

[REDACTED]

Van: [REDACTED]
Verzonden: woensdag 2 mei 2012 12:20
Aan: [REDACTED]
Onderwerp: RE: [REDACTED]

Dear Mr [REDACTED]

I would like to you thank for the attached information. I will certainly not hesitate to get in touch with you for further questions or clarifications.

Best regards,

Van: [REDACTED]@jpmchase.com]
Verzonden: woensdag 2 mei 2012 11:48
Aan: [REDACTED]
CC: [REDACTED]
Onderwerp:

Dear Mr [REDACTED]

As per short introduction, I work for [REDACTED] in JPMorgan's Government Relations department in London. Together with a few of our JPMorgan colleagues, [REDACTED] last week met you and [REDACTED] of the AFM for a discussion on MiFID. Thank you very much again for your time, which we very much appreciate.

[REDACTED] mentioned your interest in the ongoing debate in the commodities space (position limits vs position management, etc). Unfortunately, we are not aware of any papers comparing position management to position limits, which would of course be interesting. But there are several summaries of Dodd-Franks's position limits rule, but that rule is the subject of litigation that goes to its essence – as you know.

I attach, in case of interest

- a) the abovementioned complaint
- b) a short position limits backgrounder (by ISDA and Sifma)
- c) a short position limits factsheet (by ISDA and Sifma)
- d) our JPMorgan "flagship" research report on the drivers of commodity prices and price volatility (explained by fundamentals rather than market "financialisation")
- e) a powerpoint slide showing the aggregate 2011 market shares by CFTC trader category across 26 commodity markets. The Managed Money long had a 9% share. This is a simple pie chart of CFTC data. It involves no estimation by us.

I hope this is helpful. Please do not hesitate to get in touch, should you have any further questions, need for clarifications of our arguments or additional data/analysis (which might of course not be readily available, but we are happy to potentially work on).

Best regards,

[REDACTED]

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[REDACTED]

Van: [REDACTED]
Verzonden: donderdag 31 mei 2012 10:01
Aan: [REDACTED]
CC: [REDACTED]
Onderwerp: RE: Position limits vs management

Dear [REDACTED]

I would like to thank you very much for setting up the conference call. A colleague of mine from the Ministry of Finance/Financial Markets Directorate, [REDACTED] will join us. I'm looking forward to speaking with you and the others tomorrow.

Best regards,

[REDACTED]

Van: [REDACTED]@jpmchase.com]
Verzonden: woensdag 30 mei 2012 18:49
Aan: [REDACTED]
Onderwerp: RE: Position limits vs management

Dear [REDACTED]

For our conference call on Friday, 1st June, at 12pm CET, could I ask you to please use the following dial-in details:

Phone number: [REDACTED]
Participant passcode: [REDACTED] then #

Please do let me know if you prefer using your own conference details, and I will let me colleagues know.

Talking about which, the following will participate (in addition to myself from Government Relation):

1. [REDACTED]
2. [REDACTED]
3. [REDACTED]

Could you maybe let me know if anybody else will be joining us on your side?

I look forward to speaking with you on Friday.

Best,

[REDACTED]

From: [REDACTED]
Sent: 30 May 2012 15:35
To: [REDACTED]
Subject: Re: Position limits vs management

Great, thank you [REDACTED]

It also seems to work for us and I will send out the dial-in details shortly, together with a list of those colleagues participating in the call on our side (two of which you already know: [REDACTED] and [REDACTED]).

Best,
[REDACTED]

From: [REDACTED]@minfin.nl]
Sent: Wednesday, May 30, 2012 08:23 AM
To: [REDACTED]
Subject: RE: Position limits vs management

[REDACTED]

Upcoming Friday (1st June) 12pm CET would suit me.

Best Regards,
[REDACTED]

Van: [REDACTED]@jpmchase.com]
Verzonden: dinsdag 29 mei 2012 18:04
Aan: [REDACTED]
Onderwerp: RE: Position limits vs management

[REDACTED]

Apologies for contacting you yet again. But I have done a quick round of my colleagues and it seems like this upcoming Friday would be a good day for everyone. Would that suit you?

If yes, would it be possible to have the call anytime from 12pm CET onwards, with the exception of maybe 2.30pm to 4pm (although this could also work if needed)? As one of the colleagues is US based, however, we unfortunately couldn't start before 6am US time.

