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"Connecting Cows, Cooperatives, Capitol Hill, and Consumers"

June 16, 2009

- Agri-Mark, Inc.
- Arkansas Dairy Cooperative Association
- Associated Milk Producers, Inc.
- Continental Dairy Products, Inc.
- Cooperative Milk Producers Assn.
- Dairy Farmers of America, Inc.
- Dairywomen's Marketing Cooperative, Inc.
- Dairyylea Cooperative Inc.
- Ellsworth Cooperative Creamery
- Farmers Cooperative Creamery
- First District Association
- Foremost Farms USA
- Humboldt Creamery
- Just Jersey Cooperative, Inc.
- Land O'Lakes, Inc.
- Lone Star Milk Producers, Inc.
- Manitowoc Milk Producers Coop.
- MD & VA Milk Producers Cooperative Association, Inc.
- Michigan Milk Producers Assn.
- Mid-West Dairywomen's Company
- Northwest Dairy Association
- Prairie Farms Dairy, Inc.
- St. Albans Cooperative Creamery, Inc.
- Scioto County Co-op Milk Producers' Assn.
- Select Milk Producers, Inc.
- Southeast Milk, Inc.
- Swiss Valley Farms, Co.
- Tillamook County Creamery Assn.
- United Dairywomen of Arizona
- Upstate Niagara Cooperative, Inc.
- Zia Milk Producers

David Stawick, Secretary
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, N.W.
Washington, D.C. 20581

COMMENT

RE: "Whether to Eliminate the *Bona Fide* Hedge Exemption for Certain Swap Dealers and Create a New Limited Risk Management Exemption from Speculative Position Limits." (74 FR 12283)

To the Secretary and the Commission:

The National Milk Producers Federation is the voice of three-fifths of America's 60,000 dairy farmers, through their membership in NMPF's 31 constituent cooperative associations. It is our mission to advance the well-being of these farmers and the cooperatives that they own. As a member of the CFTC's Agricultural Advisory Committee, NMPF appreciates the opportunity to comment on speculative limits and *bona fide* hedging.

The farmer-owners of our member cooperative associations have *bona fide* hedging interests as sellers of milk and dairy products; as buyers of feed, fuel, and other inputs; and as both buyers and sellers of cattle. They are involved as buyers and sellers in delivery- and cash-settled futures and options markets, as well as in off-exchange swaps and forward pricing. Their cooperative enterprises are similarly engaged in managing price risk – as buyers of milk, as manufacturers and sellers of dairy products, and as service providers to their farmer-members.

As such, our members' interests are uniquely balanced in support of fair and unbiased markets. In particular, we urge the CFTC to renew its traditional commitment to the protection of farmers from the "undue and unnecessary burden" of "excessive speculation" in agricultural commodity markets. We agree that there is a vital need for speculative limits, and believe that defining *bona fide* hedging becomes clear in principle and practice when that commitment is honored.

Futures markets, broadly defined, serve the important purposes of price discovery and risk management for producers and users of agricultural commodities. Speculative interests are suffered to the extent that they contribute to these purposes.

Jerry Kozak, President/Chief Executive Officer

Randy Mooney, Chairman

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As we have learned from last year's financial market meltdown, market regulation must take into account the overall health of the market, not simply the impact of an individual market participant *ceteris paribus*. Overall speculative interest may get too high, even if each participant is within its limit. Ideally, speculation would not be allowed to reach the point where it begins to add, rather than reduce, risk for the commodity producers and users involved in the market.

A swap dealer that could be defined as a hedger, with respect to its own interest, should not be so defined by the CFTC when it is serving speculative interests. The blanket exemption clearly missed the point of futures market regulation, allowing a fig leaf to redefine speculation as hedging. This must be ended.

Nevertheless, it is very important that farmers, who often operate on a much smaller scale than other financial actors, have access to a range of choices to manage price and marketing risk, through dealers and cooperatives who can tailor risk management strategies to their specific needs and circumstances. As such, the swap dealer who acts on behalf of a farmer (or commodity user) deserves special exemption from speculative limits exactly to the extent that the farmer himself would deserve such exemption.

With respect to exempting swap dealers from speculative limits, we would draw the line as follows:

- Swap dealers who lay off the risk of serving producers and users of the commodities involved (directly or as proxy) are *bona fide* hedgers.
- Swap dealers who lay off the risk of serving speculative interests are not.

Consistent with this, **NMPF supports Recommendation 5 of the September 2008 report**, as outlined at 74 FR 12285. The *bona fide* hedge exemption for swap dealers should be replaced with a limited risk management exemption, subject to audit and reporting requirements. Swap dealers act in place of an exchange; to the extent that any swap dealer wishes to claim exemption from speculative limits on an exchange, the basis for that exemption should be as transparent as would be required of an exchange.

Regarding the specific questions outlined in the request for comments:

1. Should swap dealers no longer be allowed to qualify for exemption under the existing *bona fide* hedge definition?

The exemption should be eliminated.

2. If so, should the Commission create a limited risk-management exemption for swap dealers based upon the nature of their clients (e.g., being allowed an exemption to the extent a client is a traditional commercial hedger)?

Such a limited exemption is appropriate, in order to facilitate true hedging for diverse needs.

5. If a new limited risk management exemption were to be permitted to the extent a swap dealer is taking on risk on behalf of commercial clients, how should the rules define what constitutes a commercial client?

A commercial client should be one that produces or uses the commodity in question (or one for which the commodity is an effective proxy), and uses a swap or futures position to offset a legitimate commercial price risk.

Jerry Kozak, President/Chief Executive Officer

Randy Mooney, Chairman

6. How should the Commission (and, if applicable, the responsible industry self-regulatory organization (SRO)) and the swap dealer itself verify that a dealer's clients are commercial? Is certification by the dealer sufficient or would something more be required from either the dealer or the client? If so, what should be reported and how often--weekly, monthly, etc.?

Any exemption should be subject to audit on a risk-adjusted schedule. It would be appropriate to establish a specific and separate category of swap dealers with no noncommercial clients, whose audit burden could be appropriately reduced.

7. For a swap dealer's noncommercial clients, should the rules distinguish between different classes of noncommercial...

There is no reason to distinguish among such clients, except to the extent that another swap dealer can establish the volume of his business that is undertaken on behalf of commercial interests. Passively managed commodity index funds are a simple and sluggish form of speculation; they are less useful to the market than active speculators, and deserve no special consideration or exemption.

9. If a swap dealer were allowed an exemption for risk taken on against another intermediary, how would the dealer satisfy the Commission that its intermediary client does not in turn have noncommercial clients that are in excess of position limits? Is certification by the dealer or second intermediary sufficient or should the dealer or intermediary be required to separately identify the intermediary's largest clients?

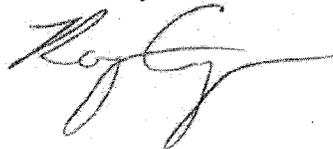
No exemption should be allowed if it cannot be verified through audit; and no exemption should be allowed except for bona fide hedging by producers and users.

11. If none of a swap dealer's clients exceed required reporting levels in a given commodity, or none of such clients exceed reporting levels in any commodity, what type of report should be filed with the Commission--e.g., a certification by the swap dealer to the Commission to that effect?

Swap dealers with noncommercial clients should be subject to reporting analogous to that required of exchanges.

Thank you again for the opportunity to comment on this very important issue. Please call me if you have any questions.

Sincerely,



Roger Cryan,
V.P. for Milk Marketing and Economics
National Milk Producers Federation