February 28, 2017

Submitted Electronically

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

Re: Position Limits for Derivatives: Reproposal (RIN 3038–AD99)

Dear Mr. Kirkpatrick:

AQR Capital Management, LLC ("AQR" or "we")[1] appreciates the opportunity to provide comments to the U.S. Commodity Futures Trading Commission (the "Commission" or "CFTC") on its re-proposed rules for position limits (the "Proposal").[2] AQR is a global investment management firm built at the intersection of financial theory and practical application. We invest on behalf of our clients, who include institutional investors, such as pension funds, defined contribution plans, insurance companies, endowments, foundations, family offices and sovereign wealth funds, as well as registered investment advisers, private banks and financial advisors. AQR and its clients rely on fair, competitive and transparent markets and we play a vital role in the derivatives industry by assuming price risk from commercial participants (hedgers) on the long and short sides of the market, and providing the liquidity that facilitates risk transfer for businesses around the world. As such, we have a keen interest in the Commission's efforts to expand or otherwise increase the burden of its position

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1 AQR is registered with the U.S. Securities and Exchange Commission as an investment adviser under the Investment Advisers Act of 1940 and as a commodity pool operator and a commodity trading advisor with the Commodity Futures Trading Commission under the Commodity Exchange Act. As of December 31, 2016, AQR and its affiliates had approximately $175.2 billion in assets under management.

2 Position Limits for Derivatives, 81 Fed. Reg. 96704 (Dec. 30, 2016).

limits regime. Any rule proposal that could harm the liquidity or risk transfer function of the derivatives markets or that could unnecessarily or disproportionately increase the costs of compliance is of concern to AQR as well as its clients. AQR focuses its investing on research-driven, practical insights powered by advanced technology, economic intuition and firm-wide risk management. Informed by that mission, AQR submits these comments on the Proposal in order to encourage the Commission to pursue a thoughtful rulemaking with respect to position limits such that the rule would improve, rather than impair, market liquidity, market efficiency, and the ability of CFTC regulated markets to perform a risk transfer function.

For the following reasons, each discussed in greater detail below, we believe that the position limits rules set forth in the Proposal would cause serious harm to commodities markets and market participants and should not be adopted in their current form:

1) Position limits imposed outside the spot month will impair market liquidity and decrease hedging opportunities for commercial market participants;

2) For similar reasons, position limits should not apply to either financially settled swaps or futures contracts;

3) The proposed position limits fail to account for multiple other regulatory tools that the CFTC can use to review and evaluate large positions; and

4) The Proposal does not include an exemption from the CFTC's limits for risk management positions, significantly limiting the ability of certain market participants to provide liquidity in various markets and products.

1. <u>The Commission Should Not Establish Non-Spot-Month Position Limits.</u>

A. Non-Spot-Month Limits Are Not Necessary

While AQR supports the CFTC's goals of reducing market manipulation and volatility, we feel strongly that the CFTC should (1) only apply position limits in the spot month of those core futures contracts for which the Commission makes appropriateness and necessity findings, and (2) the Commission should apply, if anything at all, a position accountability regime to non-spot month contracts. The Commission has acknowledged the risk that limits

"could impair liquidity for hedges."[3] This concern is amplified in today's market, where liquidity is already decreasing in the products that would be subject to the CFTC's rules.[4] This is due in part to structural and other changes implemented in connection with Dodd-Frank rulemaking, including (i) the fact that banks are leaving the commodities markets as principal participants; (ii) increased capital constraints are limiting the ability of banks to facilitate customer activity in these same commodities markets; and (iii) more passive and more factor-based investment is leading to consolidation in the money management industry.

In developing a position limits regime, the Commission should consider a framework that does not unduly disrupt markets and minimizes unintended consequences. The Commission should also strive to strike the appropriate balance among the Commodity Exchange Act's (the "Act") statutory considerations when imposing position limits.[5] Speculators, including AQR, perform an essential function in the commodity derivative markets by transferring risk from commercial participants, providing liquidity to both sides of the market,[6] and reducing volatility, which benefits hedgers and all consumers and producers.[7] If the

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[3] Proposal at 96722.

[4] *See*, *e.g.*, the remarks of Stanley Fischer, Vice Chairman, Board of Governors of the Federal Reserve System, presented at "Do We Have a Liquidity Problem Post-Crisis?", a conference sponsored by the Initiative on Business and Public Policy at the Brookings Institution, Washington, D.C. (Nov. 15, 2016); available at: https://www.federalreserve.gov/newsevents/speech/fischer20161115a.pdf.

[5] Section 4a(a)(3) of the Act specifies that if the Commission sets federal position limits, it must strive to achieve the following four statutory goals: (i) to diminish, eliminate, or prevent excessive speculation; (ii) to deter and prevent market manipulation, squeezes, and corners; (iii) to ensure sufficient market liquidity for bona fide hedgers; and (iv) to ensure that the price discovery function of the underlying market is not disrupted. 7 U.S.C. § 6a(a)(3).

