To The FTC Regarding:

Comments on Rule Making for Market Manipulation in the Wholesale Petroleum Industry:

<u>Background A:</u>

- During 2007, and especially the first 6.5 months of 2008, **OIL**, and other commodities, saw an unprecedented rampant run-up in prices on the Commodity Futures Trading Exchanges. The run-up in prices **WAS NOT** a result of new imbalances in the global supply/demand of certain key commodities. Not to deny the fact that global growth through from 2003 through 1st Q of 2008 had been putting upward pressure on some commodity prices, it certainly was not of the order of magnitude that was witnessed, and experienced painfully, pushing price to the exorbitant levels that they reached. Rather, the bulk of the price increases were ‘manufactured and artificial’.

- There is NO DOUBT that Excessive Speculation in Oil/Fuels was a major driver in the price of Oil as it moved above the $85 per barrel level in late 2007. As more speculative flows of investment, primarily from large pension funds, hedge funds, endowments, etc., moved from equities into this “new asset class”, the commodity exchanges begin to reflect a steady rising of prices. Given the other normal supply/demand market factors such as global economic growth, dollar/currency values and even threatening geo-political disturbances, OIL should never, under normal Speculative Trading, have exceeded $95. (Current trading in the period of Sept. 11 through Sept. 17th is in the range of $92 to $100 – even with Hurricane IKE and some saber rattling from Iran.).

<u>Background B:</u>

- There has been much testimony in Congress during 2008 in an effort to understand what is behind the exorbitant run-up in commodity prices, especially OIL. “Experts” from all sides of the spectrum that have pointed out that many factors were behind the high prices. However, the factors that they have cited have been normal, day –to – day “oil patch” issues. Granted there has been a recent narrowing (4th Q 2007 and 1st Q 2008) in the global supply/demand equation, but never was there a point where supply was less than the demand. (IEA and US DOE/ EIA). However, there was much rumor and hype that oil production was short of demand. Such notables as T Boone Pickens said on several occasions told the media that supply was 85 mbpd and demand was 87 mbpd, clearly a statistic never borne out by those keep the official score in these matters. Yet, on the days he misquoted these figures, due to the excited media hype by CNBC and the WSJ, oil prices climb a few dollars more. Many ‘analysts’ from the oil trading firms, caught up in the frenzy of a very vibrant market, weighed in too with the media. They reported that they too were on board for higher prices. Course they were, they were the busiest they had ever been and were making more money than ever before.

- However, the testimony in Congress was telling. The key players that we would have thought would have been proponents for oil prices to be above $85 were absent, and those ‘scholarly’ folks and managers of the trading exchanges and Wall Street Frims that made money from the trades and that great agency that is in the pocket of the WS Frims and the WH Big Oil Regime, the CFTC, were all present and were eagerly exclaiming that OIL had every right to be busting the ‘sound barriers’. It was a ‘good thing’ that OIL could easily rise on the Oil Exchanges as Speculators, as an un-regulated bunch’ were good for the “free market”. A price of $100, even $120, even $149 and even $200 by the end of 2008 was “an expression of a healthy trading market”. [Course these remarks ignored the falling off of demand that such soaring prices would lead to.] **What nonsense!** *While these folks benefited by the quick profits of this excessive greed, **ROME was starting to burn, Nero.***

Background C:

- A few brave financial analysts and former CFTC employees, who had the best interest of the American People in mind, fortunately saw what was occurring. They saw the damage that this new type of financial speculator was creating in the commodity trading markets. They asked Congress and the CFTC to look at what was taking place in the markets. Please close certain “Enron Loopholes” and tighten certain regulations that would prohibit excess speculation, the cornering of commodity markets and even the manipulation of prices, they urged.

They spoke out! Some members of Congress, said to ignore these brave folk, but others, sensing something was really askew, that **it was not all about ‘drill baby drill’** but something more insidious, listened. They sought more expert testimony as to cause.

