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May 15, 2020

Filed Electronically at www.cftc.gov

Christopher Kirkpatrick, Secretary
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581

Re: Commodity Futures Trading Commission's Notice of Proposed Rulemaking: ***Position Limits for Derivatives,*** **85 Fed. Reg. 11596 (published February 27, 2020) in RIN 3038-AD99:**

Dear Mr. Kirkpatrick:

The International Energy Credit Association ("IECA") appreciates the efforts of the Commodity Futures Trading Commission ("CFTC" or "Commission") and its Staff as set forth in the Commission's proposed revisions to the existing Position Limits regulations under the Commodity Exchange Act ("CEA"). In these comments ("Comments"), we wish to commend the Commission with respect to various parts of the proposed revisions, and we have questions and comments about other provisions, as set forth in the above-captioned notice of proposed rulemaking ("2020 Position Limits NOPR").

I. Comments of the IECA Endorsing and Supporting Certain Provisions of the 2020 Position Limits NOPR.

A. Offsets of Commodity Trade Options. In proposed Appendix A to Part 150 - List of Enumerated Hedges, the IECA enthusiastically commends the Commission for including new enumerated hedge number "(9) Offsets of commodity trade options." We have included a request for this enumerated hedge treatment in a large number of the comments that the IECA has submitted to the CFTC over the years. As the Commission states in proposed paragraph (a)(9) of Appendix A: "[a] commodity trade option transaction, if it meets the requirements of §32.3 of this chapter, may be deemed, for purposes of complying with this paragraph (a)(9) of this Appendix A, a cash commodity purchase or sales contract as set forth in paragraphs (a)(6) or (a)(7) of this Appendix A."

B. Delegation to Exchanges of Process for Recognizing Non-Enumerated Bona Fide Hedging Transactions. The IECA fully supports and endorses the Commission's

proposed approach, whereby a person with a position in a referenced contract seeking recognition of its position as a non-enumerated bona fide hedging transaction may submit an application to the Commission under proposed Section 150.3(a)(1)(ii) or may submit an application to an designated contract market ("DCM") or a swap execution facility ("SEF") under proposed Section 150.9. We also endorse time periods provided for Commission review of decisions by DCMs/SEFs recognizing a non-enumerated position as a bona fide hedging ("BFH") transaction of ten business days after the DCM/SEF issues the notification of its decision under §150.9(e)(3) and the two business days review period for such decisions involving "sudden or unforeseen circumstances" under §150.9(e)(4).

C. Only Having Non-Spot Position Limits Apply to Referenced Contracts Based on the Nine Legacy Agriculture Commodities. The IECA supports the Commission's decision to not impose speculative position limits on physical commodities, including energy and metals, other than the nine legacy agriculture commodities, during single-month and all months.

D. Expansion of Term Available for Anticipatory Hedging Categories of Enumerated BFH Transactions in Appendix A. The IECA supports the elimination of the 12 months limitation on existing "anticipatory" BFH transactions, as set forth in Appendix A. We also support the addition of "Hedges of Anticipated Merchandising" as a new enumerated BFH transaction in paragraph (a)(11) of Appendix A, which we understand will contain a 12 months limitation.

E. Expanding the List of Enumerated BFH Transactions in Appendix A. The IECA also supports expanding the list of enumerated BFH transactions for the core referenced contracts as set forth in proposed Appendix A to Part 150 to include: (1) unsold anticipated production, (2) offsetting unfixed-price cash commodity sales and purchases, (3) anticipated mineral royalties, (4) anticipated services, (5) cross commodity hedges, (6) inventory and cash commodity fixed price purchase contracts, (7) cash commodity fixed-price sales contracts, (8) hedges by agents, (9) offsets of commodity trade options, (10) unfilled anticipated requirements, and (11) anticipatory merchandising.

