September 15, 2010

Mr. David Stawick
Secretary of the Commission
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW.
Washington, DC 20581

Re: *Advance Notice of Proposed Rule Making – Request for Comments on Definitions Contained in Title VII of Dodd-Frank Wall Street Reform and Consumer Protection Act; Release No. 34-62717; File No. S7-16-10; RIN 3235-AK65; 3038-AD06*

Dear Secretary Stawick:

AFIA applauds the Commodities Futures Trading Commission (CFTC) for moving quickly to establish the proper definitions for properly implementing the terms of this legislation. We also appreciate the process the Commissioners have laid out to provide us the opportunity to submit input to the CFTC as it works to craft the proposed rule.

AFIA members represent over 70% of the commercial feed and pet food manufactured in the United States each year, and our organization is devoted exclusively to representing the business, legislative, regulatory and educational interests of the animal feed industry and its suppliers. The feed industry is a significant contributor to our nation's food safety, nutritional health and environmental stewardship.

The U.S. feed industry is the single largest purchaser and user of feed grains and oilseeds, as well as processed meals and byproducts as it works to supply America's livestock and poultry producers with the quality feed critical to production of safe, wholesome affordable meat, poultry, eggs and milk. Moreover, because feed represents approximately 70% of the on-farm cost of raising livestock and poultry, it is critical the grain, oilseed and ingredient commodity markets accurately reflect true supply and demand situations for these commodities.

Summary:

Agriculture commodity markets were established to provide an efficient price discovery mechanism and a hedging/risk management tool for producers and end users. While this system encourages and requires speculative participants to provide liquidity, the significant increase of

2101 Wilson Boulevard, Suite 916, Arlington VA 22201 USA
Telephone (703) 524-0810 • Fax (703) 524-1921
afia@afia.org • www.afia.org

financial investors, permitted by special exemption from speculative position limits, has distorted the function of these markets. Most recently, the World Bank released its working paper

identifying the "financialization of commodities" as partially responsible for the 2007-08 spike in food prices. As shown in Illustration I (attached), a few large "massive-passive" Commodity Index funds are creating a paper demand for commodities with their unlimited long positions.

Recognizing the U.S. economy and our industry are still recovering from the recession, it is critical that new regulations not place unnecessary burdens that will negatively affect this recovery. For example, increasing the cost of hedging for bona fide end users will only divert needed capital from investments in business productivity. AFIA members and the agriculture industry have several layers in their bona fide risk management needs, including but not limited to ingredient commodity purchase commitments, interest rates, foreign currency valuations, etc. At the same time, passive long financial investors should not be allowed to continue to influence these markets to the detriment of the bona fide end users and risk to our food industry.

Thus, the basis of a sound regulatory system fostering an efficient, well-functioning exchange traded and over-the-counter commodity (OTC) market begins with solid definitions. These definitions should provide the flexibility required by bona fide end users, and also protect the markets from undue influence of large speculative positions.

Thus AFIA urges the CFTC to establish definitions that achieve the following goals:

Swap Definition:

- The CFTC must preserve a workable exemption for bona fide end users which use derivatives as a risk management tool.

Swap Dealer Definition:

- If the swap dealer's client is a speculator, an exemption should not apply and a position limit should apply to the client
- Swap dealers should only be granted an exemption if they can certify to the Commission that their clients are producers or users of the underlying agricultural or energy commodity, i.e. Commercial hedgers.
- Commercial clients should be defined as those who are physical producers, processors, manufacturers or merchandisers of the commodity, and who depend on the markets for efficient price discovery function, as well as:

2101 Wilson Boulevard, Suite 916, Arlington VA 22201 USA
Telephone (703) 524-0810 • Fax (703) 524-1921
afia@afia.org • www.afia.org

AMERICAN FEED INDUSTRY ASSOCIATION

- Those who take a position or transact a contract for future delivery or in a commodity option on the commodities exchange to manage the price risk of commodities for these physical uses.

- Those who time their contracts or options to terminate with the ultimate sale or use of the physical commodities.

- The CFTC should change its classification of current exempted index funds and swap dealers from "commercial" because they do not take delivery of the commodity, nor are they a physical participant.
- The CFTC should adopt a "see-through" policy to clearly identify who are the true commercial (producers or users of the agriculture or energy commodities) versus speculative investors.

