Commodity Futures Trading Commission
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Q & A – Position Limits for Derivatives

What is the goal of the 2013 proposed rulemaking?

The proposed rulemaking would establish limits on speculative positions in 28 physical commodity futures contracts traded pursuant to the rules of a designated contract market ("DCM") as well as swaps that are economically equivalent to those contracts, as mandated by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010. The proposed rulemaking on position limits would enable the Commission to meet its statutory responsibility to set such limits in order to prevent excessive speculation and manipulation while ensuring sufficient market liquidity for bona fide hedgers and protecting the price discovery process.

Which commodities are covered by the proposed regulations?

The proposed rule would establish speculative position limits for 28 physical commodity futures contracts ("core referenced futures contracts") as well as futures and swaps that are economically equivalent to those contracts (collectively "referenced contracts").

The 28 core referenced futures contracts include the following contracts, by commodity category:

- Nine "legacy" agricultural contracts: (1) CBOT Corn (C); (2) CBOT Oats (O); (3) CBOT Soybeans (S); (4) CBOT Soybean Meal (SM); (5) CBOT Soybean Oil (BO); (6) CBOT Wheat (W); (7) ICE Futures U.S. Cotton No.2 (CT); (8) KCBT Hard Winter Wheat (KW); and (9) MGEX Hard Red Spring Wheat (MWE).

- Ten non-"legacy" agricultural contracts: (1) CME Class III Milk (DA); (2) CME Feeder Cattle (FC); (3) CME Lean Hog (LH); (4) CME Live Cattle (LC); (5) CBOT Rough Rice (RR); (6) ICE Futures U.S. Cocoa (CC); (7) ICE Futures U.S. Coffee C (KC); (8) ICE Futures U.S. FCOJ-A(OJ); (9) ICE Futures U.S. Sugar No. 11 (SB); and (10) ICE Futures U.S. Sugar No. 16 (SF).

- Four energy contracts: (1) NYMEX Henry Hub Natural Gas (NG); (2) NYMEX Light Sweet Crude Oil (CL); (3) NYMEX RBOB Gasoline (RB); and (4) NYMEX NY Harbor ULSD (HO).

- Five metal contracts: (1) COMEX Copper (HG); (2) COMEX Gold (GC); (3) COMEX Silver (SI), (4) NYMEX Palladium (PA); and (5) NYMEX Platinum (PL).

How will the speculative limits be set?

The proposed rules set forth two types of speculative limits: *spot-month position limits* and non-*spot-month position limits*. Spot-month position limits apply in the period immediately before delivery obligations are incurred for physical-delivery contracts or a period immediately before contracts are liquidated by the clearinghouse based on a reference price for cash-settled contracts. The spot-month period need not correspond to a month-long period, and extends through the period when the contract is no longer listed for trader or available for transfer.

Generally, *spot-month position limits* for referenced contracts will be set at 25% of estimated deliverable supply. These limits will be applied separately for positions in the physical-delivery and all cash-settled referenced contracts combined. For example, a trader's position in all cash-settled futures and swaps referenced contracts will be combined to determine whether the trader's position in cash-settled referenced contracts is below the limit.

The *non-spot-month position limits* apply to positions a trader may have in all contract months combined or in a single contract month. For each referenced contract, these limits will be set at 10 percent of open interest in the first 25,000 contracts and 2.5 percent thereafter.

Generally, initial non-spot-month position limits will be set based on open interest data in futures and swaps that are significant price discovery contracts. Subsequent levels will be reset at least every two years based on open interest data in futures, cleared swaps, and uncleared swaps.

What makes a swap economically equivalent to a futures contract?

For the purposes of these regulations, a swap contract may be economically equivalent to a futures contract when: (1) it is a "look-alike" contract (i.e., it settles off of the core referenced futures contract or contracts that are based on the same commodity for the same delivery location as the core referenced futures contract); (2) it is a contract with a reference price based on only the combination of at least one referenced contract price and one or more prices in the same or substantially the same commodity as that underlying the relevant core referenced futures contract, provided that such a contract is not a locational basis swap; (3) it is an intercommodity spread contract with two reference price components, one or both of which are based on referenced contracts; or (4) it is priced at a fixed differential to a core referenced futures contract.

How many market participants will be affected by the proposed regulations?

The Commission estimates approximately 400 traders may be affected by the proposed limits. This estimate of traders with positions that may exceed spot-month or non-spot-month position limits does not take into account the number of traders that would be eligible for *bona fide* hedging, pre-existing position, or other exemptions.

With respect to *the spot-month position limits*, the Commission estimates based on historical data that no more than 53 traders in any legacy agricultural referenced contract, 28 traders in any non-legacy agricultural referenced contract, 148 traders in any energy referenced contract, and 5 traders in any metal referenced contract would hold or control positions that would exceed a spot-month limit.

With respect to the non-*spot-month position limits*, the Commission estimates based on historical data that no more than 12 traders in any legacy agricultural futures contract, 18 traders in any non-legacy agricultural referenced contract, 11 traders in any energy referenced contract, and 16 traders in any metal referenced contract would hold or control positions that would exceed either a single month or all months combined limit.

How many entities will be required to make reports under these regulations?

The Commission estimates that the proposed regulations may require reporting from approximately six entities with respect to deliverable supply estimates and 400 traders with respect to bona fide hedging exemptions.

How will the regulations affect current Commission regulations?

The proposed regulations would amend and expand the scope of the Commission's existing part 150 position limits regulations for legacy agricultural contracts and replace the current bona fide hedging definition in regulation 1.3(z) with a new definition of bona fide hedging position consistent with the Dodd-Frank Act's statutory standard for physical commodity derivative contracts. The Commission has also proposed a modified version of its existing account aggregation regulations, including the long-standing independent account controller exemption to aggregation.