INTERNATIONAL ENERGY CREDIT ASSOCIATION

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Re: Comments of the IECA on Regulations Q and Y: Risk-Based Capital and Other Regulatory Requirements for Activities of Financial Holding Companies Related to Physical Commodities and Risk-Based Capital Requirements for Merchant Banking Investments, Docket No. R–1547 and RIN 7100 AE–58

Dear Mr. Frierson:

The International Energy Credit Association ("IECA") respectfully submits these comments to the Board of Governors of the Federal Reserve System ("Board") on the above-captioned notice of proposed rulemaking (hereinafter, "NOPR"), published at 81 Fed. Reg. 61,220 (Sept. 30, 2016). In the NOPR, the Board proposes, *inter alia*, to (i) adopt additional limitations on physical commodity trading activities conducted by financial holding companies ("FHCs") under complementary authority granted pursuant to section 4(k) of the Bank Holding Company Act ("BHCA"), (ii) amend the Board's risk-based capital requirements to better reflect the risks associated with FHCs' physical commodity activities, (iii) rescind the findings underlying the Board's prior order "grandfathering" certain physical commodity trading, energy management services and energy tolling activities under Section 4(o) of the BHCA, and (iv) increase transparency of FHCs' physical commodity activities by more comprehensive regulatory reporting (the "Proposed Rule").

The IECA embraces the general premise of all regulatory rulemaking, as embodied in the Administrative Procedures Act, which has been held to require that the agency promulgating a proposed rule must exercise reasoned decision making, supported by substantial record evidence, and evaluating the benefits and burdens of a proposed rule to ensure that the benefits of the proposed rule justify its burdens.[1] The IECA respectfully

[1] Business Roundtable v SEC, 647 F.3d 1144 (D.C. Cir. 2011) (finding the failure of the agency to properly consider the costs and benefits of the rule at issue arbitrary). Although the Board has declined to offer a formal quantitative cost benefit analysis in the Proposed Rule, the IECA believes that such an analysis is appropriate. As noted by Professor Sunstein in a recent paper, "[t]he main virtue of [quantitative

submits that, as demonstrated in its comments below and in the comments submitted by other participants in the "real economy," the Proposed Rule imposes substantial burdens on the "real economy" for benefits that are hypothetical at best.

On this basis, the IECA, whose members comprise the full range of energy market participants – both domestic and foreign – respectfully objects to the Proposed Rule for the reasons listed below, and urges the Board to reconsider issuing a final rule in this proceeding, or, failing that, to materially modify the Proposed Rule and re-open it for further comment via a new notice of proposed rulemaking.

I. The Evidence Does Not Support a Finding that FHC Involvement in Physical Commodities Poses a Substantial Risk to the Safety and Soundness of Depository Institution Subsidiaries of FHCs or the Financial System Generally.

The Proposed Rule is a solution in search of a problem – to our knowledge there is no precedent where financial entities involved in the physical commodity markets were held liable for environmental incidents resulting from their involvement in those markets. The *Exxon Valdez* spill, the *Deepwater Horizon* disaster and other high-profile environmental incidents all involved the potential liability of owners and operators of facilities, not of entities buying the cargos.

In the NOPR, the Board identifies the standards to be applied under Section 4(k) of the BHCA by the Board in authorizing an FHC to engage in activities that are complementary to a financial activity as: (i) the commercial activity must be meaningfully connected to a financial activity of the FHC such that it complements the financial activity of such FHC, (ii) the activity must not pose a substantial risk to the safety and soundness of depository institution subsidiaries of the FHC or the financial system generally, and (iii) performance of the activity should be expected to produce benefits to the public – such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased unfair competition, conflicts of interest, or unsound banking practices.[2]

As the Board outlined in its discussion of the Advance Notice of Proposed Rulemaking ("ANPR") in the NOPR,[3] comments from "end users, FHCs and banking trade organizations were generally supportive of FHC involvement in physical commodity activities or opposed additional restrictions on those activities." Those who opposed FHC

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cost benefit analysis] is that it focuses attention on the human consequences of regulatory initiatives." Sunstein, Cass R., Cost-Benefit Analysis and Arbitrariness Review (March 20, 2016). Harvard Public Law Working Paper No. 16-12. Available at SSRN: https://ssrn.com/abstract=2752068 (Also noting that "an agency's failure to engage in a degree of quantification, and to show that the benefits justify the costs, will sometimes leave it vulnerable under arbitrariness review.").

