Fighting for the U.S. Cattle Producer!

R-CALF USA

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David A. Stawick, Secretary
Commodity Futures Trading Commission
Three Lafayette Center
1155 21st Street, NW
Washington, DC 20581

Delivered Via Email: dfarulemakings@cftc.gov**;** PosLimits@CFTC.gov

Re: CFTC Rulemakings as Required by the Dodd-Frank Wall Street Reform Act

Dear Secretary Stawick:

On behalf of its thousands of cattle farmer and rancher members across the United States, the Ranchers-Cattlemen Action Legal Fund, United Stockgrowers of America (R-CALF USA) urges the Commodity Futures Trading Commission (CFTC) to consider the following comments on several key areas requiring rulemaking under Title VII of the Dodd-Frank Wall Street Reform Act.

R-CALF USA is a member of the Commodity Markets Oversight Coalition (CMOC) and we signed and support the comments previously sent to you by the CMOC in November 2010. In addition to those comments and concerns expressed in that letter, R-CALF USA is particularly concerned with the practice whereby large beef packers, which are legitimate hedgers for a certain volume of cattle, enter the commodity futures markets also as speculators with the intent and effect of manipulating the futures (and hence the cash price) of cattle. These beef packers should not be entitled to the end-user exception for speculative trades beyond their physical needs for slaughter cattle.

R-CALF USA urges the CFTC to use its rulemaking authority to fully restore the cattle futures market to its original purpose of affording U.S. cattle producers a useful marketing tool void of distortion and manipulation by certain speculators and other dominant market participants (i.e., beef packers). United States cattle producers sell their cattle into one of the most highly concentrated marketing structures in the U.S. economy – one that has exceeded levels generally considered to elicit non-competitive behavior and adverse economic performance.[1] Today, the four largest U.S. beef packers purchase and slaughter about 85 percent of all slaughter-ready steers and heifers.[2] Inherent to this high level of market concentration is

[1] *See* A Review of Causes for and Consequences of Economic Concentration in the U.S. Meatpacking Industry, Clement E. Ward, Current, Agriculture Food and Resource Issues, 2001, at 1.
[2] *See* *United States of America et al. vs. JBS S.A. et al.*, Amended Complaint filed on Nov. 07, 2008, U.S. District Court, Northern District of Illinois, Eastern Division, Civil Action No. 08-CV-5992, (The U.S. Department of

substantial disparity between the economic power of the hundreds of thousands of disaggregated U.S. cattle producers (i.e., cattle sellers)[3] and the economic power wielded by very few beef packers (i.e., cattle buyers).

As a result of this significant economic disparity, cattle producers, some of whom use futures markets to offset price risk, are vulnerable to any market distortions caused by beef packers that may not only participate in the futures market as physical hedgers, but also as significant speculators as well. The cattle futures market is susceptible to downward price movements – in contradiction to supply/demand fundamentals, when beef packers, who may hold a physical hedging position in the market, also engage in substantial speculative short selling of the market. The effect of the beef packers' speculative short selling is to lower not only the futures market price, but also the cash spot market price, which intrinsically is tied to the futures market.

Like other commodity futures markets, the futures market for live cattle is highly susceptible to market distortion should additional liquidity be introduced in the form of excessive speculation. The remaining participants in the U.S. live cattle industry, whose numbers already have been reduced by an alarming 40 percent since 1980,[4] operate on slim margins and are highly susceptible to even small changes in cattle prices.[5] As a result, cattle producers are particularly vulnerable to financial failure caused by both market volatility and market distortions that swing prices low, even for short periods, as they are operating in an industry already suffering from a long-run lack of profitability.

R-CALF USA believes the CFTC should make it unlawful for dominant beef packers to engage in speculative short selling of the market to effectively drive down both futures prices and cash cattle prices. Also, the CFTC should ensure that the live cattle futures market is dominated by physical hedgers, which can be accomplished in the CFTC's rulemaking by imposing aggregate speculative position limits and distinguishing trades involving bona-fide hedgers versus those involving speculation.

Imposing effective speculative position limits across all markets also would curb the commodity indexing strategies of large institutional investors, whose strategies severely distort futures market price discovery. We believe the CFTC should restore daily market price limits to levels that minimize market volatility and reform the practice of allowing cash settlements on

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Justice alleged, "Defendants [JBS S.A. and National Beef Packing Company, LLC] plus Tyson and Cargill together purchased over 85% - nearly 24 million – of these [fed] cattle.") at 3.

[3] There were 967,000 U.S. cattle operations in the U.S. in 2007. *See* Farms, Land in Farms, and Livestock Operations, U.S. Department of Agriculture, National Agricultural Statistics Service, Sp Sy 4 (08) a, February 2008, at 14.

[4] The size of the U.S. cattle industry, as measured by the number of cattle operations in the U.S., declined from 1.6 million in 1980 to 983,000 in 2005 (and, as stated *supra*, further declined to 967,400 in 2007). *See* Federal Register, Vol. 72, No. 152, Wednesday, August 8, 2007, at 44,681, col. 2.

[5] A Review of Causes for and Consequences of Economic Concentration in the U.S. Meatpacking Industry, Clement E. Ward, Current Agriculture Food and Resource Issues, 2001, at 2 ("[E]ven seemingly small impacts on a $/cwt. basis may make substantial difference to livestock producers and rival meatpacking firms operating at the margin of remaining viable or being forced to exit an industry.").

futures contracts in lieu of actual delivery of the commodity, a practice that effectively lowers the cattle futures price on the day of contract expiration. Also, we believe that effective speculative position limits imposed on all feed grain commodities markets would alleviate the transference of market distortions from the feed grains futures market to the cattle futures market.

We look forward to working with you and the CFTC in the rulemaking process to finally eliminate those practices that cause artificial price distortions in the derivatives market and have relegated the cattle futures market to an ineffective tool for price discovery and risk management for U.S. cattle producers.

Sincerely,

Bill Bullard

Bill Bullard, CEO