Protecting America's Consumers from Excessive Speculation: American Energy for American Jobs

Testimony
of
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United States House of Representatives
Democratic Steering and Policy Committee
Cannon House Office Building, Room 340
Washington, DC
Wednesday, April 4, 2012, 2:00 PM EST

I. Excessive Speculation is Needlessly Driving Up the Price of Oil and Other Essential Commodities and Increasing Volatility in Commodities Markets

Over the past five years the price of a barrel of West Texas Intermediate ("WTI") crude oil has radically changed in price: from $65 in July 2007; to a world-record high of $147.17 in mid-July 2008; to a low of $30 in December 2008; to $75 in July 2009; to $110 in April 2011;[1] to $76 in October 2011;[2] and to $105 as of April 2, 2012.[3] Needless to say, gasoline prices (a key derivative of crude oil) have risen and fallen accordingly.

There is widespread recognition that a continued and sustained increase in gas prices will undermine the country's fragile economic recovery, thereby raising the specter of a new recession and substantially increased unemployment.

The overwhelming majority of experts have concluded that the extreme volatility in crude oil prices is not related to changes in market fundaments.[4] In fact, supply and demand for crude oil (and for food supplies) remain in equilibrium and there is no shortage in the global supply of oil.[5] The disconnect between oil prices and supply/demand fundamentals was evidenced last month when, on nearly the same day, the Saudi Arabian King promised to increase crude oil production by as much as 25 percent to make up for any shortfalls from the Iranian oil boycott and President Obama strongly hinted that the United States would release crude oil reserves from the Strategic Petroleum Reserve, and the price of crude oil went up![6]

A host of prominent economic studies from, *inter alia*, Stanford, Princeton, Texas A&M University, and the London School of Economics, as well as analysis by such prominent market observers as Nouriel Roubini from the Stern School of Business at New York University, have concluded that the five year volatility in the price of crude oil is substantially due to excessive speculation in crude oil derivative markets. These studies do not conclude that market volatility

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[1] *See* LiveCharts.com, *WTI Crude Oil Price History (March-April 2011), available at* http://www.livecharts.co.uk/futures_commodities/oil_prices_historical.php?type_symbol=futures_wi&start=240.
[2] *See* LiveCharts.com, *WTI Crude Oil Price History (September-October 2011), available at* http://www.livecharts.co.uk/futures_commodities/oil_prices_historical.php?type_symbol=futures_wi&start=120.
[3] *See* LiveCharts.com, *WTI Crude Oil Price History (February-April 2012), available at* http://www.livecharts.co.uk/futures_commodities/futures_commodities.php.
[4] For a full citation to the many studies and commentary showing that excessive speculation (and not market fundamentals) is causing bubbles in commodity staples, *see* Appendix (App.) A, item 1 at pp. 8-9; *see also id.*, item 3 at pp. 7.
[5] App A., item 10.
[6] *See* App. A, item 8 at pp. 6-7 (noting that investment vehicles used by speculators in the oil market are also used in agricultural commodity markets; food prices move in synch with oil prices and price bubbles in agricultural commodities markets have caused starvation in developing countries).

principally derives from supply/demand fundamentals.[7] There are well over 50 studies and commentary to this effect.[8] When the price of a barrel of crude oil was reaching $110 in April 2011, the CEO of ExxonMobil testified to the Senate Finance Committee that market fundamentals only justified a price of $60 to $70 a barrel.[9] By October 2011, the bubble in the oil markets burst and the price did in fact drop to close to the $60 to $70 price range.

