Testimony of
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American Feed Industry Association
Arlington, Virginia

Before the
U.S. House of Representatives
Committee on Agriculture
Subcommittee on General Farm Commodities and Risk Management
1300 Longworth House Office Building

Hearing to
Review Implementation of Provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act Relating to Position Limits

December 15, 2010

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Chairman Boswell, Ranking Member Moran and Members, thank you for the opportunity to testify before General Farm Commodities & Risk Management Subcommittee as you review implementation of provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 relating to speculation limits.

I am Joel Newman, President and Chief Executive Officer of the American Feed Industry Association (AFIA), based in Arlington, Virginia. AFIA is the world's largest organization devoted exclusively to representing the business, legislative and regulatory interests of the U.S. animal feed industry and its suppliers.

Founded in 1909, AFIA is also the recognized leader on international industry developments with more than 500 domestic and international members, as well as nearly 40 state, regional and national association members. Our members are livestock feed and pet food manufacturers, integrators, pharmaceutical companies, ingredient suppliers, equipment manufacturers and companies that provide support services to the industry.

AFIA members manufacture more than 70% of the animal feed in the U.S., which amounts to over 160 million tons annually. Because feed represents roughly 70% of the cost of producing meat, milk and eggs, AFIA members are major contributors to food safety, nutrition and the environment, playing a critical role in the production of healthy, wholesome meat, poultry, milk, fish, eggs and pets.

AFIA is a member of the Commodity Markets Oversight Coalition, which was formed in 2007, and is a broad coalition of organizations committed to protecting the interests of bona fide hedgers and derivatives end-users. We thank the Subcommittee for including Jim Collura in this hearing to speak on behalf of CMOC. His leadership has been invaluable to the Coalition.

Your review of implementation of the Dodd-Frank Act by the Commodity Futures Trading Commission (CFTC) is both timely and appreciated by the men and women of the feed industry. As I have stated, feed represents approximately 70% of the on-farm cost of raising livestock and poultry. With the majority of our industry's input supplies priced directly on or in reference to regulated commodity markets, we depend significantly on an efficient and well-functioning futures market for both price discovery and risk management.

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 financial investors, permitted by special exemption from speculative position limits, has distorted the function of these markets.

Speculators are an important part of the commodity markets – without them there is no market. The agriculture commodity markets functioned effectively for 64 years after the 1936 Commodity Exchange Act first implemented speculative position limits. With these limits in place, the process of physical commodity customers using the futures markets as a price discovery and risk mitigation tool were able to rely on traditional speculator participation to provide a clear buyer/seller relationship and market liquidity.

However, this changed in 2000, when Congress codified earlier CFTC regulatory actions granting Wall Street banks an exemption from speculative position limits for hedging over-the-counter swaps and index transactions. While there are several factors that have lead to increased volatility and price swings of agriculture commodities, excessive speculation by index funds is certainly one of these factors. As CFTC has recognized, speculator participation in these markets without position limits does have an impact on prices.

These banks, which represent institutional investors, used the guise of "hedging" their invested capital to take advantage of the exemption. But in fact, their initial investments were speculative and were not hedging future needs or commitments for the underlying commodities. AFIA strongly supported ending this exemption, and we were very pleased when Congress took steps to address our concerns.

Over the past few years, as the volatility and instability in the stock and financial markets exploded, speculative activity in the agricultural commodity futures markets grew substantially. In some crop contracts, there were times when the daily speculator trading volume was nearly equal to, or in the case of wheat, was more than the entire U.S. annual production volume of these same crops. This not only added to extreme price volatility as bona fide hedgers scrambled to mitigate their risks, but in many cases it pushed end users out of the market. In at least one situation, this speculator activity pushed an organization into bankruptcy when the impact of margin calls caused by the extreme price run-ups drained the company's liquidity to unsustainable levels.

As you are aware, from the Committee's analysis, when considering reforms for the futures markets and products, the size and influence of these very large financial players was never contemplated during development of the original Commodity Exchange Act (CEA). The recent dramatic increases in nearly all physical commodities values actually increased speculator demand, with the net result of commodity prices reaching unrealistic levels relative to true demand. Most of the index speculators tended to hold their positions rather than sell, which exacerbated the situation by producing artificially high demand accompanied by higher prices that negatively impacted nearly all end-users of the physical commodities.

The magnitude of this scenario is clear in the numbers: In 2003, index speculator investment in 25 physical commodities was $13 billion; in 2008, these investments jumped to $260 billion – an1,800% increase. In 2010, these investments remain at $180 billion, with three index funds representing 92% of these investments and one fund representing 61% of these investments. (Illustration 2)

As a result, the feed industry was forced to pay higher prices for grains and other inputs, which were passed along to livestock, dairy and poultry producers and feed costs soared. Farmers, although receiving substantially higher prices for their commodities, were also hit by soaring costs for fertilizer and fuel, as similar speculator activities artificially further drove up oil prices.

Simply put, agriculture, from farm to retail, had to deal with extreme price volatility on a number of fronts without the effective support of our primary risk mitigation tool – the futures markets – because those markets were severely compromised by Wall Street banks ability to avoid speculative position limits and invest substantial levels of monies in the physical commodity markets. This not only allowed them to avoid the volatility of the dust storm on Wall Street, it provided them a significant return on those speculative "hedges" because of their ability to influence the escalation of market prices by creating artificial demand.

Earlier this year, we applauded the work by Congress to include provisions in the Act that would authorize the CFTC to set position limits on commodity contracts, as well as for aggregate and exchange specific position limits. Also, when commenting on CFTC's proposed position limits for energy contracts in March of this year, AFIA encouraged the Commission to consider such actions for other hard commodities to similarly protect agricultural commodities from the very large financial speculators that were masquerading as hedgers, parking their resources in physical commodity markets to ride out the extreme volatility then present in the stock and financial markets.

By including clear authority for the CFTC to set a variety of reportable position limits, Congress took a solid and welcomed step toward our mutual goal of ensuring these commodity markets and products effectively serve their primary role of providing bona fide commercial hedgers reliable tools to manage their economic risks.

With the expanded authority in place relative to speculation limits, AFIA is anxiously waiting for the CFTC to finalize its regulations and to put speculative limits into effect. We know this will take time and are hopeful the combination of the various categories of speculation position limits, combined with full implementation of the Act's other provisions, such as enhanced transparency and expanded regulation of nearly all derivatives, will assure bona fide hedgers of the viability of their futures-based risk management strategies.

I would be remiss if I did not extend AFIA's appreciation to Chairman Gary Gensler and his fellow CFTC commissioners for their openness and diligence in addressing our concerns, particularly during the time Congress was developing its package of reforms. Through frequent meetings, they provided frank and candid overviews of their established authorities. When Congress was deliberating its reform legislation, the CFTC team also provided regular updates on progress toward the reform goals we and others were supporting. Just as important, they helped us understand how certain provisions in the Act addressed our concerns while approaching them in a different manner than we had proposed. Importantly, the CFTC has been aggressive in its outreach over the past few months as it works to implement the Act.

Like most supporters of reform in the futures industry, particularly as it relates to the topic of this hearing, AFIA would very much like to have speculation position limits set and in place today, as well the additional regulatory and transparency provisions. But we need the CFTC to ensure that when it sets limits, they also are ready to monitor and report trading activity, and ready to ensure compliance with and enforcement of the new law. It is critical for all bona fide end users to know we are on a level playing field with speculators and each other.

Modern production agriculture is complex. The linkages between producers, end users and uses of physical commodities are constantly evolving. The feed industry, for example, is still adjusting to the dramatic and rapid expansion of ethanol and other bio-energy industries. The intersection of corn, soybeans and other oilseeds for feed, food and energy – not mention other industrial uses for these crops -- is our new reality, one that poses additional competition and risk management challenges for each of our respective industry sectors. This has also had the effect of linking corn futures to crude oil futures, adding further volatility to the entire commodity complex.

We are confident the CFTC is prudently moving as efficiently as it can to implement the speculative limits and other provisions of the Dodd-Frank Act under its existing and new authorities while making sure it clearly and fully understands the complexities of the derivatives markets. While being patient with the rulemaking process does produce certain levels of stress, we remain confident in and appreciative of the CFTC’s efforts to date, and hope to remain so.

