FCStone, LLC
1251 NW Briarcliff Parkway
Suite 800
Kansas City, MO 64116
www.intlfcstone.com

February 10, 2014

Via Electronic Submission

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

Re: Position Limits for Derivatives (RIN Number 3038-AD99)

Dear Ms. Jurgens:

FCStone, LLC ("FCS")[1] appreciates the opportunity to provide the Commodity Futures Trading Commission (the "Commission") with the comments and recommendations outlined below in response to the Commission's Notice of Proposed Rulemaking concerning *Position Limits for Derivatives*, 78 Fed. Reg. 75680 (Dec. 12, 2013) (the "Proposed Rule"). FCS understands and appreciates the efforts of the Commission to maintain the integrity of the markets by preventing fraud and manipulation and limiting the burdens of excessive speculative positions, while balancing these concerns with the need to ensure sufficient market liquidity for bona fide hedgers. FCS has many concerns about the Proposed Rule, most of which are addressed more broadly in the numerous comment letters submitted by various futures industry groups. In particular, FCS, as a member of the Futures Industry Association (the "FIA"), supports the comments and recommendations submitted by the FIA on February 7, 2014. Rulemaking related to position limits should be empirically driven and not a response to popular sentiment or partial analyses. FCS joins the FIA and others in urging the Commission to ensure that any rule adopted regarding position limits has a sound factual and legal basis. FCS respectfully urges the Commission to gather and examine all relevant data and consider less burdensome alternatives to the Proposed Rule. As a threshold matter, the Commission should be able to make an empirical finding that speculative position limits are "necessary" to "diminish, eliminate or prevent" the burden on interstate commerce caused by excessive speculation, and that any proposed limit levels are "appropriate."

[1] FCS is registered as a futures commission merchant and commodity trading advisor with the Commission and a Member of the National Futures Association ("NFA," NFA ID 0300861). FCS' customers include the producers, processors and end users of virtually every major traded commodity; commercial counter-parties; governmental, non-governmental and charitable organizations; institutional investors; brokers; professional traders; commercial banks; and major investment banks.

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However, should the Commission choose to move forward with the Proposed Rule without making a necessity finding based upon empirical data as required by the Commodity Exchange Act, FCS requests that the Proposed Rule be amended consistent with the following comments and recommendations as they relate to the company's bona fide hedge customers, particularly those who need to manage overall risks of the dairy market. As discussed below, FCS is concerned about the specific unintended consequences that the Proposed Rule would have on the U.S. dairy markets.

Introduction

FCS, along with its affiliates[2], provide clients with full-service to a wide range of dairy-industry participants to protect against the risk of price fluctuations in dairy products and inputs (including grains, energy, livestock, etc.), using a combination of exchange-traded futures and options, proprietary over-the-counter ("OTC") trading tools and cash-market instruments. FCS clients have access to the complete range of exchange traded risk-management products offered by exchanges around the world, including exchanges in the United States, Europe and New Zealand. These products include futures and options on futures covering Class III milk, Cheese, Class IV milk, nonfat dry milk, butter, cash-settled butter, dry whey, skim milk powder, whole milk powder and anhydrous milk fat. There are also a variety of OTC products offered on various dairy products.

Today's dairy markets are in their infancy compared to other agricultural markets such as corn, etc. Even though there has been dairy trading in the past, there was a lengthy period where there were no futures trading primarily due to the fact that government price supports limited volatility in dairy prices. As the support prices were lowered following changes in dairy policies in the 1985 Farm Bill, volatility increased and the need for a futures market to provide price discovery, price dissemination and transfer of risk grew. Our firm sees this need for dairy futures and derivatives continuing to grow in the United States and across the globe.

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[2] Affiliates include INTL FCStone Markets, LLC, which is a provisionally registered Swap Dealer with the COMMISSION and NFA (NFA ID 0449652).

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FCS appreciates the ability to comment on the following two topics as it relates to the company's dairy customers: (1) the Commission's proposed definition of bona fide hedging; and (2) the Commission's proposed speculative position limits, in particular Class III milk, which has been labeled a Core Referenced Contract.