Indeed, President Obama has on at least on three occasions—June 22, 2008 (during his presidential campaign when crude oil was approaching its world-record high of $147 a barrel),[10] April 20, 2011 (when crude oil spiked to $110 a barrel),[11] and on March 8, 2012 (when the price of a barrel of crude oil had again spiked, increasing from the October 2011 low of $76[12] to $106)[13]—attributed the repeated and extreme spikes in crude oil and gasoline prices to speculative malpractices by large financial players in the oil market. On March 8, 2012, President Obama once again convened, as he had during the prior spike of April 2011, an inter-agency task force led by the Department of Justice to investigate criminal manipulation in these markets.[14] As the President has repeatedly said, U.S. production is up and U.S. consumption is down.[15] In fact, the world's supply of oil is sufficiently stable that last week the President found tighter oil sanctions could be imposed on Iran without affecting market fundamentals.[16]

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[7] *Id*., item 1 at pp. 9.
[8] *Id.* at pp. 8.
[9] Lenzner, Robert, *ExxonMobil CEO Says Oil Price Should Be $60 To $70 a Barrel*, FORBES (May 14, 201), *available at* http://www.forbes.com/sites/robertlenzner/2011/05/14/exxon-mobil-ceo-says-oil-price-should-be-60-70-a-barrel/.
[10] Bohan, Caren, *Obama Vows to Crack Down on Oil Speculation*, REUTERS (June 22, 2008), *available at* http://www.reuters.com/article/2008/06/22/us-usa-politics-obama-energy-idUSN2243134220080622.
[11] Mason, Jason, *Obama Blames Speculators for Rising U.S. Fuel Prices*, REUTERS (April 20, 2011), *available at* http://www.reuters.com/article/2011/04/20/us-usa-energy-obama-speculators-idUSTRE73J1NN20110420.
[12] *See supra* note 2.
[13] *See supra* note 3.
[14] Hall, Kevin & Lesley Clark, *Back to Work for Gas Price Unit*, MCCLATCHY NEWSPAPERS (March 9, 2012), *available at* http://www.stltoday.com/news/national/back-to-work-for-gas-price-unit/article_212a4a50-32f3-5375-973e-74a3beb26924.html.
[15] Cooper, Mark, Consumer Federation of America, *Excessive Speculation and Pain at the Pump The Never-ending Story: Fixing the Long-Term Fundamentals and Addressing the Short-Term Problems Go Hand-in-Hand* (manuscript with author) ("Consumption is down by ten percent (2 million barrels per day). Domestic oil production is rising for the first time in over three decades. In addition, biofuel production is now equal to over ten percent of domestic crude oil production. Combined, the increase in production equals 1.2 million barrels per day, or about 7 percent of consumption. Imports are down to a level not seen since the mid-1990s. The downward trend of imports is greater than at any time since the price spikes of the 1970s. Spare refinery capacity is up.").
[16] Jackson, David, *Obama to Proceed With Iran Oil Sanctions*, USA TODAY (March 30, 2012), *available at* http://content.usatoday.com/communities/theoval/post/2012/03/ap-obama-to-proceed-with-iran-oil-sanctions/1#.T3pbozEgef4.

II. President Obama and the House and Senate Democratic Leadership Have In the Past Successfully Tamped Down Excessive Speculation in the Crude Oil Market

President Obama and Congressional Democrats have repeatedly and successfully intervened to highlight and blunt the adverse impact of excessive speculation on the crude oil markets. On June 26, 2008, as oil prices were reaching their world-record high, the House Democratic leadership and the then Chairman of the House Agriculture Committee (Congressman Collin Peterson) introduced legislation (H. R. 6377) that passed the House that same day by a vote of 402-19. The bill required the Commodity Futures Trading Commission ("CFTC") to act pursuant to its authority under the Commodity Exchange Act of 1936 and declare an "emergency" in the oil market and impose special limits on excessive speculative activity in crude oil futures markets.[17] On March 20, 2012, Senator Sanders (Independent-Vermont) along with six Democratic Senators revived this legislation in the Senate.[18]

On July 15, 2008, the Senate Democratic leadership (with Senate Majority Leader Harry Reid as lead sponsor) introduced legislation (S. 3268) that would have imposed tough congressionally driven limits on excessive speculative activity in the crude oil market.[19] On July 25, 2008, that bill received 51 votes in favor with 93 Senators present, a majority of the Senate, but not enough to invoke cloture.[20] Despite the bill's defeat, many Republican Senators indicated that they might support the legislation in the future.

