Commodity Futures Trading Commission

Office of Public Affairs

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Proposed Regulations Regarding Position Limits for Derivatives

The Commodity Futures Trading Commission (CFTC) announced the approval for publication in the Federal Register of proposed regulations concerning position limits for derivatives. The regulations are necessary for implementing provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

The Dodd-Frank Wall Street Reform and Consumer Protection Act

On July 21, 2010, the Congress passed the Dodd-Frank Wall Street Reform and Consumer Protection Act. Among other things, the Dodd-Frank Act amended the Commodity Exchange Act to:

- Require the Commission, as appropriate, to limit the amount of positions, other than bona fide hedge positions, that may be held by any person with respect to commodity futures and option contracts in exempt and agricultural commodities traded on or subject to the rules of a designated contract market (DCM).
- Require the Commission to establish position limits, including aggregate position limits, for swaps that are economically equivalent to DCM contracts in exempt and agricultural commodities (collectively, economically equivalent swaps). Such limits must be imposed simultaneously with limits on DCM contracts.

Position Limits for Derivatives

The Commission's proposed regulations call for:

- Position limits to be placed on 28 core physical-delivery contracts and their "economically equivalent" derivatives.
- Establishment of position limits on physical commodity derivatives in two phases:
  - Initial transitional phase: spot-month position limits only, based on deliverable supply determined by and levels currently set by DCMs.
  - Second phase: spot-month position limits, based on the Commission's determination of deliverable supply, and position limits outside of the spot month.
- Spot-month position limit levels set at 25% of deliverable supply for a given commodity, with a conditional spot-month limit of five times that amount for entities with positions exclusively in cash-settled contracts.
- Non-spot-month position limit for each referenced contract to be set using the 10, 2.5 percent formula: 10 percent of open interest in that contract below the first 25,000 contracts and 2.5 percent thereafter.
- Non-spot-month position limits to consist of aggregate single-month and all-months-combined limits that would apply across classes, as well as single-month and all-months-combined position limits separately for (1) DCM futures and options and (2) all swaps.
- Exemptions for bona fide hedging transactions (based on the Dodd-Frank Act's new requirements for such transactions) and for positions that are established in good faith prior to the effective date of specific limits adopted pursuant to the proposed regulations.
- Establishment of new account aggregation standards to replace the Commission's current position limits aggregation policy.
- A position visibility reporting regime that is similar to current reporting obligations for large bona fide hedgers.
- New regulations establishing requirements and standards for position limits and accountability rules that are implemented by registered entities.