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AFIA

COMMENT

AMERICAN FEED INDUSTRY ASSOCIATION

February 9, 2009

2/11/09

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

Re: *Significant Price Discovery Contracts on Exempt Commercial Markets; Proposed Rule*

Dear Secretary Stawick:

Thank you for the invitation to provide comments on behalf of the American Feed Industry Association's (AFIA) regarding the Commodity Futures Trading Commission (CFTC) Significant Price Discovery Contracts on Exempt Commercial Markets Proposed Rule.

AFIA members represent over 70% of the commercial feed and pet food manufactured in the United States each year, and is devoted exclusively to representing the business, legislative, regulatory and educational interests of the animal feed industry and its suppliers.

AFIA membership includes 560 domestic and international companies, as well as state, national and regional agribusiness associations. Membership includes feed and pet food manufacturers, livestock and poultry integrators, animal health companies, ingredient suppliers, equipment manufacturers and companies which supply other products, services and supplies to feed manufacturers.

The feed industry makes a critical and significant contribution to food safety, nutrition and the environment. Given feed represents approximately 70% of the on-farm cost of raising livestock and poultry, our industry plays a critical role in the safe and affordable production of meat, milk and eggs.

AFIA strongly supports the expanded CFTC regulatory authority over exempt commercial markets (ECMs) which had previously largely been outside the Commissions' regulatory reach. As defined in the proposed rule, ECMs that meet the criteria of significant price discovery contracts (SPDCs) must be subject to the same oversight, including reporting and speculative position limits, as designated contract markets (DCMs) to ensure the markets operate efficiently for both end users and speculators. AFIA applauds you for your aggressive action to enhance commodities market oversight and to mitigate any future disruptions speculator activity may have on

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energy and agriculture commodity prices. This rule fulfills three of our previous recommendations and we appreciate your consideration to these.

The U.S. feed industry is the single largest purchaser and user of corn and soybeans, as well as their processed meals and byproducts. It is critical the grain, oilseed and ingredient commodity markets accurately reflect true supply and demand situations for these commodities.

As you are aware, the agriculture industry experienced unprecedented volatility in commodity markets in 2008, which significantly affected the viability of many livestock and poultry farms and feed industry businesses. For example, corn markets rose $3.92 per bushel between January 1, 2008, and its peak on July 8, 2008, (an increase of 106 %), but then went into freefall, with prices dropping to $3.89 per bushel by December 31, 2008. This resulted in significant feed cost increases for poultry and livestock producers, as well as cash flow challenges for the feed industry.

During this extreme fluctuation, the physical commodity customer was unable to attain convergence between its hedge position and the cash market. Many physical purchasers were forced to borrow significant funds to cover margin calls and/or sell commodities – usually at an inopportune time – to cover these hedge costs. Thus, hedging as a risk management tool was no longer effective for its intended users. As a result of the higher capital costs required by the increased volatility, several end-user firms reduced their use of these markets. This defeated the fundamental purpose of the futures markets.

The ensuing commodity price declines did not provide immediate relief, as many of the producers and industry companies had attempted to protect themselves during price escalation, resulting in much of the industry today paying $6.00 per bushel for corn as they work through these contracts. This entire scenario was a contributing factor to the bankruptcy filing of Pilgrims Pride.

While it was not specifically included in the CFTC Reauthorization Act of 2008, AFIA strongly requests that the CFTC also remove the exemption for position limits that has been given to Index Speculator funds, as part of this final rule. Per the Commission's own comments (page 75985 and from Core Principal 5 for designated markets) "Speculatative position limits are necessary to reduce the potential for market manipulation". We believe this is within the authority of the CFTC.

The magnitude of Index Speculator funds in commodity markets during this significant market increase was well documented in our July, 2008 letter to the House Committee on Agriculture, as well as through several other sources. Commodities futures prices are the benchmark for the prices of actual physical commodities, so when Index Speculators drive futures prices higher, the effects are felt immediately in spot prices and the real economy.

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When Congress enacted the Commodity Exchange Act in 1936, it did so with the understanding speculators should not be allowed to dominate futures markets. This market functioned effectively and efficiently for both physical commodity users and speculators between 1936 and 2000. However, when the CFTC granted Wall Street banks an exemption from speculative position limits, hedging as a risk management tool became ineffective for its intended users.

This problem can be relatively easily corrected through your inclusion of the following tow actions in your rule:

1. CFTC should require all speculators to operate under the established position limits, without exception, as the original Commodity Exchange Act required.

2. AFIA applauds the House Committee on Agriculture's proposed establishment of a Position Limit Agriculture Advisory Group. We recommend that this also be included in the final rule, with the specification that this advisory group include representatives of both physical producers and consumers of these agricultural commodities, including the commercial feed industry.

Regulated agriculture commodity markets were established to provide an efficient, price discovery mechanism and a hedging/risk control vehicle for the grains and ingredients markets. If the CFTC includes the actions we propose in the final rule, in addition to the steps you are taking to provide oversight for ECMs that are also SPDCs, the structural integrity of the futures markets will be restored.

AFIA appreciates the opportunity to provide comments. Please do not hesitate to contact me if I can provide further information or you have questions regarding the feed industry's position on this recommendation.

AFIA looks forward to working with the CFTC to ensure markets remain an effective tool for the end-users.

Respectfully submitted,

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President & CEO

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