Please just let me know if that works. I am also happy to look into Thursday or – alternatively – next week, but given that Monday/Tuesday is a bank holiday in the UK it might be a good idea to talk this week, so that you can advance on your work as well.

Happy to take on board any of your preferences.

Best,
[REDACTED]

From: [REDACTED]
Sent: Tuesday, May 29, 2012 3:08 PM

To: [REDACTED]
Subject: RE: Position limits vs management

Dear [REDACTED]

Thanks for getting back to me, I'd be happy to set up this call. Could I trouble you with giving me an overview of your availability for the next days, so that I can run this by my colleagues – in case you have a preference for day/time?

I will in the meantime also ask my colleagues, in order to make a suggestion to you if that is more helpful to you.

Best regards,

From: [REDACTED]@minfin.nl]
Sent: Tuesday, May 29, 2012 12:20 PM
To: [REDACTED]
Subject: RE: Position limits vs management

Dear [REDACTED]

Yes, I'm very interested in such a conference call.

Best regards,

Van: [REDACTED]@jpmchase.com]
Verzonden: donderdag 24 mei 2012 19:56
Aan: [REDACTED]
Onderwerp: Position limits vs management

Dear Mr [REDACTED]

Thank you for your time on the phone earlier today. It was good to chat about the current debate on position limits vs management in the Netherlands. We would be happy to help where we can with the paper you are preparing for your Minister, and I have already alerted our experts.

What they would suggest, in a first instance and to be more efficient, is a quick and informal conference call that would allow them to run you through how this works in Dodd-Frank and also LME & LIFFE in the EU. From there, and with potential follow-up questions you may have, they could then go back and put pen to paper if that is helpful.

Is that something that would be of interest to you? If yes, I'd be happy to set this up.

Best,

[REDACTED]

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[REDACTED]

Van: [REDACTED]@jpmchase.com]
Verzonden: vrijdag 1 juni 2012 18:23
Aan: [REDACTED]
CC: [REDACTED]
Onderwerp: LIFFE & LME documents
Bijlagen: LIFFE Position Management lo12-09-pdf.zip.html

Dear [REDACTED]

I hope today's call was useful for you and Laurens; we very much appreciate your reaching out to us on this issue.

As discussed, please find attached the LIFFE document Nigel referred to in his remarks. For the LME "lending guidance" he mentioned, please use the below link to LME's website showing the principal compliance notices which start with Lending Guidance and then follow on to reporting and publication of information, and then the LME approach to accessing information in the OTC markets: http://www.lme.com/regulation_rules_notices.asp

I am copying both [REDACTED] and [REDACTED] who I am sure would be happy to answer any further questions you may have.

Best regards – and have a good weekend,
[REDACTED]

[REDACTED]

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[REDACTED]

Van: [REDACTED]@jpmchase.com]
Verzonden: woensdag 13 juni 2012 16:16
Aan: [REDACTED]
Onderwerp: RE: meeting 10th juli in A'dam

Dear [REDACTED]

Thank you very much for getting back to me so quickly. I am happy to hear that a) there is interest and b) you'd apparently be happy to come to Amsterdam. I forgot to mention that we'd be happy to make our way to The Hague (but would have to ask you for best travel ideas ☺).

I am pretty sure that 12-13.30 CET should work and will confirm as soon as possible. I would be grateful if you could block the date in your agenda in the meantime.

All best, and good luck for tonight. May the better team win.

[REDACTED]

From: [REDACTED]@minfin.nl]
Sent: Wednesday, June 13, 2012 2:51 PM
To: [REDACTED]
Subject: FW: meeting 10th juli in A'dam

Dear [REDACTED]

I've just been informed – a minute ago – that I and my colleagues of the Ministry of Finance have to be back in The Hague on the 10th of July at 15.00 pm CET. So can the meeting on that date take place from 12.00 – 13.30 pm CET? Does that work for you?