[6] "The short hedgers and long investors provide liquidity for each other by using futures markets to serve their respective interests in an open, transparent and efficient manner. Liquidity will be essential to make sure each can achieve their objectives at an efficient price. Artificial limits on that liquidity should not be imposed. There are numerous ways to further the objectives of enhanced transparency and reduced systemic risk that do not involve reductions in much needed liquidity." Testimony of Kevin Norrish, Managing Director of Commodities Research, Barclays Capital, Before the CFTC (Mar. 25, 2010).

[7] *See, e.g.*, "A Review of Recent Hedge Fund Participation in NYMEX Natural Gas and Crude Oil Futures Markets", New York Mercantile Exchange (Mar. 1, 2005); "Populists versus theorists: Futures markets and the volatility of prices" (Jun. 2006), Explorations in Economic History 44 (2007) 342-362, David S. Jacks, available at http://www.sciencedirect.com. *See also*, Testimony of Erik Haas, Director of Market Regulation, ICE Futures U.S., Before the CFTC's EEMAC Meeting (Feb. 26, 2015) ("Haas Testimony") (stating that ICE Futures U.S. often receives complaints that markets are too wide out the curve and that "there is not enough participation"); Testimony of Lael Campbell, Director, Governmental and Regulatory Affairs and Public Policy, Exelon, Before the CFTC's EEMAC Meeting (Feb. 26, 2015) ("Campbell

Commission does adopt a position limits rule, it should begin only with spot-month limits. The spot-month is where the physical and futures markets converge, and is thus where the potential for abuse—by way of a corner or squeeze—might present actual disruptions to the physical markets. The Proposal fails to offer meaningful necessity and appropriateness findings with respect to either spot-month or non-spot-month limits, and the CFTC has not identified empirical evidence indicating or suggesting that non-spot month trading has led to excessive speculation. The Proposal, rather than offering any data or evidence to support a conclusion, observes a hypothetical risk that speculators could "create the perception of a nearby shortage of the commodity which a speculator could do by accumulating extraordinarily large long positions in the nearby month"[8] without identifying any record demonstrating that this has ever occurred.

Moreover, the Commission lacks the data necessary to accurately set appropriate position limits outside of the spot month. Although we commend the "significant, agency-wide efforts to improve data collection"[9] and analysis, the data relied on by the Commission in the Proposal is far from complete and cannot be used to support limits.[10] At a minimum, the CFTC should refrain from pursuing non-spot-month position limits until (i) regulation of position limits *in* the spot month has been shown to successfully reduce excessive speculation, and (ii) it can establish a clear record of empirical support for such regulatory action. This practical approach decreases the risk of market disruption by affording the Commission better data on which to base non-spot-month position accountability levels and by giving market participants adequate time to comply with a comprehensive position limits regime encompassing a large number of contracts. In addition, this practical approach should be adopted for the position limits regime to provide market participants with adequate time to adjust their internal operations and risk management systems and compliance programs to the new position limits regime, while decreasing the likelihood of constricting liquidity in any of the 25 exempt and agricultural commodity futures and options contract markets.

Testimony") (stating "it sounds to me like we may have an excessive hedging problem.").

[8] Proposal at 96722.

[9] Proposal at 96721.

[10] The CFTC concedes that they are still "concerned about the quality of data submitted in large trader reports pursuant to part 20 of the Commission's regulations." Proposal at 96759.

B. Begin With Accountability Levels

If the Commission is to implement any regulation on non-spot-month contracts, we believe that the Commission should first request comment on implementing accountability levels—rather than hard limits—as the exchanges have already done. Accountability levels have been used by exchanges for years to identify and understand large positions, and this regulatory tool allows exchanges to carry out responsible market surveillance without impacting liquidity or unduly limiting beneficial risk management activities of market participants.

In addition, position accountability levels for non-spot month contracts will provide greater flexibility to market participants and regulators and will reduce the costs of compliance with hard position limits in non-spot month contracts. Futures exchanges impose position accountability levels because they maintain the market's integrity by providing necessary oversight of any market participant while ensuring sufficient liquidity to allow traders to enter and exit the market without being overly burdensome to traders who, at times, may hold large positions. Position accountability levels are similar to position limits in that a trader who reaches the position accountability level will be exposed to increased exchange scrutiny of the trader's positions. Unlike position limits, position accountability levels do not prohibit a trader from reaching or exceeding the level. Instead, once a trader hits a position accountability level, an exchange may take certain actions, including preventing the trader from increasing the position or requiring the trader to reduce the position.[11]

