secretary

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To: secretary
Cc: Morton, Andrew S; rholifield
Subject: Industry Filings: Comments on Industry Submissions

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January 16, 2009

Mr. David Stawick Mr. Dean Payton
Secretary Managing Director& Chief Regulatory Officer
U.S. Commodity Futures Trading Commission CME Group
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1155 21st Street NW 141 W. Jackson Blvd
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Re: CBOT Rule Amendments to Limit Holdings for Non-Commercial Purposes in Delivery Instruments
CBOT Submission No. 09-001

My company is both a commercial and financial participant in CME contracts. We operate a large terminal facility that is regular for delivery of CME corn, beans, wheat, and oats. We are also a cash and carry participant taking ownership of CME corn, beans, wheat, oats, soybean meal, soybean oil, and rice. We are an active delivery participant as a "deliverer/maker" and "stopper/taker" during the expiration period. Whether we are a maker or taker can be a financial or commercial activity, but always economic and transparent. I am writing today to provide comments on the CME proposal to limit ownership of CME deliverable instruments. For clarity, I am writing on behalf of Chicago & Illinois River Marketing, LLC and not related to my role with NGFA which will provide the Association's comments on the proposal directly to the Commission. Before commenting on the proposal, we wish to commend both the CME and the Commission for their efforts to respond to the dynamic change in landscape and new market participation.

Although we still have convergence problems; particularly in wheat, it is not due to a lack of effort to find a solution. The CFTC Ag Forum in April and the public discussion at the July Ag Advisory Committee dramatically enhanced focus on the issues and the need for solutions to restore market balance. The CME initiated multiple industry round-tables, surveys and market participant interviews and then implemented a host of contract changes. Their willingness to change storage rates twice in a 12

month period, increase load-out charges for corn & beans, add delivery points and strengthen quality specifications for wheat certainly demonstrated responsiveness to industry feedback. Their consideration of "dynamic storage rates" for wheat and the current proposal to limit ownership of CME deliverable instruments demonstrates progressive action to restore the relationship between cash & futures and create balance between commercial and financial market participants.

Overall, the CME proposal to limit concentrated ownership of various deliverable instruments is a necessary step to avoid the hoarding of delivery stocks by financial participants that are unresponsive to short-term economics during expiration. The proposal also eliminates a concern within the commercial sector that delivery capacity could be controlled by a long-term investor(s) who could benefit from draining the market of delivery capacity. However; as presented, the current proposal also limits market access to economic participants during the expiration period. This is an unnecessary restriction that reduces competition and goes against the core principles of the CME and the freedoms provided by the Commodity Exchange Act. There is no reason to limit a market participant's ability to acquire CME deliverable instruments in an orderly fashion during the expiration period as it is permitted under the current rules. The requirement in the proposed new rule for a non-commercial owner to reduce ownership prior to each successive delivery period will allow all market participants equal access to acquire the outstanding delivery instruments and a "re-valuing" to occur during expiration. This should be sufficient to achieve the desired effect and yet allow all market participants the ability to acquire delivery instruments during expiration. The goals of the rule change can be achieved without restricting economic participation during expiration by amending the proposed rule to require non-commercial holders of reduce ownership of deliverable instruments (including net long positions in the expiring contract) on first delivery day and simply retaining the current speculative position limits as they are currently defined. This will force holders of delivery instruments to re-tender on first notice day while providing the opportunity to re-acquire the ownership in an orderly & competitive fashion during contract expiration.

To support this suggestion, I will provide an example and a question.

The example is rice. In 2008 a single participant owned at one time up to 90% of the outstanding delivery warehouse receipts. Despite this concentration in a year when world rice supplies were in short supply, the CME expiring contract traded at full carry until the end of the crop year when cash values exceeded CME delivery values and there was an orderly marketing of the CME warehouse receipts , a gradual narrowing of CME spreads, and ultimately an orderly contract expiration. During this period open interest and trading volume in rice increased. The proposed CME rule; with a modification to allow competitive & orderly acquisition of delivery warehouse receipts during expiration, would have allowed this economic activity to take place while increasing trading activity and at the same time removing any fears that may have existed due to the concentrated ownership of CME rice warehouse receipts.

