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Melissa D. Jurgens
Secretary of the Commission
Commodity Futures Trading Commission
Three Lafayette Center
1155 21st Street NW
Washington, DC 20581

Re: Position Limits For Derivatives (RIN 3038–AD99); Aggregation of Positions (RIN 3038–AD82)

Americans for Financial Reform (“AFR”) appreciates this opportunity to respond to the Commission’s request for comments on its proposed “Position Limits for Derivatives” (the “Position Limits Rule”) and its proposal for required “Aggregation of Positions” under the Position Limits Rule (the “Aggregation Rule”). AFR is a coalition of over 250 national, state, and local groups who have come together to advocate for reform of the financial industry. Members of AFR include consumer, civil rights, investor, retiree, community, labor, faith based, and business groups.

Position Limits For Derivatives

The Position Limits Rule is substantially similar to the Commission’s previous 2011 proposal regarding position limits. However, in response to a court ruling additional justificatory material has been added. In light of the similarity between the 2011 rule and the current proposal, we would like to refer to AFR’s comment on the 2011 rule and incorporate it here by reference.¹ The key points made in that comment are:

- Section 737 of the Dodd-Frank Act clearly and forcefully directed the CFTC to impose position limits to curb excessive speculation in the commodity markets and thus preserve the price discovery function of commodity markets.
- There is ample evidence from both recent events and academic research that the substantial growth in speculative interest in commodity markets has disrupted price discovery in commodity markets by increasing the volatility and price levels in these markets.
- The CFTC’s establishment of position limits is a very valuable step. However, the proposed position limits are flawed for two reasons. First, they apply only to individual market actors, and do not address the aggregate level of speculation in the market as a

¹ See the March 29th [comment by Americans for Financial Reform](#) on 76 FR 4752, submitted by Marcus Stanley.

whole. While this may be effective in addressing market manipulation by individual actors, it will be much less effective in reducing the damaging effect of overall speculation in the market.

- Second, even for individual actors, the position limits are set at a level that is simply too high. Individual entities are permitted to hold up to 25 percent of total deliverable supply in physically settled contracts. As the Commission itself points out, this is higher than the typical levels set by DCMs. Furthermore, an additional exemption permits a trader to hold up to five times this limit in cash-settled contracts, so long as they do not also hold physically deliverable contracts in the commodity for the same delivery month.

The fundamental weaknesses we noted in the 2011 rule have not changed in this version of the rule. Indeed, the rule has been made weaker in some ways. Notably, the new proposal removes a restriction on the position limit exemption for cash-settled derivatives, permitting traders to take advantage of this exemption even when they hold significant inventory in the physical commodity in question. While the Commission apparently recognizes the potential for market manipulation this creates, the Proposed Rule suggests that this potential can be addressed by monitoring and surveillance of traders. We are skeptical of this contention, particularly given the significant resource limitations at the Commission.

Despite the significant flaws in this Proposed Rule, the institution of position limits still represents a major step in the proper oversight and regulation of commodity markets. This is especially true since the excessively high thresholds in this rule are only initial levels, and the Commission has committed to regular review and possible adjustment of these levels. We urge the Commission to review these levels, and to do so at a greater frequency than the rate of once every two years that is proposed in this rule. Given the importance of position limits to the proper functioning of commodity markets, reviewing limit levels at a biennial rate is clearly inadequate.

Aggregation of Positions

Aggregation of positions across entities that share common control or ownership is a fundamental element of the position limits rules. The aggregation rule proposed here is similar to the May, 2012 aggregation rule also proposed by the Commission. AFR did not comment on this rule, but supports the comments submitted by the Institute of Agriculture and Trade Policy and Better Markets on the 2012 rule.² These comments raised serious questions about the extent of exemptions granted to the fundamental aggregation requirement.

We remain deeply concerned about the potential exemptions permitted by the Commission from the 10 percent ownership requirement that would normally trigger aggregation. In particular, traders may own up to 50 percent of an entity *without* triggering aggregation of holdings for position limit purposes, or potentially even more than 50 percent if some positions consist of

² See the June 29th, 2012 [Institute for Agriculture and Trade Policy comment](#) on 77 FR 31767, as well as the June 29th, 2012 [Better Markets comment](#) on 77 FR 31767,

bona fide hedging. If widely used, these exemptions could completely undermine the already inadequate limits set in the position limit rule.

In this context, it has some value that these exemptions are not self-executing but require a formal filing with the Commission and a certification by company executives. However, it would require careful oversight of these filings and significant staff work to ensure that such exemptions are not abused. Indeed, the levels of joint ownership permitted here raise serious questions about whether even intensive oversight would be sufficient to ensure a genuine lack of common control. Given these difficulties, as well as the Commission's limitations in oversight resources, we do not understand why the Commission has not created an automatic ownership trigger for aggregation at a level well under 50 percent of ownership. We urge reconsideration of this decision.

Thank you for the opportunity to comment on this release. Should you have any questions, please contact Marcus Stanley, AFR's Policy Director, at marcus@ourfinancialsecurity.org or (202) 466-3672.

Following are the partners of Americans for Financial Reform.

All the organizations support the overall principles of AFR and are working for an accountable, fair and secure financial system. Not all of these organizations work on all of the issues covered by the coalition or have signed on to every statement.

- AARP
- A New Way Forward
- AFL-CIO
- AFSCME
- Alliance For Justice
- American Income Life Insurance
- American Sustainable Business Council
- Americans for Democratic Action, Inc
- Americans United for Change
- Campaign for America's Future
- Campaign Money
- Center for Digital Democracy
- Center for Economic and Policy Research
- Center for Economic Progress
- Center for Media and Democracy
- Center for Responsible Lending
- Center for Justice and Democracy
- Center of Concern
- Center for Effective Government
- Change to Win
- Clean Yield Asset Management
- Coastal Enterprises Inc.
- Color of Change
- Common Cause
- Communications Workers of America
- Community Development Transportation Lending Services
- Consumer Action
- Consumer Association Council
- Consumers for Auto Safety and Reliability
- Consumer Federation of America
- Consumer Watchdog
- Consumers Union
- Corporation for Enterprise Development
- CREDO Mobile
- CTW Investment Group
- Demos
- Economic Policy Institute
- Essential Action
- Green America

- Greenlining Institute
- Good Business International
- HNMA Funding Company
- Home Actions
- Housing Counseling Services
- Home Defender's League
- Information Press
- Institute for Agriculture and Trade Policy
- Institute for Global Communications
- Institute for Policy Studies: Global Economy Project
- International Brotherhood of Teamsters
- Institute of Women's Policy Research
- Krull & Company
- Laborers' International Union of North America
- Lawyers' Committee for Civil Rights Under Law
- Main Street Alliance
- Move On
- NAACP
- NASCAT
- National Association of Consumer Advocates
- National Association of Neighborhoods
- National Community Reinvestment Coalition
- National Consumer Law Center (on behalf of its low-income clients)
- National Consumers League
- National Council of La Raza
- National Council of Women's Organizations
- National Fair Housing Alliance
- National Federation of Community Development Credit Unions
- National Housing Resource Center
- National Housing Trust
- National Housing Trust Community Development Fund
- National NeighborWorks Association
- National Nurses United
- National People's Action
- National Urban League
- Next Step
- OpenTheGovernment.org
- Opportunity Finance Network
- Partners for the Common Good
- PICO National Network
- Progress Now Action
- Progressive States Network
- Poverty and Race Research Action Council
- Public Citizen

- Sargent Shriver Center on Poverty Law
- SEIU
- State Voices
- Taxpayer's for Common Sense
- The Association for Housing and Neighborhood Development
- The Fuel Savers Club
- The Leadership Conference on Civil and Human Rights
- The Seminal
- TICAS
- U.S. Public Interest Research Group
- UNITE HERE
- United Food and Commercial Workers
- United States Student Association
- USAction
- Veris Wealth Partners
- Western States Center
- We the People Now
- Woodstock Institute
- World Privacy Forum
- UNET
- Union Plus
- Unitarian Universalist for a Just Economic Community

List of State and Local Partners

- Alaska PIRG
- Arizona PIRG
- Arizona Advocacy Network
- Arizonans For Responsible Lending
- Association for Neighborhood and Housing Development NY
- Audubon Partnership for Economic Development LDC, New York NY
- BAC Funding Consortium Inc., Miami FL
- Beech Capital Venture Corporation, Philadelphia PA
- California PIRG
- California Reinvestment Coalition
- Century Housing Corporation, Culver City CA
- CHANGER NY
- Chautauqua Home Rehabilitation and Improvement Corporation (NY)
- Chicago Community Loan Fund, Chicago IL
- Chicago Community Ventures, Chicago IL
- Chicago Consumer Coalition
- Citizen Potawatomi CDC, Shawnee OK
- Colorado PIRG
- Coalition on Homeless Housing in Ohio

