Testimony before the U.S. House Committee on Agriculture

"The Future of the CFTC: Market Perspectives"

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Chairman Lucas, Ranking Member Peterson, and other members of the Committee, thank you for inviting me to testify at this important hearing. I am the Chief Financial Officer ("CFO") of INTL FCStone Inc., a position I have held since the merger of International Assets Holding Corporation and FCStone Group, Inc. in September 2009. In addition, I am the CFO of both, FCStone, LLC, a registered Futures Commission Merchant ("FCM"), and INTL Hanley, LLC, a registered Swap Dealer. Prior to the merger, I was the CFO of FCStone Group, Inc. I began my career more than 19 years ago as a staff accountant with Saul Stone and Company LLC, and since that time, I have served in various capacities, all of which included regulatory accounting and financial reporting, including CFO of Saul Stone and Company LLC, Executive Vice President and Treasurer with responsibility over the regulatory accounting of FCStone, LLC, the successor FCM to Saul Stone and Company LLC.

INTL FCStone Inc. and its affiliates (collectively, "We", "INTL FCStone" or the "Company"), a publicly held, NASDAQ listed company, dates back to 1924 when a door-to-door egg wholesaler formed Saul Stone and Company, which went on to become one of the first clearing members of the Chicago Mercantile Exchange. In June of 2000, Saul Stone was acquired by Farmers Commodities Corporation, which at the time was a cooperative, owned by approximately 550 member cooperatives, and was renamed FCStone LLC. Through organic growth, acquisitions and the 2009 merger between International Asset Holding Corp. and FCStone Group, we have become a global financial services organization with customers in more than 100 countries serviced through a network of 33 offices around the world.

INTL FCStone offers our customers a comprehensive array of products and services, including our proprietary Integrated Risk Management Program, as well as exchange and OTC execution and clearing services, designed to limit risk, reduce costs, and enhance margins and bottom-line results for our customers. We also offer our customers physical trading in select soft commodities including agricultural oils, animal fats and feed ingredients, as well as precious metals. In addition, we provide global payment services in over 130 foreign currencies as well as clearing and execution services in foreign exchange, unlisted American Depository Receipts and foreign common shares, while also providing asset management and investment banking advisory services.

Today, INTL FCStone services more than 20,000 mostly mid-sized commercial customers, including producers, processors and end-users of virtually every major traded commodity whose margins are sensitive to commodity price movements. Although we have become a global company, our largest customer base is serviced from offices in the agricultural heartland, such as West Des Moines, Iowa, Omaha, Nebraska, Minneapolis, Minnesota and Kansas City, Missouri. We are successful because we are a customer-centric organization, focused on acquiring and building long-term relationships with our customers by providing consistent, quality execution and value-added financial solutions. The primary markets we serve include: commercial grains; soft commodities (coffee, sugar, cocoa); food service and dairy (including feed-yards); energy; base and precious metals; renewable fuels; cotton and textiles; forest products and foreign exchange. Our offices are located near the customers we serve and our customers are the constituents of the members of this Committee – the farmers, feed yards, grain elevator operators, renewable fuel facilities, energy producers, refiners and wholesalers as well as transporters, who are in involved in the production, processing, transportation and utilization of the commodities that are the backbone of our economy. As an example, we believe our customers handle more than 40% of domestic corn, soybean and wheat production, including 20% of the grain production in Texas, 40% of grain production in Kansas, and 50% of grain production in Iowa and Oklahoma.

We offer our clients sophisticated financial products, but are not a Wall Street firm. Our mid-sized Futures Commission Merchant ("FCM"), FCStone LLC, according to recent industry publications, is the 20th largest FCM based upon customer segregated assets on deposit. However, it is the third largest independent FCM not affiliated with a banking institution or physical commodity business. As the Committee may know, our wholly owned subsidiary INTL Hanley LLC was one of the first to register as a Swap Dealer under the Dodd-Frank regulations. At that time, we were the only organization not affiliated with a bank to register.

Support for Dodd-Frank

INTL FCStone supports the goals of the Dodd-Frank Act and we are deeply committed to safe, efficient OTC derivatives markets that support the health and growth of the real economy. We likewise support the G20's efforts to reduce systemic risk by focusing on improving counterparty credit risk management and transparency in the OTC derivatives markets. Much of the Dodd-Frank Act works toward those goals, and we support those provisions that do so.

However, it is our view that some of the regulations that were drafted to carry out the objectives of Dodd-Frank undermine or do not support the goal of systemic risk reduction. Other changes do not appear mandated by the Act, nor called for by policy concerns. Instead, these regulations seek to impose changes to the market's structure without posing any quantifiable benefit. In addition, they embed an uneven and uncompetitive operating environment for firms doing business in the U.S. compared to our competitors abroad.

We believe these changes will adversely affect the markets' functioning, impose unnecessary costs on us and our customers, and will limit our customers' ability to manage their risks.

Capital and Margin Requirements – Swap Dealer Issues

Ensuring that swap-dealers have an adequate capital base and that customer collateral arrangements do not add to systemic risk are positive and commendable objectives under Dodd-Frank. However, the capital and margin requirements, as proposed,[1] would significantly disadvantage Swap Dealers that, like INTL FCStone, are not affiliated with a bank, in favor of the bank-affiliated Swap Dealers – the very entities that contributed to the financial crisis.

Before I explain this issue in detail, I want to stress to the Committee that the competitive advantage given to the bank-affiliated Swap Dealers under the proposed rules is not modest. In fact, the opposite is true. Our conversations with CFTC staff about the anticipated operation of the rule suggests that our Swap Dealer, INTL Hanley, will be required to hold regulatory capital potentially hundreds of times more than that required for a bank-affiliated Swap Dealer for the same portfolio of positions. Part of this stems from the fact that bank-affiliated Swap Dealers can use internal models to calculate the risk associated with customer positions, while non-banks cannot.[2] The use of internal models is an important tool because these models generally provide for more sophisticated netting of commodity positions to determine applicable market risk capital charges. As a result of limited netting under the CFTC's "standardized approach," a non-bank Swap Dealer will have to hold market risk capital against economically offsetting commodity swap positions, resulting in a higher capital requirement[3] overall, and relative to the capital requirement for a bank-affiliated Swap Dealer using an internal model.[4] This increased capital requirement would have the perverse effect of actually incentivizing a non-bank affiliated

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[1] Sections 731 and 764 of the Dodd-Frank Act require regulators to adopt rules setting capital and margin requirements for uncleared swaps for swap entities (Swap Dealers and major swap participants) and security-based swap entities (security-based Swap Dealers and major security-based swap participants). The "prudential regulators" – the Federal Reserve, Federal Deposit Insurance Corporation, Office of the Comptroller of the Currency, Farm Credit Administration and Federal Housing Finance Authority – are required jointly to adopt these rules for the banks and related swap entities and security-based swap entities (Bank Holding Company-affiliated or "Bank Swap Entities") under their jurisdiction, and the Commodity Futures Trading Commission ("CFTC") and the Security and Exchange Commission ("SEC") are required to adopt these rules for other swap entities and security-based swap entities, respectively.

[2] The "standardized approach" for calculating the market risk component of regulatory capital for Commodity Swap Dealers is based largely on the "Standardized Measurement Method" in the Market Risk Amendment. Conceptually, the Standardized Measurement Method applies a market risk charge to an entity's ***net position*** in a financial instrument. In the Proposed Capital Rule, offsetting of equity positions is allowed for positions "in exactly the same instrument," and for single-name credit positions offsetting is allowed for "identical" positions. Similarly, market risk calculations that apply to noncommodity asset classes under the Standardized Measurement Method (i.e., interest rate, equity, and foreign exchange) permit offsetting of "matched" positions. ***In contrast, the CFTC's "standardized approach," as described in discussions with CFTC Staff, does not provide comparable guidelines for identifying the extent to which commodity positions are offsetting.***

[3] Dealers should depend primarily on spreads between transactions for earnings, not on directional price change speculation. This is an underlying intent of many provisions of Dodd-Frank (*e.g.*, the Volcker Rule). In the ordinary course of their operations, Swap Dealers relying on spreads are incentivized to run flat books, which in turn reduces risk in the market. Based upon our conversations with staff, we understand that the CFTC does not intend to allow Swap Dealers to recognize commodity position offsets as to maturity and delivery location. If this is true, it seems counterproductive from a capital and a risk standpoint. A capital rule that adequately risk-adjusts offsetting positions would properly incentivize Swap Dealers to run flatter portfolios (thereby decreasing systemic risk) because the Swap Dealer would be able to lower its capital requirement by entering into offsetting positions.

