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OFFICE OF THE SECRETARIAT

March 29, 2001

Commissioner David D. Spears  
Commodity Futures Trading Commission  
Three Lafayette Center  
1155 21<sup>st</sup> Street, NW  
Washington, D.C. 20581

### COMMENT

Dear Commissioner Spears:

I am excited about the changes the Commodity Futures Modernization Act of 2000 will bring to the futures industry. However, I find it important to draw your attention to an unfortunate consequence of the CFMA. The Act requires Eligible Contract Participants and Eligible Commercial Entities to meet a total asset requirement. In the grain industry, this asset requirement is a burdensome hurdle that I will now explain.

Local country elevators are often the primary location for selling and storing grain after harvest. One way that elevators can help farmers get better prices for their grain is through cash grain contracts that are tied to options. An example is a floored average contract, which allows the farmer to get an average price for his grain in a fashion similar to dollar-cost-averaging.

The asset levels stipulated in the definitions of Eligible Commercial Entity and Eligible Contract Participant preclude many commercial elevators and farmers from participating in such cash-grain/option contracts. The elevators have neither the resources, the expertise, nor the desire to register with the CFTC as an FCM. Also, only those FCMs that have a cash grain business can offer these contracts.

Cargill and similar large companies can offer these cash/option contracts because they have both a cash grain and a registered futures business. That creates an unfair competitive advantage over most country elevators. More importantly, many farmers are simply not getting as good a price for their grain because those few companies able to offer hybrid cash contracts cannot meet the entire market need.

I believe the best solution to this inequity would be to lower the asset requirement to \$1 million dollars for Eligible Contract Participants for hedging agricultural futures. By limiting the lower asset requirement to the agricultural industry, it allows legitimate commercial entities to participate in a critical part of their market without creating an undue risk to the public.

I would be willing to discuss this in more detail at your request. Thank you for your time.

Best regards,

Chris Fehr  
Compliance Officer  
Advance Trading, Inc.

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