

April 27, 2004

Ms. Jean A. Webb
Office of the Secretariat
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, N.W.
Washington, D.C. 20581

Re: Amended Petition for Amendment of
Commodity Futures Trading Commission Regulation 150.2

On March 30, 2004, the Board of Trade of the City of Chicago, Inc. (“CBOT®” or “Exchange”) submitted a Petition, pursuant to Commodity Futures Trading Commission (“Commission”) Regulation 13.2, that the Commission amend its Regulation 150.2 (Position Limits). The CBOT hereby submits this Amended Petition, which shall supersede and replace the Petition letter (dated March 26, 2004) that was filed on March 30, 2004. The Appendices attached to the Petition filed on March 30, 2004, do not require any changes, are not superseded, and should be considered along with this Amended Petition.

A. Current Regulation 150.2

Regulation 150.2 establishes speculative position limits for named agricultural contracts that are traded on specifically identified designated contract markets. For CBOT products, those limits are currently set forth as follows:

Speculative Position Limits
[By contract]

Limits by number of contracts

Contract	Spot month	Single month	All months
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Chicago Board of Trade

Corn	600	5,500	9,000
Oats	600	1,000	1,500
Soybeans	600	3,500	5,500
Wheat	600	3,000	4,000
Soybean Oil	540	3,000	4,000
Soybean Meal	720	3,000	4,000

- B. All federally mandated position limits should be eliminated from Commission Regulations, and designated contract markets should bear the sole responsibility for setting their own position limits, where necessary and appropriate, subject to Commission oversight.

The CBOT requests that all federally mandated position limits be eliminated from Commission Regulations and that Regulation 150.2 be repealed. The current spot month limits for CBOT Corn and Soybeans predate the creation of the Commission in 1975. The spot month limit for CBOT Wheat was last modified in 1976. Single-month and all-months limits were most recently amended in May 1999.

Since that time, Congress has passed the Commodity Futures Modernization Act of 2000 ("CFMA"). The CFMA replaced a rules-based approach to regulation with a more flexible model based upon compliance with Core Principles. Core Principle 5 of Section 5(d) of the Commodity Exchange Act, as amended ("CEA"), applicable to designated contract markets, deals with Position Limitations or Accountability, and states that:

To reduce the potential threat of market manipulation or congestion, especially during trading in the delivery month, the board of trade shall adopt position limitations or position accountability for speculators, where necessary and appropriate.

Therefore, although the Commission retains the authority to set speculative position limits pursuant to Section 4a(a) of the CEA, the CFMA's Core Principles squarely place responsibility for establishing any appropriate position limits upon the exchanges.

Indeed, the fact that the Commission set any speculative position limits for the agricultural products listed in Regulation 150.2, and left the responsibility to set all speculative position limits for other products, including other agricultural products, to the exchanges under Regulation 150.5, appears to be a matter of historical development, and not based upon any distinctions applicable to the enumerated contracts. For example, in the Federal Register release accompanying the adoption of the current single-month and all-months levels for CBOT and other exchange contracts, the Commission stated that it had never established a speculative position limit for the Minneapolis Grain Exchange's former durum wheat contract, because that contract was listed after the promulgation of the Commission rule that required contract markets to set their own speculative limits for contracts not subject to limits set by the Commission. The Commission further stated that since the adoption of that rule, it has generally preferred to rely upon exchanges to set their own position limits. Revision of Federal Speculative Position Limits and Associated Rules, [1998-1999 Transfer Binder] COMM. FUT. L. REP. (CCH) ¶27,608, at 47,884, fn. 9 (64 F.R. 24038, May 5, 1999).

In fact, even before the passage of the CFMA and the adoption of the Core Principles, in response to the CBOT's comment that exchanges should have the sole responsibility to establish and monitor all speculative limits, subject to Commission oversight, the

Commission stated that it “. . . believes that this suggestion may merit future consideration.” Revision of Federal Speculative Position Limits and Associated Rules, [1998-1999 Transfer Binder] COMM. FUT. L. REP. (CCH) ¶27,608, at 47,882-47,883, fn. 7 (64 F.R. 24038, May 5, 1999). The time has now come for the Commission to grant the sole responsibility to establish speculative position limits to the exchanges by repealing Regulation 150.2, and for the Commission to oversee the exchanges’ exercise of that responsibility, as envisioned by the CFMA.