Exchanges value the flexibility provided by position accountability levels because they can make educated determinations as to whether a trader's positions could become problematic. The further out the curve market participants transact in derivatives, the number of market participants and liquidity both decrease.[12] Those traders who engage in the first trade in a

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[11] CME Rule 560 (stating in part: "A person who holds or controls aggregate positions in excess of specified position accountability levels or in excess of position limits pursuant to an approved exemption shall be deemed to have consented, when so ordered by the Market Regulation Department, not to further increase the positions, to comply with any prospective limit which exceeds the size of the position owned or controlled, or to reduce any open position which exceeds position accountability or position limit levels."); ICE Futures U.S. Rule 6.13 (providing the exchange with the authority to "instruct each such Clearing Member to reduce the positions in such accounts twenty-four (24) hours after receipt of the notice, proportionately or otherwise so that the aggregate positions of such accounts at all such Clearing Members does not exceed the position limits and position accountability levels established by this Chapter").

[12] Haas Testimony at 107.

back month will hold all of the open interest in that contract, but this is not necessarily problematic.[13] Rather, it is essential to creating liquidity in these contract months.[14] Moreover, exchanges can continually monitor concentrations the further out the curve a trader is transacting.[15] Position accountability levels enable exchanges to monitor different levels of open interest without adversely impacting liquidity, yet provide the exchanges with the authority to intervene when appropriate.

Position accountability levels are intended to be a proactive method of monitoring the markets, and therefore it is appropriate to apply position accountability levels outside of the spot month and analyze concentrations using multiple factors to "cumulatively determine if a position should be continued to be carried."[16] For example, CME considers the following factors to determine the appropriate action to take when a market participant reaches the position accountability level: (1) the absolute size of the position relative to the size of open interest in the relevant contract; (2) the nature of the market participant's business (speculator, traditional hedger, or swap dealer); (3) the size of the position relative to other position holders or comparable entities; (4) the type of the position (outright, intra-commodity spread, inter-commodity spread); (5) the location of the position on the curve (expiration, near expiration or deferred month); (6) market fundamentals (whether there is a congested market, unusual basis or spread relationship); (7) the position relative to the historical position levels for the account in question as well as the account's history of managing its positions; and (8) whether the market participant exhibits abrupt position accumulation or uncharacteristic behavior in the marketplace.[17] Exchanges intentionally set modest position accountability levels to enable an

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13 *Id.*

14 *Id.*

15 Testimony of Thomas LaSala, Managing Director and Global Chief Regulatory Officer of Market Regulation, CME Group, Before the CFTC's EEMAC Meeting (Feb. 26, 2015) ("LaSala Testimony"). To illustrate the value of position accountability levels and the flexibility they provide for different types of contract months, Thomas LaSala of CME described in his EEMAC testimony various levels of open interest that CME monitors. *Id*. LaSala states that the exchange is interested in traders who hold approximately: (1) 45% of the open interest in the back months; (2) 30%-35% of the open interest in the third to sixth contract months; (3) 20%-25% of the open interest in the second contract month; and (4) 15%-20% of the open interest in the front month. As the spot month approaches, the exchanges continue to scrutinize traders' positions. *Id.*

16 Haas Testimony at 97-98.

17 LaSala Testimony Materials, available at: http://www.cftc.gov/ucm/groups/public/@newsroom/documents/generic/eemac022615_lasala2.pdf.

exchange to gather information in a proactive, timely manner. If an exchange determines that a position may become excessive, the exchange has the authority to prohibit a trader from adding to the position and/or order the trader to reduce the position.[18] In the event that the position does not threaten to disrupt or otherwise harm the integrity of the market, the exchange will maintain a dialogue with the trader to proactively monitor the position.

The position accountability regime is more appropriate for commodity markets than the position limit regime because market participants can trade in a greater number of contract months further out the curve without the fear of a regulator bringing a disciplinary action for violating a position limit. By permitting market participants to take a position close to or above position accountability levels, liquidity and risk transfer functionality will not suffer and the Commission could continue to monitor the market participant's position and take actions (such as order the market participant to reduce or liquidate the position) as they become necessary or appropriate.

By adopting a position accountability regime outside of the spot month, the Commission would be able to monitor markets for evidence of excessive speculation and market manipulation without compromising liquidity needs and the risk transfer function of markets. The Commission would gain a deeper understanding of market dynamics and be afforded a flexible approach to actively review positions by analyzing various factors that cause a market participant to take on a larger-than-normal position.[19] If the Commission intends to proceed with the a position limits rule, AQR encourages the Commission to impose only position accountability levels outside of the spot month instead of position limits to more flexibly achieve its goals without causing harm to the markets. AQR encourages the Commission to issue a new rule proposal on position accountability levels. While we continue to think that the Proposal is neither necessary or appropriate, as required by the Act, if the Commission moves forward nonetheless, a staged adoption of position limit rules, as suggested above, would provide the Commission with the opportunity to first adopt position limits for spot month contracts and rely on existing exchange position accountability levels outside of the spot month, and study the impact of position limits on the markets while considering the adoption of position accountability levels outside of the spot month.

