

**SUBMISSION COVER SHEET**

**IMPORTANT:** Check box if Confidential Treatment is requested

**Registered Entity Identifier Code (optional):** 21-130

**Organization:** Chicago Mercantile Exchange Inc. ("CME")

**Filing as a:**  **DCM**  **SEF**  **DCO**  **SDR**

**Please note - only ONE choice allowed.**

**Filing Date (mm/dd/yy):** 03/17/21 **Filing Description:** Amendments to the Spot Month Period Definition and Increase in the Spot and Single Month Position Limits of the Cash Settled Butter Futures and Options on Cash Settled Butter Futures Contracts

**SPECIFY FILING TYPE**

**Please note only ONE choice allowed per Submission.**

**Organization Rules and Rule Amendments**

- |                          |                                     |            |
|--------------------------|-------------------------------------|------------|
| <input type="checkbox"/> | Certification                       | § 40.6(a)  |
| <input type="checkbox"/> | Approval                            | § 40.5(a)  |
| <input type="checkbox"/> | Notification                        | § 40.6(d)  |
| <input type="checkbox"/> | Advance Notice of SIDCO Rule Change | § 40.10(a) |
| <input type="checkbox"/> | SIDCO Emergency Rule Change         | § 40.10(h) |

**Rule Numbers:**

**New Product**

**Please note only ONE product per Submission.**

- |                          |                                       |            |
|--------------------------|---------------------------------------|------------|
| <input type="checkbox"/> | Certification                         | § 40.2(a)  |
| <input type="checkbox"/> | Certification Security Futures        | § 41.23(a) |
| <input type="checkbox"/> | Certification Swap Class              | § 40.2(d)  |
| <input type="checkbox"/> | Approval                              | § 40.3(a)  |
| <input type="checkbox"/> | Approval Security Futures             | § 41.23(b) |
| <input type="checkbox"/> | Novel Derivative Product Notification | § 40.12(a) |
| <input type="checkbox"/> | Swap Submission                       | § 39.5     |

**Official Product Name:**

**Product Terms and Conditions (product related Rules and Rule Amendments)**

- |                                     |   |                      |
|-------------------------------------|---|----------------------|
| <input type="checkbox"/>            | Certification   | § 40.6(a)            |
| <input type="checkbox"/>            | Certification Made Available to Trade Determination     | § 40.6(a)            |
| <input type="checkbox"/>            | Certification Security Futures                          | § 41.24(a)           |
| <input type="checkbox"/>            | Delisting (No Open Interest)                            | § 40.6(a)            |
| <input type="checkbox"/>            | Approval  | § 40.5(a)            |
| <input type="checkbox"/>            | Approval Made Available to Trade Determination          | § 40.5(a)            |
| <input type="checkbox"/>            | Approval Security Futures                               | § 41.24(c)           |
| <input checked="" type="checkbox"/> | Approval Amendments to enumerated agricultural products | § 40.4(a), § 40.5(a) |
| <input type="checkbox"/>            | “Non-Material Agricultural Rule Change”                 | § 40.4(b)(5)         |
| <input type="checkbox"/>            | Notification  | § 40.6(d)            |

**Official Name(s) of Product(s) Affected:** CME Cash Settled Butter & Options on Cash Settled Butter Futures

**Rule Numbers:** CME Rulebook Chapters 56 & 56A

March 17, 2021

**VIA ELECTRONIC PORTAL**

Mr. Christopher J. Kirkpatrick  
Office of the Secretariat  
Commodity Futures Trading Commission  
Three Lafayette Centre  
1155 21st Street, N.W.  
Washington, D.C. 20581

**Re: CFTC Regulation 40.4(a)/40.5(a). Request for Approval: Amendments to the Spot Month Period Definition and Increase in the Spot and Single Month Position Limits of the Cash Settled Butter Futures and Options on Cash Settled Butter Futures Contracts.  
CME Submission No. 21-130**

Dear Mr. Kirkpatrick:

Chicago Mercantile Exchange Inc. (“CME” or “Exchange”) is requesting Commodity Futures Trading Commission (“CFTC” or “Commission”) approval to increase the Position Limits, Position Accountability and Reportable Level Table (the “Table”) relating to the Cash Settled Butter Futures and Options on Cash Settled Butter Futures contracts (the “Contracts”) effective for trade date Monday, May 3, 2021 and commencing with the May 2021 contract month and beyond.

