant committees in Congress over the last ten years, PMAA and NEFI have repeatedly urged the imposition of meaningful limits on speculative positions in the energy markets. As we have argued, position limits are vital in preventing price manipulation and excessive volatility in the commodity derivatives markets. In light of its longstanding abuse, we have also urged a narrow “bona fide hedge” definition that restricts exemptions to commercial entities that deal exclusively in the production, processing, refining, storage, transportation, wholesale or retail distribution, or consumption of physical commodities. Many associations that represent businesses and professionals in the transportation, energy and agricultural sectors have joined us in these calls for reform.²

¹ 81 *Fed. Reg.* 38462-38476.

² See various comment letters and Congressional testimony on position limits and bona fide hedge exemptions submitted by the Commodity Markets Oversight Coalition, or “CMOC.”

In Part D of the supplemental rulemaking, the Commission is proposing to revise and expand original Notice of Proposed Rulemaking published in December 2013. Specifically, the Commission is proposing to allow Designated Contract Markets and Swaps Execution Facilities (i.e., “the exchanges”) to recognize certain positions in commodity derivative contracts as non-enumerated bona fide hedges or enumerated anticipatory bona fide hedges, as well as to exempt from federal position limits certain spread positions, in each case subject to Commission review.”³

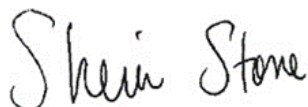
Our associations have been skeptical of the idea of ceding the Commission’s authority in approving bona fide hedge exemptions to the exchanges, as they are publically-traded for-profit entities and not governmental agencies tasked with protecting the public interest. In recent testimony before the U.S. House Committee on Agriculture we noted that the exchanges “benefit from higher trading volumes and a large number of market participants” and as a result have a financial incentive to “institute broad hedge exemptions that may include non-commercial market participants (such as financial speculators)”.⁴ Doing so would be in conflict with the Commission’s obligations under the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (“the Dodd-Frank Act”) and consequently with Congressional intent.

Given this, PMAA and NEFI object to the supplemental proposal as it would establish a dangerous precedent whereby the Commission cedes important Congressionally-mandated authority – in this case, the issuance of bona fide hedge exemptions – to the exchanges. We understand that this proposal may have been influenced (1) by failure on the part of Congress to provide the Commission with the funds necessary to fully implement a robust position limits regime; and (2) a desire on the part of the Commission to complete outstanding Dodd-Frank rulemakings before the conclusion of the current Administration. We do not feel, however, that the end (enacting a final rule on Congressionally-mandated position limits and bona fide hedge exemptions) justifies the means (ceding statutory authority to the exchanges).


PMAA and NEFI prefer that the Commission design an alternative process for the issuance of bona fide hedge exemptions. For example, the Commission might establish a streamlined process by which Designated Contract Markets and Swaps Execution Facilities *recommend* the issuance of non-enumerated bona fide hedge exemptions and *advise* the Commission on the reasons for their alleged necessity. Should initial review find them to be sufficiently “bona fide,” an interim approval could be granted until a final review and determination can be made by the Commission.

Again, thank you for the opportunity to provide our thoughts on the supplemental rulemaking and your consideration of our concerns in this regard.

Sincerely,



Sherri Stone, Vice President
Petroleum Marketers Association of America



Jim Collura, Vice President
New England Fuel Institute

³ 81 Fed. Reg. 38459

⁴ Written Testimony of Mr. Howard Peterson, on behalf of the New England Fuel Institute, U.S. House Committee on Agriculture, Subcommittee on Commodity Exchanges, Energy & Credit, March 24, 2015, p.7.