

secure.commentworks.com/ftc-marketmanipulationANPR/(and following the instructions on the web-based form). To ensure that the Commission considers an electronic comment, you must file it on the web-based form at the weblink (<https://secure.commentworks.com/ftc-marketmanipulationANPR/>). If this notice appears at <http://www.regulations.gov>, you may also file an electronic comment through that website. The Commission will consider all comments that [regulations.gov](http://www.regulations.gov) forwards to it. You may also visit the FTC website at (<http://www.ftc.gov/opa/index.shtml>) to read the ANPR and the news release describing it.

A comment filed in paper form should include the "Market Manipulation Rulemaking, P082900" reference both in the text and on the envelope, and should be mailed to the following address: Federal Trade Commission, Market Manipulation Rulemaking, P.O. Box 2846, Fairfax, VA 22031-0846. This address does not accept courier or overnight deliveries. Courier or overnight deliveries should be delivered to: Federal Trade Commission/Office of the Secretary, Room H-135 (Annex G), 600 Pennsylvania Avenue, NW, Washington, DC 20580.

The FTC Act and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives, whether filed in paper or electronic form. Comments received will be available to the public on the FTC website, to the extent practicable, at <http://www.ftc.gov>. As a matter of discretion, the FTC makes every effort to remove home contact information for individuals from the public comments it receives before placing those comments on the FTC website. More information, including routine uses permitted by the Privacy Act, may be found in the FTC's privacy policy, at (<http://www.ftc.gov/ftc/privacy.htm>).

FOR FURTHER INFORMATION CONTACT: James Mongoven, Deputy Assistant Director of Policy & Coordination, Bureau of Competition, Federal Trade Commission, Market Manipulation Rulemaking, P.O. Box 2846, Fairfax, VA 22031-0846, (202) 326-3772.

SUPPLEMENTARY INFORMATION: On May 7, 2008, the Commission published an ANPR pursuant to the authority granted to it in Section 811 of the EISA to promulgate regulations prohibiting "market manipulation" in the

petroleum industry. In that Notice, the Commission solicited comment on a variety of topics including the scope of a proposed Rule; the impact of other agencies' extant rules against market manipulation on a proposed Rule; and the effectiveness of monetary penalties in curbing behavior proscribed by a proposed Rule. The ANPR stated that the period for submitting initial comments would close on June 6, 2008.

On May 19, 2008, the Commission received a letter from counsel for the American Petroleum Institute ("API") requesting that the Commission extend the comment deadline in the ANPR proceeding for an additional 60 days, resulting in a 90-day comment period. In its request, API advances three arguments in support of an extension of the comment period. First, API argues that additional time is needed to canvass its more than 400 members and to "consolidate and present that information for the Commission's consideration." Second, API contends that the extension is necessary to ensure that there is "sufficient time for thoughtful deliberation" about the "many novel and complex issues" addressed in the ANPR. Third, API opines that "defining 'manipulation' is inherently difficult and not within the Commission's traditional antitrust or consumer protection experience," and thus providing additional time to commenters will yield more carefully considered comments, which will be beneficial to the Commission as it proceeds.

The Commission is sympathetic to the concerns raised by API. The Commission, however, is not persuaded that a full 60-day extension—which would triple the time allocated by the Commission for the receipt of comments—is necessary to ensure that interested parties have an adequate opportunity to prepare and submit thoughtful responses at this stage in the proceeding. The Commission believes that a 15-day extension of the initial 30-day comment period should be sufficient to enable API and all other commenters to finalize and submit comments in response to the ANPR while avoiding unnecessary delay. Further, in the event that the Commission determines to issue a Notice of Proposed Rulemaking in this proceeding, interested parties will be afforded an additional period of time in which to submit comments in response to a proposed Rule. Accordingly, the Commission has determined to extend

the comment period set forth in the ANPR until June 23, 2008.⁴

By direction of the Commission.

Donald S. Clark,
Secretary.

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COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 150

RIN 3038-AC140

Revision of Federal Speculative Position Limits

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed rules; withdrawal.

SUMMARY: On November 21, 2007, the Commodity Futures Trading Commission (Commission or CFTC) published a proposed rulemaking to increase the Federal speculative position limits for certain agricultural commodity contracts set out in Commission regulation 150.2 (proposed rulemaking).¹ The proposed rulemaking would have increased the single-month and all-months-combined position limits for all contracts except contracts based on oats in accordance with the formula set out in Commission regulation 150.5(c). The proposed rulemaking would have also required the aggregation of traders' positions in contracts that share substantially identical terms with regulation 150.2-enumerated contracts, regardless of whether such contracts were specifically delineated in that regulation, for the purposes of ascertaining compliance with the Federal speculative position limits. For the reasons provided below, the Commission has determined to withdraw the proposed rulemaking.

FOR FURTHER INFORMATION CONTACT: Donald Heitman, Senior Special Counsel, Division of Market Oversight, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581, telephone (202) 418-5041, facsimile number (202) 418-5507, e-mail dheitman@cftc.gov; or Martin Murray, Economist, Division of Market Oversight, telephone (202) 418-5276,

⁴ Under Commission Rule 4.3(a), the 15-day comment period begins on Monday, June 9, 2008, the first business day after the date on which the comment period is currently scheduled to end. 16 CFR 4.3(a).

¹ Revision of Federal Speculative Position Limits, 72 FR 65483 (November 21, 2007).

facsimile number (202) 418-5507, e-mail mmurray@cftc.gov.

