TESTIMONY BY
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INTRODUCTION

Thank you, Chairman Conaway, Ranking Member Peterson, and members of the Committee. I appreciate the opportunity to appear before you today to discuss my priorities and the work of the Agency.

It has been just under a year since my confirmation as Chair of the Commodity Futures Trading Commission (CFTC or Commission) last August. It is an appropriate time to update this committee on the progress of the CFTC.

I am pleased to report that the agency is on sound footing in meeting its statutory mission. Some examples of what we are currently doing are highlighted below:

- Our refocus on the CFTC's core mission of supervising American agriculture commodity futures markets is once again front and center;
- Our consumer education efforts are increasingly effective through contemporary means of communication;
- Our economic research and market intelligence provide new insight into the changing nature of global markets;
- Our efforts to streamline and simplify rules and regulation are underway through our Project KISS initiative;
- The strength and determination of our enforcement activities have never been more robust, and more cooperative with other Federal, State and SRO enforcement partners;
- The agency actively coordinates with international regulators and plays a leadership role in a number of international regulatory forums.
- Union relations are sound and productive, and employee morale is increasingly positive; and,
- The agency remains a careful steward of the resources it receives from the American taxpayer.

With two fine new commissioners and, hopefully, two more on the way, the CFTC is functioning well and in a collegial fashion. I believe the CFTC is an agency upon which the American people can look with satisfaction in terms of taxpayer value, effective oversight of US markets and mature development of public policy amidst the rapid pace of change of Twenty-first Century financial markets.

Let me review these points in greater detail.

PHYSICAL AND FINANCIAL MARKETS

The American agricultural market is foundational to the economy. Agricultural, food, and related industries contributed $992 billion to the U.S. economy in 2015, five and a half (5.5%) percent of the gross domestic product.[1] And, in 2016, agriculture provided 21.4 million full-and-part time jobs, or eleven (11%) percent of total U.S. employment.[2] The figures in international trade are also sizable. In Fiscal Year 2018, the Department of Agriculture projects that agricultural exports will exceed $142 billion, with imports at $121.5 billion, for a net balance of trade over $20 billion.[3] That balance of trade is good for the nation and for American farmers. The United States is the breadbasket to the nation and the world. And it is our commodity futures markets that help create our abundance by providing risk mitigation and everyday pricing to farmers, ranchers, and producers.

American derivatives markets are the world's largest, most developed, and most influential. Many of the world's most important agricultural, mineral, and energy commodities are priced in U.S. dollars in U.S. derivatives markets. Dollar pricing of the world's commodities provides a tremendous advantage to American producers in global commerce, an advantage well recognized by competing economies abroad.

American derivatives markets are also the world's best regulated. The United States is the only major country in the Organisation for Economic Co-operation and Development to have a regulatory agency specifically dedicated to derivatives market regulation: the CFTC. The CFTC has overseen the U.S. exchange-traded derivatives markets for over 40 years. The agency is recognized for its principles-based regulatory framework and econometrically-driven analysis. The CFTC is recognized around the world for its depth of expertise and breadth of capability.

[1] Economic Research Services, *What is Agriculture's Share of the Overall U.S. Economy?* U.S. DEPARTMENT OF AGRICULTURE (last updated Oct. 14, 2016): https://www.ers.usda.gov/data-products/chart-gallery/gallery/chart-detail/?chartId=58270.

[2] Economic Research Services, Ag *and Food Sales and the Economy*, U.S. DEPARTMENT OF AGRICULTURE (last updated May 02, 2018): https://www.ers.usda.gov/data-products/ag-and-food-statistics-charting-the-essentials/ag-and-food-sectors-and-the-economy/.

[3] Economic Research Services, Outlook *for U.S. Agricultural Trade,* U.S. DEPARTMENT OF AGRICULTURE (last updated June 18, 2018): https://www.ers.usda.gov/topics/international-markets-us-trade/us-agricultural-trade/outlook-for-us-agricultural-trade/.

This combination of regulatory expertise and competency is one of the reasons why U.S. derivatives markets continue to serve the needs of participants around the globe to hedge price and supply risk safely and efficiently. It is why well-regulated U.S. derivatives markets continue to serve a vital national interest – U.S. dollar pricing of important global commodities.

FOREIGN COMPETITION

As you may know, in the first quarter of 2018, the Shanghai International Energy Exchange launched a yuan-denominated crude oil contract allowing non-Chinese market participants to trade directly for the first time in the Chinese commodity markets. Shortly following this new contract, China opened yuan-denominated iron ore and bunker fuel oil contracts to international traders. There is also talk of China allowing international market participants to trade Chinese futures contracts in rubber, copper and even soybeans.

China is the world's largest consumer of oil and fuel and a major global purchaser of iron ore for its world leading steel production. The opening up of China's domestic futures markets to international participation is part of a long-term, Chinese government strategy to expand China's influence over the pricing of key industrial commodities.

The development of Chinese commodity futures markets as viable regional price benchmarks for key industrial commodities has competitive implications for the United States. We cannot be complacent about the historical primacy of our derivatives markets. Our best response for U.S. commodity market participants and, indeed, for global markets, is to ensure that derivatives markets in the United States are unrivaled in their openness, orderliness, liquidity.

