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May 28, 2009

The Honorable Gary Gensler
Chairman
Commodity Futures Trading Commission
3 Lafayette Center
1155 21st Street, NW
Washington, DC 20581

Dear Chairman Gensler:

Congratulations on being sworn in yesterday as Chairman of the Commodity Futures Trading Commission (CFTC).

It was a pleasure meeting with you earlier this month in my office to discuss a number of important issues related to the CFTC. As you will recall from our meeting, I strongly believe that the CFTC must move boldly and aggressively to prevent big banks, hedge funds and other speculators from driving-up the price of oil so that the price has no relation to actual supply and demand. I appreciate your commitment to working with me on this issue.

When the price of gasoline skyrocketed past $4 a gallon and oil prices hit a record $147 a barrel last July, the CFTC failed to use all of the tools at its disposal to prevent excessive speculation and price manipulation. At the time, it was estimated that excessive speculation accounted for about 50 percent of the price of crude oil. The Commission's failure in that instance allowed speculators to make a fortune betting that the price of oil would keep going up – a fortune made at the expense of millions of Americans who paid much more than they should have for a gallon of gas, heating oil and diesel fuel. Such a failure must not be repeated this year.

While prices have gone down from their historic highs of last summer, there is mounting evidence that excessive speculation, not supply and demand, is the cause for the recent run-up in oil prices. According to the latest data from the Energy Information Administration, crude oil inventories in the United States are at their highest level on record. Meanwhile, demand for oil in the U.S. has dropped to its lowest level in more than a decade.

In addition, the International Energy Agency predicted this month that global demand for oil will drop this year to its lowest level since 1981. Yet the Energy

Information Administration data also indicate that the national average price of a gallon of gasoline has jumped from $1.64 a gallon in late December of last year to over $2.46 a gallon today and that crude oil prices have increased over 70 percent since mid-January.

What these non-partisan government statistics clearly show is that the current run-up in oil prices is not an expression of supply and demand factors.

The increased price of oil and gas is already causing severe financial hardship for American families, truckers, small businesses, airlines, and farmers, and is putting enormous strain on an economy already in the throes of a deep recession. Today's high gas prices could not come at a worse time, as Americans are already suffering through the worst economic crisis since the Great Depression. All of us have a responsibility to do everything we can to lower oil and gas prices immediately.

As such, I would urge the CFTC to take the following steps:

1) **Make it clear that the CFTC will do everything in its power to stop speculators from artificially driving-up the price of oil, including the use of your emergency authority to ensure that oil prices accurately reflect the forces of supply and demand.** The emergency powers that Congress granted the CFTC could include your imposing new speculation limits, increasing margin requirements, and even suspending trading in certain funds if necessary. The CFTC has used its emergency powers four times since its creation in 1976 with respect to the trading of potatoes, coffee, wheat, and other agricultural products. I would urge you to make it clear to the American people that you are prepared to use this emergency authority to stop speculators from manipulating the price of oil.

2) **Immediately impose strict speculation limits on bank holding companies such as Goldman Sachs and Morgan Stanley** by classifying them as non-commercial participants with respect to futures trading. These companies are clearly engaged primarily in speculation when it comes to futures trading, including their operation of index funds (such as GSCI), and should be treated as such. Bank holding companies, for whom the federal government and taxpayers have responsibility to cover losses, should be limited in the types of speculative activities that they are allowed to engage in.

3) **Work to prohibit conflicts of interest that exist in the energy market.** Companies like Goldman Sachs and Morgan Stanley should not be allowed to make windfall profits in the oil market when in one division their analysts predict that oil prices will skyrocket, thereby driving new buyers to make investments in oil futures, while in another division their traders harvest huge returns on their oil positions.

4) **Publish on the CFTC website quarterly reports describing the role derivatives trading activities have in influencing prices for each major energy commodity, including crude oil and home heating oil.** Recently, the Federal Energy Regulatory Commission (FERC) published a report for natural gas and electricity which concluded that excessive speculation by financial services outfits played a significant role in high prices. The CFTC should publish a similar report with respect to heating oil and crude oil.

While I understand that Congress needs to empower the CFTC with additional authority to regulate the entire over-the-counter derivatives market, the Commission does have a number of tools at its disposal to stop speculators from artificially driving up the price of oil. Rest assured that, when you do this, I will work with my colleagues in the Senate to provide any additional regulatory authority that may be necessary. But theses first strong achievable steps should be taken now.

I hope you will seize this opportunity to redefine the CFTC as a strong regulator that will do everything within its power to benefit consumers, as we discussed in our meeting last month. The previous failure of the CFTC to take strong steps to limit speculation was one of the contributing factors to the current financial crisis, and played a significant role in precipitating not only the present economic recession, but also the largest taxpayer bail-out in the history of the world.

Thank you for your attention to this important matter. I look forward to working with you on this important issue.

Sincerely,

Bernard Sanders
United States Senator

cc: CFTC Commissioners Bart Chilton, Michael Dunn, Walter Lukken, and Jill Sommers