F. Self-Implementing Exemptions for Enumerated BFH Transactions. The IECA supports the Commission's decision to allow exemptions from speculative position limits to be self-implementing for market participants' hedging positions that satisfy the descriptions of the enumerated BFH Transactions set forth in Appendix A to Part 150.

II. Comments and Questions of the IECA Regarding the Commission's Proposed 2020 Position Limits NOPR

The IECA also wishes to raise the following comments and questions regarding other aspects of the Commission's proposed 2020 Position Limits NOPR.

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A. Physically-Settled Swaps. The Commission proposes a new term "physically-settled swaps" in its 2020 Position Limits NOPR. It uses the term in only a few places, in each case in connection with the Commission's proposed definition of an "economically equivalent swap,"[1] and notes that it "preliminarily believes that physically settled economically equivalent swaps would be few in number."[2]

Since Commodity Exchange Act §1a47(B)(ii) provides that "The term "swap" does not include— (ii) any sale of a nonfinancial commodity or security for deferred shipment or delivery, so long as the transaction is intended to be physically settled", and the Commission's goal with the use of the term is to denote a subset of "economically equivalent swaps," the Commission should avoid implying that it is seeking to regulate a commodity for deferred delivery as a swap, and replace use of the term "physically-settled swap" with a different term.

Noting that futures contracts for certain commodities, such as West Texas Intermediate Crude Oil, allow the parties to take the contract to physical delivery, as well as a previous proposed defined term in another proposed rulemaking, the IECA recommends replacing the term "physically-settled swap" with this term:

> "**swap that allows for physical settlement or delivery.**"

The IECA appreciates the time Commission staff generously made available to discuss with IECA representatives the newly proposed term "physically-settled swap". Staff noted that the Commission's goal with the use of the term is to denote a subset of "economically equivalent swaps" that could allow for physical settlement or delivery.

Neither the proposed 2020 Position Limits NOPR nor the Commission's existing regulations define "physically-settled swap." The Commission's 2018 Proposed Rule on Swap Execution Facilities, provided a definition, which was:

> "A physically-settled swap contract is any swap agreement, as defined in section 1a(47) of the Act, that may result in physical settlement. Generally, these are agreements where the primary intent is to transfer the financial risk associated with the underlying commodity and not primarily to make or take delivery of the commodity."[3] (Emphasis added.)

In the proposed 2020 Position Limits NOPR, the Commission states:

Only "material" contractual specifications, terms, and conditions would be relevant to the analysis of whether a particular swap would qualify as an economically equivalent swap. The proposed definition would thus not require that a swap be identical in all respects to a referenced contract in order to be deemed "economically equivalent." ... Examples of

[1] 85 Fed. Reg. 11615 col. 1, 11616 col. 3, 11617 col. 2, fn. 139, 11623 col. 1, and 11677 col. 3 fn. 577.
[2] 85 Fed. Reg. 11677 col. 3 fn. 577.
[3] in proposed Appendix C to Part 37 at 83 Fed. Reg. 62136 col. 3:

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"material" provisions would include, for example: The underlying commodity, including commodity reference price and grade differentials; maturity or termination dates; settlement type (*e.g.,* cash-versus physically-settled); and, as applicable for physically-delivered swaps, delivery specifications, including commodity quality standards or delivery locations. Because settlement type would be considered to be a material "contractual specification, term, or condition," a cash-settled swap could only be deemed economically equivalent to a cash-settled referenced contract, and a physically-settled swap could only be deemed economically equivalent to a physically-settled referenced contract; however, a cash-settled swap that initially did not qualify as "economically equivalent" due to no corresponding cash-settled referenced contract (*i.e.,* no cash-settled look-alike futures contract), could subsequently become an "economically equivalent swap" if a cash-settled futures contract market were to develop.[4]

Accordingly, it appears that the Commission's intent is to capture as an "economically equivalent swap" a transaction that when entered into is a swap, which when entered into is intended to be financially settled, but has an embedded option allowing the parties to physically settle the transaction by taking delivery of the commodity rather than financially settling the swap.