On September 28, 2008, then Chairman Peterson again brought to the House floor a bill (H.R. 6604) that would impose tough speculative position limits. The bill passed the House 283-133.[21] Also, on July 31, 2008, under the leadership of Senator Wyden (Democrat-Oregon), a bi-partisan Senate Finance discussion draft was circulated, which would have taxed profits from passive speculative crude oil futures as ordinary income.[22]

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[17] Wisconsin AgConnection, *House Passes Legislation Requiring CFTC to Curb Oil Market Speculation* (June 27, 2008), *available at* http://www.wisconsinagconnection.com/story-national.php?Id=1516&yr=2008.

[18] Restuccia, Andrew, *Sander's Bill Would Force CFTC's Hand in Effort to Lower Gas Prices*, THE HILL (March 21, 2012), *available at* http://thehill.com/blogs/e2-wire/e2-wire/217325-sen-sanders-bill-would-force-cftcs-hand-in-effort-to-lower-gas-prices.

[19] ThomasNet, *ATA Applauds Senator Reid and Other Sponsors of S. 3268*, (July 21, 2008), *available at* http://news.thomasnet.com/companystory/ATA-applauds-Senator-Reid-and-other-sponsors-of-S-3268-547049.

[20] Govtrack.us, *On the Cloture Motion (Motion to Invoke Cloture on S. 3268)*, (July 25, 2008) *available at* http://www.govtrack.us/congress/votes/110-2008/s184.

[21] Press Release, House Committee on Agriculture, *House of Representatives Approves Bill to Strengthen Oversight of Futures Markets* (Sept. 18, 2008), *available at* http://agriculture.house.gov/press/PRArticle.aspx?NewsID=375.

[22] Press Release, Sen. Ron Wyden, *Wyden-Grassley Staff Proposes Level Playing Field for Oil Trade* (July 31, 2008), *available at* http://wyden.senate.gov/newsroom/press/release/?id=681fc35e-e834-4b2d-b7dd-8b1e0e0828b1.

The combination of all of these Congressional efforts led speculators to fear that Congress would take immediate action to limit speculation in commodities markets and so speculators abandoned these markets in droves. The mass exodus of speculators from the crude oil market precipitated a radical drop in the price of a barrel of crude oil: the price dropped from its July 2008 world-record high of $147 a barrel to $30 a barrel by December of that year.

In the winter of 2009 when financial institutions realized that Congress would not pass legislation stopping excessive speculation into law, the price of oil once again spiked. Gas prices rose 54 days in a row in the spring of 2009 and by July 2009 the price of a barrel of crude oil reached $75.[23] During this period of high oil and gas prices, the House and Senate Democratic leadership facilitated the passage of legislation that later became the Dodd-Frank Act. President Obama and Democratic leaders made clear that the legislation aimed to impose tough new limits on excessive speculation in commodity derivatives markets and to strengthen the hand of the CFTC by allowing the agency to more easily bring market manipulation cases. Indeed, by the time Dodd-Frank was signed into law (Section 737 requires position limits on excessive speculation and Section 753 reforms the manipulation enforcement standard for the CFTC) crude oil prices had stabilized for almost 18 months—prices fluctuated between $75 and $85 a barrel.

III. Crude Oil and Gasoline Prices Continue to Spike Unnecessarily as Wall Street Fights Implementation of Dodd-Frank Limits on Excessive Speculation

In January 2011, the CFTC proposed its position limits rule to curb excessive speculation in commodities markets. Since proposing the rule, the CFTC has worked hard to implement Dodd-Frank's tough position limit statutory requirement; however, the agency's efforts have met with fierce opposition and the price of oil continues to rise.[24] Three of the five CFTC commissioners immediately expressed strong reservations about setting tough limits on excessive speculation. This reluctance to impose rigorous position limits unleashed the price of crude oil from the $75-$85 price range that it had been trading at since the summer of 2009 and caused the price of a barrel of oil to reach $110.

