MINUTES OF THE SEPTEMBER 24, 2020 MEETING OF THE U.S. COMMODITY FUTURES TRADING COMMISSION'S AGRICULTURAL ADVISORY COMMITTEE

The Agricultural Advisory Committee (AAC or Committee) convened for a public meeting on September 24, 2020, at 2:00 p.m. via teleconference in accordance with the implementation by the U.S. Commodity Futures Trading Commission (CFTC or Commission) of social distancing due to the COVID-19 pandemic. The AAC received an update from the Livestock Task Force and briefings on second quarter National Farm Loan data and the impending launch of a Brazil-based soybean futures contract. The meeting included an overview of the CFTC Division of Enforcement's Self-Reporting Program and the role of intermediaries and the National Futures Association (NFA) in protecting market participants from fraud.

<u>AAC Members in Attendance</u>
Buddy Allen, American Cotton Shippers Association
Joe Barker, National Council of Farmer Cooperatives
Chris Betz, Michigan Agri-Business Association
Robbie Boone, Farm Credit Council
Patrick Coyle, National Grain and Feed Association
Rob Creamer, Futures Industry Association/Principal Traders Group
Robert Crosby, Managed Funds Association
Neil Dierks, National Pork Producers Council
Ed Elfmann, American Bankers Association
Jim Fryer, National Cattlemen's Beef Association
Edward Gallagher, National Milk Producers Federation
H. Thomas Hayden, Jr., Commodity Markets Council
Matt Hines, American Farm Bureau Federation
Thomas Hogan, Cocoa Merchants Association of America
Ashley Hungerford, U.S. Department of Agriculture (USDA) Office of the Chief Economist
Tom Kadlec, Futures Industry Association
Ron Lee, National Cotton Council of America
Erin Morris, USDA Agricultural Marketing Service
John Owen, USARice Federation
Stephen Strong, North American Export Grain Association
Justin Tupper, US Cattlemen's Association

<u>Invited Speakers in Attendance</u>
Nate Kauffman, Vice President and Omaha Branch Executive, Federal Reserve Bank of Kansas City
Alison Coughlin, Director, Commodity Research and Product Development, CME Group
Fred Seamon, Executive Director, Commodity Research and Product Development, CME Group
Tim Andriesen, Managing Director, Agricultural Products, CME Group
Karen Wuertz, Senior Vice President, External Affairs and Communications, NFA
Christie Hillsman, Communications Manager, NFA
Valerie O'Malley, Director, Compliance, NFA
Abigail Campbell, Associate Director, OTC Derivatives, NFA

Christopher Brettman, CFE, Senior Manager, Business Systems & Information Center, NFA

CFTC Commissioners and Staff in Attendance
Heath P. Tarbert, CFTC Chairman and AAC Sponsor
Rostin Behnam, Commissioner
Dan M. Berkovitz, Commissioner
Brian D. Quintenz, Commissioner
Dawn D. Stump, Commissioner
David Amato, Supervisory Market Analyst, Division of Market Oversight
Christa Lachenmayr, Senior Economist, Division of Market Oversight
Vincent McGonagle, Principal Deputy Director, Division of Enforcement
Summer Mersinger, Director, Legislative and Intergovernmental Affairs, and Designated Federal Officer (DFO) and Acting Chair, AAC
Dan Rutherford, Associate Director, Office of Customer Education and Outreach

I. Introduction by the Designated Financial Officer and Chairman

Ms. Mersinger called the meeting to order at 2:00 p.m. She announced that the meeting would begin with opening remarks by Chairman Tarbert, the AAC's Sponsor, and a presentation by Mr. Kauffman, and then resume with roll call and opening remarks from other Commissioners. Next, CFTC Chairman Tarbert thanked Ms. Mersinger and expressed his appreciation for participation by Committee members, presenters, CFTC staff, and the public. He emphasized that the agricultural industry is essential to the fundamental needs of everyone around the world, and that in his view, the derivatives markets must work for the American agricultural sector. Chairman Tarbert noted that when he established the Livestock Task Force in April, he said the CFTC's job is to ensure that the derivatives markets are providing opportunities for end-users to manage and mitigate risk, and it has been doing just that. He added that the Livestock Task Force has conducted enhanced real-time monitoring of livestock markets commensurate with the increased volatility in the cash markets for the underlying commodities, such as live cattle, feeder cattle, and lean hogs. He thanked the Livestock Task Force for their work to protect the integrity and functioning of our livestock markets under unprecedented circumstances. He added that the Division of Enforcement (DOE) recently settled a case with a Mexican meat processing company for violating position limits. He stated that events of 2020 demonstrate the importance of all of us working together as partners, so that agricultural markets continue to function for price discovery and risk management.