To introduce a new term "physically settled swap" into Dodd-Frank Act regulations ten years after passage of a statute that by its very terms specifically excludes physically settled transactions (as "forwards") would newly introduce confusion and uncertainty, particularly with respect to future Commissions attempting to interpret and apply these rules five or ten years from now.

We note the Commission Staff's comments during our informal discussion: (i) trade options are explicitly excluded from "referenced contracts," and (ii) trade options, by their terms, would not likely ever be "economically equivalent" to a "referenced contract," so trade options should not be "in scope" under the 2020 Position Limits NOPR. Those statements by the Commission Staff are very helpful in addressing much of our concerns.

Therefore, to avoid any such confusion now and in the future, the IECA respectfully recommends that the Commission replace the term "physically-settled swaps" with the term:

> "**swaps that allow for physical settlement or delivery.**"

In response to questions asked by the Commission in the 2020 Position Limits NOPR:

> "(12) The Commission is proposing that a physically-settled swap may qualify as economically equivalent even if its delivery date diverges by less than one calendar day from its corresponding physically-settled referenced contract.

[4] 85 Fed. Reg. 11616 cols. 2-3.

> Should the Commission include a similar provision for cash-settled swaps where cash-settled swaps could qualify as economically equivalent if their cash settlement price determination diverged from their corresponding cash-settled referenced contract by less than one calendar day?"
>
> and
>
> "(13) Under the proposed definition of ''economically equivalent swaps,'' a cash-settled swap that otherwise shares identical material terms with a physically-settled referenced contract (and vice-versa) would not be deemed to be economically equivalent due to the difference in settlement type. Should the Commission consider treating swaps that share identical material terms, other than settlement type (*i.e.,* cash-settled versus <u>physically-settled swaps</u>), to be economically equivalent? Why or why not?" (Emphasis added.)

We think that substituting the term "swaps that allow for physical settlement or delivery" in the foregoing questions will not alter the meaning from that intended by the Commission in this 2020 Position Limits NOPR. Moreover, for the reasons stated above, the IECA believes that using this term in place of the term "physically settled swaps" in the Commission's proposed rulemaking will help to avoid confusion and misinterpretation in the future.

For all of the above reasons, we recommend that the Commission delete the term "physically-settled swaps" from any final rule on Position Limits and instead use the term:

> "<u>**swaps that allow for physical settlement or delivery.**</u>"

B. Exemption from Federal Speculative Position Limits for Certain Not-for-Profit Energy Entities

In Section II.C.2.l of the 2020 Position Limits NOPR, [in discussing the proposed revisions to §150.3 regarding exemptions from Federal position limits,] the Commission notes that certain not-for-profit electric and natural gas utilities are requesting exemptive relief from Federal position limits. See 85 Fed. Reg. at 11642.

The IECA recognizes that such not-for-profit energy entities share a unique public service mission in the electric and natural gas industry, and play a critical part in delivering electricity and natural gas to Main Street America. The focus of the NFP energy entities' commercial risk hedging is on providing cost-effective utility service operations, and these entities do not enter into speculative transactions or hold speculative positions.

In response to Requests #29 through #32, the IECA supports the Commission using the authority under CEA §4a(a)(7) to provide an entity-based exemption from the Commission's position limits rules for such not-for-profit electric and natural gas entities.

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C. Certain BFH Transactions in the Proposed List of Enumerated Hedges in Appendix A to Part 150 Need to be Clarified or Redefined Because the Current Definitions are too Narrow and Inflexible to Include Significant Commonly-Used Energy Hedging Activities by Energy Industry Commercial End-Users

The IECA supports the expansion of the List of Enumerated Hedges in proposed Appendix A to Part 150 as set forth in the 2020 Position Limits NOPR. The expanded list adds clarity for certain hedging transactions that were not covered by the previous list of enumerated BFH transactions and positions. However, as these enumerated BFH positions are currently described in proposed Appendix A, there are certain common hedging transactions conducted regularly by energy industry commercial end users that would not fall within the List of Enumerated Hedges, because certain of these positions are defined too narrowly and inflexibly to apply.

