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August 4, 2014

VIA ON-LINE SUBMISSION

Ms. Melissa Jurgens
Office of the Secretariat
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, N.W.
Washington, DC 20581

Re: Position Limits for Derivatives (RIN No. 3038-AD99); 78 Fed. Reg. 75,680 (Dec. 12, 2013)

Dear Ms. Jurgens:

CME Group Inc. ("CME Group")[1] submits these supplementary comments in response to the Commodity Futures Trading Commission's ("Commission" or "CFTC") "Position Limits for Derivatives," Notice of Proposed Rulemaking ("Proposal")[2] and the June 19, 2014 Staff Public Roundtable to Discuss Position Limits for Physical Commodity Derivatives ("Staff Roundtable").

The Commission does not have an adequate basis in fact or law to adopt five times spot-month limits for the cash-settled version of 28 physical commodity contracts. The Commission proposes to permit traders to establish cash-settled contract positions up to five times the spot-month limit provided that the trader holds no positions in the physically-delivered contract to which the cash-settled contract is priced-linked ("five times limit"). This proposal is made without regard to the fact that most existing spot-month limits – as well as those in the proposal itself -- are based on deliverable supply statistics that are woefully out of date.

First, before the Commission considers what the spot-month limit will be in each of the 28 physical commodities, the Commission must take steps to bring the deliverable supply numbers up to date. Only when the Commission has that information can it make an informed judgment as to what the potential market impact is on the affected physical commodities by permitting a five times limit and whether it is

[1] CME Group is the holding company for four separate Exchanges, including the Chicago Mercantile Exchange Inc. ("CME"), the Board of Trade of the City of Chicago, Inc. ("CBOT"), the New York Mercantile Exchange, Inc. ("NYMEX"), and the Commodity Exchange, Inc. ("COMEX") (collectively, the "CME Group Exchanges" or "Exchanges"). CME Clearing is one of the largest central counterparty clearing services in the world; it provides clearing and settlement services for exchange-traded contracts and over-the-counter ("OTC") derivatives contracts through CME ClearPort®. The CME ClearPort® service mitigates counterparty credit risks, provides transparency to OTC transactions, and brings to bear the exchanges' market surveillance monitoring tools.

[2] Position Limits for Derivatives, 78 Fed. Reg. 75680 (December 12, 2013).

consistent with the goals of the CEA to permit any trader, let alone a trader who owns substantial deliverable supply, to hold a futures position of up to 125% of the deliverable supply.

Second, the data used to support the Commission's position is incomplete and does not support its conclusion. The Commission claims to base the five times limit on its "examinati[on] [of] market data on the effectiveness of conditional spot-month limits for cash-settled energy futures swaps, including the data submitted as part of the prior position limits rulemaking." 78 Fed. Reg. at 75,737. The "data submitted as part of the prior position limits rulemaking" is limited to the NYMEX physically-delivered natural gas futures contract that CME Group submitted to the CFTC in August 15, 2011. The Commission relies on outdated data respecting a single set of contracts to form its "preliminary belief" that "the conditional natural gas spot month limits of the exchanges generally have served to further the purposes Congress articulated for position limits . . . such as deterring market manipulation, ensuring the price discovery function of the underlying market is not disrupted, and deterring disruptive trading during the closing period." Id. The stated conclusion cannot be and was not derived from that data. There is no legitimate process that would have permitted the Commission to conclude that the five times limit deterred market manipulations and/or disruptive trading during the closing period. Such conclusions are unsupportable by means of any recognized economic theory or analysis.

The Commission has made no effort to update the data set it relied upon or to gather and analyze data for the remaining 27 physical commodities. In our view, the implementation of a five times limit could impair the price discovery function and convergence in the underlying physical delivery contract by decreasing trading volume and increasing price volatility. The likelihood of this happening is exacerbated by the proposed reduction of exemptions, given the fact that the reduction of eligible exemptions will increase reliance by market participants on the five times limit regime. Such a result would contravene the key statutory objective of ensuring that position limit regulation does not disrupt the price discovery function of the underlying market. See CEA section 4a(a)(3).

