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March 25, 2020

Chairman Heath P. Tarbert
U.S. Commodity Futures Trading Commission
1155 21st Street, NW
Washington, DC 20581

Dear Chairman Tarbert,

Thank you for responding to my question during yesterday's Energy and Environmental Markets Advisory Committee about the no action letter issued March 20 exempting a financial institution with significant oil and gas industry exposure from Major Swap Participant Registration.¹

Section 721(a)(33)(A)(ii) of Dodd-Frank defines Major Swap Participant as any entity "Whose outstanding swaps create substantial counterparty exposure that could have serious adverse effects on the financial stability of the United States banking system or financial markets." The Commission's Major Swap Participant regulations are designed to prevent systemic risk.

While we understand that the COVID-19 pandemic may require some compliance flexibility with certain regulations, we are concerned that exemptions for Major Swap Participant Registration threaten systemic risks, especially given some financial institutions' exposure to the precarious economics of the oil and gas sector.

Furthermore, the pandemic has caught major market participants flat footed, and the Commission needs to prepare rulemakings requiring traders to build in redundancies to allow for seamless operations as workforces operate remotely and enforce social distancing.

We urge the Commission to consider the following:

- Recipients of targeted regulatory relief should not be anonymous. The public interest requires public identification of the subject of any no action letter granting relief from Major Swap Participant Registration.
- The no-action letter grants Major Swap Participant relief for an inordinate period of time—through September 30. While we are concerned about the granting of any exemption for Major Swap Participants, the Commission should reconsider the extreme duration of this exemptive relief.
- Resist granting exemptions for financial institutions with significant loan and swaps exposure to the oil and gas industry. There are financial institutions with

¹ CFTC Letter No. 20-10, www.cftc.gov/coronavirus

loans to the oil and gas sector exceeding 100% of the bank's tangible common equity. The precariousness of the oil and gas industry predates the dual supply and demand shock sparked by the COVID-19 pandemic and OPEC's production increases, and shielding affected financial institutions threatens system risk.

- Major market participants were ill-equipped to fully comply with current recordkeeping requirements as traders and key compliance staff enforce social distancing and work remotely. Rather than simply granting short-term exemptive relief via no action letters, the CFTC must promote new rules enforcing system redundancies to allow for seamless compliance as employees transition from working in an office to telecommuting. For example, there are now ample software offerings and cloud services that replicate trading turrets to allow for time-stamping and recording of trades.
- Data compiled by the Commission presented in yesterday's Energy and Environmental Markets Advisory Committee meeting make clear that COVID-19 related volatility is at historic levels. However, there was no analysis presented on what role, if any, that automated trading played in exacerbating these historic volatility levels. We urge the Commission to provide data on any relationship of the role of AT in today's historic market conditions.

I thank you and all Commission staff for their hard work and dedication during these trying times, and I look forward to your response.

Sincerely,

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