As commercial end-users of natural gas, fuel oil, crude oil, electricity and related futures and swaps, we endorse and support the Commission's inclusion of unfixed, anticipatory, and cross-commodity hedging in the Commission's list of BFH transactions or positions that are eligible for exemptions from speculative position limits on a self-implementing basis.

These energy companies' common hedging activities related to natural gas, fuel oil, crude oil and electricity all align with the first three general elements of the Commission's test for BFH transactions or positions, namely: (1) a "substitute for transactions or positions in a physical marketing channel," (2) that is "economically appropriate to the reduction of price risks of a commercial enterprise," and (3) which price risks "arise from the potential change in value of assets, liabilities or services." Three of the enumerated hedging activities are closest to such energy companies' management of forward price risk, namely: unfixed, anticipatory, and cross-commodity hedging.[5]

For example, many electric utilities buy spot physical gas and fuel oil to run some of their electric generators. Step one for them is forecasting their electric customers' load three to five years forward. From that they use a forward dispatch model to predict their anticipated requirements of fuels. Step two, they lock in forward fuel prices by hedging ahead with derivative contracts, which are referred to herein as "Referenced Contracts." Third, once the derivative contracts have expired, the consumption month begins and the utilities buy physical fuel in the day-ahead market to generate electricity. The quantities of fuel vary widely from day-to-day, and fuel is generally zero on the days a generator is not needed to serve load, or support system reliability. Step four, the utilities deliver and sell the electricity generated to residential, commercial, & industrial loads in real-time, on-demand.

[5] Appendix A to Part 150 (a)(2) (Hedges of offsetting unfixed-price cash commodity sales and purchases.); (a)(10)(Hedges of unfilled anticipated requirements.); and (a)(5)(Cross-commodity hedges.) respectively. Federal Register p. 11727.

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The good news for electric utilities is this unfilled, matched-commodity fact pattern is included on the List of Enumerated Hedges as "unfilled anticipated requirements" in paragraph (a)(10) of proposed Appendix A to Part 150.[6]

Electric utilities also have to be concerned about the physical reliability of electricity to their customers. Some utilities even have generator performance obligations and penalty risk under their particular RTO tariff at FERC. So added in Step three, electric utilities sometimes procure a reliable flow of gas supply in an annual or seasonal forward term agreement, typically with a sole fuel supplier who is willing to accept the daily *delivery* risk of its fuel. *However*, due to constant variability in the market demand for electricity, the cash commodity fuel supplier is *not* willing to accept the *price* risk of the fuel it delivers, and so the purchase price of fuel to an electric utility is often an *unpriced* forward arrangement. Later, in the consumption month at Step four, fuel will be scheduled for delivery daily, and will be purchased at a differential to a daily fuel price index for the price location nearest to the electric generator.

Unfortunately, the word "unfilled" has no definition in the 2020 Position Limits NOPR, but at face value, "unfilled" potentially leaves a gap between the anticipated requirements exemption[7] and this common electric utility fact pattern.

<u>On this basis, we believe that the enumerated BFH of "unfilled anticipated requirements" in paragraph (a)(1) of proposed Appendix A to Part 150 needs to address and include "unpriced" anticipated requirements.</u>

The reliability of electricity to residential, commercial, and industrial customers is of paramount importance to electric utilities as commercial end users. As explained above, some electric utilities have to be concerned about reliability because they have generator performance obligations and penalty risk under their particular RTO tariff at FERC for failure to meet these reliability requirements.