C. Even if the Commission determines to retain federally mandated spot month limits, it should remove single-month and all-months limits from Regulation 150.2.

In Appendix B to Part 38 of its Regulations, the Commission has discussed certain acceptable practices that would satisfy Core Principle 5. The Commission specifically noted that provisions concerning speculative position limits are set forth in Part 150 of its Regulations. However, in discussing “. . . markets based on commodities having more limited deliverable supplies or where otherwise necessary to minimize the susceptibility of the market to manipulation or price distortions”, the Commission focused on spot-month limits. The discussion concluded with the Commission’s only reference to non-spot month limits, in which it stated that “[m]arkets may elect not to provide all-months-combined and non-spot month limits.” Appendix B to Part 38, Core Principle 5 of section 5(d) of the Act, Paragraph (b)(4).

Therefore, although in its Regulation 150.2, the Commission has historically imposed single-month and all-months position limits upon certain agricultural commodities, the Commission has now explicitly recognized that, for similar markets, such limits are not necessary to minimize any potential for manipulation or price distortion. In light of the adoption of Core Principle 5 as part of the CFMA, and the Commission’s applicable Appendix B guidance, there appears to be no reasonable distinction between the agricultural commodities addressed in Regulation 150.2, and other commodities that have “more limited deliverable supplies”, that would support any need for the Commission itself to set single-month and all-months position limits for such commodities.

Therefore, even if the Commission determines to continue to impose its own spot month limits, the Exchange requests that the Commission amend Regulation 150.2 to eliminate all single-month and all-months limits, and rely upon the exchanges to impose any such limits that are necessary and appropriate, subject to Commission oversight.

D. In the alternative, Regulation 150.2 should be amended to increase single-month and all-months speculative position limits for CBOT Corn, Soybeans, Wheat, Soybean Oil and Soybean Meal.

In the alternative, if the Commission determines to retain single-month and all-months position limits for the identified agricultural products in Regulation 150.2, the Exchange requests that the Commission raise such limits for CBOT contracts as follows:

Deletions [~~bracketed~~] and ~~struck-through~~; Additions **bolded** and underlined.

Contract	Spot month	Single month	All months
Corn	600	[5,500] <u>10,000</u>	[9,000] <u>17,000</u>
Oats	600	1,000	1,500
Soybeans	600	[3,500] <u>6,500</u>	[5,500] <u>10,000</u>
Wheat	600	[3,000] <u>4,500</u>	[4,000] <u>5,500</u>
Soybean Oil	540	[3,000] <u>4,500</u>	[4,000] <u>6,500</u>
Soybean Meal	720	[3,000] <u>4,500</u>	[4,000] <u>6,000</u>

Trading volume and open interest in Corn, Soybean, Wheat, Soybean Oil and Soybean Meal futures contracts has increased significantly since the Commission last revised its single-month and all-months position limits for these products in May 1999. Therefore, the Exchange determined to examine the efficacy of the existing single-month and all-months-combined speculative position limits in light of the increased participation in these markets.

1. The majority of the market participants surveyed by the CBOT supported increased speculative position limits.

The CBOT surveyed a broad cross-section of the agricultural trading community in order to determine whether there was industry support for increasing the current single-month and all-months limits, and if so, to what levels. Forty-one responses were received, including responses from commercial firms, futures commission merchants, introducing brokers, floor brokers and local traders. Of the forty-one, twenty-six respondents (63%) supported increased single-month and/or all-months limits, fourteen respondents (34%) supported current position limits, and one respondent (2%) supported decreased single-month and all-months limits.

In addition, most supporters of increased limits preferred that the ratio of single-month to all-months limits remain in roughly the same proportions as they exist today. The CBOT has, therefore, roughly maintained these proportions in the levels that it has proposed for single-month and all-months-combined speculative position limits. A summary of the survey responses is attached as Appendix A.

2. The proposed increases are justified by the application of the percentage of open interest formula that has been adopted by the Commission as the appropriate method for determining the levels of single-month and all-months speculative position limits.

