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## 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](http://www.ngfa.org)

January 10, 2012

The Honorable Gary Gensler  
Chairman  
Commodity Futures Trading Commission  
Three Lafayette Centre  
1155 21<sup>st</sup> Street, NW  
Washington DC 20581

Dear Chairman Gensler:

The National Grain and Feed Association (NGFA) respectfully urges the Commodity Futures Trading Commission (CFTC), during its scheduled January 11, 2012 meeting, to table consideration of a final rule on protection of Swap Customers Collateral (17 CFR Parts 22 and 190) until details surrounding the MF Global Inc. bankruptcy are known more fully so that customer protections for swaps and futures are consistent and appropriate.

The NGFA has concerns about the potential implications of language and alternatives contained in the agency's proposed rule for protection of swap customers' collateral issued in June 2011.

Protection of customer collateral is critical to restoring and maintaining customer confidence in derivatives markets. The dramatic collapse of MF Global, and the unprecedented loss of apparently up to \$1 billion or more of customer-segregated funds, has exposed serious weaknesses that require immediate review and changes to ensure proper safeguards are in place to protect customer collateral for all derivatives customers. Without such protection, lenders as a matter of prudence will reassess their willingness to finance hedging activities using such tools. Resolving these questions and weaknesses will be critical to restoring confidence in the derivatives markets and ensuring that businesses will be able to utilize these valuable risk-management products that allow firms to manage price risk and offer marketing tools to farmers and ranchers.

The CFTC last week published its notice of public meeting to consider a final rule pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act, "Protection of Cleared Swap Customer Contracts and Collateral." While this rule related specifically to swaps customers, the language contained in the proposed rule posits treatment of customer collateral that will differ from that afforded to futures and options customers. Importantly, the proposed rule points to protections and a system that could have the unintended consequence of making cleared-swaps potentially "safer" derivatives than exchange-traded futures or options – an outcome that the exchanges and the CFTC likely would not have intended.

The NGFA also believes the operational application of customer protections within this rule warrant review with respect to their implications for futures and options customers before any final rule is approved.

A related issue discussed in the June 2011 proposed rule now seems more urgent in the aftermath of MF Global: The risk that cleared derivatives will expose customers to the counterparty risk of the default of another customer to the clearing futures commission merchant. This previously had been considered a remote risk, but customers understandably now recognize that remote risks indeed can occur.

Understanding how the collapse of MF Global and disappearance of customer-segregated funds could occur is critical to crafting better solutions to prevent such events in the future for cleared swaps and futures. The NGFA recognizes the urgency to finalize customer protections for swaps customers. But we urge the CFTC to defer further consideration on this critical matter to ensure that the facts are known and that appropriate and consistent protections and regulatory treatment are afforded to swaps and futures customers.

The NGFA appreciates this opportunity to provide input, and would be pleased to respond to any questions the CFTC may have.

Sincerely,

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

Matt Bruns, Chairman  
Risk Management Committee  
National Grain and Feed Association

cc: Commissioner Mark Wetjen  
Commissioner Scott O'Malia  
Commissioner Jill E. Sommers  
Commissioner Bart Chilton