[4] We consider it significant that the SEC's proposed rules on capital, margin and collateral segregation for non-bank Security-Based Swap Dealers and non-bank Major Security-Based Swap Participants permit the use internal value-at-risk models. So the CFTC really is the outlier with its capital and margin rules.

Swap Dealer to not fully offset the risk of an customer OTC transaction and thus incurring potentially unlimited market risk.

Another factor of major concern under the "standardized approach," which is based on European banking standards (i.e., Basel II) , is that commodity derivatives like the ones we offer our agricultural client base are treated more harshly than any other derivatives asset class in terms of calculating risk. Taken in conjunction, the same derivatives portfolio that would require a bank-affiliated Swap Dealer to hold $10 Million in regulatory capital using standard internal models would require us to set aside up to $1 Billion in capital in a worst case scenario. Regulatory capital requirements of this magnitude are wholly unsustainable for a company our size and economically unfeasible for a company of any size. The calculations supporting these estimates are attached to this testimony as Addendum A. INTL FCStone submitted these same calculations to the CFTC with our comment letter on this issue.

As I mentioned, INTL FCStone was the first non-bank to register as a Swap Dealer. As other non-banks register, particularly those in the agricultural and energy space, additional market participants will be caught in this position and either squeezed out of the market, or at least seriously disadvantaged relative to the bank-affiliated dealers.

Obviously, this regulatory capital disparity is not a small hurdle for the already disadvantaged independent dealers to overcome. If left unchanged, these capital rules will eventually cause non-bank Swap Dealers to exit the business. The direct result will be higher costs for end-users, and then for consumers. Increasing concentration in the industry until only the big banks are left will leave many customers with no place to go. Serving farmers, ranchers and grain elevators has not been a focus or a profitable business model for the large dealers.

Even larger customers who might be able to access to OTC hedging tools through bank-affiliated dealers will still face higher costs as the big bank dealers will be able to take advantage of decreased market competition. A larger percentage of customers carried through a handful of large, bank affiliated Swap Dealers will increase systemic risk.

The members of this Committee, obviously, do not see eye-to-eye on every issue. But one thing I think that every member of this Committee would agree on is that Dodd-Frank was not intended to preclude small commodity producers from hedging, to increase swap concentration at the banks, or to create greater potential for systemic risk. But with the capital and margin rules as proposed, that is the result that will follow.

We believe that this problem can be easily corrected. The Commodity Exchange Act requires the CFTC, the prudential regulators, and the SEC to establish and maintain "comparable" minimum capital requirements for all Swap Dealers. However, the proposed Capital Rules clearly are not "comparable." Pursuant to its mandate under the CEA, we believe that the CFTC should revise its proposed capital rules to ensure that the capital and margin requirements applicable to non-bank Swap Dealers are comparable to those applicable to bank-affiliated Swap Dealers. This can be accomplished by altering the rules to permit the following:

- **Full Netting** – Revising the "standardized approach" in the CFTC's proposed capital rules to make clear that it allows full netting of offsetting commodity swap positions, which will create a capital requirements framework that is more similar to the prudential regulators;

- **Matched Position Offsetting** – Alternatively, the CFTC could allow position offsetting for "matched positions," either on a per commodity/per expiry basis, or by using a "maturity ladder" approach to netting, as described in the Basel Committee's Amendment to the Capital Accord to Incorporate Market Risks (the "Market Risk Amendment"), in order to facilitate the netting of commodity swap positions; or

- **Internal Models** – The CFTC could permit all Swap Dealers, including Commodity Swap Dealers, to request approval of, and rely upon, internal models to measure market risk. To the extent that the CFTC currently lacks the resources to review and approve such internal models, it should permit Swap Dealers to certify to the CFTC or the NFA that their models produce reasonable measures of risk, subject to verification by the CFTC when its resources enable it to do so.

- **Flat Book Incentives** – Default risk is reduced when an entity maintains a relatively flat book. The CFTC should incentivize dealers to reduce default risk by decreasing capital requirements for operating a flat book. This incentive can be achieved by revising the Capital Rules to recognize netting for economically offsetting commodity swap positions (whether through the maturity ladder approach, or otherwise). Under the current proposal, dealers get no credit, from a capital perspective, for running a flat book and in fact are penalized.