II. Kansas City Federal Reserve 2nd Quarter Agricultural Loan Data

Mr. Kauffman gave a high-level overview on agricultural finance based on the Federal Reserve Bank of Kansas City's 2nd Quarter Agricultural Loan Data. He explained that, in contrast to the broader economy, U.S. agriculture had been in a prolonged downturn even before the pandemic, and then conditions deteriorated rapidly especially in April due to the pandemic. Since April, economic conditions in agriculture have improved slightly, due in large part to government stimulus payments. Agricultural credit conditions have remained relatively weak, but farm real estate markets have provided support. He noted that despite the modest increases in farm income in recent years, challenges remain in agricultural finance, and that—even before the pandemic—liquidity was expected to deteriorate alongside low profit margins. He noted that the pandemic disrupted agricultural markets beginning in late-March and early-April, resulting in closures of meatpacking and meat processing facilities. Another major disruption was a massive shift in the way consumers buy food products, which led to significant supply chain disruptions and ultimately lower farm prices. Starting in April 2020, less travel meant there was a sharp decline in production and use of transportation fuel, specifically ethanol. Most major agricultural commodities also dropped sharply in April. Although many prices have rebounded since April lows, they remain lower than at the beginning of the year, with the exception of soybeans.

Mr. Kauffman added that delinquency rates on farm loans have trended higher, but increases have been modest. He stated that despite the increases in delinquencies, the strength of farmland markets has supported agricultural credit conditions and farm balance sheets. He concluded that the most severe potential challenges in agriculture connected with the pandemic have lessened, for now, but concerns appear likely to reemerge in 2021, as low agricultural commodity prices are set to continue to weigh on producer finances, and concerns about liquidity and working capital continue.

III. Opening Statements by CFTC Commissioners

In their opening statements, Commissioners Quintenz, Behnam, Stump, and Berkovitz thanked participants for their time and participation. Commissioner Quintenz noted that the AAC serves as another tool for the Commission to understand and educate themselves to the challenges that the agricultural sector is facing. Commissioner Behnam thanked Ms. Mersinger for her work as DFO and Acting Chair, and thanked the Chairman for his leadership, adding that it's good to see business as usual slightly resume as we work towards normalcy. Commissioner Stump thanked the DFO for putting together this important meeting in this challenging environment. Commissioner Berkovitz noted that there is no substitute for face-to-face and interpersonal interactions, but in the interim, the CFTC can continue to meet virtually, and keep lines of communication open, so that the Commission can hear from the public and market participants regarding what the issues are and how best to respond.

IV. CFTC Division of Enforcement Overview of Self-Reporting

Mr. McGonagle gave an overview of the Commission's self-reporting program. He noted that the interaction of self-reporting, cooperation, and remediation informs how the DOE may recommend an enforcement action against an individual or entity. The Commission's mission is to promote the integrity, resilience, and vibrancy of the U.S. derivatives markets through sound regulation, and enforcement is essential to fulfilling this mission. One way the DOE meets its mission is to take steps to maximize deterrence, that is to prevent wrongdoing before it starts. DOE can do this through timely identification and prosecution of illegal activity and being transparent about the case filings that are made. Timely identification of matters can occur through DOE's surveillance program, regulatory reporting requirements, and analysis of tips, complaint referrals from market participants, whistleblowers, and the public. A timely enforcement response can also occur through effective self-reporting and cooperation.

