Testimony of
Dr. James Newsome, President and CEO
New York Mercantile Exchange, Inc.
before the
Committee on Agriculture
United States House of Representatives
July 10, 2008

Mr. Chairman and members of the Committee, my name is Jim Newsome and I am the President and Chief Executive Officer of the New York Mercantile Exchange, Inc. (NYMEX or Exchange). NYMEX is the world's largest forum for trading and clearing physical commodity-based futures contracts, including energy and metals products, and has been in the business for more than 135 years. NYMEX is a federally chartered marketplace, fully regulated by the Commodity Futures Trading Commission (CFTC) both as a "derivatives clearing organization" (DCO) and as a "designated contract market" (DCM).

On behalf of the Exchange, its Board of Directors and shareholders, I want to express our appreciation to the Committee for holding today's hearing. The ever increasing cost of energy touches all aspects of our daily lives and today is quite possibly the most important issue facing global and domestic economies as well as U.S. consumers. Highlighting the urgency of the matter, no fewer than 19 bills have been introduced in the House and Senate over the last few weeks on this very topic.

The Committee has chosen to focus the discussion on several key issues including margin requirements, hedge exemptions, swap dealers, index funds and foreign boards of trade. NYMEX is pleased to provide its views on the topics of interest that you have identified.

MARGINS

Futures exchanges serve a price discovery and risk management function. Exchanges are neutral as to price levels. In the American free market system, price is determined by the open interplay of market opinion between buyers and sellers. Margin levels should not be used as a tool by the government to artificially control prices. Moreover, any attempt to use margin levels to do so will likely fail. The most important function of margin is prudential--that is, to protect the exchange from credit exposure to its clearing member brokers, and to protect brokers from credit losses from their customers.

In futures markets, margins function as financial performance bonds and are employed to manage financial risk and to ensure financial integrity. Margin takes several forms in the futures industry. First, there is *original margin*, which is the amount of money deposited by both buyers and sellers of futures contracts to ensure their performance against the contracts in their account. In addition, on at least a daily basis and sometimes more frequently the futures exchanges collect *variation margin* from both long and short participants to reflect the shifting value of open positions in a given contract. All open positions in regulated futures and options contracts are "marked-to-market" on a daily basis; this daily settlement is a core feature of the financial integrity process for U.S. futures

markets because, among other things, it prevents losses from building up beyond one day's risk.

The current margin structure used by U.S. futures exchanges and their clearinghouses has consistently demonstrated that it adequately protects the financial integrity of transactions executed on regulated markets. Indeed, no customer or other participant has ever lost money in the history of the Exchange as a result of a financial default by a clearing member.

A number of Congressmen have questioned why futures margin amounts are not the same as securities margin amounts. Unlike margins for transactions in non-exempt securities, futures margin is not a down payment against the purchase price of the underlying product. An open position in a futures contract is not an asset and does not result in any ownership unless and until a market participant stands for delivery following termination of trading in the expiring contract month. Instead, futures margin represents a good faith deposit or performance bond to ensure that adequate funds are available in each customer's account to properly settle the trade when it is liquidated. These deposits are intended to cover the financial risk associated with maintaining a futures position by ensuring the financial integrity of transactions cleared by a futures clearinghouse.

By contrast, securities margins are intended to cover the purchase price of the underlying stock and regulation allows the investor to borrow a percentage of that amount from his carrying firm. One short-hand definition of securities margin is the amount of money an investor deposits with a broker when borrowing from

the broker to buy securities. The remainder of the cost of the purchase would be financed by the broker. Because securities margin is collected only from the purchaser of the security, it should be noted that a seller would pay no margin in a securities trade, whereas a futures transaction that establishes a new position for buyer and seller would result in collecting margin from both parties.

In addition, the settlement process for securities is notably longer than for futures. While futures transactions are processed and settled within a day of the transaction, securities trades historically take three business days for settlement. Beyond the fundamentally different purposes for futures and securities margins, the one-sided nature of securities margins, as well as the longer settlement period, may also account in part for differences in levels as between futures and securities margins.

At NYMEX, margin levels are reviewed daily and are routinely adjusted in response to market volatility. Margin generally is collected to cover a 99 percent probability of a likely one-day price move, based on an analysis of historical and implied data.

