



**Industrial Energy Consumers of America**  
*The Voice of the Industrial Energy Consumers*

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VERBAL TESTIMONY OF  
PAUL N. CICIO  
OF THE  
INDUSTRIAL ENERGY CONSUMERS OF AMERICA  
BEFORE THE  
COMMODITY FUTURES TRADING COMMISSION  
ON  
ENERGY POSITION LIMITS AND HEDGE EXEMPTIONS

AUGUST 5, 2009

Chairman Gensler and Commissioners, thank you for the opportunity to testify before you on the subject of energy position limits and hedge exemptions. We are deeply grateful for the Commission holding these hearings.

The Industrial Energy Consumers of America is an association of manufacturing companies with over \$900 billion in annual revenues and with more than 900,000 employees nationwide.

Natural gas is a vital fuel and feedstock for the manufacturing sector and its price often determines whether energy intensive industries are globally competitive and whether we create or lose jobs.

Excessive speculation in the natural gas market is real. From January to August of 2008 the price of natural gas more than doubled because of excessive speculation, not supply and demand fundamentals. During that same time period, U.S. production of natural gas rose about 8 percent, national inventories were well within the 5 year average and demand was essentially unchanged from the same period of the previous year. As a result of excessive speculation, consumers paid over \$40 billion in higher natural gas costs.

We believe that speculative aggregate position limits are essential. Other forms of position limits will not work as well because traders will simply move to platforms and products to avoid them.

The creation of the futures market was not intended to be a substitute for a gambling casino for Wall Street banks, hedge funds, sovereign funds and index funds. The futures market was created to serve the direct needs of buyers and sellers of commodities and the managing of financial risk associated with these transactions.

Financial speculators have an important role but we must keep speculative transactions directly tied to the physical commodity as possible or we will destroy the integrity of this market and price formation.

At the heart of excessive speculation are these exempt financial speculative transactions that are not directly tied to managing the risk of the underlying commodity and price formation. Speculative transactions based on other investment objectives like diversification of investment portfolios and a hedge against inflation is not consistent with the managing of risk of the underlying commodity.

One example that we would like to highlight is the United States Natural Gas Fund that is exempt from speculative position limits and a “long only” passive fund. It differs in significant ways from the historic functioning of the futures market and how price formation occurs. The objective of their investors are unrelated to financial risk management transactions of the underlying commodity.

For example, their transactions have nothing to do with what is happening to the supply or demand of the underlying commodity. Saying it another way, if prices go up, it does not matter, they buy. If prices go down, it does not matter, they buy.

Unlike other players, they predictably roll their positions forward each month and unlike other players, they predictably let everyone know when they are going to do it. The combination of these characteristics and their significant volume relative to other players and the size of the physical market damages price formation.

Mr. Chairman, price formation is not “passive”, it is dynamic. It is a combination of reaction and pro-action and without a pattern. Price formation is unpredictable, not predictable and reflects changes in supply and demand to the underlying commodity. Buyers and sellers of futures do not buy every month or sell every month. And, they do not buy or sell at the same time each month. Banks like Morgan Stanley and Goldman or natural gas producers like BP and Chesapeake Energy or industrial consumers like my companies do not announce to the market how much they are going to buy or sell or when they are going to do it.

Importantly, there is clear common sense market evidence that indicates that this fund did raise the price of natural gas. As the assets of this fund grew from \$727 million in just four months to \$4.5 billion this Spring, the price of natural gas rose from \$3.32 per million Btu in May to \$3.95 in July, a \$.63 cent rise or 19% rise. At the same time, each month, compared to the same month of the previous year, domestic production rose, national inventories rose and consumption fell. Common sense would conclude that prices would have fallen.

The fund currently has 300 million shares that represent about 30 percent of the prompt month volume, which is a significant share of the total market. Of great concern is the fact that they have petitioned the Securities Exchange Commission to increase its shares to one billion. This obviously raises market power concerns. I ask you Mr. Chairman, is there any doubt that if one player controls 30 percent of the volume, 40% of the volume, 50% of the volume or 60 % of the volume, that it would not impact the market price?

In conclusion Mr. Chairman, we urge the Commission to ban this fund and ones like it from participating in the futures market.

Thank you Mr. Chairman and I look forward to your questions.