Mr. McGonagle noted that DOE has had advisories on cooperation for approximately 20 years, which were updated in 2017. A DOE advisory on self-reporting, distinct from cooperation, was first issued by the DOE in 2017. He stated that under DOE's advisory, if a company or an individual wants to self-report, they must first voluntarily report the wrongdoing to DOE, fully cooperate, and then remediate. The disclosure must truly be voluntary and made before an imminent threat of disclosure of a government investigation, independent of any other legal obligation. It must be a real disclosure, designed to notify DOE of the misconduct. He explained that a company seeking to disclose misconduct must fully cooperate throughout the investigation, and make contact within a reasonably prompt time after becoming aware of misconduct. He emphasized that early reporting of misconduct is better, even without full knowledge of all relevant facts or the full extent of the conduct, in order for the company to receive full credit for the disclosure, and that the company must continue to investigate and disclose additional relevant facts as it becomes aware of them, and take appropriate remedial action. He added that cooperation could lead to a recommendation of a substantial reduction in the penalty that otherwise would be applicable. Turning to a supplemental advisory on self-reporting and cooperation for Commodity Exchange Act (CEA) violations involving foreign corrupt practices issued in 2019, he noted that it applies to companies and individuals not registered or required to be registered with the CFTC. He also explained how the level of misconduct affects recommendations of civil monetary penalties, and encouraged companies and individuals to self-report potential violations of the CEA and regulations.

V. Livestock Task Force Update

Mr. Amato provided an update from the CFTC Livestock Task Force, which provides enhanced oversight and surveillance of livestock markets and risks associated with COVID-19. He stated that the markets started 2020 with low prices due to the previous year's weather and trade conflicts, and then starting in the first quarter, the American agricultural sector was extensively impacted due to COVID-19, resulting in price anomalies, heightened volatility, and increased dislocations, such as excess supply of milk and bacon and scarcity of ground beef. In addition, the industry was affected by worker illness, packing plant closings, reductions in processing, and the effects of the pandemic on the phase one trade deal with China and a rise in farm bankruptcies. He stated that the record $37 billion in direct payments from the federal government helped sustain farm incomes, rising to 36 percent of farm income. He noted that boxed beef prices soared during the virus outbreak. As processing plants struggled during the spring to remain open, livestock cash and futures prices fell with the decreased demand for live animals. Boxed beef prices are now near historical averages, although this could rapidly change if there are outbreaks at packing plants. Mr. Amato stated that, by spring, domestic cattle packing plants had high numbers of COVID-19 cases among workers, which caused about three dozen livestock processing plants to close, despite being declared critical infrastructure to the food supply chain. He stated that the COVID-19 outbreak reduced weekly domestic total cattle slaughter numbers by 38 percent from the March high, but has rebounded to almost 45 percent. He stated that after the COVID-19 pandemic started, Lean Hog futures fell as much as 40 percent and Live Cattle futures were down more than 35 percent—a 10-year low. While the markets have stabilized, most agricultural products remain lower by approximately 10 to 20 percent, when compared to January.

In response to a question, Mr. Amato noted that futures markets worked and prices reacted as expected during and following the volatility of the crisis, and there is still sufficient liquidity. Asked about the market leading into the April expiration, he responded that the cash market was almost stagnant, but the futures market provided the industry with price discovery.

VI. CME Group South American Soybean Futures Contract

Ms. Coughlin discussed a South American Soybean futures contract (FOB Santos Soybeans Financially Settled (Platts)), including its design and purpose. She explained that a few decades ago, the U.S. had over 80 percent of global soybean exports, but its share has fallen to under 40 percent, with Brazil overtaking it in both bean production and exports, so a regionally priced product makes sense. Furthermore, the pricing cycle for the CBOT Soybean futures contract does not align with the Brazilian crop, so Brazilian hedgers may not necessarily use CBOT Soybean contracts to hedge all of their exposure. She explained that the new CBOT South American Soybean futures contract's settlement index is based on a class assessment of the price of soybeans in Santos, so that the daily price reflects the value of Brazilian soybeans, which allows market players to stay in the contract through expiration without taking or making delivery. Following the presentation, participants discussed the U.S.'s ability to maintain its position as the dominant futures markets, noting that CME can discuss it further at another meeting.

VII. The Roles of Intermediaries and the National Futures Association in Protecting Market Participants from Fraud

A panel from the NFA discussed the role of intermediaries and the NFA in protecting the futures market from fraud. Ms. Wuertz stated that the agenda would include the NFA's thorough process to ensure that intermediaries meet both the NFA's and the CFTC's rigorous standards, the NFA's robust oversight program, the strong CFTC-NFA regulatory partnership, and the important role of investor education and protection. Ms. Hillsman noted that the NFA is the industry-wide self-regulatory organization for the U.S. derivatives industry, including exchange traded futures, OTC derivatives or swaps, and retail off-exchange foreign currency or Forex, and its regulatory activity is overseen by the CFTC.