In short, America's well-regulated derivatives markets are a national advantage in global economic competition. However, we must not take this advantage for granted. In order for U.S. derivatives markets to remain the world's best, U.S. markets must remain the world's best regulated. To be the best regulated, U.S. derivatives markets must have an adequately funded regulator. The CFTC must have adequate resources to continue to serve its mission to foster open, transparent, competitive, and financially sound U.S. derivatives markets that remain the envy of the world.

KANSAS CITY AGRICULTURE CONFERENCE

On April 5th and 6th, the CFTC hosted two important meetings in Kansas City. On April 5th the CFTC Agricultural Advisory Committee, led by Commissioner Rostin Behnam, discussed issues related to price discovery and risk management in agricultural markets. Panelists were able to address the importance of crop insurance as a critical risk management tool for growers and the role that futures markets play to crop insurance. We also heard from panelists regarding price discovery and the recent implementation of block trading in agricultural futures contracts.

CFTC, along with Kansas State University, also conducted a first-of-its-kind conference called, “Protecting America’s Agricultural Markets: An Agricultural Commodity Futures Conference.” Panelists discussed current macro-economic trends and issues affecting our markets, like market speculation, high frequency trading, trade data transparency, novel hedging practices and market manipulation. Participants looked at problems in convergence between cash and futures prices and volatile storage rates and heard about advances in distributed ledger technology, algorithmic trading and other emerging digital technologies, as well as current regulatory activities in protecting participants from manipulation, fraud and other unlawful activities.

Our common purpose was to hear from end users who use our markets to hedge risk and to consider and address issues of emerging market structure and trading practices to ensure that these markets remain the world’s most robust, dynamic and liquid for decades to come. American commodity futures markets are vital national interests that we must protect and enhance.

The Conference also heard about ways in which emerging technology is pulling farmers and ranchers into a virtual future, often beyond comprehension, with a powerful, gravitational pull. They are entering this virtual world with worries about trade, commerce, costs, and competition. And, as regulators, we needed to listen, and to continue to listen. The future is now, for them, and for us. Our task, as market regulators, is to set and enforce rules that foster innovation while promoting market integrity and confidence.

OVERSIGHT OF VIRTUAL CURRENCIES

The hearing last week before this committee examined the opportunities and risks involved in the evolution of digital currencies. Emerging financial technologies are taking us into a new chapter of economic history. They are impacting trading, markets, and the entire financial landscape with far ranging implications for capital formation and risk transfer. They are transforming the world around us, and it is no surprise that these technologies are having an equally transformative impact on U.S. capital and derivatives markets.

Knowing the challenges ahead, my focus as Chairman has been guided by six broad elements concerning virtual currency: (1) staff competency; (2) consumer education; (3) U.S. interagency cooperation; (4) exercise of authority; (5) strong enforcement; and, (6) heightened review of virtual currency product self-certifications.

You heard last week from Daniel Gorfine, Chief Innovation Officer and Director of LabCFTC about the work we are doing to learn more about investments being made in technologies that may or may not impact our regulatory jurisdiction.

LabCFTC is the focal point of the CFTC's efforts to engage with innovators, facilitate market-enhancing technology and fair competition, and manage the interface between technological innovation, regulatory modernization, and existing rules and regulations. I believe that this work is critical to the Agency being a 21st century regulator.

The work of LabCFTC has highlighted an important issue that U.S. regulators face. We have certain limitations in the ability to test, demo, and generate proof of concepts around these complex emerging technologies and systems. Specifically, the CFTC lacks the legal authority to partner and collaborate with outside entities engaging directly with FinTech and innovation within a research and testing environment, including when the CFTC receives something of value absent a formal procurement. The general rule is that without such authority, the CFTC must forego the increasing number of opportunities to engage in research that may benefit the derivatives markets that the agency oversees, as well as the CFTC's own activities.

The Commission would like the ability to partner, collaborate, or engage in a cooperative agreement regarding emerging financial and compliance technologies with persons or entities; Federal, State, or local agencies or instrumentalities; or foreign governments or international organizations. Legislation recently introduced by Congressman Austin Scott provides such authority and would greatly enhance the Commission's ability to keep pace with emerging technology, explore its potential, and facilitate its adoption.

With respect to consumer education, the CFTC's Office of Customer Education and Outreach (OCEO), which was established in 2011 to administer the CFTC's consumer education initiatives, has played an integral role in both authoring educational materials for consumers and working with partners to spread the word about the CFTC's Bitcoin and virtual currency resources.

OCEO is conducting outreach to various audiences such as retail investors, industry professionals, seniors, and vulnerable populations who may be targeted by unscrupulous individuals with the intent to defraud them of their savings. Some examples of outreach include coordinating with national non-profits, federal regulators and state agencies to conduct webinars, educational campaigns and in-person events. OCEO also provides partners with content to use for their constituent outreach and communications, in order to amplify the CFTC's customer education efforts. OCEO is also reaching intermediaries through trainings that educate participants on the CFTC's fraud prevention resources to protect and assist their constituencies.

In fact, last week OCEO, in conjunction with LabCFTC, issued its fourth Customer Advisory about virtual currencies. This advisory warns customers to use caution and to do extensive research before purchasing virtual coins or tokens, including those that are self-described as "utility coins," or "consumption coins."