[2] *See* NOPR, 81 Fed. Reg. 67220 at 67222 (published September 30, 2016).

[3] *Id.* at 67224.

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participation in physical commodities "argued that these activities pose risks to FHCs individually and to the financial system generally."[4]

Commenters who were opposed to FHC participation in physical commodities activities provided no empirical evidence that such activities "pose a substantial risk to the safety and soundness of depository institution subsidiaries of the FHC or the financial system generally."

In the NOPR, the Board also noted that opponents of FHC participation in physical commodity markets "expressed concern that excessive speculation in commodities markets, which they attributed in part to FHC involvement in these markets, causes market distortions."[5] Again, no empirical evidence was mentioned. In fact, the CFTC's Office of the Chief Economist ("OEC") in connection with a review of position limits to be imposed by the CFTC provided an internal memorandum to the CFTC Commissioners that questioned both the existence of "excessive speculation" in the commodities markets and suggested that "increased participation of speculators should generally be expected to lead to better price discovery and less unwarranted price volatility".[6] In that light, unsupported claims of "excessive speculation" is not substantial record evidence supporting the Board's Proposed Rule.

To the extent the Board's discussion in the Supplementary Information accompanying the Proposed Rule is intended to justify the changes to rules codified at 12 C.F.R. parts 217 and 225, it completely misses the mark. This is because there is a disconnect between the degrees of risk specified in the sections of the statute that the Board cites as authority for such changes and degrees of risk that the Board uses in its discussion. The Board's discussion is laced with references to "potential risks"[7] (implying a ***possibility of a possibility*** of loss), but the statutory authority that the Board refers to does not refer to "potential risks." Rather, these statutory provisions refer to degrees of risk that are notably higher than potential risks, e.g., "a risk,"[8] "the risk,"[9] "other risks,"[10] "risks to,"[11]

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[4] *Id.* at 67224.
[5] *Id.* at 67224.
[6] A copy of that internal report by the CFTC's OEC was read into the Congressional Record on June 28, 2016, by Congressman Conaway.
[7] *See e.g.*, NOPR at 67221 col. 1 ("potential legal, reputational and financial risks"); *Id.* at 67224 col. 1 ("potential risks associated with physical commodity activities"); *Id.* at 67225 col. 2 ("potential risks these activities may pose"); *Id.* at 67228 col. 2 ("potential reputational risks"); *Id.* at 67230 col. 3 ("potential risks to depository institution subsidiaries of FHCs"); *Id.* at 67234 col. 2 ("potential risks FHCs may bear").
[8] *See* 12 U.S.C. § 1818 (t)(2)(C)&(D) ("a risk to the Deposit Insurance Fund").
[9] *See* 12 U.S.C. § 1828 (c)(5) ("the risk to the stability of the United States banking or financial system"); 12 U.S.C. 5365(g)(1)(" the risks that an over- accumulation of short-term debt could pose to financial companies and to the stability of the United States financial system"); 12 U.S.C. § 1831o(e)(2)(C)(i)(III) ("the risk (including credit risk, interest-rate risk, and other types of risk) to which the institution is exposed").
[10] *See* 12 U.S.C. § 1467a(b)(4)(A)(i)(II) ("the financial, operational, and other risks within the savings and loan holding company system").
[11] *See* 12 U.S.C. § 5371(b)(7) ("pose risks to the financial system").

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"high-risk,"[12] "serious risk,"[13] "excessive risk,"[14] "significant risk,"[15] "substantial risk,"[16] "undue risk,"[17] and "foreseeable and material risk."[18] Congress is concerned with actual risk; so-called "potential risk" is too attenuated to support any meaningful explanation for making rules.

As the Board states in the NOPR, the Federal environmental statutes cited by the Board "generally impose liability on ***owners and operators of facilities and vessels*** for the release of physical commodities…." (emphasis added). As exhaustively detailed in the Joint Memorandum of Law prepared by Covington & Burling LLP, Davis Polk & Wardwell LLP, Sullivan & Cromwell LLP and Vinson & Elkins LLP and included as "Appendix B" in the comment letter to the ANPR from the Securities Industry and Financial Markets Association et al., dated April 16, 2014 (the "SIFMA Letter"), although the owners and operators of such facilities can be liable for environmental discharges of physical commodities, the "parents and other affiliates of any companies that own and operate such facilities, however, generally would not be held liable, unless they fail to comply with certain appropriate safeguards, including standards of corporate separateness" (SIFMA Letter, p. 5). Generally, few, if any, FHCs "own or operate" such facilities anymore, and even fewer would do so directly, but would instead own such facilities through an affiliate thereby providing the shield from liability discussed in the SIFMA Letter.

