



February 28, 2017

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

Re: "Reproposal of Position Limits for Derivatives," RIN 3038-AD99, 81 *Fed. Reg.* 96704, *et seq.* (December 30, 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 commend the Commodity Futures Trading Commission (the "Commission") for its continued commitment to fulfilling various obligations under the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (the "Dodd-Frank Act"), especially concerning the requirement that the Commission establish position limits for energy futures and swaps and other previously exempt commodities and contracts.ⁱ We further appreciate the opportunity to share our thoughts on the *Reproposal of Position Limits for Derivatives* (the "reproposal") as published in the Federal Register on December 30, 2016. Please note that we mean for this letter to supplement our previous comments on the long-delayed position limits proposal. We also view this letter and comments previously submitted by PMAA and NEFI as complimentary to those submitted by the Commodity Markets Oversight Coalition ("CMOC") and its various member organizations.ⁱⁱ

PMAA and NEFI strongly disagree with comments filed by other stakeholders suggesting that speculative position limits for previously exempt commodities and contracts are either unnecessary, or that the Commission has not sufficiently established their necessity. First, the necessity of speculative position limits was well established by Congress after countless committee hearings during which lawmakers heard testimony from bona fide end-users of commodities and derivatives, as well as bipartisan staff reports and independent investigations that found the absence of position limits had exacerbated market volatility and opened the door to market manipulation.ⁱⁱⁱ

This necessity is further evidenced by the *requirement* in Dodd-Frank that the Commission impose speculative position limits. Congress required these limits be imposed on or before January and April of 2011 for energy and agricultural commodities, respectively. These deadlines have long-since come and gone. There can be no doubt that Congress intended to mandate that the Commission establish position limits as a prophylactic measure, and that it did not mean for the promulgation of these rules to be simply a philosophical exercise.

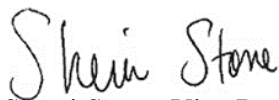
Second, the Commission has been evaluating the necessity for position limits for more than eight years in an ongoing effort to establish position limits for energy and other previously exempt commodities. Since 2009 the Commission has solicited comments and held public hearings or roundtables on this matter more than a dozen times. The real record, however, predates the Commodity Exchange Act of 1936. That law establishes the importance of speculative position limits and the Commission's position limit authority, which was then ultimately mandated by the Dodd-Frank Act. Position limits should be credited with a long history of ensuring market stability and confidence, helping to prevent market manipulation, and ensuring functional price discovery.

We have several concerns regarding modifications to the proposed rule as outline by the Commission. PMAA and NEFI support recommendations from the Chicago Mercantile Exchange and others that the Commission abandon favorable treatment for cash-settled contracts, including the arbitrary "five-day rule" and conditional spot-month limits.^{iv} As we have stated in the past, physically-settled and cash-settled contracts should be treated on a one-for-one basis. Establishing higher limits for cash-settled contracts would create an opportunity for market manipulation and result in unwarranted price volatility and diminished market confidence.

PMAA and NEFI also see this reproposal as another step towards greater deferral of Commission authority over position limits and related exemptions to the exchanges. For example, the reproposal expands the ability of exchanges to issue non-enumerated bona fide hedge exemptions.^v We understand that the Commission believes *de novo* review of said exemptions to be "adequate to guard against or remedy any conflicts of interest."^{vi} We acknowledge the Commission's claim of a "long history" of cooperative enforcement but remind it that despite its constrained resources, Congress tasked it alone with the responsibility to define "bona fide hedge," not the exchanges.

Thank you for the opportunity to provide thoughts on the reproposal. We look forward to meeting with Chairman-designate Chris Giancarlo and current and soon-to-be appointed Commissioners and their staff to discuss these the repropsoed rule in more detail. Moreover, we look forward to the day that a meaningful rule is finalized and all commodities are benefitting from a Commission-imposed speculative position limits regime.

Sincerely,



Sherri Stone, Vice President
Petroleum Marketers Association of America



Jim Collura, Vice President
New England Fuel Institute

ⁱ Pub. Law 111-203, 124 Stat. 1376 (2010), §737

ⁱⁱ Includes comments submitted by the Commodity Markets Oversight Coalition on February 10, 2014 and January 22, 2015; and comments submitted by PMAA and NEFI on July 13, 2016.

ⁱⁱⁱ See filings by PMAA, NEFI and CMOOC for enumerated examples of committee hearings, statements and testimony from bona fide end-users of commodities and derivatives, bipartisan staff reports, and independent investigations, as well as the kinds of allegations of manipulations the Congress meant to address by mandating the imposition of speculative position limits in previously exempt commodities and contracts.

^{iv} See the CME's comment letter submitted on February 28, 2017.

^v 81 *Fed. Reg.* 96815-16

^{vi} *Ibid.*