Over the years, there have been proposals made to Congress to increase margins to artificial levels that have no relation to risk levels in order to deter participation in the market. For example, such proposals were made around the time that the CFTC was founded in 1974, as well as in the wake of the stock market crash in 1987. On each occasion, after weighing the prospect of controlling market behavior through margin levels, Congress ultimately rejected such proposals as ineffective and as bad public policy. Thus, the latest

proposals to raise margin requirements to artificial levels are essentially recycling theories that have been repeatedly disproven and rejected by Congress in the past.

Nonetheless, those who would push for artificially higher margin levels now are proposing solutions that are apparently premised on three assumptions: (1) that speculators are the primary driver of prices in futures markets, (2) that higher margin levels will drive out speculators; and (3) that higher margins will result in lower prices. Each of these assumptions reflects a fundamental misunderstanding of futures markets and market participants.

The NYMEX Research Department has conducted extensive analysis of WTI futures market data and found no support for an assumption that speculators are pushing prices higher. Data analysis indicates that the percentage of open interest in NYMEX Crude Oil futures held by non-commercial participants (i.e., so-called speculators) relative to commercial participants actually decreased over the last year, even at the same time that prices were increasing. Non-commercial longs and shorts consistently have been in the range of 30-35% of the open interest. Moreover, non-commercial participants are not providing disproportionate pressure on the long or buy side of the crude oil futures market. Instead, non-commercials are relatively balanced between open long (buy) and short (sell) open positions for NYMEX crude oil futures. The attached chart indicates the percentage of open interest in the NYMEX Crude Oil futures contract held by non-commercial longs and shorts relative to that held by commercial longs and shorts. As can be seen, during the last year, commercial

longs and shorts have consistently comprised between 65 and 70% of all open interest.

Moreover, on a macro level, speculators are not in a position to be the drivers as to where prices are established in our markets. The crude oil futures contract is a physically delivered contract for a commodity for which OTC and cash markets exist that are each approximately 8-10 times the size of the futures market. There is and can be no credible argument among serious economists and academics who study futures markets that futures prices are driven by developments in the physical market and not vice versa.

NYMEX does not believe that raising margin levels is the appropriate tool for dampening speculation. The Commodity Exchange Act specifically directs the CFTC to utilize speculative position limits to control excessive speculation in futures markets. NYMEX has raised margin rates for its crude oil futures contract seven times since the beginning of the year to reflect the increased credit risk from greater price volatility in energy markets.

The base rate that NYMEX charges clearing member firms has risen from $4,500 to $9,250, a 106% increase. Clearing members then collect an even higher margin rate for member customers and a still higher margin rate for non-member customers. The margin required to be posted with such clearing members by non-member customers has increased from $6,075 to $12,488, also a 106% increase. The rates were adjusted by Exchange staff in direct response to the contract's increased volatility.

Margin levels have increased substantially in response to increased market volatility. Year to date, the settlement price of spot month crude oil futures has risen from $99.62 to $140.93 (as of July 2, 2008), a 41% increase. This upward trend continued in spite of crude oil margin being raised seven different times for a total of a 106% increase. As such, the available data does not support the assertion that increasing margins will lower prices.

Exchange staff has examined trends in margin levels at the Exchange going back to early 2000. The data clearly indicate that higher margin levels lead rather than follow increases in the price of crude oil futures products. In other words, when Exchange staff, in exercising their independent and neutral business judgment, determined to increase margin levels in response to changes in crude oil volatility levels, the higher margin levels were followed not by lower prices but instead by yet higher crude prices.

Although higher margin levels do not result in lower prices, NYMEX has grave concerns that a rash public policy course of action that imposes new artificial margin levels will have a serious and perhaps irreversible impact on a core mission of futures exchanges, which is to provide reliable price discovery. By harming and deterring non-commercial participants who effectively serve as liquidity providers to commercial participants, artificial margin requirements will reduce the attractiveness of U.S. futures markets for commercial participants as compared to other alternatives. In addition, artificial margin levels will clearly result in a distortion of the price discovery mechanism of U.S. futures exchanges from their current robust levels. All other things being equal, commercial

participants will have a strong incentive to shift their hedging activity to other markets that have less distortion of the price discovery mechanism.

