

**In the Matter of the Amendment  
of the Terms and Conditions of  
the Chicago Board of Trade Corn  
and Soybean Futures Contracts**

: JAN 26 4 09 PM '99

**Order of the Commodity Futures Trading Commission Approving Proposed Amendments to the Board of Trade of the City of Chicago Corn and Soybean Futures Contracts and Amending Commission Orders of May 7, 1998, and November 7, 1997**

The Commodity Futures Trading Commission (Commission) hereby approves under sections 5a(a)(12) and 5a(a)(10) of the Commodity Exchange Act (Act), 7 U.S.C. 7a(a)(12) and (10), amendments to the Board of Trade of the City of Chicago's (CBT) corn and soybean futures contracts submitted by the CBT for Commission approval on October 22, 1998, and January 20, 1999, and amends the Commission's Orders of May 7, 1998, and November 7, 1997, under section 5a(a)(10) of the Act, making all changes necessary to effect the above approval. Specifically, the Commission approves for the CBT corn and soybean futures contracts, beginning on January 3, 2000:

- (1) deletion of provisions relating to in-loading of the commodities at regular Chicago shipping stations;
- (2) rules extending a preference for load-out by regular shipping station operators of commodity for futures delivery over their cash commitments until

meeting their daily load-out requirement that is currently in effect for Chicago delivery by barge to delivery by other modes of transportation; and,

(3) rules requiring regular shipping stations, at a minimum, to load at the highest loading rate applicable for the commodities in a loading line-up which includes both wheat and corn or soybeans or both oats and corn or soybeans.

## **I. Background**

The CBT corn and soybean futures contracts were the subject of a notification and proceeding under section 5a(a)(10) of the Act. Under that proceeding, the Commission on November 7, 1997, issued an Order to the CBT amending the CBT's corn and soybean futures contracts, 62 FR 60831 (November 13, 1997) (section 5a(a)(10) Order), and on May 7, 1998, the Commission issued a second, amending Order designating new CBT corn and soybean futures contracts with revised contract terms. 63 FR 26575 (May 13, 1998)(Amending Order)(together, "section 5a(a)(10) Orders").

The CBT on October 21, 1998, and January 20, 1999, submitted to the Commission for its review proposed amendments to its corn and soybean futures contracts. The Commission on November 25, 1998, requested public comment on the exchange rule amendments. 63 FR 65175. The Commission's request for public comment noted that, to the extent these proposed rule amendments differ from the provisions of the Commission's Order of May 7, 1998, the CBT's requested approval also constituted a request to the Commission to amend its Order and that the request for comment also constituted notice of the proposed amendment of the

Commission's Order consistent with the proposed rule amendments.<sup>1</sup> Id. at 65176.

It also raised a number of specific issues for response, including whether the proposed load-out preference was consistent with cash market practice and, if not, to what extent the proposal would limit deliverable supplies on the contracts. The Commission also requested comment on the likely effect on deliverable supplies which might result from the increasing concentration of control over delivery facilities.<sup>2</sup> 63 FR 65175, 635177 (November 25, 1998).

## **II. The CBT Proposal**

The CBT is proposing to amend its corn and soybean futures contracts by requiring Chicago shipping station operators to give preference to orders for vessel or rail load-out of corn or soybeans for futures delivery over their cash commitments until shipping stations operators meet their daily load-out requirement. CBT rules already extend such a preference to receivers of corn and soybeans for delivery by barge. In addition, the CBT is proposing to require that the regular shipper not give preference to one commodity over another in making delivery and that, when

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<sup>1</sup> The CBT also proposed amendments to its wheat and oats futures contracts in its October 22 and January 20 submissions. Those contracts are not subject to Commission section 5a(a)(10) Orders and are being reviewed separately for Commission approval under section 5a(a)(12) of the Act.

<sup>2</sup> Five commenters--the CBT, a flour miller, two grain merchants and an association-- responded. However, none of the commenters specifically addressed issues related to the corn and soybean futures markets. Instead their comments were addressed to associated rules applicable to the CBT wheat and oats futures contracts.

different commodities are to be loaded out, the applicable load-out rate is the higher of the two. Finally, the CBT is proposing to delete provisions relating to the in-loading of corn and soybeans at the Chicago delivery location.