Third, our analysis indicates that the imposition of five times limits in natural gas has negatively impacted the market. Our analysis of the up-to-date natural gas data shows that a five times limit has coincided with a trend of lower volume during the closing period of the physically delivered contract. As set forth in Appendix A, NYMEX natural gas data demonstrate that since the 2010 implementation of five times limits for a limited set of cash-settled natural gas contracts, closing range trading volume in the physically-settled NYMEX NG contract has decreased significantly both in absolute and relative terms. The data in Appendix A demonstrate that, for the last trading day, closing-range volume has decreased each year since the introduction of five times limits and, in 2013, was 36 percent lower than in 2009 (4,154 in 2009 compared to 2,662 in 2013). Furthermore, the relative closing range volume (closing range volume divided by annual average daily volume) on the last trading day declined during each 12-month period for the period of February 2009 — January 2014 — an overall relative decline of 63 percent (approximately 2.19% in 2009 compared to .8% in 2013).

The full impact of the five times limit, which will operate concurrently with the proposed restrictions on hedging, cannot be projected from the available NYMEX NG data. The significant commercial users of the NYMEX physically-delivered natural gas contract currently have sufficient flexibility to use that contract and other hedging devices to meet their commercial needs and still retain the option of making or taking delivery to assure convergence. The constraints on hedge exemptions in the proposal are likely to drive commercials out of the genuine price discovery market and impair the forces that drive convergence. Regarding the issue of convergence, it is important to clarify that convergence must be

measured by evaluating futures and cash prices, and that attempts to measure convergence of financially-settled contracts by comparing to the physically-settled contract are inherently flawed.

CME Group has consistently pointed out that the five times limit policy for natural gas contracts encourages participants to depart from, or refrain from establishing positions in, the primary physical delivery contract market and instead opt for the cash-settled derivative contract market, especially during the last three trading days when the five times limit applies. By encouraging departure from the primary contract market, the five times limit encourages a process of de-liquefying the benchmark physically delivered futures market and directly affects the determination of the final settlement price for the NYMEX NG contract- the very same price that a position representing five times the physical limit will settle against. The NYMEX NG contract's final settlement is overwhelmingly the most important price parameter in the North American natural gas market, and this fact makes insuring that the contract's specifications do not impede or impair the ability for the contract to converge to the physical market at expiration all the more important. Core Principle 4 recognizes this importance in placing the responsibility on the DCM to "make a good faith effort to resolve conditions that are interfering with convergence" In seeking to comply with Core Principle 4 to preempt convergence problems, CME Group believes that eliminating five times limits in the Natural Gas market is necessary and urges the CFTC not to impose rules that would restrict our ability to discharge our responsibility under Core Principle 4 in either Natural Gas or the other 27 asset classes for which the five times limits have been proposed.

Finally, the restrictions associated with the use of five times limits are flawed. The proposal limits the holding of physically-settled futures contracts if the trader takes advantage of the five times limit, but imposes no restraints on the ownership of the actual physical commodity. In fact, except for natural gas, the trader is not even required to report such ownership. The Commission must explain why permitting that condition to arise is consistent with its obligation under the CEA to prevent manipulation and deter disruptive trading practices. We believe that any rulemaking that permits market participants, including those who hold substantial positions in the physical market, to hold massive futures positions on the same side of the market should be justified by responsible analysis of the available information and application of legitimate economic principles. That analysis has not been performed.

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In sum, the Commission had no basis for proposing an expanded five times limit policy covering 28 physical commodity markets. Accordingly, CME Group urges the CFTC to first work with the DCMs to recalculate appropriate spot month limits and next to reconsider its five times limit proposal in light of those limits and with due regard to an appropriate economic analysis of the consequences of creating inducements to move liquidity from the genuine price discovery market to a derivative of a derivative.

