

# COMMODITY MARKETS OVERSIGHT COALITION

## An Alliance of Commodity Derivatives End-Users and Consumers

October 18, 2012

The Honorable Spencer Bachus, Chairman  
House Committee on Financial Services  
2129 Rayburn House Office Building  
Washington, DC 20515

The Honorable Jeb Hensarling, Vice Chairman  
House Committee on Financial Services  
129 Cannon House Office Building  
Washington, DC 20515

The Honorable Randy Neugebauer, Chairman  
Subcommittee on Oversight & Investigations  
U.S. House of Representatives  
1424 Longworth House Office Building  
Washington, DC 20515

The Honorable Scott Garrett, Chairman  
Subcommittee on Capital Markets & GSE  
U.S. House of Representatives  
2244 Rayburn House Office Building  
Washington, DC 20515

**RE: Letter to CFTC Concerning Speculative Position Limits (October 10, 2012)**

Dear Chairmen Bachus, Hensarling, Neugebauer and Garrett:

The undersigned organizations write to voice our support for the efforts of the Commodity Futures Trading Commission (CFTC) to implement Speculative Position Limits in accordance with the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2012 (Pub.L.111-203). We remain committed to the rule's timely implementation and vigorous enforcement.

The Commodity Markets Oversight Coalition is a non-partisan alliance of organizations that represent commodity-dependent American industries, businesses, end-users and consumers. Our members rely on functional, transparent and competitive commodity derivatives markets as a hedging and price discovery tool. As a coalition we advocate in favor of government policies that promote stability and confidence in the commodities markets; seek to prevent fraud, manipulation and excessive speculation; and preserve the interests of *bona fide* hedgers and American consumers.

We have long argued that unstable, opaque and unregulated markets and extreme price volatility, disruptive trading and potential fraud and manipulation threaten the welfare of the U.S. economy, harm American consumers and jeopardize the ability of hedgers to guard against price risks. For market-users, excessive speculation only leads to increased hedging costs and diminishes confidence that commodity prices fairly reflect actual supply and demand factors. Speculative bubbles certainly can *and do* cause financial crises, as was the case in 2007 and 2008, when food prices were at record highs and oil reached \$147 per barrel.

For these reasons, our coalition strongly supports the imposition of meaningful speculative position limits across all commodity futures, options and swaps markets as a means to promote market integrity and confidence, to prevent manipulation and as a means to restrain excessive speculation.

We are disappointed that the U.S. District Court vacated the new position limits rule, albeit on narrow grounds, and remanded it back to the CFTC for further consideration. It is noteworthy, however, that the District Court did not question the CFTC's authority to address excessive speculation. The court merely concluded, wrongly we think, that the statute was ambiguous on the question of whether the agency must set speculative position limits and that the agency failed to address this ambiguity. We believe the court's reasoning is flawed and that the Congressional mandate to impose position limits was unambiguous for a number of compelling reasons, not the least of which is that Congress required position limits to be imposed "within 180 days" for energy and "within 270 days" for agricultural commodities, and that a study be conducted and presented to Congress on the final rule's effect on markets.

Putting aside the court's ruling, we believe there is more than adequate evidence of excessive speculation, and more than adequate evidence that market opacity and excessive speculation have been disruptive to commodity markets and diminished confidence in these markets. In recent years, more than 100 studies, reports and analyses on such findings have been published by academic institutions, central banks, market experts and governmental organizations (online at <http://bit.ly/ListStdys>). Evidence can also be found in the thousands of businesses and market end-users including many of our member companies that have submitted comment letters to the CFTC in support of position limits and related rules.

We do not believe there is an "ideological and political goal" associated with proposed limits on commodity speculation. First, we point to the non-partisan and non-ideological nature of this coalition and its long-time support for such limits. Second, commodity position limits have enjoyed a long history of bipartisan support. As early as the 110th Congress, nearly 70 House Republicans voted to approve legislation (H.R.6604) that would have established across-the-board position limits and even provided the CFTC with 100 new employees to carry out the its mission. Of these Republicans, 44 still serve in the House of Representatives, including Energy & Commerce Chairman Fred Upton of Michigan and Agriculture Committee Chairman Frank Lucas of Oklahoma.