Major Swap Participant Definition:

- This definition should include Wall Street banks, index funds, and exchange traded funds (ETF) which use the markets to buy and hold, or exercise "passive long" investment strategies. These large financial commodity speculators have the capital power to artificially influence commodity markets to the detriment of bona fide hedgers and should not be permitted to maintain their current exemption for speculative position limits.

The establishment of sound definitions is the foundation of ensuring any new regulations effectively protect the physical commodity customer's availability of a viable price discovery mechanism and risk management tool. We request the Commission proceed with its objective to minimize additional costs or capital requirements on bona fide hedgers, while limiting the ability of passive long financial speculators to artificially influence these commodity market functions.

AFIA appreciates the opportunity to provide comments. Please do not hesitate to contact me if I can provide further information or you have questions regarding the feed industry's position on this proposed rule. AFIA looks forward to providing further comments and working with the Commission to ensure commodity markets remain an effective tool for the end users.

Respectfully submitted,

Joel G. Newman
President & CEO

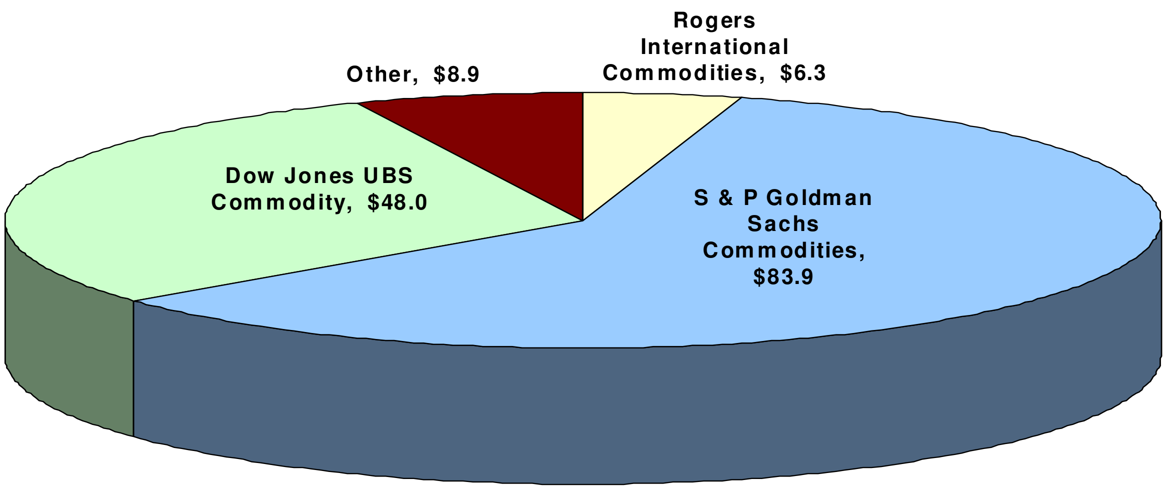
2101 Wilson Boulevard, Suite 916, Arlington VA 22201 USA
Telephone (703) 524-0810 • Fax (703) 524-1921
afia@afia.org • www.afia.org

Illustration I

Relevant Statistics for Investor Activity					
Total Investment *	4/29/2008	6/17/2008	10/28/2008	2/17/2009	5/26/2009
S&P GSCI	$126,838	$142,729	$52,949	$56,980	$83,930
DJ-UBS	$90,985	$98,916	$39,316	$28,312	$41,682
Total	$217,824	$241,645	$92,265	$85,291	$125,611
Total Cash Injections **					
S&P GSCI	-$65	$2,141	-$2,031	-$389	$943
DJ-AIG	$1,902	$1,805	-$4,056	-$656	-$5

Source: PKVerleger LLC
* Millions as of Date   ** Millions, Four-Week Moving Average

Money in Commodity Index Funds*



*Figures are the industry's best estimate, as of May 26, 2009

2101 Wilson Boulevard, Suite 916, Arlington VA 22201 USA
Telephone (703) 524-0810 • Fax (703) 524-1921
afia@afia.org • www.afia.org