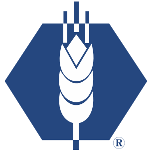

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August 4, 2014

Ms. Melissa Jurgens
Secretary
Commodity Futures Trading Commission
1155 21st Street, N.W.
Washington, DC 20581

Re: Position Limits for Derivatives, RIN 3038-AD99

Dear Ms. Jurgens:

The National Grain and Feed Association (NGFA) appreciates the opportunity to comment on the referenced rulemaking. The willingness of the Commodity Futures Trading Commission (CFTC) to reopen the public comment period on this rulemaking and to conduct a public roundtable to examine issues surrounding position limits and the definition of *bona fide* hedging is commendable. These issues are critically important to the traditional commercial hedgers that comprise the membership of the NGFA.

The NGFA is the national nonprofit trade association representing more than 1,000 companies that operate an estimated 7,000 facilities nationwide in the grain, feed and processing industry. Member firms range from quite small to very large; privately owned, publicly traded and cooperative; and handle or process well in excess of 70% of all U.S. grains and oilseeds annually. Companies include grain elevators, feed mills, flour mills, oilseed processors, biofuels producers/co-product merchandisers, futures commission merchants and brokers, and many other related commercial businesses.

The NGFA submitted a comment letter to the Commission on Feb. 10, 2014, concerning issues raised in the position limit rule – accompanied by a lengthy appendix with detailed examples of *bona fide* hedging transactions utilized by commercial hedgers to manage business risk. Rather than repeat our previous comments and examples, we draw the Commission's attention to the Feb. 10 letter and appendix. Maintaining the *bona fide* hedging status of these transactions is of the utmost importance to agricultural hedgers and their customers. For the most part, this letter will expand on previous comments and discuss outcomes of the June 19 roundtable.

Bona Fide Hedging

If there was one conclusion to be drawn from discussions during the roundtable, we believe it was that hedging is not always a simple and straightforward process. Risk managers among our member firms seek to manage many different types of risk: production, quality, currency, interest rates, counterparty, credit, logistics and more. Commercial hedgers in the grain, feed and processing industry for many years have utilized various strategies involving exchange-traded futures and options to reduce and manage their risks, and it is not always a simple one-to-one match of cash and futures positions.

The NGFA believes strongly that strategies historically utilized by commercial hedgers to reduce and manage business risk – and long recognized by the CFTC as bona fide hedges – cannot now be thrown into question or written out of a new definition. To do so would be to expose these businesses, the farmer-customers with whom they are working to price and market their crops, and U.S. consumers to increased risk, lower price bids and fewer risk-management alternatives for farmers and ranchers, and higher costs to consumers.

Further, we also believe strongly that a "one size fits all" definition of *bona fide* hedging across very different contract markets would inflict significant harm on commercial hedgers and their well-functioning markets. Commercial hedgers who use the types of risk management strategies detailed in the appendix to our Feb. 10 letter should be allowed the continued flexibility to best manage their ever-changing and fast-developing risks – not forced into a box by a restrictive regulatory regime with little relevance to today's risk management environment.

Specifically, as noted in our previous comment letter, we fear that the new definition in the proposed rule would exclude a number of common hedging transactions frequently used to manage risk in the grain, feed and processing sector. Among these are:

- Locking in futures spreads;
- Hedging basis contracts;
- Hedging delayed-price commitments;
- Cross-hedging;
- Anticipatory hedging of commercial transactions;
- Anticipatory hedging of processing capacity.

Before approving a final rule, it is critically important that the Commission fully understand these transactions and how they are utilized to manage every-day business risk for U.S. farmers, ranchers and agribusiness. The NGFA urges that special effort be undertaken by the Commission to hear directly from risk managers – not over the course of two hours during a roundtable, but in depth and at length to fully understand the risk-reducing nature of these transactions and why they should continue to be recognized by the Commission, as they have for years, as bona fide hedges. The NGFA stands ready to provide information and industry expertise at any time.

Spot-Month Position Limits

Convergence of cash and futures is a bedrock principle of U.S. futures markets. In recent years, convergence has been challenged in several contracts, notably the CBOT and KCBT wheat contracts. Today, those contracts function well. The Commission should take no action that will threaten convergence. Clearly, the huge potential increases in spot-month limits under the proposed methodology based on estimated deliverable supply are inappropriate for grain and oilseed contracts. Maintaining the current "legacy" position limits in the spot-month for grain and oilseed contracts is the right policy choice. Further, the NGFA believes that designated contract markets (DCMs), in consultation with market participants, know their contracts and their markets best and are best able to determine appropriate spot-month limits.

Non-Spot Month Position Limits

Similarly, the NGFA is concerned that all-months-combined limits based on open interest levels, as contained in the proposed rule, could lead to contract performance problems if not properly considered. Before moving to a final rule, the Commission needs to analyze impacts on convergence of such a change. It is imperative that the all-months-combined limits "telescope" smoothly down to spot-month levels to facilitate convergence. Again, the NGFA urges that DCMs be allowed flexibility in the final rule to adjust non-spot month limits downward as appropriate to specific contracts and markets.

Equivalent Position Limits for Wheat Contracts

Consistent with CFTC action on federal position limits among the enumerated agricultural commodities for many years, the NGFA supports maintaining the same speculative position limits for the three wheat futures contracts: CBOT soft red winter, KCBT hard red winter, and MGEX hard red spring. The widely divergent limits that would result from the proposed new methodology based on open interest could have unintended and undesirable effects. In addition, we find it odd that the largest non-spot month limits under the proposed rule would be established for the class of wheat (SRW) that in some years is the smallest in production volume among the three contracts. As previously requested, the NGFA urges the Commission to remain consistent with historical practice in maintaining position limit equivalence across the three contracts.

Conditional Position Limits

As detailed in our Feb. 10 letter, the NGFA continues to oppose conditional position limits for cash-settled contracts at 5X those for physically-settled contracts.

Conclusion

The NGFA commends the CFTC for conducting its public roundtable to hear from market participants. Clearly, the roundtable discussion demonstrated that hedging is not the simple concept that some might prefer. Rather, businesses today need to be allowed the flexibility to utilize a range of risk management tools and strategies to manage and reduce various forms of risk. Adoption of a restrictive definition as contained in the proposed rule, which seemingly would take away *bona fide* hedge status from many of the valuable alternatives currently and historically available, would be a policy error by the Commission. The NGFA stands ready to answer questions and provide more detail at any time.

Sincerely,

MJ Anderson
Chairman, Risk Management Committee