If the CFTC fails to make these changes, INTL FCStone requests that this Committee consider codifying one or more of these alternatives as part of the CEA reauthorization.

Capital and Margin Requirements for FCMs – Residual Interest / Customer Funds

As I mentioned before, I have spent virtually my entire career working with issues relating to regulatory accounting, FCM capital, and customer segregated assets. In November of 2012, the CFTC proposed new comprehensive regulations relating to residual interest and the handling of customer funds by FCMs. These proposed changes were part of the CFTC's efforts to address customer protection issues that arose during the recent MF Global and Peregrine Financial Group bankruptcies. Customer confidence in the safety of segregated funds and FCM stability are crucial to the continued success of our markets. INTL FCStone supports efforts to enhance customer confidence through appropriate regulation, and fully agree that additional regulation can provide meaningful additional protections and assurances to market participants.

However, certain aspects of the CFTC's proposed rules – specifically, the requirement that FCM's residual interest in futures customer funds exceeds the sum of all of its customers margin deficiencies at all times, and the proposal to require FCMs take a capital charge for margin deficiencies that are outstanding for one day or more –will dramatically alter the way that FCMs and their customers have done business for decades These proposals will also have a

substantial negative impact on most customers' ability to hedge their commercial risks, and will severely challenge small and mid-sized FCMs' ability to continue to operate.

Residual Interest

The Commission has proposed to add a new Rule 1.20(i)(4), and to amend Rule 1.22(a), to require that "an FCM must be in compliance with its segregation obligations at all times and ... [i]t is not sufficient for an FCM to be in compliance at the end of a business day, but to fail to meet its segregation obligations on an intra-day basis." This proposal represents a massive shift in the current policy, which allows FCMs to "net" excess funds of other customers against the margin deficits of others.

There is also a practical dimension to note. Because it is not feasible for FCMs to determine whether residual interest exceeds the sum of all margin deficiencies at all times throughout a day, the new interpretation suggests that FCMs should model for the failure of ALL customers, EVERY day. Such a worst-case scenario is unheard of, and is not applied to any other financial entities. Basel III does not require banks to hold a dollar for dollar reserve in anticipation of loan losses of ALL customers. CFTC regulations do not require clearinghouses to hold dollar for dollar reserves in anticipation of ALL clearing members failing.

In the end, this new interpretation will result in FCMs requiring customers to put up more money at all times, likely resulting in customers being asked to pre-fund their margin. In addition to requiring customer pre-funding, some have suggested that this rule will likely require an FCM to double a customers' overall margin requirements: in essence requiring customers to fund their potential margin deficiencies. As such, the customer would be required to keep margin funds far in excess of exchange minimum margin requirements. Our mid-sized commercial customers rely upon their lending institutions, such as CoBank, a member of the Farm Credit System, to fund their commercial activities including their hedging activities. A potentially doubling of their funding needs to support their hedging activities would significantly impact the profitability of such customers.

In addition to the negative customer impact, the rule will also put significant financial pressure on FCMs. If the sum of an FCM's customer margin deficits is greater than the residual interest an FCM typically maintains in their customer accounts, then the FCM would have to increase the amount of residual interest it maintains in customer segregated accounts. On "limit up" or "limit down" days in the agricultural exchange traded markets, our firm may be required to deposit up to $400 million to satisfy exchange demands for margin. In order to ensure that our residual interest would be in excess of the sum of all of our customers margin deficiencies in such a situation, we would need to require our customer pre-fund their potential margin deficiencies or in effect require us to pre-fund their potential margin requirements by maintaining our capital in customer segregated accounts. Requiring massive additional injections of our own capital to support the new residual interest requirements will, at some point, become unsustainable for us and others, again leading to the real and substantial risk of increased concentration in an already shrinking market.

One-Day Margin Call

The Commission has also proposed to amend Rule 1.17(c)(5)(viii) to require an FCM to take a capital charge with respect to any margin call that is outstanding more than one business day. The rule currently allows an FCM three business days to collect margin before taking take a capital charge. INTL FCStone opposes this proposal because it is impractical and will result in substantial negative consequences for agricultural customers and for the FCMs that serve them.

INTL FCStone understands the CFTC's objective in proposing to shorten the time in which an FCM must take a capital charge for accounts that are undermargined. Clearly, margin collection is a critical component of an FCM's risk management program. But it is not realistic to expect that all margin calls can or will be met in one day. There are several reasons for this.

