

United States Senate

WASHINGTON, DC 20510

August 14, 2008

A. Roy Lavik, Inspector General
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581

Dear Mr. Lavik:

We are writing to request that you investigate the role of the Commodities Futures Trading Commission (CFTC) in its capacity as chair of the Interagency Task Force on Commodity Markets and its release of the Interim Report on Crude Oil on July 22, 2008. In particular, we request that you investigate how this report was prepared and why it was released after the CFTC staff had determined that critical information upon which it was based was inaccurate.

We also request that you investigate the suspicious timing of the Interim Report. The unannounced and unexpected Interim Report was released just a few days before a key Senate vote on a pending bill related to speculation in the oil markets. The report, which specifically addressed speculation, appears to have been created and released to influence that Senate vote, which would be highly improper in our view.

On June 10, 2008, the CFTC announced the formation of an Interagency Task Force on Commodity Markets. The Task Force is chaired by CFTC staff and on July 22, 2008 the Task Force issued an Interim Report on the crude oil market. Notwithstanding a finding that "the positions of non-commercial traders in general, and hedge funds in particular, often move in the same direction as prices," the report concluded that the increase in oil prices between January 2003 and June 2008 was largely due to fundamental supply and demand factors. This conclusion appears to be based, to significant degree, on analyses by CFTC staff of trading positions included in the CFTC Commitments of Traders Report (COT), including the correlations of commercial and non-commercial traders to price movements and trading volumes.

However on July 18, 2008, just days before the Interim Report was issued, the CFTC staff issued a special announcement revealing that speculative investors played a larger role in oil trading than the CFTC staff realized. In fact, speculative, non-commercial trading accounted for nearly half of the oil trading on the New York Mercantile Exchange (NYMEX). In short, CFTC staff determined that based upon additional data obtained as a result of a special data call to select market participants, it had been incorrectly classifying a significant number of non-commercial trades carried out by a single large trader as commercial. This "reclassification," which represented approximately 10% of the NYMEX crude oil futures and options positions, essentially raises the percent of NYMEX oil trades officially attributable to speculative investors to 48% from 38%. Some outside experts believe that the non-commercial trades account for an even higher percentage and the CFTC is itself continuing to collect information from this special data call regarding other traders which could further alter this balance.

We are greatly disturbed that although CFTC staff obviously knew that underlying data used to prepare the Interim Report was seriously flawed, the Interim Report was nonetheless publicly released. Indeed, the CFTC press release announcing the Report (Release 5520-08) states that the report "for the first time, attempts to compile the government's best available data and analysis into one report." In fact, CFTC knew that this data was NOT the government's best available data, but was decidedly flawed data.

Consequently, we request that you investigate the process by which the Interim Report was prepared and released, including but not limited to the decision on timing of the public release, the decision to characterize the information contained in the report not only as accurate, but as the best available data, and to identify the individuals involved in making these decisions. We also ask you to investigate and determine whether other flawed data or analyses were used in preparing the Interim Report.

Because the Interim Report was just that, an interim report of an important, ongoing agency activity, establishing the integrity of CFTC's management of, and procedures for, conducting and reporting its analyses of the commodity markets is of the greatest national concern. We therefore expect you to give this request the highest priority. If you believe that your office lacks the necessary investigative resources to conduct this investigation, we stand prepared to work with the President's Council on Integrity and Efficiency (PCIE) and the Executive Council on Integrity and Efficiency (ECIE) – the two interagency coordinating committees for the Federal Government's Inspectors General – to ensure that you have the resources that you need.

Because the CFTC Task Force activities are ongoing and the Task Force is expected to issue a final report on oil markets in a matter of weeks, it is imperative that your review of this matter be completed as soon as possible. We therefore request that you complete your investigation and report to the Commission and Congress on your findings no later than September 12, 2008.

Sincerely,



Ron Wyden
United States Senator



Maria Cantwell
United States Senator



Byron L. Dorgan
United States Senator



Bill Nelson
United States Senator