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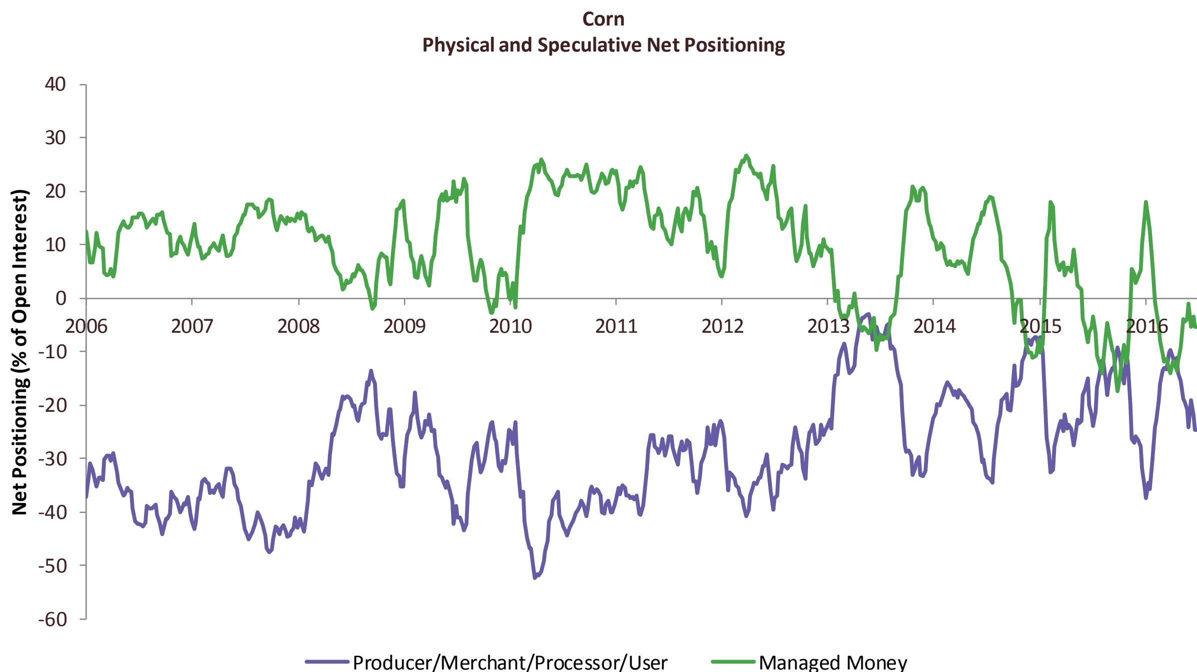
[18] *See, e.g.*, CME Rule 560 and ICE Futures U.S. Rule 6.13.

[19] *See* Managed Futures Association 2014 Comment Letter at 20-23.

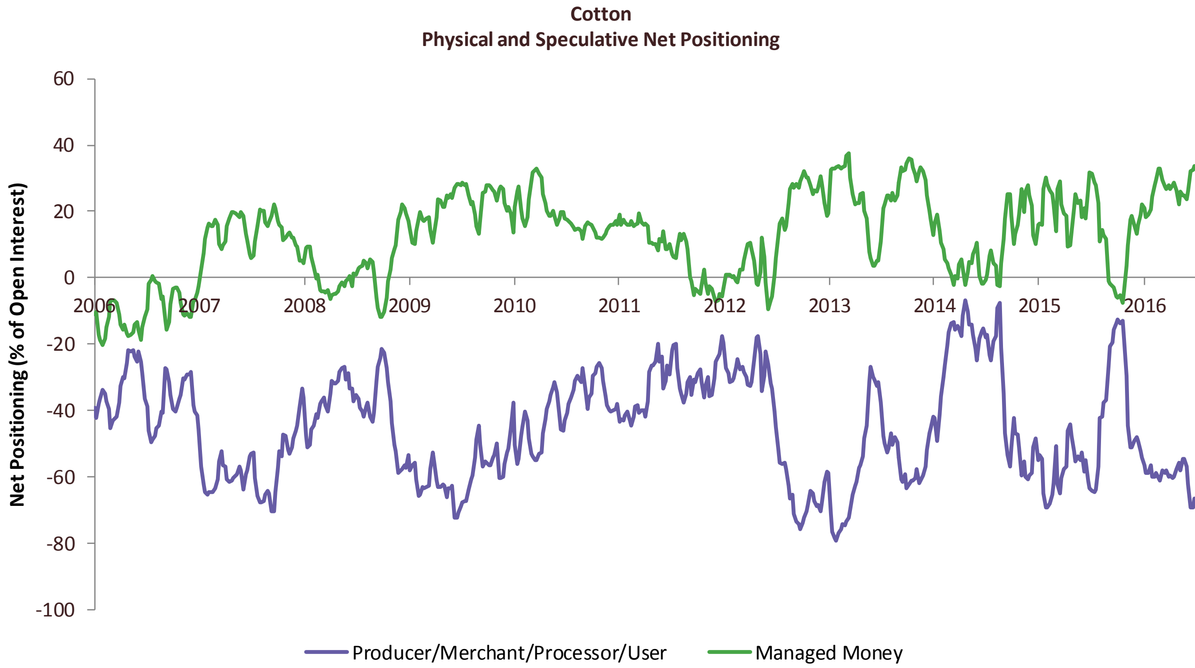
C. *Non-Spot-Month Limits Will Directly Limit The Ability of Commercials To Hedge And Will Increase The Cost of Hedging*