This brings me back to the beginning of my testimony. AFIA again applauds the Subcommittee, its members and the Full Committee for calling today’s hearing to check in on the CFTC’s progress on speculation limits. Your individual and collective interest in making sure progress toward implementation is both steady and correct does a great deal to reduce stress levels among AFIA’s members.

I urge you to consider additional hearings on the Commission’s progress toward implementing all provisions of the act. Thank you for inviting me to participate in today’s hearing. AFIA and its members stand ready to assist you in these efforts. I look forward to answering any questions you may have.

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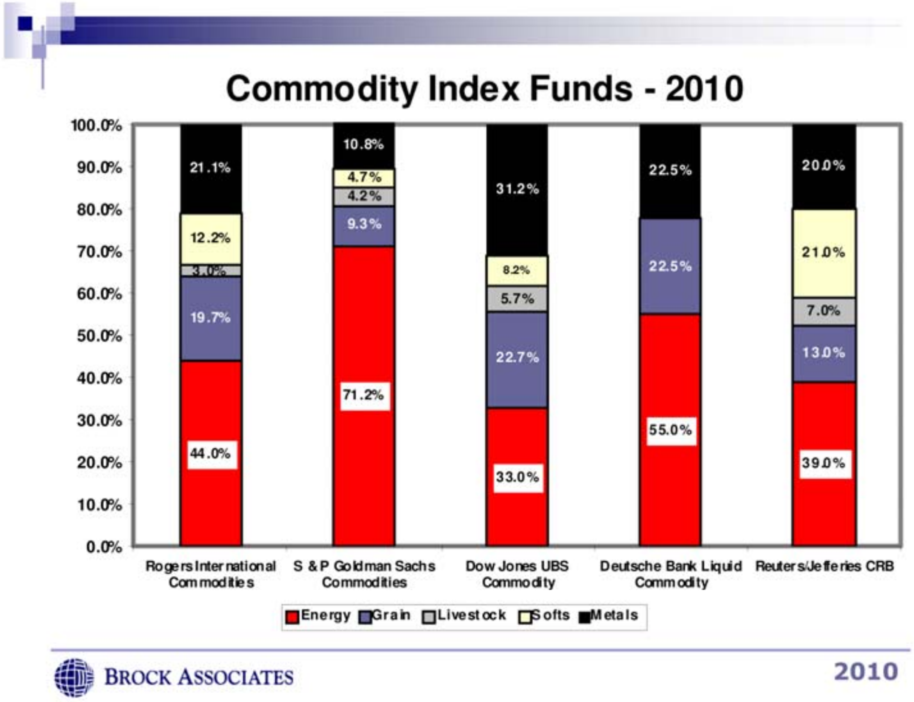

