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Description of document: Commodity Futures Trading Commission (CFTC)
Correspondence with Congressional Committees or
Subcommittees, 2018-2022

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FOIA Compliance Office
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581
[CFTC FOIA Online Request Form](#)
[FOIA.gov](#)

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FOIA Office

U.S. COMMODITY FUTURES TRADING COMMISSION

Three Lafayette Centre
1155 21st Street, NW, Washington, DC 20581
www.cftc.gov

November 2, 2022

RE: 23-00004-FOIA

This is in response to your request dated September 30, 2022, under the Freedom of Information Act ("FOIA") seeking access to: [A copy of each piece of (letter - either paper or electronic)) correspondence between CFTC and Congressional Committees or Subcommittees. Please limit this request to the timeframe January 1, 2018 to the present.].

In accordance with the FOIA and agency policy, we have searched our records, as of October 3, 2022, the date we received your request in our FOIA office.

We are granting partial access to and are attaching copies of the accessible records. Some pages are exempt in full, and portions of the remaining pages fall within the exemptions to the FOIA's disclosure requirements, as explained below. The Commission considers the foreseeable harm standard when reviewing records and applying FOIA exemptions. We have conducted a segregability analysis and have segregated any non-exempt portions of the records from the exempt portions, which are redacted.

Some responsive records contain personal information, which is exempt from release under FOIA Exemption 6 because individuals' right to privacy outweighs the general public's interest in seeing personal identifying information. 5 U.S.C. § 552(b)(6); *see also The Lakin Law Firm v. FTC*, 352 F.3d 1122 (7th Cir. 2003).

If you have any questions about the way we handled your request, or about our FOIA regulations or procedures, please contact Bridget McFarland at 202-418-5319, or Jonathan Van Doren, our FOIA Public Liaison, at 202-418-5505.

Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, Room 2510, 8601 Adelphi Road, College Park, Maryland 20740-6001, email at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

If you are not satisfied with this response to your request, you may appeal by writing to Freedom of Information Act Appeal, Office of the General Counsel, Commodity Futures Trading Commission, Three Lafayette Centre, 8th Floor, 1155 21st Street, N.W., Washington, D.C. 20581, within 90 days of the date of this letter. Please enclose a copy of your original request and a copy of this response.

Sincerely,

A handwritten signature in black ink, appearing to read "Rose B. