



National Grain and Feed Association

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February 22, 2011

Mr. David A. Stawick
Secretary
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, D.C. 20581

RE: "End-User Exception to Mandatory Clearing of Swaps" (Federal Register Vol. 75, No. 246, December 23, 2010)

Dear Mr. Secretary:

The National Grain and Feed Association (NGFA) appreciates the opportunity to provide input to the Commodity Futures Trading Commission (CFTC) on the end-user exception proposed rule.

The NGFA is the national non-profit trade association representing more than 1,000 companies that operate an estimated 7,000 facilities nationwide in the grain, feed and processing industry. Member firms range from quite small to very large, both privately owned and cooperative, and handle or process well in excess of 70% of all U.S. grains and oilseeds annually. Companies include grain elevators, feed mills, flour mills, oilseed processors, biofuels producers/co-product merchandisers, futures commission merchants and brokers, and related commercial businesses.

A common thread for NGFA-member firms is that they rely on efficient markets and access to a range of risk management tools to provide price discovery and risk management for their commercial businesses and their producer-customers.

The NGFA was very supportive of inclusion of an end-user exception from mandatory clearing of swaps in the Dodd-Frank legislation. Now, it is equally important that the Commission implement a robust end-user exception that will minimize costs and impacts on end-users and their counterparties.

Generally, the NGFA believes that the Commission's approach to the end-user exception rule as it will affect bona fide agricultural hedgers is appropriate. It is important to note that these participants in over-the-counter swaps are not investors or speculators. Rather, they are engaging in ag swaps as a responsible risk management practice to hedge physical commodity risk. We believe strongly that these commercial end-users' utilization of swaps poses absolutely no systemic risk to the U.S. financial system.

The NGFA's members engaged in ag swaps are bona fide hedgers. They are engaged in hedging or mitigating commercial risk as part of their normal business practices. These activities allow our members to provide risk management tools to U.S. agricultural producers that assist in their marketing and risk management, and to hedge the risk they assume as a result. Consequently, we find that the Commission's proposed definition of "hedging or mitigating commercial risk" is appropriate. In fact, the vast majority of swap transactions involving NGFA-member firms likely will meet all three elements of the definition proposed by the CFTC.

The proposed rule poses the question: "Will some types of swaps be more susceptible to such abuse than others? For example: Are large or small companies or other identifiable sub-categories of swap users more or less likely to abuse the end-user clearing exception than other persons?"

We would answer that question by saying that, generally, agricultural swaps are very likely to be one of the sectors least subject to abuse of the end-user exception. As noted above, we believe virtually all participants will meet the tests set by the Commission to qualify for the exception. The current environment for ag swaps seems to be of small concern with respect to abuse of the end-user exception.

We note that Dodd-Frank contains a requirement that all non-financial entities entering into swaps to hedge or mitigate commercial risk must notify the Commission and provide certain information about the transaction. We also note that the Commission has stated in the proposed rule its intent to implement a user-friendly, check-the-box approach to providing notification. We urge that the Commission follow through on this intent to avoid creating unnecessary paperwork and compliance costs.

It is clear that the intent of Congress in legislating an end-user exception was to minimize costs for commercial end-users, thereby not burdening either party to the swap with new and unnecessary costs that would be rolled into the transaction and make their way to the consumer. We compliment the Commission for apparently adopting the same philosophy and urge a simple and straightforward reporting process. As the proposed rule notes, this may not apply to end-users in many cases, as transactions that involve a swap dealer or major swap participant will be reported by those counterparties.

Sincerely,

A handwritten signature in black ink that reads "Matt Bruns". The signature is written in a cursive, slightly slanted style.

Matt Bruns, Chair
Risk Management Committee