OnPoint

Dechert LLP

January 2014

A Legal Update from Dechert's Global Commodities and Derivatives Group*

CFTC Proposes New Position Limits for Futures, Options, and Swaps and Amended Aggregation Requirements

Introduction

The U.S. Commodity Futures Trading Commission ("CFTC") has proposed a comprehensive set of regulations imposing speculative position limits on exchange-traded futures and options contracts and economically equivalent derivatives that reference 28 agricultural, metal, and energy commodities ("Proposed Position Limit Rules").[1] On the same day, the CFTC proposed amendments to its existing requirements for aggregating positions controlled by a single participant for the purpose of applying the proposed position limits ("Proposed Aggregation Amendments").[2]

This *Dechert OnPoint* discusses: (i) the recent history of the CFTC's position limits regime, (ii) the new "Referenced Contracts" to which the position limits would apply and the proposed methodology for determining the position limits, and (iii) the requirements for aggregating positions and the proposed expanded circumstances under which aggregation is not required.

Statutory Mandate and 2011 and 2012 Position Limits Rules

The Commodity Exchange Act ("CEA") directs the CFTC to set limits on trading in the commodity markets to curb "excessive speculation" and protect the price discovery function of those markets.[3] Because most commodities (especially agricultural, metals, and energy) are of finite supply, it is possible that, if one trader controls a significant part of the market, that trader could cause "sudden or unreasonable fluctuations or unwarranted changes in the price of such commodity" that burden the cash commodity markets whose participants use the derivative markets to manage risk. To that end, the CFTC uses position limits to limit the number of positions any trader can hold in a particular contract for the same delivery period. Position limits also play a role in the CFTC's efforts to prevent market manipulation.

The CEA grants the CFTC broad authority to impose speculative position limits. CFTC Regulation 150.2 currently establishes position limits with respect to futures and options contracts on certain enumerated agricultural products (discussed below).

The Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 ("Dodd-Frank Act") both expanded the CFTC's jurisdiction to include surveillance and enforcement authority in the OTC markets and

---

1 *Position Limits for Derivatives*, 78 Fed. Reg. 75680 (proposed Dec. 12, 2013) ("2013 Position Limits Proposing Release").

2 *Aggregation of Positions*, 78 Fed. Reg. 68946 (proposed Nov. 15, 2013) ("2013 Aggregation Proposing Release").

3 CEA Section 4a.

mandated certain regulatory changes to implement that authority. Under the Dodd-Frank Act, the CFTC may establish position limits beyond futures and options contracts to include: (i) swaps traded on a futures exchange, called a Designated Contract Market ("DCM") or Swap Execution Facility ("SEF"), (ii) swaps not traded on a DCM or SEF that perform or affect a significant price discovery function with respect to regulated markets, and (iii) swaps that are "economically equivalent" to DCM futures and options contracts.

In November 2011, the CFTC set speculative position limits on exchange-traded futures and options contracts and economically-equivalent derivatives referencing 28 individual agricultural, metal, and energy commodities ("2011 Limits Rules").[4] Similar to the existing rules for futures contracts, the 2011 Limits Rules required market participants to aggregate position limits across accounts and positions they control, subject to certain exceptions. On May 30, 2012, the CFTC published proposed modifications to its policy for aggregation under the 2011 Limits Rules to clarify and extend certain exemptions from aggregation, including an expansion of the circumstances under which positions held by subsidiaries may not need to be aggregated ("2012 Aggregation Proposal").[5]

In September 2012, the U.S. District Court for the District of Columbia ("Court") vacated and remanded the 2011 Limits Rules to the CFTC.[6] The CFTC promulgated the 2011 Limits Rules under the belief that the CEA, as amended by the Dodd-Frank Act, unambiguously required the CFTC to establish position limits. The Court disagreed, finding that the CEA was unclear as to whether the CFTC was required to establish position limits or whether the CFTC could only establish position limits after first making a factual finding that such position limits are necessary to prevent excessive speculation from placing an "undue and unnecessary burden" on the commodity markets. Because the CFTC failed to recognize this ambiguity, the Court remanded the 2011 Limits Rules to the CFTC to "fill in the gaps and resolve the ambiguities." The CFTC appealed this ruling, but moved to voluntarily dismiss the appeal following the CFTC's decision to issue the Proposed Position Limit Rules and Proposed Aggregation Amendments.[7]

Current Proposals

In the 2013 Position Limits Proposing Release, the CFTC interpreted the ambiguous CEA provisions and concluded that the CEA did impose a mandate.[8] Nonetheless, the CFTC also made a factual finding that such position limits are necessary to prevent harm caused by excessive speculation.