Contract Title	CME Rulebook Chapter	CME Globex/ CME ClearPort Code
Cash Settled Butter Futures	56	CB/CB
Options on Cash Settled Butter Futures	56A	CB/CB

Specifically, the Exchange is requesting approval to implement the following amendments to the Contracts:

1. Redefine the spot month (“spot”) period as beginning as of “the close of trading on the business day prior to the first trading day of the contract month” from the current definition of “the close of trading on the business day prior to the last 5 trading days of the contract”;
2. Increase of the spot month speculative position limit to 500 contracts from 100; and
3. Increase to the single month (or non-spot) speculative position limit to 1,000 contracts from 500 (collectively, the “Rule Amendments”).

**Background:**

The Cash Settled Butter futures contract (“CB”) was initially launched in 2005 to provide a financially-settled risk management tool for butter producers and end-users. A previously listed, physically-delivered CME Butter contract was available for trading and clearing alongside CB until the Exchange delisted the contract in 2010. For ease of the marketplace to migrate to the new contract, CB was originally designed to mirror the deliverable contract including defining the spot month as the last five trading days prior to contract month expiration.

The CB contract is cash settled to the monthly weighted average price as collected, constructed, and published by the United States Department of Agriculture (“USDA”) in its monthly “Announcement of Class and Component Prices” report. The USDA defines the report as being “...calculated using the most recent four or five weeks (since the last monthly Announcement of Class and Component Prices) from the latest

National Dairy Products Sales Report.”<sup>1</sup> As the cash market transactions that occur during the last five trading days of an expiring contract month represent approximately only one-fourth or one-fifth of the sample of transactions that factor into the USDA monthly average price, the Exchange has determined it is appropriate at this time to redefine spot month as the time period of the last five days. Upon review, the Exchange determined that the spot month or delivery period of the Contracts should be defined as the entirety of the month of the expiring contract month. Additionally, the spot month is defined for CME Cash-Settled Cheese, Block Cheese, Nonfat Dry Milk, and Dry Whey as the entirety of the final month.

The annual butter production in the United States was 1.3 billion pounds when CB was launched in 2005. The United States produced 2.1 billion pounds of butter in 2020; 800 million pounds more than 2015 or a 62 percent increase which represents a new record and the first time that annual production has been greater than 2 billion pounds.

CFTC Regulation 150.5(b)(1) states, in part, that:

*“For physical delivery contracts, the spot month limit level must be no greater than one-quarter of the estimated spot month deliverable supply...”*

As a result of the increased butter production in the United States and to better align the Contracts with similar CME Dairy products (as shown in the table below), the Exchange has determined to redefine the spot month period and increase the spot and single month position limits.

CME Dairy Product	Single Month Position Limit	Spot Month Position Limit	Spot Month Definition
Class III	1500	n/a	
CSC	1000	n/a	
BLK	1000	n/a	
Dry Whey	1000	300	Close of trading on the business day prior to the first trading day of the contract month
Class IV	1500	n/a	
<b>Butter</b>	<b><u>1000</u> 500</b>	<b><u>500</u> 100</b>	<b><u>Close of trading on the business day prior to the first trading day of the contract month.</u></b> <b><u>Close of trading on the business day prior to the last 5 trading days of the contract</u></b>
NFDM	1000	1000	Close of trading on the business day prior to the first trading day of the contract month

The Exchange conducted analysis looking at the proposed limits relative to spot and all month open interest. The proposed single month limit exceeds 20 percent of all-month open interest; however, new CFTC position limit guidance allows for a maximum single or all month limit up to 5,000 contracts as an acceptable practice.

Market participants have been petitioning CME for several years to change position limits in the Contracts. The Exchange conducted market outreach regarding the Rule Amendments from commercial hedgers, financial traders, brokers, and speculators. A majority of the market participants were supportive of the increases to the spot and non-spot speculative position limits. Those in support pointed to record butter production and record storage as support for increased limits. Feedback opposed to the Rule Amendments focused on concerns that speculators would be able to hold larger positions during the spot month. The Exchange does not consider the opposing views as substantive as CME’s Market Regulation Department closely oversees and reviews all trading activity and positions in the Contracts.