On April 21, 2011, President Obama made clear that the price spike was not a result of market fundamentals (which as usual were in equilibrium), but the result of crude oil market manipulation by speculators. Also, he convened the Department of Justice inter-agency task force to investigate speculation in the crude oil market. By October 2011 the price of crude oil was back down to $75—a price that, according to statements made by the CEO of ExxonMobil in April 2011, reflected market fundamentals.

On October 19, 2011, the CFTC issued its final position limit rule by a 3-2 vote with Commissioner Dunn voting in favor of the rule even though he believed the rule would do more harm than good.[25] The difficulty of obtaining a third vote in support of the final rule meant that the final position limits were high and, subsequently, the rule was a disappointment to those

[23] *See* App. A, item 8 at pp. 4.
[24] Rampton, Roberta & Sarah Lynch, *CFTC Advances Position Plan, More Hurdles Ahead*, REUTERS (Jan. 13, 2011), *available at* http://www.reuters.com/article/2011/01/13/financial-regulation-limits-idUSN1328349420110113.
[25] App. A, items 16 & 17.

hoping for the kind of tough limitations that Congress intended by passing Dodd-Frank. Nevertheless, the final rule was helpful.[26]

On December 2, 2011, Wall Street trade associations challenged the final rule[27] even though the rule imposed generous limits on speculative trading. After a February 27, 2012, hearing on Wall Street's motion to enjoin the rule on an interlocutory basis, the conventional wisdom has been that the court will, in fact, enjoin the rule for the length of the litigation.

Unsurprisingly, Wall Street's success in weakening and delaying the implementation of the CFTC's positions limits rule has further encouraged excessive speculation in oil markets. The price of a barrel of crude oil rose from $75 shortly before the final CFTC rule was announced on October 19, 2011,[28] to $108 on February 27, 2012, when the district court heard Wall Street's motion to enjoin the CFTC's final rule on an interlocutory basis and strongly indicated that the rule would be stayed.[29]

IV. Congress and the Executive Branch Must Take Specific and Prompt Steps to Permanently End the Economic Pain Caused by Excessive Speculation in Commodities Staple Markets

As things now stand, three factors are clear.

First, Dodd-Frank's attempt to have the CFTC convert the statute's clear intent to limit substantially excessive speculation in commodity staples futures markets has been stymied. If rigorous position limits are not defeated by fierce and overwhelming lobbying by Wall Street before the CFTC—lobbying that has removed the possibility of a third vote in support of a final position limits rule that would fully implement the statute—position limits will almost certainly be defeated by the courts at Wall Street's behest.

Second, the President's investigative inter-agency task force has the potential to have a significant ameliorating affect on inflated crude oil prices. After the President convened the investigative inter-agency task force in April 2011, the price of a barrel of crude oil dropped from $110 to $76 (in October 2011). The President was prescient to reconvene that task force in March 2012 because the United States is faced with yet another crushing crude oil price bubble. Even the mere threat of criminal sanctions would cause speculators to pull back from these markets as they did after the task force was first convened in April 2011. Without effective position limits on excessive speculation, the only constraint on speculative malpractices will be a tough new investigation into market manipulation led by the Department of Justice.

History has shown repeatedly that even a simple, but clear announcement by federal prosecutors of a serious investigative program will have an immediate ameliorative effect on commodities prices that are alleged to have been manipulated. That prosecutorial road now

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[26] App A, item 3 at pp. 7.
[27] Finextra, *ISDA and SIFMA File Suit Against CFTC Over Position Limits Rule* (Dec. 5, 2011), *available at* http://www.finextra.com/News/Announcement.aspx?pressreleaseid=42271.
[28] *See supra* note 2.
[29] *See supra* note 3.

appears the quickest path to bring relatively quick relief to the American public and to end rising gas prices as these prices constitute a major threat to the United States's economic recovery. I know the House Democratic leadership has been very supportive of investigating excessive speculation in oil and other commodities markets and it should continue to urge prompt action by the Department of Justice.