- The need for better trading disclosure and transparency, position limits, etc. was clouded by certain groups that have an agenda that is not forth right. The NYMEX claims there is absolutely No problem, the CFTC, having been instructed NOT to find a problem, can’t seem to get their act together (the data) so that they can spot the obvious problem, and certain partisan Congress Men and Trade Groups have ‘found their experts’ form the OIL patch Universities that readily had all kinds of facts and figures to suggest that OIL just had to be on its way to $200 a barrel based on “REAL S/D MARKET DRIVERS”.

BACKGROUND D:

However, the Congressional Hearings did yield the following TRUTHS!:

1) Top Oil Company Executives (along with the No. 1 oil producer in the world – Saudi Arabia) have repeatedly said during 2008, ***that OIL should be priced between $75 to $80 a barrel MAX,*** even with the dollar being at an all time low.

2) If a real supply/demand problem had existed in Oil (and other food stocks), then we would have seen ACTUAL PHYSICAL SHORTAGES. **They have been NO REAL PHYSICAL SHORTAGES GLOBALLY during 2007 or 2008.** Just the opposite - they is been plenty of OIL (and other stocks) around the globe. And at these unprecedented prices, there should be!

3) Over the last 3 years, the WS Financial Community has seen a rise in a new type of Commodity Investor – The "Passive Long Investor". [A term set forth in the promotional investment brochure – "Investing and Trading in the GSCI – June 2005".] (The GSCI started in 1999. GS begun to promote it heavily to pension funds in mid-2005 It established the idea of "a new asset class" of fund allocation. The "passive long investor" was born. They would invest based in a Commodity Index Fund. There positions would be 'managed' by the CIFs manager and their trading positions would remain 'long' as the fund manager would step up at contract expiration time and "swap" the expiring contract with another financial instrument to be traded again with the funs used to purchase another new trading contract. This leads to a continuous 'upward pricing pressure on the markets'. BTW, the current Treasury Secretary was at the helm of GS during this time.)

4) Much debate has ensued this spring and summer. It would seem that all Americans would want the trading exchanges to run properly, that traders would abide by regulations, and that if we must suffer from punishing high commodity prices, it would be brought on by REAL MARKET FUNDAMENTALS, not some over hyped, artificial manipulation of trading that debased the either of speculators being both long and then short, rather than staying perpetually 'long' in their positions.

BUT, interestingly enough, there is something going on. There are those that do not want the CFTC to complete a thorough investigation for Congress that would really point out just what has actually been going on. **Why?**

- Why do the heads of the exchanges proclaim all is well on their exchanges in the face of preliminary data by the CFTC that suggests otherwise?

- Why does the CFTC say that its "Interim Report" was indeed pre-mature and a response to political pressure?

- Why does the CFTC now say that its report is 'inconclusive' - they do 'not have the data they need'??

<u>One cannot help but be suspect.</u>

<u>INVESTIGATION/ RULE MAKING EXAMINATION REQUESTED</u>:

The FTC is requested to examine closely the futures trading in OIL (and other commodities for that matter) by the Wall Street Firms **– Goldman Sachs, Morgan Stanley and JP Morgan.** Why these firms? Specifically, they have been:

A - The creators of the Commodity Index Funds,

B - The promoters of these new instruments, and

C- The managers of many funds who have invested in them.

D - They have also provided the “SWAPS” mechanisms/markets that have allow these ‘passive long investors’ to ‘stay long’.

Nothing wrong here as such.

BUT, in addition to maybe having created and promoted an “Investment Vehicle” that has turned out to be dangerous to the economies of the world, causing much pain and recession, the situation gets more insidious because, the key Wall Street funds who have created the CIFs, the ‘passive long investor’ and the idea of ‘commodities as a new asset class’ for pension funds, etc. are also the firms, who have traditionally provided reasonable “Investment Research” for the Investment community. But things have changed on Wall Street during the recent years. **GREED RULES!** and **“Un-regulated free markets”** are the norm **!**

What we have witnessed this winter, spring and summer, is the use of the “ANALYST REPORT” as a tool to hype and promote the Increasing Price of OIL based on non-substantive facts and analytical predictions. The reports do seem to be created independently, as they should, but have been ‘rolled out’ in timely matters to ‘exert an upward bias on prices’.

