

COMMENT

National Grain and Feed Association

Fac 15-11

January 3, 2001

Ms. Jean A. Webb
Secretary
Commodity Futures Trading Commission
Three Lafayette Centre
21st Street, N.W.
Washington, D.C. 20581

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OFFICE OF THE SECRETARIAT

Re: Proposed Amendment to Rule 32.13

Dear Ms. Webb:

Thank you for affording the National Grain and Feed Association (NGFA) the opportunity to comment on the proposed amendment to the exemption from the agricultural trade options ("ATO") rule found in CFTC Rule 32.13. NGFA has commented numerous times in the past on the ATO rule in general and the exemption from the rule in particular.

To qualify for an exemption from the current rule, both parties: (1) need to be commercial participants; (2) must enter into the transaction for legitimate commercial purposes; (3) and they must have \$10M in net worth. The CFTC is seeking to eliminate the first two criteria. Consequently, the parties to an ATO would only need to have \$10M in net worth. As we understand, the amendment is intended to make the exemption from the ATO rule more consistent with the exemption for bilateral transactions found in CFTC Part 35 rules.

The NGFA supports this proposal because it removes regulatory obstacles for those that wish to execute ATOs, especially those parties who are not commercial participants. If such non-commercial parties desire to execute an ATO, theoretically that will benefit the ATO market since it will add liquidity.

However, as a practical matter, the proposed change will probably not result in increased liquidity. The key is to open up more risk management alternatives to producers. Accordingly, the NGFA continues to recommend that the CFTC adopt a \$1M net worth exemption, especially in the case where both parties are commercial participants and enter the ATO for commercial purposes. Such a change would conform with the bilateral transaction exemption in Part 35, which provides that an eligible participant is, among other things:

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Ms. Jean Webb

Page 2

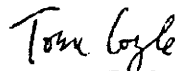
(6) A corporation, partnership, proprietorship, organization, trust, or other entity not formed for the specific purpose of constituting an eligible participant:

...
(iii) Which has a net worth of \$1,000,000 and enters into the agreement in connection with the conduct of its business; or which has a net worth of \$1,000,000 and enters into the agreement to manage the risk of an asset or liability owned and incurred in the conduct of its business or reasonably likely to be owned or incurred in the conduct of its business.

Adjusting the exemption to conform to Part 35 would lead to several benefits. For example, it would likely ensure greater participation in the ATO market and potentially inspire greater efforts on behalf of the industry to develop and market better ATO products. Most importantly, it would permit more producers to take advantage of the benefits of ATOs. It is estimated that approximately 1/3 of commercial farmers (over \$100,000 in annual gross sales) would qualify as exempt under a \$1M exemption level.

For these reasons, the NGFA encourages the CFTC to approve the changes as proposed. However, the NGFA strongly urges the CFTC to more strictly conform the ATO exemption criteria to that found in Part 35.

Sincerely,



Tom Coyle

Chairman

Risk Management Committee