As a result, it is common practice in the energy industry to contract for a secure and reliable flow of natural gas or delivery of fuel oil annually or seasonally, at prices to be determined by the daily index at the time of delivery, to ensure the reliability of electric generators. Natural gas and fuel oil suppliers are willing to accept the daily *delivery* risk of their fuel, but due to constant variability in the market demand for electricity they are *not* willing to accept the *price risk* of the fuel they deliver. This creates an unpriced forward arrangement.

Consequently, many electric utilities use derivative fuel contracts to forward hedge the fuel price risk of their filled, but unpriced, anticipated requirements. However, the current enumerated BFH of "unfilled anticipated requirements" appears to fall short of covering

[6] Appendix A to Part 150 (a)(10) (Hedges of unfilled anticipated requirements.) Federal Register p. 11727.
[7] Id.

the filled-but-unpriced anticipated requirements so common to many electric generators. To close this gap, the Commission should either adopt a broad enough definition of the word "unfilled" to include filled but "unpriced" transactions in the final order, or expand this exemption to include both "unfilled" and "unpriced" anticipated requirements.

Fortunately, the CFTC Staff has previously reached this same conclusion in Staff Letter No. 12.07. As noted in CFTC Letter 12-07, "unfixed price purchase commitments do not 'fill' an anticipated requirement." (Emphasis added.) [8]

On this basis, the IECA requests that the Commission clarify that Enumerated Hedge No. 10 (Hedges of Unfilled Anticipated Requirements)[9] also applies to unfixed price purchase agreements.

Similarly, the enumerated cross-commodity hedges should include positions in commodity derivative contracts described in the hedges of unfilled anticipated requirements.

It is common for electric utilities to buy wholesale power from independent electric producers who pass on their natural gas fuel price risk to the buyer in what are commonly called heat-rate transactions, where the price of electric energy is tied directly to the price of a daily gas index that represents unspecified sources of the seller's generation. Instead of passing that forward fuel price risk on to the electric consumers, many utilities forward hedge that transaction with derivative gas contracts. Using the natural gas derivatives contract to hedge the price risk of the electric energy price.

However, the current enumerated cross-commodity hedges fail to include hedges of anticipated requirements so common to many electric utilities who enter into heat-rate transactions.

The following example is another typical energy end-user transaction that demonstrates the need for enumerated cross-commodity hedges to include positions in commodity derivative contracts described in the hedges of unfilled anticipated requirements.

It is common for electric utilities to use crude oil derivative contracts to hedge the anticipated unfilled or unfixed purchase of fuel oil. However, the current enumerated cross-commodity hedges fail to include hedges of unfilled anticipated requirements so common to electric utilities who use crude oil derivatives contracts to forward hedge the price of fuel oil.

All the common hedging activities of energy industry commercial end users described above fit clearly within the three-part definition of BFH transactions or positions, and the Commission should incorporate these important changes to accommodate current

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[8] See https://www.cftc.gov/sites/default/files/idc/groups/public/@lrlettergeneral/documents/letter/12-07.pdf
[9] Paragraph (a)(10) of Appendix A to Part 150.

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hedging practices used by electric utilities to help protect electric consumers from electric generator fuel price volatility.

D. Pass-Through Swaps and Risk Management Exception.
In the CFTC's 2020 Position Limits NOPR, the Commission has eliminated the previously effective "Risk Management Exemption" and has now included various modifications to the CFTC's Position Limits regulations, including two new defined terms: "Pass-Through Swap" and "Pass-Through Swap Offset."

The basis for the CFTC's proposal to eliminate the Risk Management Exemption appears to be primarily based on its decision to modify the ''temporary substitute test'' to require that a BFH transaction or position in a physical commodity must *always,* and not just *normally,* be connected to the production, sale, or use of a physical cash-market commodity. Therefore, a market participant would generally no longer be allowed to treat positions entered into for ''risk management purposes'' as a bona fide hedge, unless the position qualifies as either (i) an offset of a pass-through swap, where the offset reduces price risk attendant to a pass-through swap executed opposite a counterparty for whom the swap qualifies as a bona fide hedge; or (ii) a "swap offset," where the offset is used by a counterparty to reduce price risk attendant to a swap that qualifies as a bona fide hedge and that was previously entered into by that counterparty.