The CFTC approved the Position Limits Proposing Release by a 3-1 vote, with Commissioner Scott D. O'Malia, a Republican, dissenting. The Aggregation Proposing Release was approved by a unanimous vote. Concurrently with the announcement of the Proposed Position Limits Rules, Commissioner Bart Chilton, long a proponent of position limits, announced his intention to resign from the CFTC. Commissioner Chilton's departure would be in addition to that of Chairman Gary Gensler, whose term expired in 2013. As a result, only two current Commissioners, one of whom voted against the Proposed Position Limit Rules, will be involved in the adoption of a final position limits rule.

---

4 *Position Limits for Futures and Swaps*, 76 Fed. Reg. 71626 (Nov. 18, 2011).

5 *Aggregation, Position Limits for Futures and Swaps*, 77 Fed. Reg. 31767 (May 30, 2012).

6 *Int'l Swaps and Derivatives Association v. U.S. Commodity Futures Trading Comm'n*, 887 F. Supp. 2d 259 (D.D.C. 2012).

7 See Consent Motion to Dismiss, *Int'l Swaps and Derivatives Association v. U.S. Commodity Futures Trading Comm'n*, No. 12-5362 (D.C. Cir. Nov. 5, 2013).

8 *2013 Position Limits Proposing Release* at 75685.

The new proposals are substantively similar to the 2011 Limits Rules and the 2012 Aggregation Proposal, but differ in the following important respects. The Proposed Position Limit Rules modify the enumerated transactions eligible for an exemption from position limits for *bona fide* hedging transactions (such as by narrowing the types of eligible "anticipatory hedges") and add a significant exemption to position limits in the spot month for traders who hold only cash-settled contracts in a given commodity (as opposed to a mix of cash-settled and physical delivery contracts). The Proposed Aggregation Amendments also expand upon the circumstances under which aggregation of positions is not required. The comment period for each proposal will continue through February 10, 2014.

In our previous *Dechert OnPoints* CFTC Finalizes Futures and Swaps Position Limit Rules and Court Vacates CFTC Position Limits Rules, we provided a comprehensive overview of the impact of the 2011 Limits Rules on asset managers and discussed the reasoning and implications of the Court's decision to vacate and remand those rules. As discussed below, asset managers that access the commodity markets for their clients would likely be affected under the current proposals by more limited access, higher costs for such access, and nuanced but potentially important changes to rules governing the aggregation of positions in investment funds and separate accounts.

Proposed Position Limit Rules

Contracts Covered

The CFTC's current position limits rules set position limits on futures and options contracts traded on nine "legacy" agricultural commodities. DCMs set position limits or position accountability levels for other exchange-traded products. The Proposed Position Limit Rules would amend existing position limits to cover (i) futures contracts on 28 agricultural, metal, and energy commodities ("Core Referenced Futures Contracts")[9] (the same 28 commodities selected in the 2011 Limits Rules) and, on a "futures equivalent basis," (ii) all other futures and options contracts and swaps, excluding any guarantee of any swap, basis contract, or commodity index contract, with prices that are or should be "economically equivalent" to the prices of the Core Referenced Futures Contracts (collectively, "Referenced Contracts").

