Commodity Futures Trading Commission
Office of Public Affairs
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581
202.418.5080

Statement

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

August 5, 2009

Good morning. I call to order this meeting of the Commodity Futures Trading Commission. This is the last 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.

Last week, the CFTC held its first two hearings on setting position limits 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.

Of note, several major market participants – including exchanges and traders – suggested their support for position limits. The Chicago Mercantile Exchange announced its support for adoption of a hard limit regime, including single-month and all-months limits. This is a welcome change.

In addition, major traders testified last week that they believed position limits in the energy realm would be beneficial to the market. During this hearing, we will continue to discuss the details of possible limits, including who should set them, at what level and whether noncommercial exemptions should be granted. The signal that the exchanges and the traders sent, however, is that they support position limits to protect the markets and the American public.

I believe that we should seriously consider setting position limits in the energy markets for three reasons. First, it is our statute. In 1936, the Congress said that the CFTC "shall" impose limits on trading and positions as necessary to eliminate, diminish, or prevent the undue burdens that may come as a result of excessive speculation. We are directed by statute to act in this regard to protect the American public.

Second, while we currently set and enforce position limits on certain agriculture products, we do not for energy markets. I believe that position limits should be consistently applied across markets for physical commodities of finite supply. Though there are some differences between energy markets and agricultural markets, I am not sure that those distinctions suggest that the federal government should set position limits on one and not the other. The energy markets, for example, are much bigger than the agriculture markets, and while the United States is fortunate to be an exporter of most agriculture commodities, we are an importer of most of our energy.

The CFTC is directed by statute to protect market integrity, and I believe that we cannot step back simply because the energy markets are bigger. A lot has changed since the early 1990s when the assumption was that because energy markets were larger, they were different. To the contrary, I believe that the size of the markets and the effects that they have on the day-to-day lives of the American public make it that much more important that we aggressively fulfill our mandate.

Third, I believe that at the core of promoting market integrity is ensuring markets do not become too concentrated. This is even more relevant today because financial markets have become more concentrated since the first exemptions were allowed in 1991 and the position accountability level regime was first implemented. The financial crisis highlighted the risk to the market and to the American public brought about by large concentrated actors on the financial stage.

When the CFTC set position limits for certain agricultural commodities, the agency sought to ensure that the markets were made up of a broad group of market participants with a diversity of views. This is not the only place in our economic regulatory structure where we guard against concentration in markets. In a very different context, the goal of preventing market concentration is at the heart of United States antitrust laws. Similarly, the FDIC limits the aggregate size of any one bank's deposits in the deposit insurance fund.

The very important question becomes: how much concentration is too much? At what point of market concentration does a trader detract from liquidity instead of enhance it? I think we would all agree that if one party controls half the market, that party is more likely to lessen liquidity than enhance it. Position limits should enhance liquidity by promoting more market participants rather than having one party that has so much concentration so as to decrease liquidity.

I look forward to hearing from today's witnesses on this very important issue. Last week we heard a diversity of points of view, and I look forward to hearing from additional experts and market participants this morning. 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. Please visit www.cftc.gov for a link and instructions to submit written comments for the record.

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