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COMMENT

January 28, 2008

Mr David Stawick
Secretary
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581

RE: Risk Management Exemption from Speculative Position Limits

Dear Secretary Stawick:

On behalf of JBS Swift & Company, thank you for the opportunity to present comments on the proposed rule to allow index type funds and futures look-a-like funds an exemption to speculative position limits. Our firm is the world's largest beef processor. It is vital that the commodity futures markets reflect the fundamental supply and demand for the cash markets they are tracking. Over the past few years, however, the cash markets are tracking the money flows associated with the commodity futures markets rather than the market tracking the cash trade. This divorce between the futures markets and the cash trade seems to be due to the incredible growth of money flowing into commodities markets. This is distorting basis trends, business hedging practices, and increasing the speculative nature of the markets while decreasing the hedging nature of the markets. Regardless of your conditions for spot limits the current non-spot limits are having an abnormal effect on the spot market. These artificial influences from one time period to another are increasing basis variability and reducing hedge effectiveness. Promoting all this distortion is the increased flow of speculative money. The commercial industry has only a finite ability to hedge, so by allowing an infinite amount of buying to overpower that commercial flow will only increase the distortion effects and push commercial users into alternative hedging vehicles that do not include the commodity futures markets. Such vehicles are being created and getting support from cash users as a way to "do away" with the Exchanges ever increasing risk profile.

The types of funds you are tracking are speculative in nature. Index funds never have an economic reason for using the end product and their involvement only distorts the economics of businesses that are using the underlying commodity as well as their use for future planning. The sole purpose of many of these funds is to trade future inflation but in many cases the funds positions are already larger than the underlying market. As a result, there is never enough physical supply to override the massive fund cash flows. This leads to forward curve inflation and ultimately causes cash markets to follow this pile of money, regardless of supply. By comparison, hedging practices utilize futures markets as a vehicle to allow commodities to move from producers to end users at a lower risk, resulting in stabilization of pricing, helping increase production and ultimately lower prices for consumers. However, recent increases in these hedging costs by way of ever increasing volatility and basis variability are directly increasing the cost of moving commodities through the system. As basis becomes more and more unpredictable commercials will be forced to revert back to the days when they did not use the markets for stabilizing prices (and earnings) which will reduce production and raise prices for consumers even more. In addition, there are many companies that are significantly reducing their exposures or eliminating their participation in deferred purchases and sales based on their inability to finance their hedges practices. One example of this effect is the inability for companies to forward book annual menu prices for restaurant chains without facing continual price increases that continue to run on the order of double digit increases year after year. Another effect will be seen in the form of increasing the variability and predictability of corporate earnings. As these are just a few of the down stream effects that eliminating speculative "risk management" position limits can create you shouldn't stop here when trying to understand the debacle that this can and will create.

As a result, we recommend that the CFTC not adopt the proposed rule change related to the hedge exemption for the funds, with the understanding that agricultural futures markets were established with an economic purpose to serve as an efficient, public pricing and hedging vehicle for producers and users. That purpose is not being fulfilled and has been certainly adversely affected by the CFTC current adaptation of hedging to include these index funds.

In summary, this proposed rule is not beneficial to the commercial (hedgers) users of the market place. JBS Swift & Company is a significant user of grain and livestock commodities and we do not support allowing these certain funds to be classified as risk managers.

Thank you for allowing us to share our opinions. If you have further questions, please feel free to contact me.

Sincerely,

Scott Shepard
JBS Swift & Company