The CFTC clarified that the economically equivalent contracts include: (i) "'look-alike' contracts (*i.e.,* those that settle off of the Core Referenced Futures Contract and contracts that are based on the same commodity for the same delivery location as the Core Referenced Futures Contract)," (ii) "contracts with a reference price based only on 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," and (iii) "intercommodity spreads with two components, one or both of which are Referenced Contracts." This set of Referenced Contracts to which the position limits would apply is unchanged from the 2011 Limits Rules with one exception—the 2013 Position Limit Rules exclude guarantees of swaps.[10]

---

[9] The Core Referenced Futures Contracts include (i) nine "legacy contracts" covered by the current rules (CBOT Corn, ICE U.S. Cotton No. 2, CBOT Oats, CBOT Soybeans, CBOT Soybean Meal, CBOT Soybean Oil, CBOT Wheat, MGE Hard Red Spring Wheat, and KCBOT Hard Winter Wheat) and (ii) 19 futures contracts not currently subject to CFTC position limits (ICE U.S. Cocoa, ICE U.S. Coffee C, CME Feeder Cattle, ICE U.S. FCOJ-A, CME Lean Hogs, CME Live Cattle, CME Class III Milk, CBOT Rough Rice, ICE U.S. Sugar No. 11, ICE U.S. Sugar No. 16, COMEX Gold, COMEX Silver, COMEX Copper, NYMEX Palladium, NYMEX Platinum, NYMEX Light Sweet Crude Oil, NYMEX New York Harbor ULSD, NYMEX RBOB Gasoline, and NYMEX Henry Hub Natural Gas).

[10] This new exception for "any guarantee of a swap" is in response to the inclusion of guarantees of swaps in the definition of "swap" that was adopted in a joint rulemaking with the Securities and Exchange Commission after the CFTC had adopted the 2011 Limits Rules. *See 2013 Position Limits Proposing Release* at 75701 n.196.

The CFTC interprets the CEA to mandate position limits for futures contracts in physical commodities other than excluded commodities (that is, all agricultural and exempt commodities), and, as such, intends to expand the list of Core Referenced Futures Contracts in future rulemakings. These 28 initial contracts were chosen for their effect on interstate commerce, based either on their high levels and significant notional value of open interest or their role as a reference price for significant cash market transactions.

Proposed Methodology for CFTC-Set Position Limits

The CFTC's proposed formulas for calculations of position limits under the Proposed Position Limit Rules are substantially similar to those under the 2011 Limits Rules, and position limits would be set by the following procedure:

- Spot month position limits are to be set no higher than 25% of the estimated spot-month-deliverable supply of a Referenced Contract in the spot month. Spot-month limits would be applied separately for physical-delivery contracts and cash-settled contracts in the same Referenced Contract. Traders would not be permitted to net across physical-delivery contracts and cash-settled contracts for purposes of the spot-month limits.
- Non-spot month (both single month and all-months-combined) position limits are to be set using a "10/2.5 percent formula" with a limit equal to: (i) 10 percent of the estimated average interest in open contracts of the Referenced Contract, up to 25,000 contracts, plus (ii) 2.5 percent of further open interest. The single month position limit and all-months-combined position limit for any given Referenced Contract would be the same. Netting would be permitted across cash-settled and physical delivery Referenced Contracts for non-spot month position limits.

The proposed initial position limit levels are listed in the appendix to this *Dechert OnPoint*. Subsequent position limit levels would be required to be reconsidered and re-set no less frequently than every two years.

Proposed Conditional Spot-Month Limit Exemption

The Proposed Position Limit Rules would provide a "conditional spot-month limit exemption" that permits a trader to acquire cash-settled, spot-month positions in any Referenced Contract at a level five times greater than the spot-month limit if such positions are exclusively in cash-settled contracts.[11] The trader may not hold or control positions in the physical-delivery spot-month Referenced Contracts and must fulfill enhanced reporting obligations. The 2011 Limits Rules, by contrast, provided a similar spot-month limit exception but that exception was only available for certain natural gas contracts.

Bona Fide Hedging

CEA Section 4a(c)(1) exempts "*bona fide* hedging transactions or positions" from speculative position limit rules. The Proposed Position Limit Rules replace the long-standing *bona fide* hedging definition under CFTC Regulation 1.3(z) with a new, narrower *bona fide* hedging definition.

