Futures Contracts Committee
Adopted at the Special Meeting of the ACSA Membership
January 7, 2025

The Futures Contracts Committee recommends that ACSA:

1. MERGER OF THE CFTC WITH THE SEC:

Urge Congress to continue supporting the Commodity Futures Trading Commission (CFTC or Commission) as an independent regulatory agency with full authority over all forms of futures and options trading and oppose any proposal to merge the CFTC with the U.S. Securities and Exchange Commission or other regulatory agency or federal department;

2. POSITION LIMITS RULEMAKING

Continue to engage the Commission on specific issues that were supported by ACSA in the development of the final rule on Position Limits for Derivatives, and urge the Commission to preserve the final rule without broad change despite potential requests to revisit key themes and to maintain the following positions on policy included in the position limits rule:

(a) *Bona Fide Hedging* – the final rule's definition of bona fide hedging (BFH) in a manner generally consistent with the views of the commercial trade, and addresses the temporary substitute test of the BFH definition and eliminates risk management exemptions for banks;

(b) *Anticipated Merchandising* – the final position limit rule's creation of a new enumerated hedge for anticipated merchandising, noting that anticipated merchandising is defined as long or short positions that offset the anticipated change in value of the underlying commodity that a person anticipates purchasing or selling, provided that: (1) the positions do not exceed in quantity 12 months of current or anticipated purchase or sale requirements of the same commodity; and (2) the person is a merchant with a demonstrated history of such activity and that person is entering into the position solely for its merchandising business;

(c) *Gross vs. Net Hedging* – the final rule's clarification that market participants generally may hedge positions either on a gross basis or on a net basis, provided that the market participant has done so over time in a consistent, non-evasive manner, noting that the use of gross or net hedging applies to both enumerated and non-enumerated exemptions at the federal level;

(d) *Enumerated Hedges* – the final rule's expansion of the list of enumerated BFHs to include the following:

(1) Hedges of inventory and cash commodity fixed-price purchase contracts;

(2) Hedges of cash commodity fixed-price sales contracts;

(3) Hedges of offsetting unfixed-price cash commodity sales and purchases;

(4) Hedges of unsold anticipated production;

(5) Hedges of unfilled anticipated requirements for processing, manufacturing, use or resale;

(6) Hedges of anticipated merchandising;

(7) Hedges by agents responsible for merchandising cash positions;

(8) Hedges of anticipated mineral royalties;

(9) Hedges of anticipated receipts or payments under an executed contract for services;

(10) Offsets of commodity trade options that meet the requirements of CFTC Regulation 32.3; and

(11) Cross-commodity hedges;

(e) *Deliverable Supply* – noting the exception of modifications related to the Intercontinental Exchange (ICE) Cotton No. 2 (CT) contract, the final rule's adoption of federal spot month position limit levels at or below 25 percent of estimated deliverable supply, further noting that with respect to the CT contract, ACSA was instrumental in negotiating the final rule's adoption of a lower federal spot month position limit level of 900 contracts instead of the proposed 1,800 contracts;

(f) *Federal Limits* – the final rule's setting~~s~~ of the spot-month, single-month, and all-month position limits, with position limits for the CT contract that are as follows:

(1) Spot-Month Limit: 900 contracts;

(2) Single-Month Limit: The greater of 5,000 contracts or 50 percent of the all-month-combined limit; and

(3) All-Months Limit: 11,900 contracts;

(g) *Exchange-Set Limits* – the final rule's prohibition of exchanges from adopting position limits that are more lenient than any limit set for the same contract at the federal level; noting that exchanges may grant exemptions from the exchange-set position limits so long as the exemption is recognized by the CFTC for federal position limit purposes, for example, an enumerated BFH exemption, and urging ACSA's continued support of the continuance of exchange set position limits at the current level of 300 contracts in the spot-month, 5,000 single-month, and 5,000 all-months limits;

3. <u>HEDGE EXEMPTIONS</u>

Urge the continuation of the current practice by which ICE Futures US grants hedge exemptions under the supervision of the CFTC;

4. <u>RESTRICTIONS ON SPECULATIVE ACTIVITY OF INDEX FUNDS WITH HEDGE EXEMPTIONS</u>

Support the Commission's action to eliminate Risk Management Exemptions in the final rulemaking on position limits;

5. <u>SEPARATE REPORTING CATEGORIES FOR NON-TRADITIONAL HEDGERS</u>

Require that all non-traditional hedge accounts, those not involved in the commercial enterprise of physically trading bales of cotton, be reported as a separate individual category;

6. <u>HEDGE MARGIN LEVELS</u>

Urge that only those involved in the commercial enterprise of physically trading commodities shall be eligible for hedge margin levels;

7. <u>CERTIFICATION CLASSIFICATION</u>

Support the continued implementation developed by the ICE Futures US Cotton Committee and approved by the Exchange Board under which bales that meet the quality and age parameters set by the Exchange can be registered as tenderable against the Cotton No. 2 contract based upon the Smith Doxey classing results of the bale and without requiring certified classing of the bale;

8. <u>TAXATION OF COMMODITY FUTURES TRANSACTIONS</u>

Urge Congress maintain the IRS Code Section 1256 with respect to commodity futures transactions;

9. <u>MARGIN FUTURES TO FUTURES & OPTIONS TO OPTIONS SETTLEMENTS</u>

Urge the requirement that the ICE and its clearing members adhere to the practice of margining futures to futures settlements and options to option settlements;

10. <u>ENGAGE ICE COTTON COMMITTEE WHEN CONSIDERING THE INCREASE OF SPECULATIVE POSITION LIMITS</u>

Commend ICE for its collaboration with commercial participants from the cotton industry during the position limits rulemaking process, and request, consistent with prior commitment, that ICE continue to engage with the ICE Cotton Committee on price discovery, non-spot month liquidity, and volatility, prior to any additional increases above current levels in speculative position limits;