- Community Capital Fund, Bridgeport CT
- Community Capital of Maryland, Baltimore MD
- Community Development Financial Institution of the Tohono O'odham Nation, Sells AZ
- Community Redevelopment Loan and Investment Fund, Atlanta GA
- Community Reinvestment Association of North Carolina
- Community Resource Group, Fayetteville A
- Connecticut PIRG
- Consumer Assistance Council
- Cooper Square Committee (NYC)
- Cooperative Fund of New England, Wilmington NC
- Corporacion de Desarrollo Economico de Ceiba, Ceiba PR
- Delta Foundation, Inc., Greenville MS
- Economic Opportunity Fund (EOF), Philadelphia PA
- Empire Justice Center NY
- Empowering and Strengthening Ohio's People (ESOP), Cleveland OH
- Enterprises, Inc., Berea KY
- Fair Housing Contact Service OH
- Federation of Appalachian Housing
- Fitness and Praise Youth Development, Inc., Baton Rouge LA
- Florida Consumer Action Network
- Florida PIRG
- Funding Partners for Housing Solutions, Ft. Collins CO
- Georgia PIRG
- Grow Iowa Foundation, Greenfield IA
- Homewise, Inc., Santa Fe NM
- Idaho Nevada CDFI, Pocatello ID
- Idaho Chapter, National Association of Social Workers
- Illinois PIRG
- Impact Capital, Seattle WA
- Indiana PIRG
- Iowa PIRG
- Iowa Citizens for Community Improvement
- JobStart Chautauqua, Inc., Mayville NY
- La Casa Federal Credit Union, Newark NJ
- Low Income Investment Fund, San Francisco CA
- Long Island Housing Services NY
- MaineStream Finance, Bangor ME
- Maryland PIRG
- Massachusetts Consumers' Coalition
- MASSPIRG
- Massachusetts Fair Housing Center
- Michigan PIRG
- Midland Community Development Corporation, Midland TX
- Midwest Minnesota Community Development Corporation, Detroit Lakes MN

- Mile High Community Loan Fund, Denver CO
- Missouri PIRG
- Mortgage Recovery Service Center of L.A.
- Montana Community Development Corporation, Missoula MT
- Montana PIRG
- Neighborhood Economic Development Advocacy Project
- New Hampshire PIRG
- New Jersey Community Capital, Trenton NJ
- New Jersey Citizen Action
- New Jersey PIRG
- New Mexico PIRG
- New York PIRG
- New York City Aids Housing Network
- New Yorkers for Responsible Lending
- NOAH Community Development Fund, Inc., Boston MA
- Nonprofit Finance Fund, New York NY
- Nonprofits Assistance Fund, Minneapolis M
- North Carolina PIRG
- Northside Community Development Fund, Pittsburgh PA
- Ohio Capital Corporation for Housing, Columbus OH
- Ohio PIRG
- OligarchyUSA
- Oregon State PIRG
- Our Oregon
- PennPIRG
- Piedmont Housing Alliance, Charlottesville VA
- Michigan PIRG
- Rocky Mountain Peace and Justice Center, CO
- Rhode Island PIRG
- Rural Community Assistance Corporation, West Sacramento CA
- Rural Organizing Project OR
- San Francisco Municipal Transportation Authority
- Seattle Economic Development Fund
- Community Capital Development
- TexPIRG
- The Fair Housing Council of Central New York
- The Loan Fund, Albuquerque NM
- Third Reconstruction Institute NC
- Vermont PIRG
- Village Capital Corporation, Cleveland OH
- Virginia Citizens Consumer Council
- Virginia Poverty Law Center
- War on Poverty - Florida
- WashPIRG

- Westchester Residential Opportunities Inc.
- Wigamig Owners Loan Fund, Inc., Lac du Flambeau WI
- WISPIRG

Small Businesses

- Blu
- Bowden-Gill Environmental
- Community MedPAC
- Diversified Environmental Planning
- Hayden & Craig, PLLC
- Mid City Animal Hospital, Pheonix AZ
- UNET