In a highly transparent, regulated and competitive market, prices are affected primarily by fundamental market forces. Currently, uncertainty in the global crude market regarding geopolitical issues, refinery shutdowns and increasing global usage, as well as devaluation of the U.S. dollar, are now relevant market fundamentals. Adjusting margin levels significantly upward will not change the underlying market fundamentals, and thus, will not affect price levels. Moreover, by artificially increasing speculative margin levels, it is possible that speculators with short positions may be forced to liquidate their positions, putting even greater upside pressure on the market. Furthermore, given the reality of global competition in energy derivatives, increasing crude oil margins on futures markets regulated by the CFTC inevitably will force trading volume away from regulated and transparent U.S. exchanges into the unlit corners of unregulated venues and onto less regulated and more opaque overseas markets.

As discussed above, increasing margins will not provide the promised solution of ultimately reducing crude oil prices on regulated futures exchanges. However, this action will have a number of unintended but severe consequences that will harm the regulated markets. Beyond the distortion of the financial risk management process, imposing artificially higher margins would result in:

- A cash and liquidity crisis for many market participants;
- A decrease in liquidity and an associated increase in price volatility;

- A possible increase in intra-day trading to avoid overnight margin requirements, resulting in heightening the impact of short-term price changes, further accelerating price volatility;
- An increase in hedging and other transaction costs for commercials trading on the regulated U.S. exchanges; and
- A shift of business either to less regulated and transparent overseas markets or to unregulated and non-transparent OTC venues in the U.S.

For these reasons, NYMEX believes that Congress should consider the real and perhaps irreparable harm that would result to regulated U.S. futures exchanges from this ill-considered proposal.

Hedge Exemptions/Speculative Position Limits

NYMEX has numerous surveillance tools, which are used routinely to ensure fair and orderly trading on our markets. Monitoring the positions of large traders in our market is a critical component to our market surveillance program. Large trader data are reviewed daily to monitor reportable positions in the market. On a daily basis NYMEX collects the identities of all participants who maintain open positions that exceed set reporting levels as of the close of business the prior day. Generally NYMEX identifies in excess of 85% of all open positions through this process. These data, among other things, are used to identify position concentrations requiring further review and focus by Exchange staff. Any questionable market activity results in an inquiry or formal investigation.

Speculative activity on futures exchanges is managed by position limits. As stated in the CFTC's rules, position limits and accountability levels are required "to diminish potential problems arising from excessively large

speculative positions." These limits effectively restrict the size of a position that market participants can carry at one time and are set at a level that greatly restricts the opportunity to engage in possible manipulative activity on NYMEX. For the NYMEX WTI Crude Oil contract, the position limit during the last three days of the expiring delivery month is 3000 contracts. Breaching the position limit can result in disciplinary action being taken by the Exchange.

NYMEX also maintains a program that allows for certain market participants to apply for targeted hedge exemptions from the position limits in place on expiring contracts. Hedge exemptions are granted on a case-by-case basis following adequate demonstration of bona fide hedging activity involving the underlying physical cash commodity or involving related swap agreements. A company is not given an open-ended exemption, and the exemption does not allow unlimited positions. Instead, the extent of the hedge exemption is no more than what can be clearly documented in the company's active exposure (as defined by the CFTC) to the risk of price changes in the applicable product. In a number of instances, hedge applications are either reduced in number or are denied because of staff's overriding focus on maintaining the overall integrity of our markets.

Role of Swap Dealers

Turning specifically to data relating to the activity of swap participants since October 2007 until early June 2008, these data provide a very different result than what is being publicly asserted by commentators who choose not to burden their arguments with the facts. This is a key finding; a closer analysis of

such data, including data obtained from the CFTC, reveal that swap dealers participating in our markets were in fact holding overall net short (sell side) positions. In other words, unlike the public posturing of those who blindly assert that swap dealers are providing upward pressure on price, the simple reality is that, in the recent past, any price impact that may be attributable to their open positions has generally been to lower prices somewhat and not to raise them.