For the foregoing reasons, we submit that the Board's own standard of "substantial risk to the safety and soundness of depository institution subsidiaries of FHCs or the financial system generally" has not been met by the Board or any opponent seeking to reduce FHC's participation in physical commodity activities.

Moreover, as demonstrated below and in the comments of many other active participants in the "real economy" – the participants in these markets who employ thousands of

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[12] *See* 12 U.S.C. § 1851(d)(2)(A)(ii) ("high-risk assets or high-risk trading strategies").
[13] *See* 12 U.S.C. § 1828(m)(2)(B)(i) ("serious risk to the safety, soundness, or stability of the insured savings association"); 12 U.S.C. § 1844(e) ("serious risk") and (e)(1) ("serious risk to the financial safety, soundness, or stability of a bank holding company subsidiary bank"); 12 U.S.C. § 1467a(g)(5)(A) ("serious risk to the financial safety, soundness, or stability of a savings and loan holding company's subsidiary savings association"); 12 U.S.C. § 1467a(p) ("serious risk to subsidiary savings association"); 12 U.S.C. § 1467a(p)(1) ("serious risk to the financial safety, soundness, or stability of a savings and loan holding company's subsidiary savings association"); 12 U.S.C. § 1467a(p)(1)(C) ("serious risk").
[14] *See* 12 U.S.C. § 1831o(f)(2)(E) ("excessive risk to the institution").
[15] *See* 12 U.S.C. § 338a ("significant risk to the affected deposit insurance fund"); 12 U.S.C. § 1831o(f)(2)(I)(i) ("significant risk to the institution"); 12 U.S.C. § 1831o(f)(2)(I)(ii) ("significant risk to the institution").
[16] *See* 12 U.S.C. § 1843(k)(1)(B) ("substantial risk to the safety or soundness of depository institutions or the financial system generally").
[17] *See* 12 U.S.C. § 1851(b)(1)(E) ("undue risk or loss in banking entities and nonbank financial companies supervised by the Board").
[18] *See* 12 U.S.C. § 1818(t)(2)(D) ("foreseeable and material risk of loss to the Deposit Insurance Fund").

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Americans and who rely on physical commodity transactions with FHCs[19] - the participation of FHCs in physical commodity markets (i) are complementary to the financial activities of FHCs and (ii) are not just expected to produce, but actually do produce, substantial benefits to the public in the forms of "greater convenience, increased competition, or gains in efficiency -- that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." [20]

For these reasons, the IECA requests that the Board reconsider and withdraw its Proposed Rule.

II. Additional Comments of the IECA Opposing the Proposed Rule (In-brief).

- FHCs are already subject to many limitations imposed by the Board on their complementary commodities activities, including fungibility and liquidity requirements, volume limits, a requirement that the FHC have appropriate managerial expertise and internal controls, and perhaps most important, a prohibition on the ownership of certain transportation, storage, extraction and processing facilities.[21] *Further* restrictions on the FHCs' ability to transact in the physical commodities markets will reduce liquidity and transparency in those markets and thereby reduce the ability of "Main Street" non-financial companies to manage their exposure to physical commodity risks.[22]

- In addition to providing liquidity in markets, FHCs serve a critical function in the risk management and financing needs of other physical commodity market participants, from producers to consumers and everyone in between along the value chain. There is continuous demand from the market participants for credit availability, particularly as commodity prices have come under significant pressure in recent years thereby constraining available credit lines of non-financial market participants. Constraining the ability of FHCs to transact in physical commodity products by regulation or additional capital requirements will

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[19] *See*, for example, comments on this NOPR submitted to the Board by Calpine Corporation (December 13, 2016), Novelis Inc. (December 21, 2016), American Wind Energy Association (December 19, 2016), The U.S. Chamber of Commerce (January 5, 2017), and many others.

[20] *See* NOPR, 81 Fed.Reg. at 67222.

[21] *See* Section III.A.1.d and Section IV.B.1 of the SIFMA Letter.