ACTION NEEDED: Three areas need to be examined:

1) Just how much OIL, via Futures Contracts, OTC Trades, “SWAPS” and actual holdings (inventories) did each of the firms listed above hold on specific dates during the months of March, April, June and July? [Pick a date, say the 10th of each month and look at their aggregate holdings across the board. Look at their positions on the NYMEX, the ICE, the OTC along with their SWAPS holdings/positions and physical inventories. Do not be surprised if these holdings total 15-20%, each, of the entire futures and OTC/SWAPS market.] If there is a holdings quantity in excess of 20%, what does this mean?

2) The vast holdings/positions of each of these firms, **allows them to TRI-ANGULATE buying and selling across all the trading platforms. This could be done in such a manner as to create an upward bias in price,** if they so chose. They need prices to rise in order to entice new fund clients, to create ongoing profits for both new and existing clients, and to create profits for in-house accounts. *In other words, the entire concept of the CIF strategy is that commodities must rise for these investments to truly be profitable over the long haul – 2 to 5 years. (see "Investing in the GSCI", June 2005).*

The CFTC is NOT looking at the trading/holdings of these firms **ACROSS** ALL the trading platforms / exchanges. Rather, they are purposely turning their heads to such.
WHY?
What are they 'trying NOT to see'??
Who are they protecting by NOT looking closely?

3) Needing to see the OIL market trade in a steady upward direction to sustain CIF programs growth, and to generate income, these WS Firms have been under enormous pressure *to keep the entire speculative trading community thinking that OIL would continue to climb steadily higher*.

These firms have had the attention of the Financial Community and Media over the years. They know their "ANALYST REPORTS" are normally embraced as "GOSPEL"!

Therefore, they begin issuing reports at the beginning of the year TELLING US THAT OIL WAS GOING to $90, then $100. Watching this happen, they continued during the spring saying it would be $125, $149 and $200 by the late fall. They also watch more fund clients, etc. invest in their CIFs and "swaps', etc. Their fee incomes rose as probably did in-house holdings of commodities.

The media, their 'buddies', were quick to pick up 'these reports', telling us the gods had spoken, and THEREFORE we would surely see these new, high prices. There are guilty, it would seem to this observer who studied them, of being participants in excessive hype leading to price influencing. As such, hearing 'The WORD" most all the traders traded in haste, not to be left out, and helped to make it happen!

4) **At this point, there are two factors that look very suspicious**.

The aggregate amounts of oil contracts/holdings/positions (above the limits) that each of these firms hold, should most probable be construed as excessive. This then leads to the possibility of these firms being able to begin to exert market control and stifle free, competitive pricing.

Add to this, the "TIMELY RELEASE", promotion, and askance of promotion by the financial media to trumpet the HYPED–UP Speculative Reports, they watched the immediate market response. Prices did begin to rise, right then and there, and for days to follow. They should! The futures market was now awash and bloated with much new investor money, much of it ‘under the management’ of these few firms.

This bloated effect only served to EXAGGERATE the effects of these hyped-up predictions that were disconnected from TRUE Supply/Demand Fundamentals!

More telling as to the intent of hyping oil prices that these reports were now doing, was the fact that they were being released in an unusual timely fashion. A handful of these reports were quickly issued following a 3 to 5 day price decline in oil futures. The TRUE Oil Market was trying, on its own, to correct itself. On probably at least 5 occasions between Late March and Mid-June, following several day price declines, these WS Firms’ stepped up, took their turns issuing their “Analyst Reports”, saying the same thing roughly and hyping up the price. They did, in fact, successfully turn it around as they had the help of CNBC had the WSJ. <u>They could not afford to have the price sink back to reality as it would upset their long positions and upset the apple cart.</u> But, they knew they could rely on the heady state of market frenzy that they had already ginned-up. They knew the “herd instinct” and “myth” that surrounds them would bail them out and take the price, and their profits, to new heights. All of this was just so un-canny to witness.