The CFTC currently defines "*bona fide* hedging" to refer to positions entered into for the purpose of offsetting price risks incidental to *commercial* cash, spot or forward operations that are established and liquidated in an orderly manner in accordance with sound commercial practices.[12] A *bona fide* hedge transaction must

---

[11] *2013 Position Limits Proposing Release* at 75828.

[12] *Id.* at 75823.

either be one of the types of transactions enumerated in the CFTC regulations, or the trader must seek relief from the CFTC to exempt a non-enumerated transaction. As in existing CFTC Regulation 1.3(z), different criteria would apply depending upon whether the hedging transaction involves excluded commodities or physical commodities. While hedging transactions involving excluded commodities only need to be economically appropriate to the reduction of risks in the conduct and management of a commercial enterprise, hedging transactions in physical commodities additionally need to represent a substitute for positions taken or to be taken at a later time in the physical marketing channel, and must arise from a potential change in assets, liabilities, or services.[13]

The proposal would change the exemptions for *bona fide* hedging in two significant ways:

- First, the proposal, like the 2011 Limits Rules, eliminates a process by which traders could seek exemptions for hedging activities that do not fit within one of the enumerated hedging transactions provided in the regulations.[14] But while the 2011 Limits Rules permitted traders to seek relief from the CFTC by requesting an exemptive letter, no-action letter, or interpretive letter, the Proposed Position Limit Rules limit traders to either requesting an interpretive letter or resorting to the CFTC's general exemptive authority under the CEA.[15]

- Second, the proposal would alter the scope of the available enumerated exceptions.[16] Compared to the 2011 Limits Rules, the Proposed Position Limit Rules expand the exemptions for offsetting unfixed-price cash commodity sales and purchases[17] and cross-commodity hedges, but narrow the exemption for anticipated royalties. Additionally, the Proposed Position Limit Rules do not include an exemption for hedges of unfilled storage capacity as anticipated merchandizing hedges. That exemption was included in the 2011 Limits Rules. The proposal, however, includes a new exemption for hedging of unfilled anticipated requirements for resale by a utility.

Along with the amendments to the *bona fide* hedging exemption, the CFTC is proposing to update the existing reporting requirements in Part 19 of the CFTC regulations applicable to traders utilizing that exemption. The amendments in the Proposed Position Limit Rules would affect the type of information that must be reported, the timing for submission of the required reports, and certain guidelines governing the manner of reporting. These reporting requirements would also be extended beyond the *bona fide* hedging exemption to all traders seeking a position limit exemption.[18]

Asset managers would rarely be considered to be engaged in *bona fide* hedging when trading in Referenced Contracts because they do not normally participate in the cash commodity markets underlying the derivatives markets. However, as with the 2011 Limits Rules, the Proposed Position Limit Rules would have an indirect effect on trading by asset managers, because of their effect on swap dealers that act as counterparties to OTC derivative contracts. Since the early 1990s, swap dealers have been able to obtain

---

[13] *Id.* at 75707-10.

[14] Prior to the adoption of the 2011 Limits Rules, this non-enumerated exemption provision was found in section 1.47 of the CFTC regulations.

[15] *See* CFTC Regulation 140.99.

[16] *See 2013 Position Limits Proposing Release* at 75712 (providing a table comparing *bona fide* hedging exemptions in Proposed Position Limit Rules, 2011 Limits Rules, and section 1.3(z)).

[17] For example, "the purchase and [sale of] cotton in the cash market in relation to the futures price in different delivery months for cotton." *2013 Position Limits Proposing Release* at 75714 n.331.

[18] The reporting requirements would thus apply to traders seeking the conditional cash-settled spot month exemption, exemptions for financial distress, qualifying pre-enactment and transition period swaps, or relief for non-enumerated exemptions through an interpretive letter or the CFTC's general exemptive authority under the CEA.

bona fide hedging exemptions to allow them to hedge their exposure to traders with whom they enter into swaps. Under the 2011 Limits Rules, and carried over in the Proposed Position Limit Rules, a swap dealer's position used to lay off swap risk would only be considered a *bona fide* hedging position if the dealer's counterparty itself would have been considered to be engaged in *bona fide* hedging if it could have entered into the position directly. This change would likely limit the commodity market exposure capacity that swap dealers would have available to provide to their counterparties.

