



## **Commodity Futures Trading Commission**

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# **Statement**

**“Where We All Think Alike . . . .”**

## **Statement of Commissioner Bart Chilton Regarding Global Markets Advisory Committee**

**July 15, 2008**

Walter Lippman once said, “Where we all think alike, no one thinks very much.” That’s the great benefit, I believe, of meetings such as these: the confluence of interests and ideas, where many of us do not agree. This is, today, a room full of thinkers. We can freely exchange our thoughts and commentaries with the common goal of more fully exploring complex issues affecting our markets. Thank you, Commissioner Sommers, for putting this meeting together, and thank you to the participants who have taken time out of their schedules to contribute to the discussions.

I am particularly grateful to Commissioner Sommers for providing an opportunity to discuss issues related to foreign boards of trade (FBOTs). Since the first no-action letter was issued in the 1990s, there have been sea changes in the methods of foreign market access and in the products offered to U.S. investors. This issue, perhaps more than any other, exemplifies the “interconnectedness” of the global financial markets. No longer do we have dedicated terminals, specific to one foreign exchange: we’re all hooked up to one world-wide internet. We all talk on one global plane. We have, if you will, a new language, and it crosses legal, political, and cultural barriers: instant access to global trading markets, with the click of a button. This fact, and it’s not going away, is what brings us here, and what requires us to address complex issues of international comity and regulation.

In addition to technological changes, product offerings have evolved over time. We have had to deal with some challenging issues, particularly those relating to FBOT transactions that mirror contracts executed on U.S. platforms. The agency has recently made great strides in dealing administratively with the issue, and I am appreciative of the efforts of our Acting Chairman to increase transparency and improve information flows regarding these important markets.

I believe, however, that Congressional action is ultimately necessary to ensure that we have the authorities in place to protect the risk management and price discovery functions of our markets for American consumers and businesses.

That said, these are extraordinary times, and we are seeing extraordinary markets. I think it is time to consider extraordinary, but targeted remedies to ensure that markets are operating in an efficient, effective and honest fashion.

Huey Long said, "Someday Louisiana is going to get good government. And they ain't gonna like it." Well, not everyone likes the proposals that are being discussed on Capitol Hill, and there are many of them. But it seems to me that it is time to consider targeted responses to what are, or could be potential areas of concern in commodity markets.

For example, Senators Durbin, Levin and others have proposed legislation that would address this issue of transparency, basically closing what has been dubbed the "London Loophole" in the same way Congress closed the "Enron Loophole." (And, contrary to any statements made otherwise, Congress really did close the Enron Loophole in the Farm Bill.) The Durbin legislation FBOT language would give the CFTC authority over U.S. traders accessing contracts on FBOTs, and would allow the agency to exercise its manipulation and recordkeeping powers. In addition, it provides authority for the CFTC to require traders to liquidate positions to reduce the threat of manipulation or price distortion. At the same time, the proposed legislation provides specific instructions to the CFTC when considering whether to give (or whether to continue) FBOT access to U.S. customers, and spells out that the FBOT has to have comparable rules in place as to position limits, publication of trading information, and providing information to the CFTC. I think the benefit of this language is that it gets the job done—that is, full transparency for look-alike products—but doesn't do so in a way that will result in the kind of international retaliation that could hurt U.S. markets.

I am hopeful that other "good government" proposals to address these extraordinary times take the same targeted approach. A surgical knife rather than a sledge hammer is certainly a better approach when it comes to these price discovery markets that are so important to American consumers and businesses.

I look forward to hearing comments and deliberations on this and other topics today, and again, I thank you all for your participation.