We have seen various representations made relative to participation by speculators in our markets that directly contradict our data. One such representation claims that 70% of our crude oil market is made up of speculators. That analysis incorrectly assumes that all swap dealers are non-commercials and that all of their customers who would be on the opposite side of any energy swap that they might execute would also all be non-commercials. This is simply not the case. However, this confusion clearly highlights the need for the CFTC large trader data to delineate for energy futures the degree of participation by non-commercials in the same manner that such data are now being delineated for agricultural contracts.

This potential gap in the large trader data compiled by the CFTC in its Commitment of Trader's Report complicates efforts to determine the extent of commercial and non-commercial activity of swap dealers. As a result, questions are being raised as to whether hedge exemptions for swap dealers are being used as a means of circumventing speculative position limits. At this time, due to the manner in which the data are reported, it is not clear whether this is true or not. In response to these queries, the CFTC announced its intent to develop a

proposal that would routinely require more detailed information from index traders and swaps dealers in the futures markets, and to review whether classification of these types of traders can be improved for regulatory and reporting purposes. NYMEX is confident that these data will confirm that not all of the over-the-counter (OTC) energy swap activity undertaken by swap dealers involves non-commercial participants. In addition, NYMEX believes that these data will allow the CFTC to better assess the amount and impact of this type of trading on the markets.

NYMEX is concerned about restrictions that could be imposed on swap dealers that could limit the ability of commercial participants to execute strategies to meet their hedging needs. For example, commercial participants often need to have customized OTC deals that can reflect their basis risk for particular shipments or deliveries. In addition, not all commercial participants have the sufficient size or sophistication to participate directly in active futures markets trading. Swap dealers assume that risk and lay it off in the futures market.

Nevertheless, NYMEX would support a restriction on the ability of a swap dealer to obtain a hedge exemption from a position limit for activity that concerns OTC transactions involving non-commercial participants. This focused or targeted approach will address the concerns being raised in a thoughtful and deliberate manner and also will support and reinforce the underlying rationale for the maintenance of effective position limits on speculative activity.

Role of Index Funds

Unfounded assertions have raised concerns about a perceived dramatic increase in the level of participation by pension funds and index fund participants in NYMEX's Crude Oil futures contract. As a result, legislative proposals to limit the participation of such entities in energy futures contracts are under consideration. While the arguments advancing such assertions are riddled with errors, one rather sophomoric error is particularly egregious and does not warrant uncritical acceptance.

Specifically, some commentators with no obvious expertise in futures markets have estimated levels of investment in Index Funds (or structured instruments based on Indices). These estimates are, in part, derived from data on participation in certain agricultural commodity futures contracts and are wholly based on several assumptions including one that the agricultural components of the index investments are entirely hedged in related agricultural commodity futures contracts. The commentators then make the leap in logic that any market exposure related to investment in the index will always and automatically be hedged by establishing positions in futures contracts for each of the 25 commodities comprising the index. It is possible this reflects current practice for some or perhaps most of the agricultural commodities.

In 2000, Congress declined an opportunity to provide the same level of legal certainty to OTC swaps in agricultural products that are now available to swaps in financial and energy products. Consequently, by virtually all accounts, the market for agricultural OTC swaps is far less developed than for energy

swaps. Indeed, the OTC energy market currently dwarfs the size of the regulated futures market for energy products. So, while it would be understandable that index positions in the agricultural commodities of an index would be hedged, at least at present, on the regulated futures exchange, the OTC venue is far more viable for energy products.

Thus, it is inaccurate to assume that energy markets operate in the same manner as agricultural markets, and it is equally wrong to presume that the same practice for agricultural commodities automatically will carry over to index fund activity as it concerns energy futures. An index fund provider could hedge its position either by establishing a position in the related energy futures contract on a regulated exchange or by entering into a swap or other derivatives transaction in the OTC market.

The actual structure of energy derivatives markets is also supported by recent statements by companies engaged in the index business. Donald Casturo, an executive at Goldman Sachs, recently noted that "85% of this investment (Index investing) takes place on the OTC market." (CFTC Energy Markets Advisory Committee meeting, Washington, D.C., June 10, 2008). Rather than incur the cost of entering into transactions on regulated futures exchanges for each of the 25 commodities comprising its index, companies such as Goldman Sachs find it more cost-effective to hedge their exposure, at least with respect to energy products, predominantly via one OTC swap transaction with another swap dealer.

