



March 28, 2011

David A. Stawick
Secretary
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, N.W.
Washington, D.C. 20581

**RE: 17 CFR Parts 1, 150 and 151, RIN 3038-AD15 and 3038-AD16
Position Limits for Derivatives**

Dear Mr. Stawick:

Bunge is pleased to submit these comments to the Commission's proposals intended to implement the provisions of the Dodd-Frank Wall Street Reform Act requiring the establishment of speculative position limits in physical commodity derivative markets.

Bunge is an integrated, global agribusiness and food company operating across the food, feed, and fuel value chains. Operating in more than 400 locations in over 30 countries, Bunge and its affiliated companies must manage risks arising from purchasing raw commodities, processing commodities into food, feed and industrial products, and selling commodities, processed products and co-products to consumers around the globe. As a major, global commercial market participant, Bunge's risk management includes hedging its risks in agricultural, energy, foreign currencies and other financial derivatives in U.S. and other global market venues and thus the company has a significant stake in the maintenance of well-functioning markets.

Position Limits

Broadly, Bunge believes speculative position limits in physical commodity derivative markets can play a constructive role in maintaining a balance in the character and quality of market participation and can engender confidence in the market. Limiting speculation for the sake of limiting speculation, however, will have negative consequences on the broader economic benefits that accrue from open, transparent and liquid markets. In short, limits that are overly restrictive may introduce unintended consequences such as increased volatility and lost liquidity that perversely would increase price risks for commercial market participants.

The Commission has asked whether it should adopt the limits proposed by the CME Group for agricultural contract markets in April of 2010. We urge the Commission to increase the



limits as proposed by the CME and to abandon its proposed rule to adopt legacy positions in the CME Group's listed agricultural commodities that were subject of their petition. The proposed limits are consistent with the formula applied to these contracts for at least the last decade and they have served the industry well. We would also support parity in the positions between the CBOT, KCBT and MGEX wheat contracts. We believe these limits achieve the proper objective of applying the legal mandate in a manner that is most compatible with and supportive of a healthy market.

Reporting Requirements

Bunge understands the value reporting obligations have in ensuring compliance and providing information necessary for effective market oversight. We believe the Commission should recognize differences in the underlying businesses of reporting entities and should be certain that the required information is genuinely meaningful to the Commission to use and efficient for the regulated industry to provide.

The Commission has asked for comment about its proposed daily reporting of cash commitments and inventories for commercial hedgers whose positions exceed the speculative position limits. Specifically with respect to the proposed frequency of filing such reports, the Commission has asked whether it should alternatively only require reports to be submitted either when a trader's position first exceeds a limit or when a trader's hedging need increases, with a monthly summary while the trader's position remains in excess of the limit.

Bunge believes that a monthly summary is preferable to a daily report. Rules currently require monthly reporting of inventories and fixed price forward cash purchases and sales. Large commercial hedgers with major investments in a capital asset network have no choice but to maintain large minimum levels of inventories and forward purchases and sales in the physical market. The levels may fluctuate considerably due to crop and market conditions but realistically cannot fall below these minimum levels. In the case of such hedgers, we believe that the monthly summary, which *de facto* would always be required because of these large minimum levels of cash business, would generally be sufficient for the Commission's market oversight needs.

In this regard, it is worth noting that years ago the Commission required similar cash data to be reported weekly. The Commission, however, determined that weekly reporting provided no better information than could be secured from monthly reports and accordingly adopted the current monthly regime. A reasonable exception might concern more frequent reporting of cash data relevant to futures and options positions in the spot month.

One final comment about reporting responds to the Commission's proposal to require advance filings of cross-hedging algorithms with the Commission. While understanding the motivation for such a request, we believe the requirement, if enacted, quickly would become a burden not only to hedgers, but to the Commission. Cross-hedging algorithms in some



instances may be relatively stable. However, more often than not, these algorithms change with great frequency (perhaps daily), as the relationships between commodities changes with market information. Rather than requiring advance filing of algorithms for cross-hedging, we would encourage the Commission to instead require hedgers to maintain books and records sufficient to establish and document cross-hedging algorithms in a manner akin to an audit trail.

Bona Fide Hedging

Bunge is concerned that the Commission's proposed implementation of the bona fide hedging provisions for physical commodities of the Act fail to reflect a robust consideration and assessment of the strategies necessary to appropriately and efficiently hedge physical commodity price risks. Frankly, the proposed rules appear to take an overly simplistic and narrow approach by covering only "hedge and hold" strategies, thus failing to provide clarity and comfort necessary to an industry that must manage a diverse portfolio of risks borne from owning a global asset base. There are numerous examples of strategies that need clarity from the rules. Two such examples are spread positions and transactions that manage the associated risks of physical assets.

Spread Positions to Hedge Physical Asset Margins: The Commission's proposed rule § 151.5 (a)(2)(C) generally replaces the "processor exemption" in § 1.48. It allows, for example, a soybean processor to be bull spread within the soybean complex: long soybean futures early in the array of futures contracts and short soybean meal or soybean oil futures somewhat later in the array, reflecting the time and place risk dimensions of physical soybean processing.

From the language of the rule currently proposed, it would appear that operators of commodity merchandising assets that merely move commodities without literally "processing, manufacturing or feeding," may not be afforded the same opportunity to hedge their risks with spreads. For physical commodity merchants with investments in, for example, grain handling assets such as grain elevators at interior and port locations, (export origins as well as import destinations), and investments in transportation assets such as rail cars, barges and ocean vessels, the economic hedging requirements are the same as those of a processor. We encourage the Commission to clarify that the opportunity indeed exists.

Enterprise Hedging: Commercial hedgers assume risks that are effectively embedded in their cash market commitments that go beyond tying cash bushels to derivative transactions. Investments in operating assets and forward contract relationships with farmers and consumers often create timing mismatches between the cash flow associated with the physical commodity commitment and the cash flow associated with its hedge in the futures market. There are numerous hedging strategies possible to the industry to manage this fuller view of risk emanating from cash market obligations.



These are just two of the kinds of strategies which could be employed to maximize the efficiency of price risk management, but which appear to be outside a narrow interpretation of permissible hedges. Commodity enterprises well understand that risk must be priced into goods and services: if risk can be reduced, price can be reduced. To minimize risk for commercial market participants, to minimize costs for consumers and to minimize systemic risk in the agricultural value chain, we encourage the Commission, in defining *bona fide* hedging, to provide an avenue to consider the full range of risks in physical marketing channels that can be economically hedged with futures and options.

Conclusion

We appreciate the opportunity to comment and look forward to further guidance on these matters by the Commission. We would be happy to address any questions the Commission may have relating to these comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Thomas J. Erickson". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Thomas J. Erickson
Vice President, Government & Industry Affairs