

**COMMODITY FUTURES TRADING COMMISSION****17 CFR Part 150****RIN 3038 – AC40****Risk Management Exemption from Federal Speculative Position Limits**

**AGENCY:** Commodity Futures Trading Commission

**ACTION:** Proposed rules; withdrawal.

**SUMMARY:** On November 27, 2007, the Commodity Futures Trading Commission (Commission or CFTC) published proposed rules to create a “risk management exemption” from Federal speculative position limits – the limits on the size of speculative positions that traders may hold or control in futures and futures equivalent option contracts on certain designated agricultural commodities. The Commission has determined to withdraw these proposed rules.

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**SUPPLEMENTARY INFORMATION:**

Commission regulation 150.2 imposes limits on the size of speculative positions that traders may hold or control in futures and futures equivalent option contracts on certain

designated agricultural commodities named therein. Commission regulation 150.3 lists certain types of positions that may be exempted from these Federal speculative position limits.

On November 27, 2007, the Commission published proposed amendments that would provide an additional exemption from Federal speculative position limits for “risk management positions” (proposed rulemaking).<sup>1</sup> The proposal defined a risk management position as a futures or futures equivalent position, held as part of a broadly diversified portfolio of long-only or short-only futures or futures equivalent positions, that is based upon either: (1) a fiduciary obligation to match or track the results of a broadly diversified index that includes the same commodity markets in fundamentally the same proportions as the futures or futures equivalent position; or (2) a portfolio diversification plan that has, among other substantial asset classes, an exposure to a broadly diversified index that includes the same commodity markets in fundamentally the same proportions as the futures or futures equivalent position. The exemption, as proposed, would have been subject to certain conditions, including that the positions be passively managed, unleveraged, and not carried into the spot month.

The Commission requested public comment by January 28, 2008. The Commission received a total of 10 comment letters in response to its Federal Register publication.<sup>2</sup> Three letters generally favored the proposed regulations and seven letters were generally opposed to their adoption. An Agricultural Forum held by the Commission on April 22, 2008 served as an additional venue for the presentation of views with respect to the proposed rulemaking and a

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<sup>1</sup> Risk Management Exemption from Federal Speculative Position Limits, 72 FR 66097 (November 27, 2007).

<sup>2</sup> Federal Register Comment File 07-015, available at [www.cftc.gov/lawandregulation/federalregister/federalregistercomments/2007/07-015.html](http://www.cftc.gov/lawandregulation/federalregister/federalregistercomments/2007/07-015.html).

related Commission proposal to revise the Federal speculative position limits delineated in Commission regulation 150.2.<sup>3</sup>

Collectively, the comments received in response to the proposed rulemaking and at the Commission's April 22 Agricultural Forum reflected differing perspectives on a wide range of issues of substantive import to the proposed rulemaking. The issues covered by the commenters, both in favor and opposed to the Commission's proposal to adopt a risk management exemption from the Federal speculative position limits, included product margin requirements, the convergence of cash and futures transaction prices, the impact of commodity-linked instruments traded on national securities exchanges on CFTC regulated transactions, the degree of transparency for market participation, and the quantification of the impact of speculative trading on market volatility. In light of the wide range of divergent positions that have been put forth by interested parties, the current market conditions for the contracts that would be affected by the proposed rulemaking, and in order to determine whether further consensus among the affected parties should be sought, the Commission has determined to withdraw the proposed rulemaking pending further consideration of the relevant issues.

Issued by the Commission this June 2, 2008, in Washington, DC.



David Stawick  
Secretary of the Commission

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<sup>3</sup> Revision of Federal Speculative Position Limits, 72 FR 65483 (November 21, 2007) (to be withdrawn).