Specifically, the advisory, titled “Use Caution When Buying Digital Coins or Tokens,” warns a customer to view any promises or guarantees of future value as a “red flag.” Since this market is still very new, there is no commonly accepted standard to assigning a value on a particular virtual coin or token. This is an important reason to beware of coins or tokens sold today with the claim that they can buy goods, services, or platform access in the future. Also, businesses that are still in the proposal stage may use funds from coin sales to start or grow their ventures. The advisory provides important factors for customers to weigh that could impact the current or future value of a coin or token.

Our Customer Advisories aim to give customers a greater understanding of virtual currencies and help them make informed investment choices. These advisories are part of the CFTC’s broader outreach program to the public regarding virtual currencies. In fact, over the past five months, the CFTC has produced an unprecedented amount of public educational materials on virtual currencies, all of which are located on the Commission’s dedicated “Bitcoin” web page at https://www.cftc.gov/Bitcoin. Launched on December 15, 2017, the web page features both consumer and industry-facing materials and includes a backgrounder on the CFTC’s oversight and approach to virtual currency markets, a “primer” on virtual currencies, several customer advisories on risks associated with speculating or investing in Bitcoin and other virtual currencies, a fact sheet outlining the self-certification process, and a CFTC -produced podcast on Bitcoin.

Additionally, other CFTC-produced podcasts on Blockchain and other virtual currency related topics are available on the Commission’s website. For market participants, the weekly publication of the “Commitment of Traders” data includes open interest information on Bitcoin futures which provides insight into the market dynamics of these contracts.

As you all know, last December, two exchanges self-certified several new contracts for futures products for virtual currencies. These innovations impact the regulatory landscape and will require the Commission to invest more in new technologies and tools that support important surveillance and enforcement efforts.

Under the Commodity Exchange Act (CEA), Commission regulations, and related guidance, CFTC- registered exchanges have the responsibility to ensure that their Bitcoin futures products and their cash-settlement process are not readily susceptible to manipulation. Additionally, CFTC-registered clearing houses or derivatives clearing organizations (DCOs) are required to have robust and comprehensive risk management procedures in place to ensure that these contracts are sufficiently margined and do not undermine the integrity of the DCO. The CFTC has the authority to ensure our exchanges and DCOs comply with their respective responsibilities. In addition, the CFTC has legal authority over virtual currency derivatives in support of anti-fraud and manipulation including enforcement authority in the underlying markets.

In May, our Division of Market Oversight staff issued guidance on a new "heightened review" of virtual currency product self-certifications that gives registered exchanges and clearinghouses guidance for listing virtual currency derivative products.[4] This advisory will help ensure that market participants follow appropriate governance processes with respect to the launch of these products. It clarifies CFTC staff's priorities and expectations in its review of new virtual currency derivatives to be listed on a designated contract market or swap execution facility, or to be cleared by a DCO. The advisory should help exchanges and clearinghouses effectively and efficiently discharge their statutory and self-regulatory responsibilities, while keeping pace with the unique challenges of emerging virtual currency derivatives.

The CFTC Division of Enforcement is a premier Federal civil enforcement agency dedicated to deterring and preventing manipulation and other disruptions of market integrity, ensuring the financial integrity of all transactions subject to the CEA, and protecting market participants from fraudulent or other abusive sales practices and misuse of customer assets.

The CFTC has been particularly assertive of its enforcement jurisdiction over virtual currencies. It has formed an internal virtual currency enforcement task force to garner and deploy relevant expertise in this evolving asset class. The task force shares information and works cooperatively with counterparts at the SEC with similar virtual currency expertise.

Over the past several months, the CFTC filed a series of civil enforcement actions against perpetrators of fraud, market manipulation and disruptive trading involving virtual currency. These include:

(i) **Gelfman Blueprint, Inc**., which charged defendants with operating a Bitcoin Ponzi scheme that fraudulently solicited approximately 80 persons supposedly for algorithmic trading in virtual currency that was fake, the purported performance reports of which were false, and – as in all Ponzi schemes – payouts of supposed profits to customers actuality consisted of other customers' misappropriated funds.

(ii) **My Big Coin Pay Inc**., which charged the defendants with commodity fraud and misappropriation related to the ongoing solicitation of customers for a virtual currency known as My Big Coin;

(iii) **The Entrepreneurs Headquarters Limited**, which charged the defendants with a fraudulent scheme to solicit Bitcoin from members of the public, misrepresenting that customers' funds would be pooled and invested in products including binary options, and instead misappropriated the funds and failed to register as a Commodity Pool Operator; and

[4] *CFTC Staff Issues Advisory for Virtual Currency Products* (May 21, 2018), https://www.cftc.gov/PressRoom/PressReleases/7731-18.

(iv) **Coin Drop Markets**, which charged the defendants with fraud and misappropriation in connection with purchases and trading of Bitcoin and Litecoin.

These recent enforcement actions confirm that the CFTC, working closely with the SEC and other fellow financial enforcement agencies, will aggressively prosecute bad actors that engage in fraud and manipulation regarding virtual currencies.

We have had and will continue strong inter-agency cooperation. The CFTC has been in close communication with the SEC with respect to crypto currency policy and jurisdictional considerations, and in connection with our recent enforcement cases. We also are working on a Memorandum of Understanding (MOU) with the SEC to streamline the flow of information and clarity our regulatory responsibilities. We have also been working with the U.S. Treasury and the Financial Stability Oversight Council (FSOC) through its crypto currency task force. In addition, we have been in communication with our foreign counterparts through bilateral discussions and through international bodies like the International Organization of Securities Commissions.