First of all, INTL FCStone's customers include a large number of farmers and ranchers, many of whom meet margin calls by using checks because of the expense and impracticality of wire transfers in their circumstances. Check-paying customers are likely to have to double or triple their margin payments in order to make sure that they can meet the one-day requirement. This would be very costly for many farmers and ranchers.

Second, many of our customers finance their margin calls, which can require additional time to arrange for delivery of margin call funds due to routine banking procedures. Finally, foreign customers often have considerable difficulty meeting margin calls in one business day due to time zone differences and varying bank holidays. In some countries customers face regulatory restrictions or formalized processes in connection with any transfers of funds out of their country. This can often impact such customers' ability to meet margin calls in one day and, in some cases, make it legally impossible.

Combined Impact

These proposals, taken together, will result in very substantial costs for FCMs and their customers. For many small and medium-sized FCMs, the costs of obtaining the required additional capital to cover increased margins – either in the form of general credit or permanent capital – could be insurmountable. In order to lower some of these costs or meet these requirements, FCMs would have to require customers to prefund some or all of their potential margin obligations, increasing costs to the end-users and ultimately may have the unintended consequence of giving smaller commercial customers no alternative to hedge their commodity price risk.

The increased financial requirements for FCMs will negatively impact the ability of non-bank FCMs to compete effectively, leading to a greater concentration of customers at the remaining FCMs and potentially increasing systemic risk. At the same time, neither of these proposals brings greater transparency to protect customer funds, which is what brought down MF Global and Peregrine.

Before making these significant changes, the CFTC should conduct a more thorough study and then conduct a cost-benefit-analysis of the affects the proposals would have on FCMs,

their customers and the markets. Should the CFTC proceed in a rulemaking that that will shorten the time period in which an FCM must take a capital charge for under-margined accounts, we strongly believe that a two-day deadline is more reasonable and equitable. Increasing the time to meet a margin call by an extra day takes into account the challenges and cost considerations facing many key market participants, such as the agricultural clients that make up a significant portion of INTL FCStone's customer base. From our experience, making the margin call deadline two business days would take care of about 90% of the situations where the customer faces a delay in meeting a margin call.

Customer Issues

External Business Conduct Requirements

I would like to briefly touch on another set of rules that are having a negative impact on customers of INTL Hanley, our registered swap dealer: namely, the External Business Conduct Rules that went into effect on May 1st of this year. As this Committee is well aware, these Rules generally attempt to enhance protections for counterparties of Swap Dealers and major swap participants through due diligence, disclosure, fair dealing and anti-fraud requirements. These External Business Conduct Rules require the Swap Dealer to deliver pre-trade, product risk disclosures and a "mid-market mark" for the transaction. Substantial information gathering about our customers is also required to satisfy new "know your customer" and suitability requirements. As a result, all of our customers have been required to complete extensive new account forms, and amend their swap documentation so that we, in turn, can comply with these new rules.

Although these requirements may seem innocuous and un-burdensome to the regulators, a substantial number of our customers have abandoned OTC derivatives altogether because the paperwork requirements are simply too burdensome. Others have asked us to refrain from providing a mid-market mark because they can either derive this information themselves, or prefer immediate execution at the market price and cannot afford even seconds delay in execution.

The proposed rules on capital and margin allow customers to opt-in or opt-out of certain protections, including, most significantly, the requirement that collateral be segregated. More than anything else, segregation of customer funds and prompt transfer of those funds to customers in the event of a bankruptcy is a core protection embedded in the Commodity Exchange Act. Because there is an existing regulatory recognition that customers can make informed choices about whether to opt-in or opt-out of certain protections, we believe that giving customers the right to opt-out of certain Business Conduct Rule disclosures – such as receiving a mid-market mark – would be highly beneficial.

Eligible Contract Participant Rules

Even prior to Dodd-Frank, CFTC rules limited participation in the OTC markets to transactions between "Eligible Contract Participants" ("ECPs"), i.e., entities with $10 million in total assets or with a net worth of at least $1 million, who are engaged in hedging qualify as

ECPs. However, Dodd-Frank amended the standard for individuals to qualify as ECPs by replacing the "total assets" test with an "amounts invested on a discretionary basis test." The term "amounts invested on a discretionary basis" is not defined in the Dodd-Frank Act, and it is unclear from the legislative history what Congress intended by this amendment. At this point, it is not clear whether a farmer's ownership interests in legal entities that hold farm and related assets (which may include the farmer's residence) would constitute "amounts invested on a discretionary basis" under the new ECP definition for individuals.