Further supporting our arguments above, we note the non-controversial observation that in many commodity markets, commodity producers have for decades hedged their physical commodity production by taking short futures positions. This requires other market participants, speculators, to take offsetting long positions. We can see this dynamic at play in a few representative commodity markets (outlined below), reviewing the CFTC's disaggregated commitment of traders reports from 2006 to 2016. The "Producer/Merchant/Processor/User" category has tended to take a net short position, while the "Managed Money" category tends to take an offsetting long position. If position limits reduce the positions of the existing managed money participants, the speculating side of the market will embed a higher premium for taking a long position, which will directly amount to a higher cost for hedgers taking a short position.

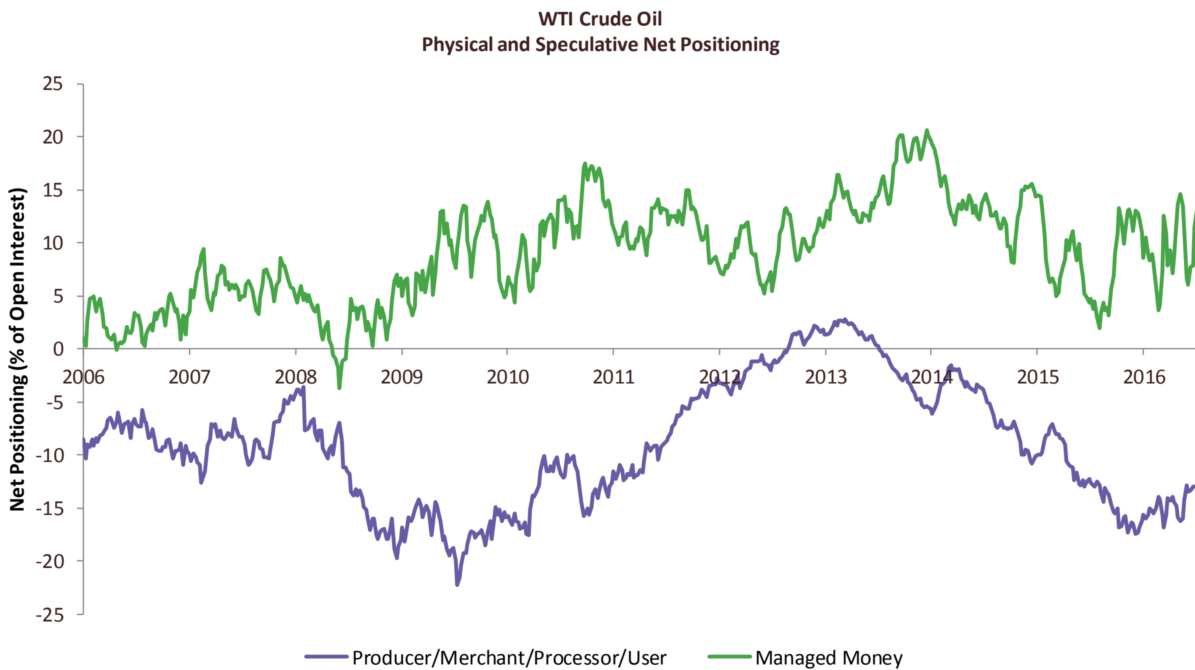
Corn:



Cotton:



Crude Oil:



