

Mr. Chairman and Members of the Commission, my name is Mark Young. I am appearing today on behalf of the Futures Industry Association. One good thing about being on the last panel at the last hearing is that you know how the time limits will be enforced and how active the questioning will be. I have been watching. I will try to be brief.

FIA supports new authority and resources for the Commission. We support extending the Commission's transparent market surveillance and reporting powers to certain OTC and foreign transactions. We support changing the COT reports to make them more granular. We support granting the Commission standby position limit authority for markets that settle off the prices of U.S. futures contracts.

Giving the Commission new tools does not mean we support the Commission's use of every tool it has. Reasoned, balanced analysis should drive

regulatory outcomes. That is why we are pleased the Commission has held these hearings. We also understand the Commission is updating its September 2008 Report with new data. We look forward to public release of that report and hopefully to public hearings to examine its conclusions when issued.

FIA's written statement describes our views on price discovery and position limits. As we explain, our major concern is market migration. If the CFTC imposes rigid position limits, we fear price discovery in U.S. markets will move offshore or to less regulated venues. That will compromise the Commission's market surveillance capabilities and our member's business.

We know many do not believe this concern is real. But I am sure everyone would concede that the world has changed since 1936. Through technology, globalization, financial engineering and the like, U.S. markets do not operate in a vacuum. We are part of the world.

Last month, Prime Minister Brown and President Sarkozy warned of the harms of market volatility, but recommended more transparency, not position limits. If other regulators in other countries do not believe that position limits will help price discovery in their markets, we have to ask ourselves, why? Is it because they tolerate price manipulation or market disruptions? Or their market surveillance systems are better than ours? Or their trading systems differ from ours? I think we would all agree the answer to these questions is no.

This answer should give us pause. Unless regulators in other countries see position limits as a cure for their markets, FIA believes there is a real danger that imposing position limits on U.S. markets will cause market migration. That shift would harm price discovery in the U.S. and the public interests the Commodity Exchange Act is designed to serve.

As our written statement makes clear, before imposing position limits the law requires the Commission to find first that some level or form of speculative trading has caused or will cause price fluctuations and changes which are sufficiently unreasonable and unwarranted to burden commerce. Then the Commission must find that the limits it sets are “necessary to diminish, prevent or eliminate such burden.” At this point, we see no consensus on whether the excessive speculation standard has been met. The Commission’s update of its 2008 report will shed additional light on this important question. We look forward to reviewing it when it is available and to answering your questions today.