Since 1992, the Commission has consistently taken the position that the levels of single-month and all-months speculative position limits are appropriately based upon a

percentage of average open interest in the relevant contracts. The applicable formula is clearly stated in Regulation 150.5(c)(2), as follows:

Individual nonspot or all-months-combined levels must be no greater than 10% of the average combined futures and delta-adjusted option month-end open interest for the most recent calendar year up to 25,000 contracts with a marginal increase of 2.5% thereafter...

Regulation 150.5(c)(2) specifically addresses exchange-set speculative position limits for physical delivery contracts that are not enumerated in Regulation 150.2. However, the Commission applied the same open interest criterion and numeric formula when it proposed to raise the single-month and all-months limits for CBOT agricultural commodities to their current levels, beginning in 1992. Revision of Federal Speculative Position Limits, [1990-1992 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶25,268 (57 F.R. 12766, April 13, 1992).

When the current single-month and all-months position limits were finally adopted in May 1999, the Commission indicated that it would consider future increases to the speculative position limit levels for all [Regulation 150.2] contracts as open interest or large traders' positions increased. Furthermore, the Commission invited petitions such as the instant one, by explicitly stating that "... an exchange may petition the Commission for rulemaking any time that a contract meets the criteria supporting an increase in the levels." Revision of Federal Speculative Position Limits and Associated Rules, [1998-1999 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶27,608, at 47,883-47,884 (64 F.R. 24038, May 5, 1999).

The application of the Commission's percentage of open interest formula to CBOT Corn, Soybeans, Wheat, Soybean Oil and Soybean Meal contracts clearly supports the Exchange's proposed increases in the single-month and all-months speculative position limits.

The 2003 average month-end futures and futures equivalent open interest (0.5 delta) in Corn was 607,915 contracts. The formula cited above, if applied to Corn, would suggest that appropriate speculative limits would be up to 17,073 single-month and all-months contracts. Therefore, if the Commission determines to retain Regulation 150.2, the Exchange proposes that Regulation 150.2 be amended to roughly maintain the current ratio between single-month and all-months-combined limits, with a 10,000 single-month speculative position limit and a 17,000 all-months speculative position limit for Corn.

The 2003 average month-end futures and futures equivalent open interest (0.5 delta) in Soybeans was 331,148 contracts. The formula cited above, if applied to Soybeans, would suggest that appropriate speculative limits would be up to 10,154 single-month and all-months contracts. Therefore, if the Commission determines to retain Regulation 150.2, the Exchange proposes that Regulation 150.2 be amended to roughly maintain the current ratio between single-month and all-months-combined limits, with a 6,500 single-month

speculative position limit and a 10,000 all-months speculative position limit for Soybeans.

The 2003 average month-end futures and futures equivalent open interest (0.5 delta) in Wheat was 160,741 contracts. The formula cited above, if applied to Wheat, would suggest that appropriate speculative limits would be up to 5,894 single-month and all-months contracts. Therefore, if the Commission determines to retain Regulation 150.2, the Exchange proposes that Regulation 150.2 be amended to roughly maintain the current ratio between single-month and all-months-combined limits, with a 4,500 single-month speculative position limit and a 5,500 all-months speculative position limit for Wheat.

The 2003 average month-end futures and futures equivalent open interest (0.5 delta) in Soybean Oil was 188,667 contracts. The formula cited above, if applied to Soybean Oil, would suggest that appropriate speculative limits would be up to 6,599 single-month and all-months contracts. Therefore, if the Commission determines to retain Regulation 150.2, the Exchange proposes that Regulation 150.2 be amended to roughly maintain the current ratio between single-month and all-months-combined limits, with a 4,500 single-month speculative position limit and a 6,500 all-months speculative position limit for Soybean Oil.

The 2003 average month-end futures and futures equivalent open interest (0.5 delta) in Soybean Meal was 184,631 contracts. The formula cited above, if applied to Soybean Meal, would suggest that appropriate speculative limits would be up to 6,491 single-month and all-months contracts. Therefore, if the Commission determines to retain Regulation 150.2, the Exchange proposes that Regulation 150.2 be amended to roughly maintain the current ratio between single-month and all-months-combined limits, with a 4,500 single-month speculative position limit and a 6,000 all-months speculative position limit for Soybean Meal.

Spreadsheets reflecting the data used to make the calculations described in the preceding paragraphs are attached as Appendix B.

