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November 19, 2010

David A. Stawick, Secretary
Commodity Futures Trading Commission
Three Lafayette Center
1155 21st Street, NW
Washington, DC 20581

Re: CFTC Rulemakings as Required by the Dodd-Frank Wall Street Reform Act

Dear Mr. Stawick:

I am writing to urge the Commission and its staff to consider the following comments on several key areas requiring rulemakings under Title VII of the Dodd-Frank Wall Street Reform Act.

This legislation sought to reverse the negative affects of derivatives market deregulation that had occurred over the previous two decades. This market deregulation resulted in an opaque market that catered to the needs of financial speculators rather than bona-fide hedgers and consumers, for whom futures, options and swaps were created in the first place.

We are an energy supply company that serves thousands of consumers on Long Island; for us, the deregulation of the derivatives markets has resulted in diminished confidence in these markets. The volatility and speculation in energy commodities vital to our region's economic welfare has not only skewed price discovery, but has unhinged these markets from responding to concrete economic fundamentals such as supply and demand, thus making it difficult for hedgers such as ourselves to insulate our customers from erratic and unwarranted price spikes.

Robust implementation and vigorous enforcement of the regulatory initiatives under the Dodd-Frank Act is absolutely vital if the legislation is to have its desired effects. Title VII reforms the derivatives markets, including energy futures, options, swaps and related products and seeks to bring renewed transparency, oversight and accountability to these markets while preserving market liquidity, competition and hedging, and price discovery functions. We strongly urge the Commission to address the following issues:

- **Definitions**:

1. **Commercial Risk**
The definition of "Commercial risk" should be narrowly tailored to apply only to those entities whose businesses activities expose them to risk from physical commodity price fluctuations. "Commercial risk" should not include risk that is purely financial in nature, including balance sheet risk.

2. **Major Swap Participant**
It was the intent of Congress to require that only large market participants be captured under this definition. I am supportive of the exclusion for "positions held for hedging or mitigating commercial risk," but again, this should not be defined so broadly as to create a new loophole for financial speculators to avoid requirements under the new law.

3. **Captive Finance Affiliates**
The major swap participant definition also includes an exception for captive finance affiliates we similarly encourage the Commission not to allow the exception to be abused or too broadly interpreted.

4. **Swap**
The legislative definition excludes forward delivery contracts (and options on such contracts) for commodities that are intended to be "physically settled." Any exemption for forward delivery contracts and options should be limited to bona fide commercial end-users.

- **Governance & Possible Limits on Ownership & Control - Swap Dealers**

The CFTC must establish both a meaningful limit on individual ownership and a limit on collective ownership if the proposed rule is to have the intended effect of limiting conflict of interest, assuring transparency and open competition, and preventing clearinghouses and exchanges from catering to the interests of a few large participants in the financial community. This requires both a cap on ownership for individual entities, as well as a sector-wide aggregate cap on banks.

- **End-User Exception**

The end-user exception should remain narrowly tailored to those businesses that produce, refine, process, market or consume an underlying commodity and counter-parties buying or selling a position to an end-user. Purely financial risk, including broad terms such as "balance sheet risk," should not be considered legitimate "commercial" risk.

- **New Registration Requirements for Foreign Boards of Trade (FBOTs)**

I support the requirement that FBOTs register with the CFTC and make their trading data available, as well as requiring that they adopt position limits and implement prohibitions on manipulation and excessive speculation. They should also be subject to ownership caps as described above.

- **Anti-Manipulation & Disruptive Trading Practices**

I strongly support prohibitions on "insider trading" based on nonpublic information, prohibitions on manipulation and trading on false information, and new authority to identify swaps that are "abusive" by virtue of being potentially detrimental to either the stability of the market or its participants. I urge the CFTC to be thorough in its interpretation and enforcement of these new authorities.

I also encourage the Commission to scrutinize the use of computerized/algorithm-based trading programs to determine if their application and use in the commodities markets has a disruptive affect on market stability or function.

- **Position Limits, Aggregate Position Limits & the Bona Fide Hedging Definition**

I support enforcement of the strongest possible speculative position limits under the Dodd Frank Act for exempt commodities such as energy, rather than simply the promulgation of formulae for establishing limits that can be then imposed at some later date.

Due to their approach to commodity trading, index funds treats finite commodities as an "asset class" rather than as vital resources to American industries, businesses and consumers. I believe that the Commission should establish separate and more aggressive limits on the positions of Exchange Traded Funds and Notes, including index funds.

- **Conclusion**

American businesses and consumers are relying on the CFTC to vigorously enforce these rules in a manner which will restore confidence, stability and transparency to the derivatives markets, especially in the energy commodities markets. All Americans depend on these markets to insulate both energy consuming businesses and individuals, (and the broader economy), from fraud, manipulation, and disruptive/abusive trading, and from excessive volatility, speculation and unwarranted price spikes.

The Dodd-Frank Reform Act provides the Commission with a number of powerful tools in this regard; I hope that the CFTC will use them to their fullest extent.

Thank you in advance for your consideration.

Sincerely,

Robert J. Hirsch
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