Best regards,

[REDACTED]

Van: [REDACTED]
Verzonden: woensdag 13 juni 2012 15:34
Aan: [REDACTED]
CC: [REDACTED]@afm.nl; [REDACTED]
Onderwerp: meeting 10th juli in A'dam

Dear [REDACTED]

We called last Friday about the meeting in July in Amsterdam with one of your commodities expert from New York. I've just checked with my colleagues of the AFM – the Dutch supervisor – [REDACTED] and [REDACTED]. The 10th of July, after 12.00 pm CET, works for them. My counterpart from the Dutch Ministry of Economic affairs, Agriculture and Innovation (EL&I), [REDACTED] isn't available on that date (he's on his annual leave). As I understand he will be deputized by one of his EL&I-colleagues.

Best regards,

Van: [REDACTED]@jpmchase.com]

Verzonden: vrijdag 1 juni 2012 18:23

Aan: [REDACTED]

CC: [REDACTED]

Onderwerp: LIFFE & LME documents

Dear [REDACTED]

I hope today's call was useful for you and Laurens; we very much appreciate your reaching out to us on this issue.

As discussed, please find attached the LIFFE document [REDACTED] referred to in his remarks. For the LME "lending guidance" he mentioned, please use the below link to LME's website showing the principal compliance notices which start with Lending Guidance and then follow on to reporting and publication of information, and then the LME approach to accessing information in the OTC markets: http://www.lme.com/regulation_rules_notices.asp

I am copying both [REDACTED] and [REDACTED] who I am sure would be happy to answer any further questions you may have.

Best regards – and have a good weekend,
[REDACTED]

[REDACTED]

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[REDACTED]

Van: [REDACTED]@jpmchase.com]
Verzonden: woensdag 18 juli 2012 18:14
Aan: [REDACTED]
Onderwerp: RE: meeting 10th juli in A'dam

Hi [REDACTED]

It was a pleasure to meet you in person last week. Thank you very much for your time, the interesting discussion and your help with coordinating with the AFM.

As promised, we'll provide you with the deck soon. But given that [REDACTED] is currently still "on the road", he is having issues with sending it from his ipad due to restrictions on the size of the file. I don't think I would have thought that this is an issue in our times of advanced technology.

Anyhow, you and [REDACTED] will have it soon. We hope the session was interesting for you as well.

Needless to say that we stand ready to help you out any way we can. Please don't hesitate to get in touch.

Best regards,
[REDACTED]

From: [REDACTED]@minfin.nl]
Sent: 09 July 2012 09:24
To: [REDACTED]
Subject: RE: meeting 10th juli in A'dam

Hi [REDACTED]

It will still be [REDACTED] and me. [REDACTED] will be deputized by one of his colleagues from the AFM. And I am afraid that we will not be joined by someone from EL&I.

I'll see you tomorrow in A'dam.

Best regards,
[REDACTED]

Van: [REDACTED]@jpmchase.com]
Verzonden: vrijdag 6 juli 2012 16:06
Aan: [REDACTED]
Onderwerp: RE: meeting 10th juli in A'dam

Hi [REDACTED]

My apologies for contacting you yet again, but do you think you could inform me about the list of participants on your side?

Will it still be you, [REDACTED] and [REDACTED] from the AFM and a colleague from the EL&I?

Many thanks, looking forward to next week.
[REDACTED]

From: [redacted]@minfin.nl]
Sent: 29 June 2012 15:37
To: [redacted]
Subject: RE: meeting 10th juli in A'dam

Van: [redacted]@jpmchase.com]
Verzonden: vrijdag 29 juni 2012 16:22
Aan: [redacted]
Onderwerp: RE: meeting 10th juli in A'dam

[redacted]
[redacted]
[redacted]
[redacted]

Thanks for confirming the address – and thanks to you and all your colleagues willing to travel up from The Hague.
I am very happy to this time actually being the one accompanying [redacted] so I hope to get to meet you in person.

Here are the full names of the “delegation”:
[redacted]
[redacted]
[redacted]
[redacted]
[redacted]
[redacted]

From: [redacted]@minfin.nl]
Sent: 29 June 2012 15:17
To: [redacted]
Subject: RE: meeting 10th juli in A'dam

Hi [redacted]

Thanks for your confirmation of the 10th July meeting. Yes, the address of the Autoriteit Financiële Markten (AFM) is [redacted] By the way, will you join us in Amsterdam and what is the full name your colleague [redacted]?

[redacted]

Best regards,
[redacted]

Van: [redacted]@jpmchase.com]
Verzonden: vrijdag 29 juni 2012 16:04
Aan: [redacted]
Onderwerp: RE: meeting 10th juli in A'dam

Dear [redacted]

I hope all is well.