The consequence of this practice is that only a modest portion (at best) of increases in participation in the index contracts results in actual increases in activity in the NYMEX crude oil futures contract. Furthermore, no credible empirical evidence has connected participation in Index Funds with price impacts in the crude oil market. In fact, independent analyses performed by the CFTC over different time periods have indicated that participation by financial non-oil entities, even when their net-participation is on the "long" side in futures, has had no statistically significant impact. Thus, the sweeping and dramatic claims and assertions being made by those commentators new to the futures industry are not only wildly exaggerated; they are simply wrong.

NYMEX does not believe that the case has been made to support a finding that institutional investors are contributing to the high price of crude oil; contrary assertions are founded upon false comparisons that can be swiftly dismissed. It would be premature to adopt a legislative solution for an unproven and unsubstantiated problem. NYMEX recommends requirements to provide additional transparency to enhance the ability to monitor these markets. This approach will avoid undue harm to investors and to the markets. Finally, NYMEX believes that prohibiting investment opportunities of institutional market participants would effectively substitute the judgment of Congress for the judgment of trained financial investment professionals. We urge Congress to move with deliberation and caution in this area.

FOREIGN BOARDS OF TRADE

Over the last few years, new developments have occurred related to products offered by non-U.S. exchanges (also referred to as foreign boards of trade (FBOT)) to U.S. customers. FBOTs, which are permitted by CFTC staff to offer their products to U.S. customers pursuant to CFTC no-action letters, began listing futures contracts with U.S. delivery points among their product slates. Historically, under the CFTC staff's FBOT no-action process, such exchanges were permitted to offer direct electronic access to their markets to U.S. customers based on a determination by CFTC staff that the foreign regulatory regime governing the FBOT was "comparable" to that of the CFTC.

Essentially, there is a system of mutual recognition among regulators around the world as a means to facilitate access to global markets. This approach worked effectively up until one FBOT listed the look-alike of the NYMEX West Texas Intermediate (WTI) Crude Oil Futures contract without the level of transparency and market surveillance controls, such as positions limits, that are provided by U.S. markets under direct CFTC regulation. It was not anticipated that the no-action process would be used in this manner. The current policy, which permits the FBOTs to list look-alikes of U.S. futures contract, has effectively diminished the transparency to the CFTC of approximately one-third of the WTI crude oil market, and permitted an easy avenue to circumvent position limits designed to prevent excessive speculation.

Two years ago, NYMEX cautioned that allowing a foreign exchange to list a futures contract virtually identical to a contract traded on a U.S. futures

exchange without comparable regulations, such as position limits, could be a slippery slope. We argued that the wrong policy decision could threaten the CFTC's jurisdiction over an important price discovery contract. At that time, the CFTC had jurisdiction over 100 percent of the WTI crude oil futures markets; today, it has jurisdiction over approximately 60 percent of the WTI crude oil market.

In our recent experience, "regulatory arbitrage" is not a hypothetical concern, but is a reality for certain NYMEX listed products. Customers are making choices among the same or similar products on the basis of differences in regulatory treatment rather than on the basis of intrinsic distinctions in the products. For example, customers can carry WTI positions above the position limits for WTI contracts established on NYMEX by shifting their business to ICE Futures Europe where position limits are not mandated by its London regulator, the Financial Services Authority. Thus, regulatory arbitrage potentially diminishes the breadth and depth of the CFTC's regulatory authority and, consequently, reduces much needed market transparency. Complete transparency to the CFTC should be a fundamental requirement for markets that are linked.

Various legislative proposals have been introduced to address FBOTs that list energy contracts that are based on commodities delivered in the U.S. or are otherwise linked to contracts traded on U.S. futures exchanges. NYMEX would support proposals that would require a comparable regulatory scheme for FBOTs that list look-alikes of U.S. futures exchange contracts or contracts that are

otherwise linked to U.S. contracts. Comparable requirements should include position limits/accountability levels, large trader reporting and emergency authority. Overall, we have argued that FBOTs offering linked products should be required by the CFTC to provide the same level and quality of data and with the same frequency that U.S. exchanges provide daily to the CFTC. NYMEX believes that this targeted approach will effectively address the regulatory gap that currently impedes the CFTC's ability to monitor the entire U.S. WTI crude oil futures contract.

