



Alternative Investment Management Association

Melissa D. Jurgens
Secretary of the Commission
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street NW.
Washington, DC 20581

Submitted via <http://comments.cftc.gov>

RIN number 3038-AD99

10 February 2014

Dear Ms Jurgens,

Position Limits for Derivatives; Proposed Rule

The Alternative Investment Management Association (AIMA)¹ appreciates the opportunity to provide comments on the Commodity Futures Trading Commission's (the Commission) proposed rule² in respect of Position Limits for Derivatives (the Position Limits Proposals).

In parallel with this submission, we are also filing comments in respect of the Commission's proposed rule on aggregation of positions (the Aggregation Proposals).³

As outlined in our response to the Aggregation Proposals, we note that the Commission has adopted many helpful clarifications to the rules on aggregation, which address a number of the concerns that we have previously expressed.⁴ At the same time, we believe there are additional changes that could enhance the aggregation framework, and we comment further on these in our response in respect of the Aggregation Proposals.

Notwithstanding the helpful changes that have been made to the Aggregation Proposals, we continue to have fundamental concerns about the Commission's broader approach to position limits. At this stage, we do not believe that compelling evidence has been put forward to justify the *ex ante* establishment of broadly applicable position limits. Instead, we believe that it would make sense for the Commission to proceed cautiously, monitoring the impact of existing reforms to the commodities derivatives markets, whilst analyzing the enhanced data that is now at its disposal, before committing to a position limits regime. On a practical level, we would also reiterate some of the points that we have previously made⁵ regarding the challenges associated with the Commission's approach to position limits:

- The breadth of the framework, which captures not just futures but also "economically equivalent" swap contracts, is such that it will inevitably create acute challenges for market participants in terms of determining which of their contracts and positions are relevant from the point of view of the Commission's position limits, particularly given that they will have to make such determinations on a real-time basis. Similar challenges have already been recognised by the Commission when it adopted regulations governing large trader reporting for physical commodity swaps.⁶ Accordingly, we believe that further guidance should be developed, in consultation with market participants, in order to make the regime workable. The goal should be to provide a calculation that can be easily monitored by buy-side

¹ Founded in 1990, AIMA is the global representative of the hedge fund industry. We represent all practitioners in the alternative investment management industry - including hedge fund managers, fund of hedge funds managers, prime brokers, legal and accounting firms, investors, fund administrators and independent fund directors. Our membership is corporate and comprises over 1,300 firms (with over 7,000 individual contacts) in more than 50 countries. See www.aima.org.

² Proposed Rule 78 FR75680: 17 CFR Parts 1, 15, 17, et al. Position Limits for Derivatives.

³ Proposed Rule 78 FR68946: 17 CFR Part 150 Aggregation of Positions.

⁴ Filed with Comment Number 58303.

⁵ Filed with Comment Numbers 33565 and 50064.

⁶ 76 FR43851 (22 July 2011).

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firms and that is suitable for use in automated monitoring programs. This will help to avoid undue costs and burdens being placed on market participants.

- We believe that there is a need to distinguish clearly between cash-settled and physically-settled contracts in designing a positions limits framework, given that cash-settled contracts have a less direct impact on the price of the underlying commodity; we believe that this justifies initially setting limits for cash-settled contracts at a higher level than limits for physically-settled contracts.
- While we support the increased limit for cash-settled contracts under the conditional-spot-month limit, we remain concerned that the restriction on simultaneously holding physically-settled contracts will potentially drive liquidity away from physically-settled contracts.

In a practical sense, an important component of a workable position limits regime is the provision by trading venues of timely, clear and detailed information regarding the limits that apply in respect of contracts traded on those venues. Accordingly, in its supervision of Designated Contract Markets (DCMs) and Swap Execution Facilities (SEFs), the Commission could look at the nature of information provided to market participants and whether this is sufficient from the point of view of supporting participants' compliance with the rules.

AIMA would, of course, be happy to discuss position limits and aggregation requirements further. Please contact Adam Jacobs or myself on +44 20 7822 8380 if you have any questions.

Yours sincerely,

A handwritten signature in blue ink, appearing to read "Jiří Król".

Jiří Król
Deputy Chief Executive Officer
Head of Government & Regulatory Affairs