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

What is the goal of the proposed rulemaking?

The notice of rulemaking proposes to establish limits on positions in physical commodity futures contracts 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, and establish position limits and related standards for registered-entity set.

The proposed position limits framework would enable the Commission to meet its statutory responsibility for setting limits in order to combat excessive speculation and manipulation while ensuring sufficient market liquidity and efficient price discovery.

Which commodities are covered by the proposed regulations?

28 specific exempt and agricultural commodities are covered by the proposed regulations.

Exempt commodities broadly include, but are not limited to, gold, silver, copper, platinum, palladium, crude oil, natural gas, heating oil, and gasoline.

Agricultural commodities broadly include, but are not limited to, corn, oats, rice, soybeans, soybean meal, soybean oil, wheat, feeder cattle, live cattle, lean hogs, milk, cocoa, coffee, orange juice, sugar, and cotton.

What formulas will be used to set the proposed position limits?

Spot-month position limits will be set at 25% of deliverable supply for a given commodity, with a conditional spot-month limit of five times that amount for entities with positions exclusively in cash-settled contracts.

Non-spot-month position limits (aggregate single-month and all-months-combined limits that would apply across classes, as well as single-month and all-months-combined position limits separately for futures and swaps) will be set for each referenced contract at 10 percent of open interest in that contract up to the first 25,000 contracts, and 2.5 percent thereafter.

Why do these regulations propose visibility levels in addition to position limits?

The proposed visibility levels and associated reporting requirements will provide the Commission with a better understanding of trading activity in the physical commodity derivatives markets, allowing the Commission to make future adjustments, as necessary, to the position limit framework in order to better achieve the statutory objectives of position limits.

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

Exemptions for preexisting positions and bona fide hedging aside, the Commission estimates that approximately, on an annual basis, at most seventy traders in referenced agricultural contracts, six traders in referenced base metals contracts, eight traders in referenced precious metals contracts, and forty traders in referenced energy contracts may be affected by the proposed spot-month position limits. The Commission estimates that the all-months-combined and single-month position limits may affect approximately eighty traders in referenced agricultural contracts, twenty-five traders in referenced base metals contracts, twenty traders in referenced precious metals contracts, and ten traders in referenced energy contracts.

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

The Commission estimates that the proposed regulations may require reporting from approximately one-hundred entities with respect to conditional spot-month limit exemptions, six entities with respect to deliverable supply estimates, one-hundred and sixty entities with respect to bona fide hedging exemptions, one-hundred and forty entities with respect to visibility level reporting, and sixty entities with respect to account aggregation applications.

Why is the Commission proposing implementation of position limits in two phases?

The Dodd-Frank Act provides a timeframe for the Commission to establish position limits on exempt and agricultural commodity derivatives. The proposed formula for position limits outside of the spot month, which is based on the overall size of the physical commodity swap markets, requires data that the Commission does not currently have. Spot-month limits, in contrast, are based on estimates of deliverable supply, which are currently available from designated contract markets. Thus, with the statutory timeframe in mind, the Commission can implement spot-month limits relatively expeditiously in the initial transitional phase while waiting to receive the necessary data to implement non-spot-month limits in the second phase.

What makes a swap economically equivalent to a futures contract?

For the purposes of these proposed regulations, a swap may be economically equivalent to a futures contract either:

1) because the price of the swap refers to a covered futures contract settlement price; or
2) the swap is priced on the same commodity delivered at the same location, or another location so long as the other delivery location has similar supply and demand characteristics, as that of a covered contract.

How will the proposed regulations affect current Commission regulations?

The proposed regulations amend the Commission's current definition of a bona fide hedging transaction for the purpose of obtaining an exemption from position limits. They also amend the Commission's current account aggregation standards as well as its guidelines for exchange-set position limits. The proposed regulations retain, with adjustments, current Commission position limits on certain enumerated agricultural commodities.