Third, the process of having Congress legislate broadly while allowing regulatory agencies to implement statutes with specificity appears to be flawed in the area of market reform. Wall Street interests with large financial resources are overwhelming the regulatory process and have unending funds for lawsuits that challenge the CFTC's actions. The Senate Democratic leadership's effort in July 2008 with S. 3268 demonstrates that clear-cut limits on speculation enacted by Congress without resort to federal agency rulemaking can be effective.

Accordingly, the most effective legislative approach would be for Congress to immediately and on an emergency basis enact legislation that bans the use of the two most damaging investment vehicles for speculation in commodity staples derivatives markets: commodity index swaps and exchange traded funds that are premised on synthetic bets on commodity futures price directions.[30]

Both of these investment vehicles allow wealthy speculators to bet passively on the upward direction of a synthetic "basket" of energy and food commodities that is heavily weighted toward crude oil. Persons who take and place these bets do not own any commodities. In this sense, these bets are like bets on a horse race. With regard to commodity index swaps, you can only bet that the price of the basket of commodities will go up. The betting on the upward price direction and the hedging of those bets in the real commercial-oriented futures market by Wall Street banks and large financial institutions sends continuous false "demand" signals to the markets, causing commodity prices—despite the supply/demand equilibrium—to rise and spot prices to follow suit.

In addition to causing unnecessary spikes in commodity staples, commodity index funds and exchange traded funds have proven to be bad investments. As one financial analyst explained: "The next time someone tries to sell you a commodities fund based on the Goldman Sachs Commodities Index, smile and say, 'Sorry, but I'm from Earth, and you're from planet *I Love Lucy*. Let's revisit this discussion in an alternate universe.'"[31]

A legislative ban on commodity index swaps and exchange traded funds that are premised on synthetic bets on commodity futures price directions (which now consist of hundreds of billions of dollars in passive betting) would not prevent speculators from betting on the direction of the market. In fact, persons who wish to do price directional bets will have other less deleterious investment avenues to pursue. They can buy or short stocks in companies that produce the commodities. They can buy the actual commodities. Or, they can buy long or short

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[30] For a full explanation of the deleterious effect of these passive investment vehicles for speculation, see App. A, item 1 at pp. 9-10, 15; *id.*, item 3 at pp. 7; *id.*, item 8 at pp. 12-13, 16.
[31] Permanent Subcommittee on Investigations of the Committee on Homeland Security and Governmental Affairs, *Excessive Speculation in the Wheat Market* (June 24, 2009) at 102.

contracts in the futures markets. Of course, these alternative and traditional avenues of investment require financial sophistication—they do not comport with the ease of walking up to the "commodity staples betting window" and placing a bet with a big Wall Street bank.

Thus, I would heartily endorse a strict legislative ban on passive investment vehicles.

Further, betting synthetically on the upward direction of commodity staple prices does not put money into energy or agricultural production. Rather, such betting puts money in the hands of the "casino." Today's commodity derivatives markets are overrun with speculation. A smooth functioning commodity staple futures market that adheres to supply/demand fundamentals normally comprises of 70 percent commercial and 30 percent speculative transactions. Today's futures markets are, however, 80 percent speculative and 20 percent commercial. Indeed, these markets are so volatile that (as the 20% commercial participation figure suggests) many commercial businesses have abandoned hedging because futures markets are completely unpredictable. One need only look at the drop of crude oil prices from $147 to $30 in less than six months in 2008 to know that commercial hedging is not for the faint of heart. Having businesses abandon commercial price hedging means that consumer prices unnecessarily increase.

