



Risk Management

January 22, 2015

Christopher Kirkpatrick, Secretary of the Commission
Commodity Futures Trading Commission
Three Lafayette Center
1155 21st Street NW
Washington, DC 20581

Dear Mr. Kirkpatrick:

Dairy Farmers of America offers the following comments as guidance on the Commission's determination of deliverable supply as it relates to the position limits proposed rule. We appreciate your openness in working with DFA and other interested parties on this important topic. With the potential that Designated Contract Markets (DCMs) will set position limits at a lower level than the Commission's maximum level, and if the 25 percent of deliverable supply is used in determining Federal limits, the determination of deliverable supply will place a ceiling on futures-equivalent swaps. As we enter the world of position limits on swaps, we suggest flexibility in the Commission's regulation to address unforeseen impacts of the new rules that could be harmful to businesses acting to mitigate their economic risks.

Commission Guidance on Estimating Deliverable Supply

The Commission should work collaboratively with the DCMs and SEFs and the commodity-specific industry's participants to determine deliverable supply. For instance for Class III, the Chicago Mercantile Exchange Group should reach out to their dairy industry contacts to identify information for it to use in determining deliverable supply. Key industry participants, the CME and Commission staff should meet to review the final product. This process will help insure that all appropriate factors are being included in the calculation of deliverable supply, and by inclusion of key dairy stakeholders, they will feel included in the outcome. Finally, including key Commission staff, will lead to a greater understanding of commodity-specific markets, help them feel part of, and comfortable with, the final product and lead to stronger and more productive relationships with key dairy stakeholders.

As is needed, confidential business-specific information can be collected by the CME and used. However, it should not be divulged to the general industry unless it can be aggregated in a way that assures appropriate confidentiality is maintained.

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The use of estimated future deliverable supplies can provide useful information in the process. Since the determination of deliverable supply impacts future months, reflection on anticipated changes in deliverable supplies is appropriate. This is especially important if the historical data shows a significant change. In order to assess whether the change is temporary or a more permanent structural change, insights into industry participants' expectations of future deliverable supplies will be crucial.

Guidance for Physical Delivery vs Cash Settled Contracts

Issues impacting convergence, anti-competitive behavior and liquidity may be different from commodity to commodity. DFA and other dairy industry stakeholders have previously provided guidance to you relative to Class III position limits.

Standards for Commission Review of Exchange Estimates and Appropriate Discretion for the Commission to Adopt Its Own Estimate

In the absence of issues related to convergence, anti-competitive behavior or liquidity issues, the DCMs and SEFs determination of deliverable supply is likely appropriate. By inclusion of key industry participants and the Commission staff in the process of determining deliverable supply, the likelihood of getting the number right is greatly enhanced. During this process, Commission staff would have the opportunity to ask questions and evaluate the data and process. If the product appears to be an unacceptable result, it can require the DCM or SEF to reevaluate.

Implementation Timing Issues for Re-setting Spot Month Limits

We believe that interested parties be given time to comment if the deliverable supply used upon initial implementation is much different than that identified in Table 9 of the December 12, 2013 Federal Registrar, and it is being used to set Federal position limits.¹

It is hard to judge whether the position limits implementation timing is too short since we do not know what the position limits will be and if the level will be sufficient for those utilizing cash settled Class III futures, options and Class III futures equivalent swaps. Grandfathering in pre-existing non-spot month positions may not be sufficient, pending the level of the new all-

¹ Federal Register/Vol. 78 No. 239/Thursday December 12, 2013/Proposed Rules pg 75727.



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months position limits if they are narrowed. Again, not knowing the position limit, and how Class III spot month limits will be regulated, bona fide hedgers could find issues as ensuing spot months occur.

The Commission should avoid constraining their regulatory approach by overly rigid rules. We live in a very dynamic world full of constant change. Events will transpire that lead to periods of commodity demand loss – leading to supply declines – that could take a couple of years for recovery. Compounding these uncertainties for milk, livestock and crop commodities supplies are unpredictable weather events. We believe the best approach to the determination of an adjustment to deliverable supply is through collaborative interactions with the DCMs and SEFs, and as appropriate, key commodity-specific industry personnel. If no issues relative to convergence, anti-competitive behavior or liquidity have arisen, there may be no need to adjust position limits, regardless of a change in deliverable supply. We encourage the Commission to remain flexible in their approach of determining position limits based on deliverable supply.

In closing, we appreciate the opportunity to provide additional guidance on issues surrounding deliverable supply and we support the efforts of the Commission as they work with DFA and others to implement the derivative market regulatory reform brought about by the Dodd-Frank Wall Street Reform and Consumer Protection Act.

Sincerely,

A handwritten signature in black ink that reads 'Edward W. Gallagher'.

Edward W. Gallagher
President
DFA Risk Management
a division of Dairy Farmers of America

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