Many thanks again for helping to set up this joint meeting between [REDACTED] and the Ministry of Finance / Ministry of Economic Affairs / AFM in a couple of weeks time. Can in just confirm that we will come to the offices of the AFM on the 10th of July at 12.00pm CET? The address is [REDACTED] right?

Please do not hesitate to get in touch if you have any further question / need further information.

Best,
[REDACTED]

From: [REDACTED]@minfin.nl]
Sent: 13 June 2012 14:34
To: [REDACTED]
Cc: [REDACTED]@afm.nl; [REDACTED]
Subject: meeting 10th juli in A'dam

Dear [REDACTED]

We called last Friday about the meeting in July in Amsterdam with one of your commodities expert from New York. I've just checked with my colleagues of the AFM – the Dutch supervisor – [REDACTED] and [REDACTED]. The 10th of July, after 12.00 pm CET, works for them. My counterpart from the Dutch Ministry of Economic affairs, Agriculture and Innovation (EL&I) [REDACTED] isn't available on that date (he's on his annual leave). As I understand he will be deputized by one of his EL&I-colleagues.

Best regards,
[REDACTED]

Van: [REDACTED]@jpmchase.com]
Verzonden: vrijdag 1 juni 2012 18:23
Aan: [REDACTED]
CC: [REDACTED]
Onderwerp: LIFFE & LME documents

Dear [REDACTED]

I hope today's call was useful for you and [REDACTED]; we very much appreciate your reaching out to us on this issue.

As discussed, please find attached the LIFFE document [REDACTED] referred to in his remarks. For the LME "lending guidance" he mentioned, please use the below link to LME's website showing the principal compliance notices which start with Lending Guidance and then follow on to reporting and publication of information, and then the LME approach to accessing information in the OTC markets: http://www.lme.com/regulation_rules_notices.asp

I am copying both [REDACTED] and [REDACTED] who I am sure would be happy to answer any further questions you may have.

Best regards – and have a good weekend,
[REDACTED]

[REDACTED]

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[REDACTED]

Van: [REDACTED]@jpmchase.com]
Verzonden: maandag 10 september 2012 22:57
Aan: [REDACTED]
CC: [REDACTED]
Onderwerp: RE: MiFID: Thank you & follow-up on pre-trade transparency

Dear [REDACTED] dear [REDACTED]

I hope you are well, and that you have been able to successfully recharge your batteries over the summer. I think we are looking at a very busy autumn!

It has been about 4 months since my colleagues visited your offices in Amsterdam to discuss the MiFID 2/MiFIR file, and we have in the meantime seen quite a bit of movement, from the Danish to the current Cypriot compromise text. Unfortunately I haven't yet had the chance to meet you, Hans. But it was good seeing you in July, [REDACTED]

With this email, I wanted to quickly

a) send across some data, which might be interesting (and helpful?) for you and your colleagues, specifically on the point of the "proprietary capital ban" on OTFs – where, as you would probably imagine, we are concerned about a possible compromise (like in current Council wording) that proposes to allow an exemption for "matched principle trading" only.

b) reiterate our willingness to assist and help with data or further analysis wherever we can. During our visit, we debated market structure issues, pre-trade transparency calibrations and also quickly touched upon commodity trading issues (position management and position limits). If there is an interest on your side, we would be very happy to engage in another conversation, either on the same issues or on items like 3rd country provisions, algo trading and HFT, or the reclassification of custody as an investment service (where we have seen your very helpful paper), amongst other things.

Please do not hesitate to reach out and let us know if we can be of service.

With respect to the data I mentioned:

You have of course already heard our arguments (and those of others) on the issue, stating that it is imperative that clients have the option to interact with all forms of liquidity within an OTF. And that we believe the European Commission's proposed own capital ban overlooks the essential role that investment firms' house capital plays in facilitating client business, by curtailing the ability of market makers to take on principal risk, which is critical in particular to the effective functioning of those markets featuring a low "participant to instrument" ratio, such as bond markets. This ability enables market makers to offer investors "immediacy" of execution in markets otherwise lacking a natural continuous two-way flow of buy and sell interest.

And you may also have seen FSA estimates that 95% of dealer-to-client trades in the European interest rate swaps market are against the dealer's own capital.

