CME Group

Kathleen Cronin
Senior Managing Director, General Counsel
Legal Department

March 30, 2015

VIA ON-LINE SUBMISSION

Mr. Christopher Kirkpatrick
Secretary of the Commission
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, N.W.
Washington, DC 20581

Re: Re-Opening of Comment Period for Position Limits for Derivatives (RIN 3038-AD99) and Aggregation of Positions (RIN 3038-AD82)

Dear Mr. Kirkpatrick:

CME Group Inc. ("CME Group")[1] respectfully submits this letter in response to the Commodity Futures Trading Commission's ("Commission" or "CFTC") re-opening of the comment period[2] for the Notice of Proposed Rulemakings regarding "Position Limits for Derivatives" ("Position Limits Proposal")[3] and "Aggregation of Positions" ("Aggregation Proposal")[4] (collectively, the "Proposal"). In addition to supplementing its comments on several of the issues discussed at the Commission's February 26, 2015 Energy and Environmental Markets Advisory Committee ("EEMAC") meeting,[5] CME Group is using this opportunity to provide the Commission with our preliminary updated deliverable supply estimates. This

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[1] CME Group is the holding company for four separate U.S.-based 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] *See* Position Limits for Derivatives and Aggregation of Positions, 80 Fed. Reg. 10022 (Feb. 25, 2015).

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

[4] Aggregation of Positions, 78 Fed. Reg. 68946 (Nov. 15, 2013).

[5] The comments presented herein are intended to supplement CME Group's previous comments letters. *See* Letter from CME Group to CFTC re Position Limits for Derivatives (RIN 3038-AD99), dated February 10, 2014; Letter from CME Group to CFTC re Aggregation of Positions (RIN 3038-AD82), dated February 10, 2014; Letter from CME Group to CFTC re Position Limits for Derivatives (RIN 3038-AD99) in response to CFTC public roundtable, dated August 4, 2014; Letter from CME Group to CFTC re Position Limits for Derivatives (RIN 3038-AD99) in response to CFTC public roundtable, dated August 4, 2014; Letter from CME Group to CFTC re Position Limits for Derivatives (RIN 3038-AD99) in response to CFTC Agricultural Advisory Committee meeting, dated January 22, 2015.

letter reiterates the processes CME Group believes should be implemented to establish and administer an expanded position limits regime under Dodd-Frank, which we respectfully request should begin with the Commission's acceptance of our updated deliverable supply estimates as reasonable.

In addition, as we have said in prior comment letters, limits for physical delivery and cash-settled "look-alike" contracts should be equal for the same underlying commodity. The proposed conditional limit exemption for cash-settled contracts threatens to drain liquidity away from the physical delivery markets to the cash-settled markets during the spot month as contracts approach delivery, thus causing harm to the price discovery process and opening the door to potential market misconduct. CME Group strongly believes the CFTC should not adopt a proposal that would increase the risk of possible price manipulation or distortion, while tipping the competitive scales in favor of cash-settled markets. This issue continues to be of paramount concern to CME Group.

I. PROCESS FOR ESTABLISHING FEDERAL SPOT-MONTH LIMITS

CME Group continues to believe that the Commission cannot set necessary and appropriate federal spot month limits unless it applies the most current deliverable supply estimates available. The CFTC itself recognized the fundamental importance of current estimates by proposing to require a designated contract market (DCM) listing a core referenced futures contract to submit an updated deliverable supply estimate for that contract every two years for purposes of re-setting the spot-month limit.[6] Approximately two years have passed since CME Group last provided the Commission with updated deliverable supply estimates ("2013 Estimates").[7] Accordingly, CME Group is submitting for the Commission's consideration preliminary updated deliverable supply estimates using data covering 2012-2014 for the commodities underlying the same core referenced futures contracts included in the 2013 Estimates that are listed by CME Group's exchanges ("2015 Estimates").[8] These estimates are meant to replace the 2013 Estimates.

CME Group believes that it is imperative for the Commission to rely upon current, up-to-date deliverable supply estimates from the DCM listing the physical delivery contract where available and acceptable. The DCM listing particular physical delivery contracts has the most direct knowledge of the factors described by the Commission as being relevant to calculating deliverable supply and has been making these calculations for decades as part of their own exchange-administered position limits program. Therefore, CME Group respectfully requests that the Commission verify the 2015 Estimates as reasonable and apply these estimates in setting any spot-month limits for both physical-delivery and cash-settled markets.

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[6] *See* Position Limits Proposal, 78 Fed. Reg. at 75728.

[7] A summary of the 2013 Estimates is available on the Commission's website at http://www.cftc.gov/ucm/groups/public/@swaps/documents/file/cmegroupdeliverable070113.pdf.

[8] The 2015 Estimates are attached hereto as Appendix A.

Like the 2013 Estimates, the 2015 Estimates have been calculated based on the CFTC's guidance provided in Appendix C to Part 38.[9] With the exception of Copper,[10] CME Group did not alter the methodology used to derive the 2015 Estimates versus the 2013 Estimates. The Commission has never publicly endorsed or even commented on the reasonableness of the 2013 Estimates. However, CME Group has updated certain of its exchange-set spot-month limits based on the data in the 2015 Estimates.[11] It would be inconsistent, then, for the Commission to allow existing exchange-set limits to be based on the 2015 Estimates, but to not verify those estimates now as reasonable for purposes of setting federal spot-month limits.

CME Group supports the Commission seeking public comment and working with the physical-delivery markets to determine where, precisely, to set initial spot-month limits. However, market participants cannot provide meaningful comments on the practical implications of setting initial spot-month limits at levels taking into account updated deliverable supply estimates until the CFTC establishes what the relevant deliverable supply estimate and related spot month limit ceiling for each commodity should be.

Once a deliverable supply baseline has been identified, CME Group agrees with prior Commission statements that speculative position limits should "be based upon the individual characteristics of a specific contract market."[12] . While the 2015 Estimates could support raising limits for certain commodities above their current levels,[13] CME Group notes that its DCMs currently set spot-

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[9] The summary of the 2015 Estimates is only a preliminary update. CME Group intends to submit final updates to the Commission within the next 6 weeks along with a more detailed analysis of the methodologies and the associated supporting data used to arrive at those final updates. We are providing the Commission and the public with a summary of our 2015 Estimates now so that the Commission can begin the process of determining that these estimates are reasonable and acceptable.

[10] The 2013 Estimates included all copper stored in COMEX warehouses, even if that amount was below the maximum capacity in those warehouses. The 2015 Estimates add to the deliverable supply calculation any copper stored in an LME warehouse located in the same city as a COMEX warehouse, but only to the extent of the maximum capacity in the COMEX warehouse. Thus, for example, if a COMEX warehouse had maximum capacity of 100 and the stored supply was 60, and an LME warehouse in the same city had maximum capacity of 150 and the stored supply was 125, we would have added only 40 from the LME warehouse to bring the amount up to the maximum capacity at the COMEX warehouse. The only location where this revision ultimately affected the 2015 Estimates was New Orleans, LA.

[11] In the Position Limits Proposal, the CFTC recognized that, consistent with CFTC guidance, DCMs initially establish spot limits based on the DCM's estimate of deliverable supplies, and are able to update those limits in their discretion so long as they do not exceed 25% of the DCM's deliverable supply estimates. *See* Position Limits Proposal, 78 Fed. Reg. at 75727 n.405; 17 C.F.R. §§ 150.1(b)-(c). Consistent with this guidance, CME Group may update certain of its exchanges' spot limits based on new deliverable supply estimates. For example, spot limits for COMEX Copper and NYMEX Palladium recently were changed and submitted to the Commission based on the 2015 Estimates.

[12] *See* Revision of Federal Speculative Position Limits, 52 Fed. Reg. 6812, 6815 (proposed March 5, 1987).

[13] The 2015 Estimates show that deliverable supply decreased for 10 contracts, increased for 7 contracts, and stayed roughly even for only 2 contracts.

month limits for the proposed core-referenced futures contracts below 25% of deliverable supply.[14] Nevertheless, the first step in setting appropriate spot-month limits should be to have the Commission explain which deliverable supply estimates it will use as a baseline. CME Group respectfully requests that the Commission accept its 2015 Estimates as that baseline for the relevant markets.

