Statement of
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SENATE COMMITTEE ON AGRICULTURE,
NUTRITION & FORESTRY
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Chairman Roberts, Ranking Member Stabenow, and members of the Committee, thank you for the invitation to testify today with respect to the reauthorization of the Commodity Futures Trading Commission (CFTC) and, in particular, several key issues concerning the agriculture industry's ability to use and offer risk management tools.

I am Joe Barker, Director of Brokerage Services of CHS Hedging, the commodity brokerage subsidiary of CHS Inc. CHS Inc. is a farmer-owned cooperative and a grain, energy and foods company. We are owned by approximately 140,000 individual farmers and ranchers, in addition to about 1,100 local cooperatives who represent another 480,000 producers. CHS is committed to helping its customers, farmer-owners and other stakeholders grow their businesses through its domestic and global operations. CHS has over 11,000 employees and locations in 19 countries. CHS Hedging has been registered with the CFTC as a futures commission merchant (FCM) since 1986 and is a clearing member of the Chicago Mercantile Exchange and the Minneapolis Grain Exchange. We provide risk management services to agriculture producers, local cooperatives, and commercial customers. We specialize in the providing market insight and advice focused on the grain, livestock, dairy, energy and crop nutrient markets.

Today, I am testifying on behalf of the National Council of Farmer Cooperatives (NCFC). NCFC represents roughly 2,000 farmer-owned cooperatives across the country whose members include a majority of our nation's more than 2 million farmers. I also serve as NCFC's representative to CFTC's Agricultural Advisory Committee.

Farmer cooperatives – businesses owned, governed and controlled by farmers and ranchers – are an important part of the success of American agriculture. According to the USDA data from 2016, farmer-owned cooperatives had total net sales of about $189 billion and employed 300,000 Americans, mostly in rural areas. Cooperatives are a trusted partner that helps individual farmers and ranchers through the ups and downs of weather, commodity markets, and technological change. Through their cooperatives, producers are able to improve their income from the marketplace, manage risk, and strengthen their bargaining power, allowing them to compete globally in a way that would be impossible to do individually.

In particular, by providing commodity price risk management tools to their member-owners, farmer cooperatives help mitigate commercial risk in the production, processing and selling of a broad range of agricultural, energy and food products. America's farmers and ranchers must continue to have access to new and relevant risk management products that enable them to feed, clothe and provide fuel to consumers here at home and around the world. This year's flooding, which is impacting so many producers so severely, coupled with the challenging international trade environment, once again illustrate the need for multilayered risk management strategies in agriculture.

Cooperatives' Use of Derivative Markets

As processors and handlers of commodities and suppliers of farm inputs, farmer cooperatives are commercial end-users of the futures exchanges, as well as the over-the-counter (OTC) derivatives markets. They use exchange-traded futures and options and OTC derivatives to hedge the price risk of commodities they purchase, supply, process or handle for their members.

In addition to the exchange-traded contracts, OTC derivatives have become increasingly important to hedge price risks. Especially when there is significant market volatility, cooperatives can use these products to better manage their exposure by customizing their hedges. OTC derivatives also gives cooperatives the ability to provide customized products to farmers and ranchers to help them better manage their risk and returns. Much like a supply cooperative leverages the purchasing power of many individual producers, a marketing cooperative pools the production volume of hundreds or thousands of growers and aggregates its owner-members' small volume sales or forward contracts into trainload and ultimately vessel-load quantities of food that feed the world. Doing this efficiently requires a substantial amount of commodity price risk management expertise and effort.

In addition, there are farmer-owned cooperative FCMs, such as CHS Hedging, that provide brokerage services to farmers, ranchers, and commercial agribusiness. These operations perform a critical service of providing price risk management to a customer base comprised largely of physical commodity hedgers.

Currently our agriculture markets are in a period of increased volatility fueled by ongoing international trade negotiations and an extremely wet spring that has cause the slowest corn and soybean planting progress on record. The trade issues have led to dramatic price swings in the prices of grain, livestock and dairy markets over the past 12 months. For example, the spot price of cheddar cheese at Chicago Mercantile Exchange traded as high as $1.7475/pound on October 1, 2018, then as low as $1.33/pound on December 11, 2018, and then as high as $1.80/pound on June 13, 2019. To manage such large commodity price risks and movements, cooperatives rely on highly functioning derivatives markets.

NCFC members are also seeing record levels of risk management usage among their producers, both in the traditional forward contracting programs and in the new Crop Insurance Dairy Revenue Protection program. They report their risk management volumes are at record levels and more and more members are using their programs. Additionally, they are experiencing significantly more interest in producers hedging their purchased feed needs, either through a milk-feed margin type forward contract or via a swap transaction. The primary reasons given for increased hedging volume are 1) stronger commodity milk pricing opportunities in the second half of 2019 and 2020, which are high enough for many dairy farmers to lock into a profit margin on their dairies; and, 2) uncertainty and concerns over potential volatility similar to what they experienced last year.

CFTC Reauthorization

It is essential to the agriculture industry to have sound, well-functioning commodity derivatives markets. The CFTC plays the critical role of ensuring the integrity of those markets on the price discovery and risk management functions for our industry.

When the Committee previously looked to reauthorize the CFTC in 2016, NCFC supported the Committee's Commodity End-User Relief Act, which as you know was not enacted. At the time, there were a number of outstanding issues the agriculture industry faced with rules written by CFTC to implement the Dodd-Frank Act. That bill addressed those concerns, such as undue recordkeeping requirements on end-users. Today, I'm pleased to report to the Committee that those issues have since largely been resolved administratively by the Commission. We greatly appreciate the oversight role the Senate Agriculture Committee played in addressing those provisions. Your work in encouraging CFTC to ensure that the agriculture industry has affordable access to risk management tools is commendable.

Throughout Dodd-Frank implementation, NCFC has advocated that the agriculture industry does not fit in a one-size-fits-all regulatory regime meant for Wall Street. As such, we continue to encourage you to help ensure that regulatory burdens don't impede the ability of farmers, their cooperatives and others involved in the agriculture industry to have access to the risk management tools they need.

Costs to End Users

Aggregate regulatory costs and market liquidity are an ongoing concern for farmers and their cooperatives. Agriculture is a high-volume, low-margin industry, and incremental increases in costs, whether passed on from an exchange or imposed directly on a cooperative trickle down and impact farmers. Taken incrementally, the costs may not seem unreasonable, but to those who have to absorb or pass on the collective costs of numerous regulations it is evident. Even as end users, significant resources must be used just to comply with the additional paperwork requirements called for under Dodd-Frank. In fact, a number of NCFC members have had to greatly increase spending on compliance staff and technology due to additional regulations. For example, CHS Hedging has more than doubled the size of staff focused on the daily, monthly and annual audits over the last three years.

The CFTC performs the critically important role of helping safeguard U.S. futures and swaps markets, which benefits all Americans with more stable prices and a sound financial system. And while the Commission's responsibilities have expanded dramatically over the past decade, until recently adequate funding has not kept up. While outside the jurisdiction of this Committee, we encourage Congress to provide sufficient funding through appropriations for CFTC to perform its important functions. However, we would like to caution the Committee against imposition of any type of user fee on the industry to fund the CFTC. We fear a further increase in cost structure due to higher transaction costs would discourage prudent hedging practices. To be clear, a user fee would result in an increase in risk being absorbed in the agriculture community, and would likely reduce the desire for participants, such as agricultural producers, to hedge their price risk.

The Position Limits Rule

We appreciate the work of the Commission in addressing many of our concerns in the Dodd-Frank rule-writing process. While Dodd-Frank rules are largely finished and implemented, the position limits rule has yet to be finalized. The initial rule imposing speculative position limits for swaps and futures was vacated by a court decision in September 2012. Since that time, CFTC has released a number of proposals, opened comment periods, and held roundtables and advisory committee meetings to receive input.

It is NCFC's view that any federal speculative position limits rule should not unduly burden commercial end-users who utilize derivatives markets for economically appropriate risk management activities. Specifically, we have continued to advocate that the CFTC recognize common commercial hedging practices, such as anticipatory hedging and cross hedging, as bona fide hedges in that rule. We have asked that the CFTC craft more principles-based regulations than previously proposed, taking into account the legitimate hedging needs of farmer cooperatives and other commercial end users. Given the nature of the various commodity markets, there should not be a one-sized fits all approach determining position limits.

We understand that the Commission has committed to Congress to finalize that rule and we look forward to providing further input when a proposal is made available for public comment. While we are confident that the Commission will take commodity hedger's views and concerns into account, I would encourage this Committee to also keep a close eye on the bona fide hedge definition as the rule is rewritten.

Thank you again for the opportunity to testify today before the Committee on behalf of farmer-owned cooperatives. We appreciate your role in ensuring that farmer cooperatives will continue to be able to effectively hedge commercial risk and support the viability of their members' farms and cooperatively owned facilities. I look forward to answering any questions you may have.

Thank you.