FINANCIAL TECHNOLOGY

In addition to LabCFTC's domestic activities, the Commission continues to proactively work with international regulators on FinTech applications to coordinate approaches and to share best practices. In February of this year the CFTC and the UK's Financial Conduct Authority (FCA) entered into an arrangement to collaborate and support innovative firms through each other's FinTech initiatives – LabCFTC and FCA Innovate. This is the first FinTech innovation arrangement for the CFTC with a non-U.S. counterpart. We believe that by collaborating with the best-in-class FCA FinTech team, the CFTC can contribute to the growing awareness of the critical role of regulators in 21st century digital markets.

The Technology Advisory Committee, under the sponsorship of Commissioner Brian Quintenz, has been particularly active, having already formed four subcommittees examining critical and timely topics in detail. One subcommittee, focused on the modern trading environment, is evaluating the true risks of algorithmic and automated trading, private sector incentives and responses to controlling operational risk, and any gaps therein where regulatory solutions are necessary. Other subcommittees are addressing questions surrounding virtual currency including suggesting self-regulatory policies for trading platforms, Distributed Ledger Technology (DLT) and any associated regulatory applications, and internal and external cybersecurity practices and protocols. I look forward to a robust set of actionable recommendations from the TAC in the months to come which the Commission may consider, and I thank Commissioner Quintenz for his leadership.

The CFTC and this committee have an important role to play moving forward when it comes to helping the Commission better understand how these technological infrastructures work and impact our regulatory space, and how to best regulate them.

CROSS BORDER AGREEMENTS

The Commission continues to remain focused on the potential impact of Brexit on the U.S. derivatives markets. We understand the unprecedented challenges facing the EU and the United Kingdom in coming to agreement on how their markets, services, and people will function post Brexit; however, from a financial markets perspective, we remain concerned that EU efforts to ensure control over euro-denominated contracts currently cleared by U.K. clearing houses or central counterparties (CCPs) will unfairly and inappropriately impact our U.S. CCPs.

This past year, I, along with my fellow Commissioners, have engaged with our European counterparts to discuss our concerns with the extraterritorial reach of their new legislation. I have spoken to this committee on previous occasions about how this new legislation proposed by the European Commission would create a new European framework to regulate and supervise CCPs.

We fully support, and believe the EU, as a sovereign political entity, has the right to amend and revise its laws and regulate the entities that operate within its jurisdiction. Moreover, we welcome any and all efforts in the EU to enhance the regulation and supervision of its domestic CCPs. However, with respect to the treatment of U.S. domiciled CCPs, we steadfastly oppose the renegotiation of the 2016 equivalence decision between the European Commission and the CFTC. We expect the EU to honor its obligations under the 2016 equivalence agreement regardless of how Brexit might impact the EU’s ability to risk manage the clearing of euro-denominated contracts in the U.K. I have stated very clearly that we will not renegotiate this agreement.

Further, it remains my position that our U.S. CCPs, which are among the most robust and resilient in the world, should not be required to comply with EU law on top of having to comply with U.S. law in order to provide clearing services to EU market participants. This would create unnecessary regulatory and supervisory burdens and increase costs on U.S. businesses. The fact is that EU law is different than U.S. law. CFTC statutes and regulations have evolved over the course of more than forty years and are uniquely formulated to address our domestic derivatives markets-predominantly our futures markets. Our domestic markets are not identical to those of the EU -- and the nature of our markets is reflected in our laws. This experience and practice is not recognized in EU law, creating situations where regulatory measures, which are critical to U.S. futures markets, would be viewed as impermissible under EU law. We cannot, and will not, allow EU authorities and EU law to dictate what is appropriate in our domestic financial markets. American derivatives markets must continue to be regulated under American law by U.S. regulators overseen by this committee of the U.S. Congress.

I believe if the situation were reversed, my European colleagues would hold the same position. I know that this committee has supported me on this position, and I thank you for that.

The best way forward as I have consistently stated, is through deference. Regulatory and supervisory deference is a key principle to a cross border approach that fosters economic growth and resilience without jeopardizing the bespoke laws or practices that underpin the domestic derivative markets around the world. It gives us the best of both worlds-it builds harmonization between markets and preserves the ability of primary regulators to act and regulate their markets as appropriate. I believe that the 2016 equivalence agreement achieved this balance.

When it comes to U.S. CCPs, we insist that the parties stay true to the terms of the 2016 equivalence agreement, give proper assurances that U.S. CCPs will not be treated differently than they are now, and pledge support for deference as the governing principle for how we regulate and supervise each other's CCPs today and in the future. In fact, deference is the cornerstone for how the CFTC approaches the cross-border supervision of European CCPs. It is deference that supports strong cross-border markets, recognizes our commonalities, and builds upon the strengths of our respective jurisdictions.

With respect to the CFTC's participation in international standard setting fora, we continue to play a very active role in international bodies like the International Organization of Securities Organization (IOSCO) in order to build consensus and cooperate in the regulation of the global financial markets. These global markets are over hundreds of trillions of dollars in market size. For example, the approximate size of just the global exchange-traded derivatives market is US$100 trillion. The exchange-traded derivatives market, thus, compares favorably to the global equity markets, which are also estimated to be about US$100 trillion in size. When one considers in addition the over-the-counter derivatives markets, which has an estimated gross notional value of over US$500 trillion, the global derivatives market represents a substantial share of the markets overseen by IOSCO members.