Again, Dodd-Frank did not ban speculation. As was true of the New Deal Congress that passed the Commodity Exchange Act of 1936 at the behest of President Franklin Delano Roosevelt, Dodd-Frank merely banned "*excessive* speculation."[32] In other words, Dodd-Frank bans speculation that exceeds what the commercial users of these markets need to obtain market liquidity.[33]

As I mentioned in my March 28, 2011, comment letter to the CFTC, banning excessive speculation is a "no lose" proposition.[34] All that such a ban would do is stop gambling in commodities markets—gambling that does not add to market liquidity (because it is "excessive") or to the production of the underlying commodity.

Even if one has doubts about the effectiveness of such a ban, no harm can come to the economy by stopping *excessive* speculation on commodity prices. The ban will close casinos—nothing more. And, if the experts are to be believed (those who have produced over 50 academic studies and commentaries on this point),[35] a ban on excessive speculation would cause commodity prices to drop to the point where they would be dictated entirely by supply/demand market fundamentals.

As the House Democratic leadership well knows, one of the major constraints to effective CFTC enforcement in these markets is the extent to which the CFTC is understaffed due to the Congressional refusal (over House Democratic opposition) to provide adequate agency funding. The CFTC, which only has about 700 employees (and so is extremely small relative to other

[32] *See generally* App. A, item 1 at pp. 5.
[33] *Id*.
[34] *Id*. at pp. 3.
[35] App., item 1 at pp. 8-9.

federal agencies) has performed heroically in implementing Dodd-Frank. It has an unprecedented agenda: Dodd-Frank requires the CFTC to implement well over 50 agency rules, almost all of which call for careful study of what was a previously unregulated and highly complex $300 trillion notional value derivatives market. Many analysts and scholars have established that the failure to regulate the opaque derivatives market prior to Dodd-Frank caused the American taxpayer to bail out banks around the world at a cost of several trillion dollars. Additionally, the CFTC must now defend its final rules against an onslaught of Wall Street litigation.

Again, President Obama's budget proposals (which the House Democratic leadership has fully supported) would properly staff the CFTC; however, resistance to the President's budget proposals in the House as a whole has caused the CFTC to be so under-staffed that such efforts amount to a *de facto* repeal of Dodd-Frank.

If the American public wants lower commodity staple prices, for what is a relatively small amount of money in comparison to the bank bailouts, the public must have a cop on this beat. In the long term, the CFTC needs to increase staff from 700 to 1100 and requires an additional $100 million to achieve this goal. One hundred million dollars to save trillions of dollars in future bailouts and to lower commodity prices is a good deal.

In the short term, the strength of the President's convening of an inter-agency task force to look at speculative manipulation of gas prices by large financial institutions marries the relatively larger investigative resources of the Department of Justice to the market expertise of the under-resourced CFTC. Again, that strategy should be fully supported by Congress.