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CME Group thanks the Commission for the opportunity to comment on the Proposal. Should you have any comments or questions regarding this submission, please contact me by telephone at (312) 930-3488 or by e-mail at Kathleen.Cronin@cmegroupcom; Thomas LaSala, Managing Director, Chief Regulatory Office by telephone at (212) 299-2897 or via email at Thomas.LaSala@cmegroup.com or Bruce Fekrat, Executive Director and Associate General Counsel by telephone at (212) 299-2208 or by e-mail at Bruce.Fekrat@cmegroup.com.

Sincerely,

Kathleen Cronin
Senior Managing Director,
General Counsel and Corporate Secretary

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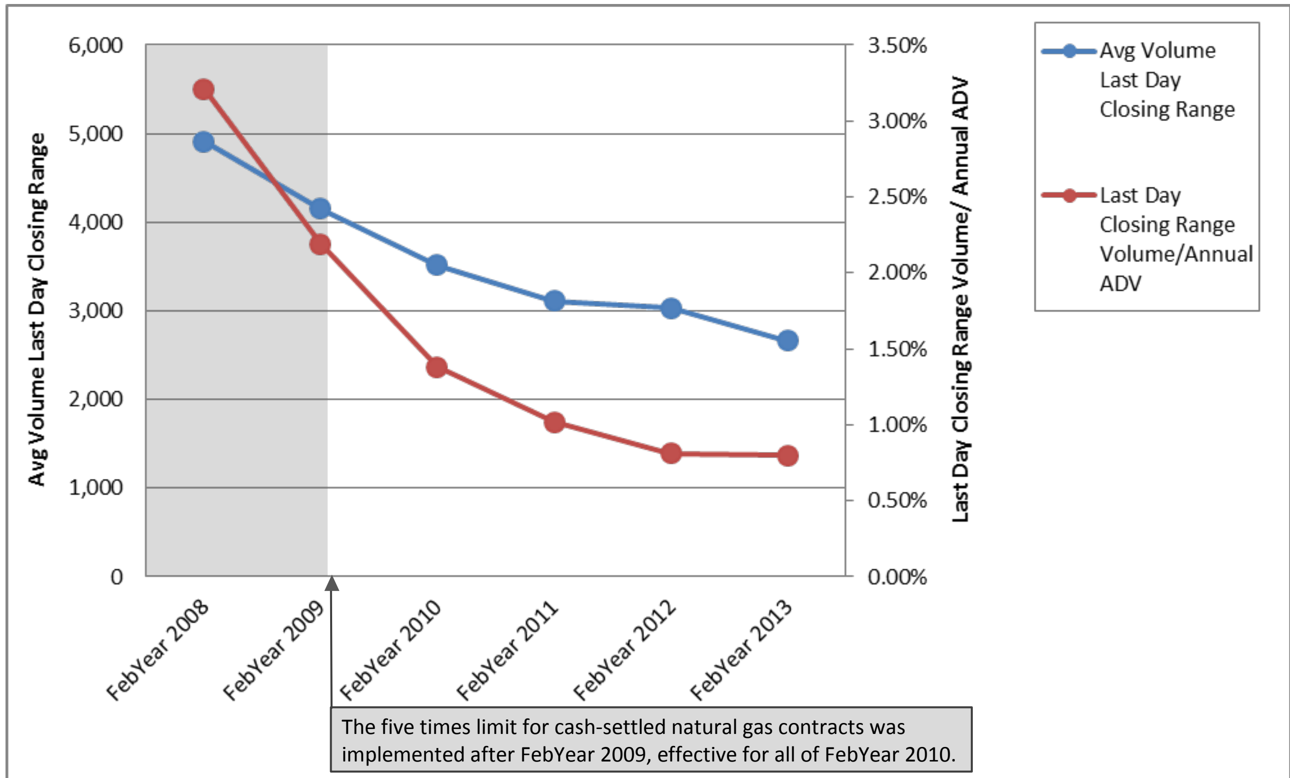
APPENDIX A



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