Illustration 1

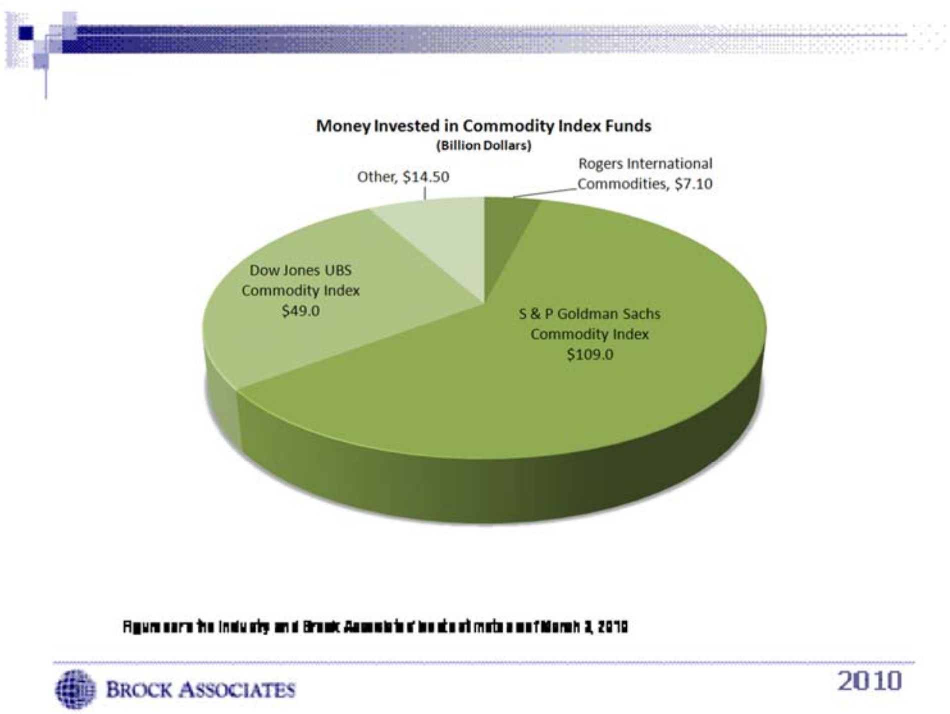

Illustration 2

Joel G. Newman
President & Chief Executive Officer
American Feed Industry Association
Arlington, Virginia

Biographical Sketch

Joel Newman was elected AFIA president in July 2004 and officially assumed his post in January 2005. He is only the seventh president in the association's 100-year history. Joel's prior AFIA affiliation included serving as chairman of the board and four terms as a director.

Joel has over three decades of diverse agribusiness career experience. These include three years as CEO of United Cooperative Farmers, six years with Maple Leaf Foods, Inc., and 23 years with Agway, Inc. Throughout his career he has served in several positions, from sales to CEO leadership, in various agri-business segments, including retail, petroleum, food processing, agronomy and commercial feed.

Joel completed his Bachelors degree in Animal Science at West Virginia University and his MBA in Finance at Syracuse University. He is a director of the International Feed Industry Federation, headquartered in the United Kingdom, and is an appointed member of the U. S. Secretary of Agriculture's Agriculture Technical Advisory Committee.

Headquartered in Arlington, Virginia, AFIA is the only national trade association devoted exclusively to representing the interests of the animal feed industry and its suppliers. Membership includes feed and pet food manufacturers, ingredient manufacturers and suppliers, equipment manufacturers, and companies that supply goods and services to those agricultural sectors. AFIA's over 500 corporate members manufacture 75 percent of the nation's primary commercial feed.

For additional information, contact Sarah Novak at AFIA, Tel: 703/524-0810. Fax: 703/524-1921. E-mail: snovak@afia.org

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Committee on Agriculture
U.S. House of Representatives
Required Witness Disclosure Form

House Rules* require nongovernmental witnesses to disclose the amount and source of Federal grants received since October 1, 2007.

Name: Joel G. Newman

Address: 2101 Wilson Blvd., Suite 916, Arlington, VA 22201

Telephone: (703) 524-0810

Organization you represent (if any): American Feed Industry Association

1. **Please list any federal grants or contracts (including subgrants and subcontracts) you have received since October 1, 2007, as well as the source and the amount of each grant or contract. House Rules do NOT require disclosure of federal payments to individuals, such as Social Security or Medicare benefits, farm program payments, or assistance to agricultural producers:**

Source: None **Amount:** ____________

Source: ____________ **Amount:** ____________

2. **If you are appearing on behalf of an organization, please list any federal grants or contracts (including subgrants and subcontracts) the organization has received since October 1, 2007, as well as the source and the amount of each grant or contract:**

Source: None **Amount:** ____________

Source: ____________ **Amount:** ____________

Please check here if this form is NOT applicable to you: ____________

Signature: Joel G Newman

* Rule XI, clause 2(g)(4) of the U.S. House of Representatives provides: *Each committee shall, to the greatest extent practicable, require witnesses who appear before it to submit in advance written statements of proposed testimony and to limit their initial presentations to the committee to brief summaries thereof. In the case of a witness appearing in a nongovernmental capacity, a written statement of proposed testimony shall include a curriculum vitae and a disclosure of the amount and source (by agency and program) of each Federal grant (or subgrant thereof) or contract (or subcontract thereof) received during the current fiscal year or either of the two previous fiscal years by the witness or by any entity represented by the witness.*

PLEASE ATTACH DISCLOSURE FORM TO EACH COPY OF TESTIMONY.