I believe the CFTC needs to be a leading participant in IOSCO and other international bodies. The CFTC currently chairs the following international committees and groups and serves as a member of many other ones:

Chair, IOSCO Cyber Task Force
Chair, IOSCO Committee on Derivatives
Co-Chair, CPMI-IOSCO Data Harmonization Group
Co-Chair, FSB Working Group on UTI and UPI Governance
Chair, OTC Derivatives Regulators Group
Co-Chair, Derivatives Assessment Team

Co-Chair, CPMI-IOSCO Policy Standing Group

I also recently served as co-chair of the 2018 Salzburg Global Seminar's Finance Forum and spoke about issues related to Artificial Intelligence, FinTech, Cybercrime and Big Data.

As overseers of the world's oldest and largest derivatives markets, the CFTC must play a leadership role in the development of common standards for global derivatives markets. Under my chairmanship, the CFTC will continue to play that role.

ENFORCEMENT

Through robust enforcement of our laws and regulation, the Commission is sending a clear signal to the marketplace about our seriousness in punishing bad behavior and compensating victims.

As of June 5th, the Commission has filed 13 manipulative conduct cases in 2018 - the most manipulation cases the CFTC has ever filed in a single year, which was last year (12 cases), including an Order settling charges against French bank Societe Generale S.A. for manipulation and attempted manipulation of and false reporting in connection with both the London Interbank Offered Rate (LIBOR) and Euro Interbank Offfered Rate (Euribor). The civil monetary penalty of $475 million was the third largest in the history of the Commission. It addresses misconduct that spans more than six years, from 2006 through mid-2012. The Commission worked in collaboration with the Department of Justice, the Federal Bureau of Investigation, the Autorité des Marchés Financiers in France, and the UK Financial Conduct Authority. This is the type of enforcement cooperation that I undertook to pursue upon becoming Chairman.

But it is not just about the numbers. And it is not cooperation for the sake of cooperation. It is about removing bad actors from the marketplace, making the markets safer and more durable for responsible traders and the participants that use our markets. We also believe that, to maximize deterrence, we must work with our criminal law enforcement partners to ensure that wrongdoers face not just civil liability, but also the prospect of criminal prosecution and time in jail.

In January 2018, the CFTC filed manipulation and spoofing cases against six individuals in coordination with the Department of Justice (DOJ) and the Federal Bureau of Investigation, which brought criminal charges against the same individuals. This constitutes the largest coordinated prosecution of on-exchange trading abuses with the criminal authorities in the history of the CFTC. These prosecutions were equally significant for DOJ: in a press statement, the Assistant Attorney General characterized it as "the largest futures market criminal enforcement action in Department history."[5]

I also pledged last year that the agency would look to benefit from cooperation with civil and criminal capabilities of other federal and state regulators and enforcement agencies. We have been making good on that pledge. Two weeks ago, I signed an important agreement, marking a milestone in the area of U.S. federal and state financial fraud detection and prosecution. That was an MOU between the CFTC and individual state securities commissions which will focus our collective resources to better uphold the law.[6]

This MOU establishes protocols and procedures, for the access, use, and confidentiality of information and treatment of non-public information in the course of law enforcement. It creates a framework for cooperation that will result in:

- Leveraging state and federal resources to support enforcement actions;
- Enhancing the impact of enforcement efforts and their deterrent effect;
- Encouraging the development of consistent and clear governmental responses to violations of the Commodity Exchange Act;
- Preventing the duplication of efforts by multiple authorities; and
- Facilitating vital exchanges of information and communications between the Commission and State Securities Administrators.

Complementing its enforcement efforts, the CFTC has also strengthened its Whistleblower Program, and provided whistleblowers additional incentives to report wrongdoing to the CFTC. In May 2017, to further protect whistleblowers, the CFTC added protections prohibiting employers from retaliating against whistleblowers and from taking steps that would impede would-be whistleblowers from communicating with the CFTC about possible misconduct.

We believe those incentives are working. On July 12, 2018, the CFTC announced an award of approximately $30 million to a whistleblower who voluntarily provided key original information that led to a successful enforcement action. The award is the largest award made by the CFTC's Whistleblower Program to date. In FY 2017, the Commission received a record number of whistleblower reports — nearly twice as many as in any other year, and FY 2018 is on track to receive nearly twice as many as in FY 2017.

[5] *Acting Assistant Attorney General John P. Cronan Announces Futures Markets Spoofing Takedown*, UNITED STATES DEPARTMENT OF JUSTICE, (Jan. 29, 2018), *available* at https://www.justice.gov/opa/speech/acting-assistant-attorney-general-john-p-cronan-announces-futures-markets-spoofing.
[6] *CFTC, NASAA Sign Agreement for Greater Information Sharing Between Federal Commodities Regulator and State Securities Regulators*, NORTH AMERICAN SECURITIES ADMINISTRATORS ASSOCIATION (May 21, 2018) http://www.nasaa.org/45123/cftc-nasaa-sign-agreement-for-greater-information-sharing-between-federal-commodities-and-state-securities-regulators/.

