Senators Condemn CFTC For Failure to Finish Rule to Curb Excessive Speculation in Commodities (/public/index.cfm/press-releases?ID=FEF83E19-8465-47BF-A98D-5F49095F67A7)

Dec 15 2016

Leading Senate Democrats Criticize Agency for Once Again Delaying Long-Overdue Rule to Limit Speculation in Futures Contracts

Washington— Senator Dianne Feinstein (D-Calif.), Sherrod Brown (D-Ohio) and Maria Cantwell (D-Wash) today criticized the Commodity Futures Trading Commission for failing to complete a long-delayed rule to curb the number of futures contracts a trader can hold on certain commodities, including oil, natural gas, and gold. The CFTC in 2013 revised its proposal to crack down on excessive speculation in a group of 28 commodities, but the agency has yet to issue a final rule. On Dec. 5, CFTC Chairman Timothy Massad punted again, reproposing the rule despite assurances it would be completed this year.

"We are disturbed by the CFTC's action to delay this rulemaking and your inability to guide the rule to completion in the two and a half years of your tenure," the Senators wrote in a letter to Massad. **"Instead of working to achieve a balanced rule based on years of consideration and comments since the November 2013 reproposal of the rule, you have simply kicked the issue into the future and created the uncertainty that you stated you were trying to avoid."**

In March, the Senators urged the CFTC to move quickly to finish the final position limits rule. They expressed concerns over continued delays or a weaker the rule. When the CFTC approved the supplemental position limits proposal in May, Massad said he looked forward to completing the rule by the end of the year.

"Now, in December, we see that our concerns were well founded -- the rule has been unnecessarily delayed and is now on track to be weaker," the Senators wrote.

The Senators also criticized the CFTC for stalling or weakening its rules related to oversight of derivatives traders dealing in multibillion dollar swaps, capital and liquidity for swap dealers, margin requirements for uncleared swaps, and automated trading.

Congress required the CFTC to address the risk of excessive speculation in commodity markets as part of the Dodd-Frank Wall Street Reform and Consumer Protection Act. In 2012, a federal court rejected the agency's first set of rules on position limits following a lawsuit by two Wall Street lobbying groups, the Securities Industry and Financial Markets Association and the International Swaps and Derivatives Association.

The full text of the letter is below:

December 14, 2016

The Honorable Timothy Massad
Chairman
Commodity Futures Trading Commission
Three Lafayette Center
1155 21st Street, NW
Washington, DC 20580

Dear Chairman Massad:

We write to address the Commodity Futures Trading Commission's (CFTC) reproposal of regulations to implement limits on speculative futures and swap positions as required by the Dodd-Frank Wall Street Reform and Consumer Protection (Dodd-Frank) Act. Through the Dodd-Frank Act and the Commodity Exchange Act, Congress has called for the use of speculative position limits as a means of preventing unreasonable and unwarranted price fluctuations and has directed the CFTC to establish position limits with the goal of diminishing, eliminating, or preventing excessive speculation and to deter and prevent market manipulation.

We are disturbed by the CFTC's action to delay this rulemaking and your inability to guide the rule to completion in the two and a half years of your tenure. Instead of working to achieve a balanced rule based on years of consideration and comments since the November 2013 reproposal of the rule, you have simply kicked the issue into the future and created the uncertainty that you stated you were trying to avoid.

In March, we wrote to you expressing our concern that the final position limits rule would be delayed or weakened. When the CFTC approved the supplemental position limits proposal in May, your statement concluded with "I look forward to hearing the views of market participants and completing a position limits rule this year." Now, in December, we see that our concerns were well founded -- the rule has been unnecessarily delayed and is now on track to be weaker.

Moreover, the rule on position limits is not the only disappointment from the CFTC. Throughout this year, we have witnessed the CFTC delay or weaken the finalization of the *de minimis* exemption from swap dealer registration, capital and liquidity rules for swap dealers, margin requirements for uncleared swaps, and your own regulation on automated trading. You have also used your position to criticize several rules that the Federal banking agencies have implemented over the past six years that have made the financial system safer and more sound.

News reports have indicated you will step down at the beginning of 2017. Given your comments on December 6 that, "there's a wide consensus that the reforms made to bring transparency and oversight to the swaps market made sense, and therefore it would be a mistake to significantly change them," we urge you to spend your remaining time putting the CFTC in a position to finalize strong Dodd-Frank rules for the derivatives market as contemplated by Congress.

Sincerely,

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