NCFC
National Council of Farmer Cooperatives

Tel: 202-626-8700
Fax: 202-626-8722
50 F Street, NW Suite 900
Washington, DC 20001
www.ncfc.org

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

RE: Notice of proposed rulemaking: Commodity Options and Agricultural Swaps (Federal Register/Vol. 76, No. 23)

Dear Mr. Stawick:

On behalf of the more than two million farmers and ranchers who belong to one or more farmer cooperative(s), the National Council of Farmer Cooperatives (NCFC) submits the following comments in response to the Commodity Futures Trading Commission's (CFTC) request for comments: Commodity Options and Agricultural Swaps (17 CFR Part 3, 32, 33, and 35).

Since 1929, NCFC has been the voice of America's farmer cooperatives. Our members are regional and national farmer cooperatives, which are in turn composed of over 2,500 local farmer cooperatives across the country. NCFC members also include 21 state and regional councils of cooperatives.

As processors/handlers of commodities and suppliers of farm inputs, farmer cooperatives are commercial end-users of over-the-counter (OTC) derivatives. Due to market volatility, cooperatives use swaps to better manage their exposure by customizing their hedges. This practice increases the effectiveness of risk mitigation and reduces the costs of those activities.

In addition, swaps give cooperatives the ability to offer customized products to producers to help them better manage their risk and returns. A cooperative can aggregate its owner-members' small volume swaps or forward contracts and transfer that risk to a swap partner. Agricultural swaps and "ATOs" are used by all sizes of U.S. farmers as an effective, bona fide hedge against volatile price swings in the very markets that directly affect their operation. Increasingly, those farmers are depending on their cooperatives to provide them with these tools to manage price risk and lock in margins as volatility has increased in commodity markets.

Treatment of Agricultural Swaps

NCFC believes the changes and amendments in the proposed rule will provide an appropriate regulatory framework for the transacting of agricultural swaps. We agree with this statement in the proposed rule:

> [P]ermitting agricultural swaps to trade under the same terms and conditions as other swaps should provide greater certainty and stability to existing and emerging markets so that financial innovation and market development can proceed in an effective and competitive manner. Treating all swaps, including agricultural swaps, in a consistent manner should provide greater certainty to markets. The Dodd-Frank Act reporting and trade execution requirements should lead to greater market and price transparency, which may improve market competition, innovation, and development."

However, this statement emphasizes the importance of agriculture cooperatives being treated as commercial end-users and being allowed to use the end-user exception to mandatory clearing. While that issue falls outside of the scope of this rulemaking, if cooperatives were to be required to clear agricultural swaps through an exchange or standardize a non-standard transaction (both in terms of quantity and structure), costs would likely increase to a point where the use of swaps as a bona fide hedge/risk management tool would not be available to some segments of the agricultural marketplace.

Similarly, NCFC agrees with the following Commission statement:

> [A]llowing agricultural swaps to trade under the general swaps rules contained in the Dodd-Frank Act would allow agricultural swaps to trade on SEFs and DCMs (which is prohibited under the current part 35 rules) which may result in increased innovation and competition in the agricultural swaps market."

While NCFC encourages allowing agricultural swaps to trade on SEFs and DCMs, NCFC members do not believe that their specific needs can largely be met by those trading platforms. The low volume, odd lot amounts and routinely customized products in agriculture would not be of great enough significance to be formally listed or centrally cleared.

Additionally, any increased requirement for capital and margin could render the cost of the transaction higher than the value of providing a needed risk management tool. This would increase the price risk to cooperatives and farmers, and would be counter to the intent of the Dodd-Frank Act to decrease risk to the market place. Finally, agricultural swap transactions by cooperatives do not pose a significant risk to the health of the U.S. financial system.

Eligible Contract Participant

NCFC members believe, as stated in the proposal, that "the limitation on participation to eligible contract participants outside of a DCM, and the ability of others to enter into a swap on a DCM, should limit participation to appropriate persons." The ECP requirement with a threshold of $1 million in net worth to be allowed to use swaps and options, other than on a DCM, is appropriate for the products cooperatives offer their members.

Conclusion

As volatility in commodities markets has increased, producers are increasingly dependent on their cooperatives to provide them with the tools to manage price risk. Agricultural swaps are an important means to assist in managing that risk. Therefore, we appreciate the Commission's work on the Agricultural Swaps rule and the opportunity to comment. However, we are concerned that the overall rulemaking process is moving forward despite the fact that many important initial determinations remain uncertain, such as what will be considered and regulated as a swap (product definitions), and who will be regulated as a swap dealer (entity definitions). We look forward to continuing to work with the Commission on those and other rules in the coming months.

Sincerely,

Charles F. Conner
President & CEO