INTL FCStone would urge the CFTC and the SEC to use their broad rulemaking authority to provide guidance on the meaning of the phrase "amounts invested on a discretionary basis," and we request that such guidance interpret the phrase broadly to permit individuals with significant farming operations to be deemed ECPs and, therefore, permitted to use OTC swaps.

Absent such regulatory guidance, we request that this Committee include a definition of the phrase "amounts invested on a discretionary basis" in the CEA reauthorization bill, and that such definition be broad enough to capture individuals with significant farming operations.

Extraterritorial Application of Dodd Frank

Another issue of concern to most market participants is the international reach of Title VII of the Dodd-Frank Act. As everyone here knows, the CFTC has issued proposed rules that would essentially grant the broadest possible extraterritorial reach to U.S. swaps regulations. According to the CFTC's proposed rules and interpretive guidance, any swap between a U.S. person and a non-U.S. person will generally be subjected to U.S. swap regulation. This presents obvious conflicts with foreign regulations. For example, a cross-border swap cannot be cleared in both a U.S.-registered clearinghouse and separately in a different clearinghouse registered in the European Union.

Although its latest guidance is a move in the right direction, throughout the regulatory process, the CFTC has consistently insisted on a broad interpretation of the definition of a "U.S. person" and of the activities that would be deemed to have "a direct and significant connection with activities in, or effect on, commerce of the United States." The result is a complex and confusing regulatory scheme that threatens to expose U.S. Swap Dealers and FCMs to considerable regulatory risk and would effectively extend the CFTC's reach into any jurisdiction around the world.

This issue is of great concern to INTL FCStone because our largest geographic area of growth for our OTC swaps is Brazil. Brazil is a fast-growing, but still developing market that desperately needs good hedging tools. INTL FCStone can provide these hedging tools and we can bring the business from Brazil and other countries into the U.S., so long as the Dodd-Frank rules do not put us at a disadvantage. But, if local agriculture producers in Brazil have to comply with Dodd-Frank requirements if they hedge with us and do not have any comparable requirements or burdens if they hedge with a non-U.S. firm, they will go with the non-U.S. firm and we will lose the business.

Other U.S. market participants share our general views on the cross-border topic, but INTL FCStone wants the Committee to be aware that the cross-border issue is not one that is only of concern to the Wall Street firms and the other large players.

The Securities and Exchange Commission's ("SEC") recent proposal is a significant improvement over the CFTC's, especially with respect to the broad view taken by the SEC on the issue of substituted compliance. By basing its determination of equivalency on outcomes, rather than requiring a rule-by-rule comparison of the regulations, as stipulated by the CFTC, the SEC is, I hope, moving us toward a workable solution where non-U.S. rules that attempt to address the same issues and get to the same end point should be deemed comparable.

Bottom line – subjecting swaps transactions to multiple, and potentially conflicting rules and requirements is simply unworkable. It is imperative that the U.S. regulators work together to promulgate one set of clear, simple and workable cross-border rules before firms are expected to comply. In addition, U.S. firms need enough lead time to digest and comprehend the rules so that we can plan for the scope of Dodd-Frank's impact on our global businesses.

"Futurization of Swaps"

I want to briefly address an issue that has been called the "Futurization of Swaps" because I understand that at least one House subcommittee has held a hearing on this issue and the CFTC held a staff roundtable to discuss it, so I know it is a matter that at least some in Washington are reviewing. Of course, the "Futurization of Swaps" refers to the post-Dodd-Frank Act evolution of end-users bypassing swaps transactions in favor of futures.

We have been told by a number of our customers that they have determined that they will no longer use "vanilla" or "look-alike" OTC instruments, and instead will rely exclusively on exchange traded futures. It is important to note, however, that this decision has not been the result of a considered decision about which instrument serves as the most cost-effective risk management tool, but instead, is wholly the result of the regulatory burdens associated with swaps as opposed to futures.