However, following this line of thought, we felt it would make sense to underline our arguments with a closer look at proprietary data from our fixed income business:

- For European Government Bonds in 2011, of all the tens of thousands of client trades we did, both electronically and via voice, only 14.3% were multiple trades in the same bond on the same day. This theoretical match rate ignores time ("does a buyer want to buy at the same time a seller wants to sell?") and size ("does a buyer want to buy exactly as much as a seller wants to sell?").

- In reality the matched rate will be much lower than 14.3% as time of day and size will eliminate most of these theoretical matches: Capital commitment is required to facilitate client trading where one client wants to buy in the morning and another sell in the afternoon or one client wants to buy in €1 million and another client sell in €10 million. Re-running the figures taking into consideration size including a 10% tolerance (i.e. assuming a client's willingness to deal either 10% of the notional more, or 10% of the notional less than what he/she "really" wanted to trade) and the match rate goes down to only 0.75%.
- If we also took into account time, the figure would be even lower. So the conclusion, based on these facts, is: matched principal trading alone does not provide any adequate support for client trading needs in fixed income.
- The same (or "worse") holds true for the corporate bond market, given that the number of possibly traded instruments (in relation to participants trading them) is even greater.

You can see why we believe the proposals on prohibiting use of own capital would interfere with the way the markets have naturally developed over time to assist that need for liquidity (by firms using their own capital to take the risk on a short term basis). So even with possible changes towards "matched principal trading" exemptions, this would mean a significant withdrawal of liquidity in such markets, and in turn entail a risk that commercial counterparties would find it more difficult to hedge their risks at the right time or at the right price due to the reduced liquidity in the markets. Reduced liquidity would in turn also make it more expensive to hedge risks, as you know.

I guess you are fully aware of these arguments, but just to reiterate that allowing the use of house capital in an OTF – subject to client awareness / opt-in as we would propose – would maximise client choice and preserve liquidity, minimise costs, allow innovation. We believe that conflicts of interest that may arise are best prevented by specific controls and anti-trust rules rather than an outright ban.

We would very much appreciate if you could take these arguments into consideration during your work on the file.

With many thanks for your hard work and my best regards,

[REDACTED]

From: [REDACTED]@afm.NL]
Sent: 29 May 2012 10:57
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: MiFID: Thank you & follow-up on pre-trade transparency

Dear [REDACTED]

Many thanks for your mail and attached suggestions for non-equity pre-trade transparency. I will share it with my colleagues and we will have a look at them.

The discussions three weeks ago were indeed very useful.

We appreciate your organization of the meeting and the time your colleagues spent to travel to Amsterdam and visit us.

Best regards,

[REDACTED]

From: [REDACTED]@jpmchase.com]
Sent: dinsdag 22 mei 2012 17:19
To: [REDACTED]
Subject: MiFID: Thank you & follow-up on pre-trade transparency

Dear [REDACTED] and [REDACTED]

We very much appreciated your interest in our key concerns and arguments around MiFID 2/MiFIR, and your time for discussions about two weeks ago. We hope it proved helpful to you as well. What a pity I couldn't attend, but my colleagues tell me it was interesting for them to hear your views on some of the topics of this large-scale review. As mentioned, please do not hesitate to reach out with further questions, requests for data or general background information on our thinking.

One of the central themes of our current "MiFID story" is the need for an appropriate liquidity calibration for pre-trade transparency issues, in particular in the non-equity market (and in particular in the SI framework). We refer to it as a "hook" in MiFIR Article 17 that would reference "sufficient liquidity" in the Level 1 text.

We thought that maybe there was an interest on your side to see some concrete suggestions as to how we think MiFIR Recitals 17/18 and Article 17 could be worded, in order to allow the reaping of the desired benefits from increased transparency without causing disproportionate (negative) market impacts. Our experts have put pen to paper and came up with the attached pdf file, which may be interesting for your further work on the subject matter.

Again, thank you very much for having taken the time to see us. We would be happy to cooperate with you going forward, on any of the issues covered in MiFID 2/MiFIR.

Best regards,
[REDACTED]

[REDACTED]

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website <http://www.afm.nl>.

If you are unable to access the link, please dial [REDACTED]
[REDACTED]

Additional information is available on the website
<http://www.afm.nl>.