I. Expand the Definition of Bona Fide Hedging

Under the Proposed Rule, the Commission limits the definition of bona fide hedging to what it has designated in its proposed list. However, the Commission does not provide the ability for an individual or entity to request that the Commission address other potential reasons for bona fide hedging that might otherwise be incurred by a futures customer in a timely basis. FCS' specific concern is that the proposed definition of bona fide hedging would not address all of the hedging needs by FCS customers engaging in the dairy market, such as cross-commodity and anticipatory hedging.

The dairy markets have many unique characteristics compared to other agricultural and non-agricultural markets that the Proposed Rule fails to take into consideration. For example, Dairy producers need to contend with volatility, not only in milk and milk product prices, but also with the increasing volatility of input costs such as corn, soybean meal, energy, alfalfa and interest rates. As a result, there have been different industry initiatives in forward contracting programs whereby the buyer of milk, typically a manufacturer (both proprietary plants and co-operatives), negotiate the price of the milk paid to the producer based on a variety of factors, such as producer profit margin and other input costs, and not just solely on the price of milk. For example, a cheese plant buyer faces the price risk of corn, meal, heating oil and interest rates, which all tie into the price the cheese plant pays for milk. This form of cross-commodity hedging, which is regularly used in the dairy markets, has long been recognized by the Commission. Due to the importance of this practice for the dairy industry and dairy consumers, FCS urges the Commission to ensure that the qualitative assessment factors in the Proposed Rule do not impede the use of futures and options contract for cross-commodity hedging purposes.

A specific example of bona fide hedge activity that FCS sees in the dairy industry that FCS does not believe the Commission addresses in its Proposed Rule is as follows:

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A dairy producer agrees to a forward contract to sell his milk to a cheese plant. The agreement price is not solely based on the price of milk but also on the price of corn (essentially the price of Class III Milk minus Corn). This becomes the equation to determine the price of milk to the producer in the forward contract. Even if the producer takes part of the Federal Milk Marketing Orders Program (or a similar state program) the producer would be paid the price as announced as part of the Federal Milk Marketing Orders Program but then pay or receive what is determined by the forward contract. The cheese plant may negotiate with one of its clients who, for example, may be a retail restaurant chain. The restaurant chain may enter into a forward contract for the cheese that also takes into account the corn price. For ease and simplicity, the restaurant chain may agree to buy cheese for the Class III price divided by 10 minus the corn price. The restaurant chain then wants to eliminate its corn exposure by placing a long position in the futures market.

FCS believes that the restaurant chain's transaction in the futures market should be deemed a bona fide hedge by the Commission. This certainly comes into play when farmers are involved in "farm to fork" programs with restaurant chains or other manufacturers where these end users pay for the exclusive use of the farmer dairy products. Specifically, the end users (the restaurant chain in this example) wishing to protect menu prices, negotiate all through the chain including supplier, manufacturer and producer. In these complex transactions, entities that do not normally touch a physical commodity, such as corn, are now tied to corn due to the overall price risk in the formula used to price the dairy product. If the restaurant chain's futures market transactions are deemed to not be bona fide hedges, the restaurant chain may be unable to use these important hedging tools, subjecting the restaurant – and in turn, the restaurant's customers –to volatile prices for dairy products.

FCS believes that there are many other participants, not just in the dairy industry, who would be negatively affected should this type of transaction not be considered by the Commission as a bona fide hedge. FCS requests that the Commission ensure that its final rules are flexible in order to adapt to the evolving needs of the dairy business and take the variety of legitimate hedging needs into account in its definition of bona fide hedging.