NYMEX would not support other more expansive proposals that call for full registration by FBOTs offering U.S.-delivered or linked contracts. U.S. exchanges, including NYMEX, have placed trading screens in a number of foreign countries around the world to offer our products to foreign customers. There is considerable risk of retaliation by those countries, including a similar registration requirement in each foreign location where we are offering our products. Such a result would impede significantly the global competitiveness of U.S. markets.

The CFTC recently announced several initiatives to address the growing concerns about an FBOT trading the U.S. benchmark WTI contract. It has reached an agreement with the FSA and ICE Futures Europe to receive enhanced data to allow the CFTC to see both U.S. participants in the London markets and foreign traders that it would not normally oversee. In addition, the CFTC announced that it would revise its FBOT policy and require ICE Futures

Europe to establish comparable position limits and accountability levels on its crude oil contracts that are linked to NYMEX crude oil contracts.

This would be a positive step and would provide an effective mechanism to restrict speculative activity in those markets. This is particularly important when the contract trading on the FBOT is the WTI crude oil contract, which is a benchmark for crude oil pricing, and which can have a substantial impact on U.S. consumers and the U.S. economy. Indeed, we would support the imposition of position limits even for listed contracts that are financially settled. We applaud the CFTC's recent initiatives.

NYMEX continues to believe that the CFTC's no-action process for offering foreign products to U.S. customers is an important vehicle for global competitiveness of U.S. markets. Approximately one year ago, a new futures exchange, the Dubai Mercantile Exchange (DME), commenced operations in Dubai. NYMEX is a founder and has an ownership share in this venture and provides clearing services for the new exchange. The core or flagship crude oil futures contract is an Oman Sour Crude Oil futures contract. The DME initiative provides competition and greater transparency to crude oil trading in a critically important energy region.

Although the DME does not yet list a WTI financial futures contract, the DME has received a no action letter from the CFTC staff for this contract. The DME is currently finalizing a launch date for that contract. It is our understanding that, when a launch date is finalized on the DME WTI contract, DME will implement hard position limits that are comparable to NYMEX's own limits on our

WTI crude oil futures contract. Also, as part of the NYMEX Clearing Order, large trader reporting to both the CFTC and NYMEX is required.

In a more recent initiative, NYMEX has entered into an alliance with a London-based clearinghouse, LCH.Clearnet Limited (LCH), under which LCH will provide clearing services for two new product slates to be launched later this summer either by NYMEX or by a NYMEX affiliate. These new product slates are intended to provide greater competition to other energy trading facilities that are active in this energy space. One product slate, focusing upon natural gas and electricity contracts, will be listed by a division of NYMEX in the exempt commercial market tier. Applicable products in this category will comply fully with the requirements for significant price discovery contracts contained in the recently implemented CEA Reauthorization Farm Bill.

The other product slate, focusing upon crude and crude products, will be listed for trading by a NYMEX affiliate based in London that will be regulated by the FSA. That affiliate will follow the path of other exchanges regulated by other regulators and will apply for CFTC no-action relief. Notably, the affiliate will provide large trader reporting to the CFTC and also will impose hard position limits on any listed contracts with U.S. delivery points.

CFTC RESOURCES

The landmark Commodity Futures Modernization Act of 2000 (CFMA) ushered in a period of phenomenal growth in U.S. derivatives markets. The industry growth, however, has not been matched by increased resources needed for the CFTC to oversee those markets effectively. We believe that a compelling

case has been made for immediate increases in the size of the CFTC's operating budget. My own views on the need for remedying this mismatch between duties and resources stem in part from my service as Chairman of the CFTC from 2002-2004 during the period when we were continuing to implement the provisions of the CFMA . As anticipated, that law brought new competition and enhanced innovation in derivatives markets, which contributed to the explosion in trading volume. It is imperative that the CFTC have all of the tools that it needs to carry out fully its obligation to maintain the integrity of U.S. futures markets.

CONCLUSION

Complete transparency is fundamental for competitive markets. The same level of transparency and position size controls present on regulated U.S. futures markets should be the standard for foreign markets offering products with U.S. delivery points and for OTC contracts that serve a price discovery function. Additionally, NYMEX believes that disaggregation and delineation of positions held by swap dealers is necessary. This will provide important information to determine whether speculative position limits are being avoided by index funds and other institution investors and whether their activity is influencing market prices. However, a case has not been made for excluding institutional investors from participation in derivatives markets, nor for eliminating hedge exemptions for swap dealers to the extent the exemptions cover risks related to commercial activity.