The dire consequences that run-away pricing rallies were having on the American People and other poor to middle class citizens of the world were of no concern to their greed.

(Bear in mind that other forces were now at play. The WH was wanting drilling before they left office, and these media outlets, Republican in sentiment, were aiding the cause.)

Finally, the disconnect of Speculative Oil Price bidding by financial firms to the real price of true world market fundamentals TOOK HOLD! Congressional hearings had finally woken up the managers of the pension funds that these WS firms had induced to invest and trade in this new asset class/CIF program. They were now seeing their other portfolios in equities *tanking and the economy crashing*. With some wisdom and fear, they begin to exit the commodities market and the precipitous price fall that has been witnessed since mid-July started in mid-June and has been aided by global recessionary factors. But without the bloated effect of these “Excessive Passive Long Financial Fund Speculators” to keep the pricing propped up, OIL and other commodities have plumment this fall.

A GS “analyst report’ by GS, released in August, called for $150 oil by fall, <u>a price they obviously needed</u> (Nov. contracts expiring in that range??) as oil was sliding by $120. Fortunately, it was ignored. The exodus of the funds, along with the drop in true demand, has caused the retraction of oil prices back to true market fundamentals. The rapid drop further points to excessive market speculation and “pushes” by certain firms desiring higher prices, no matter how damaging it was to the rest of the world.

Today, September 17th, GS issued a statement proclaiming that oil would average $115 for 2008, down from the $149/$200 they had said in the April to June period. Isn't hindsight wonderful? They went on to say it would average $120 in 2009. Greed does not die easily.

Yesterday, September 16th, 2008 – After the Senate Energy Hearing on this matter, JP Morgan issued the following:

"While we're at it, the Peak Oil crowd promoting crude oil call options struck at $200 <u>should concede</u> what we've been saying: there was an enormous amount of speculation pent up in energy markets (e.g., an 8-fold increase in bank OTC oil derivative exposure in the last 3 years), and it wasn't just the supply-demand equation. Oil will rise again, and we need solutions to energy supplies, but $140 in July 2008 was ridiculous."

- "Eye on the Market" e-mail commentary
- **Michael Cembalest**
- Global Chief Investment Officer
- J.P. Morgan
- *September 16, 2008*

'Comment added' - Apparently Mr. Cembalest has not been part of the huge lobbying effort taking place in Washington designed to obfuscate the truth about speculation. He just was being intellectually honest and telling the truth to the investors who rely on him for investment advice. Now do NYMEX, J.P. Morgan, Verleger and others turn on him and start calling him names too?

Notes to remember – These firms have had very low profits this year. Business has been bad in all their normal areas, save their commodity and commodity client management areas. It has been their main income area this year, They have been very determined to max out profits from it. Also, the FTC should look into what physical holdings (storage facilities, pipelines, refineries) that these financial firms have recently invested (?) in. Why did they need these items? What does it do to their 'having intimate knowledge of oil, gas and gasoline flows in the market ahead of the trading market knowing about 'the shifts'?

Without getting into partisan politics, why is the CFTC NOT acting responsible here? *The American People need a forthright Regulatory Agency to step up and protect it*. WE REQUEST that the FTC look into the activities of these WS firm. The CFTC is NOT going to investigate 'one of its own', especially when the administration is leaning on it. The NYMEX is not offering anything but cover at this point. If there was NOT a problem, if their 'analyst reports' were innocent, then why are these groups and certain Senators and Congressmen acting so defensive?
Thank You,
John Q. Public