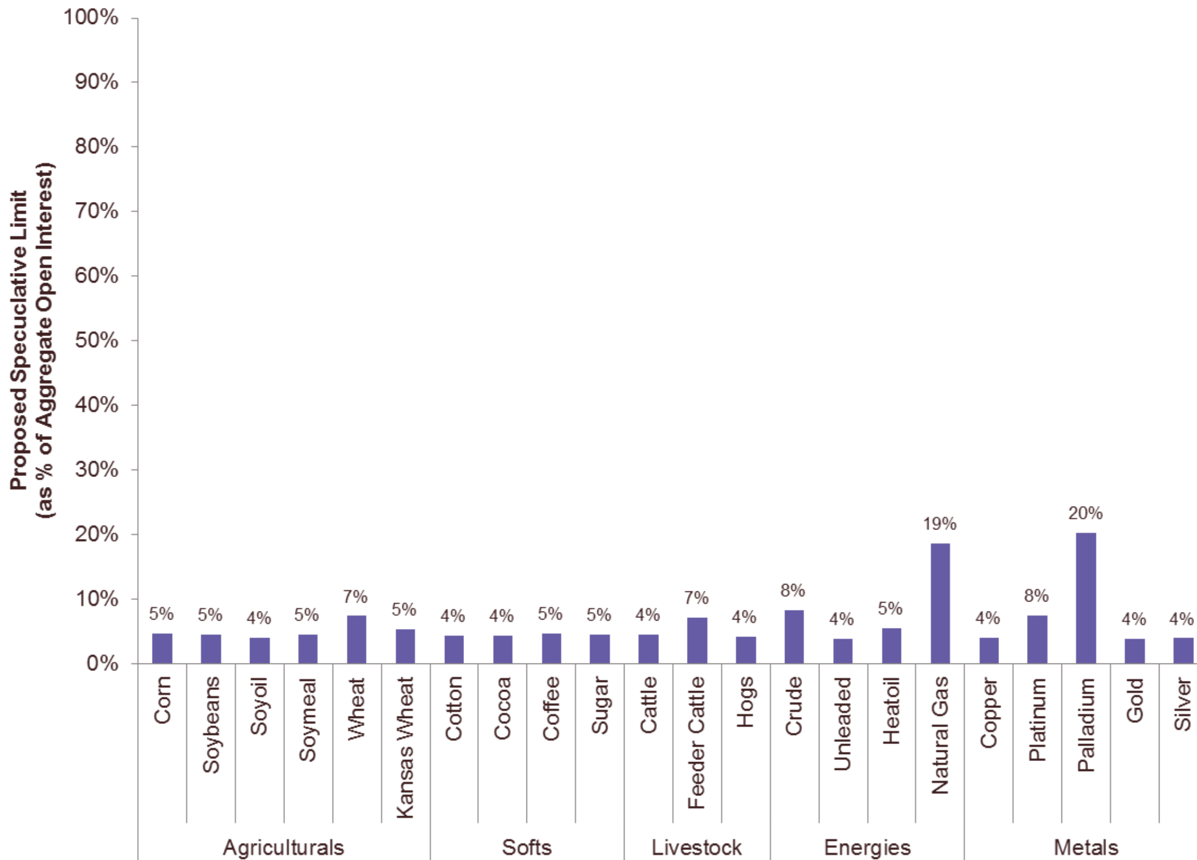
To lower the cost of commercials hedging with short positions throughout the futures curve, the market needs more market participants seeking to take the long positions in size. However, the money management industry is seeing increasing consolidation due to the benefits of scale, as investors shift to lower fee offerings such as passive and factor-based investment strategies. As a result, the imposition of non-spot-month position limits will make it harder and harder for an increasingly consolidated money management industry to take the other side of the "Producer/Merchant/Processor/User" positions. Therefore, we again encourage the Commission to avoid any approach that involves the imposition of non-spot-month limits, particularly in the absence of evidence or data suggesting that such limits would serve any beneficial purpose.

D. The Proposed Limit Levels Are Particularly Low When Compared To Open Interest

We appreciate that the Commission has proposed to increase non-spot-month limits for certain agricultural commodity futures, because the existing non-spot-month limits are too restrictive and too low. We separately encourage the Commission to move forward and finalize higher limits for agricultural commodity futures, not extending any such limits to swaps, and to consider where and how to raise these limits further.

More importantly, the proposed non-spot month levels for all of the physical commodities covered by the Proposal generally remain far too low and restrictive (even where they represent an increase from current exchange levels) when viewed as a percentage of open interest:

(*chart on next page*)



Figures above depict the proposed CFTC non-spot limits, as a share of median aggregate open interest in 2016.

E. The Commission Has Not Attempted To Demonstrate Any Percentage-Level Of Open Interest At Which Speculative Positions Would Become Problematic

As noted above, if the CFTC is going to pursue final rules that include position limits of any type, it must first identify and establish that such limits are both necessary and appropriate for curbing the "burdens on interstate commerce" caused by or attributable to "excessive speculation." Rather than identifying and then following a specific methodology that could be used to satisfy this evidentiary requirement, the CFTC's Proposal ignores the requirement altogether. This is a particularly notable deficiency, given that multiple other market regulators have developed alternative methodologies that could have at least been considered by the CFTC in evaluating whether its proposal (and the limit levels proposed) was reasonably calibrated. We do not necessarily endorse any of these methodologies as capable of

producing definitive conclusions for the CFTC's purposes;[20] however, we believe that it is important for the CFTC to at least acknowledge and consider the applicability or usefulness of these methodologies in the context of the Commission's own empirical studies (which remain to be done).

