Commodity Futures Trading Commission
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Q & A – Position Limits for Futures and Swaps

What is the goal of the final rulemaking?

The final rulemaking establishes limits on speculative positions in 28 physical commodity futures contracts traded pursuant to the rules of a designated contract market ("DCM") as well as swaps that are economically equivalent to those contracts, as mandated by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010. The final rulemaking on position limits will enable the Commission to meet its statutory responsibility to set such limits in order to prevent excessive speculation and manipulation while ensuring sufficient market liquidity for bona fide hedgers and protecting the price discovery process.

Which commodities are covered by the final regulations?

The final rule establishes speculative position limits for 28 physical commodity futures contracts ("Core Referenced Futures Contracts") as well as futures and swaps that are economically equivalent to those contracts (collectively "Referenced Contracts").

The 28 Core Referenced Futures Contracts include the following contracts, by commodity category:

- Nine "legacy" agricultural contracts: (1) CBOT Corn (C); (2) CBOT Oats (O); (3) CBOT Soybeans (S); (4) CBOT Soybean Meal (SM); (5) CBOT Soybean Oil (BO); (6) CBOT Wheat (W); (7) ICE Futures U.S. Cotton No.2 (CT); (8) KCBT Hard Winter Wheat (KW); and (9) MGEX Hard Red Spring Wheat (MWE).

- Ten non-"legacy" agricultural contracts: (1) CME Class III Milk (DA); (2) CME Feeder Cattle (FC); (3) CME Lean Hog (LH); (4) CME Live Cattle (LC); (5) CBOT Rough Rice (RR); (6) ICE Futures U.S. Cocoa (CC); (7) ICE Futures U.S. Coffee C (KC); (8) ICE Futures U.S. FCOJ-A(OJ); (9) ICE Futures U.S. Sugar No. 11 (SB); and (10) ICE Futures U.S. Sugar No. 16 (SF).

- Four energy contracts: (1) NYMEX Henry Hub Natural Gas (NG); (2) NYMEX Light Sweet Crude Oil (CL); (3) NYMEX New York Harbor Gasoline Blendstock (RB); and (4) NYMEX New York Harbor Heating Oil (HO).

- Five metal contracts: (1) COMEX Copper (HG); (2) COMEX Gold (GC); (3) COMEX Silver (SI), (4) NYMEX Palladium (PA); and (5) NYMEX Platinum (PL).

How will the speculative limits be set?

The final rules set forth two types of speculative limits: *spot-month position limits* and *non-spot-month position limits*. Spot-month position limits apply in the period immediately before delivery obligations are incurred for physical delivery contracts or a period immediately before contracts are liquidated by the clearinghouse based on a reference price for cash-settled contracts. The spot-month period is specific to each commodity contract, need not correspond to a month-long period, and may extend through the period when delivery obligations are incurred.

Generally, *spot-month position limits* for Referenced Contracts will be set at 25% of estimated deliverable supply. These limits will be applied separately for positions in the physical-delivery and all cash-settled Referenced Contracts combined. For example, a trader's position in all cash-settled futures and swaps Referenced Contracts will be combined to determine whether the trader's position in cash-settled Referenced Contracts is below the limits.

The cash-settled NYMEX Henry Hub Natural Gas contracts will be subject to a cash-settled spot-month position limit and an aggregate limit (extending across positions in both physical-delivery and cash-settled natural gas contracts) set at five-times the limit that applies to the physical-delivery NYMEX Henry Hub Natural Gas contract.

The *non-spot-month position limits* apply to positions a trader may have in all contract months combined or in a single contract month. For each Referenced Contract, these limits will be set at 10 percent of open interest in the first 25,000 contracts and 2.5 percent thereafter. Open interest used in determining non-spot-month position limits will be based on futures open interest, cleared swaps open interest, and uncleared swaps open interest.

Generally, initial non-spot-month position limits will be set by Commission order using one year of open interest data and biennially thereafter.