The CFTC states in the 2020 Position Limits NOPR that the Pass-Through Swap and Pass-Through Swap Offset provisions may mitigate the potential loss of liquidity that may occur as a result of the elimination of the Risk Management Exemption.

As set forth in proposed Section 150.1 of the CFTC's Regulations of the Position Limits NOPR, a BFH Transaction or Position includes a "Pass-Through Swap and Pass-Through Swap Offset Pair," which is a definition set forth within the new proposed definition of "Bona fide hedging transactions or positions" as follows:

""*Bona fide hedging transactions or positions*" means a position in commodity derivative contracts in a physical commodity where:

(1) Such position:

(i) Represents a substitute for transactions made or to be made, or positions taken or to be taken, at a later time in a physical marketing channel;

(ii) Is economically appropriate to the reduction of price risks in the conduct and management of a commercial enterprise; and

(iii) Arises from the potential change in the value of—

(A) Assets which a person owns, produces, manufactures, processes, or merchandises or anticipates owning, producing, manufacturing, processing, or merchandising;

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(B) Liabilities which a person owes or anticipates incurring; or

(C) Services that a person provides or purchases, or anticipates providing or purchasing; or

(2) Such position qualifies as:

(i) ***Pass-through swap and pass-through swap offset pair***. Paired positions of a pass-through swap and a pass-through swap offset, where:

(A) The **pass-through swap is a swap position entered into by one person for which the swap would qualify as a bona fide hedging transaction or position pursuant to paragraph (1) of this definition (the bona fide hedging swap counterparty) that is opposite another person (the pass-through swap counterparty)**; and

(B) The **pass-through swap offset is a futures, option on a futures, or swap position entered into by the passthrough swap counterparty in the same physical commodity as the pass through swap, and which reduces the passthrough swap counterparty's price risks attendant to that pass-through swap; and provided that the pass-through swap counterparty is able to demonstrate upon request that the passthrough swap qualifies as a bona fide hedging transaction or position pursuant to paragraph (1) of this definition**; or

(ii) Offsets of a bona fide hedger's qualifying swap position. A futures, option on a futures, or swap position entered into by a bona fide hedging swap counterparty that reduces price risks attendant to a previously-entered into swap position that qualified as a bona fide hedging transaction or position at the time it was entered into for that counterparty pursuant to paragraph (1) of this definition." (Emphasis added.)

In the 2020 Position Limits NOPR, the proposed paragraph (2)(i) of the BFH transaction or position definition in § 150.1 would require the Pass-Through Swap counterparty to be able to demonstrate the bona fides of the Pass-Through Swap upon request. While the Commission notes that the proposed rule would not prescribe the manner by which the Pass-Through Swap counterparty obtains the information needed to support such a demonstration, the Commission states that the pass-through swap counterparty could base such a demonstration on a representation made by the bona fide hedging swap counterparty, and such determination may be made at the time when the parties enter into the swap, or at some later point.[10]

[10] 85 Fed. Reg. at 11614, fn. 122.

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Further "under proposed § 150.3(d)(2), a pass-through swap counterparty, as defined by proposed § 150.1, that relies on a representation received from a bona fide hedging swap counterparty that the swap qualifies in good faith as a ''bona fide hedging position or transaction,'' as defined under proposed § 150.1, would be required to: (i) Maintain any written representation for at least two years following the expiration of the swap; and (ii) furnish the representation to the Commission upon demand."[11]

Although the Commission states that the proposed rule will not prescribe the manner by which Pass-Through Swap counterparties obtain information to demonstrate the support needed to qualify for the Pass-Through Swap provision, the IECA believes that as proposed, the rule will incentivize these parties, which are primarily Swap Dealers that are provisionally registered as such with the CFTC, to minimize their potential regulatory risk by requiring commercial end users to provide a BFH transaction representation prior to or at the time of entering into swap transactions. While the IECA believes that many commercial end users are likely to be able to provide such a representation that a proposed transaction is a BFH transaction, there will be practical issues in doing so.

