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American
Cotton
Shippers
Association

October 18, 2011

Mr. David A. Stawick
Secretary
Commodity Futures Trading Commission
1155 21st Street, N.W.
Washington, D.C. 20581

Re: Adaptation of Regulations to Incorporate Swaps, 76 Fed.Reg. 33066 (June 7, 2011)

Dear Mr. Stawick,

The American Cotton Shippers Association (“ACSA”) submits this letter in support of the comment letter submitted by the Futures Industry Association (“FIA”) on August 8, 2011.

We agree that the proposed amendment to Rule 1.35, which would require FCMs, introducing brokers, and members of DCMs and SEFs to create and maintain records of certain oral communications, is unclear in its scope and reach and will result in significantly higher costs than the Commission estimated in its proposal. The proposal requires records to be kept of “all oral and written communications provided or received concerning quotes, solicitations, bids, offers, instructions, trading, and prices that lead to the execution of transactions in a commodity interest or cash commodity, whether communicated by telephone, voicemail, facsimile, instant messaging, chat rooms, electronic mail, mobile device or other digital or electronic media.” In reality, this would require that all calls from all employees on any phone, including personal cellular phones, as well as other communications, be recorded because any communication could be considered to lead to execution of a transaction. Attempts to comply with such an overbroad rule would be extraordinarily expensive and impossible. The Commission has not properly estimated the cost of such recording requirements, providing an estimate without a basis and making improper assumptions about infrastructure that is currently in place. We also endorse using the scope set forth in the Federal Register release accompanying proposed Rule 23.202(a)(1), which focuses on ensuring a “complete audit trail,” rather than focusing on “sales.”

Additionally, we oppose the requirement under the proposed amendment to Rule 1.31 that Commission registrants maintain paper records in their original form for at least five years and keep them readily accessible for the first two years. The change in policy is in direct conflict with the SEC’s rules, with which the Commission’s rules were originally designed to harmonize.

ACSA appreciates the opportunity to submit this letter in support of the FIA letter, sent to you on August 8, 2011. If the Commission has any questions concerning the matters discussed herein, please contact me.

Sincerely,

A handwritten signature in black ink, appearing to read 'David Stawick', with a stylized flourish at the end.

President
American Cotton Shippers Association