[22] *See* the April 3, 2014 Joint Letter of American Gas Association, American Public Gas Association, Electric Power Supply Association, National Rural Electric Cooperative Association, U.S. Chamber of Commerce Center for Capital Markets Competitiveness, U.S. Chamber of Commerce Institute for 21st Century Energy regarding the ANPR. *See* also the January 29, 2014 Letter of the Center for Capital Markets Competitiveness regarding the ANPR (including a letter from 33 companies and trade associations expressing concern about reduction of liquidity in market place). Both letters are available at https://www.federalreserve.gov/.

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cause a ripple effect on the ability of those FHCs or their affiliates to offer traditional financing products to market participants, because both the FHCs and the market participants will be less able to adequately hedge.

- Financial entities involved in physical commodity activities undertake extensive risk analysis, not just of the creditworthiness of their counterparties, but also of the safety and soundness of processes, systems and equipment used by them. In addition, to the extent they have an insurable interest in a physical commodity, they procure insurance for potential loss of the commodity, liability damages, and litigation. Many have in-house engineering teams and work with highly qualified third party providers that analyze a broad range of facts and circumstances relating to the assets and the operations of their clients. Those engineering reports are used to make risk assessments, set required insurance levels, and develop internal policies and procedures to ensure risks are properly managed and mitigated.

- "Main Street" companies' cash management, leverage and liquidity considerations drive them to seek innovative, customized, complex, and hybrid products that combine financing facilities with physical commodity arrangements. Examples include inventory carry transactions, asset inventory monetizations, commodity forwards, commodity repos, pre-pay and post-pay structures, and others. These custom products, because of their complexity, also tend to produce higher revenue and better return on capital for the banks than traditional lending. In fact, financial entities will often provide a traditional loan only because they expect additional revenue from these custom products. Creating disincentives for FHCs to provide custom, complex structures would reduce their appetite to offer traditional loans.

- The Proposed Rule is overly broad and therefore does not "make regulation efficient, effective, and appropriately tailored" as required by a recent Executive Order;[23]

- Although the stated goal of the Proposed Rule – to lessen the legal, reputational and financial risks to FHCs associated with the conduct of physical commodity trading activities – is admirable, by focusing the nexus of regulation on the commodities, rather than on specifically-targeted activities related to those commodities, the Proposed Rule casts too wide a net, capturing many activities that are not especially risky.

[23] Presidential Executive Order on Core Principles for Regulating the United States Financial System, Sec. 1(f), February 3, 2017.

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- Specifically, as we explain in greater detail in Section III below, this overly broad approach applies the proposed capital requirements to nearly every commodity, instead of to just the supposedly "dangerous" commodities that the Board intended.

- Applying the capital requirements so broadly will reduce the appetite of FHCs to offer products in physical commodities, drive some FHCs out of the market altogether, and cause others to increase their price for such commodities in order to recoup some of the increased capital costs.

- The absence, or significant reduction, of FHCs in physical commodity markets would tend to force market participants seeking physical hedging or financing solutions to deal with entities that are unregulated and likely (i) less sophisticated; (ii) less creditworthy; (iii) prone to having less robust risk management policies and procedures; (iv) prone to offering the services at a higher cost because they don't have a broad banking and financing relationship with the market participant; and (v) based off-shore. These factors would likely result in increased costs and risks being passed on to the "real economy" that the Proposed Rule purports to protect.

For all the foregoing reasons set forth in Sections I and II of these Comments, the IECA respectfully submits that the Board should reconsider and withdraw its Proposed Rule or, failing that, materially modify the Proposed Rule and re-open it for further comment via a new notice of proposed rulemaking.

III. If the Board, Notwithstanding Our Comments in Sections I and II Above, Elects To Issue a Final Rule In This Proceeding, Then The Proposed Rule Must Be Revised Substantially.

The Board proposes overly broad regulations that will inadvertently sweep *virtually all commodities* into the heightened risk category of "covered physical commodities" because the proposed definition of that term includes both substances that are themselves commodities (such as silver) and substances that are ubiquitous in the environment and are therefore present in virtually all agricultural and fuel commodities. This over-breadth is inherent in the Board's approach to defining "covered physical commodity" (hereinafter, the "Proposed Definition") and cannot be corrected through simple editing.

Instead of an overly broad definition that is effectively a "one-size-fits-all" solution, the Board should list the commodities and the activities with respect to those commodities that it believes should be covered based on record evidence of substantial risks to the safety and soundness of FHCs or the financial system generally.