The Exchange reviewed the designated contract market core principles (“Core Principles”) as set forth in the Commodity Exchange Act (“CEA” or “Act”) and identified that the following Core Principles may be impacted by this initiative as follows:

<sup>1</sup> USDA-AMS: <https://downloads.usda.library.cornell.edu/usda-esmis/files/rb68xb84x/rr172254d/9k41zk08k/classprc0318.pdf>

- **Contracts Not Readily Subject to Manipulation:** The Contracts are not readily subject to manipulation as illustrated in the Cash Market Overview and Analysis of Deliverable Supply attached herein.
- **Position Limits or Accountability:** The speculative position limits for the Contracts as demonstrated in this submission are consistent with the Commission's guidance.
- **Availability of General Information:** The Exchange will make publicly available the details of the increase in the initial spot position limit by publishing a Market Surveillance Notice ("MSN") to the market. The MSN will be available on CME Group's website.

Pursuant to Section 5c(c) of the Act and CFTC Regulations 40.4(a) and 40.5(a), the Exchange hereby certifies that the Rule Amendments comply with the Act, including regulations under the Act.

As noted above, there were no substantive opposing views to the Rule Amendments.

The Exchange certifies that this submission has been concurrently posted on the Exchange's website at <http://www.cmegroup.com/market-regulation/rule-filings.html>.

Should you have any questions concerning the above, please contact the undersigned at 212-299-2200 or via e-mail at [CMEGSubmissionInquiry@cmegroup.com](mailto:CMEGSubmissionInquiry@cmegroup.com).

Sincerely,

/s/ Christopher Bowen  
Managing Director and Chief Regulatory Counsel

Attachments: Appendix A – Amendments to CME Chapter 5 – Position Limits, Position Accountability and Reportable Level Table (effective upon approval) (under separate cover)

Appendix B – Cash Market Overview and Analysis of Deliverable Supply

**Appendix A**

**CME Rulebook**

**Chapter 5**

**("Trading Qualifications and Practices")**

**Position Limit, Position Accountability, and Reportable Level Table  
in Chapter 5 of the CME Rulebook  
(under separate cover)**

## **Appendix B**

### **Analysis of Deliverable Supply Cash Settled Butter**

Chicago Mercantile Exchange Inc. (“CME” or “Exchange”) staff conducted a review of the deliverable supply underlying its Cash Settled Butter futures contracts.

#### **Background:**

The United States dairy industry has consolidated significantly over the last fifty years. While the largest dairy operations have grown, the overall number of farms has declined sharply. To illustrate that point, there were 648,000 United States dairy operations in 1970 compared to only 40,000 in 2017<sup>2</sup>. Of those approximately 40,000 farms in 2017, 55 percent of them had at least 1,000 head while 35 percent had at least 2,500<sup>3</sup>.

According to the 2017 Census of Agriculture, there were 9.5 million milk cows on over 40,000 farms in the United States. Most of the United States milk supply comes from 5 states: California, Wisconsin, Idaho, New York, and Texas<sup>4</sup>. A third of all milk sales come from California and Wisconsin combined.

Despite the smaller number of farms, United States milk production has increased over 14% in the last ten years. Production in 2020 set a new all-time high at just under 225 billion pounds (**see Exhibit 1**).

Milk is categorized into four different classes. Under the guidelines of the federal dairy program, the four classes are:

- **Class I** is the fluid (drinking) milk
- **Class II** is milk used to make “soft” products such as sour cream, ice cream, and yogurt
- **Class III** is milk used to make cheese such as cheddar
- **Class IV** is milk used to make butter as well as non-fat dry milk (“NFDM”)

The calculation of the class prices is done using the prices of the products that are made with the different types of milk. The United States Department of Agriculture (“USDA”) uses weekly average wholesale market prices from the production and sale of cheese, dry whey, NFDM, and butter in formulas to determine the class prices.

