National Association of Wheat Growers

February 10, 2014
Ms. Melissa Jurgens
Secretary
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street NW
Washington, DC 20581

RE: Notice of Proposed Rulemaking: Position Limits for Derivatives. Federal Register/Vol. 78, No. 239/December 12, 2013 (RIN 3038-AD99).

Dear Ms. Jurgens:

On behalf of our 22 member states and their members, the National Association of Wheat Growers (NAWG) submits the following comments in response to the Commodity Futures Trading Commission's (CFTC) notice of proposed rulemaking: *Position Limits for Derivatives* (RIN 3038-AD99).

Introduction

The National Association of Wheat Growers (NAWG) is a federation of 22 state wheat grower associations that works to represent the needs and interests of wheat producers before Congress and federal agencies. Based in Washington, D.C., NAWG is grower-governed and grower-funded, and works in areas as diverse as federal farm policy, trade, environmental regulation, agricultural research and sustainability.

Many of NAWG's members rely on the derivatives markets to hedge the commercial risk inherent to agriculture production, processing and marketing. As the Dodd-Frank Process continues, we are concerned by the Commission's stance in a number of areas, including position limits proposal. While many of the provisions are well intended, concerns have still risen in regards to the consequences they may have for America's wheat farmers. To ensure Dodd-Frank implementation achieves the goals of the law while at the same time preserving the ability of farmers to hedge their risk we would propose several areas where we encourage the Commission to revisit and revise in the final rule.

Wheat Equivalence Determinations

NAWG urges the Commission in setting the new limits to maintain equality between three U.S. Wheat markets, CBOT, KCBT and MGEX. Currently, they each have the same spot month limit of 600 contracts and the same single-month and all-months-combined limit of 12,000 contracts. However, the proposed regulations breaks the longstanding policy of establishing the same limit for the three wheat futures contracts, CBOT Soft Red Winter (SRW), KC Hard Red Winter (HRW), and MGEX Hard Red Spring (HRS). If implemented, this change will reduce the competitiveness of the KC and MGEX contracts at a time when these markets are poised for strong growth due to changes in Canadian government policy related to marketing of milling wheat and the transfer of the KC HRW contract to the CBOT designated contract market. In addition, end users actively trade spreads between these three classes of wheat to help discover price differentials for their different protein levels and milling characteristics, and the proposal will reduce the liquidity available for these spreading transactions.

In a November 7, 1986 comment letter on the then proposed speculative position limit changes, the Chicago Board of Trade acknowledged that competitiveness could be affected by disparate limits:

"The (Chicago) Board of Trade believes that Federal speculative position limits for the same commodity should not vary by contract market. A system of different position limits applied to different contract markets in the same commodity serves no economic purpose, except to give one exchange a competitive advantage over another. Further, if such a change were to be made, it may adversely affect the hedging opportunities of a particular futures market. The viability of a futures contract market depends on the presence of both hedgers who wish to transfer price risk and speculative traders who accept that price risk and who, in effect, provide liquidity to the hedgers. Adopting a system of variable position limits by contract market would predetermine the extent of growth of speculative traders in any contract market. This system may unduly restrict a particular contract market's ability to provide liquidity to hedgers at that contract market and thus put that contract market at a competitive disadvantage with respect to all other contract markets in the same commodity. In the interest of fair trade, the (Chicago) Board of Trade believes that position limits for the same commodity should be the same for all contract markets."

Deliverable Supply

Estimated deliverable supply, which is used for setting both exchange and CFTC spot-month limits, must have a reasonable correlation to actual deliverable supplies. The Commission has not approved new estimates of deliverable supply for many commodity contracts covered by the Position Limits Proposal in some cases for over decades. For example, grain and oilseed production and delivery channels continue to evolve as new technologies increase production and growing demand for biofuels and protein in export markets shift consumption patterns. The Proposal needs to update its estimated deliverable supply and spot-month limits to reflect today's cash markets. Not doing so, while restricting commercial hedge exemptions, will damage the price discovery function of physically settled futures to the detriment of commercial market participants and consumers.

Bona fide hedging

Under the Commission's previous position limits rules, a grain elevator could hedge anticipated cash flow price risk. However, the Position Limits Proposal would not allow a grain elevator to hedge routine anticipated price risks. The restricted new definition of bona fide hedging hits hedgers who use physical-delivery futures to hedge their risk particularly hard. In addition, the Position Limit Proposal is interpreting the statutory "economically appropriate" requirement for a bona fide hedge in a way that doesn’t seem to comport with commercial market practices such as portfolio risk management which has been recognized by the Commission since 1977.

Conclusion

NAWG thanks the Commission for their effort while drafting and intent of the Proposed Rule. However, NAWG strongly urges the Commission to be cognizant of its duty to protect users during the adoption process. NAWG appreciates the commission’s consideration of this letter on this most important subject. If you have questions or wish to discuss this topic further, feel free to contact me at jpalmer@wheatworld.org or by phone at (202) 740-7800.

Sincerely,

Jim Palmer
NAWG CEO

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