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National Grain and Feed Association

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August 13, 2004

COMMENT

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

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

Dear Secretary Webb:

The National Grain and Feed Association (NGFA) is pleased to submit the following comments on issues raised by the Commodity Futures Trading Commission (Commission) in the June 17, 2004 Federal Register concerning proposed changes to the speculative position limits in Commission Regulation 150.2.

The NGFA consists of 1,000 grain, feed, processing and grain-related companies, which operate about 5,000 facilities that store, handle, merchandise, mill, process and export more than two-thirds of all U.S. grains and oilseeds. Our members use and rely heavily upon futures markets, including for the efficient hedging and pricing of grain in both futures and cash markets.

In the following comments, we attempt to address the issues raised by the petitions of the Chicago Board of Trade (CBOT), Kansas City Board of Trade (KCBT) and Minneapolis Grain Exchange (MGEX) of most interest to NGFA members. Our comments are provided as responses to the specific questions set forth in the Commission's request for comments.

Question 1. Should the Commission continue to impose Federal speculative position limits for all of the agricultural commodities enumerated in regulation 150.2?

The NGFA agrees with the exchanges that the time has come for the Commission to cede the authority to the exchanges to promulgate speculative position limits for those agricultural commodities by repealing Regulation 150.2. There is no apparent justification as to why the commodities enumerated in Regulation 150.2 should be treated differently than other agricultural and non-agricultural commodities where the Commission does not impose such limits. The NGFA appreciates the unnecessary regulatory burden and delay currently faced by the exchanges in the process for adjustment of speculative limits. It appears that modifications of these limits can be a lengthy process of several months or perhaps a year or more. In our view, the exchanges are going to be managed in a way that ultimately best serves their collective customers' interests, and can therefore be expected to prudently use increased flexibility in setting speculative limits.

Importantly, however, some degree of oversight by the Commission is necessary and provides good discipline. Therefore, while we are supportive of increased flexibility and the elimination of federally imposed speculative limits, we anticipate that the exchanges would nonetheless submit speculative position limit rule amendments for agricultural commodities under a defined process for the Commission's publication, public comment and ultimate approval (or disapproval). The Commission would continue to review such contemplated rule changes, thereby providing the necessary regulatory oversight, and if deemed not justified, the Commission would have the authority to remand those changes to the exchange for further justification or reject them entirely. With this CFTC oversight still in place, and with the provision of a public comment period prior to such changes, we view this change as a general reduction in administrative burdens with little reduction in actual regulatory oversight.

The NGFA understands that under the current procedures to modify speculative limits, the exchanges must petition the Commission to both amend its own regulations and to approve the exchange's regulations modifying the speculative limits. The NGFA further understands that, in their petitions, the exchanges seek solely to eliminate that first step in the process, thereby leaving Commission oversight and enforcement otherwise intact. On these bases, the NGFA generally supports the exchanges' petitions to eliminate the federally imposed speculative limits in Regulation 150.2.

Questions 2 - 4. The Commission is herein requesting specific comments from persons who recommend that the limits in Regulation 150.2 be retained and the regulation not be repealed. As stated above, NGFA supports the position of the exchanges eliminating the speculative limits and repealing Regulation 150.2. As posed by the Commission's specific request to "explain why these commodities should be treated differently, for speculative limit purposes, from other agricultural and non-agricultural commodities where the Commission does not impose Federal speculative position limits," the NGFA is unaware of any compelling justification. Also, the fact that several other commodity markets have operated successfully for a number of years without specific federal speculative limit guidelines should provide additional confidence that this regulatory flexibility can be successfully transferred to the grains and oilseed contracts.

Question 5. If Federal speculative position limits are retained, should the increases in the non-spot, individual-month, and all-months-combined limits required by the CBOT be granted? If so, should the KCBT and MGEX requests for continuing parity also be granted?

NGFA maintains that the federal speculative position limits should not be retained. However, if the Commission determines to retain such limits, the NGFA submits that those limits should be increased as requested by the exchanges. Specifically, CBOT has requested increases for single-month and all-month-combined limits for its corn, oats, soybeans, wheat, soybean oil, and soybean meal contracts, which are justified by the increased participation in these markets. KCBT and MGEX identically request that, if the Commission declines to repeal Regulation 150.2, the limits for their respective wheat contracts be increased to parity with any increase in the wheat positions of the CBOT.

NGFA understand the concerns of KCBT and MGEX in maintaining speculative limit parity with the CBOT to permit spreads across the different exchanges and classes of wheat. If the exchanges are granted adequate flexibility on setting speculative limits with limited oversight by the CFTC as proposed, maintenance of parity is no longer a significant concern from our perspective.

The NGFA recognizes some concern that increased speculative limits might create additional volatility. Obviously, changes in large positions in a short span of time will move markets, but our view is that the speculative limits of the exchanges do not necessarily control the size of a position or affect volatility per se, because the speculator can (and commonly does) simply go to an over-the-counter (OTC) operation and take a larger position, beyond the actual speculative limit, which is then generally hedged by the OTC operation on the exchange. In such a case, the OTC's position is reported as a "hedge" position, even though it represents one that is not a traditional hedge, and, in fact, likely understates the real proportion of exchange volume represented by speculators. NGFA submits that there is merit in raising speculative limits simply to improve the accuracy of data that are reported on the level of speculative activity in the agricultural markets.

An important question that is related to extending more authority to the exchanges in setting speculative limits is whether the authority to set the spot month speculative limit should remain with the CFTC, even if the exchanges are permitted more flexibility for single-month and all-months-combined limits. Our view is that a straight-forward simple approach is better, and the exchanges should be in the best position to judge what is acceptable for spot months, given deliverable supplies and other factors related to contract liquidation and convergence of cash and futures. Therefore, we submit that the spot month speculative position limits should be set in the same manner as the other limits.

Question 6. If the Federal speculative position limits were eliminated, should the CFTC modify its acceptable practices for Core Principle 5?

The NGFA would appreciate further clarification regarding the nature of the modifications that might be anticipated to meet Core Principle 5 (to reduce the potential threat of market manipulation or congestion). The Commission proposes that greater clarity could be provided as to the types of markets for which spot-month speculative limits is necessary. In general, the NGFA strongly supports any measure that would add clarity and transparency to the benefit of all market users. The NGFA further generally supports the use of criteria for the setting of limits that would be objective, flexible, and not overly restrictive.

The Commission in its request for comments further poses whether it should require the setting of limits by exchanges, in general and for the specific commodities enumerated in Regulation 150.2 in particular. The NGFA considered the prospect that one or more of the exchanges petitioning the Commission might intend to rely upon "position accountability standards" rather than specific speculative limits to manage speculative activity. The NGFA's initial reaction is that clearly stated speculative limits lead to greater transparency and ease of interpretation by market users. The NGFA contemplates that there may be advantages and motivations for a different approach that it has not considered. At this time, however, NGFA understands that the exchanges are not seeking alternatives to the setting of specific speculative limits. If this changes, the NGFA requests further clarification of what advantages such an approach might have, and the opportunity to comment further at that time.

Thank you for allowing us to provide comments on the proposed changes to the speculative position limits in Commission Regulation 150.2. Should you have any questions or if we can be of service, please feel free to contact me, or NGFA's President Kendell W. Keith at (202) 289-0873.

Very truly yours,

Tom Coyle

Thomas Coyle
Chair
NGFA Risk Management Committee