### **III. Standard of Review**

The Commission has reviewed the CBT proposals to determine whether they would impermissibly reduce the level of deliverable supplies provided for by the Commission's section 5a(a)(10) Orders or would violate any other provision of the Act or Commission rules or policies.

### **IV. Proposed Amendment of Loading Rules**

Under the current delivery procedures for the corn and soybean futures contracts, shipping certificate holders for delivery at the Chicago delivery location may require load-out from regular elevators into vessels, rail cars or barges on a first-come first-served basis. Regular warehouse operators must load the commodity at least at specified daily rates, which differ depending upon the mode of transportation provided by the shipping certificate holder. However, takers of futures delivery by barge are provided a preference over the shipping station

operator's cash commitments until the shipping station/warehouse has met its daily load-out requirements.<sup>3</sup> See, section 5a(a)(10) Order, 62 FR 60850.

The CBT is proposing to amend these provisions by providing all takers of futures deliveries in Chicago a preference over the shipping station's cash loading commitments until the shipping station has met its daily load-out requirements. The CBT's proposed preferential load-out requirements are contrary to cash market practice, where customers generally are accommodated on a first-come, first-served basis.

Nevertheless, the Commission approved such a preference in its section 5a(a)(10) Orders for barge load-out. In doing so, it noted that the effect of this departure from cash market practice on deliverable supplies was difficult to measure in advance and required the CBT to report to the Commission on experience with deliveries for a five year period. Whatever the preference's overall effect, in light of the diminished importance of Chicago as a delivery point, the effect of extending the preference to Chicago vessel and rail delivery takers likely will be minor. In any

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<sup>3</sup> Similarly, regular warehouse/shipping station operators at the Chicago delivery point currently are required to in-load corn or soybeans consecutively without giving preference to products owned by the operator over the products of others and without giving preference to one depositor over another. The operator must in-load products into the warehouse/shipping station consecutively in the order in which they arrive at specified minimum daily rates pursuant to in-loading orders previously received, to the extent that the warehouse capacity for grain and grade permits. The CBT is proposing to delete these rules relating to in-loading for corn and soybeans.

event, the CBT is required under the section 5a(a)(10) Orders to report on delivery experience. Such reports will provide better information on what effect, if any, extending the preference to Chicago vessel and rail delivery takers has on deliverable supplies.<sup>4</sup>

## V. Concentration of Ownership of Delivery Facilities

Section 15 of the Act requires the Commission, when reviewing exchange rule proposals or amendments, to consider the public interest to be protected by the antitrust laws and to endeavor to take the least anti-competitive means of achieving the objectives of the Act. Guideline No. 1 requires exchanges to justify the contract's delivery specifications in light of the number and total capacity of facilities meeting contract requirements and the extent to which ownership and control of such facilities is dispersed or concentrated. 17 CFR, Part 5, Appendix A(a)(2)(C)(1) and (4). These proposed rule amendments do not raise particular issues under section 15.

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<sup>4</sup> Similarly, in light of Chicago's diminished importance as a delivery point, deletion of the in-loading requirement would have little impact on overall deliverable supplies on the corn or soybeans futures contracts.

The CBT also proposes a clarifying amendment that specifies that, if a lineup for loading out grain into barges from a particular regular warehouse/shipping station includes both wheat and corn or soybeans or both oats and corn or soybeans, then the minimum daily rate for loading shall be the highest of the applicable rates. According to trade sources, barge loading rates do not vary substantially among these commodities. Accordingly, the proposed amendments would not create any impediment to deliveries and are hereby approved by the Commission.

However, on November 10, 1998, Cargill announced that it had signed an agreement to acquire Continental Grain Company's (Continental) commodity marketing business, including Continental's grain storage facilities in the United States. If this announced acquisition is consummated, Cargill potentially will own and operate both of the two delivery warehouse/shipping stations in the Chicago area and will take over one of the three delivery shipping stations in St. Louis. Under the agreement, Cargill also will acquire six barge loading facilities on the northern Illinois River and two facilities on the southern Illinois River. Cargill's ownership of potential delivery capacity on the new corn contract will increase from 13% to 34% and on the new soybean contract from 13% to 38%. This increased concentration potentially could raise significant issues under section 15 and could have a negative impact on the corn and soybean futures contracts.

