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FIA Opposes CFTC Position Limit Proposal

WASHINGTON, D.C.—March 18, 2010—The Futures Industry Association today filed a major comment letter in opposition to the adoption by the Commodity Futures Trading Commission of its proposed speculative position limits on energy commodities.

“The FIA strongly supports the CFTC’s ongoing efforts to prevent price manipulation and to conduct effective market surveillance to protect price discovery,” said FIA President John Damgard. “Based on our analysis, the proposed rules would harm these public interests and should not be adopted.”

The FIA’s analysis cites multiple grounds for its opposition.

- Congress statutorily recognized that speculators provide essential liquidity to properly functioning futures markets. The Commodity Exchange Act therefore allows the CFTC to limit speculation only when the CFTC finds those limits to be “necessary” to prevent price distortions that burden commerce. The CFTC never indicated that it found the proposal to be “necessary,” as the law requires.
- In fact, the CFTC cited no evidence that speculation caused energy price distortions. The FIA’s analysis cites multiple studies that reach the conclusion that speculation did not cause artificial prices.
- Adopting the proposal would hurt the public interests in price discovery, efficient hedging and preventing market manipulation. By law, the CFTC’s limits could apply only to U.S. exchange-traded futures and options; OTC and foreign futures would not be covered. The proposed limits would therefore create twin deficiencies: they would rob U.S. exchange markets of liquidity that serves price discovery and efficient hedging and they would encourage more trading in non-transparent or overseas markets outside the CFTC’s market surveillance systems.
- Consideration of the proposals is premature, at best. Congress is working on legislation to revamp the CFTC’s position limit powers. The CFTC should await that legislative outcome before considering whether to impose position limits.
- The proposed exemptions for hedging and swap dealers are unworkable, unduly constricting and contrary to the statute. The proposed account aggregation standard unjustifiably departs from CFTC practice and precedent.

The FIA is the leading trade organization for the futures industry. Its membership includes the world’s largest futures brokers as well as derivatives exchanges from more than 20 countries. For more information, please contact Will Acworth (wacworth@futuresindustry.org) at (202) 466-5460 or visit our website at www.futuresindustry.org.