

From: Frederick Macaskill <fm@rochester.rr.com>
Sent: Monday, October 11, 2010 10:38 PM
To: PosLimits <PosLimits@CFTC.gov>
Subject: Setting Position Limits

Dear Sirs:

As a member of the public I would like to express my opinion on setting position limits on futures contracts.

As I understand it, the purpose of setting limits is to prevent market manipulation. But then one must surely ask whether the setting of limits itself is not an act of market manipulation.

When a market participant is active in the market he is putting his money where he believes makes the best sense at the time. Requesting position limits is a way of attempting to control the market without putting your money on the line. This is a more certain way of manipulating the market. By imposing position limits you are conceding that the true market manipulators have won, and you yourself become a market manipulator.

There are two issues I would like to discuss in this regard. The first concerns free markets, and the second market imposed position limits.

Free Markets

The moral basis of a free market is that all human interactions should be mutually voluntary. Based on this, position limits are a violation of the principles that drive free markets. One party is using force to prevent others from entering into a mutually voluntary agreement. Besides being immoral, the effect can only be harmful to the market. Ever since Adam Smith (1776) the principle that free markets serve us best has been proven over and over again. It is sheer folly and extraordinary arrogance to assume otherwise.

Market Imposed Position Limits

When an investor places an order with an agent (broker) to execute a transaction, the agent will satisfy himself that his client can meet his obligations with regard to the transaction. This is the point at which a position limit is imposed. The agent may decline to enter voluntarily into the transaction if he deems the risk is too great. When the agent enters into a transaction on his own account then the counter party he is trading with similarly would not enter into the transaction unless he satisfied himself that the transaction is viable. If this is not the case, then this is the aspect of the market that needs to be improved upon. Also, the market administrators could specify that certain conditions be met to ensure that one party would not end up defaulting on a transaction. The agents trading on that market would agree to abide by these rules. But these rules are not state imposed and are not arbitrary. The position limit is determined by the ability of the parties involved to meet their obligations, not a limit to prevent them from trading because someone arbitrarily feels they should not. If mistakes are made, then the parties concerned will pay for their mistakes by taking a loss, and if the loss is big enough may even end up going out of business. It is not possible to prevent people from making mistakes. But it is a mistake to make people think they are protected from making mistakes.

It is my recommendation that the law on position limits should be repealed and that no position limits should be imposed other than a limitation based on the ability of each party to a transaction to meet his obligations.

Yours sincerely,
Frederick Macaskill