

**STATEMENT OF FUTURES INDUSTRY ASSOCIATION
BEFORE THE COMMODITY FUTURES TRADING COMMISSION
ON OVERSIGHT OF ENERGY MARKETS**

SEPTEMBER 18, 2007

Chairman Lukken and members of the Commission, I am John Damgard, President of the Futures Industry Association. I am pleased to appear before you at this important hearing on the oversight of trading in energy futures and other related derivative contracts. FIA's member firms play many different roles in the trading and clearing of energy transactions, both as intermediaries and principals. We have a substantial interest in energy markets and commend Acting Chairman Lukken and the Commission for holding this public forum to allow a full spectrum of views to be heard.

Everyone agrees that the price of energy is a critical element of our national economy. For decades, energy futures have served our national interest by providing a means for efficiently managing and reliably discovering energy prices. The Commission should take pride in its effective oversight and stewardship of these markets.

In recent years, energy markets have experienced considerable innovation and increasing competition. Congress addressed these forces when it enacted the Commodity Futures Modernization Act of 2000. The CFMA allows different levels of regulation to apply to different forms of derivative transactions in different commodities that are executed in different ways. This scaled-regulatory approach was designed to serve equally well the public interest and various commercial interests. In FIA's view, the CFMA has worked very well for markets generally and energy markets in particular.

In energy, the CFMA has made it possible for new markets to compete with established exchanges. That competition has caused those exchanges to modernize through electronic trading or at least increase their pace of modernization. The CFMA has also encouraged innovative thinking by established exchanges and new trading platforms. The result is that those trying to manage energy price risks and those willing to assume those risks now have more choices than ever before.

The CFMA has sparked these positive developments without compromising the public interest, including the vital interest in preventing price manipulation. The Commission continues to deploy a wealth of market surveillance techniques and an arsenal of enforcement weapons in its pursuit of what Chairman Lukken has labeled the agency's zero tolerance of price manipulation. Clearly, the Commodity Exchange Act and the Commission's regulatory apparatus continue to target price manipulation as public enemy #1.

FIA agrees with this emphasis. Price manipulation should be prevented whenever possible and never tolerated. Some have questioned how well the existing anti-manipulation defenses work when more than one energy derivative market exists. In FIA's view, multiple trading facilities, like NYMEX and the Intercontinental Exchange today in energy, only enhance the need for vigorous CFTC oversight. When trading occurs on multiple markets, it is even more important that CFTC market surveillance have ready access to all relevant large trader information. This principle applies whether the two (or more) related markets are DCMS, DTEFs, EXBOTs or ECMS. None of those markets would be able to survey, or should be expected to survey, all relevant positions on its competitor trading platform.

The Commission's traditional role as the exclusive regulator of futures transactions and markets actually compels this kind of comprehensive and vigilant multi-market

surveillance approach. Multiple markets combined with multiple regulators would be a recipe for disaster. For that reason, in 1974, Congress granted the CFTC the extraordinary power of exclusive jurisdiction to make sure that only an agency expert in futures pricing would cast its surveillance eyes on futures trading activities. At the same time, Congress wanted futures market participants to be answerable only to that expert agency's judgment. The Commission has in the past correctly made clear to its sister agencies, the states, the courts and Congress that monitoring futures pricing is its exclusive statutory duty. It should continue to do so, not as a matter of turf but as a means of continuing to vindicate the public policy goals exclusive jurisdiction serves, including the avoidance of duplicative or conflicting regulation.

While some may talk of loopholes and regulatory gaps, FIA believes the record shows that the Commodity Exchange Act's anti-manipulation foundation in the energy area is very strong. FIA does not believe any changes to the CEA are vital to the Commission's ability on a day to day basis to achieve its anti-manipulation mission. The statute works well and the CFTC works well with it. At the same time, we recognize that the Commission will take whatever steps it determines to be needed to update its regulatory approaches consistent with its statutory authority.

Our final point is a familiar one and a critical one. Price manipulation is public enemy #1 because it affects both market participants and the public at large. Price manipulation can have a serious ripple effect in our economy and can hurt many innocent bystanders. That is why Commission vigilance is so important.

It is also why Commission regulation benefits not just market participants, but just as profoundly non-market participants. For that reason, FIA continues to be vehemently opposed to funding the CFTC through a transaction tax. In our view, all taxpayers benefit from

CFTC market oversight. Therefore all taxpayers should pay for it. If the CFTC needs additional resources, the Administration should request and Congress should appropriate the necessary funds. But imposing an arbitrary and egregious tax that would be borne most by those that provide the liquidity that allows futures markets to serve so many public interests is a bad idea whose time should never come.

Thank you for holding this hearing and for considering our views. I would be happy to answer any questions you might have.