John Stewart
AND ASSOCIATES

Futures Brokerage & Consulting
7984 Southeast 32nd Road
St. Joseph, MO 64507
(816) 671-1570

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Ms. Sauntia Warfield
Assistant Secretary
Commodity Futures Trading Commission
1155 21st Street NW
Washington, D.C. 20581

RE: RIN 3038-AD8: Enhancing Protections Afforded Customers and Customer Funds Held by Futures Commission Merchants and Derivatives Clearing Organizations, 77 Fed. Reg. 67866, November 14, 2012.

Dear Ms. Warfield:

John Stewart and Associates ("JSA") respectfully submits this letter in response to the request of the Commodity Futures Trading Commission (CFTC) for comments on its proposed rule for Enhancing Protections Afforded Customers and Customer Funds Held by Futures Commission Merchants and Derivatives Clearing Organizations (the proposed rules).

JSA is an Introducing Brokerage Risk Management company of moderate size, founded in 1976, with offices in ten states and a client base comprised of farmers, ranchers, commercial handlers and consumers of grain throughout the country. We laud the CFTC for proposing rules designed to protect customers and their funds, particularly in light of the failures of MF Global and Peregrine Financial. However, we fear that these rules will have unintended negative consequences for the very customers it was designed to protect. On a daily basis we are intimately involved with helping farmers, ranchers and mid-size consumers and handlers of grain hedge their business risks. As such, we are well aware of what is required for them to execute and maintain hedges. We are also aware of the repercussions of significantly changing those requirements and costs. It is from this perspective that we submit this comment.

Our primary concern with the proposed rules surround sections 1.17 and 1.22 and the proposed changes to capital and margining requirements. We believe these changes will have significant negative impact on our clients. The changes proposed appear sudden and drastic and abruptly change a futures industry that has operated successfully for decades by allowing the efficient hedging of risk by producers, handlers and consumers of grains and livestock. It is imperative to the success of this very client base that the hedging tools at their disposal be equally, secure, transparent, and economically efficient. These rules could result in additional margin or prefunding of margin requirements. That requirement would be punitive in a highly competitive environment that already places the midsize operator at a disadvantage to his better capitalized multinational competitors. This environment could easily cause additional consolidation.

Consolidation would result in the loss of competitive forces, loss of significant numbers of jobs, and the loss of transparency and liquidity required for a highly functioning hedging environment. The failure of the previously mentioned FCMs was not due to underfunding of margins by their clients but rather mismanagement of the clients' segregated funds due to fraud and proprietary trading. Frankly, a FCM's failure in a system that is designed and functions correctly should only impact the stockholder exclusively and not the FCM customer. Requiring additional funds by the customer simply enlarges the potential problem. The sanctity of those funds is paramount. However, requiring the client to deposit additional funds does nothing to guarantee the integrity of the individuals and firms that hold them. Our concern would be that by requiring significantly larger margin or capital requirements, the cost of hedging would become prohibitive and prompt agricultural users to walk away from the futures market. This would leave them no choice but to take their business over-the-counter or exit their respective industries.

In addition, the increased financial requirements for FCMs will adversely affect the ability of non-bank FCMs to compete. A greater concentration of customers at the banking FCMs would effectively increase risk within that industry. Historically, the banking FCMs have shown little interest in the farmer, rancher, retail or introducing brokerage business. It is often the mid-market, agriculturally related FCMs that provide market access for these individuals and firms.

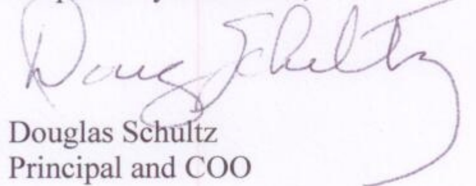
There is much to like in the proposed rule and we won't belabor specific items or their possible solution. We are confident that our colleagues at the FCMs, SROs, trade organizations, financial firms, and exchanges are significantly more capable in that area and will comment.

We appreciate the opportunity to comment and urge the commission in the strongest way possible to go back to the drawing board and refocus the solution where it belongs -- at the FCM level and the transparency and integrity with which it handles customer funds. The proposed rule encumbers a system that has operated efficiently for decades; it is punitive to the customer -- not at the point of infraction. It will most certainly result in unintended consequences that will not only have devastating consequences for JSA and our employees but also our customers which represent a significant cross section of U.S. agriculture.

We applaud the commission's efforts and commitment to customer protection. We ask that the commission continue to pursue enhanced transparency, security and integrity as it relates to customer funds but maintain and leave in place the current requirement for margining. Maintaining the current requirement ensures efficient and economical access to hedging and risk management for individual farmers, ranchers and moderate sized agricultural firms.

Thank you for the opportunity to submit these comments.

Respectfully submitted,



Douglas Schultz
Principal and COO