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September 30, 1999

Subject: Comments on CFTC Revised Agricultural Trade Option Proposal

COMMENT

We understand that current proposed rulemaking has three specific aims:

1. To increase the risk management opportunities and tools available to consumers.

2. To ensure that such tools are provided in a responsible and equitable fashion by ATOM affiliates and ATOM's.

3. To attempt to remove apparently onerous requirements imposed in initial rulemaking resulting in no registrations as an ATOM.

Consequently we have the following comments:

At a time when there is a great amount of concern over the absolute level of prices of many farm products, also great concern over the level of consolidation in the agricultural industry, ATO's may well be the most effective way to offer greater price discovery, pricing transparency and increased marketing opportunities to producers and processors of agricultural commodities.

1. The primary issue here is to ascertain if the risk management services that may be provided under this rulemaking will in fact enhance the risk management choices and opportunities of consumers. The rapid expansion of financial services in the last decade across most US businesses suggest that there is a real need and desire to have these services provided.

2. We suggest that the current proposed rulemaking does not offer a level playing field to merchants of risk management services across the spectrum of crop insurance, revenue insurance, exchange instruments and proposed Agricultural Trade Options. Of interest is the effect of this inequity on consumers as we feel it will likely result in low or zero applications for registration. At issue here is the need for risk management tools which could be provided at a farm specific or company specific level which would allow accurate hedging of individual business risks rather than generic hedging at a national or futures delivery market level. At many times basis risk can exceed absolute price risk and we believe that without openness of pricing, clarity of quantified risk and a level competitive environment, the agricultural industry will drift further into opaqueness and the hands of dominant asset-based players.

3. The removal of physical delivery as a necessity offers important opportunities for the proposal. This has dealt with one major problem in the Agricultural Trade

Option process, particularly for farmers. The unique opportunity of over-the-counter risk management products is their ability to identify to consumers how the individual components of their risk management strategy are being priced and the ability to use scenario analysis to assess the performance of the specific product they are using on the entire portfolio.

4. The Risk Disclosure, Customer Account Information, Reports to the Commission, Limitations on Certain Strategies are onerous as are the Accounting and Audit requirements. This will raise the cost of offering such risk management services to consumers relative to other marketing opportunities and consequently reduce the likelihood of being able to offer a competitive product. This again reduces the likelihood of registration. A competitive product at the farm level will enhance the price discovery process for those most in need - the producer and smaller agribusinesses. The onerous nature of the requirements effectively will favor the larger nationally represented company (who will simply have better economies of scale) over those who perhaps bring a greater understanding of individual farmer or customer needs and closeness of contact which leads to trust and mutual respect. The least onerous requirements which still allow adequate regulation will provide the largest number of ATOM registrations and consequently most open, fair and competitive pricing in the marketplace.

Specific Examples:

a. The pricing of an option in every situation, we are aware, assumes that the premium can be invested freely. The current proposal requires segregation of customer funds, which is contrary to freedom to invest funds. This is not required for exchange-traded contracts, insurance or any other risk transfer mechanism we know about. This will result in a need to rewrite option pricing theory for ATO's without providing any significant improvement in security to the purchaser of the option due to the frequent inconsequence of premium paid relative to payout owed.

b. Verbal confirmation is not an acceptable business practice.

5. The Exemption Level for Sophisticated Entities is meaningless and does not address the underlying issue which is the fiscal robustness and risk management skillset required to be a successful ATOM.

6. We suggest that The Appropriateness of Option Contracts clause is inaccurate and misleading. We propose the following:

At particular times it may be more appropriate to use exchange traded instruments or over-the-counter instruments. Those instruments that involve optionality are inherently more complex than those with a linear payback. It is consequently incumbent on the provider and user of hedging instruments to understand and communicate the desired hedge account performance under a wide range of market scenarios, at the time of transaction, expiry and intermediate points in time. While exchange traded instruments may offer guarantees and regulation they may also expose the hedger to significant basis risk when compared to ATO's. Only through carefully considering the performance of the total hedge portfolio in the light of your experience, objectives, financial resources and other relevant circumstances such as the relative cashflows of different instruments can you properly identify the most appropriate strategy. Consequently it is important to obtain risk management strategy advice and pricing from openly competing sources and to have the financial and physical values of the contract identified separately as well as being summed, so that ATOM pricing can be accurately and openly compared across service providers.

7. There is a need to recognize that ATO's can be used for very effective and accurate hedging by consumers. An accuracy of hedging requirement would specifically address the appropriateness of hedging activity on the whole portfolio of a business and the use of scenario analysis and consequently removes the need to specify whether it is always appropriate for a producer to never sell options. This would be consistent with the most stringent regulatory standards in place on the Banking Industry. Federal Accounting Standard 133, which specifically addresses the accuracy of hedging and other regulatory changes (other than those of the CFTC) will impact the development of risk management tools.

If you have further questions about these comments please contact either David Stack, telephone number 203/761-2025 or David Lyons, telephone number 202/842-5114. Thank you.