11. <u>MARKET STRUCTURE</u>

(a) Urge the CFTC to reject proposals that allow real-time margin reconciliation or automatic liquidation of positions, and which create potential negative impacts to commercial market participants, compromise market functionality, and eliminate existing futures market safeguards; and

(b) Urge the CFTC to consider the risks that any market structure changes to the current futures model for non-traditional asset classes could be used as precedent-setting for other futures contracts such as cotton;

12. INTERMEDIARY CAPITAL REQUIREMENTS

(a) Urge the Federal Reserve to reject any proposals that would increase intermediary bank capital requirements that would result in decreased capacity and increased costs associated with clearing services for hedging activities; and

(b) Urge the Federal Reserve to work closely with Congress and the CFTC, as well as agriculture producer and merchandiser stakeholders, to ensure that federal bank capital requirements do not negatively impact the efficiency or availability of derivatives markets;

13. CUSTOMER PROTECTION

Urge the CFTC to maintain the policy as amended by the Final Rule titled "Residual Interest Deadline for Futures Commission Merchants," published on March 24, 2015 in the *Federal Register*, noting that this final rule establishes an appropriate time interval for customer margin receipt by an Futures Commission Merchants (FCM) and balances the need for customer protection without leading to prefunding of margin accounts, and noting further that this policy is less likely to result in concentration of FCM or lead to smaller FCM with less capital defaulting;

14. DIGITAL ASSET OVERSIGHT

Urge expansion of the scope of the CFTC's regulatory authority to cover digital asset spot commodities in addition to their tradeable derivatives;

15. CARBON MARKETS

(a) Request collaborative focus and transparency between relevant U.S. government agencies and departments concerning the oversight of carbon markets to create commercial and regulatory certainty for market participants;

(b) Urge the ACSA staff to continue to identify commercial opportunities and risks associated with the trading of carbon; and

(c) Support the development of compliance standards for the measurement and verification of carbon for the purpose of developing a price discovery / risk management market;

16. AUTOMATED TRADING

Urge the Commission to limit the applicability of any regulation similar to Regulation Automated Trader, which had been proposed by a previous Commission and withdrawn in 2020, to true automated traders and not hedgers;

17. SWEET SPOT CERTIFICATION CUT-OFF DATE

Urge the USDA to continue its analysis of potentially extending the 180-day Sweet Spot/Smith Doxey cut-off date;

18. <u>ON-CALL COTTON REPORT</u>

Urge the CFTC to discontinue the weekly on-call reporting requirement; provided though, that should, the CFTC continue to find value in receiving the information provided in these reports for surveillance or other regulatory purposes, then urge the CFTC to discontinue publication of the weekly reports; noting that:

(a) ACSA's views were presented to the Commission during the position limit debate;

(b) Others in the cotton trade did not agree with eliminating these reports and the Commission ultimately decided to retain the report and the public release of the report;

(c) The final rule eliminates Form 204 and corresponding Parts I and II of Form 304 for cotton, which enable the Commission to leverage cash-market reporting submitted directly to the exchanges; and

(d) The final rule maintains Part III of Form 304, related to the cotton on-call report, with the result that Form 304 therefore will be used exclusively to collect the information needed to publish the weekly cotton on-call report;

19. <u>ASYMMETRIC "SPEED BUMPS"</u>

Oppose the introduction by an exchange of any mechanism that would allow market makers additional time to modify or cancel quotes prior to an aggressing order interacting with those quotes;

20. <u>CLEARINGHOUSE MARGIN</u>

Oppose efforts to force clearinghouses to amend their margin methodologies with the goal of higher minimum margin levels in periods of low market volatility; and

21. <u>ICE NO. 2 CONTRACT</u>

Urge ICE to consider the following:

(a) That increased margin requirements not be retroactive;

(b) In accordance with ICE rules, halt options trading when the lead futures month is trading at a synthetic price that is equal to two times the daily price limit currently in effect for the lead month; and should the futures trade off the daily limit, then options trading shall be reopened;

(c) Not to increase Speculative Position Limits above the levels currently in effect unless approved by the Cotton Contract Specifications Committee;

(d) Oppose an increase in the speculative limits for the spot month pending study and review;

(e) Not to establish any additional delivery points;

(f) Not to increase the number of deliverable grades;

(g) Except with respect to registration on Smith Doxey class, not permit the practice of sampling for certification at interior warehouses;

(h) Recommend strict standards for bale conditions be maintained and enforced;

(i) Maintain the delivery of certificated stocks via electronic warehouse receipts;

(j) Recommend all certificated stocks show the state or area of growth;

(k) Recommend any changes in the rules, terms, procedures, or trading practices not be instituted without prior approval of the cotton committee;

(l) Support ICE's implementation of a discount for certificated bales with grams per tex 25.0-25.9 as determined by U.S. Department of Agriculture-Agricultural Marketing Service quoted differences;

(m) Close ICE Markets one (1) minute before and open five (5) minutes after USDA's Supply and Demand and Production reports are released;

(n) Evaluate base grade and premium and discounts;

(o) Add Savannah, Georgia as a delivery point for the ICE Cotton No. 2 futures contract within a fifteen (15) mile radius from the Savannah, Georgia city limits and remove the Greenville, South Carolina delivery point including Spartanburg, South Carolina; and

(p) Reject proposals to expand cotton trading hours, as doing so would compromise liquidity, complicate margin management given the lack of access to banking and require human resources from market participants to manage risks in active markets.