09-4
(7)

P I M C O

840 Newport Center Drive
Newport Beach, CA 92660
Tel: 949.720.6000
Fax: 949.720.1376

May 28, 2009

David Stawick
Secretary
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581

Dear Mr. Stawick,

PIMCO welcomes the Commission's solicitation of comments on the subject outlined in its "Concept Release on Whether To Eliminate the Bona Fide Hedge Exemption for Certain Swap Dealers and Create a New Limited Risk Management Exemption From Speculative Limits." PIMCO is a registered CTA, Commodity Pool Operator, and Investment Advisor who is responsible for managing the retirement savings and other funds of millions of investors, large and small. We recognize the value that properly managed commodity exposure, including the tracking commodity indexes, can bring to investor portfolios by mitigating inflation risk and financial risk, just as traditional commercial interests use these markets to mitigate their business risks.

This letter is a comment specifically on Questions 7, 8, and 14 of the Concept Release.

Question 7 asks, "should the rules distinguish between different classes of noncommercials—for example: (1) Clients who are speculators (e.g., a hedge fund); (2) clients who are index funds trading passively on behalf of many participants…."

An understanding of the differences between index investors and hedge fund speculators clearly leads to the conclusion that indeed these types of market participants should be treated differently. Specifically, commodity index investors should have a risk management exemption from speculative limits because they are in fact not speculators, they have the characteristics of hedgers, they promote market stability, and they broaden the scope for production hedging by other market participants.

(A) Index investors have more in common with commercial hedgers than they do with speculators. These investors always have net long positions in the markets and are using those positions to hedge the inflation risk and financial risk that exists elsewhere in their portfolios. So they are using the futures markets for risk mitigation, just as traditional commercial participants use the markets to hedge business risk. Some larger institutions, such as pension funds and endowments, directly make these index investments to hedge their financial risk and inflation risk. But there are also hundreds of thousands of individual savers who have no means to mitigate these same risks except by participating in commingled vehicles such as commodity index mutual funds.

(B) Index investors will roll their positions forward prior to the first delivery day of a contract. Therefore they do not hold positions in the spot month, which, according to the CFTC Concept Release, is "when physical commodity markets are most vulnerable to manipulation and attendant unreasonable price fluctuations."

(C) Because index investors always have net long positions, they are a natural counterparty to the producers who are seeking to offset their price risks.

(D) Index investors hold fully collateralized long positions. Since they do not have the same vulnerability to margin calls that speculators might have, these index investors represent a source of stability to the markets.

(E) Economic reasoning, as well as the CFTC's own data from their special call, support the idea that index investors do not have a meaningful impact on price levels in the physical commodity markets. For instance, in the first half of 2008, when crude oil prices experienced a large increase, index investors were actually reducing their positions in crude.

Question 8 asks how a fund could be determined to be an index investor. Such a fund should be defined as an account which followed predetermined rules for investing in a diversified basket of commodity futures markets. By covering a range of markets, such a fund would not be a vehicle which a speculator would use to take a view on one specific market. The rules for investing should require that the fund fully collateralize its futures positions and that it hold net long positions in each commodity which is part of the "basket".. The fund, or index investor, should have flexibility, within its predetermined rules, to determine on an ongoing basis when to roll its positions, in what month to hold its positions, and on what exchange to hold its positions in any particular commodity. Any trading by the fund in a manner other than that described above could be separately reported by the fund as non-index investment.

Question 14 asks how the no action relief that has been granted to two index traders should be treated. This no action relief is appropriate for the reasons stated above and should be maintained, but should extend to other index investors as well whether commingled index funds or separate index investors.

PIMCO believes that CFTC actions in the last two years, and especially the separate reporting of index positions, has provided beneficial transparency to the commodity futures markets, as reporting by dealers has shown the ability to adapt to this requirement. By allowing index investors to continue legitimate hedging of business risks while reporting those positions, the markets will be able to enhance the efficient transfer of risk while offering transparency that will prevent manipulation. We appreciate your consideration of these comments, since resolution of issues raised by the Commission are critical to a diverse cross-section of investors, hedgers and traders who depend on these markets for management of risks, hundreds of thousands of whom are our clients. PIMCO stands ready to assist the Commission in addressing the issues raised in the Concept Release and would be pleased to provide any additional information or thoughts that the Commission might find useful.

Sincerely,

Brent R. Harris, CFA
Managing Director

Via: Email
Via: Federal Express Overnight