



Commodity Futures Trading Commission

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Statement

Opening Statement of Chairman Gary Gensler, Commodity Futures Trading Commission, Hearing of the Commodity Futures Trading Commission

July 29, 2009

Good morning. I call to order this meeting of the Commodity Futures Trading Commission. This is the second of three hearings on whether federal position limits should be set by the CFTC for commodities of finite supply.

I would like to start by thanking my fellow Commissioners and our distinguished witnesses for being here today.

Yesterday, the CFTC held its first hearing on setting position limits to protect against the undue burdens that may result from excessive speculation in the energy markets. We had a very productive discussion on the legislative history of position limits, the current state of federal position limits and exchange-set accountability levels, and who would be the best entity to set position limits.

Our first panel included the Chief Executive Officers of the two biggest futures exchanges – IntercontinentalExchange and the Chicago Mercantile Exchange.

Both exchanges made announcements that show tangible progress toward regulations that protect the American public from the burdens of excessive speculation.

The CME made a very significant announcement that it supports adoption of a hard limit regime, including single-month and all-months limits. This is a welcome change. No longer must we debate the issue of whether or not to set position limits. There are three very important questions that do remain: Who should set position limits? Who should be exempted from position limits? And at what level should position limits be set.

As I stated at yesterday's hearing, I believe that the CFTC has a duty to protect the American public from fraud, manipulation and excessive speculation. Thus, it should be the CFTC that sets position limits on energy market participants. We have the statutory authority, and we are the most able to strike a balance between competing interests and the public interest. I was interested to hear from a number of panelists in their

testimonies – from both today’s hearing and yesterday’s hearing – who believe that the CFTC is in the best position to set aggregate position limits. This is very encouraging.

This brings us to the very important question of exemptions. Some panelists have suggested that a class of financial parties be exempted. Of course, the swap dealers believe that swap dealers should be exempted; the exchange traded funds believe that exchange traded funds should be exempted; and the index funds believe that the index funds should be exempted.

At the core of promoting market integrity is ensuring markets do not become too concentrated. I think this is even more relevant because of the development in financial markets which have become more concentrated since the first exemptions were allowed in 1991. The financial crisis highlighted the risk to the market and to the American public brought about by large concentrated actors on the financial stage. So I would like to hear from each of our panelists as to why if we apply position limits, they should not be applied consistently to all noncommercial players. While I believe that we should maintain exemptions for bona fide commercial hedgers, I am concerned that granting exemptions for financial risk management can defeat the effectiveness of position limits.

On the last question of at what level position limits should be set, I am interested to hear our panelists’ ideas on this, and we will look further into specific levels in the rulemaking process.

The CFTC’s rules and decisions have meaningful implications on the day-to-day lives of the American people. It is essential that we utilize all of our existing authorities to ensure fair and orderly markets and protect the American public. To do this, we must urgently work with Congress to secure additional resources to effectively police our markets. We must also work with Congress to establish new authorities to police over the over-the-counter markets.

I look forward to hearing from today’s witnesses. On top of yesterday’s very productive discussion, I believe that today’s hearing will add to the diversity of points of view on this very important subject. I will also note that written comments on the topic of this hearing will be accepted from the public until August 12th, 2009, and included in the record.

I will now turn to Commissioner Dunn for his opening statement.