National Farmers Union
Testimony of Tom Buis

Before the
U.S. House of Representatives Agriculture Committee

Derivatives Markets Transparency and Accountability Act of 2009

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STATEMENT OF TOM BUIS, PRESIDENT
NATIONAL FARMERS UNION
BEFORE THE HOUSE AGRICULTURE COMMITTEE
CONCERNING: DERIVATIVES MARKETS TRANSPARENCY AND ACCOUNTABILITY ACT OF 2009
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Good afternoon, Mr. Chairman and members of the committee. I appreciate the opportunity to testify on behalf of the farm, ranch and rural members of National Farmers Union (NFU). NFU was founded in 1902 in Point, Texas, to help the family farmer address profitability issues and monopolistic practices while America was courting the Industrial Revolution. Today, with family farm, ranch and rural family members, NFU continues its original mission to protect and enhance the economic well-being and quality of life for family farmers and ranchers and their rural communities.

Last spring, NFU called upon the Commodity Futures Trading Commission (CFTC) to conduct a thorough and comprehensive investigation regarding the activity and volatility in the commodities markets. In particular, the role of speculative commodity futures trading, both on and off-exchange, in increasing that volatility, with much of that trading hidden from view of the CFTC in the derivatives and other off-exchange markets.

Farmers and ranchers are generally relieved to end the 2008 agriculture market rollercoaster, but they are extremely anxious as they approach the 2009 production year. During 2008 we witnessed periods of record or near record nominal prices for many commodities traded on U.S. exchanges. As the year ended, we have also witnessed a historic collapse in market prices for major grains and dairy products.

NFU was frustrated by remarks from some CFTC officials who suggested that the market volatility was simply a response to market fundamentals. This assessment did not adequately explain the price shock in the cotton market or lack of convergence between cash and futures markets during the contract settlement period. This assessment also failed to explain why many farmers were precluded from utilizing traditional market risk management tools, such as forward cash contracts, because of excessive margin risk to those who typically would offer such products to their customers.

As speculators created a market bubble and attitude that higher prices were set to stay, crop, livestock and dairy producers locked in higher inputs and feed costs. The false signals were not reserved for agricultural producers, but extended beyond production agriculture to the ethanol and biodiesel industries and input suppliers, all locking in higher feedstocks and supplies. The 2008 economic collapse and bursting of bubble have jeopardized the economic livelihoods of all these players, which will ripple throughout our rural communities. This impact will not be short-lived, as it could take up to a year or longer before the negative impact is resolved.

In these times of despair, commodities and industries become pitted against each other creating a divisive environment in which to establish helpful policy. As you can imagine, it was very frustrating for farmers who were paying record amounts for inputs, but could not implement effective marketing plans or strategies to take advantage of the higher prices for their crops. While this activity was occurring in 2008, the media, with help from food processors, held fast to the position that farmers and ranchers were getting rich from record high commodity prices and cited these prices as the sole cause of increasing retail food prices. Nothing could have been further from the truth. The reality of what happened has come to light as commodity prices have plummeted, yet retail food costs remain high.

The effort being made by this committee to ensure that we do not experience a repeat of 2008, is to be commended. It became obvious, in a number of areas, that modernized regulations were warranted to ensure the mistakes of the past are not repeated. The broad, bipartisan support for increased oversight and transparency with the House-passed Commodity Markets Transparency and Accountability Act of 2008 provided a good starting point. The Derivatives Markets Transparency and Accountability Act (DMTAA) of 2009 would be of even greater benefit to agricultural producers and the entire economy.

In a letter to the CFTC last year, NFU cited the single biggest concern among producers as a lack of market transparency. This is still the case. Provisions within the DMTAA, seek to inject necessary transparency through the detailed reporting and disaggregation of market data and the over-the-counter (OTC) transparency and recordkeeping authorities as outlined in the legislation. Without these provisions, the public will continue to be in the dark regarding who is involved in commodity markets and to what capacity. These new authorities are needed to ensure regulators are able to keep pace with the use of new financial and market instruments that result in market manipulation, fraud or excessive speculative market volatility.

NFU has called for an investigation to determine the role and impact that OTC trading and swaps have on markets. Without full access to data and other information concerning these types of trading activities, it is impossible to determine whether manipulation, fraud or excessive speculation is occurring. DMTAA requires all prospective OTC transactions to be settled and cleared through a CFTC regulated clearinghouse or other appropriate venue. The addition of principles for the designated clearing organizations, including 1) daily publication of pricing information; 2) fitness standards; and 3) disclosure of operational information, will protect the integrity of the new OTC requirements by assuring the clearinghouses remain transparent.

The legislation also requires the CFTC to study and report on the effects of potential position limits within OTC trading. Again, this information will enhance the public's confidence that markets are not being manipulated, fraudulently exploited or overwhelmed by speculation and if so, corrective action can be launched.

When the CFTC proposed increasing speculative position limits in 2007, NFU filed public comments in opposition to such action. Speculators have an important role to play in the commodity markets in terms of providing market liquidity. However, when left unregulated and allowed to become excessive, the positive attributes that speculators bring to the markets undermines the legitimate price discovery and risk management functions these markets were designed to provide to commercial market participants. DMTAA establishes new standards and limits for all commodities.

Moreover, we are pleased to see the establishment of a Position Limit Agricultural Advisory Group. By involving producers and traditional users of the market in making recommendations concerning position limits, the new limits will be legitimized and fair. With the rapid growth of market speculation, we are in unchartered waters today and we believe this third-party review function can significantly help in ensuring market integrity in the future.

NFU believes the CFTC needs to take a broader look at the concept of manipulation and it implications for price discovery. Unfortunately, the CFTC's test to determine manipulation requires that an individual or group of traders acquire a market position that enables them to ***consciously*** distort prices in noncompliance with market fundamentals. What the CFTC is failing to recognize is that the deluge of money from Wall Street, hedge funds and other large traders in and of itself is driving prices in ways that may not reflect the fundamentals of the underlying markets.

In 2006, NFU became an approved aggregator for trading carbon credits on the Chicago Climate Exchange (CCX). Currently, we are the largest aggregator of agricultural soil carbon offsets to CCX. The CCX is the world's first greenhouse gas emissions registry, reduction and trading system, trading more than 86 million tons of carbon offsets to date. As carbon trading continues to advance rapidly, NFU appreciates the provision within the legislation that will protect the integrity of carbon credit trading by requiring those contracts to be traded on a designated contract market. Furthermore, the cross pollination between the CFTC and the U.S. Department of Agriculture to develop procedures and protocols for market-based greenhouse gas programs will help ensure these markets will perform a legitimate function for participants and the public in general.

This legislation will begin to answer many of the questions from 2008. We are currently enduring the train wreck caused in large part by the dysfunction of the futures market-in 2008.

NFU strongly endorses this bill and looks forward to its swift approval; I am hopeful Congress will continue its bipartisan efforts to establish greater oversight of the commodity and energy futures markets. I thank the committee for the opportunity to be here today and look forward to any questions you may have.