

Dear Sir/Madam:

We are concerned that under the specifics of the *Dodd-Frank Wall Street Reform and Consumer Protection Act (2010)*, and further to the proposals of the Commodity Futures Trading Commission (CFTC) in the rule-making process, that there may be possible erosion or alteration to the intent and/or specifics of **Public Law 85-839** (Aug. 28, 1958). This law was enacted *to prohibit trading in onion futures on commodity exchanges*. The law was an expression of the intent of Congress, and by the signature of President Dwight Eisenhower, to forbid the contract for the sale of onions for future delivery on any board of trade in the United States.

COMMODITY FUTURES TRADING COMMISSION  
17 CFR Part 1  
RIN 3038-AD23  
Agricultural Commodity Definition  
AGENCY: Commodity Futures Trading Commission  
ACTION: Final Rule: Pages 25-26

Onions

*Onions present a unique case in that onions are the only agricultural product specifically excluded from the enumerated commodities list in current CEA section 1a(4). Also, Pub. L. 85-839 prohibits the trading of onion futures on any board of trade in the United States. Nothing in the definition issued herein affects the prohibition on onion futures trading.*

*In defining an agricultural commodity, given that term's statutory history, as well as the Act's grammatical construction, it would appear that "agricultural commodity" is a subset of "commodity" and, since onions are excluded from the definition of "commodity," onions cannot be considered an "agricultural commodity." However, under the Dodd-Frank Act, the definition of "swap" in new section 1a(47) of the CEA is not limited to transactions based upon "commodities" as defined in current section 1a(4) of the Act. Therefore, under the CEA as amended by Dodd-Frank, a swap may be based upon an item that is not defined as a "commodity." **Thus, onion swaps would seem to be permissible, but would not be considered to be swaps in an "agricultural commodity" under the definition contained herein.** [Emphasis mine.]*

Taken at face value, this language seems to allow futures trading (i.e., swaps --- derivatives sold and managed by firms apart from exchanges/boards of trade, but frequently off-loaded into an exchange/board of trade) on onions in certain instances subject to certain conditions.

Please do everything possible in your respective spheres of influence to ensure that the intent and Act of the Congress (1950's) banning futures trading of onions remains in place. It would be a huge disservice to the United States onion industry and to the honor of the U.S. Congress, as well as to over fifty years of marketing tradition, if the language and/or rule-making on Dodd-Frank, or any other bill for that matter, should alter or erode this reality.

Thank you for your consideration and support.

Please be in touch.

Sincerely,

Wayne Mininger  
Executive Vice President  
National Onion Association