From: Bill Smitrovich
Sent: Monday, October 17, 2011 7:26 PM
To: questions
Subject: In full agreement as citizen of the U.S. Attn:Gary Gensler

BERNARD SANDERS

Budget

United States Senate

WASHINGTON, DC 20510-4504

October 17, 2011

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

Dear Chairman Gensler:

It is my understanding that tomorrow the Commodity Futures Trading Commission (CFTC) may be voting on a final rule to establish position limits on the trading of crude oil, gasoline, heating oil, and other commodities.

I am writing to urge you to adopt a final rule that will eliminate excessive oil speculation so that the price of gasoline and heating oil accurately reflects the fundamentals of supply and demand.

Unfortunately, if recent reports in the media are correct, the final rule on position limits, as currently drafted, will do little or nothing to lower prices and it will not eliminate, prevent or diminish excessive speculation as required by the Dodd-Frank Act. At a time when the American people are experiencing extremely high oil and gas prices, this would be simply unacceptable.

As you know, the Dodd-Frank Act required the CFTC to finalize rules on position limits no later than January 17, 2011. If the CFTC had done its job and obeyed the law, consumers would have received real relief at the gas pump during the past nine months, particularly during the summer driving season. Unfortunately, this did not happen.

While the summer driving season is long gone, there is still time for the CFTC to adopt a final rule on position limits that could result in substantially lower heating oil prices this winter. This is important now more than ever.

The Energy Information Administration just projected that heating oil prices in the Northeast will set a new record climbing to more than $3.70 a gallon. Experts have told my office that, unless excessive oil speculation is eliminated, Vermonters could pay up to $4 a gallon for heating oil this winter.

If these projections are accurate, it will be harder than ever for Vermonters and nearly 7 million other Americans who heat their homes with fuel oil to stay warm this winter. We need the CFTC to be vigilant and make sure that this does not happen.

There has been a major debate over the last several years as to whether spikes in oil prices are caused entirely by the fundamentals of supply and demand or whether excessive speculation in the oil futures market is playing a major role. It seems to me that that debate has finally ended. Exxon Mobil, Goldman Sachs, the Saudi Arabian government, the American Trucking Association, Delta Airlines, the Petroleum Marketers Association of America, and even a new report from the St. Louis Federal Reserve have all indicated that excessive oil speculation significantly increases oil and gasoline prices.

Further, according to a recent report by Better Markets, excessive speculation by commodity index funds has severely disrupted and dramatically changed energy markets needlessly pushing oil and food prices higher.

Therefore, I would urge you to make sure that the CFTC adopt a final rule on position limits that will:

1. Immediately establish position limits on crude oil, heating, oil, and gasoline that would prevent any one speculator from controlling more than 5 percent of the physical market in the spot month and 5 percent of open interest in the out-months. It is my understanding that the proposed regulations as currently drafted would allow a single speculator to hold spot month positions equal to 25% of the physical deliverable supply of oil. That is much too weak and would have little if any impact on diminishing excessive speculation as required by statute.

2. Immediately establish position limits for the cash-settled oil markets at no more than 5 percent of total contracts. It is my understanding that the proposed regulations as currently drafted would allow a single speculator to hold positions equal to 125% of the cash-settled deliverable supply of oil. That is pathetically weak and must be strengthened.

3. End the absurdity of treating financial institutions like Goldman Sachs and Morgan Stanley the same as bona-fide hedgers by requiring bank holding companies, investment banks, and hedge funds engaged in proprietary oil trading to be classified as speculators and register with the CFTC. It is my understanding that your current proposal contains major loopholes to allow Goldman Sachs, Morgan Stanley, and other major financial institutions to receive bona-fide hedging exemptions so that they would not have to abide by the position limits rule. This is simply unacceptable and has got to change.

4. Make sure that aggregate position limits go into effect no later than 30 days after the final rule is voted on. It is my understanding that under your current proposal, aggregate position limits would not go into effect until mid-to-late 2013 at the earliest to allow the CFTC to collect more data on the over-the-counter derivatives market. If true, that would mean that two winter seasons and at least one more driving season would come and go before the most important position limits are put into effect. Allowing such time to lapse before aggregate position limits take effect would be obscene. The American people need real relief from artificially high gasoline and heating oil prices now, not two years from now.

5. Impose meaningful restrictions on day traders and high-frequency traders of oil by requiring them to register with the CFTC. Right now, no such meaningful restrictions exist. That should change.

6. Ban speculative commodity index fund trading in oil, gasoline, heating oil, diesel fuel, and jet fuel. In a recent report, Better Markets found that commodity index funds are the primary drivers of excessive speculation, triggering dramatic increases in the price of oil and other vital commodities. These speculative commodity index funds should be outlawed.

7. Double speculative margin requirements to require speculators to back their bets with real capital. Increasing margin requirements in the silver market to 12 percent earlier this year caused silver prices to drop by 27%. The same can and should be done for crude oil, heating oil, gasoline, diesel fuel, and jet fuel.

The bottom line is that we have a responsibility to ensure that the price of oil is no longer allowed to be driven up by the same Wall Street speculators who caused the devastating recession that working families are now experiencing. That means that the CFTC must finally do what the law mandates and end excessive oil speculation once and for all.

Thank you for your attention to this important matter. I look forward to receiving your response.

Sincerely,

Bernard Sanders
United States Senator