The legacy agricultural contracts will be subject to non-spot-month limit levels that will be reset pursuant to future Commission rulemakings, consistent with the approach taken historically for establishing position limits for such contracts.

What makes a swap economically equivalent to a futures contract?

For the purposes of these regulations, a swap contract may be economically equivalent to a futures contract when: (1) it is a "look-alike" contract (i.e., it settles off of the Core Referenced Futures Contract or contracts that are based on the same commodity for the same delivery location as the Core Referenced Futures Contract); (2) it is a contract with a reference price based on only the combination of at least one Referenced Contract price and one or more prices in the same or substantially the same commodity as that underlying the relevant Core Referenced Futures Contract, provided that such a contract is not a locational basis swap; (3) it is an intercommodity spread contract with two reference price components, one or both of which are based on Referenced Contracts; or (4) it is priced at a fixed differential to a Core Referenced Futures Contract.

Why do these regulations provide for visibility levels in addition to position limits?

The final rule also requires quarterly position visibility reporting requirements for traders exceeding a non-spot-month position visibility level in energy and metal Referenced Contracts. These position visibility reports provide the Commission additional visibility into the physical and swaps portfolios of the largest traders. These position visibility reports will provide the Commission with a better understanding of trading activity in the physical commodity futures and swaps markets, allowing the Commission to make future adjustments, as necessary, to the position limit framework in order to better achieve the statutory objectives of position limits. In addition, these reports will improve the Commission's ability to enforce position limits.

How many market participants will be affected by the final regulations?

With respect to the *spot-month position limits*, the Commission estimates based on historical patterns that, on an annual basis, approximately 84 traders in legacy agricultural Core Referenced Futures Contracts, 50 traders in non-legacy agricultural Referenced Contracts, 85 traders in energy Referenced Contracts, and 12 traders in metal Referenced Contract would hold or control positions that could exceed these limits.

With respect to the *non-spot-month position limits*, the Commission estimates, on an annual basis, approximately 84 traders in legacy agricultural Core Referenced Futures Contracts, 80 traders in non-legacy agricultural Referenced Contracts, 10 traders in energy Referenced Contracts, and 25 traders in metal Referenced Contracts would hold or control positions that could exceed these limits.

These estimates of traders with positions that may exceed spot-month or non-spot-month position limits do not take into account the number of traders that would be eligible for *bona fide* hedging or pre-existing position exemptions.

How many entities will be required to make reports under these regulations?

The Commission estimates that the final regulations may require reporting from approximately six entities with respect to deliverable supply estimates, 200 traders with respect to bona fide hedging exemptions, 48 traders with respect to visibility level reporting, and 90 entities with respect to account aggregation applications.

Why is the Commission implementing position limits in two phases?

The Dodd-Frank Act provides a timeframe for the Commission to establish position limits on exempt and agricultural commodity derivatives. The formula for determining Referenced Contract position limits outside of the spot-month is based on the overall size of the physical commodity futures and swap markets, as measured by open interest. Determining the applicable limits using this formula requires swaps position data.

Spot-month limits, in contrast, are based on estimates of deliverable supply, a measure of the size of the physical market underlying the futures and swap markets for a commodity. The Commission and DCMs currently estimate deliverable supply in determining existing DCM-administered spot-month position limits. The Commission, therefore, can implement spot-month limits expeditiously in the initial phase while waiting to receive the necessary data to implement non-spot-month limits in the second phase after obtaining swaps open interest data.

How will the regulations affect current Commission regulations?

The regulations replace the Commission's existing part 150 position limits regulations and amend regulation 1.3(z) to apply the *bona fide* hedging standard to excluded commodities. The proposed regulations retain, with certain modifications, current Commission position limits on legacy agricultural commodity DCM contracts. In addition to changing the size and scope of speculative position limits, the Commission has amended the scope of the *bona fide* hedging exemption, consistent with the definition of *bona fide* hedging transactions in the new Commodity Exchange Act. The Commission has also adopted a modified version of its existing account aggregation regulations, including the long-standing independent account controller exemption to aggregation.