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Testimony

Oral Testimony of Acting Chairman Walter Lukken Before the House Appropriations Subcommittee on Agriculture, Rural Development, Food and Drug Administration, and Related Agencies

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Madam Chairwoman, Congressman Kingston, and other members of the subcommittee, thank you for inviting me to testify on the role of the CFTC in overseeing the commodity futures and options markets.

The CFTC's mission is twofold. First is protecting the public and market users from manipulation, fraud, and abusive practices. Second is promoting open, competitive and financially sound markets for commodity futures and options. These mandates are crucial because prices in the futures markets impact the cost of a loaf of bread, the price of a gallon of gas, and the interest rate on a student loan. If the futures markets fail to work properly, all consumers may be impacted.

We are quite aware that many of these markets have recently been reflecting prices that are putting a considerable strain on American families and businesses. Although the Commodity Exchange Act does not give our agency the authority to set prices, our people work extremely hard to ensure that the futures markets are working properly and prices are reflecting economic factors rather than manipulative forces.

As you know, the futures markets have changed dramatically in the last decade. Since 2000, volume on U.S. exchanges has grown six-fold as traders increasingly seek the price certainty and clearing benefits of the regulated futures markets.

The growth in the regulated marketplace has been scrutinized lately—and appropriately so—as prices in crude oil and agricultural commodities have climbed. Specifically, concerns have been raised recently regarding the role of speculators and index traders in commodity markets. Speculation has played a crucial role in the functioning of the U.S. futures markets since their founding more than 150 years ago. Without speculators, the futures markets would not be able to operate properly. Commercial participants cannot hedge their activities without someone willing to take the other side of the transaction. In futures markets, this opposite role is often taken by speculators. The liquidity provided by speculators has tended to lower the costs of hedging to the benefit of commercial participants in the markets.

Nevertheless, our agency recognizes that any participant in the markets with enough power, including speculators, can detrimentally affect the functioning of the markets. Accordingly, our Act requires all traders of sufficiently large size to report their futures positions to the CFTC daily. This information enables our surveillance economists to monitor large traders to ensure that no one is attempting to manipulate the futures markets. The amount and detail of trade data collected at the CFTC is unique among financial regulatory agencies and this system has proven to be extremely effective in the proper policing of this market.

As the futures markets have changed, the CFTC has evolved to meet new challenges. In light of the recent market developments and the impact of high prices on consumers, the CFTC has embarked upon a series of steps to ensure greater transparency, implement tighter controls, and gather more energy market information. The Commission recently announced an agreement with the United Kingdom Financial Services Authority to expand information-sharing concerning crude oil contracts of Ice Futures Europe in London that is linked to the U.S. NYMEX crude benchmark. The CFTC also required the imposition of position limits and accountability levels on these products equivalent to U.S. standards. Additionally, we called for additional information from swaps dealers regarding their index trading and a review of whether additional controls or classifications for these traders are needed. And the agency also announced the existence of an ongoing seven-month nationwide crude oil investigation.

More recently, the CFTC formed an interagency working group with the Federal Reserve, the Treasury Department, the Securities and Exchange Commission, the Department of Energy, and other agencies to study investor practices, fundamental supply and demand factors, and the role of speculators and index traders in the commodity markets. This group is making significant progress on completing a report to Congress and we hope to provide an interim report on the crude oil markets in the coming weeks.

Regulatory evolution and informed responses to market conditions are keys to effective market oversight in this challenging global marketplace. The CFTC and its regulatory approach have evolved along with the futures markets, and the agency has pursued its mission while operating at historically low staffing levels. Over the last year, the CFTC worked with Congress to legislatively close the so called ‘Enron Loophole’ as part of the recent Farm Bill that provides the agency the data and authority to oversee these electronic energy markets. This is clearly a busy and challenging time for the CFTC and I believe the agency has risen to the occasion. But we simply cannot sustain the current workload – let alone what is likely in the future – under our current budgetary limitations.

I am appreciative of this subcommittee approving an appropriation of 135 million dollars for the CFTC in Fiscal 2009. This is a strong step during this tight budgetary time. With the passage of new authorities over exempt markets and the additional responsibilities being currently asked of this agency, the Senate Appropriations subcommittee yesterday approved a mark of 157 million to meet these growing oversight needs.

I look forward to working with Congress to ensure the proper functioning of these important markets. Thank you again for the opportunity to appear before you today on behalf of the CFTC and I would be happy to answer any questions you may have.