II. PROCESS FOR ADMINISTERING A POSITION ACCOUNTABILITY REGIME

In lieu of Commission-imposed hard limits in the non-spot months, CME Group continues to support position accountability limits for non-legacy agricultural contracts. At the EEMAC meeting, end-users expressed concerns over decreased liquidity that could result from the imposition of hard federal limits in non-spot month. Such decreased liquidity, in turn, would impact end-users' ability to hedge in a cost-effective manner. Through years of experience, CME Group has applied position accountability limits as an effective tool in balancing regulatory concerns over market congestion and manipulation with the need to facilitate liquidity in the out months in order to support price-discovery and risk management functions. CME Group submits that the Commission should leverage this experience and the Exchanges' resources to administer accountability limits as an alternative to hard cap limits in the out months.[15]

Administering a federal position accountability program would require the Commission to oversee OTC positions (i.e., economically-equivalent uncleared swaps) while DCMs and derivatives clearing organizations ("DCO") could oversee applicable cleared positions (i.e., core referenced futures contracts and economically-equivalent cleared swaps).[16] While the Commission has access to all of the data necessary to administer position accountability limits across all covered positions, DCMs and DCOs

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[14] The deliverable supply estimates we are submitting should not automatically translate into higher or lower spot month limits. The estimates, if accepted by the Commission, would merely establish a ceiling or reference point for the Commission or exchanges to consider in making the regulatory judgment whether a particular spot month limit is appropriate for a particular commodity. Despite being able under DCM core principle 5 to set spot-month limits for physical-delivery contracts at up to 25% of deliverable supply, the CME Group Exchanges have found that spot-month limits should appropriately be set below the permitted ceiling. For example, NYMEX has set spot-month limits for its four core referenced futures contracts in energy (Light Sweet Crude Oil, RBOB Gasoline, New York Harbor ULSD Heating Oil, and Henry Hub Natural Gas) at no greater than 6.78% of the current 2015 Estimates. For CME Group's legacy agricultural contracts currently subject to federal limits, only CBOT Corn and CBOT Oats come remotely close to 25% of the current 2015 Estimates (approximately 20%), whereas the other five—CBOT Soybeans, CBOT Wheat, CBOT Soybean Oil, CBOT Soybean Meal, and CBOT KC HRW Wheat—range from 3.27% to 13.32%. As our more detailed analyses will show, higher percentages for certain contracts can be accounted for by weather or transportation disruptions causing temporary supply shortages that affect the overall percentage measured across a three-year period. Stocks of corn, for example, unexpectedly dropped from 2012 to 2013 due to massive drought, but then shot back up from 2013 to 2014 once weather conditions normalized.

[15] CME Group supports the FIA's legal analysis of the CFTC's authority to impose accountability limits.

[16] At the present time, CME Group does not believe swap execution facilities can play a role in administering position accountability limits because they do not have access to position data.

are not similarly situated because they lack access to uncleared OTC positions and aggregated customer data. Nonetheless, CME Group believes that it would be the most efficient use of the Commission's limited resources to delegate responsibility to DCMs and DCOs to monitor cleared positions for breaches of each exchange's particular accountability limit and to take action if deemed necessary by the exchange to prevent market congestion or other abusive trading practices. The Commission would do the same with respect to uncleared OTC positions as well as aggregate positions across all referenced contracts (cleared and uncleared). If the Commission-set aggregate limit is breached due to cleared and/or uncleared positions, then the Commission would coordinate the appropriate response among any applicable registered entities. CME Group stands ready to assist the Commission in setting federal accountability limits based on its exchanges' current methodology.

III. PROCESS FOR ADMINISTERING NON-ENUMERATED HEDGE EXEMPTIONS

Similar to administering position accountability levels, exchanges have years of experience reviewing requests for hedge exemptions and approving or denying those requests based on a facts-and-circumstances approach. The Commission endorsed this experience in proposing that the bona fide hedge exemption for excluded commodities would include non-enumerated positions recognized by a DCM or SEF as a bona fide hedge.[17] However, the Commission stopped short of explaining why a similar approach would not be appropriate for physical commodity hedges. CME Group is sympathetic to the fact that the Commission faces resource constraints that would prevent it from administering a workable non-enumerated hedge exemption in real-time, and that not every risk-reducing practice can possibly be captured by a single hedging definition. These practical realities, however, would not justify having the Commission prohibit market participants from continuing to use any commercially reasonable risk-reduction strategy that meets the statutory criteria.