For instance, we have a number of customers who have told us that the extensive new reporting and record-keeping requirements for swaps (both cleared and un-cleared) are the factor that has lead them to exit the OTC markets, although that was never the intent of Congress in enacting Dodd-Frank. Although exchange-traded futures are often an appropriate and suitable risk management tool, there are other instances where futures may not be as beneficial from the customer's perspective

In our experience, for farmers and others in the agriculture space, vanilla OTC in fact may be the most cost-effective and practical hedging vehicle available to them based on the ability to offer customized credit arrangements, or because there is greater liquidity in OTC markets. But, due to concerns over the burdens associated with record-keeping requirements and the likelihood of increased costs of using swaps, some of our customers have taken a short-sighted view and have fled the OTC markets for futures. Others have decided not to hedge at all.

This trend runs counter to the intention of Dodd-Frank to allow end-users a continued ability to access the OTC markets.

Conclusion

INTL FCStone is not interested in dismantling Dodd-Frank. In fact, most of the concerns expressed in this testimony are about the implementation of rules, not the Dodd-Frank Act itself. We are simply trying to ensure that the final rules function as intended and that the commercial end-users, and the firms like INTL FCStone, who serve them do not face the same regulatory burden as those in the markets who speculate and create systemic risk.

Firms like INTL FCStone and our customers did not contribute to the financial crisis and we support common-sense reforms that strengthen and bring more transparency to these markets, but we are now being asked to bear additional regulatory burdens that actually put us at a competitive disadvantage to the very firms that caused the financial crisis. This is unfair and, quite frankly, is not good policy. But, we will continue to work with the regulators throughout this process to ensure that firms like INTL FCStone will be here well into the foreseeable future to help our customers manage their risk. And we will continue to advocate for our customers in seeking regulations that are drafted in such a way that they continue to allow even the smallest end-users to have access to hedge against market risk.

These are challenging times for our industry, not only due to the regulatory changes described above, but also due to fundamental shifts in the business model that underlies the futures industry. With depressed futures volumes, historically low interest rates, and extremely competitive pricing, FCMs are under tremendous strain financially. Many of us are concerned that the business is reaching a point where it cannot absorb additional costs without a substantial shift in the model – whether that is considerable consolidation among FCMs or some firms leaving the business altogether. This type of risk concentration in a few firms is not, in my opinion, what was intended by Dodd-Frank, and it will make the clearing system – and our broader economy – more vulnerable to catastrophic losses. So as our regulators consider the pending rules and this body continues to execute its oversight mandate, I urge you to consider both the immediate and the long-term consequences that these rules bring for the small and mid-sized commodity producers, processors and end users that are so important to a strong U.S. economy.

Thank you for inviting me to testify today. INTL FCStone greatly appreciates the ongoing work and support that the Committee has provided during some very trying times for our nation, and I look forward to answering any questions that you may have.

Committee on Agriculture
U.S. House of Representatives
Information Required From Nongovernmental Witnesses

House rules require nongovernmental witnesses to provide their resume or biographical sketch prior to testifying. If you do not have a resume or biographical sketch available, please complete this form.

1. Name: William J. Dunaway
2. Organization you represent: INTL FCStone Inc.
3. Please list any occupational, employment, or work-related experience you have which add to your qualification to provide testimony before the Committee: I am the Chief Financial Officer of INTL FCStone Inc., a publicly traded, NASDAQ listed, global financial services company.
4. Please list any special training, education, or professional experience you have which add to your qualifications to provide testimony before the Committee: I have over 19 years of experience with a regulated Futures Commission Merchant.
5. If you are appearing on behalf of an organization, please list the capacity in which you are representing that organization, including any offices or elected positions you hold: In addition, to being the Chief Financial Officer of INTL FCStone Inc., I am also Chief Financial Officer of FCStone. LLC, a registered Futures Commission Merchant and Chief Financial Officer of INTL Hanley, LLC a registered Swap Dealer.

PLEASE ATTACH THIS FORM OR YOUR BIOGRAPHY TO EACH COPY OF TESTIMONY.

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, 2010.

Name: William J. Dunaway

Organization you represent (if any): INTL FCStone, Inc. and it affiliates

1. **Please list any federal grants or contracts (including subgrants and subcontracts) you have received since October 1, 2010, 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: None **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, 2010, as well as the source and the amount of each grant or contract:**

Source: None **Amount:** ______

Source: None **Amount:** ______

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

Signature: ______

* Rule XI, clause 2(g)(5) 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.