The sale and manufacturing of milk and dairy products is subject to the United States Department of Agriculture Dairy Mandatory Market Reporting (“DMMR”). The law, passed in 2000, requires persons engaged in the manufacture and sale of selected dairy products to report certain information including the price, quantity, and moisture content where applicable. Any manufacturer that processes and markets less than 1 million pounds of dairy products per year is exempt from the sales reporting requirements. USDA completed the rule making process on June 17, 2008 creating the Dairy Products Mandatory Reporting

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<sup>2</sup> Overview of the United States Dairy Industry: <https://downloads.usda.library.cornell.edu/usda-esmis/files/47429913s/3r074x944/7h149s431/USDairyIndus-09-22-2010.pdf>

<sup>3</sup> 2017 US Census of Agriculture: [https://www.nass.usda.gov/Publications/Highlights/2019/2017Census\\_DairyCattle\\_and\\_Milk\\_Production.pdf](https://www.nass.usda.gov/Publications/Highlights/2019/2017Census_DairyCattle_and_Milk_Production.pdf)

<sup>4</sup> “Farm Milk Production,” USDA ERS: <https://www.ers.usda.gov/topics/animal-products/dairy/background/>

Program. This program collects, evaluates aggregates, verifies, and disseminates dairy products sales information to the public<sup>5</sup>.

### **Butter:**

The United States produced 2.1 billion pounds of butter in 2020. This represented a new record and the first time that annual production has been greater than two billion pounds.

Butter, like the milk used to manufacture it, is a continuously produced, perishable commodity. Butter is produced by separating the heavy cream out of fluid milk before being pasteurized. The cream is then mechanically broken down into solids (butterfat) and liquid (buttermilk). Buttermilk is drained away so that the butter can be further processed, shaped, and packaged for sale. According to the American Butter Institute, butter is defined as a dairy product containing up to 80% butterfat which is solid when chilled and at room temperature. It consists of butterfat, milk proteins, and water<sup>6</sup>.

Butter is stored in warehouses suitable for the storage of food products. Inventories are held by manufacturers, resellers and end-users, but the bulk of stocks are typically held by manufacturers. Frozen butter is usable out of storage after one year, but buyers rarely purchase stocks older than twelve months. Storage is typically done away from the manufacturing facility due to limited capacity on-site.

Seasonal variations in butter production are largely the result of seasonal variations in milk production, and to a lesser extent seasonal variation in fluid milk consumption (**see Exhibit 2**). Milk production is influenced by factors such as time of year and feed quality/availability. For example, milk production spikes in the spring when cows first obtain access to fresh feed and pasture grazing; it then plunges in the late summer when heat and humidity affect feed consumption by cows. In addition, milk that is not consumed as fluid milk (i.e. drinking purposes) is generally used to manufacture various dairy products that are less perishable than fluid milk. Therefore, seasonality in butter production somewhat mirrors milk production.

The Economic Research Service of the United States Department of Agriculture (“USDA-ERS”) publishes monthly data on the commercial disappearance of all dairy products. The National Agricultural Statistics Service of the United States Department of Agriculture (“USDA-NASS”) also publishes a monthly report on dairy products held in Cold Storage. From these reports, one can observe butter stocks tend to increase from January until May and then decrease until November, similar to the seasonal pattern for butter production (**see Exhibit 3**). Monthly average commercial ending stocks of butter (approximately 285 million pounds for 2018-2020) are approximately 69 percent greater than monthly average production of butter (approximately 169 million pounds for 2018-2020).

### **Volume and Price Data:**

The weekly United States Department of Agriculture National Dairy Products Sales Report (“USDA NDPSR”) discloses prices for butter, cheddar cheese, dry whey, and NFDM based on survey data collected after Saturday of each week. Reporting entities are required to submit sales information in the electronic Dairy Product Mandatory Reporting System (“DPMRS”) by approximately noon ET on Tuesday of the following week.

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<sup>5</sup> USDA-AMS: <https://www.ams.usda.gov/rules-regulations/mmr/dmr/background>

<sup>6</sup> All About Butter: <http://www.butterinstitute.org/all-about-butter>

The USDA NDPSR consists of 86 reporting entities selling one million pounds or more of dairy products as defined by statute (7 USC 1637b). There are 17 entities reporting 40-pound cheddar blocks, 11 entities reporting 500-pound cheddar barrels, 18 entities reporting butter, 26 entities reporting nonfat dry milk, and 14 entities reporting dry whey<sup>7</sup>.

Specific to butter, the sales information included in the USDA NDPSR is collected for all qualifying manufacturers of salted butter (80% butterfat), fresh or storage, in 25-kilogram and 68-pound boxes meeting USDA Grade AA standards.