Aggregation of Positions

For purposes of applying the position limits, each of current CFTC Regulation 150.4, the 2012 Aggregation Proposal, and the Proposed Aggregation Amendments require a person to aggregate all positions for which the person has trading control and all positions for which the person has a 10 percent or greater direct or indirect ownership interest in an account or position, as well as the positions of two or more persons acting pursuant to an express or implied agreement or understanding, unless an exemption to aggregation applies.[19] Under the 2012 Aggregation Proposal and the Proposed Aggregation Amendments, a person must also aggregate positions in accounts with identical trading strategies, even if the person does not control trading and has a less than 10 percent interest in the account. The Proposed Aggregation Amendments are similar to the amendments under the 2012 Aggregation Proposal but expand the available exceptions to aggregation in response to comments the CFTC received on the 2012 Aggregation Proposal.

Current CFTC regulations provide three exemptions to aggregation (subject to certain conditions): (i) the ownership of limited partner interests (or a similar type of limited interest) in a commodity pool (with certain exceptions),[20] (ii) discretionary accounts and customer trading programs of a futures commission merchant ("FCM"),[21] and (iii) positions maintained by an independent account controller ("IAC")[22] managing customer funds for an eligible entity (which includes CPOs).[23]

The IAC concept is a long-permitted exemption from aggregation under the CFTC's position limit regulations and is generally the most important exemption for asset managers. Under the IAC exemption, registered or excluded CPOs or commodity trading advisors to registered investment companies and other types of funds, which would ordinarily be required to aggregate all commodity interest positions in accounts or pools under their ownership or control, are exempt from such aggregation if they: delegate trading authority over those accounts or pools to an IAC that independently controls trading decisions;

---

[19] *2013 Aggregation Proposing Release* at 68946.

[20] CFTC Regulation 150.4(c).

[21] CFTC Regulation 150.4(d).

[22] An IAC generally is a person: (1) authorized by an "eligible entity" (discussed below) to control trading decisions on behalf of, but without the day-to-day direction of, such eligible entity, (2) over whose trading the eligible entity maintains only such minimum control as is consistent with such eligible entity's fiduciary responsibilities to fulfill its duty to supervise diligently the trading done on its behalf or as is consistent with such other legal rights or obligations which may be incumbent upon such eligible entity to fulfill, (3) who trades independently of the eligible entity and of any other IAC trading for such eligible entity, (4) who has no knowledge of trading decisions by any other IAC, and (5) who is registered as an FCM, an introducing broker, a commodity trading advisor, or an associated person of any such registrant, or is a general partner of a commodity pool the operator of which ("CPO") is exempt from registration.

[23] CFTC Regulation 150.1(d). In general, an eligible entity is a CPO (including entities where the operator of a trading pool or the trading vehicle is excluded from the term "pool" or "CPO"), a limited partner, shareholder or other fund investor in a commodity pool where the CPO of such pool is exempt from registration, a commodity trading advisor, certain other financial institutions or affiliates of any of the foregoing entities that authorizes an IAC to independently conduct its commodity trading without day-to-day direction or control by such entity.

do not engage in day-to-day direction of the delegate; and satisfy other conditions.[24] Among other things, the proposed changes to the IAC definition extend the IAC concept and treat an investment manager of an employee benefit plan sponsored by a corporate entity as an IAC, which permits the sponsoring entity to avoid aggregating the positions of the plan with its other trading activities. Consistent with the 2011 Limits Rules, the Proposed Aggregation Amendments also require an asset manager relying on the IAC exemption to file a notice with the CFTC that (i) describes the circumstances that warrant disaggregation and (ii) certifies that the asset manager meets the criteria to qualify for the IAC exemption.

