



The Commonwealth of Massachusetts
Secretary of the Commonwealth
State House, Boston, Massachusetts 02133

William Francis Galvin
Secretary of the Commonwealth

February 24, 2011

The Honorable Gary Gensler
The Honorable Michael Dunn
The Honorable Jill E. Sommers
The Honorable Bart Chilton
The Honorable Scott D. O'Malia
Commodity Futures Trading Commission
1155 21st Street, N.W.
Washington, D.C. 20581

Re: Position Limits on Derivatives, Proposed Rule
FR Docket No. 2011-1154

Dear Chairman Gensler and Commissioners Sommers, Chilton and O'Malia:

The Massachusetts Securities Division is a department within the Office of the Secretary of the Commonwealth of Massachusetts. The Securities Division is charged with the responsibility to implement and enforce the Massachusetts securities laws. As such, the Secretary of the Commonwealth is the chief securities regulator for Massachusetts.

We appreciate this opportunity to comment on the Commission's most recent request for public comments on rules to establish speculative position limits for commodity-related instruments, including options, derivatives, and swaps.

Section 737 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (the "Dodd-Frank Act") requires the CFTC to establish within 180 days of its enactment (by January 17, 2011) speculative position limits for commodities that had been exempt under the Commodity Exchange Act. These include energy-related commodities such as crude oil, gasoline, and heating oil.

The price of oil recently rose over \$110 per barrel for the first time since 2008. Ongoing disruptions in the energy markets and the recent spike in the prices of energy-related commodities show the urgent need for the Commission to adopt position limit rules order to protect these trading markets from the impact of speculators, particularly speculators that take excessively large positions.

The harm caused by excessive speculation extends far beyond the energy trading markets. The real economy is strongly affected by volatility and increases in the cost of energy. A leading analytical firm has estimated that if oil prices average \$103 a barrel in 2010 (up from \$80 last year), that would wipe out approximately half of the \$120 billion tax cut designed to boost the U.S. economy. At \$120 per barrel, the impact of the stimulus would be erased.

Such price rises rapidly increase the cost of consumer energy and the cost of food --both non-discretionary purchases. The home budgets come under immediate strain when the price of energy rises. Ordinary citizens are forced to choose between paying for gasoline and housing; between heating oil and medicine. Poor and working people tend to suffer the greatest and most immediate harm in these cases. And because unduly high energy prices impact citizens at all income levels, their ability to purchase non-energy goods and services is curtailed, endangering a fragile and uneven economic recovery.

There is substantial evidence that speculation helped to fuel the energy price hikes of 2008, which helped fuel the recession that began in that year. Moreover, Section 737 of the Dodd-Frank Act represents a determination by the Congress that excessive speculation is bad for both the markets and the economy, and is a mandate for the CFTC to act.

The Commission should fulfill its mandate under the Dodd-Frank Act and implement a strong position limit rule as soon as possible. The Commission must not hold back based on any assumption that the markets are self-regulating or self-policing. Speculators are most active when markets are volatile, and the U.S. economy is now especially vulnerable to increases in the prices of energy commodities created by excessive speculation.

We urge the Commission to quickly implement both spot-month position limits and non-spot-month position limits. The Commission currently proposes to study and then phase in non-spot-month position limits. This overly-cautious approach is contrary to the CFTC's rulemaking mandate under the Dodd-Frank Act, and will leave the commodity markets and the U.S. economy vulnerable at a crucial time.

Please contact me or Bryan Lantagne, Director of the Massachusetts Securities Division, at (617) 727-3548, if you have questions about these comments or I can assist in any way.

Sincerely,



William F. Galvin
Secretary of the Commonwealth
Commonwealth of Massachusetts