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1. The Proposed Definition Is Overly Broad and Will Cover Virtually All Commodities

A. The Proposed Definition is overly broad because it incorporates lists from three federal environmental statutes—the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), the Clean Air Act ("CAA"), and the Oil Pollution Act ("OPA")—as well as federal regulations "interpreting" those statutes.[24] These lists are exceedingly broad in scope. The CERCLA hazardous substances list contains hundreds of specific elements and chemicals as well as many broad categories of compounds. *See* 40 C.F.R. § 302.4. The CAA's list of Hazardous Air Pollutants ("HAPs") includes almost 200 specific substances and categories, many of which overlap with the CERCLA list. *See* 42 U.S.C. § 7412(b).[25] The OPA covers all "oil of any kind,…" meaning all petroleum and nonpetroleum forms of oil (such as crude oil, refined products, vegetable oil, etc.). *See* 33 U.S.C. § 2701(23).

Furthermore, the Proposed Definition does not have any *de minimis* threshold. It includes all physical commodities "a component of which is" named on one of the above lists. The common dictionary definition of "component" includes "a constituent part; element; ingredient" without any threshold or limitation. *See* http://www.dictionary.com/browse/component. We are not aware of record evidence that would permit the Board to develop a *de minimis* threshold. Creating such a threshold would likely require detailed scientific evidence concerning the chemical composition of all physical commodities and an analysis of the risks posed by those commodities' constituents. The Board does not likely have the expert competency to make those determinations given the nature of the inquiry.

However, in the absence of such a *de minimis* threshold the Proposed Definition *covers virtually all physical commodities of every type*. For example:

- Some precious commodity metals (such as silver) and nonprecious commodity metals (such are copper and zinc) are themselves CERCLA hazardous substances.

- *Nonpetroleum* commodity oils (such as soy and cottonseed) as well as petroleum oils meet the OPA definition of "oil."

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[24] The Proposed Definition misuses the term "interpreting." The rules promulgated by the Environmental Protection Agency listing various hazardous and other substances are *not* "interpretive rules," they are legislative rules.

[25] EPA's "list of lists," while not a substitute for the statutes and regulations, provides a summary of what is included in the CERCLA and CAA lists (as well as other lists). *See* https://www.epa.gov/sites/production/files/2015-03/documents/list_of_lists.pdf.

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- Most if not all agricultural commodities contain small amounts of CERCLA hazardous substances such as arsenic (which is also a HAP) that are naturally-occurring and ubiquitous in the environment.

- Other listed metals such as mercury are typically present in some concentration in fossil fuels and also many foods, including fish.

Consequently, the Proposed Definition is not tailored in any meaningful way to the concerns the Board expressed in the preamble to the NOPR (e.g., concerns about environmental remediation liability for disasters involving certain commodities such as crude oil).

Finally, we are unaware of any other federal list of environmental contaminants that would not suffer from some or all of the same general flaws identified above. For example, the list of "extremely hazardous substances" under the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. § 11002(a)(2), is long and includes many substances that are also on the CERCLA hazardous substances list. 40 C.F.R. Part 355 App. A.

B. The Proposed Definition is also overly broad and unworkable because it covers all substances that can give rise to state remediation liability. The Board does not illustrate the scope of this requirement, nor could it without conducting a 50-state survey and compiling a list of all state contaminants (of which there is no evidence in the NOPR). In order to comply with the Proposed Rule, FHCs will require certainty as to whether a commodity is covered in the definition or not. The reference to state contaminants eliminates any possibility of certainty because there is no centralized mechanism to understand what is covered. Furthermore, because commodities are traded and transported in interstate commerce, financial holding companies would always be constrained by the requirements of the state with the most expansive or stringent list, because the commodities at issue must be suitable for trade and transport anywhere, not just in certain states.

C. The Proposed Definition is unworkable as written and cannot be corrected with simple editing. Instead, the Board should focus on providing a clear list of those commodities that are expressly covered by the definition, and the activities with respect to those commodities that implicate the Board's concerns. The list should *only* include commodities for which the Board has developed the requisite record of evidence of substantial risks to the safety and soundness of financial holding companies or the financial system generally. This approach would provide clear guidance to the regulated community and the public at large.