In addition to revising the IAC exemption, the Proposed Aggregation Amendments expand the other available exceptions to aggregation under current CFTC regulations by adding four new situations in which positions need not be aggregated:

- *Exemption for Restrictions on Information Sharing*: where the sharing of information necessary to aggregate positions "would violate or create reasonable risk of violating U.S. Federal or state or foreign jurisdiction law or regulation" (subject to a notice filing with a memorandum of law explaining the reason for the exemption). Notably, while the 2011 Limits Rules and 2012 Aggregation Proposal required that the notice filing be accompanied by a legal opinion, the Proposed Aggregation Amendments permit the filing of a written memorandum of law, which may be prepared by internal counsel.

- *Exemptions for Owned Entitie*s

  - *Ownership interests of 10 percent to 50 percent*: where the market participant has an ownership interest equal to or exceeding 10 percent but less than 50 percent in another entity, but such other entity's trading is independently controlled (subject to a notice filing and certain conditions).[25]

  - *Ownership interests exceeding 50 percent*: where the market participant has an ownership interest of greater than 50 percent in another entity and satisfies the conditions above for exemption for ownership interests up to 50 percent *and* the CFTC finds in its discretion (among other things) that: (i) the other entity is not consolidated with the applicant under U.S. generally accepted accounting principles, (ii) the other entity's trading is independently controlled, and (iii) the applicant certifies to the CFTC in a notice filing that the other entity's positions qualify as *bona fide* hedging positions or do not exceed 20 percent of any applicable position limit. Although this new exemption is very limited and the CFTC would only grant this exemption on a case-by-case basis following a showing by the owner that strict criteria are met, this is the most significant expansion of the 2012 Aggregation Proposal.

- *Underwriting and Broker-Dealer Activities*: where the market participant has an ownership interest in another entity as the result of: (i) ownership of securities constituting an unsold allotment to

---

24 Additional conditions continue to be imposed under the Proposed Aggregation Amendments on IACs that are affiliated with a respective eligible entity, including a requirement to have and enforce written procedures that prevent the affiliated entity from having knowledge of or information about the trading activity and a requirement to trade pursuant to independent trading systems. *See* CFTC Regulation 150.3(a)(4)(i).

25 To qualify for this exemption, the owner and owned entity must provide that they: (1) do not have knowledge of the trading decisions of each other, (2) trade pursuant to separately developed and independent trading systems, (3) have and enforce written procedures to preclude each from having knowledge of, gaining access to, or receiving data about, trades of the other, and such procedures meet certain requirements, (4) do not share employees that control the trading decisions of either, and (5) do not have risk management systems that permit the sharing of trades or trading strategy. *See 2013 Aggregation Proposing Release* at 68976.

or subscription by such person as a participation in a distribution of securities by an issuer or underwriter or (ii) broker-dealer activities in the normal course of business as a dealer (subject to certain conditions).

DCM- and SEF-Set Position Limits and Accountability Levels

Consistent with the 2011 Limits Rules, DCMs and SEFs on which Referenced Contracts trade, or on which cash-settled contracts price-linked to such contracts trade, would be required to set position limits on those Referenced Contracts no higher than CFTC-set limits. For non-spot-month, non-Referenced Contracts, DCMs and SEFs may adopt “position accountability levels” in lieu of position limits for contracts outside the scope of Referenced Contracts if the contract is sufficiently liquid. To meet that liquidity standard, a contract would need to have an average month-end open interest of 50,000 contracts, an average daily volume of 5,000 contracts, and a liquid cash market. Such exchanges would also be required to recognize the *bona fide* hedging exemptions and aggregation rules under the Proposed Aggregation Amendments.[26]

Proposed Effective Date

Unlike the 2011 Limits Rules, the Proposed Position Limit Rules do not provide for a delayed or staggered implementation schedule. Instead, the new position limits would become effective 60 days after the final rule is published in the Federal Register (“Effective Date”). While contracts entered into in good faith prior to the Effective Date would not be subject to the proposed “single-month” or “all-months-combined” position limits, the “spot month” position limits would apply to pre-existing positions on the Effective Date. If, however, a trader subsequently expands the extent by which a pre-existing position exceeds the applicable position limit, the pre-existing position would be included along with the subsequently acquired positions to determine compliance with the position limit.

