February 14, 2013

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

RE: (RIN 3038–AD88), Comments of the National Pork Producers Council on Proposed Rule: Enhancing Protections Afforded Customers and Customer Funds Held by Futures Commission Merchants and Derivatives Clearing Organizations

To Whom It May Concern,

On behalf of America's 67,000 pork producers, and as president of the National Pork Producers Council (NPPC), I write in response to your proposed rule on Enhancing Protections Afforded Customers and Customer Funds Held by Futures Commission Merchants and Derivatives Clearing Organizations. NPPC is a national association representing 43 affiliated state associations and America's pork producers, who annually generate approximately $15 billion in farm gate sales. The U.S. pork industry supports an estimated 550,000 domestic jobs and generates more than $97 billion annually in total U.S. economic activity. The recommendations below on providing protection to customers who have funds invested with Futures Commission Merchants (FCM) for exchange-trading were developed with input from various sectors of the pork industry.

NPPC applauds the CFTC for undertaking this rulemaking process to prevent future misuse of customer funds in the wake of the MF Global and Peregrine Financial Group (Peregrine) debacles. A significant percentage of the pork industry was negatively affected by the collapse of those institutions and their subsequent bankruptcy proceedings. Many pork producers were customers of MF Global for the purpose of risk management. Pork producers who rely on exchange-trading to facilitate risk management, as well as the lending institutions that support them, have had their confidence shaken. After review of and reflection on this situation, it has become apparent that there have been systemic issues that will need to be addressed, including weak enforcement of penalties for inappropriate use of segregated funds and a lack of customer transparency about how funds can be used.

While it is imperative that CFTC attempt to prevent future misuse of customer funds, I believe it is necessary to point out that the primary concern of the U.S. pork industry is that regulations developed to safeguard customer funds should not result in increased costs. Our fear is that costs involved in bolstering regulation will ultimately be passed on to smaller FCMs that service livestock producers, the livestock producers themselves, grain elevators and other agribusinesses

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without any discernible benefits. Oversight should not come with sky rocketing fees, and more regulations do not necessarily prevent fraud and/or abuse of such regulations, including those already in place.

Infrastructure already exists to provide oversight to ensure protection of customer funds, but this is only true if the DSROs (Designated Self-Regulating Organizations) accurately and carefully do their job. With today's access to technology, it seems logical that the DSROs should perform daily oversight duties, including observing appropriately segregated customer commodity accounts. Pork producers and other farmers who use FCMs want to be able to trust that their funds are being managed according to the law, and proper oversight from the DSROs should ensure this. Commodity markets are crucial to livestock producers, and it is critical that trust be maintained in the market.

Regarding specific provisions of the rule, I ask you take under consideration the following points:

1. **Provision 1.17(c)(5)(viii)--** Changing the time allowance from one day to three days to cover outstanding margin calls is alarming to pork producers. More specifically, the decreased time allowance could add significant financial burdens to trading as customers may find themselves having to provide excess funds to their broker for future variation.

2. **Provision 1.20(i); 1.22(a)**--Requiring that an FCM's residual interest in a customer segregated account must at all times be sufficient to exceed the sum of the margin deficits that the FCM's customers have in their accounts is burdensome. FCMs currently have the ability to increase CME-established minimum initial margin requirements based on their initial account review (when an FCM customer account is established) as well as on periodic reviews of customers' financial positions and operations, including reviews of customers' history of making timely maintenance margin call deposits. This provides an additional layer of protection as well as a real capital cushion that allow customers to withstand extreme day-to-day market movements. To discuss changes in margin procedures, including trying to anticipate future market movements, pre-funding margin calls and making margin call deposits throughout the day based on current market movements, is extremely impractical.

In terms of allowing added customer control and protection, NPPC would like to proffer a regulatory change that allows customers more control of their destiny. By giving customers the opportunity to "opt out" of allowing segregated funds to be used outside of the customer accounts, customers can proactively protect their funds from being used for potentially fraudulent purposes. If customers were allowed the opportunity to "opt-out," perhaps coupled with higher fees to help balance the trade off, customers could determine the level of risk to which they are comfortable subjecting their funds. Periodic, unannounced audits of the FCMs by the CFTC could further enhance customer protections.

For America's pork producers, dealing with extremely volatile commodity markets is a part of doing business, but having liquidity is one way that producers can weather this volatility and manage risk. NPPC is concerned that these proposals would lessen customers' liquidity, forcing them to keep more capital in customer fund accounts.

Thank you for your commitment to providing increased protection to customers' accounts through this proposed rule. The loss of faith in CFTC risk-management tools available to pork producers jeopardizes the success and livelihood of the entire industry since those tools are not merely used by producers as "investment" instruments but also as significant and integral mechanisms for cash operating revenues and/or expenses in any given period. Such a loss of faith is particularly troubling given that there are presently no viable alternatives available for pork producers to manage their risks. NPPC appreciates your support of the U.S. pork industry, and we thank you for your work on this very important issue. We look forward to working with you in the future.

Sincerely,

RC Hunt

R.C. Hunt
President
National Pork Producers Council