Appendix A

Selected Works: Speculation and Manipulation in Commodities Futures Markets

1. Comment Letter by Michael Greenberger to David Stawick, Secretary of the Commodity Futures Trading Commission, *Position Limits for Derivatives* (March 28, 2011), *available at* http://www.michaelgreenberger.com/files/Greenberger_PL_comment_letter-0328.pdf (arguing that rigorous position limits would combat excessive speculation in commodities markets).
2. Comment Letter by Better Markets to David Stawick, Secretary of the Commodity Futures Trading Commission, *Position Limits for Derivatives* (March 28, 2011), *available at* http://comments.cftc.gov/PublicComments/ViewComment.aspx?id=34010&SearchText=better%20markets (arguing that stringent position limits would combat excessive speculation in commodities markets and reduce the price of commodities).
3. Michael Greenberger, *Commodity Swap Position Limit Rule May Help Return Price-Risk Management*, BLOOMBERG BRIEF 7 (Oct. 28, 2011), *available at* http://www.michaelgreenberger.com/files/Final_Draft_Sent_Nov15.pdf (explaining how the Commodity Futures Trading Commission's final rule on position limits may reduce excessive speculation in commodities markets).
4. Michael Hirsh, *Is Eric Holder Costing Barack Obama the Election?*, NATIONAL JOURNAL (March 13, 2012), *available at* http://decoded.nationaljournal.com/2012/03/is-eric-holder-costing-barack.php (reporting that the President's Oil and Gas Price Fraud Working Group, headed by the Department of Justice, has failed to investigate speculation and manipulation in the oil markets).
5. Peter Goodman, *Behind Gas Price Increases, Obama's Failure To Crack Down On Speculators*, HUFFINGTON POST (March 15, 2012), *available at* http://www.huffingtonpost.com/peter-s-goodman/gas-price-increase_b_1346035.html (reporting on President Obama's failure to end excessive speculation in the oil markets).
6. Michael Greenberger, *Business Day Live*, N.Y. TIMES (March 26, 2012), *available at* http://video.nytimes.com/video/2012/03/26/business/100000001452780/business-day-live-march-26-2012.html (discussing how speculators' activities are increasing the price of oil and the Department of Justice's failure to investigate manipulation in the oil market). Commentary begins at 4:40.
7. Michael Greenberger, *High Oil Prices Must Be Subject of Criminal Investigation*, REAL NEWS NETWORK (March 28, 2012), *available at* http://therealnews.com/t2/index.php?option=com_content&task=view&id=31&Itemid=74&jumival=8131 (arguing that manipulation, not supply and demand, is increasing the price of crude oil and other essential commodities and explaining how an investigation into manipulation in commodities markets would reduce the price of energy and food).
8. Testimony of Michael Greenberger before the Commodity Futures Trading Commission, *Excessive Speculation: Position Limits and Exemptions* (Aug. 5, 2009), *available at* http://www.michaelgreenberger.com/files/CFTC_AFR_Sign_On_Testimony_August_3.pdf (discussing how rigorous position limits would curb excessive speculation in commodities markets).
9. Javier Blas, *Saudi Arabia Moves to Calm Oil Market*, FINANCIAL TIMES (March 19, 2012), *available at* http://www.ft.com/intl/cms/s/0/49ec22cc-71ea-11e1-8497-00144feab49a.html#axzz1qtDEb7dC [registration required] (reporting that Saudi Arabia

and other oil-producing countries like Iraq and Kuwait plan to increase their oil exports to offset the impact of U.S. and European sanctions on Iran).

10. Ali Naimi, Minister of Petroleum and Mineral Resources in Saudi Arabia, *Saudi Arabia Will Act to Lower Soaring Oil Prices*, FINANCIAL TIMES (March 28, 2012), available at http://www.ft.com/intl/cms/s/0/9e1ccb48-781c-11e1-b237-00144feab49a.html [registration required] (promising to mitigate rising oil prices by increasing oil production).
11. Matthew Robinson, *Oil Falls as Saudi Arabia Seeks to Calm Markets*, REUTERS (March 20, 2012), *available at* http://www.reuters.com/article/2012/03/20/us-markets-oil-idUSBRE82B04920120320 (reporting that Saudi Arabia promises to increase oil production and insists that "there is no supply shortage in the market").
12. Annie Lowrey, *Obama Finds Oil in Markets Is Sufficient to Sideline Iran*, N.Y. TIMES (March 30, 2012), *available at* http://www.nytimes.com/2012/03/31/business/global/obama-to-clear-way-to-expand-iranian-oil-sanctions.html?scp=3&sq=president%20obama%20oil%20prices&st=cse (reporting that President Obama announced that there is sufficient oil in world markets to allow countries to reduce their reliance on Iranian oil).
13. Robert Lenzner, *Speculation In Crude Oil Adds $23.39 To The Price Per Barrel*, FORBES (Feb. 27, 2012), *available at* http://www.forbes.com/sites/robertlenzner/2012/02/27/speculation-in-crude-oil-adds-23-39-to-the-price-per-barrel/ (discussing Goldman Sachs's recent conclusion that oil prices are driven, in part, by speculation).
14. Javier Blas, *Oil Futures Spark Debate on $100 Level*, FINANCIAL TIMES (March 28, 2012), *available at* http://edition.cnn.com/2012/03/27/business/oil-futures-fall/index.html (reporting that a forward contract for crude oil to be delivered in December 2018 is $30 cheaper than the spot price for oil, which is $125 a barrel).
15. Asjylyn Loder & Silla Brush, *CFTC Votes 3-2 to Approve Limits on Commodity Speculation*, BLOOMBERG (Oct. 18, 2011), *available at* http://www.businessweek.com/news/2011-10-18/cftc-votes-3-2-to-approve-limits-on-commodity-speculation.html (discussing former Commissioner Michael Dunn's vote for the Commodity Futures Trading Commission's final position limits rule).
16. Brian Scheid, *A Position Limits Rule No One Likes, Partisan Fighting, and a Song*, PLATTS (Oct. 20, 2011), *available at* http://www.platts.com/weblog/oilblog/2011/10/20/a_position_limi.html (discussing former Commissioner Michael Dunn's vote for the Commodity Futures Trading Commission's final position limits rule).
17. Silla Brush, *Former CFTC Commissioner Dunn Joins Patton Boggs Law Firm*, BLOOMBERG (Feb. 7, 2012), *available at* http://www.bloomberg.com/news/2012-02-07/former-cftc-commissioner-dunn-joins-patton-boggs-law-firm.html (reporting that former Commissioner Michael Dunn joined the Washington law and lobbying firm of Patton Boggs LLP as a senior policy adviser).