In addition to the weekly USDA NDPSR report, the United States Department of Agriculture also publishes the Announcement of Class and Component Prices (“USDA ACCP”) report monthly. The Class and Component Prices are calculated using the most recent four or five weeks (since the last monthly Announcement of Class and Component Prices) from the latest USDA NDPSR. The USDA NDPSR provides current wholesale market prices for basic dairy commodities. These commodity prices for the previous two weeks are used in the formulas to calculate the USDA's Class and Component Prices used in the Federal Milk Marketing Order Program<sup>8</sup>.

Lastly, USDA publishes the “Dairy Products” report. This is also a monthly report containing production data for butter, cheese, frozen products, evaporated, condensed, and dry milk and whey products, and shipments and stocks of dry milk and whey products, grouped by major states and the United States.

#### **Cash Settled Butter Futures and Deliverable Supply:**

As noted above, the USDA issues weekly and monthly reports on dairy products pursuant to DMMR regulations. The following table summarizes monthly butter commercial ending stocks and USDA NDPSR sales data relevant to the Cash Settled Butter Futures contract from those reports:

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<sup>7</sup> National Dairy Products Sales Report: <https://www.ams.usda.gov/mnreports/dywdairyproductssales.pdf>

<sup>8</sup> ACCP: <https://usda.library.cornell.edu/concern/publications/rb68xb84x?locale=en>



Year	Month	Total Butter Ending Commercial		Total (Stocks + NDPSR)	Total in CME Contract Equivalents (20,000 lbs.)	1000 contracts as % of Total	500 contracts as % of Total
		Stocks	NDPSR Sales				
<b>2018</b>	Jan	226,694,000	15,076,103	241,770,103	12,089	8%	4%
	Feb	265,756,000	25,899,141	291,655,141	14,583	7%	3%
	Mar	273,955,000	28,431,263	302,386,263	15,119	7%	3%
	Apr	307,325,000	28,881,253	336,206,253	16,810	6%	3%
	May	338,492,000	25,218,926	363,710,926	18,186	5%	3%
	Jun	336,625,000	22,920,860	359,545,860	17,977	6%	3%
	Jul	318,325,000	10,294,394	328,619,394	16,431	6%	3%
	Aug	290,851,000	9,413,245	300,264,245	15,013	7%	3%
	Sep	282,379,000	13,589,380	295,968,380	14,798	7%	3%
	Oct	231,223,000	19,541,870	250,764,870	12,538	8%	4%
	Nov	154,366,000	11,363,454	165,729,454	8,286	12%	6%
	Dec	179,333,000	15,982,782	195,315,782	9,766	10%	5%
<b>2019</b>	Jan	211,168,000	26,311,421	237,479,421	11,874	8%	4%
	Feb	243,511,000	24,249,430	267,760,430	13,388	7%	4%
	Mar	269,697,000	22,799,171	292,496,171	14,625	7%	3%
	Apr	290,820,000	16,574,518	307,394,518	15,370	7%	3%
	May	313,822,000	21,074,024	334,896,024	16,745	6%	3%
	Jun	326,297,000	20,677,699	346,974,699	17,349	6%	3%
	Jul	329,595,000	15,990,570	345,585,570	17,279	6%	3%
	Aug	304,368,000	14,210,850	318,578,850	15,929	6%	3%
	Sep	290,649,000	10,119,204	300,768,204	15,038	7%	3%
	Oct	234,507,000	13,455,908	247,962,908	12,398	8%	4%
	Nov	180,637,000	14,526,158	195,163,158	9,758	10%	5%
	Dec	189,655,000	15,802,793	205,457,793	10,273	10%	5%
<b>2020</b>	Jan	247,376,000	15,554,338	262,930,338	13,147	8%	4%
	Feb	301,820,000	36,519,343	338,339,343	16,917	6%	3%
	Mar	309,587,000	17,054,557	326,641,557	16,332	6%	3%
	Apr	372,598,000	19,061,439	391,659,439	19,583	5%	3%
	May	375,777,000	19,255,049	395,032,049	19,752	5%	3%
	Jun	362,452,000	21,019,337	383,471,337	19,174	5%	3%
	Jul	371,467,000	7,445,382	378,912,382	18,946	5%	3%
	Aug	371,519,000	18,351,664	389,870,664	19,494	5%	3%
	Sep	343,948,000	15,113,337	359,061,337	17,953	6%	3%
	Oct	299,731,000	12,676,010	312,407,010	15,620	6%	3%
	Nov	251,820,000	8,320,389	260,140,389	13,007	8%	4%
	Dec	273,790,000	12,324,868	286,114,868	14,306	7%	3%
	<b>Avg</b>	<b>285,331,528</b>	<b>17,919,448</b>	<b>303,250,976</b>	<b>15,163</b>	<b>7%</b>	<b>3%</b>