The Cargill acquisition is under review by the United States Department of Justice. Until the Department of Justice acts to approve, disapprove or modify the terms of the acquisition, the acquisition will not be consummated. The Commission does not currently have sufficient information to determine its actual effect on the contract. The Commission will consider further this issue at such time as the acquisition occurs. However, in order to assist it in its analysis of this issue, the Commission directs the CBT carefully to monitor the 1999 corn and soybean futures contract expirations at all of its delivery locations to assess the impact of



concentration of ownership or control of approved delivery facilities on the price convergence of the contracts. In addition, the CBT is directed to include such an analysis in its reports to the Commission on the revised corn and soybean futures contracts which are required under the section 5a(a)(10) Orders.

## **VI. Implementation**

The CBT plans to apply the proposed amendments to the load-out provision to all corn and soybeans loaded out against shipping certificates delivered on the corn and soybean futures contracts on and after January 3, 2000. The CBT also proposes to apply the amendments to all corn and soybean warehouse receipts that are outstanding on January 3, 2000.

In reviewing whether proposed amendments can be applied to the terms of existing contracts, the Commission considers the effect any such amendments may have on the value of existing positions. In this regard, the proposed amendments to the soybean and corn futures contracts are proposed to apply to shipping certificates delivered against futures positions in certain currently-listed contract months that expire after January 3, 2000, and to all corn and soybean warehouse receipts that are outstanding on that date. The Commission specifically requested public comment on what effect, if any, the proposed amendments would have on the value of existing positions. 63 FR 65175. None of the commenters addressed this issue.

As discussed above, the proposed loading provisions would require the warehouse/shipping station operator to standardize loading requirements in Chicago for all deliveries regardless of mode of transport presented or commodity. They would not have an impact on the value of existing positions, and the Commission therefore approves the CBT's implementation plan under section 5a(a)(12) of the Act.

**For the reasons discussed above,** the Commission finds that none of the rule amendments proposed by the CBT would have a discernable impact on the level of deliverable supplies provided under the Commission's section 5a(a)(10) Orders or otherwise would violate the Act or Commission rules or policies.

**Based on this finding, the Commission hereby approves** under sections 5a(a)(12) and 5a(a)(10) of the Act, 7 U.S.C. 7a(a)(12) and 7a(a)(10), amendments to the CBT's corn and soybean futures contracts as shown in attachment 1 to this Order and amends the Commission's Orders under section 5a(a)(10) of the Act of May 7, 1998, and November 7, 1997, making all changes necessary to effect the above approval.

**Further, the Commission hereby directs** the CBT carefully to monitor the 1999 corn and soybean futures contract expirations to assess the impact of concentration of ownership or control of approved delivery facilities on the price

convergence of the contracts. In addition, the CBT is directed to include such an analysis in its reports to the Commission on the revised corn and soybean futures contracts which are required under the section 5a(a)(10) Orders.

Dated: January 25, 1999

By the Commission.

A handwritten signature in cursive script that reads "Jean A. Webb".

Jean A. Webb  
Secretary of the Commission

Attachment 1.

Rules and Regulations Approved by the Commission for the Chicago Board of Trade's  
Corn and Soybean Futures Contracts

Corn

1009.00  
1009.01  
1049.03  
1052.00  
1052.00(d)  
1052.00A  
1081.00(11)  
1081.01(12)A.  
1081.01(12)B.  
1081.01(12)C.  
1081.01(12)E.  
1081.01(12)H.  
1085.01

Soybeans

1009.00  
1049.03  
1052.00  
1052.00(d)  
1052.00A  
1081.00(11)  
1081.01(12)A.  
1081.01(12)B.  
1081.01(12)C.  
1081.01(12)E.  
1081.01(12)H.  
1085.01