Dear Commissioner, dear Chair,

The signatories to this letter represent commodity producers, consumers and intermediaries who each depend on well-functioning commodity markets to allow us to serve our customers around the world.

We collectively support the efforts of the G20, European Commission and national regulatory authorities in the steps they have taken to address the financial crisis which so badly affected the world economy and well being of citizens in general. Numerous steps have been taken to strengthen the balance sheets of banks and financial intermediaries who act as the conduit for the distribution of capital to companies that can deploy it to create sustainable jobs and growth.

As we move beyond the crisis to create sustainable jobs and growth, the application of many new rules and regulations to commodity trading has a significant unintended risk of damaging the markets on which our companies - and others like us - rely for effective commodity price discovery and risk management. The effect of new regulation, such as that proposed in MIFID II, will be higher volatility in the price of goods consumed - such as food and energy - and higher absolute prices as commodity firms recover the cost of implementing new regulatory requirements and liquidity fragmentation increases the cost of hedging financial and commodity future price exposures.

The application of capital rules to our firms is unnecessary as our balance sheets are not leveraged in the same way as banks and we do not pose a systemic risk to the financial system. Throughout the crises commodity firms coped well with the adjustment made necessary by the challenges they faced as normal sources of liquidity and capital became constrained. At no time has the commodity sector required direct or indirect support from government tax receipts.

We are particularly concerned by the extension of rules that have been developed for publically listed securities markets and credit markets to commodities in MIFID II. We believe the collective effect of these rules will be to increase the cost of price discovery and hedging via the unintended consequence of liquidity fragmentation in wholesale commodity markets. Getting the detail right of the MiFID II regulatory technical standards relating to market structure – including, access (RTS 24), Ancillary Activity (RTS 28) and position limits (RTS 29-30) - remains of key importance. Further, certain large or bespoke transactions may need special consideration with regard to large-in-scale thresholds to ensure the continued stable and efficient functioning of the market (RTS 9). The increased costs of using markets for prudent risk management will be passed on to all sectors of the economy through their widespread indirect exposure to energy and raw materials prices. Furthermore these costs will aggravate other pressures on financial intermediaries that are already likely to have the cumulative effect of fragmenting and eroding liquidity.

The finalization of the technical standards by ESMA will set the scene for commodity markets in Europe for the foreseeable future. We believe it is essential that any new regulatory or supervisory requirement is fully cost justified and clearly linked to a demonstrable market failing before being put forward. A failure to do so will discourage investment in Europe and weaken the European jobs and growth agenda.

We encourage ESMA and the European Commission to take full regard of our collective response to the consultation and to act proportionately to ensure that European citizens continue to benefit from the positive contributions that deep, liquid and effective commodities markets make to their economies.

Concretely, we ask the following of ESMA and the European Commission:

- A workable exemption for commodity firms whose derivative trading is ancillary to their main business;

- A pragmatic position limits regime that will facilitate commodity firms that may need to take larger positions to hedge their commercial activity;

- A cautious approach on access to trading venues that recognises the real costs of fragmentation for commodity firms seeking to hedge;

- A thorough review of CRR and legislation to extend derogations for investment firms dealing exclusively in commodity derivatives pending assessment of MiFID 2 application.

We would welcome the opportunity to discuss these matters directly with you.

Yours sincerely,