The question relates to economic activity and the vitality of the CME platform. If market participants; commercials, financial participants, local traders, and individual investors are struggling to find safe places to deploy capital, why attempt to limit the use of such a dependable platform as the CME; particularly in this difficult economic climate. Why restrict access to the CME products? Our funding source for commercial operations has determined that CME products are safe. This has allowed competitive funding of our inventories and linked to CME shipping certificates provided financing of country elevator inventories with the excess funding placed in various CME products. This was critical to the market during the margin crisis in the spring & summer of 2008. The proposed rule will unnecessarily limit economic & competitive use during expiration and potentially push an important source of funding for U.S. agriculture to other markets. The proposed modification will avoid the risk of losing access to this funding for U.S. agriculture and provide increased trade during expiration as all

users competitively price the value of CME's dependable platform.

We applaud the CME's proactive effort to assure reliability of its contracts and promote balance between commercial & financial participants, but we urge the CME to make a slight modification in their current proposal to allow competitive access to CME delivery instruments during contract expiration.

Finally, we would like to share a few thoughts on convergence. This is the most important hedging principle and the primary topic dominating commercial debate on CME hedging reliability. The proposed rule to limit ownership of CME delivery instruments is necessary to avoid concentrated ownership of those inventories, assure markets are sensitive to short-term economics, and to avoid potential market distortions. However, the proposal should not be viewed as a solution for convergence. The proposal will have a limited impact on convergence because it targets the wrong participant group. It is our strong view that the convergence issue is solely the result of concentrated and long-term holding of futures by Commodity Index (CIT) participants that by their nature are not sensitive to short-term changes in the underlying commodity price. These CITs; as of 1/6/09, own 55% of the open interest in wheat (excluding spreads) and 64% of the long open interest (excluding spreads). The % in the spot contract is unknown, but it likely represents an even greater share of OI. This concentration of futures has provided a price base and drained liquidity from wheat futures. The result of this concentration; insensitive to short-term economics, is the root cause of the convergence, volatility, and hedging inefficiencies in wheat. Cash markets are forced to adjust to seek fair value and the result is dramatically lower basis levels to offset elevated futures. This disconnect between cash & futures defines the convergence problem. The CME proposal to limit ownership of delivery instruments will reduce the ability of those participants to provide liquidity for the fund roll making it somewhat more difficult for index funds to roll long positions, but it will have only a minor impact on convergence. CITs hold long positions of 156,756 contracts compared to outstanding CME wheat certificates of 7,504.

The most interesting proposals to solve the convergence problem are the CME's dynamic storage concept and compelled load-out refined by the NFGA in their Modified Compelled Load-out proposal. The concept of Compelled Load-out has been hotly debated, but there has been no consensus among market participants. 25% of the trade believe Compelled Load-out is the only solution because it will guarantee convergence, 25% believe it is absolutely a non-starter because it will create unacceptable risk for longs and destroy market balance, and the other 50% range cannot determine if the benefit offsets the risk. I believe the CME's dynamic storage concept; in combination with the seasonal storage rates in July, has a genuine possibility to return convergence as storage charges dramatically increase the cost to roll CIT hedges. It will also improve hedging effectiveness as wider temporary storage charges better offset basis risk. Combining this concept with the NGFA Modified Compelled Load-out as a safety net with a defined trigger when cash values are significantly below delivery values could provide assurances of convergence and restore hedging reliability.

To finish, it is our company's view that the CME proposal to limit the long-term holding of delivery instruments is an important protection to assure that delivery capacity will be responsive to short-term economics; however, there is no reason to limit economic participation during the expiration period. Accordingly, we would ask the CME to modify their proposal to permit competitive acquisition of delivery instruments during contract expiration with open positions of non-commercial participants not to exceed current speculative limits in the expiring contract.

Respectfully submitted,

Thomas P. Coyle
Vice President & General Manager, CIRM