While including the representation in a master agreement or industry-wide protocol might be an efficient means to enable the swap dealer to obtain the representation, a commercial end user might be reluctant to provide the representation in advance of all of its trading transactions with a swap counterparty. At the time of entering into the transaction, it may not be practical to provide the representation during times of a fast-moving market.

In addition, not all commercial end users are likely to be familiar with the intricacies of the extensive proposed definition of "bona fide hedging transaction," and thus the commercial representative of the commercial end user may be reluctant to provide the representation either orally or in writing at the time of execution of the swap without counsel or a regulatory compliance officer being present.

Similarly, if both the swap dealer and the commercial end user are to rely on the representation appearing in a confirmation, which is issued and negotiated after the swap has been executed, it is unclear what would happen to the transaction if the parties are unable to agree to the language of such representation.

Finally, when entering into a swap with a swap dealer, if the swap is an economically equivalent swap, the swap may establish a position for the commercial end user that is below the applicable proposed position limit. In that case, the commercial end user is only required to make the representation in order to satisfy the swap dealer's need for it. If the commercial end user refuses to provide the representation, it will likely be denied access to the market through swaps with swap dealers. The proposal thus has the potential impact of imposing a requirement on commercial end users that have positions below the proposed limits.

[11] 85 Fed. Reg. at 11704, col. 1.

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For these reasons, the IECA supports the recommendations by a number of other commenters that the CFTC clarify the Pass-Through Swap provision to explicitly permit the Pass-Through Swap counterparty greater flexibility in how it may determine in good faith that it is entering into a Pass-Through Swap that qualifies as a bona fide hedging transaction when entering into the swap with a commercial end user.

When the Pass-Through Swap counterparty is a swap dealer facing a commercial end user, the swap dealer could make this determination, acting in good faith and based on all of the facts and circumstances regarding the commercial end user that are known to the swap dealer at the time, such as cases in which a commercial end user is entering into a swap that other commercial end users in the same line of business typically use to hedge their exposure to a commodity price risk.

Finally, with respect to the elimination of the Risk Management Exemption, the IECA notes that it is unclear to what extent the Pass-Through Swap provision will mitigate the risk of decreased liquidity and impairment of price discovery as a result of the elimination of the Risk Management Exemption. Because commercial end users rely significantly on the liquidity brought to the markets by swap dealers and others that may have previously relied on Risk Management Exemptions that have been issued by the CFTC and the exchanges, the IECA recommends that the Commission preserve for itself and the exchanges the ability to re-issue such exemptions in the future.

The IECA believes that market participants with Risk Management Exemptions should be able to use them as an alternative means to satisfy their compliance with the position limits regime, including when entering into swaps with commercial end users. By allowing swap dealers to rely on a Risk Management Exemption when entering into swaps with commercial end users that might be unable or unwilling to provide a BFH representation, the Commission could address the risks described above that may undermine the utility of the Pass-Through Swap provision.

III. Correspondence Regarding These Comments

Please direct correspondence concerning this Request to:

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CONCLUSION

The IECA appreciates the opportunity to submit these Comments in response to the Commission's 2020 Position Limits NOPR, endorsing and supporting various provisions of the 2020 Position Limits NOPR and requesting clarification and modifications to other portions of the 2020 Position Limits NOPR. We would welcome the opportunity to discuss these Comments further should you require any additional information on any of the topics discussed herein.

Yours truly,
INTERNATIONAL ENERGY CREDIT ASSOCIATION

/s/ Phillip G. Lookadoo _ _	*_/s/ _Jeremy D. Weinstein_______*
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