The Commission takes its enforcement efforts very seriously. We pride ourselves on being a premier Federal civil enforcement agency dedicated to deterring and preventing manipulation and other disruptions of market integrity. We will not stop.

OPEN MEETING ON INDEMNIFICATION, VOLCKER RULE, AND SWAP DEALER DE MINIMIS

On June 4, 2018, the CFTC held an open meeting for input on several important matters. This was the first open meeting I conducted as Chairman of the agency. We considered a final rule for swaps data access and two proposed rules concerning the Volcker rule and the de minimis swaps dealing exception.

First, let's turn to the swap data access provisions of Part 49 of the CFTC's rules, also formerly known as the swap data repository (SDR) indemnification rule.

Eight years ago, Congress included in the Dodd-Frank Act a requirement that foreign regulators had to indemnify both the U.S. SDR and the Commission for any expenses arising from litigation relating to information provided by the SDR. This requirement was driven by U.S. concern to protect data privacy, an issue that is very much in the news today. Unfortunately, foreign regulators were unable or unwilling to provide the required indemnification, hindering the ability to share swaps data. It also hampered access by foreign derivatives regulators to data in U.S. SDRs necessary to understand the risks their regulated entities are assuming and the impact of such risks on the broader markets.

With the implementation of our new rule, I believe we have made significant progress towards cross-border data sharing and enhancing transparency in the global swaps market. Such data sharing may facilitate greater cooperation among market and prudential regulators, as well as among foreign and domestic regulators, and will provide more effective financial market oversight, expand data driven policymaking, and improve early warning systems that might ultimately reduce the probability or severity of a crisis.

Then there is the Volcker rule. Section 619 of the Dodd-Frank Act added a new section 13 to the Bank Holding Company Act of 1956 (BHC Act) that is commonly known as the Volcker rule. The new section generally prohibits "banking entities" from engaging in "proprietary trading" for the purpose of selling financial instruments to profit from short-term price movements. Section 13 of the BHC Act also generally prohibits banking entities from acquiring or retaining an ownership interest in, or sponsoring, a hedge fund or a private equity fund ("covered funds").

Recognizing that the "devil is in the details," Congress left the finer points of developing the Volcker rule regulations to five agencies: the Board of Governors of the Federal Reserve System (Board), the Federal Deposit Insurance Corporation (FDIC), the Office of the Comptroller of the Currency (OCC), the Securities and Exchange

Commission (SEC), and the CFTC (together, the “Agencies”). The Agencies issued the final rule in December 2013.

Since then, there has been a growing concern that the regulators first pass at the Volcker rule was not ideal in several respects. Specifically, the current rule causes confusion as to what is acceptable activity, presumes unacceptable activity in various cases, and imposes highly intensive compliance burdens in all cases, unfairly benefitting large Wall Street banks over smaller regional ones.

The amendments to the Volcker rule seek to simplify and tailor the Volcker rule to increase efficiency, right-size firms’ compliance obligations, and allow banking entities – especially smaller ones - to more efficiently provide services to clients. It adopts a risk-based approach that would rely on a set of clearly articulated standards for both prohibited and permitted activities and investments. It is the product of a collaborative effort with the Federal Reserve, FDIC, OCC, and SEC. It is based on our collective implementation experiences over the past several years.

This proposal will provide banking entities and their affiliates, including a number of swap dealers, FCMs, and commodity pools subject to CFTC oversight, with greater clarity and certainty about what activities are permitted under the Volcker rule. For the CFTC, “banking entities” subject to the Volcker rule include primarily swap dealers and FCMs that are either insured depository institutions, certain foreign banking entities operating in the United States, and affiliates of either of those two categories. In addition, certain commodity pools that are owned or controlled by any such entity may also be banking entities or covered funds under the Volcker rule.

Finally, I want to turn to the proposal for the swap dealer de minimis definition. As you know, last year I requested that the Commission postpone a decision on the de minimis threshold for a year, delaying implementation until the end of this year. That decision was disappointing to some, including my fellow Commissioners, who said they were then ready to move forward with a proposed rule. Yet, as I told Congress at the time, I did not just want to address the de minimis threshold; I wanted to get it right.

I believe the staff has had adequate time to analyze the most current and comprehensive trading data and arrive at a recommendation for the best path forward in terms of managing risk to the financial system. The staff has provided Commissioners with full access to the data they have used in their analysis. They have also conducted additional and specific data analyses requested by Commissioners. The data shows quite clearly that a drop in the de minimis definition from $8 billion to $3 billion would not have an appreciable impact on coverage of the marketplace. In fact, any impact would be less than one percent - an amount that is truly de minimis.

On the other hand, the drop in the threshold would pose unnecessary burdens for non-financial companies that engage in relatively small levels of swap dealing to manage business risk for themselves and their customers. That would likely cause non-financial companies to curtail or terminate risk-hedging activities with their customers, limiting risk-management options for end-users and ultimately consolidating marketplace risk in only a few large Wall Street swap dealers.

That is why I think the proposed rule rightly balances the mandate to register swap dealers whose activity is large enough in size and scope to warrant oversight without detrimentally affecting community banks and agricultural co-ops that engage in limited swap dealing activity and do not pose systemic risk.

