Its All in the Fine Print: CFTC Ruling Gives Exemptions for Prior Positions Established in Good Faith, Final Position Limits Won't Be Determined for 12 MONTHS!

Before everyone gets too excited over today's 3-2 CFTC vote in favor of position limits in commodities, we need to examine WHEN the shorts will be forced to comply with the new rules, the size of the new position limits implemented, as well as what loopholes might be available to the cartel in order to continue business as usual.
Those who have been skeptical of the CFTC should enjoy this as we examine the fine print of today's CFTC position limits regulations.

Exemptions to be given for prior positions without describing how or who qualifies for exemptions

No defined date for required compliance to short positions: (60 days from the time the term "swap" is defined)

No defined position limits to allow easy identification of whether an entity is in excess of said limits

Non-spot month position limits will be implemented AFTER ONE YEAR OF OPEN INTEREST DATA

Establishment of speculative limits on Referenced Contracts will occur in two phases:

o Spot-month position limits. Spot-month limits will be effective sixty days after the term “swap” is further defined under the Dodd-Frank Act. The limits adopted at that time will be based on the spot-month position limit levels currently in place at DCMs. **[DCM = Designated Contract Month]**. Thereafter, the spot-month limits will be adjusted biennially for agricultural contracts and annually for energy and metal contracts. These subsequent limits will be based on the Commission’s determination of deliverable supply (developed in consultation with DCMs).

o Non-spot-month position limits (i.e., limits applied to positions in all contract months combined or in a single contract month). For the nine “legacy” agricultural Referenced Contracts that currently are subject to Commission administered limits, the new non-spot-month limits will go into effect sixty days after the term “swap” is further defined under the Dodd-Frank Act. These limits will be set equal to the levels described in the final rulemaking. **For all other Referenced Contracts (that currently are not subject to Commission administered limits), the limits will be made effective by Commission order after the Commission has received one year of open interest data on physical commodity cleared and uncleared swaps under the swaps large trader reporting rule**. The non-spot-month limits will be adjusted biennially based on Referenced Contract open interest.

Spot-month position limit levels will be set generally at 25% of estimated deliverable supply. These spot-month limits will be applied separately for physical-delivery Referenced Contracts and cash-settled Referenced Contracts in the same commodity.

Non-spot-month position limits (i.e., limits applied to positions in all contract months combined or in a single contract month) will be set using the 10/2.5 percent formula: 10 percent of the contract’s first 25,000 of open interest and 2.5 percent thereafter. These limits will be reset biennially based on two years open interest data.

Open interest used in determining non-spot-month position limits will be the sum of futures open interest, cleared swaps open interest, and uncleared swaps open interest.

Exemptions for bona fide hedging transactions based on the Dodd-Frank Act’s new requirements for such transactions. These exemptions have been broadened to include certain anticipated merchandising transactions, royalties, and service contracts in the final rulemaking to reflect concerns by commercial firms.

Exemptions for positions that are established in good faith prior to the effective date of the initial limits established by the regulations.

Establishment of account aggregation standards consistent with the Commission’s current position limits aggregation policy, including the Commission’s long-standing independent account controller exemption.

A position visibility reporting regime to assist the Commission in its surveillance program.

Acceptable practices for DCMs and swap execution facilities for setting position limits for the 28 Referenced Contracts, as well as position limits or accountability rules in all other listed contracts, including excluded commodities.

Bart Chilton: Exemptions Are Not a Loophole to Automatically Let JPM Off the Hook

Bart Chilton has responded to Harvey Organ who emailed the CFTC Commissioner regarding the exemptions the CFTC will grant regarding position limits, as well the time-frame until the limits are actually implemented. Chilton has advised that the definition of "swap" is scheduled to be completed by the CFTC on Nov 1st, meaning that position limits in spot month contracts would go into effect on Jan 1st 2012. **Chilton also states that the exemptions will only be granted for legitimate business risks with monthly reports mandated.**

While not naming JP Morgan, Chilton implies that they will not be given an exemption, or the CFTC would be "simply allowing folks to do that they have done."

Bart Chilton:

"The spot month limits go into effect in 60 days after we define swaps, which we are set to do on Nov. 1st. The all month and aggregate limits (which will include swaps) is 12 months after the initial limits. We do not have swaps data (because that required a rule requiring reporting) so can't set those level yet, but the rule requiring that they will be set (and when and how) is now in place. **On exemptions, we will grant if it is proven that there is a legitimate business risk for each day of trading (a monthly report is mandated). The historical trading is one piece of what we may look at.** However, that is not a loophole that automatically grants an exemption. If that were the case, we'd simply be allowing folks to do what they have done. That is clearly not what we have allowed.
Bart Chilton."