

Pursuant to United States Court of Appeals for the District of Columbia Circuit Rule 29(b), the “Futures Group,” consisting of the Futures Industry Association, Inc.(“FIA”), the Managed Funds Association, Inc.(“MFA”), the New York Mercantile Exchange, Inc (“NYMEX”), the CME Group, Inc (“CME”), and the International Swaps and Derivatives Association, Inc. (“ISDA”) seeks leave to file a response, amicus curiae, in support of petitioner Amaranth Advisors L.L.C.’s (“Amaranth”) emergency motion for a stay pending petition and motion for expedited consideration.

In this case, the Federal Energy Regulatory Commission (“FERC”) has brought an administrative proceeding claiming that Amaranth manipulated the price of natural gas futures contracts. Even if Amaranth engaged in all the misconduct FERC alleges, FERC patently lacks jurisdiction to proceed with its case. Since 1974, Congress has specified that “exclusive jurisdiction” over the regulation of futures trading in the U.S. resides with the Commodity Futures Trading Commission under Section 2(a)(1)(A) of the Commodity Exchange Act, 7 U.S.C. § 2(a)(1)(A). While other agencies have challenged this grant of jurisdiction over the years, every court has rejected those challenges where, as here, the CFTC has asserted its exclusive jurisdiction.

It took FERC three months to decide whether it had jurisdiction in this case. It may take FERC years to decide the merits of this case. In the interim, for the

reasons explained in our brief, the U.S. futures industry will suffer serious harm from the very evils Congress sought to eliminate when it granted the CFTC exclusive jurisdiction -- duplicative or conflicting futures trading regulation by agencies other than CFTC. The relief Amaranth requests will ameliorate that harm. An expedited review and affirmation of the exclusive jurisdiction of the CFTC will end it.

The futures industry is a major engine of the American economy: more than *\$5 trillion* worth of futures contracts and options are traded daily on futures exchanges in this country. The Futures Group represents the bulk of regulated trading in the futures industry and thus has a substantial interest in preserving the integrity of the statutory principle at stake here: U.S. futures trading should be subject only to a single set of federal regulations grounded in the CEA as administered by the CFTC.

The members of the Futures Group are as follows:

FIA

The Futures Industry Association is a national trade association. Its regular membership consists of 35 of the Nation's largest futures brokerage firms, registered with the CFTC as futures commission merchants, as required under 7 U.S.C. § 6d, and its associate membership consists of approximately 150 firms involved in virtually all other segments of the industry. FIA regular members

execute customer orders for, and provide the financial guarantees underwriting, approximately 90% of all transactions on U.S. futures markets.

MFA

The Managed Funds Association is the national trade association for the alternative investment industry. MFA members include professionals in hedge funds, funds of funds and managed futures funds, many of which are registered with the CFTC as commodity trading advisors or commodity pool operators as required under 7 U.S.C. § 6m. It is estimated that MFA members represent the vast majority of the largest hedge fund groups in the world and manage a substantial portion of the almost \$2 trillion invested in absolute return strategies.

NYMEX

The New York Mercantile Exchange, Inc. is a for-profit corporation organized under the laws of the State of Delaware. It is the chief operating subsidiary of NYMEX Holdings, Inc. As a designated contract market and a registered derivatives clearing organization regulated by the CFTC, NYMEX is the largest exchange in the world for the trading and clearing of futures and options contracts on energy and metals commodities, including the natural gas futures contracts at issue in this case.

CME

The CME Group, Inc. was formed by the merger of Chicago Mercantile Exchange Holdings Inc. and CBOT Holdings Inc. in 2007. CME Group is the

parent of the Chicago Mercantile Exchange Inc. and The Board of Trade of the City of Chicago Inc., both CFTC regulated, designated contract markets as required under 7 U.S.C. § 7. CME Group also provides services to other exchanges; of interest here, it provides order routing and execution services to NYMEX. CME Group serves the global risk management needs of its direct customers and those who rely on the price discovery performed by means of its competitive markets. Under the CFTC's jurisdiction, CME Group offers a comprehensive selection of benchmark products in most major asset classes, including futures and options based on interest rates, equity indexes, foreign exchange, agricultural commodities, energy, and alternative investment products such as weather and real estate.

ISDA

The International Swaps and Derivatives Association, Inc. is the largest global financial trade association and represents participants in the privately negotiated derivatives industry. ISDA has over 815 member institutions from 56 countries on six continents. These members include most of the world's major institutions that deal in privately negotiated derivatives, as well as many of the businesses, governmental entities and other end users that rely on over-the-counter derivatives to manage efficiently the financial market risks inherent in their core economic activities. ISDA's mission includes promoting practices conducive to the

efficient conduct of the business, including the development and maintenance of derivatives documentation, promoting the development of sound risk management practices and fostering high standards of commercial conduct.

Conclusion

For the foregoing reasons, the Futures Group respectfully requests that it be permitted to file a response, amicus curiae, in support of Petitioners' motion.

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Respectfully submitted,

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On Behalf Of
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The Managed Funds Association, Inc.
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CME Group, Inc.
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