Conclusion

Asset managers will need to consider whether they can continue to rely on the formerly self-executing exemption for disaggregation and may need to make certain exemption filings. To the extent that aggregating on-exchange and economically equivalent OTC derivatives might exceed position limits, asset managers will need to plan and make adjustments to ensure compliance. Asset managers will also need to consider whether the *bona fide* hedging exemption changes will affect the capacity of their swap dealers to provide commodity market exposure and ultimately the implementation of the asset managers’ own trading strategies. Additionally, asset managers will need to consider appropriate disclosure for the effects of the Position Limit Rules on their activities.

[26] *Id.* at 75828-31.

Matthew K. Kerfoot
New York
+1 212 614 5694
matthew.kerfoot@dechert.com

Philip T. Hinkle
Washington
+1 202 261 3460
philip.hinkle@dechert.com

The authors would like to thank **Victor Bieger** for his contributions to this *Dechert OnPoint.*

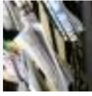
APPENDIX

Proposed Initial Position Limits[1]

Contract	Number of Spot-Month Contracts	Number of Single Month and All Months Contracts
Legacy Agricultural		
CBOT Corn	600	53,500
CBOT Oats	600	1,600
CBOT Soybeans	600	26,900
CBOT Soybean Meal	720	9,000
CBOT Soybean Oil	540	11,900
CBOT Wheat	600	16,200
ICE U.S. Cotton No. 2	300	8,800
KCBOT Hard Winter Wheat	600	6,500
MGE Hard Red Spring Wheat	600	3,300
Other Agricultural		
CBOT Rough Rice	600	2,200
CME Class III Milk	1,500	3,400
CME Feeder Cattle	300	3,000
CME Lean Hogs	950	9,400
CME Live Cattle	450	12,900
ICE U.S. Cocoa	1,000	7,100
ICE Coffee C	500	7,100
ICE FCOJ-A	300	2,900
ICE U.S. Sugar No. 11	5,000	23,500

[1] These initial limits are set forth in proposed Appendix D to Part 150 of the CFTC regulations. *See 2013 Position Limits Proposing Release* at 75839-40.

Contract	Number of Spot-Month Contracts	Number of Single Month and All Months Contracts
ICE U.S. Sugar No. 16	1,000	1,200
Energy		
NYMEX Henry Hub Natural Gas	1,000	149,600
NYMEX Light Sweet Crude Oil	3,000	109,200
NYMEX New York Harbor ULSD	1,000	16,100
NYMEX RBOB Gasoline	1,000	11,800
Metal		
COMEX Copper	1,200	5,600
COMEX Gold	3,000	21,500
COMEX Silver	1,500	6,400
NYMEX Palladium	650	5,000
NYMEX Platinum	500	5,000



To browse our library of legal updates, please visit http://www.dechert.com/publications/.

***The Global Commodities and Derivatives Group is a component of the Global Financial Services Group (FSG). For more information about the services offered within the FSG, please visit our website.**

© 2013 Dechert LLP. All rights reserved. This publication should not be considered as legal opinions on specific facts or as a substitute for legal counsel. It is provided by Dechert LLP as a general informational service and may be considered attorney advertising in some jurisdictions. Prior results do not guarantee a similar outcome. We can be reached at the following postal addresses: in the US: 1095 Avenue of the Americas, New York, NY 10036-6797 (+1 212 698 3500); in Hong Kong: 27/F Henley Building, 5 Queen's Road Central, Hong Kong (+852 3518 4700); and in the UK: 160 Queen Victoria Street, London EC4V 4QQ (+44 20 7184 7000).

Dechert internationally is a combination of separate limited liability partnerships and other entities registered in different jurisdictions. Dechert has more than 800 qualified lawyers and 700 staff members in its offices in Belgium, China, France, Germany, Georgia, Hong Kong, Ireland, Kazakhstan, Luxembourg, Russia, the United Arab Emirates, the UK and the US. Further details of these partnerships and entities can be found at www.dechert.com on our Legal Notices page.

IRS Circular 230 disclosure: To ensure compliance with requirements imposed by the IRS, we inform you that any U.S. federal tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein.