April 12, 2016

The Honorable Pat Roberts
Chairman
Senate Committee on Agriculture,
Nutrition, and Forestry
328A Russell Senate Office Building
Washington, DC, 20510

The Honorable Debbie Stabenow
Ranking Member
Senate Committee on Agriculture,
Nutrition, and Forestry
328A Russell Senate Office Building
Washington, DC, 20510

Dear Chairman Roberts and Ranking Member Stabenow,

The undersigned organizations represent a very broad cross-section of U.S. production agriculture and agribusiness. We urge you to cast an affirmative vote for the "Commodity End-User Relief Act" when it is considered later this week in the Committee on Agriculture, Nutrition and Forestry.

This legislation contains a number of important provisions for agricultural and agribusiness hedgers who use futures and swaps to manage their business and production risks. Some, but certainly not all, of the bill's important provisions include:

- Sections 101-103 – Codify important customer protections to help prevent another MF Global situation.
- Section 104 – Provides a permanent solution to the residual interest problem that would have put more customer funds at risk – and potentially driven farmers, ranchers and small hedgers out of futures markets – by forcing pre-margining of their hedge accounts.
- Section 302 – Gives the force of law to relief from burdensome and technologically infeasible recordkeeping requirements in commodity markets.
- Section 304 – Requires the CFTC to conduct a study and issue a rule before changing the de minimis threshold for swap dealer registration in order to make sure that doing so would not harm market liquidity and end-user access to markets.
- Section 306 – Confirms the intent of Dodd-Frank and historical practice at the Commodity Futures Trading Commission that anticipatory hedging is considered bona fide hedging activity, a hugely important matter for maintaining risk management tools for producers and traditional hedgers.

Thank you in advance for your support of this bill that is so important to U.S. farmers, ranchers, hedgers and futures customers.

Sincerely,

Agribusiness Council of Indiana
American Cotton Shippers Association
American Farm Bureau Federation
American Feed Industry Association
American Soybean Association
Commodity Markets Council
Kansas Grain and Feed Association
Michigan Agri-Business Association
Michigan Bean Shippers Association
Minnesota Grain and Feed Association
National Association of Wheat Growers
National Cattlemen's Beef Association
National Corn Growers Association
National Cotton Council
National Council of Farmer Cooperatives
National Grain and Feed Association
National Pork Producers Council
Nebraska Grain and Feed Association
North American Export Grain Association
North Dakota Grain Dealers Association
Ohio Agribusiness Association
Oklahoma Grain and Feed Association
Rocky Mountain Agribusiness Association
USA Rice

cc. Members, Committee on Agriculture, Nutrition and Forestry, United States Senate

CHAMBER OF COMMERCE
OF THE
UNITED STATES OF AMERICA

R. BRUCE JOSTEN
EXECUTIVE VICE PRESIDENT
GOVERNMENT AFFAIRS

1615 H STREET, N.W.
WASHINGTON, D.C. 20062-2000
202/463-5310

April 13, 2016

The Honorable Pat Roberts
Chairman
Committee on Agriculture, Nutrition, and Forestry
United States Senate
Washington, DC 20510

The Honorable Debbie Stabenow
Ranking Member
Committee on Agriculture, Nutrition, and Forestry
United States Senate
Washington, DC 20510

Dear Chairman Roberts and Ranking Member Stabenow:

The U.S. Chamber of Commerce, the world's largest business federation representing the interests of more than three million businesses of all sizes, sectors, and regions, as well as state and local chambers and industry associations, and dedicated to promoting, protecting, and defending America's free enterprise system, strongly supports the Commodity End-User Relief Act, which would reauthorize the Commodity Futures Trading Commission ("CFTC"). This bill also includes a number of important reforms designed to promote smart regulation, enhance accountability at the CFTC, and protect Main Street businesses from onerous and unintended derivatives regulation.

In particular, the Chamber supports provisions in the bill that would help preserve continued access to derivatives by end-users. This bill includes an important provision that would direct the CFTC to conduct a thorough study analyzing the potential impact of modifying the *de minimis* threshold for registering as a swap dealer. While the CFTC has issued a preliminary report on this issue,[1] the study noted several limitations in its analysis as a result of a lack of availability of swap market data availability. This lack of data strongly cautions against the CFTC changing the current registration threshold at this time.

Moreover, the Chamber believes that reducing the current registration threshold could reduce liquidity and the availability of counterparties for end-users to trade with, thereby negatively impacting end-users' ability to hedge. Importantly, the Commodity End-User Relief Act would require the existing *de minimis* exemption level to stay in effect until changed by the CFTC through rulemaking, with such rulemaking taking effect no earlier than one year after the rule is published. This requirement would both permit the CFTC to acquire the necessary data to inform any potential change in the swap dealer *de minimis* threshold and require that this change occur through a transparent rulemaking process.

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[1] See CFTC Staff Report, Swap Dealer De Minimis Exception Preliminary Report (Nov. 18, 2015), available at http://www.cftc.gov/idc/groups/public/@swaps/documents/file/dfreport_sddeminis_1115.pdf.

The Chamber also supports provisions in this bill intended to provide additional end-user relief, including clarifying the recordkeeping requirements for nonregistered members of designated contract markets or swap execution facilities, clarifications surrounding bona fide hedging, and exempting qualified charitable organizations from designation and regulation as commodity pool operators. These changes are consistent with Congress' clear intent under the Dodd-Frank Act that non-financial companies be protected from burdensome and unnecessary regulations.

Finally, the Chamber is strongly opposed to proposals that would fund the CFTC through user fees. Such fees, even if not directly applied to end-users, would undoubtedly flow to Main Street businesses seeking to engage in hedging activities, increasing the cost of such hedges and reducing the efficiency of our capital markets. Given that end-users are already absorbing the costs of compliance with new derivatives regulation, a user fee would only further raise costs on these businesses.

The Commodity End-User Relief Act would be an important step towards the reauthorization of the CFTC while providing necessary clarifications on issues impacting end-users today. Accordingly, the Chamber urges the committee to expeditiously mark-up and report this bill favorably to the full Senate.

Sincerely,

R. Bruce Josten

cc: Members of the Committee on Agriculture, Nutrition, and Forestry

April 13, 2016

Dear Chairman Roberts:

The undersigned organizations represent a broad cross-section of end-users of derivatives markets and U.S. futures exchanges. Our companies are extremely supportive of the "Commodity End-User Relief Act" which we understand will be considered tomorrow by the Committee on Agriculture, Nutrition and Forestry.

This legislation contains a number of important provisions for risk management activities of not only our companies, but also for the hedging operations of our customers who use futures and swaps to manage their business and production risks. Some, but certainly not all, of the bill's important provisions include:

- Sections 101-103 – Codifies important customer protections to help prevent another MF Global situation.
- Section 104 – Provides a permanent solution to the residual interest problem that would have put more customer funds at risk – and potentially driven farmers, ranchers and small hedgers out of futures markets – by forcing pre-margining of their hedge accounts.
- Section 302 – Gives the force of law to relief from burdensome and technologically infeasible recordkeeping requirements in commodity markets.
- Section 304 – Requires the Commodity Futures Trading Commission ("CFTC") to conduct a study and issue a rule before changing the *de minimis* threshold for swap dealer registration in order to make sure that doing so would not harm market liquidity and end-user access to markets.
- Section 306 – Confirms the intent of Dodd-Frank and historical practice at the CFTC that anticipatory hedging is considered *bona fide* hedging activity, a hugely important matter for maintaining risk management tools for producers and traditional hedgers.

Thank you in advance for your support of this bill that is so important to U.S. farmers, ranchers, hedgers and futures customers.

Sincerely,

Archer, Daniels, Midland Company
BP Corporation North America Inc.
Cargill Inc.
Exelon

The Gavilon Group, LLC
Gunvor Group Ltd
INTL FCStone Inc.
Louis Dreyfus Company
Minneapolis Grain Exchange, Inc.
Mondelēz International

CHURCH ALLIANCE
Acting on Behalf of Church Benefits Programs

Counsel:
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April 6, 2016

The Honorable Pat Roberts
U.S. Senate
109 Hart Senate Office Building
Washington, DC 20510

The Honorable Debbie Stabenow
U.S. Senate
731 Hart Senate Office Building
Washington, DC 20510

Dear Chairman Roberts and Ranking Member Stabenow:

On behalf of the Church Alliance, I am writing to strongly urge consideration of CFTC reauthorization legislation that includes a provision expanding the church plan exemption from the commodity pool operator ("CPO") and commodity trading advisor ("CTA") rules under the Commodity Exchange Act ("CEA") to include church plan-related accounts. This is extremely important to the Church Alliance and the more than 1 million clergy, lay workers, and their family members that put their faith in church plans for financial security.

The Church Alliance is a coalition of the chief executive officers of 37 church benefit programs. It includes mainline Protestant denominations, two branches of Judaism, and Catholic dioceses, schools and institutions.

Church benefits boards often use investment managers or advisers that engage in commodities transactions for the purposes of diversification and hedging. Church benefits boards also have the ability to pool plan assets with other church-related funds purely for investment management purposes for the benefit of the church.

In contrast to the CEA and implementing regulations, the securities laws contain necessary exemptions for church plans and church plan-related accounts for the same reason noted above. Under these laws, church plans are not required to register or report as investment companies, register securities held, or disclose information about the securities they hold.

Church plans and church plan-related accounts should similarly be exempted from the commodity pool definition and from CTA registration requirements. The exemptions would provide parity between securities and commodities laws concerning church plans and church plan-related accounts. Additionally, the exemptions would reduce the cost to church plans and would ensure they have the full benefit of commodities investments that provide diversification, opportunities to hedge, and returns.

H.R. 2289, the "Commodity End-Users Relief Act," which was passed by the House, included a provision to expand the church plan exemption to the CPO rules to also include non-plan assets that benefit boards may manage. The provision was included during the House Agriculture Committee's mark-up of the legislation as a result of a bipartisan amendment, which was adopted unanimously.

We respectfully urge the Senate Agriculture Committee's consideration of CFTC reauthorization bill that contains this much-needed fix and its ultimate enactment. The ultimate benefit of this fix would be to clergy and church lay worker participants in the retirement and welfare plans, who have devoted their lives to religious institutions. Thank you.

Sincerely yours,

Barbara A. Boigegrain

Barbara A. Boigegrain
Chair, Church Alliance
General Secretary and CEO,
General Board of Pension and Health Benefits of
The United Methodist Church

cc: Members of the Senate Agriculture Committee

Commodity Markets Council
1300 L St., N.W. Suite 1020
Washington, DC 20005
Tel 202-842-0400
Fax 202-789-7223
www.commoditymkts.org

April 13, 2016

Dear Senator Roberts:

The Commodity Markets Council ("CMC") writes to commend you for your work on CFTC reauthorization and to urge your colleagues on the Senate Committee on Agriculture, Nutrition and Forestry ("Committee") to support the Commodity End-User Relief Act during the Agriculture Committee mark up tomorrow.

CMC is a trade association that brings together exchanges and their industry counterparts. Its members include commercial end-users that utilize the futures and swaps markets for agriculture, energy, metal, and soft commodities. Its industry member firms also include regular users and members of swap execution facilities (each, a "SEF") as well as designated contract markets (each, a "DCM"), such as the Chicago Board of Trade, Chicago Mercantile Exchange, ICE Futures US, Minneapolis Grain Exchange, NASDAQ Futures, and the New York Mercantile Exchange. Along with these market participants, CMC members also include regulated derivatives exchanges. The businesses of all CMC members depend upon the efficient and competitive functioning of the risk management products traded on DCMs, SEFs, and over-the-counter ("OTC") markets. As a result, CMC is well-positioned to provide a consensus view of commercial end-users on the impact of this legislation on derivatives markets. Its comments, however, represent the collective view of CMC's members, including end-users, intermediaries, and exchanges.

The legislation is critical to CMC members who rely on well functioning markets to hedge business operations in the agriculture and energy sectors. The ability to engage in hedging strategies is key for American businesses and merchandisers to be able to efficiently move commodities from places of production to places where consumers want them. More importantly, the ability to hedge and manage risk allows our members to pay farmers and producers the best prices for their crops and energy commodities and to give consumers lower prices for food and fuel. The Commodity End-User Relief Act confirms the intent of Dodd-Frank and historical practice at the Commodity Futures Trading Commission that anticipatory hedging is considered *bona fide* hedging activity, a hugely important matter for maintaining risk management tools for producers and traditional hedgers.

It also, codifies important customer protections to help prevent another MF Global situation and requires the CFTC to conduct a study and issue a rule before changing the *de minimis* threshold for swap dealer registration in order to make sure that doing so would not harm market liquidity and end-user access to markets.

Given the tremendous importance of this legislation we write in support of this Bill.

Sincerely,

Gregg Doud
President
Commodity Markets Council

Edison Electric
INSTITUTE

Thomas R. Kuhn
President

April 13, 2016

Senator Pat Roberts
Chairman, Senate Committee on
Agriculture, Nutrition, and Forestry
United States Senate
Washington, DC 20510

Senator Debbie Stabenow
Ranking Member, Senate Committee on
Agriculture, Nutrition, and Forestry
United States Senate
Washington, DC 20510

Dear Chairman Roberts and Ranking Member Stabenow:

On behalf of the member companies of the Edison Electric Institute (EEI), we want to express our strong support for the Commodity End-User Relief Act. Key provisions in the legislation provide additional certainty and clarify congressional intent on a number of issues of significant importance to our members.

EEI is the association of all U.S. investor-owned electric companies, international affiliates, and industry associates worldwide. Our members provide electricity for 220 million Americans, directly employ more than 500,000 workers, and operate in all 50 states. With more than $90 billion in annual capital expenditures, the electric power industry is responsible for providing reliable, affordable, and sustainable electricity that powers the economy and enhances the lives of all Americans.

EEI's members are non-financial entities that participate in the physical commodity market and rely on swaps and futures contracts primarily to hedge and mitigate their commercial risk. The goal of our member companies is to provide their customers with reliable electric service at affordable and stable rates, which has a direct and significant impact on literally every area of the U.S. economy. Since wholesale electricity and natural gas historically have been two of the most volatile commodity groups, our member companies place a strong emphasis on managing the price volatility inherent in these wholesale commodity markets to the benefit of their customers. The derivatives market has proven to be an extremely effective tool in insulating our customers from this risk and price volatility. In sum, our members are the quintessential commercial end-users of swaps.

As such, regulations that make effective risk management options more costly for end-users of swaps will likely result in higher and more volatile energy prices for retail, commercial, and industrial customers. This legislation goes a long way in providing much needed regulatory relief and even greater clarity to the compliance landscape facing EEI's member companies and the entire end-user community going forward.

Thank you for your leadership on these important issues. We look forward to working with you to advance this legislation through the Senate.

Sincerely,

Thomas R. Kuhn

NCFC
National Council of Farmer Cooperatives

April 12, 2016

Dear Senator:

The National Council of Farmer Cooperatives (NCFC) urges you to support the Commodity Futures Trading Commission (CFTC) reauthorization bill, the *Commodity End-User Relief Act*, when it is considered at the Senate Agriculture Committee markup on Thursday, April 14.

NCFC supports the bill as it better protects farmers, ranchers, and agricultural businesses that use the futures markets by codifying several regulatory customer protections into law. In addition, the legislation recognizes the difficulties and costs to hedgers – including farmer cooperatives and the farmers who own them – that have inadvertently resulted from implementation of various CFTC regulations.

Specifically, the *Commodity End-User Relief Act* includes a number of provisions that will help ensure farmer cooperatives have the tools to help hedge their commercial risk in the production, processing and marketing of a broad range of agricultural, energy and food products. In addition, it will enable cooperatives to continue to offer their members tools to help them hedge their production risks at the farm level.

Again, we encourage you to support this legislation at the Senate Agriculture Committee markup on Thursday. Please contact Kevin Natz (knatz@ncfc.org) if you would like additional information.

Sincerely,

Charles F. Conner
President & CEO

The Jewish Federations OF NORTH AMERICA
Washington D.C. Office

THE **STRENGTH** OF A PEOPLE.
THE **POWER** OF COMMUNITY.

April 13, 2016

The Honorable Pat Roberts
Chairman, Senate Committee on
Agriculture, Nutrition and Forestry
SR-328A, Russell Senate Office Building
Washington, DC 20510-6000

The Honorable Debbie Stabenow
Ranking Member, Senate Committee on
Agriculture, Nutrition and Forestry
SR-328A, Russell Senate Office Building
Washington, DC 20510-6000

Dear Chairman Roberts and Ranking Member Stabenow:

On behalf of The Jewish Federations of North America, the national organization that represents and serves 151 Jewish federations and over 300 independent Jewish across North America, I am writing to express our strong support for the *"Commodity Futures End-User Relief Act,"* and especially Section 307 of the act, which will exempt qualified charitable organizations such as Jewish federations and related Jewish community foundations from registration with the Commodity Futures Trading Commission.

An important part of the charitable mission of Jewish federations and related Jewish community foundations is to help grow the endowment assets of their organizations and those of related Jewish agencies and synagogues who have entrusted their endowment funds with federations. This is currently accomplished through pooling investment assets to maximize financial return, minimize cost and risk, and take advantage of investment expertise and economies of scale. Increased endowment dollars translate into more current support of essential program activities as well as helping to assure the long-term viability of key Jewish organizations and institutions.

Since the enactment of 1995 legislation, it is clear that such pooled investment funds have been exempt from costly registration with the Securities and Exchange Commission. However, changes to the investment rules as a result of the Dodd-Frank Act in 2010, have added uncertainty and confusion as to whether pooled funds held by charitable organizations meet the definition of commodity pools and must register with the Commodity Futures Trading Commission.

This act will harmonize the registration exemptions between securities and commodities laws and regulations and will exempt qualified charities from registering their pooled funds as commodity pools or as commodity pool operators. This exemption will eliminate confusion, spare needless legal costs, and ensure that such organizations as Jewish federations and foundations can continue to invest in widely diversified instruments in order to maximize returns to their beneficiaries who use such investment income to provide additional social services to the most needy among us.

JFNA commends your leadership in consideration of commodities legislation and urge you to approve this act for full Senate consideration.

Sincerely,

William C. Daroff

William C. Daroff
Senior Vice-President for Public Policy &
Director of the Washington Office

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Washington, DC 20006-3736

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AGA

April 13, 2016

The Honorable Pat Roberts
Chairman
Committee on Agriculture, Nutrition and Forestry
United States Senate
Washington, DC 20510

DELIVERED VIA ELECTRONIC MAIL

Dear Chairman Roberts:

The American Gas Association (AGA) strongly supports the *Commodity End-User Relief Act,* a bill to reauthorize the Commodity Exchange Act (CEA) that would improve Commodity Future Trading Commission (CFTC) operations and provide much-needed marketplace certainty and regulatory relief for natural gas utilities and the American homes and businesses to which they deliver natural gas.

The American Gas Association (AGA), founded in 1918, represents more than 200 local energy companies that deliver clean natural gas throughout the United States. There are more than 71 million residential, commercial and industrial natural gas customers in the U.S., of which 94 percent — over 68 million customers — receive their gas from AGA members. AGA is an advocate for natural gas utility companies and their customers and provides a broad range of programs and services for member natural gas pipelines, marketers, gatherers, international natural gas companies and industry associates. Today, natural gas meets more than one-fourth of the United States' energy needs.

The *Commodity End-User Relief Act* will help the CFTC become a more responsive and well-equipped regulator in at least two important ways.

1. **Exempts End-Users' Physical Contracts from "Swaps" and "Options" Regulation:** Currently, the CFTC has not provided clear guidance to gas utility commodity end users as to whether certain physical natural gas transactions with volumetric optionality are regulated as "swaps" (financial derivatives). These contracts are important components of a gas utility's supply portfolio used to respond to customer demand, operational needs, and to satisfy the regulatory requirement to stand ready to meet customer gas supply needs. This regulatory uncertainty has resulted in many natural gas utilities deciding to classify and report these transactions to the CFTC as "trade options" – a form of "swap" subject to slightly lighter regulation. This regulatory uncertainty has also impacted the willingness of gas suppliers to offer flexible delivery terms, leaving gas utilities with fewer delivery options and more costly contracting terms. The *Commodity End-User Relief Act* would clarify that contracts containing options that are intended to result in the physical delivery of natural gas will not be treated by the CFTC as swaps. This legislation would provide regulatory certainty to the physical natural gas marketplace regarding these flexible and cost-effective natural gas contracts which gas utilities use to provide reliable service to customers.

2. **Direct Review in Federal Appellate Courts:** The bill would allow the federal appellate courts to directly review CFTC rules, replacing the protracted and expensive trial court process currently in effect as the default rule for judicial review. This change will not increase litigation nor will it disrupt the CFTC. Rather, it will incentivize the CFTC to write better rules and avoid challenge altogether. Also, any inevitable legal challenges will be more swiftly decided by appellate courts, benefitting the

regulator and the regulated community. All of the key federal rulemaking agencies are subject to direct appellate review – including the Securities Exchange Commission and Federal Energy Regulatory Commission. There is no logical justification to treat the CFTC differently.

Congress certainly did not intend to provide the CFTC a large new regulatory mandate without giving it the necessary guidance and authority to do its job. Furthermore, Congress did not intend for the CEA to constrain liquidity in the physical natural gas marketplace, create business-changing impacts on regulated natural gas utilities, or increase the costs of reliable service for natural gas consumers. As such, AGA supports the *Commodity End-User Relief Act* because it provides the CFTC with the tools necessary to be a responsive regulator and restores the regulatory confidence that natural gas utilities rely on to procure natural gas supplies at the lowest reasonable cost for the benefit of America's natural gas consumers.

Sincerely,

George Lowe
Vice President, Federal Affairs
American Gas Association