3. The proposed increases are also supported by the distribution of large trader positions in the relevant markets

As discussed above, when the Commission proposed to raise the single-month and all-months position limits for CBOT agricultural products to their current levels in 1992, it did so with reference to the percentage of open interest formula that is described in Regulation 150.5(c)(2). However, the Commission determined that the distribution of speculative traders in the markets continued to be a relevant criterion, and even concluded that higher limits than those suggested by the open interest formula may be appropriate where it appears that such levels “. . . would constrain the normal pattern of speculative trading.” Revision of Federal Speculative Position Limits, [1990-1992 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶25,268, at 38,862, and fn. 18 and 19 (57 F.R. 12766, April 13, 1992).

Accordingly, when the Commission re-proposed the current levels of single-month and all-months limits for CBOT products on July 17, 1998, it indicated that increases in the relevant numbers of large traders and the size of their positions, as well as increased open interest, justified the proposed increases. Revision of Federal Speculative Position Limits and Associated Rules, [1996-1998 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶27,354, at 46,612-46,613 (63 F.R. 38525, July 17, 1998).

Appendix C contains charts and graphs that Exchange staff has compiled from the Commission's Commitment of Traders Reports. In particular, these charts and graphs reveal significant increases in the numbers of large traders and the percentage of open interest that is held by large traders in CBOT Corn, Soybean, Wheat, Soybean Oil, and Soybean Meal futures contracts between 1999, which was the year of the last revisions to single-month and all-months speculative position limits, and the present.

For Corn, Soybeans, Soybean Oil, and Soybean Meal, futures open interest has increased between 61% and 95%, and the number of reportable traders has increased between 40% and 113%. Open interest and the number of reportable traders have increased more modestly for Wheat.

For all of these agricultural products, the percentage of reportable traders who are non-commercial has increased while the percentage of reportable traders who are commercial has decreased. However, the percentages of open interest held by both reportable commercial traders and reportable non-commercial traders have increased. Reportable commercial traders continue to hold the majority of open interest and the spread between the percentage of reportable commercial positions and the percentage of reportable non-commercial positions has remained relatively constant.

In short, the data reflected in Appendix C shows a relationship between increased speculative activity and increased commercial activity. Increasing the single-month and all-months speculative limits would facilitate increased speculative trading in these markets. More speculative trading, within appropriate limits, would provide greater liquidity, which, in turn, would allow commercial market participants to hedge their risks more effectively.

E. Conclusion

The Exchange requests that the Commission repeal its Regulation 150.2 for the reasons stated in Section B. above. If the Commission determines to retain the spot month limits set forth in Regulation 150.2, the CBOT requests that the Commission eliminate all single-month and all-months-combined speculative position limits from Regulation 150.2, for the reasons discussed in Section C. above. If the Commission determines not to eliminate all such single-month and all-months-combined speculative limits, the Exchange requests that the Commission amend Regulation 150.2 to raise the single-month and all-months limits applicable to CBOT Corn, Soybeans, Wheat, Soybean Oil

Ms. Jean A. Webb

April 27, 2004

Page 8

and Soybean Meal contracts as specified in Section D. above, for the reasons discussed therein.¹

On March 30, 2004, when the CBOT originally submitted its Petition for Amendment of Regulation 150.2, the Exchange also submitted a request to the Commission for approval of amendments to CBOT Regulation 425.01, which reflect increases to the Exchange's single-month and all-months-combined speculative position limits that are identical to those described in Section D. above.

If you have any questions about this Amended Petition, please contact Anne Polaski, Assistant General Counsel, at (312) 435 -3757.

Sincerely,

Bernard W. Dan

cc: David Van Wagner
Fred Linse

¹ As a housekeeping matter, the CBOT also requests that the Commission remove all references to MidAmerica Commodity Exchange ("MidAm") contracts from Regulation 150.2. The Exchange has closed the MidAm and converted the former MidAm Corn, Soybean and Wheat contracts to CBOT mini-sized contracts. There is no current parallel to the former MidAm Oat and Soybean Meal contracts. For speculative limit purposes, the CBOT aggregates positions in the CBOT mini-sized Corn, Soybean and Wheat contracts with those in their full-sized counterparts. See CBOT Regulation 425.01. In fact, it should be noted that, as a result of such aggregation, the maximum speculative positions that may be held in single months and in all-months combined, in these commodities, were effectively reduced by approximately 20%.