

Commodity Exchange Act § 4a(a): Finding Position Limits Necessary is a Prerequisite to the Mandate for Establishing Such

Subsection (1)
(legacy text)

(1) IN GENERAL.

Excessive speculation in any commodity under [futures contracts] or swaps that perform or affect a significant price discovery function...causing sudden or unreasonable fluctuations or unwarranted changes in the price of such commodity, is an undue and unnecessary burden on interstate commerce in such commodity. The Commission **shall from time to time...proclaim and fix such limits** on the amount of...positions which may be held...under [futures contracts] ...or swaps **...as the Commission finds are necessary to diminish, eliminate, or prevent such burden...** [Provision goes on to address implementation issues such as aggregation and flexibility.]

Legacy Subsection (1) of CEA § 4a(a) has long provided CFTC a **mandate** to impose position limits it **finds are necessary** to diminish, eliminate, or prevent the burden on interstate commerce resulting from excessive speculation in derivatives

Subsection (2)
Subparagraph (A)
(DFA addition)

(2) ESTABLISHMENT OF LIMITATIONS.--

(A) IN GENERAL.—In accordance with the **standards set forth in [subsection (1)]**...the Commission **shall...establish limits** on the amount of positions, as appropriate...that may be held by any person with respect to [futures contracts] or with respect to options on the contracts or commodities traded on or subject to the rules of a designated contract market.

Dodd-Frank added Subsection (2) re. "Establishment of Limits." Subparagraph (A) mandates that CFTC **establish position limits**, but **in accordance with the standards in subsection (1)**, including the standard of necessity

Subsection (2)
Subparagraph (B)
(DFA addition)

(B) Timing.—(i) Exempt Commodities [e.g., energy and metals].—For exempt commodities, the limits **required under subparagraph (A) shall be established** within 180 days after the date of the enactment of this paragraph...(ii) Agricultural Commodities.—For agricultural commodities, the limits **required under subparagraph (A) shall be established** within 270 days after the date of the enactment of this paragraph.

Subparagraph (B) then informs the timing of any limits that **must be established** in Subparagraph (A) in accordance with the **standards in subsection (1), including the standard of necessity**

Red Denotes Link to
Standard of Necessity

Blue Denotes Link to
Mandate