

Corporate & Financial Weekly Digest

Posted at 1:32 PM on October 29, 2010 by [Kevin M. Foley](#)

CFTC Proposes Definition of "Agricultural Commodities"

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In response to certain amendments made by the Dodd-Frank Wall Street Reform and Consumer Protection Act relating to swaps in “agricultural commodities,” the Commodity Futures Trading Commission has proposed to define “agricultural commodities” for the first time.

The CFTC’s proposed definition would include all of the “enumerated commodities” listed in Section 1a of the Commodity Exchange Act (CEA), as well as:

- commodities derived from living organisms that are “generally fungible” and used primarily for human food, shelter, animal feed or natural fiber;
- tobacco, products of horticulture, and such other commodities used or consumed by animals or humans and designated by the CFTC as agricultural commodities; and
- commodity-based contracts (e.g., basis swaps and qualifying index contracts) based wholly or principally on a single underlying agricultural commodity.

The CFTC has requested comments on a number of aspects of the definition, including its exclusion of biofuels, and its potential impact on swaps currently transacted pursuant to CEA Sections 2(g) and 2(h). The comment period expires on November 26.

A copy of the CFTC release is available [here](#).

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