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December 28, 2016

The Honorable Richard Shelby
Chairman
The Honorable Sherrod Brown
Ranking Member
Committee on Banking, Housing, and Urban Affairs
United States Senate

The Honorable Jeb Hensarling
Chairman
The Honorable Maxine Waters
Ranking Member
Committee on Financial Services
House of Representatives

Subject: *Commodity Futures Trading Commission: Aggregation of Positions*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Commodity Futures Trading Commission (Commission) entitled "Aggregation of Positions" (RIN: 3038-AD82). We received the rule on December 6, 2016. It was published in the *Federal Register* as a final rule on December 16, 2016, with an effective date of February 14, 2017. 81 Fed. Reg. 91,454.

The final rule amends part 150 of the Commission's regulations with respect to the policy for aggregation under the Commission's position limits regime for futures and option contracts on nine agricultural commodities. The Commission notes that if its proposed position limits regime for other exempt and agricultural commodity futures and options contracts and the physical commodity swaps that are economically equivalent to such contracts are finalized, these amended regulations would also apply to the position limits regime for those contracts and swaps.

Enclosed is our assessment of the Commission's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Our review of the procedural steps taken indicates that the Commission complied with the applicable requirements.

If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to the subject matter of the rule, please contact Shirley A. Jones, Assistant General Counsel, at (202) 512-8156.

signed

Robert J. Cramer
Managing Associate General Counsel

Enclosure

cc: Christopher J. Kirkpatrick
Secretary to the Commission
Commodity Futures Trading Commission

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
COMMODITY FUTURES TRADING COMMISSION
ENTITLED
“AGGREGATION OF POSITIONS”
(RIN: 3038-AD82)

(i) Cost-benefit analysis

Section 15(a) of the Commodity Exchange Act (CEA) requires the Commodity Futures Trading Commission (Commission) to consider the costs and benefits of its actions before promulgating a regulation under CEA. Section 15(a) further specifies that the costs and benefits shall be evaluated in light of the following five broad areas of market and public concern: (1) protection of market participants and the public; (2) efficiency, competitiveness, and financial integrity of futures markets; (3) price discovery; (4) sound risk management practices; and (5) other public considerations. The Commission believes that the final rule is a reasoned approach to complying with CEA’s aggregation requirement. The Commission also believes that the final rules, via exemptions, give market participants opportunities and processes to reduce costs and burdens associated with aggregating positions that might hinder trading or reduce liquidity.

(ii) Agency actions relevant to the Regulatory Flexibility Act (RFA), 5 U.S.C. §§ 603-605, 607, and 609

The Commission certified that this final rule will not have a significant economic impact on a substantial number of small entities.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

As an independent regulatory agency, the Commission is not subject to the Act.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 et seq.

On November 15, 2013, the Commission proposed to amend the existing aggregation rules in regulation 150.4, and certain related regulations, to modify rules to determine which accounts and positions a person must aggregate. 78 Fed. Reg. 68,946. On September 29, 2015, the Commission supplemented the proposed rule with a limited revision that would permit the disaggregation of positions of owned entities in expanded circumstances. 80 Fed. Reg. 58,365. The Commission responded to the comments received on the proposed rule and the supplemental proposed rule in the final rule.

Paperwork Reduction Act (PRA), 44 U.S.C. §§ 3501-3520

In the final rule, the Commission states that certain provisions of the final rule will result in amendments to previously-approved collections of information under the Paperwork Reduction Act. Therefore, the Commission submitted the information collection requirements in the final

rule to the Office of Management and Budget for review. The Commission estimates that 240 entities will submit a total of 340 responses per year and incur a total burden of 6,850 labor hours.

Statutory authorization for the rule

The Commission cites 7 U.S.C. §§ 6a, 6c, and 12a(5), as amended by title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act as the authority for the final rule.

Executive Order No. 12,866 (Regulatory Planning and Review)

As an independent regulatory agency, the Commission is not subject to the Order.

Executive Order No. 13,132 (Federalism)

As an independent regulatory agency, the Commission is not subject to the Order.