National Farmers Union

UNITED TO GROW FAMILY AGRICULTURE

May 1, 2013

The Honorable Debbie Stabenow
Chairwoman, Senate Committee on
Agriculture, Nutrition & Forestry
328A Russell Senate Office Building
Washington, DC 20510

The Honorable Thad Cochran
Ranking Member, Senate Committee on
Agriculture, Nutrition & Forestry
113 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairwoman Stabenow and Ranking Member Cochran:

Thank you for the opportunity to offer comments on the reauthorization of the Commodity Futures Trading Commission (CFTC). National Farmers Union (NFU) members understand the great importance of this regulatory agency and we are encouraged by the work of the Senate Agriculture Committee in preserving the integrity and effectiveness of the CFTC.

Farmers Union members rely upon functioning commodity markets in order to sell their crops or livestock as well as to purchase inputs. These markets have wide-ranging impacts upon the rural and agricultural economies. For example, high commodity prices can result in elevated land prices, making entry into agriculture cost prohibitive for new and beginning farmers. Low commodity prices can send crop farmers into dire financial straits but may improve the standing of dairy farmers, ranchers, and poultry growers. Because of the reverberations that result from volatility in the commodity markets, diligent market oversight by the CFTC is necessary to long term success for family farmers and ranchers.

NFU opposed the deregulation of much of the financial sector in the 1990s and supported the landmark Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act). The Dodd-Frank Act made vital regulatory improvements to help prevent the abuse of commodity markets. NFU is a member of the Commodity Markets Oversight Coalition, a group comprised of organizations representing *bona fide* hedgers and commercial end-users in a variety of economic sectors. CMOC has also submitted comments on the CFTC reauthorization, which further detail many specific concerns that the committee should address.

At the time of their creation, commodity markets were designed to serve as a tool for commercial end-users and hedgers to mitigate price and uncertainty risks faced in their enterprises. The commodity markets were – and still should be – used to establish fair prices according to supply and demand fundamentals. Unfortunately, massive positions held by speculators and a culture of deregulation has distorted these markets. Although speculation is

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necessary to provide markets with liquidity and to assist in risk management practices, speculation has come to dominate commodity markets. A study by CFTC found that as much as 80 percent of market activity is conducted by speculators and that speculative activity has increased by at least 64 percent since June 2008. This level of activity certainly qualifies as "excessive speculation."

The CFTC has taken action on mandatory position limits in accordance with Section 737 of the Dodd-Frank Act. A final rule was published on Oct. 18, 2011, which NFU supported. However, before the rule could go into effect, it was overturned by a District Court Judge on Sept. 28, 2012. The court's decision is under appeal, and NFU was among a coalition of organizations who submitted an amicus curiae brief with the hope that the ruling will be reversed.

Whether or not the position limits rule is allowed to be implemented, NFU urges the committee to further investigate the position limits rule of Oct. 18, 2011, in order to determine the effectiveness of the rule. The limits may be set too high to have a substantial impact on the market manipulation brought about by excessive speculation. When reauthorizing the CFTC, class-specific limits on speculation ought to be enacted and additional, more stringent position limits in the spirit of the Dodd-Frank Act should be implemented.

There are other crucial regulatory issues to be addressed by CFTC in the coming years and the committee should consider them during the reauthorization process.

- High frequency trading (HFT) is a high risk operating procedure that oftentimes diverges from market fundamentals in determining commodity prices. NFU asks that the committee call for further investigation and regulation of HFT automated activity.
- Index funds are an ever-growing player in commodity markets and are tied to the excessive speculation that increases volatility. Several legislative initiatives are in progress to prohibit index funds from taking positions in commodities. NFU urges the committee to direct CFTC to limit or end index fund commodity speculation in the CFTC reauthorization.
- As the financial stakes continue to rise in the commodity markets, so too should penalty assessments. Speculators should be deterred by fines rather than just considering the penalties as simply the cost of doing business. Higher penalties will more effectively deter illegal and unlawful behavior.

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Farmers are at the core of our rural economy and are helping to drive our nation's recovery from a difficult economic time. Another commodity price bubble or a sudden collapse would be difficult for many farmers to weather. A reauthorized and energized CFTC will help to bring stability to the levels of commodity price volatility that are so damaging to NFU members.

Thank you for your consideration of these comments and I look forward to working with the committee throughout the CFTC reauthorization process.

Sincerely,

Roger Johnson

Roger Johnson

President