



February 10, 2014

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

Re: Position Limits for Derivatives, RIN 3038–AD99

Dear Ms. Jurgens:

Archer Daniels Midland Company (ADM) appreciates the opportunity to provide comments to the Commodity Futures Trading Commission (CFTC) on the Proposed Rule for Position Limits for Derivatives (Proposed Rule).¹ ADM is an extensive user of exchange traded commodity futures for hedging. The efficiency and effectiveness of commodity derivative markets is critical to ADM in managing and reducing the commodity risks inherent in the activities of the corporation.

For more than a century, the people of Archer Daniels Midland Company have transformed crops into products that serve vital needs. In the United States, nearly 16,000 ADM employees convert oilseeds, corn, wheat and cocoa into products for food, animal feed, industrial and energy uses. With more than 400 facilities in 40 U.S. states and the world's premier crop transportation network, ADM helps connect the harvest to the home.

The physical commodity markets and the derivative products associated with them have a long and successful history of providing for robust risk management and price discovery.

ADM is broadly supportive of comments submitted by two associations of which ADM is a member: the Commodity Markets Council (CMC) and the National Grain and Feed Association (NGFA). However, we want to highlight and expressly support the following specific portions of those submissions and their themes.

1. Position Limits

As structured in the Proposed Rule, the position limit system has the potential to impede the versatility of derivatives markets and significantly harm end-users like ADM, which use these markets as an important risk management tool. The proposal will increase costs without well-defined benefits on an efficient US exchange system that has worked well over time.

ADM previously assisted the CFTC in developing contract terms to help ensure convergence in the market. The CFTC should ensure a final rule does not compromise predictable convergence in the market, or risk threatening the utility of contracts for risk management purposes.

¹ See Position Limits for Derivatives, 78 Fed Reg 75680 (December 12, 2013).

The CFTC should also avoid any major redesign of the current system, but rather simply build upon the existing successful one. Exchanges, in coordination with the CFTC, have developed an expertise in maintaining orderly markets with the flexibility necessary to prevent market-disrupting speculation while preserving transparent and liquid markets.

ADM encourages the CFTC to strongly consider that the commodity markets and their regulatory regime have a proven track record of effectiveness. The evidence appears to be insufficient to support the imposition of significant adjustments in the current regulation of commodity derivatives.

2. Bona Fide Hedging

We echo the concerns of many in the commodity industries regarding the bona fide hedging protocols in the Proposed Rule. It is critical to ADM, our suppliers and our customers to have a clear, consistent and dependable means of reducing the commodity risks to which we are exposed in the operation of our enterprise. The risk-reducing structures that we have effectively used to offer the most competitive prices to our producer suppliers and our customers appear to have significant regulatory uncertainty under the Proposed Rule.

The current definition of bona fide hedging and the CFTC's interpretation of that definition have worked well for many years. Changes in the definition or interpretation could have significant impacts on bona fide hedgers in agriculture and agribusiness. Long-standing business practices and capital investment decisions have been made under current bona fide hedging rules. ADM urges the CFTC not to constrict what has been the industry's and the CFTC's historical understanding of what constitutes bona fide hedging.

As CMC noted in their comments, "The federal position limit regime that appears in the Proposed Rule, if adopted as final, would adversely affect commercial end-users who use derivatives markets for legitimate risk management activities. For example, the Proposed Rule abandons many well-understood concepts contained in CFTC regulation 1.3(z) definition of 'bona fide hedging transaction' in favor of a narrower concept of bona fide hedging. Moreover, the proposed rule ignores the plain language of the statutory definition of bona fide hedge contained in Dodd-Frank by disallowing anticipatory merchandising hedges. Congress and the CFTC have consistently recognized the importance of protecting risk management activities through reasonable, flexible and effective regulations, and derivatives markets have evolved to provide firms and individuals with effective hedging for risk management. Accordingly, it is crucial that the Commission avoid any limitation on the ability of end-users to hedge commercial risk in the derivatives markets when adopting new federal position limits. To minimize the impact to commercial market participants, we urge the commission to retain many of the time-tested elements of CFTC regulation 1.3(z) and further to amend regulation 1.3(z) and regulation 150.4 to align with the statutory definition by including merchandising hedges in the definition of 'bona fide hedging transaction.'"

ADM firmly believes that under the Proposed Rule, the liquidity and efficiency of commodity markets will be negatively impacted without any offsetting gain in regulatory protection of those markets. Rather than further restate the excellent work done by the CMC and NGFA, we

propose the CFTC take into careful consideration the following issues raised regarding bona fide hedging:

- 1) The new bona fide hedge definition as proposed is inflexible, overly prescriptive and thus unduly restrictive in relation to legitimate hedging practices.
- 2) The current non-enumerated hedge approval process, which is flexible and effective, is proposed to be replaced by a burdensome and likely lengthy procedure for seeking exemptive relief that is ineffective for the dynamics of the commodity markets and that would prevent legitimate deviations from the confines of the enumerated hedges.
- 3) The application of the appropriateness of either gross or net hedging is unclear and creates unnecessary regulatory risk.
- 4) There is uncertainty in the CFTC's Proposed Rule regarding portfolio hedging and the industry's best practice usage of centralized hedge desks versus one-to-one matching of transactions.
- 5) The restrictive interpretation of anticipatory hedges is a significant departure from historical industry best practice for risk-reducing transactions.
- 6) The "bright line" quantitative hurdle for cross-hedges will severely impede a firm's ability to engage in risk reducing transactions.
- 7) The restrictive and unprecedented interpretations that are expressed in the proposed applications of the "economically appropriate" test in the notice of proposed rulemaking would unduly narrow the scope of the enumerated hedge categories as they have historically been applied.

3. Conclusion

ADM appreciates the CFTC's effort in drafting the Proposed Rule, and the important oversight role that it plays in providing for competitive and transparent commodity markets. Given ADM's extensive hedge risk management experience, we would welcome the opportunity for further discussion prior to the publication of a final rule to discuss the potential commercial impacts of the proposal.

We urge the CFTC to maintain the long-standing ability of commercial end-users to utilize commodity markets to manage risk, and appreciate the CFTC's consideration of our comments on this important subject.

Sincerely,



Matt Jansen
Senior Vice President & President, Global Oilseeds and Cocoa
Chief Risk Officer
Archer Daniels Midland Company