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2. A "One-Size-Fits-All" Approach Does Not Adequately Account For Material Differences In the Risks Inherent In Different Commodities

The practical effect of the breadth of the Proposed Definition is to in turn make the Proposed Rule itself extremely broad, to the point that it becomes in effect a "one-size-fits-all" approach to regulation – if nearly every commodity could conceivably fall under the Proposed Definition, then nearly all commodities will be treated the same under the proposed capital requirements. In effect, a barrel of polychlorinated biphenyl (PCB) would be treated the same as a cargo of salmon (which unfortunately also contains PCB).[26] Instead, if the Board believes that further constraints on FHC participation in physical commodities markets are warranted, the regulation of the commodity should be proportional: proportional to the risk inherent in the commodity itself; proportional to the risk inherent in the activity in question, and proportional to the degree of the FHC's participation in that activity.

Nor should the Board, in making these determinations, make any assumptions that certain commodities or activities are inherently risky. Consider the example of one of the most important and heavily traded commodities in North America, natural gas. The identified environmental risks that the Board seeks to address do not apply to natural gas in the same manner or to the same extent as they do to many other commodities of concern. Because natural gas is a gas when used, traded and transported at atmospheric pressure, releases of gas into the environment do not contaminate water or land, and thus natural gas incidents do not typically give rise to significant remediation liability. Furthermore, including natural gas as a "covered physical commodity" would unduly burden natural gas markets in a manner not supported by the record.

Natural gas in any form (including compressed and liquefied) is composed of light hydrocarbons, primarily methane, and is gaseous at atmospheric pressure. Thus, a release of natural gas in any form into the environment will ultimately be disbursed into the ambient air. Such a release does not pose a risk of contamination of soil, sediment, or water bodies, and therefore regulatory regimes that provide liability for penalties, remediation, and other forms of damages, such as CERCLA and OPA, for releases to land and water would not typically apply to natural gas. Furthermore, the CAA has typically not been applied to releases of natural gas commodities. That Act focuses more on known or anticipated emissions from sources of air pollution such as power plants, chemical plants and the like—not from unanticipated incidents involving natural gas as a commodity product.

Further, the types of activities in which FHCs typically engage (for most, wholesale trading, and for some, short-term storage at or near production or generation facilities) are less susceptible to liability claims than other types of natural gas activities (such as exploration, production, refining, retail distribution or the operation of pipelines), and therefore such activities should not be treated equivalently.

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[26] See 2004 study by the University of Albany finding chemical contaminants in farmed salmon. Available at http://www.albany.edu/news/releases/2004/jan2004/salmon_risks.htm .

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Although we do not believe that natural gas, or any commodity, should be covered by the final definition, tailoring the rule to allow and encourage participation by FHCs in physical wholesale natural gas markets would also: (i) promote the public policy of promoting the production of a clean, domestically produced fuel stock; (ii) provide much-needed market making and market liquidity; (iii) enable efficient price formation; (iv) encourage the availability of risk management solutions; (v) facilitate the financing of infrastructure and projects; (vi) promote the extension of credit; and (vii) facilitate industry competition.

The example of natural gas is just one – one of many – examples of a commonly traded commodity that should not be treated by the Board on a "one-size-fits-all" basis. As stated above, although we prefer that no final rule be issued at all because we believe the Proposed Rule is unnecessary and counterproductive; if the Board does press ahead with a rule further limiting the participation of FHCs in physical commodities markets, we implore the Board to carefully tailor that rule to the specific commodity, activity and degree of participation of the FHC in the activity.

IV. About the IECA.

The IECA is an association of over 1,400 credit, risk management, legal and finance professionals that is dedicated to promoting the education and understanding of credit and other risk management-related issues in the energy industry. For over ninety years, IECA members have actively promoted the development of best practices that reflect the unique needs and concerns of the energy industry.

The IECA seeks to protect the rights and advance the interests of a broad range of domestic and foreign energy market participants, representatives of which make up the IECA's membership. These entities finance, produce, sell, and/or purchase for resale substantial quantities of various physical energy commodities, including electricity, natural gas, oil and other energy-related physical commodities necessary for the healthy functioning of the energy markets and the "real economy". Many of these energy market participants rely on contracts with FHCs to help them mitigate and manage (i.e., hedge) the risks of physical energy commodity price volatility to their commercial energy businesses, which millions of Americans and the American economy rely on for safe, reliable and reasonably-priced energy supplies.

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V. Conclusion.

The IECA appreciates the opportunity to provide these Comments and would welcome the opportunity to discuss these comments further should you require any additional information on any of the topics discussed herein.

Please direct correspondence concerning these comments to:

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Yours truly,
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