As discussed at the EEMAC meeting, CME Group believes a reasonable compromise would be for the CFTC to provide exchanges with discretion to administer non-enumerated bona fide hedge exemptions in core referenced futures contracts, consistent with their current practices. Many market participants that would need to rely on non-enumerated hedges are already familiar with these practices, meaning fewer market disruptions should be expected from hedgers being forced to exit the markets or having to fundamentally remake their businesses and hedging practices due to the sudden inability to use existing commercially-reasonable risk-reduction strategies. Under such an approach, the Commission could instead focus its limited resources on enforcement efforts that utilize existing special call and anti-evasion authorities. CME Group would welcome the opportunity to work collaboratively with the Commission to adapt existing exchange rules to facilitate the administration of non-enumerated bona fide hedge exemptions from federal speculative limits.

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[17] *See* Position Limits Proposal, 78 Fed. Reg. at 75707-08.

Lastly, CME Group would like to respond to recent suggestions that for-profit exchanges such as those operated by CME Group have an inherent conflict-of-interest that should disqualify them from playing any role in establishing federal spot-month limits or administering federal accountability levels or bona fide hedge exemptions. To the contrary, CME Group has the strongest incentive possible as a for-profit company to make sure that our markets are regulated vigorously. This is why for decades, our Exchanges have voluntarily set spot-month limits at levels lower than they could be under CFTC rules, supported position accountability in the out-months, and granted bona fide hedge exemptions only where appropriate. Any for-profit exchange that compromises market integrity for short term volume gains will not survive in the long run.

CME Group thanks the Commission for the opportunity to further 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 Officer by telephone at 212-299-2897 or by e-mail 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 M Cronin

Kathleen Cronin
Senior Managing Director,
General Counsel and Corporate Secretary

Attachment

APPENDIX A

Exchange	Contract	Deliverable Supply	Deliverable Supply in Contract Units	Deliverable Supply Time Frame	Brief Description Deliverable Supply	Federal Limit Today	Exchange Limit	Current Limit % of Deliverable Supply
NYMEX	Light Sweet Crude Oil	44,268,000 barrels	44,268	2012-2014	Physical Flow and Storage	N	3,000	6.78%
NYMEX	RBOB Gasoline	30,000,000 barrels	30,000	2012-2014	Refinery Production Flows, Storage levels	N	1,000	3.33%
NYMEX	New York Harbor ULSD Heating Oil	24,000,000 barrels	24,000	2012-2014	Refinery Production, Net Import, Flows, Storage levels	N	1,000	4.17%
NYMEX	Henry Hub Natural Gas	154,200,000 mmBtu	16,980	2012-2014	Production, with constraint of capacity	N	1,000	5.89%
NYMEX	Platinum	215,450 troy ounces	4,309	2012-2014	Inventory in COMEX warehouses	N	500	11.60%
NYMEX	Palladium	455,400 troy ounces	4,554	2012-2014	Inventory in COMEX warehouses	N	500 *	10.98%
COMEX	Gold	9,193,700 troy ounces	91,937	2012-2014	Inventory in COMEX warehouses	N	3,000	3.26%
COMEX	Silver	158,425,000 troy ounces	31,685	2012-2014	Inventory in COMEX warehouses	N	1,500	4.73%
COMEX	Copper	152,100,000 lbs.	6,084	2012-2014	Inventory in COMEX facilities & LME facilities in close proximity to COMEX with constraint of capacity warehouses	N	1000 *	16.44%
CBOT	Corn	14,610,000 bushels	2,922	2012-2014	Stocks and Movement through Lock 8	Y	600	20.53%
CBOT	Soybeans	22,530,000 bushels	4,506	2012-2014	Stocks and Movement through Lock 27	Y	600	13.32%
CBOT	Wheat	58,210,000 bushels	11,642	2012-2014	Stocks and Movement through Lock 52	Y	600	5.15%
CBOT	Oats	14,930,000 bushels	2,986	2012-2014	Stocks at Delivery Facilities	Y	600	20.09%
CBOT	Rough Rice	18,630,000 cwt.	9,315	2012-2014	Stocks at Delivery Facilities	N	600 (250 July/200Sept)	6.44%
CBOT	Soybean Oil	990,180,000 lbs.	16,503	2012-2014	NOPA Stocks	Y	540	3.27%
CBOT	Soybean Meal	1,755,553 Tons	17,556	2012-2014	NOPA Stocks	Y	720	4.10%
CME	Class III Milk	4,639,000,000 lbs.	23,195	2012-2014	Production from FMMO	N	1,500 Any Month	6.47%
KCBOT	KCBT Wheat	65,060,000 bushels	13,012	2012-2014	Stocks at Delivery Facilities	Y	600	4.61%

* Exchange limit changed since previous deliverable supply estimates were provided on 7-1-13