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II. Increase the Speculative Position Limits to Reflect Actual Size of Dairy Market

The Commission's Proposed Rule establishes hard spot month and non-spot month speculative position limits on twenty-eight (28) Core Referenced Contracts ("CFRCs") and futures, options and swaps that are economically equivalent to the 28 CRFCs. As previously mentioned, dairy is a relatively new and evolving market that needs to ensure liquidity as it continues to grow. A large number of milk futures and options contracts are held to expiration because the contracts are used primarily for hedging by dairy farmers and end-users. This "buy and hold" aspect of the market that does not occur in many other commodity markets and highlights the importance of avoiding policies that detract from a liquid market. For informational purposes the size of the dairy markets can be calculated as of the end of 2012 by taking the total milk production of the United States at approximately 200 billion pounds multiplied by the all milk price in December 2012 at approximately $21.10 cwt., which provides a calculated value of $42.2 billion in 2012. Corn in 2012, based on a crop of 10.8 billion bushels and a price of 7.18 ¾ for the December 2012 futures contracts provides an estimate of $77.625 billion.[3] It seems apparent that the fact that the contracts are cash-settled and the size of the underlying physical market should come into the algorithm.

Pursuant to Appendix D to Part 150- Initial Position Limit Levels, the Commission's proposed spot month level for Class III Milk is 1,500 contracts and its single month and all month level is 3,400 contracts. Based on the statistics provided above and FCS' knowledge of trading in the dairy market, FCS believes that more desirable levels, based on trading, would fall under what is discussed in Table 9 of the proposed rule – Alternative Proposed Initial Spot Month Limit Levels for Certain Core References Futures Contracts (based on CME Group Estimates of Deliverable Supply submitted to the Commission on July 1, 2013). If limits were imposed pursuant to this table, they would be based on 25% of deliverable supply, which would more adequately serve the needs of the dairy market. Specifically, the spot month level for Class III Milk would be 5,300 contracts, greater than what the Commission is proposing for its single and all month level. FCS also requests that the Commission take into consideration the difference between physically settled and cash settled contracts when setting spot

[3] Information taken from United States Department of Agriculture: www.usda.gov.

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month position limits. The spot month position limit does not need to be reduced for contracts where there is no physically delivery, as there is no need for certain entities that do not have the ability to physically deliver or receive the product to reduce their position as these contracts settle to an index price. For these cash settled contracts, while the deliverable supply method is a preferred alternative to calculating the spot month limit, the Commission should also take into account the contracts that cash settle and consider providing for a higher spot month limit. Therefore, FCS urges the Commission to consider using this alternative method to establish the spot month limit based off deliverable supply based on a percentage of deliverable supply as provided by the CME and also consider the difference between cash and physically settled contracts in its calculation.

FCS also asks the Commission to consider alternatives for the single month and all month limit levels and impose accountability levels rather than hard limits. The proposed single month and all month limits do not appear to have any direct correlation to the spot month limit, nor do they take into account differences between cash and physically settled contracts. Furthermore, they do they take into account the size of the underlying physical market. Rather than cause further participation in the market by bona fide dairy hedgers, these actions may result in limited participation by bona fide hedgers that fear regulatory action in the instance that these single and all month limits are met or exceeded. In a market such as dairy, it is not unreasonable that several major participants would need to maintain positions much greater than the proposed single and all month limits based on their activity. FCS requests that the Commission use accountability levels for single and all months rather than hard limit levels, and in lieu of accountability levels. FCS further requests that the Commission base any additional calculations off of deliverable supply as well as a method to be able to easily compare the spot month limit to a single and all month limit.

III. Conclusion

FCS respectfully requests that the Commission will carefully consider this comment letter and other comment letters received before finalizing this Proposed Rule. In particular, FCS requests that the Commission expand the definition of bona fide hedging to accommodate cross-commodity and anticipatory hedging and increase the speculative position limits

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relating to the dairy markets, as discussed above, to reflect the actual size of the dairy market.

FCS welcomes the opportunity to continue to discuss the means by which the Commission can implement the Position Limits provisions of the Dodd-Frank Act while maintaining sound functioning commodity markets.

If FCS can provide any additional information, please do not hesitate to contact 816-410-7120.

Respectfully submitted,

Sandra McCarthy
Chief Compliance Officer