SUPPLEMENTARY INFORMATION: The Commission has long established and enforced speculative position limits for futures contracts on various agricultural commodities. The Commission periodically reviews these Federal speculative position limits, which are set out in Commission regulation 150.2.² On November 21, 2007, the Commission published its proposed rulemaking to increase Federal speculative position limits for all single-month and all-months-combined positions in all commodity markets enumerated in Commission regulation 150.2, except Chicago Board of Trade (CBT) Oats, based on the formula set out in Commission regulation 150.5(c). The rulemaking proposed to increase levels for single-month and all-months-combined positions for CBT Corn, Soybeans, Wheat, Soybean Oil, and Soybean Meal; Minneapolis Grain Exchange Hard Red Spring Wheat; Kansas City Board of Trade Hard Winter Wheat; and New York Board of Trade³ Cotton No. 2. In addition, the rulemaking proposed to require the aggregation of positions in contracts that share substantially identical terms with regulation 150.2-enumerated contracts, regardless of whether such contracts were specifically delineated in that regulation, for the purposes of ascertaining traders' compliance with the Federal speculative position limits.

The Commission requested public comment by December 21, 2007. On December 31, 2007, the Commission extended the initial comment period to January 21, 2008 to give interested parties additional opportunity to comment.⁴ The Commission received a total of 40 comment letters in response to its *Federal Register* publication.⁵ Six letters generally favored the proposed regulations and 34 letters were generally opposed to their adoption. An Agricultural Forum held by the Commission on April 22, 2008 served as an additional venue for the presentation of views with respect to the proposed rulemaking and a related Commission proposal to adopt a risk management

exemption from the Federal speculative position limits.⁶

Collectively, the comments received in response to the proposed rulemaking and at the Commission's April 22 Agricultural Forum reflected differing perspectives on a wide range of issues of substantive import to the proposed rulemaking. The issues covered by the commenters, both in favor and opposed to the Commission's proposal to revise the Federal speculative position limits, included product margin requirements, the convergence of cash and futures transaction prices, the impact of commodity-linked instruments traded on national securities exchanges on CFTC regulated transactions, the degree of transparency for market participation, and the quantification of the impact of speculative trading on market volatility. In light of the wide range of divergent positions that have been put forth by interested parties, the current market conditions for the contracts that would be affected by the proposed rulemaking, and in order to determine whether further consensus among the affected parties should be sought, the Commission has determined to withdraw the proposed rulemaking pending further consideration of the relevant issues.

Issued by the Commission this June 2, 2008, in Washington, DC.

David Stawick,

Secretary of the Commission.

[FR Doc. E8-12728 Filed 6-5-08; 8:45 am]

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COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 150

RIN 3038-AC40

Risk Management Exemption From Federal Speculative Position Limits

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed rules; withdrawal.

SUMMARY: On November 27, 2007, the Commodity Futures Trading Commission (Commission or CFTC) published proposed rules to create a "risk management exemption" from Federal speculative position limits—the limits on the size of speculative positions that traders may hold or control in futures and futures equivalent option contracts on certain designated agricultural commodities. The

Commission has determined to withdraw these proposed rules.

FOR FURTHER INFORMATION CONTACT:

Donald Heitman, Senior Special Counsel, Division of Market Oversight, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581, telephone (202) 418-5041, facsimile number (202) 418-5507, electronic mail dheitman@cftc.gov; or John Fenton, Director of Surveillance, Division of Market Oversight, telephone (202) 418-5298, facsimile number (202) 418-5507, electronic mail jfenton@cftc.gov.

SUPPLEMENTARY INFORMATION:

Commission regulation 150.2 imposes limits on the size of speculative positions that traders may hold or control in futures and futures equivalent option contracts on certain designated agricultural commodities named therein. Commission regulation 150.3 lists certain types of positions that may be exempted from these Federal speculative position limits.

On November 27, 2007, the Commission published proposed amendments that would provide an additional exemption from Federal speculative position limits for "risk management positions" (proposed rulemaking).¹ The proposal defined a risk management position as a futures or futures equivalent position, held as part of a broadly diversified portfolio of long-only or short-only futures or futures equivalent positions, that is based upon either: (1) A fiduciary obligation to match or track the results of a broadly diversified index that includes the same commodity markets in fundamentally the same proportions as the futures or futures equivalent position; or (2) a portfolio diversification plan that has, among other substantial asset classes, an exposure to a broadly diversified index that includes the same commodity markets in fundamentally the same proportions as the futures or futures equivalent position. The exemption, as proposed, would have been subject to certain conditions, including that the positions be passively managed, unleveraged, and not carried into the spot month.

The Commission requested public comment by January 28, 2008. The Commission received a total of 10 comment letters in response to its

² Commission regulation 150.2 imposes three types of position limits for each specified contract: a spot month limit, a single-month limit, and an all-months-combined limit. The Commission most recently adopted amendments to levels for Federal speculative position limits in 2005. See 70 FR 24705 (May 11, 2005).

³ The New York Board of Trade was acquired by ICE Futures U.S. in January, 2007.

⁴ 72 FR 74213 (December 31, 2007).

⁵ *Federal Register* Comment File 07-014, available at <http://www.cftc.gov/lawandregulation/federalregister/federalregistercomments/2007/07-014.html>.

⁶ Risk Management Exemption from Federal Speculative Position Limits, 72 FR 66097 (November 27, 2007) (to be withdrawn).

¹ Risk Management Exemption from Federal Speculative Position Limits, 72 FR 66097 (November 27, 2007).