Ms. Campbell discussed how the NFA and the CFTC work together, and noted that the CFTC oversees both NFA formal actions and informal actions. The NFA has regularly scheduled coordination meetings with various CFTC Divisions and the Commissioners to ensure that the Commission is aware of all NFA activities. Mr. Brettman explained that the CEA requires the NFA to establish training standards and proficiency testing for persons involved in the solicitation of transactions subject to CEA provisions, and NFA rules require proficiency exams for associated persons (APs) engaged in futures and Forex activities. The NFA recently developed proficiency requirements for APs engaged in swaps. Ms. O'Malley discussed the NFA's membership application process, which includes robust review of a firm's operations, including financial information. She also discussed the NFA's rulemaking process and collaboration with the CFTC, as well as how NFA educates its members once rules are approved. Ms. Campbell then covered recent rulemaking initiatives that stemmed from the need to develop a swap dealer risk profiling system to identify firms that may pose heightened regulatory risk. Ms. O'Malley then discussed some highlights of critical rulemaking pertaining to the NFA's commodity pool operator (CPO) and commodity trading advisor (CTA) members.

Ms. O'Malley then discussed cybersecurity as it relates to protecting NFA's systems, to ensure protection of customer funds and firm and customer data. She stated that the NFA's rules require members to adopt a written information system security program to address the risks of unauthorized access to or attack of their information technology systems and to notify the NFA of certain cybersecurity incidents. Ms. Campbell addressed the NFA's preparation for the CFTC's final swap dealer capital rules, including its focus on approval, oversight, financial filing and notifications, and other matters. Ms. O'Malley discussed how the NFA oversees members' compliance with NFA rules and CFTC regulations and investigates possible violations, using a risk-based approach and predictive analytics to identify high-risk member firms.

Next, Ms. O'Malley discussed regulatory oversight of futures commission merchants (FCMs) and Forex dealer members. The NFA is a member of the Joint Audit Committee, and one of its primary responsibilities is to determine the practices and procedures to be followed by each designated self-regulatory organization (DSRO) in conducting examinations and financial reviews of FCMs. She also discussed the NFA's role in monitoring CPOs, CTAs, and introducing broker (IB) members.

Ms. Campbell discussed the NFA's swap dealer regulatory oversight program that includes conducting compliance examinations and ongoing monitoring. Ms. O'Malley discussed NFA rules, member compliance, and its enforcement process, including disciplinary actions against its members. She discussed the NFA's emergency actions called member responsibility actions, which are typically issued after fraud is detected and can result in the NFA suspending a member or restricting its operations. She stated that when the NFA uncovers a potential ongoing fraud, it immediately notifies the CFTC so that it may bring action in federal court, in addition to any emergency action that the NFA might take. She also discussed the NFA's BASIC tool and its web-based Futures Fundamentals tool, which provide information on the derivatives industry.

NFA panelists then replied to questions about the NFA's major technology initiatives, how the pandemic has affected the NFA, and NFA examination of international firms.

VIII. Other New Business

Mr. Rutherford discussed the work of the CFTC Office of Customer Education and Outreach, including its new agriculture customer education resources web page. Next, Ms. Lachenmayr, the newly appointed CFTC liaison to the USDA, was joined by newly appointed AAC members from the USDA to provide updates. She gave an update on the status of the recently formed AAC subcommittee which was created to review recent requests for approval of amendments to agricultural futures contracts and make recommendations for staff policy, as well as provided an update as USDA liaison. Ms. Hungerford discussed cooperative agreements with various universities that the USDA Office of Chief Economist has entered into and changes to livestock crop insurance programs. Next, Ms. Morris discussed the upcoming USDA Fall Data

Users Meeting. Responding to a question, Ms. Hungerford stated that Livestock Risk Protection (LRP) program for unborn livestock is not required to be part of the Farm Bill, and should be out for 2021 policies.

Hearing no additional questions, Ms. Mersinger adjourned the meeting at 4:52 p.m.

I hereby certify that the foregoing minutes are accurate.

Summer Mersinger ______________________ 12/01/2020

Summer Mersinger Date
AAC Acting Chair and Designated Federal Officer