Congress of the United States
Washington, DC 20515

March 30, 2012

Chairman Gary Gensler
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581

Dear Chairman Gensler:

We are writing with respect to the Commodity Futures Trading Commission's (CFTC) oversight of our commodities markets. As you know, the Dodd-Frank Wall Street Reform Act gave you significant rulemaking powers to restrict excessive speculation and ensure the stability of our commodities markets. We urge you to move as quickly as possible to implement those rulemakings that you have already proposed. As you know, we have written to you with our concerns about the stability of the commodities markets in the past. We write to you today on a related subject: the influence of commodity index funds on our commodity markets.

Commodity index funds are a relatively recent creation, but they are already having an outsized impact on our commodity markets. These funds, which are typically a basket of different commodities futures, have grown explosively since they were first created by Goldman Sachs in 1991. At present, commodity index traders collectively comprise the single largest group of non-commercial participants in commodity markets. As speculators now dwarf commercial users in many markets, even possessing nearly 70% of contracts in the New York Mercantile Exchange futures market for West Texas Intermediate crude oil, commodity index traders may actually possess more oil positions than any other entity.

The fact that this one type of fund controls such a large share of our commodities markets would be troubling even if commodity index funds were benevolent. Yet, there is clear evidence that these funds are disrupting both our commodities markets and our economy. As you know, most futures contracts are for a set period of time and must inherently expire. For instance, just last week, futures contracts for delivery of crude oil in April expired, meaning that the contract is no longer being traded on the New York Mercantile Exchange. As a result, if a trader in possession of an April futures contract wanted to purchase a futures contract for oil again, she had to sell her April futures contract before it expired and purchase a new contract for delivery in a month further in the future, such as one for delivery in May 2012, June 2012, December 2012, or August 2013. This practice, which is known as "rolling," is critical to the functioning of commodity index funds. Yet, because the date of contract expiration must always occur between the 5th and 9th business day of each month, many traders know to expect this and plan accordingly. As Better Markets CEO Dennis Kelleher stated in his testimony before the House Natural Resources Committee, "Predictable trading in large amounts always attracts other traders seeking to take advantage of and profit from that predictable trading. It is legal front-running made easy. It is almost the commodity market equivalent of shooting fish in a barrel."

All told, the "rolling" process leads to between $200 and $400 billion in liquid trades occurring in our commodities markets each month. The huge amounts of liquidity churning in our commodities markets due to rolling increases the prices of precious commodities like oil and wheat, thereby driving prices up for consumers. Indeed, Better Markets has analyzed oil markets and found that, according to their CEO, Dennis Kelleher, since 2004, "the upward price bias in the West Texas Intermediate crude oil futures market was correlated at a 99% level with the Roll." Through its control of commodity index funds, Wall Street is driving up gas and food prices and playing a sadly familiar game with the American consumer and small-business: heads I win, tails you lose.

The CFTC has the power to grab this coin in midair and restore sanity to our commodities markets by regulating the activities of these funds. As amended by the Dodd-Frank Wall Street Reform Act, Section 6(a)(a) of the Commodity Exchange Act states that CFTC has the power to set "limits on the amounts of trading which may be done or positions which may be held by any person, including any group or class of traders." This power extends to the establishment of aggregate position limits for any group or class or traders as well. As a result, commentators such as Better Markets have informed the Commission that you have the power to issue position limiting on these funds.

As you know, CFTC recently issued a rule on position limits generally, and it is a rule that we hope will be implemented as soon as possible. Yet, that rule did not set limits for particular classes of traders. Commodity index funds and traders are a relatively recent class of traders and appear to be driving intense, excessive speculation in our commodities markets. As a result, we believe that without further delaying the implementation of the position limits rule, the CFTC needs to supplement that rule with a new, separate rule that puts specific restrictions on the role that these commodities index funds play in our commodities markets.

We would therefore like to formally request that you and the Commission examine this subject and consider whether a rulemaking that limits the positions that commodity index funds may own in oil futures and related derivatives markets is warranted. We would also request that the Commission consider whether such a rule should bar commodity index funds from participation in oil and other energy commodities markets, thereby ending this twenty-one year experiment by Wall Street in our commodities markets that appears to have been detrimental to the proper functioning of these markets.

Additionally, in order to better understand these funds and the role they play in our vital commodities markets and their impact on the physical markests, we request that you respond to the following:

1) Has the CFTC considered whether it should establish position limits on any particular class or group of investors?

2) If a limitation on the positions that commodity index funds may hold in all commodities is not warranted, do you believe that CFTC should prohibit CIFs from holding positions in light sweet crude oil, natural gas, and other crucial energy commodities?

3) Does CFTC believe commodity index funds are contributing to the volatility in our commodities markets? What impact have such funds had on oil and natural gas price volatility?

4) Who are the counterparties to CIF trades? What percentage of counterparties to CIF trades are non-commercial traders?

5) To what extent are pension funds invested in commodity index funds (in your response, please indicate the extent of private and public pension fund investment in such funds)? To what extent are hedge funds invested in such funds? To what extent are mutual funds invested in such funds?

Thank you for your assistance and cooperation in this matter. Please provide us with a written response to these questions by April 16, 2012. If you have any questions, please contact Justin Slaughter on Representative Markey's staff at (202) 225-6065 and Dave Berick on Senator Wyden's staff at (202) 224-5244.

Sincerely,

Edward J. Markey

Edward J. Markey
Ranking Member
House Committee on Natural Resources

Ron Wyden

Ron Wyden
Member
Senate Committee on Energy and Natural Resources