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August 3, 2004

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Ms. Jean A. Webb
Secretary
Commodity Futures Trading Commission
Three Lafayette Center
1155 21st Street, NW
Washington, DC 20581

Re: Petitions for Repeal or Amendment of Federal Speculative Position Limits

Dear Ms. Webb:

On May 27, 2004, the Board of Trade of the City of New York, Inc. ("NYBOT") submitted a comment letter in support of the above-referenced Petitions filed by the Chicago Board of Trade ("CBT"), the Kansas City Board of Trade and the Minneapolis Grain Exchange (the "Petitions"). Subsequently, the Commission requested public comment with respect to the Petitions (69 Fe 33874, June 17, 2004). NYBOT hereby submits this letter of comments in response to the Commission's publication of the Petitions for comments, and requests that this letter be treated as superceding the May 27th letter.

The Petitions request that all federally mandated position limits be eliminated from Commission Regulations and that Regulation 150.2 be repealed. Alternatively, if the Commission does not repeal Regulation 150.2, the Petitions request that the Commission exercise its authority to establish position limits only in the spot month and amend Regulation 150.2 to eliminate all single-month and all-months combined limits. Finally, in the event that the Commission retains federal position limits for months other than the spot month, the Petitioners seek an increase of those limits with respect to the products listed by them. NYBOT fully supports this three-tiered approach and requests that it also be considered by the Commission with respect to NYBOT's Cotton No. 2 Contract.

Under separate cover NYBOT has filed, for Commission approval, amendments to its Rule 6.19 concerning speculative position limits for the Cotton No. 2 contract. The amendments eliminate the current provisions which specify that position limits shall be those set forth in Regulation 150.2. Instead, NYBOT has adopted a rule under which the Exchange would establish position limits for Cotton. These limits would have to be reviewed by the Exchange's Cotton Committee, which has authority to veto the limits. The Exchange-set position limits for Cotton would be established in accordance with Core Principle 5 under the Commodity Exchange Act (The "Act") and subject to Commission oversight.

The Core Principles established under the Commodity Futures Modernization Act of 2000 place the responsibility on exchanges to establish any appropriate position limits on their contracts. NYBOT has established position limit and position accountability rules, where applicable, to its other contracts pursuant to Regulation 150.5. Many of those contracts involve agricultural products, including coffee, sugar, cocoa and frozen concentrated orange juice. There appears to be no compelling reason to have the Commission set speculative position limits for a narrow segment of agricultural products, while authorizing the exchanges to set those limits for all other products. Indeed, as noted by the CBT, this distinction seems to be more the result of historical development rather than market regulatory considerations. Accordingly, we agree that the time has come for the exchanges to have sole responsibility for establishing speculative position limits, subject to Commission oversight, and urge the Commission to eliminate federally mandated limits and repeal Regulation 150.2.

In the event that the Commission determines to retain federally mandated limits, it should do so only with respect to the spot month, and remove the single-month and all-months combined limits from Regulation 150.2. The Commission has recognized in the context of Core Principle 5 of Section 5(d) of the Act, that limits applicable to months other than the spot month may not be necessary to minimize the threat of market manipulation, congestion, or distortion. Accordingly, if the Commission determines to continue imposing its own spot month limits, it should defer to the exchanges with respect to setting any necessary limits in other months, and amend Regulation 150.2.

In the event that the Commission neither repeals Regulation 150.2 nor amends the Regulation by eliminating all single-month and all-months combined limits, NYBOT is requesting that Regulation 150.2 be amended to increase the all-months combined limit for the Cotton No. 2 contract from 3,500 contracts to 4,000 contracts. In the guidelines codified in Regulation 150.5 applicable to position limits that are set by the exchanges, subparagraph (c)(2) states that ". . . all months-combined levels must be no greater than 10% of the average combined futures and delta-adjusted option month-end open interest for the most recent calendar year up to 25,000 contracts, with a marginal increase of 2.5% thereafter. . . ." For calendar year 2003, average month-end open interest was calculated to be 143,347 contracts. Following the Commission guideline as stated above, the Cotton No. 2 limit for all months combined could be 5,459 contracts. However, NYBOT is recommending a modest increase at this time to a limit of only 4,000 contracts.

Ms. Jean Webb
July 22, 2004
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NYBOT appreciates the opportunity to comment on the Petitions. If you have any questions regarding this letter, please contact Audrey R. Hirschfeld, General Counsel, at (212) 748-4083.

Sincerely,

C. Harry Falk
President & CEO

cc: Clarence Sanders
Martin Murray
Division of Market Oversight