Leaving the threshold at the $8 billion level allows firms to avoid incurring new costs for overhauling their existing procedures for monitoring and maintaining compliance with the threshold. It fosters increased certainty and efficiency in determining swap dealer registration by utilizing a simple objective test with a limited degree of complexity. And it ensures that smaller market makers and the counterparties with which they trade can engage in limited swap dealing without the high costs of registration and compliance as intended by Congress when it established the de minimis dealing exception to begin with.

Both the Volcker and the de minimis rule are proposed rules that are now open for public comment. We look forward to getting feedback on both and will work towards completing final rules by the end of 2018.

AGENCY REFORM AND THE KISS PROJECT

Since becoming Chairman, I have made efforts to normalize operations and practices, and found opportunities to reinvest and maximize current resources. That means a return to greater care and precision in rule drafting; more thorough econometric analysis; and a reduced docket of complex new rules and regulations to be absorbed by market participants.

The KISS initiative launched last March included a review of rules and processes, and the invitation for public comment to collect ideas on how the CFTC can be a more effective regulator. The effort has produced a tiered list of significant actions that will lessen regulatory burdens.[7] Recently, for example, the agency unanimously approved an amendment replacing the complex and confusing lettering for defined terms with a simple alphabetical list.[8] The replacement will remove unnecessary complexity from our rules and should help make regulatory compliance less burdensome.

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[7] Michael Gill, Chief of Staff, U.S. Comm. Fut. Trading Comm'n, *Remarks at the National Press Club, CFTC KISS Policy Forum, Washington, D.C.* (Feb. 12, 2018), *available at* https://www.cftc.gov/PressRoom/SpeechesTestimony/opagill2.

[8] J. Christopher Giancarlo, Chairman, U.S. Comm. Fut. Trading Comm'n, *We're Making Government Function More Efficiently for Taxpayers and Market Participants* (Feb. 15, 2018), *available at* https://www.cftc.gov/PressRoom/PressReleases/pr7696-18.

Internally, we have embraced the Administration's Reform Plan concept and have implemented in-depth organizational reviews to ensure that the agency is staffed to provide the most effective services to the American taxpayer. This ongoing effort has already produced results. Part of this effort included leveraging existing resources and knowledge gained from enforcement actions and surveillance efforts to provide timely consumer education materials to the public regarding virtual currencies.

SWAPS REFORM

At the end of April, I released a White Paper on swaps reform called "Swaps Regulation Version 2.0." The White Paper was co-authored with Bruce Tuckman, the CFTC's Chief Economist. This White Paper analyzes the range of academic research, market activity, and regulatory experience within the CFTC's current implementation of swaps reform. It explores and considers a range of improvements to the current reform implementation that is pro-reform, aligned to legislative intent, and better balances systemic risk mitigation with healthy swaps market activity in support of broad-based economic growth.

We now have more than four years of U.S. experience with the current CFTC regulatory framework for swaps and have learned from its varied strengths and shortcomings. Four years provides a significant sample size to evaluate the effects of these reforms and their implementation. Based on a careful analysis of that data and experience, we are in position to address flaws, recalibrate imprecision and optimize measures in the CFTC's initial implementation of swaps market reform.

RULE HARMONIZATION AND INTER-AGENCY COORDINATION

I believe that Congress and the American people expect regulators to communicate and coordinate closely on issues where our regulatory interests are complementary or overlapping.

Soon after Chairman Clayton was sworn in as Securities and Exchange Commission (SEC) Chairman, we began discussing ways to ensure that our respective agencies are working together in areas where our regulatory interests are complimentary or overlapping. Now, almost eight years after the Dodd-Frank Act officially required the CFTC and SEC to "consult and coordinate … for the purposes of assuring regulatory consistency,"[9] I am pleased to say that both agencies are undertaking an active and cooperative review of our Dodd-Frank regulations. With the helpful assistance of Commissioner Quintenz, CFTC staff has been actively engaged with our SEC counterparts – and soon jointly with outside stakeholders – to identify areas ripe for further alignment.

[9] Section 712(a) of the Dodd-Frank Wall Street Reform and Consumer Protection Act, PUB. LAW NO. 111-203, (July 21, 2010).

I am optimistic this review process will lead to regulatory changes that will enhance our oversight efforts while reducing unnecessary complexities and lessening costs for both regulators and our shared market participants.

In addition, since December of last year, I have been meeting with my counterparts at the Federal Deposit Insurance Corporation (FDIC), Bank of England, and the Federal Reserve to discuss resolution of Systemically Important Designated Clearing Organizations (SIDCO). As you know, Title II of the Dodd-Frank Act provides for the orderly resolution of a SIDCO should authorities decide to intervene. Title II also provides for the appointment of the FDIC as receiver, given its historical experience in resolving banks. The CFTC, however, has indispensable expertise as the primary regulator of swap CCPs. As such, it is critically important that our agencies understand each other's roles and expertise - before a crisis happens. Since our initial meetings, we are now coordinating and meeting regularly with the Federal Reserve and the Bank of England, recognizing the global nature of derivatives clearing. These meetings have been extraordinarily cooperative and productive. We've taken the opportunity, supported by our respective staffs, to exchange information, share analysis, and collaborate to develop and hone our respective strategies to address these extremely low probability – but extremely high consequence – contingencies.

