



U.S. Commodity Futures Trading Commission
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Donald S. Clark, Secretary
Federal Trade Commission
Office of the Secretary
Room H-135 (Annex G)
600 Pennsylvania Avenue, N.W.
Washington, D.C. 20580

RE: Market Manipulation Rulemaking, PO 82900

Dear Mr. Clark:

I am writing in response to the Federal Trade Commission's (FTC) above-referenced rulemaking proposal, intended to implement provisions of the Energy Independence and Security Act of 2007 (EISA). I associate myself fully with the comments made by the General Counsel of the Commodity Futures Trading Commission (CFTC) in his comment letter in response to the proposal, and with his earlier comments made in response to the FTC's advance notice of proposed rulemaking on the same issue.

I write separately to voice with particularity my concern that the FTC proposal impinges on the Congressional grant of exclusive jurisdiction made to the CFTC over futures transactions executed on a designated contract market, derivatives transaction execution facility, or any other board of trade. EISA was adopted after the exclusive jurisdiction provision of the Commodity Exchange Act (CEA) was enacted, and had Congress intended to change the CEA at the time of promulgation of EISA, it would have done so. The fact that Congress did so act requires interpretation of these two legislative provisions *in pari materia*, and mandates that full force and effect be given to both provisions. Unfortunately, the FTC proposal as it stands, would seriously undermine the Congressional grant of exclusive jurisdiction in the CEA, and impair the CFTC's ability to effectively oversee futures activity in these critically important markets. As I have stated previously, I believe it is the essence of bad policy to engage in "dueling government banjos"; the CFTC's exclusive jurisdiction authority in these markets was in effect for over 30 years when EISA was enacted, and we are therefore bound to interpret these statutes in concert,

without impairment to prior-existing law. To do otherwise would be a dereliction of our duties as public servants.

Lastly, I believe that the FTC proposal runs precisely counter to its stated purpose: that is, it most certainly will result in “impos[ition of] contradictory requirements on regulated entities in the futures markets.” For all of these reasons, I urge the FTC to incorporate an exception for futures trading subject to the exclusive jurisdiction of the CEA. I believe that, working together, rather than in “regulatory competition,” we can make our markets safer and more effective for American consumers and businesses.

Sincerely,

✓Bart Chilton