As mentioned previously in this letter, when setting limits, the Act instructs the Commission to do so in a way (1) that diminishes, eliminates, or prevents excessive speculation, and deters and prevents market manipulation, squeezes, and corners, (2) but that also ensures sufficient market liquidity for bona fide hedgers while not disrupting the risk transfer function of the underlying market. As a result, in order to set appropriate position limits, these factors should be taken into account on a commodity-by-commodity basis. Setting spot month limits based on 25% of estimated deliverable supply and all other months based on 10% of open interest for the first 25,000 contracts (and 2.5% on all open interest in excess of 25,000 contracts) for all contracts fails to recognize the differences among commodities, including differences in liquidity, seasonality, and other economic factors.[21]

2. <u>**Position Limits Should Not Apply to Financially Settled Swaps or Futures.**</u>

For the same reasons discussed in connection with limits outside the spot-month, the CFTC should not apply position limits to financially settled swaps or futures. Neither of these instruments is at the intersection or convergence of the physical and financial markets, and

[20] For example, the often discussed Herfindahl-Hirschman Index (HHI), which is a measure used by some regulators to gauge market concentration, is a helpful but imperfect tool. When applied in the context of U.S. competition law, the sum of the squares of all market participants' shares of a defined market are compared to the following benchmarks: an HHI under 1000 is viewed as competitive and not susceptible to exercises of market power or collusion; an HHI between 1000 and 1800 is viewed as moderately concentrated and somewhat susceptible to exercises of market power or collusion; and an HHI above 1800 is viewed as highly concentrated and susceptible to exercises of market power or collusion. In our view, these theoretical data bands are too generic to be meaningful for purposes of identifying appropriate limit levels for all of the very different commodity markets covered by the CFTC's Proposal, each of which have their own market structure and other characteristics to take into account.

[21] *See, e.g.*, Revision of Federal Speculative Position Limits, 52 Fed. Reg. 38,914, 38,917 (adopted Oct. 20, 1987) ("basing speculative position limits upon the characteristics of a specific contract market is consistent with the practice under Commission Rule 1.61" (adopted in 1981, 46 Fed. Reg. 50,938)); Revision of Federal Speculative Position Limits, 57 Fed. Reg. 12,766, 12,770 (proposed Apr. 13, 1992) ("The fundamental tenet in the Commission's setting of speculative position limits is that such limits must be 'based upon the individual characteristics of a specific contract market'") (citing Revision of Federal Speculative Position Limits, 52 Fed. Reg. 6,812, 6,815 (proposed Mar. 5, 1987)).

the opportunity or ability to use an outsized position in financially settled swaps or futures contracts to squeeze or corner the underlying physical commodity market is extremely remote. Rather, the primary impact of position limits on cash-settled commodity contracts will be to reduce market liquidity and increase transaction costs for commercial market participants (who will see their options to use these markets for hedging commercial risk diminished) with no related benefit.

The Commission declares that it "preliminarily finds it necessary to implement position limits as a prophylactic measure for the 25 core referenced futures contracts".[22] The Commission supports its declaration by again pointing to the Hunt Brothers and Amaranth cases, without additional, more meaningful analysis.[23] Each commodity market possesses unique characteristics driven by economic factors, but the Commission supports its broad necessity finding for position limits with just two dated cases related to the silver and natural gas markets. The Commission's necessity finding is too broad, references source materials that is too dated, and does not analyze each of the 25 core referenced contracts' economic equivalents to separately find that position limits are necessary for each such contract.

Similarly, swap data analyzed by the Commission does not appear to have improved in quality over the past several years, based on the Commission's statement about data from swap data repositories and its explanation of reports that staff edited or disregarded entirely. For example, Commission staff deleted all swap position data reports submitted by one swap dealer from its analysis because "the reports were inexplicably anomalous in light of other available information, reasonable assumptions and Commission expertise". In describing errors related to swaps reporting, the Commission explains that market participants may have reported swaps that do not satisfy the definition of "referenced contract" (such as trade options, before it became clear they were not subject to CFTC reporting requirements), resulting in higher open interest and, therefore, higher limits. We recommend that the Commission prioritize its efforts on obtaining high-quality data from market participants rather than imposing position limits until it can do so based on reliable data regarding futures, swaps and OTC contracts.

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[22] *See* the Proposal at 96716.