Obviously, our expertise with clearing comes from our constant monitoring and oversight of CCPs. A key part of this oversight is through direct examinations of CCPs. In the case of SIDCOs, Title VIII of Dodd Frank provides that the CFTC is the primary regulator. Early in my tenure, then Governor Jay Powell and his staff from the Federal Reserve visited the CFTC to meet with me and our CCP examinations staff in an effort to identify policy areas of agreement and improve collaboration on cyber security, default, liquidity and performance of margin models of SIDCOs. The teams are sharing analysis, information, and supervisory experiences in an attempt to minimize the number of policy concerns and to agree upon examination programs for these CCPs.

Finally, another area of crucial agency coordination is interest rate benchmark reform. For over five years now, CFTC has been working very closely with the Board of Governors of the Federal Reserve System on efforts to develop risk-free interest rate benchmarks. The Market Risk Advisory Committee (MRAC,) under the leadership of Commissioner Behnam, recently hosted an important public meeting during which CFTC staff, the Federal Reserve, Federal Reserve Bank of New York and market participants discussed ongoing efforts to transition US dollar derivatives markets away from London Interbank Offer Rate (LIBOR) to the Secured Overnight Funding Rate (SOFR). The MRAC meeting was the first piece of a larger multi-year effort to ensure a smooth transition of trillions of dollars of CFTC-regulated derivatives, which are pegged to LIBOR. This is a critically important task considering the role benchmarks, like LIBOR, play in the real economy, including home mortgages, student loans, and auto loans. The MRAC is in the process of forming a subcommittee in an effort to consider providing recommendations to the CFTC on regulatory issues raised by the Federal Reserve's Alternative Reference Rates Committee involving the amendment of existing derivatives contracts and Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act among other issues.

PROTECTING OUR FINANCIAL MARKETS

Clearinghouses

One of the Commission's primary oversight responsibilities is to oversee derivatives clearing organizations (DCOs). The Commission expects the number of (DCOs) to continue to increase in FY 2019. As the number of DCOs increase, the complexity of the oversight program will increase. I believe that it is imperative that the Commission strengthen its examination capability to enable it to keep pace with the growth in the amount of swaps cleared by DCOs pursuant to global regulatory reform implementation. As the size and scope of DCOs have increased, so too has the complexity of DCO's risk management programs and liquidity risk management procedures. The Commission under my leadership will continue to work to enhance its financial analysis tools used to aggregate data and evaluate risk across all DCOs.

Economic modeling and econometric capabilities

One of the most important jobs facing this agency now and in the coming years is to boost the CFTC's ability to monitor systemic risk in the derivatives markets by increasing both its analytical expertise and its capacity to process and study the voluminous data provided by market participants since the passage of the Dodd-Frank Act. Investments in these capabilities will allow for the expansion of sophisticated quantitative and econometric analyses that are necessary for risk modeling, stress tests, and other stability-related evaluations, especially with respect to central counterparty clearinghouses. These analyses will, in addition, enhance the quality of CFTC policy development, rulemaking and cost-benefit considerations.

Let me highlight one example. It has been widely recognized for the longest time that notional amounts are a poor measure of the size of swaps markets. But early this year, using our regulatory data, the Office of the Chief Economist introduced a new measure of the size of interest rate swaps markets called "Entity-Netted Notionals," or ENNs. Making some very basic risk adjustments, like offsetting the long and short positions of two counterparties, analysis reveals that $228 trillion notional amount of interest rate swaps corresponds to about $17 trillion ENNs, which is comparable to other fixed income markets, like $17 trillion of U.S. Treasury securities outstanding. In this way, the ENNs metric—which we plan to extend to other products—raises the level of discussion about derivatives markets and may ultimately lead to better calibrated regulatory thresholds.

Cyber security

As I have mentioned in the past, cyber security is critically important to protecting infrastructure and financial markets around the world. As market leaders and regulators, we must take every step possible to thwart cyber-attacks that have become a continuous threat to U.S. financial markets. Our understanding of the cyber threat must develop in pace with the constant evolution of the threat itself.

As we learn, we must engage in discussions with the DCOs about their cyber defenses and threat resiliency and recovery. It is through the oversight and examination of systems safeguards that the Commission helps to ensure that DCOs are prioritizing cyber security activities. The same vulnerabilities hold true in the case of futures commission merchants where customer accounts hold records and information that requires protection. We as an agency must work hard to ensure that regulated entities live up to their responsibility to ensure their IT systems are adequately protected from attacks and customers are protected.

As an agency, the Commission is faced with growing pressure to protect terabytes of data and maintain compliance with the Federal Information Security Modernization Act and Office of Management and Budget mandates. Looking forward, I am hopeful that next fiscal year with additional funding we will be able to enhance our internal cyber security including implementing additional cyber-attack sensors and defenses to further protect the market data we collect.

CONCLUSION

Thank you for this opportunity to update you on progress of the CFTC. I am pleased to report that the agency is on sound footing in the conduct of its statutory mission. I believe the CFTC is an agency upon which the American people can look with satisfaction in terms of taxpayer value, effective oversight of US markets and mature development of public policy amidst the rapid pace of change of Twenty-first Century financial markets.

With the proper balance of sound policy, regulatory oversight, and hard work, America’s deep, liquid, and sensibly regulated derivatives markets will allow us to meet the challenges of the future and ensure a healthy U.S. economy where our citizens can flourish. This is how we can best serve the nation and the world. This is how we can walk into a virtual future with resources, insight, leadership, and effectiveness. The American people would expect nothing less.

Thank you.