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[REDACTED]

Van: [REDACTED]@jpmchase.com]
Verzonden: dinsdag 2 oktober 2012 17:23
Aan: [REDACTED]
Onderwerp: RE: MiFID/R commodity derivatives
Bijlagen: 9-28 opinion granting ISDA's motion for summary judgment.pdf.html;
Document70.pdf.html; Position Limits Opinion SullCrom.pdf.html

Hi [REDACTED]

Good to hear from you, I hope all is well with you too! Things are fine here, but – as you can imagine – it is a very busy autumn...

Thanks for reaching out on the below, and apologies for my delay in getting back to you. You are right in what you read:

On Friday, Judge Robert Wilkins of the District of Columbia District Court ruled that the CFTC erred in adopting its final position limit rule (District Court's are the trial courts of the U.S. federal court system and have jurisdiction to hear nearly all categories of federal cases, including both civil and criminal matters). Judge Wilkins struck the rule and required the CFTC to start over. As a result, the first phase of position limits on OTC derivatives will not begin on October 12th and is postponed indefinitely.

Judge Wilkins based his ruling on his conclusion that the CFTC "fundamentally misunderstood and failed to recognize the ambiguities in the [Dodd-Frank] statute." In particular, the CFTC argued that Congress required it to impose position limits, but Judge Wilkins could not find such a requirement in his analysis of the statute. The statute requires the CFTC to determine that position limits are necessary, which the Judge determined the CFTC did not do: *"The agency failed to bring its expertise and experience to bear when interpreting the statute and offered no explanation for how its interpretation comported with the policy objectives of the [Dodd-Frank] Act."*

Some have suggested that his analysis might apply to circumstances in other rules that the CFTC has put forth, including the cross border guidance. Judge Wilkins invalidated the position limits rule without having to address the cost-benefit analysis issue, which some have suggested may be a weakness in some CFTC rulemakings. It is worth noting also that Judge Wilkins was appointed by President Obama.

In terms of next steps, it is unclear whether the CFTC will appeal this decision. It is likely that, as a first step, the CFTC will revisit position limits by establishing a process to determine that they are necessary, as required under the statute.

Please find attached the opinion and related court order. You might also be interested in the attached law firm memo.

I hope this helps. Should you have further questions, please do not hesitate to reach out.

Best regards,
[REDACTED]

From: [REDACTED]@minfin.nl]
Sent: 02 October 2012 12:14
To: [REDACTED]
Subject: RE: MiFID/R commodity derivatives

Hi [REDACTED]

I hope all is well. I have read that a judge in Washington ruled on the complaint against the CFTC rule on position limits. Do you know if of that ruling has already been published (I can't find it on the internet)?

Best regards,

[REDACTED]
NL – Ministry of Finance

Van: [REDACTED]@jpmchase.com]

Verzonden: woensdag 2 mei 2012 11:48

Aan: [REDACTED]

CC: [REDACTED]

Onderwerp:

Dear [REDACTED]

As per short introduction, I work for [REDACTED] in JPMorgan's Government Relations department in London. Together with a few of our JPMorgan colleagues, [REDACTED] last week met you and [REDACTED] of the AFM for a discussion on MiFID. Thank you very much again for your time, which we very much appreciate.

[REDACTED] mentioned your interest in the ongoing debate in the commodities space (position limits vs position management, etc). Unfortunately, we are not aware of any papers comparing position management to position limits, which would of course be interesting. But there are several summaries of Dodd-Franks's position limits rule, but that rule is the subject of litigation that goes to its essence – as you know.

I attach, in case of interest

- a) the abovementioned complaint
- b) a short position limits backgrounder (by ISDA and Sifma)
- c) a short position limits factsheet (by ISDA and Sifma)
- d) our JPMorgan "flagship" research report on the drivers of commodity prices and price volatility (explained by fundamentals rather than market "financialisation")
- e) a powerpoint slide showing the aggregate 2011 market shares by CFTC trader category across 26 commodity markets. The Managed Money long had a 9% share. This is a simple pie chart of CFTC data. It involves no estimation by us.

I hope this is helpful. Please do not hesitate to get in touch, should you have any further questions, need for clarifications of our arguments or additional data/analysis (which might of course not be readily available, but we are happy to potentially work on).

Best regards,

[REDACTED]

[REDACTED]

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