[23] *Id*. at 96727. When describing studies related to Amaranth and the Hunt Brothers, the Commission admits that "[s]ome of the evidence cited in these studies is anecdotal". *Id.*

In addition, under the Proposal, market participants would be faced with operational challenges with respect to the necessary monitoring of contracts subject to position limits as traders would be required to include economically equivalent contracts in their position. In some cases, it may not be clear whether the Commission would consider a contract "economically equivalent" to one of the 25 reference contracts. A market participant would need guidance on the proper interpretation of this term and implement methods for including contracts that fall within the scope of "economically equivalent" in the market participant's position limits compliance program.

3. The Proposal Ignores the Commission's Multiple Other Regulatory Tools.

If position limits are adopted, they should be adopted at higher levels from those set forth in the Proposal, which provide insufficient headroom in the spot month for market participants providing the liquidity that is used by commercial market participants for bona fide hedging purposes. The proposed limit levels will result in decreased liquidity and increased costs for hedgers, in each instance in the absence of any underlying benefit (as the Proposal identifies no market disruption, inefficiency or other issue for which position limits, even in the spot month, will provide a solution). This is because the current proposed position limit levels are based on "estimated deliverable supply"—a vague and ambiguously defined figure with no clear process for its calculation on a going forward basis. We therefore believe that the CFTC should increase the limits for the spot month to levels that do not present the risk of disrupting liquidity and increasing costs for hedgers.

In lieu of overly restrictive position limits, the CFTC should utilize its existing regulatory tools for identifying and understanding large positions. The Commission receives a tremendous amount of daily futures market information, including position information, both from exchanges and via the Commission's large trader reporting program. The Commission also has the ability to issue special calls to market participants, via the information obtained in Form 40 statement of reporting trader, in order to inquire about specific positions or trading programs. Therefore, to the extent the position limit levels set forth in the Proposal present even the risk of impacting market liquidity and increasing hedging costs, the CFTC should pursue the lower cost and more effective alternative of utilizing the regulatory tools that it already possess prior to imposing unduly restrictive limit levels on markets and market participants.

4. Any Position Limit Rule Should Include a Risk Management Exemption.

While we support the exclusion of "commodity index contracts" from the proposed definition of "referenced contract" (the exclusion of commodity index contracts from position limits allow managers and their customers who invest in such products in order to gain price exposure to a diversified array of commodities over a diverse set of maturities),[24] the CFTC should include in any positions limits rule, in addition to any exemptions for bona fide hedging positions, a "Risk Management Exemption" for positions used to manage financial and other risks faced by a market participant. The CFTC and the exchanges have traditionally recognized risk management exemptions from position limits, and the CFTC should affirm this approach, thereby ensuring that the futures and derivatives markets remain a valid tool for meeting the risk management needs of market participants (*i.e.*, the need to utilize the derivatives markets to manage, balance or otherwise offset positions and exposures taken via various financial and other products, including over-the-counter swaps, as well as risk and exposures emanating from other business activities). That is, risk management exemptions have been relied on by market participants for years with no incident, as the holder of the exemption always remains responsible for responding to exchange or CFTC inquiries regarding its position. In addition, the holder of the position remains subject to the general orderly trading requirements applicable to all participants in markets subject to CFTC jurisdiction.

5. Conclusion.

AQR encourages the Commission to pursue a thoughtful rulemaking with respect to position limits such that the rule would improve, rather than impair, market liquidity, market efficiency, and the ability of CFTC regulated markets to perform a risk transfer function.

AQR believes that the Commission needs to clearly articulate its interpretation of "excessive speculation" and apply position limits only to those contracts for which it makes a specific necessity finding and determination of the appropriateness of the limits for each such contract. Specifically, if a revised position limits regime is adopted, AQR recommends that the Commission:

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[24] The liquidity added to commodity markets by these investments is particularly beneficial in longer dated maturities where liquidity can be scarce.

- Confine limits to spot month contracts as needed to prevent excessive speculation;

- Exclude economically equivalent contracts from position limits at this time to provide more time for the Commission to obtain and carefully analyze higher quality data regarding the trading, liquidity and other market characteristics of economically equivalent contracts and to resolve interpretational and operational challenges;

- If non-spot month limits are adopted, delegate to exchanges the responsibility and authority to administer position limits, including the use of position accountability levels; and

- Provide an exemption from the CFTC's limits for risk management positions, allowing for certain market participants to provide liquidity in various markets and products.

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We appreciate the opportunity to provide comments on the Proposal and we look forward to discussing with the Commission. Please feel free to contact us with any questions regarding these comments.

Sincerely,

/s/ Brendan Kalb
Managing Director & General Counsel
AQR Capital Management, LLC

Cc: J. Christopher Giancarlo, Acting-Chairman

Sharon Y. Bowen, Commissioner

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