In the current Congress, during the May 24, 2011 mark up of a bill (H.R.1573) to delay enactment of new derivatives rules under the Dodd-Frank Act, the House Financial Services Committee approved by voice vote and with bipartisan support the Lynch Amendment to exempt measures to address excessive speculation, such as position limits, from the regulatory moratorium. Several prominent House Republicans have also been vocal about the need to address excessive speculation, including Reps. Burgess of Texas, Fortenberry of Nebraska, Gibson of New York, LoBiondo of New Jersey, Jones of North Carolina, Fitzpatrick of Pennsylvania, and Bilbray of California.

In conclusion, we believe that the imposition of speculative position limits is vital for the proper functioning of the commodities markets and that the CFTC's promulgation and defense of this rule was in keeping with both the intent of the Congress and the interest of American businesses and consumers. While we commend the committee for exercising diligence in overseeing the work of the Commission and ensuring proper use of taxpayer dollars, we believe that the time and resources invested by the CFTC in the position limits rule has been a responsible use of funds.

Thank you in advance for your consideration. If you would like to meet to discuss these issues further, please contact coalition co-chairmen Jim Collura (703-945-1067 or [jim.collura@nefi.com](mailto:jim.collura@nefi.com)) or Sherri Stone (703-351-8000 or [sstone@pmaa.org](mailto:sstone@pmaa.org)).

Sincerely,

American Bakers Association  
American Feed Industry Association  
American Public Gas Association  
American Trucking Associations  
Colorado Petroleum Marketers Association  
Consumer Federation of America  
Florida Petroleum Marketers Association  
Fuel Merchants Association of New Jersey  
Gasoline & Automotive Service Dealers of America  
Independent Connecticut Petroleum Association  
(con't)

Industrial Energy Consumers of America  
Institute for Agriculture and Trade Policy  
Louisiana Oil Marketers & Convenience Store Association  
Maine Energy Marketers Association  
Massachusetts Oilheat Council  
Montana Petroleum Marketers & Convenience Store Association  
National Association of Oil & Energy Service Professionals  
National Association of Shell Marketers  
National Association of Truck Stop Operators (NATSO)  
National Grange  
National Farmers Union  
National Latino Farmers & Ranchers Trade Association  
New England Fuel Institute  
New Jersey Citizen Action Oil Group  
New Mexico Petroleum Marketers Association  
New York Oil Heating Association  
Oil Heat Council of New Hampshire  
Oil Heat Institute of Long Island  
Oil Heat Institute of Rhode Island  
Organization for Competitive Markets  
Owner-Operator Independent Drivers Association  
Petroleum Marketers & Convenience Store Association Kansas  
Petroleum Marketers & Convenience Stores of Iowa  
Petroleum Marketers Association of America  
Public Citizen  
Ranchers-Cattlemen Action Legal Fund (R-CALF) USA  
Retail Bakers of America  
Society of Independent Gasoline Marketers of America (SIGMA)  
Utah Petroleum Marketers and Retailers Association  
Vermont Fuel Dealers Association  
West Virginia Oil Marketers and Grocers Association  
Wyoming Petroleum Marketers Association

cc: The Honorable Barney Frank, Ranking Member, Committee on Financial Services  
The Honorable Michael Capuano, Ranking Member, Subcommittee on  
Oversight & Investigations  
The Honorable Maxine Waters, Ranking Member, Subcommittee on Capital Markets & GSE  
The Honorable Frank Lucas, Chairman, Committee on Agriculture  
The Honorable Collin Peterson, Ranking Member, Committee on Agriculture  
The Honorable K. Michael Conaway, Chairman, Subcommittee on General Farm  
Commodities & Risk Management  
The Honorable Leonard Boswell, Ranking Member, Subcommittee on General Farm  
Commodities & Risk Management  
The Honorable Gary Gensler, Chairman, Commodity Futures Trading Commission  
The Honorable Jill Sommers, Commissioner, Commodity Futures Trading Commission  
The Honorable Bart Chilton, Commissioner, Commodity Futures Trading Commission  
The Honorable Scott O'Malia, Commissioner, Commodity Futures Trading Commission  
The Honorable Mark Wetjen, Commissioner, Commodity Futures Trading Commission