Deliverable supply is conservatively measured as the total weight of the ending commercial stocks plus the sales reported in the NDPSR for the prior month.

The average monthly deliverable supply of butter over the past three years has been 303,250,976 pounds, which equates to 15,163 contracts (303,250,976 / 20,000).

**Spot Month Speculative Position Limits:**

As detailed above, the average monthly deliverable supply of butter over the past three years has been 285,331,528 pounds, which equates to 15,163 contracts (285,331,528 / 20,000). The Exchange has determined that a spot month speculative position limit of 500 contracts will ensure that no single position holder will have a position equal to or greater than 25% of deliverable supply during the last month of an expiring contract. Additionally, the Exchange has determined to remove the previous spot month position of 100 contracts during the last five trading days of the expiring contract as it is not necessary and overly restrictive given that the contract settles to a USDA monthly average price.

In recognition of the deliverable supply analysis presented above as well as the CFTC regulation regarding non-spot position limits, the Exchange has determined that a single month, or non-spot, position limit of 1,000 contracts is appropriate. As noted in the body of the Submission, the proposed single month limit exceeds 20 percent of all-month open interest; however, new CFTC position limit guidance allows for a maximum single or all month limit up to 5,000 contracts as an acceptable practice<sup>9</sup>.

In addition to regulation laid out in the DMMR and efforts by the USDA to prevent manipulation and distortion, the use of a volume-weighted average of weekly prices for each calendar month provides a passive, structural deterrent that limits the impact of any individual's action on the final settlement price. It would be extremely difficult for any individual or entity to maintain an artificially high or artificially low price for each week in an entire month without being detected. Furthermore, each individual or entity's contribution to the final settlement price is proportional to the number of pounds of product reported by that individual or entity.

**Long-Term Commitments:**

While there may be negotiated, non-consummated commitments, the Exchange estimates the deliverable supply based on actual ending stocks and consummated transactions reported into the USDA.

**Seasonality:**

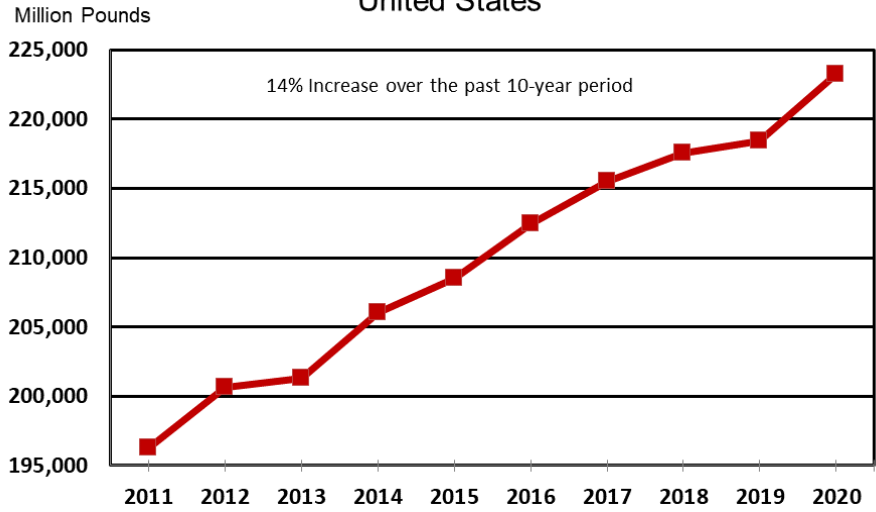
The Exchange evaluates seasonality on the deliverable supply across all Cash Settled Butter futures contract expirations. To the extent that 25 percent of any contract month's future estimated deliverable supply falls below the current spot month limit, the Exchange will evaluate whether there is a need to adjust the position limit for that corresponding contract month.

