



National Grain and Feed Association



Financial Regulatory Reform

Issue: A House-Senate conference committee will begin deliberations soon to craft a final version of sweeping financial regulatory reform legislation.

NGFA Position: While the NGFA has not taken a formal position favoring or opposing either the House- or Senate-passed bills, it does support enhanced financial market transparency and reporting, which should benefit all market participants.

In addition, the NGFA advocates the following policies on specific issues in the legislation important to the agricultural sector:

- **Bona-Fide Hedge Definition:** The House-passed bill contains a very specific definition of what constitutes a bona-fide hedge, which could create unintended consequences for commercial hedgers of grains, oilseeds and feed ingredients. The Senate-passed version contains no such provision.

We support the bill's intent to distinguish between traditional hedgers who use futures contracts for price discovery and to hedge their price and inventory risks in cash markets, and newer, non-traditional participants who view futures markets as an investment category. However, we believe strongly that legislating a concept as complex as defining a "bona fide" hedge – and, by extension, which entities should qualify for hedge exemptions – is fraught with risk. Authority for defining what constitutes a bona-fide hedge traditionally has been vested in the Commodity Futures Trading Commission (CFTC), which has the expertise to administer and oversee this important element of the law. The NGFA urges that the Senate version prevail in the conference committee, and that the bona-fide hedge definition be omitted from a final bill.

- **End-User Exemption:** Both the House- and Senate-passed bills contain an exemption from exchange-clearing and exchange-trading requirements for legitimate hedgers that utilize derivatives to hedge their commercial business risk. The NGFA supports such an exemption as being appropriate and necessary, and urges that an exemption be retained in the final bill.
- **CFTC Regulatory Jurisdiction of Futures Markets:** Both the House- and Senate-passed bills contain slightly varying provisions that would authorize the CFTC to cede regulatory authority over certain energy-related contracts over which the Federal Energy Regulatory Commission traditionally has shared some authority when found by the CFTC to be in the public interest. The NGFA supports this concept, provided the final bill is clear that regulatory authority over U.S. futures markets is vested solely in the CFTC.
- **Insider Trading:** The Senate bill contains a provision that would prohibit, under the Commodity Exchange Act, the misappropriation and use of government information for futures-trading purposes. Following some initial concerns about the vagueness and overly broad nature of this provision, the NGFA negotiated changes with the CFTC that resulted in the agency revising its proposal. Because it was agreed that this important change would be included in the Senate-passed bill, the NGFA now is agreeable to this Senate bill provision.

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1250 Eye Street, N.W., Suite 1003; Washington, D.C. 20005-3922
Phone: 202-289-0873; Fax: 202-289-5388; Website: www.ngfa.org