

CFTC re-proposes position limits rule and finalises aggregate positions rule

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On December 5 2016 the Commodity Futures Trading Commission (CFTC) voted unanimously to re-propose regulations implementing limits on speculative futures and swaps positions as called for in the Dodd-Frank Act. (1) In a separate vote, the CFTC approved final aggregation regulations, which are a key component of the CFTC's existing position limits regime. (2) The re-proposal will be open for public comment for 60 days after publication in the *Federal Register*.

In response to comments on a prior proposal published in December 2013 and on a supplemental proposal published in June 2016, the CFTC is re-proposing limits on speculative positions in 25 core physical commodity futures contracts and their economically equivalent futures, options and swaps (referenced contracts), and is deferring action on three cash-settled commodities.

The CFTC is also re-proposing the definition of '*bona fide* hedging position', as well as exemptions for *bona fide* hedging positions in physical commodities. Exemptions are being re-proposed for, among other things, positions that are established in good faith prior to the effective date of the initial limits that would be established by final regulations.

In addition, the re-proposed regulations include requirements and acceptable practices for designated contract markets (DCMs) and swap execution facilities (SEFs) for setting position limits for the 25 referenced contracts, as well as acceptable practices for exchange position limits or accountability rules in all other listed contracts, including excluded commodities. The re-proposed regulations also permit exchange recognition of non-enumerated *bona fide* hedging positions, certain enumerated anticipatory hedge positions and granting of spread exemptions. The re-proposal includes updated reporting requirements under Part 19 of the CFTC's regulations.

Finally, the re-proposed regulations would delay any requirement for DCMs and SEFs that lack access to sufficient swap position information to establish position limits on swaps that are subject to a federal position limit.

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Endnotes

(1) The re-proposal is available [here](#) and a fact sheet regarding the re-proposal is available [here](#).

(2) The final aggregation regulations are available [here](#).

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