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February 10, 2014

Ms. Melissa Jurgens
Secretary
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581

RE: Comments on Proposed Rulemaking titled "Position Limits for Derivatives" (RIN 3038-AD99) and "Aggregation of Positions" (RIN 3038-AD82)

Dear Ms. Jurgens:

Texas Cattle Feeders Association (TCFA) appreciates the opportunity to comment on the Commodity Futures Trading Commission's (CFTC or Commission) proposed rules "Position Limits for Derivatives" (RIN 3038-AD99) and "Aggregation of Positions" (RIN 3038-AD99) and express deep concerns with the practical ramifications of the proposals.

TCFA is an agricultural trade association representing 200 beef cattle feedyards in Texas, Oklahoma and New Mexico and 4,000 cattle feeders across the United States. TCFA members feed and market approximately 6.5 million head of cattle annually, which amounts to roughly 30% of the nation's fed beef production. TCFA members require viable risk management tools in order to navigate the price fluctuations and other risks within production agriculture. The above mentioned proposed rule(s) would have a negative effect on a producer's ability to utilize the available risk management tools within commodities contracts. TCFA supports a viable futures exchange to facilitate effective risk management opportunities for the livestock industry and contract specifications that match industry needs and facilitate convergence of futures prices with the respective cash market.

TCFA opposes the proposed rule changes in the "All Months Combined Limits." The imposition of all months combined limits in continuously produced, non-storable commodities such as livestock will reduce the liquidity needed by hedgers in deferred months who often manage their risk using multiple contract months. The current exchange limits for livestock contracts that specify single month limits enable speculators to provide liquidity to hedgers and have worked well.

TCFA requests that four factors be further considered when imposing speculative position limits. Those are:

- (i) to diminish, eliminate, or prevent excessive speculation as described under this section,
- (ii) to deter and prevent market manipulation, squeezes, and corners,
- (iii) to ensure sufficient market liquidity for bona fide hedgers, and
- (iv) to ensure that the price discovery function of the underlying market is not disrupted.[1]

[1] CEA Section 4a(a)(3)(B)

Before imposing any federal position limit, the Commission should present extensive analysis to demonstrate that these four factors have been balanced. The proposed rule does not contain such an analysis. Moreover, the Commodity Exchange Act (CEA) also requires the Commission, in setting federal position limits, to promote "sound risk management" and "ensure that trading on foreign boards of trade in the same commodity will be subject to comparable limits and that any limits to be imposed by the Commission will not cause price discovery in the commodity to shift to trading on the foreign boards of trade."[1]

TCFA also opposes to the proposal's current definition of "bona fide hedging." The Position Limits for Derivatives proposed rule's exclusion of hedge transactions that meet Congress' definition of a bona fide hedge, but which the proposal has chosen to reject, is not only contrary to Congressional intent but also makes it more difficult for commercial end-users to hedge legitimate price risks arising from the normal course of business operations. The proposed, restricted definition of bona fide hedging hits hedgers who use physical-delivery futures to hedge their risk particularly hard. In addition, the Position Limits for Derivatives proposed rule is interpreting the statutory "economically appropriate" requirement for a bona fide hedge in a way that does not seem to conform to commercial market practices such as portfolio risk management, which has been recognized by the Commission since 1977.

TCFA requests that the Commission define "bona fide hedging transaction," specifically to include three definitional statements in reference to a bona fide hedge position. We believe a bona fide hedge:

- (i) represents a substitute for transactions made, or to be made; or positions taken, or to be taken at a later time, in a physical marketing channel,
- (ii) is economically appropriate to the reduction of risks in the conduct and management of a commercial enterprise, and
- (iii) arises from the potential change in the value of—
  - (I) assets that a person owns, produces, manufactures, processes, or merchandises; or anticipates owning, producing, manufacturing, processing, or merchandising,
  - (II) liabilities that a person owns or anticipates incurring, or
  - (III) services that a person provides, purchases, or anticipates providing or purchasing.[2]

TCFA encourages the Commission to recognize the ability of producers to participate in anticipatory hedging and follow the context of other rules. An example being the Volcker Rule, where the Commission allows a trading desk to "establish an anticipatory hedge position before it becomes exposed to a risk that it is highly likely to become exposed to, provided there is a sound risk management rationale for establishing such an anticipatory hedging position . . . .The amount of time that an anticipatory hedge may precede the establishment of the position to be hedged will depend on market factors, such as the liquidity of the hedging position."[3]

Cross-hedging is very important for commodities that are transformed into products that may not be traded commodities. The Commission's proposal requires a 0.8 correlation coefficient to qualify a contract for utilization as a cross-hedge. TCFA strongly objects to the usage of a 0.8

[1] CEA Section 4a(a)(2)(C)
[2] CEA Section 4a(c)(2)
[3] Prohibitions and Restrictions on Proprietary Trading and Certain Interests in, and Relationships With, Hedge Funds and Private Equity Funds, Final Rule, p. 297 of draft text.

correlation coefficient to qualify a contract for utilization as a cross hedge. Examples can be found in which a cross-hedge of two contracts with the same underlying commodity would not achieve a 0.8 correlation, such as corn or natural gas contracts delivered in two different locations. Additionally, end-users may need to utilize cross-hedging in cases where seasonality impacts the correlation between the two commodities, or in cases which go out past three years. A position limits regime where risk managers can freely select their cross-hedges, report them as such, and stand ready to explain them to the Commission, if necessary, is the proper regulatory design.

TCFA also would like to remind the Commission of the success of several contracts where the CME Group has set speculative limits and monitored them relative to deliverable supply within the given market. This approach to speculative limits has served the industry well and allowed the CME Group the authority to draw down the speculative limits to appropriate levels. TCFA could support a rule that would allow the CME Group and other exchanges to continue in such a manner.

TCFA requests that the Commission provide further clarification on two aspects of the proposed rule: 1) What is the definition used for control of speculative accounts? 2) What are the aggregation rules and how do they pertain to customers of commodity producing firms?

TCFA recognizes the effort and thought the Commission and its staff have put into drafting the proposed rules and acknowledges the Commission's crucial oversight that fosters transparent, open, competitive and financially sound commodity markets. Prior to adopting a final rule for federal position limits, TCFA urges the Commission to be mindful of its role in protecting the longstanding and crucial ability of commercial end-users to utilize commodity markets to manage risk.

TCFA appreciates the Commission's consideration of these comments on a vital aspect of the industry and the effects such changes will surely have on the industry.

Sincerely,

Ross Wilson

Ross Wilson
President & CEO