Appendix B
Michael Greenberger: Brief Biography

Michael Greenberger is a professor at the University of Maryland Francis King Carey School of Law and the Founder and Director of the University of Maryland Center for Health and Homeland Security (CHHS). At the School of Law, Professor Greenberger teaches, *inter alia,* a seminar on Futures, Options and Derivatives.

In 1997, Professor Greenberger left private law practice to become the Director of the Division of Trading and Markets at the U.S. Commodity Futures Trading Commission (CFTC), where he served under CFTC Chairperson Brooksley Born. In that capacity, he was responsible for supervising exchange traded futures and derivatives. He also served on the Steering Committee of the President's Working Group on Financial Markets, and as a member of the International Organization of Securities Commissions' Hedge Fund Task Force.

Professor Greenberger has often been asked to testify before Congressional committees, regulatory agencies, and investigatory committees pertaining to the regulation of financial derivatives, including the impact of poorly regulated derivatives on the high price of commodity staples. For a full description of Professor Greenberger's testimony, writings, lectures and media appearances pertaining to derivative regulation, see **www.michaelgreenberger.com**.

Professor Greenberger has recently served as the Technical Advisor to the United Nations Commission of Experts on Reforms of the International Financial System; and on the International Energy Forum's Independent Expert Group on reducing worldwide energy price volatility.

Professor Greenberger has recently appeared to discuss derivative regulation both in the media and at academic gatherings, including repeated appearances on CNN, ABC's "World News Tonight," the CBS Evening News, CBS's *Sixty Minutes*, the NBC Evening News, CNBC, MSNBC, The PBS News Hour, NPR's "Fresh Air," NPR's "The Diane Rehm Show," PBS's "Frontline," MSNBC's "The Ed Show," BBC's World Service, WYPR's "Maryland Morning" and "Mid-Day Show" and C-SPAN. He was also featured in two documentaries about the recent worldwide financial meltdown: (1) *Inside Job* (Academy Award Winner); and (2) *American Casino*.

Prior to entering government service, Professor Greenberger was a partner for over 20 years in the Washington, D.C. law firm of Shea & Gardner, where he served as lead litigation counsel before state and federal courts of law nationwide, including the United States Supreme Court.

Professor Greenberger was also recently named by the *Daily Record* as one of the Influential Marylanders of 2012 for his contributions to the law.

Professor Greenberger is a Phi Beta Kappa graduate of Lafayette College and the University of Pennsylvania Law School, where he served as Editor-in-Chief of the Law Review.