Many factors are contributing to high energy prices. NYMEX continues to believe that market fundamentals are a significant factor that must not be

discounted in this debate. Increasing margins to dampen speculative activity will not change the fundamentals and will inevitably drive business away from the highly regulated, transparent marketplace. This will do more harm than good.

I thank you for the opportunity to share the viewpoint of the New York Mercantile Exchange with you today. I will be happy to answer any questions that any Members of the Committee may have.

Open Interest as a Percent of Total

80.00%
70.00%
60.00%
50.00%
40.00%
30.00%
20.00%
10.00%
0.00%

1/3/2006
3/3/2006
5/3/2006
7/3/2006
9/3/2006
11/3/2006
1/3/2007
3/3/2007
5/3/2007
7/3/2007
9/3/2007
11/3/2007
1/3/2008
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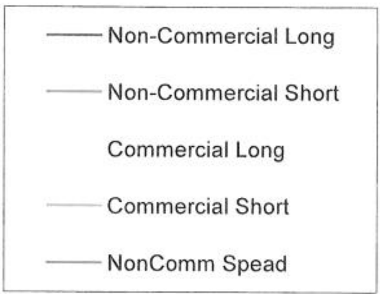

Dr. James E. Newsome serves as President, CEO, and member of the Board at NYMEX Holdings, Inc., parent of the New York Mercantile. He has been at the Exchange since August 2004. Prior to that, he served as chairman of the Commodity Futures Trading Commission (CFTC) beginning in December 2001. He was a commissioner of the CFTC from August 1998. In addition to his responsibilities at the CFTC, Dr. Newsome served as a member of the President's Working Group on Financial Markets. He was also appointed to serve on the President's Corporate Fraud Task Force.

Additionally, Dr. Newsome serves on the Board of Directors of the Dubai Mercantile Exchange, the Canadian Resource Exchange, the National Futures Association and the Institute for Financial Markets.

Dr. Newsome received his Bachelor of Science degree in food and resource economics from the University of Florida and his Masters of Science and doctorate of philosophy degrees from Mississippi State University. He and his wife, Mei Mei, have two daughters, Molly and Riley and they reside in Mendham, NJ.

Committee on Agriculture
U.S. House of Representatives
Required Witness Disclosure Form

House Rules* require nongovernmental witnesses to disclose the amount and source of Federal grants received since October 1, 2004.

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1. **Please list any federal grants or contracts (including subgrants and subcontracts) <u>you</u> have received since October 1, 2004, as well as the source and the amount of each grant or contract. House Rules do <u>NOT</u> require disclosure of federal payments to individuals, such as Social Security or Medicare benefits, farm program payments, or assistance to agricultural producers:**

Source:________________ **Amount:**________

Source:________________ **Amount:**________

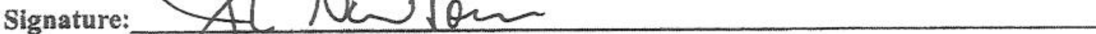
2. **If you are appearing on behalf of an organization, please list any federal grants or contracts (including subgrants and subcontracts) <u>the organization</u> has received since October 1, 2004, as well as the source and the amount of each grant or contract:**

Source:________________ **Amount:**________

Source:________________ **Amount:**________

Please check here if this form is NOT applicable to you: XXX

Signature:



* Rule XI, clause 2(g)(4) of the U.S. House of Representatives provides: *Each committee shall, to the greatest extent practicable, require witnesses who appear before it to submit in advance written statements of proposed testimony and to limit their initial presentations to the committee to brief summaries thereof. In the case of a witness appearing in a nongovernmental capacity, a written statement of proposed testimony shall include a curriculum vitae and a disclosure of the amount and source (by agency and program) of each Federal grant (or subgrant thereof) or contract (or subcontract thereof) received during the current fiscal year or either of the two previous fiscal years by the witness or by any entity represented by the witness.*

PLEASE ATTACH DISCLOSURE FORM TO EACH COPY OF TESTIMONY.