



5500 South Quebec Street  
Greenwood Village, CO 80111  
800-542-8072  
www.cobank.com

VIA ELECTRONIC SUBMISSION

January 14, 2013

Mr. David A. Stawick  
Secretary of the Commission  
Commodity Futures Trading Commission  
1155 21st Street NW  
Washington, DC 20581

**Re: Notice of Proposed Rulemaking - Enhancing Protections Afforded  
Customers and Customer Funds Held by Futures Commission  
Merchants and Derivatives Clearing Organizations (RIN 3038-AD88)**

Dear Mr. Stawick:

We are submitting this letter in response to the above-referenced proposed rules (the "Proposed Customer Protection Rules") issued by the Commodities Futures Trading Commission (the "Commission") in accordance with the Commodity Exchange Act, as amended by the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Dodd-Frank Act").

CoBank is a national cooperative bank serving vital industries across rural America. The bank provides loans, leases, export financing and other financial services to agribusinesses and rural power, water and communications providers in all 50 states.

CoBank is also a member of the Farm Credit System, a nationwide network of banks and retail lending associations chartered to support the borrowing needs of U.S. agriculture and the nation's rural economy. In addition to serving its direct retail borrowers, the bank also provides wholesale loans and other financial services to affiliated Farm Credit associations serving more than 70,000 farmers, ranchers and other rural borrowers in 23 states around the country.

The Proposed Customer Protection Rules respond to two recent events in which customer funds entrusted to futures commission merchants ("FCMs") were inappropriately utilized by FCMs in contravention of the Commodity Exchange Act (the "CEA") and the Commission's rules. As a result, when these FCMs (MF Global and Peregrine Financial Group) became insolvent, their non-defaulting customers suffered material economic losses that they should never have incurred. These events have placed a cloud over the regulatory regime for futures and cleared swaps, a cornerstone of which is the inviolability of customer funds from misuse by FCMs.

CoBank anticipates that we will engage in some cleared swaps through FCMs. In this regard, we strongly endorse the Commission's proposals to increase transparency surrounding the financial condition and regulatory compliance of FCMs. We believe the Proposed Customer Protection Rules represent a very cost-effective approach to making FCMs more accountable to their customers by providing current information that will enable customers to conduct appropriate due diligence regarding prospective FCMs and to actively monitor the financial condition and regulatory compliance of the FCMs to which they have entrusted funds. In particular, we support requirements that:

- FCMs post their margin segregation calculation on their Web sites on a daily basis;<sup>1</sup>
- FCMs prepare “Disclosure Documents” for disclosure on their Web sites with the information material to a customer’s decision to entrust funds to and otherwise do business with the FCM, including information regarding the operations, financial condition, risk profile and affiliates of the FCM;<sup>2</sup> and
- FCMs promptly update the Disclosure Documents “as and when necessary,” taking into account any material change to their business operation, financial condition and other factors material to a customer’s decision to entrust its funds and otherwise do business with the FCM.<sup>3</sup>

We believe the Proposed Customer Protection Rules could be further strengthened by:

- Requiring FCMs to each month post on their Web site, as part of their Disclosure Documents, the Segregation Schedule, the Secured Account Schedule and the Cleared Swaps Segregation Schedule. The Web site should include the schedules for the most recent twelve months;<sup>4</sup> and
- Requiring FCMs to each month post on their Web site, as part of their Disclosure Documents, summary balance sheet and income statement information. The Web site should include such information for the most recent twelve months.<sup>5</sup>

We note that the FCMs would be required to provide the above information to the Commission and their designated self-regulatory organization. Thus, the additional cost of making this information available to the public should be nominal.

In addition, CoBank has long been involved in efforts, spearheaded by the National Grain & Feed Association (NGFA), to identify additional protections for grain industry participants in the wake of the MF Global and Peregrine collapse. We strongly support the NGFA effort and urge the CFTC to closely consider the resulting recommendations.

Again, we endorse the Commission’s efforts to improve transparency of information regarding the financial condition and regulatory compliance of FCMs. We believe the Proposed Customer Protection Rules will greatly assist customers in performing the due diligence that is warranted in selecting and doing business with FCMs.

We appreciate the opportunity to offer these comments. Please do not hesitate to contact the undersigned with any questions you may have.

Respectfully submitted,



Robert B. Engel  
President and Chief Executive Officer

---

<sup>1</sup> See Proposed Reg. § 1.55(o)

<sup>2</sup> See Prop. Reg. § 1.55(i)

<sup>3</sup> *Id.*

<sup>4</sup> Under the Proposed Customer Protection Rules, these schedules are only available upon request to the Commission. See Fed. Reg. at 67872-67873.

<sup>5</sup> Under the Proposed Customer Protection Rules, only the annual certified financial statement is required unless there has been a material change in the FCM’s financial condition. See note 4, *supra*.