Commodity Futures Trading Commission
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Fact Sheet - Reproposal of Regulations on Position Limits for Derivatives and Final Regulations on Aggregation of Positions

The Commodity Futures Trading Commission announced the approval for publication in the Federal Register of proposed regulations concerning limits on speculative futures and swaps positions in 25 selected commodities. The proposed regulations would implement section 737 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act).

Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act)

On July 21, 2010, President Obama signed into law the Dodd-Frank Wall Street Reform and Consumer Protection Act. The Commission interprets the Dodd-Frank Act to:

- Require the Commission to limit the amount of positions, as appropriate, that may be held by any person with respect to physical commodity futures and option contracts in exempt and agricultural commodities traded on or subject to the rules of a designated contract market (DCM) and economically equivalent swaps.

District Court Vacated Prior Rulemaking

On October 18, 2011, the Commission passed final rules on position limits for futures and swaps. See, 76 Fed. Reg. 71626, October 28, 2011. On September 28, 2012, the district court issued an order that generally vacated those final rules and remanded the matter to the Commission. See, **International Swaps and Derivatives Association v. United States Commodity Futures Trading Commission**, 887 F. Supp. 2d 259 (D.D.C. 2012). The Commission re-proposed position limits for derivatives on November 7, 2013. See, 78 Fed. Reg. 75680, December 12, 2013. The Commission issued a supplemental proposal including certain exemptions and guidance on May 27, 2016. See, 81 Fed. Reg. 38458, June 13, 2016. The Commission is now reproposing position limits for derivatives, in light of comments received.

Reproposal of Position Limits

The Commission proposes:

- Federal limits on speculative positions in 25 core physical commodity futures contracts and their "economically equivalent" futures, options, and swaps (collectively "referenced contracts"). The Commission is deferring action on the cash-settled CME Class III Milk, CME Feeder Cattle, and CME Lean Hogs contracts.

- Levels for federal limits on referenced contracts listed below:

Proposed Initial Position Limit Levels (in contracts)		
Contract	**Spot-Month**	**Single and All-Months**
Legacy Agricultural		
CBOT Corn (C)	600	62,400
CBOT Oats (O)	600	5,000
CBOT Soybeans (S)	600	31,900
CBOT Soybean Meal (SM)	720	16,900
CBOT Soybean Oil (SO)	540	16,700
CBOT Wheat (W)	600	32,800
CBOT KC HRW Wheat (KW)	600	12,000
MGEX Hard Red Spring Wheat (MWE)	1,000	12,000
ICE Futures U.S. Cotton No. 2 (CT)	1,600	9,400
Other Agricultural		
CBOT Rough Rice (RR)	600	5,000
ICE Futures U.S. Cocoa (CC)	5,500	10,200
ICE Futures U.S. Coffee C (KC)	2,400	8,800
ICE Futures U.S. FCOJ-A (OJ)	2,800	5,000
ICE Futures U.S. Sugar No. 11 (SB)	23,300	38,400
ICE Futures U.S. Sugar No. 16 (SF)	7,000	7,000
CME Live Cattle (LC)	450	12,200
Energy		
NYMEX Henry Hub Natural Gas (NG)	2,000	200,900
NYMEX Light Sweet Crude Oil (CL)	10,400	148,800
NYMEX NY Harbor ULSD (HO)	2,900	21,300
NYMEX RBOB Gasoline (RB)	6,800	15,300
Metals		
COMEX Gold (GC)	6,000	19,500
COMEX Silver (SI)	3,000	7,600
COMEX Copper (HG)	1,000	7,800
NYMEX Platinum (PL)	500	5,000
NYMEX Palladium (PA)	100	5,000

  - *Spot-month position limits*. Generally, the Commission is proposing to set initial levels based on 25 percent of estimated of deliverable supply, as submitted by a DCM and verified by the Commission, or at lower levels recommended by a DCM. In the case of LC, the Commission is proposing the current exchange-set level. The Commission is also proposing a conditional spot-month limit exemption of 10,000 contracts for cash-settled contracts in NG only. Subsequent spot-month position limit levels would be adjusted every two years.

- *Non-spot-month position limits* (*i.e.,* limits applied to positions in all contract months combined or in a single contract month). Generally, the Commission is proposing to set initial levels based on the 10, 2.5 percent formula applied to open interest in futures and swaps. In the case of KW and MWE, the Commission is proposing to maintain the current level of 12,000 contracts. Subsequent non-spot month position limit levels would be adjusted every two years.

- The definition of a bona fide hedging position would:

  - Closely track Commodity Exchange Act section 4a(c), which includes a temporary substitute test, an economically appropriate test, and a change-in-value requirement for physical commodities.

  - Eliminate the incidental test and the orderly trading requirement.

  - Addresses comments received on the Commission's proposals regarding pass-through swap offsets and offsets of hedging swaps.

  - Enumerate exemptions largely as previously proposed, but remove the twelve-month constraint on certain anticipatory hedges for agricultural commodities and the condition that a utility be required or encouraged to hedge by its public utility commission.

  - Apply the five-day rule to four types of enumerated hedges.

  - Withdraw the safe harbor quantitative test for cross-commodity hedges.

  - Deem certain trade options, if adjusted on a futures-equivalent basis, to be equivalent to a cash position for the purpose of recognition as the basis of a bona fide hedging position.

  - Remove the economically appropriate test from the guidance for exchange-recognized risk management exemptions in excluded commodities.

- Requirements and acceptable practices for DCMs and swap execution facilities that are trading facilities (SEFs) for setting position limits for the 25 referenced contracts, as well as acceptable practices for exchange position limits or accountability rules in all other listed contracts, including excluded commodities, largely as proposed and as revised and clarified in the supplemental proposal.

- Relieving DCMs and SEFs temporarily from the obligation to establish position limits on swaps that are subject to a federal position limit, when such exchange lacks access to position information on swaps.

- Updated reporting requirements under part 19 of the Commission's regulations.

- Exchange recognition of non-enumerated bona fide hedging positions, certain enumerated anticipatory hedge positions, and granting of spread exemptions.

Final Regulations on Aggregation of Positions

The Commission adopted aggregation rules in 2011, as part of its adoption of part 151 of its regulations. In 2012, the Commission proposed to amend the aggregation rules in part 151. See 77 Fed. Reg. 31767, May 30, 2012. On September 28, 2012, the district court issued an order that generally vacated part 151 and remanded the matter to the Commission. See, **International Swaps and Derivatives Association v. United States Commodity Futures Trading Commission**, 887 F. Supp. 2d 259 (D.D.C. 2012). In November 2013, the Commission proposed to amend the aggregation rules in regulation 150.4, and certain related regulations. See, 78 Fed. Reg. 68946, November 15, 2013. The Commission issued a supplemental proposal in September 2015. See, 80 Fed. Reg.58365, September 29, 2015. The Commission is now adopting the amendments to regulation 150.4 and related provisions as proposed and supplemented, and as revised in response to comments.

The Commission's final regulations implement:

- Amendments to the Commission's current account aggregation standards which would permit additional exemptions from aggregation, including where:
    - Sharing of information would violate or create reasonable risk of violating Federal, state or foreign jurisdiction law or regulation.
    - Ownership interest is greater than 10 percent in an entity whose trading is independently controlled and a notice filing is submitted to the Commission.
    - Ownership results from broker-dealer activities in the normal course of business as a dealer.