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<sup>9</sup> [https://www.ecfr.gov/cgi-bin/text-idx?SID=2e9aacf875be1cb93678c6ae3f499169&mc=true&node=ap17.2.150\\_19.f&rgn=div9](https://www.ecfr.gov/cgi-bin/text-idx?SID=2e9aacf875be1cb93678c6ae3f499169&mc=true&node=ap17.2.150_19.f&rgn=div9)

**Exhibit 1**

### Milk Production, 2011-2020 United States

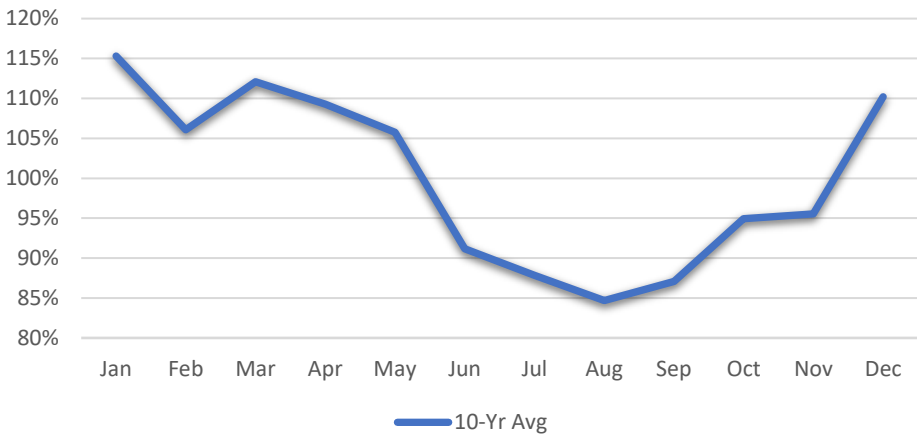


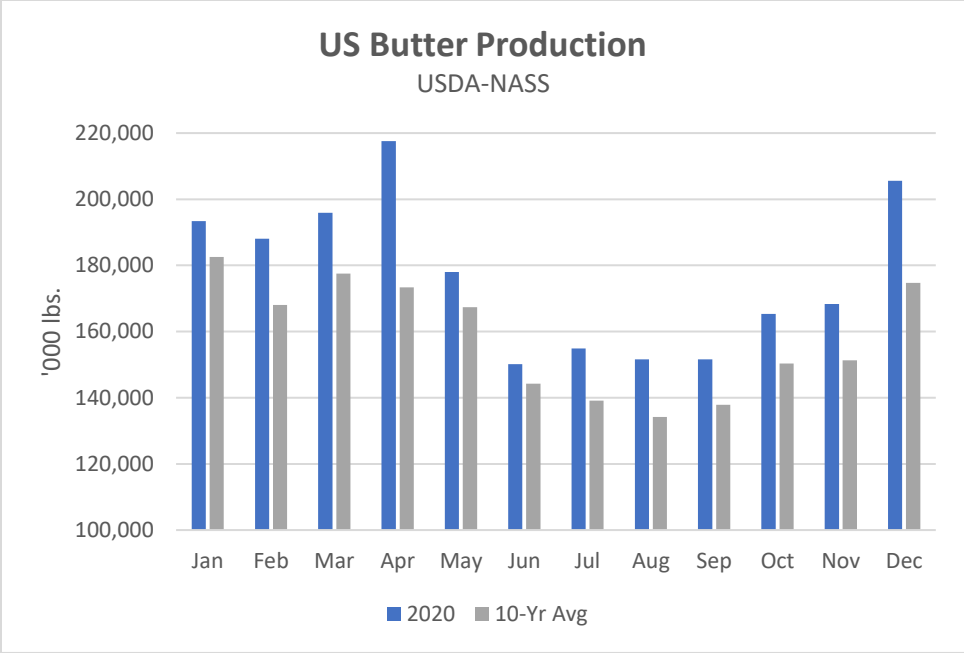
USDA-NASS  
02-23-2021

**Exhibit 2**

### Seasonal Index of US Butter Production

USDA-NASS as compiled by LMIC





**Exhibit 3**

