A Phased Approach to CFTC Position Limits

Energy and Environmental Markets Advisory Committee (EEMAC) Meeting

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Analyze the Available Market Data

- Before imposing position limits, the Commission should conduct an empirical analysis of available futures and swaps data
- Absent a quantitative analysis, the Commission should phase in position limits starting with the spot month (Phase 1) and then consider non-spot month position limits thereafter (Phase 2)
- A phased approach helps mitigate against unintended consequences

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Phase 1: Spot Month Position Limits

Phase 1: Spot-month limits for the 28 core referenced contracts

- Market participants have experience with CFTC and Exchange spot-month limits for the 28 core referenced futures contracts

- FIA recommends a 9-month implementation period after finalizing the rule because market participants need time to:
  - Develop systems to monitor compliance with the new spot-month limits for futures and swaps
  - Get accustomed to the CFTC's *bona fide* hedging forms, which differ significantly from the current exchange process for *bona fide* hedging

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Phase 2: Non-Spot Month Position Limits

Phase 2: After the Commission and market participants gain experience implementing federal spot-month limits (Phase 1), the Commission should reconsider position limits outside of the spot month

- This means reconsidering non-spot month limits in a subsequent rulemaking

- Because of the limited liquidity available outside the spot month, the Commission should take care first to find that position limits outside the spot month are necessary and that the levels of any limits are appropriate

Benefits to Phasing-in Position Limits

- Allows the Commission to evaluate current futures and swaps data to understand market size and available liquidity
- Prioritizes Commission resources on the administration of spot-month limits where there may be more of a threat of manipulation than there is further out the curve
- Provides an opportunity for market participants to become accustomed to the new spot-month limit regime in advance of potential non-spot month position limits
- Provides valuable experience implementing the definition of *bona fide* hedging and the opportunity to make adjustments
- Permits further consideration of accountability levels

Accountability Levels

- Accountability levels have a proven track record of deterring excessive speculation without harming liquidity in deferred months
- The Commission has authority to impose accountability levels outside the spot month (FIA Comment Letter March 30, 2015)
- During Phase 1, the Commission should evaluate whether to propose accountability levels outside the spot month
- To conserve resources, the Commission could delegate administration of accountability levels to the DCMs and propose an implementation framework

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Authority to Phase-In Limits

- The Commission has authority to phase in limits outside the spot month
- In prior rulemakings, the Commission acknowledged that it has the discretion to phase-in position limits at a later date for contracts beyond the 28 core referenced futures contracts
  - The same authority supports phasing in limits outside the spot month
- CEA Section 4a(a)(7) also provides the Commission with broad exemptive authority to phase in non-spot month limits

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