Commodity Futures Trading Commission
Office of Public Affairs
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581
www.cftc.gov

Final Regulations on Position Limits for Futures and Swaps

The Commodity Futures Trading Commission announced the approval for publication in the Federal Register of final regulations concerning limits on speculative positions in 28 selected physical commodity futures and swaps. The regulations implement section 737 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act).

Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act)

On July 21, 2010, President Obama signed into law 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 to limit the amount of positions, other than bona fide hedging positions, that may be held by any person with respect to physical commodity futures and option contracts in exempt and agricultural commodities traded on or subject to the rules of a designated contract market (DCM), as appropriate.'

- 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.

Final Regulations on Position Limits

The Commission's final regulations call for:

- Commission administered limits on speculative positions in 28 core physical commodity contracts and their "economically equivalent" futures, options, and swaps (collectively "Referenced Contracts").

- Establishment of speculative limits on Referenced Contracts that will occur in two phases:

    - *Spot-month position limits*. Spot-month limits will be effective sixty days after the term "swap" is further defined under the Dodd-Frank Act. The limits adopted at that time will be based on the spot-month position limit levels currently in place at DCMs. Thereafter, the spot-month limits will be adjusted annually for agricultural contracts and biennially for energy and metal contracts. These subsequent limits will be based on the Commission's determination of deliverable supply (developed in consultation with DCMs).

    - *Non-spot-month position limits* (*i.e.,* limits applied to positions in all contract months combined or in a single contract month). For the nine "legacy" agricultural Referenced Contracts that currently are subject to Commission administered limits, the new non-spot-month limits will go into effect sixty days after the term "swap" is further defined under the Dodd-Frank Act. These limits will be set equal to the levels described in the final rulemaking. For all other Referenced Contracts (that currently are not subject to Commission administered limits), the limits will be made effective by Commission order after the Commission has received one year of open interest data on physical commodity cleared and uncleared swaps under the swaps large trader reporting rule. The non-spot-month limits will be adjusted biennially based on Referenced Contract open interest.

- Spot-month position limit levels will be set generally at 25% of estimated deliverable supply. These spot-month limits will be applied separately for physical-delivery Referenced Contracts and cash-settled Referenced Contracts in the same commodity.

- Cash-settled NYMEX Henry Hub Natural Gas contracts, however, 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), each set at five-times the limit that applies to the physical-delivery NYMEX Henry Hub Natural Gas contract.

- Non-spot-month position limits (i.e., limits applied to positions in all contract months combined or in a single contract month)will be set using the 10/2.5 percent formula: 10 percent of the contract's first 25,000 of open interest and 2.5 percent thereafter. These limits will be reset biennially based on two years open interest data.

- Open interest used in determining non-spot-month position limits will be the sum of futures open interest, cleared swaps open interest, and uncleared swaps open interest.

- Exemptions for bona fide hedging transactions based on the Dodd-Frank Act's new requirements for such transactions. These exemptions have been broadened to include certain anticipated merchandising transactions, royalties, and service contracts in the final rulemaking to reflect concerns by commercial firms.

- Exemptions for positions that are established in good faith prior to the effective date of the initial limits established by the regulations.

- Establishment of account aggregation standards consistent with the Commission's current position limits aggregation policy, including the Commission's long-standing independent account controller exemption.

- A position visibility reporting regime to assist the Commission in its surveillance program.

- Acceptable practices for DCMs and swap execution facilities for setting position limits for the 28 Referenced Contracts, as well as position limits or accountability rules in all other listed contracts, including excluded commodities.