

**From:** Ken Goheen <kgoheen@sbcglobal.net>  
**Sent:** Saturday, September 18, 2010 9:27 AM  
**To:** Gensler, Gary <GGensler@CFTC.gov>  
**Cc:** Dunn, Michael <MDunn@CFTC.gov>; Chilton, Bart <BChilton@CFTC.gov>;  
Sommers, Jill <JSommers@CFTC.gov>; O'Malia, Scott  
<SO'Malia@CFTC.gov>; PosLimits <PosLimits@CFTC.gov>  
**Subject:** Position Limits

---

The Honorable Chairman Gensler and Fellow Commissioners,

I have never written a letter to a regulator before. However, there is an issue before you now that is very important and I want to put in my two cents worth. I have seen first hand in Oil, Gold, and especially in Silver where traders have been allowed to "over-speculate" in derivatives trading that has resulted in wild swings in prices. These price swings are not the result of the natural order of supply and demand pressures, but are the result of over-speculation and in some cases outright market manipulation. This must not be allowed to continue.

There are two primary causes, as I see it.

1. Speculators being allowed to purchase or sell too many contracts.
2. "Naked" Short sellers (selling a commodity that they do not own).

The new Financial Regulatory Reform law mandates that your Commission institute hard position limits for the trading in commodities. As I understand it, commodity futures and derivatives trading allow producers and consumers of commodities the opportunity to offset price risk (i.e. hedgers transfer unwanted price

risk to speculators willing to assume it). This is all well and good in theory, but speculators have been allowed to run amok and I have personally observed price manipulation in at least three different commodities (Oil, Gold, & Silver).

As I understand it, the purpose of position limits is to guard against concentration and manipulation, without unduly restricting liquidity. Since all commodities are physically produced and consumed, any formula for determining position limits should be based upon world production and consumption. This would prevent any speculator or producer from "cornering" the market with excessive long or short positions.

In the 1970's, the Hunt brothers tried to corner the silver market by buying up an excessive amount of silver long contracts. They managed to drive up silver prices from just a few dollars per ounce to over \$50 per ounce in a very short period of time. They did this by taking advantage of a small market and buying up huge quantities of long silver contracts.

It seems that the worst abuses occur in the Silver market. For at least the past 10 years, someone has been manipulating the silver market, this time they are using short contracts. According to the Commitment of Trader's report, an unknown short trader (rumored to be JP Morgan) currently has a 30% short position (based on annual silver production). Over the past few years, this short position has steadily grown and there is no doubt that this trader is manipulating the marketplace. How else can you explain a sudden price drop of over 50% in the silver market a couple of years ago, when there were no supply/demand forces or political issues that would explain this

most unusual price drop. Over the past 10-15 years, there have been a number of significant price drops in the price of both gold and silver that could not be explained by normal market forces. A thorough study of your "Commitment of Trader's" Report shows a pattern of short sales that would explain the price drops and it is quite convincing. Indeed, the only explanation that makes sense is someone selling a ton of "naked" shorts to drive down prices and buying them back at lower prices (making a tidy profit).

To prevent these kind abuses, three things need to happen.

**1. Outlaw "NAKED" short selling.** Short sellers that are a producer or owner of a particular commodity are fine because they have the product to back up their short sale. Naked short sellers **DO NOT OWN** the commodity they are selling and have the potential to oversell the market and manipulate prices. "Naked" Short sellers violate the basic premise of the commodity markets. They are not "hedging" prices like a producer would do. Naked Short Selling manipulation has been going on for years in the silver market to the point that this commodity, a precious metal which is rarer than gold, is currently selling at a price **60 TIMES** lower than the price of Gold. As a comparison Platinum, another precious metal that is rarer than gold, has a current price about 25-30% higher than the price of Gold, which makes sense if normal Supply/Demand forces are allowed to operate freely.

**2. Enact HARD position limits with no exceptions granted.** I believe that no more than 1% of a given commodity should be held or sold at any given time by an individual or entity. This limit

would apply to all related derivatives on an aggregate (across all markets) and on an all-months-combined basis. No single speculative trading entity could control on a net basis, long or short, a total derivatives position greater than one percent of the annual world production of any commodity. For larger markets like Oil, a much smaller percentage limit would be in order (perhaps 0.1% - 0.15%). For Corn, Wheat, and other related markets where limits have already been established, no changes seem to be warranted.

Any legitimate producer or consumer of a commodity of limited supply should be able to hedge its risk up to the amount of its annual production or consumption. If a farmer grows, or a miner produces, more than 1% of world production, that entity can hedge up to the actual annual amount produced. If someone owns the physical commodity and is at price risk with that holding, that entity should be allowed to hedge that actual inventory, even if it is more than 1% of world annual production. Strict controls should be placed on anyone exceeding 1% and these controls should include **DOCUMENTED PROOF** of production or ownership of that specific commodity. This should be a very rare event and never exceed 2% of world production under any circumstances. For larger commodity markets such as Oil, these percentages should be reduced.

Financial institutions such as banks or investment companies are not producers of commodities and generally don't own them either. Thus, they should be bound to the normal position limits that any other speculator would be limited to. Indeed, it would not be out of order to place more stringent standards on them, since most abuses seem to come from these type of investors. Certainly, they should not be granted any special privileges or higher position limits.

If the Commission is concerned that newly set hard position limits will harm a few large "naked" short sellers that have already amassed huge short positions, I say that you should not be concerned by that. These speculators have most likely generated huge profits for themselves by manipulating the markets and harming numerous long position holders, most of whom are small players in the market place. In my view, if prices for a particular commodity jump because a short seller with a huge position has to buy a large number of long positions to close out their "naked" short contracts (and they incur heavy losses), they are only getting what they deserve, since they most likely unethically depressed prices in the first place. The same would be true in reverse for anyone who holds a overly large long position.

**3. Make the rules fair for everyone.** I have seen instances where entities such as the COMEX made long position holders pay a premium for a long contract (i.e. have higher deposit requirements) for certain commodities, whereas the same is not true for short contracts of the same commodity. Whatever rules are in place for long or short sellers should be the same for ALL commodities across the board. It was widely believed that the COMEX required higher deposits for long contracts of certain items because short sellers for gold, copper and especially silver were not able to meet delivery demands. Some even suspected that the COMEX was trying to manipulate long sellers into selling and discouraging other buyers from entering the marketplace. Whether this is true or not, a regulatory agency should never put itself in a position of mistrust like this with the public.

If a particular commodity is in short supply, prices SHOULD be allowed to rise. This encourages producers to grow or mine more of that particular commodity and eventually, prices should drop. Naturally, the same should occur in reverse if too much of a given commodity is produced. "Naked" Short Selling can disrupt this process and this is another reason why this practice should be outlawed. In this case where there were delivery problems, the guilty short sellers should have been forced to buy the needed commodity at whatever cost and delivered it, because that was the risk they were taking.

I would be happy to testify before this commission if need be concerning these matters.

Ken Goheen - Real Estate Broker  
Millionaire Mindset Builder