National Grain and Feed Association

1250 Eye St., N.W., Suite 1003, Washington, D.C. 20005-3922, Phone: (202) 289-0873, FAX: (202) 289-5388, Web Site: www.ngfa.org

July 1, 2011

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

Re: Requests for Comments on "Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants," *Federal Register,* Vol. 76, No. 82, April 28, 2011 and "Capital Requirements of Swap Dealers and Major Swap Participants," *Federal Register,* Vol. 76, No. 92, May 12, 2011

Dear Mr. Stawick:

The National Grain and Feed Association (NGFA) appreciates the opportunity to comment on two important proposed rules published recently by the Commodity Futures Trading Commission (CFTC). Because the proposed rules to establish margin requirements for uncleared swaps and capital requirements for swaps dealers and major swap participants are closely related, we will address both proposed rules in this comment letter.

Swap Dealer Definition

At the outset, although it is not directly addressed in the referenced proposed rules, the NGFA would like to reiterate that these proposals provide additional reasons why a third and separate CFTC-proposed rule – establishing definitions of, among other things, entities that will be labeled "swap dealers" – is of such crucial importance. A literal reading of the swap dealer definition published in the Commission's proposed definitions rule potentially would ensnare thousands of agribusiness hedgers who offer risk management tools to agricultural producers. Under Dodd-Frank, many new reporting and recordkeeping requirements, business standards and practices, margin and capital requirements and other new rules will be placed on swap dealers.

The U.S. grain marketing and risk management system has been a model of efficiency, competitiveness and transparency. Contracting practices, marketing/ merchandising activities and risk management tools are well understood by market participants and regulators. Given the stability of the sector, we can see no reason to burden agribusiness firms engaged in hedging and providing risk management services with costly new rules. The NGFA respectfully suggest that regulatory efforts and resources can be more productively utilized in areas and with participants that present systemic risk to the U.S. financial system.

Dodd-Frank contains provisions that could enhance the range of risk management tools that agribusiness firms can offer to producers to help manage risk and enhance income. In today's volatile market environment, that is a good thing. However, placing a swap dealer label on agribusiness firms, even potentially including local country grain elevators, would have the perverse effect of limiting the tools that agribusiness companies are willing to offer to producers simply to avoid a swap dealer label. The NGFA again urges the Commission to narrow its application of the swap dealer definition to exclude agribusiness end-users. We believe such action is consistent with the intent of Congress when Dodd-Frank was enacted.

Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants

The NGFA strongly supports and endorses the following statement near the beginning of the proposed rule: "The proposed rules will not impose margin requirements on non-financial end-users." Under such an approach, it appears that the agribusiness hedgers referenced above would not be subject to or affected by the proposed rule on margin requirements. This is appropriate and consistent with Congressional intent. It also is important because it will limit the additional financial burdens placed on hedgers already faced by much higher borrowing needs to purchase commodities from producers and to finance margin calls on futures exchanges to maintain futures positions that hedge their risks and their producer-customers' risks. The NGFA strongly recommends that the Commission's final rule on margin requirements state clearly and definitively that all non-financial end-users are exempt.

Capital Requirements of Swap Dealers and Major Swap Participants

The NGFA strongly recommends to the Commission that a similar end-user exemption be provided for capital requirements. Coupled with the NGFA's recommendation above that agribusiness hedgers not be labeled as swap dealers, a statement by the Commission that non-financial end-users are not subject to the complex capital requirements contained in the proposed rule would make it clear that additional costs should not be imposed on such end-users. Imposing capital requirements likely would have the undesirable effect of tying up working capital that otherwise would be utilized to purchase grains and oilseeds from producers. Such costs are likely to ripple through the system with ultimate effect of reducing bids to farmers. The NGFA believes that result would be undesirable and inconsistent with the intent of Congress.

Again, we appreciate the opportunity to comment on the proposed rules and would be happy to respond to questions from the Commission.

Sincerely,

Matt Bruns

Matt Bruns
Chair, Risk Management Committee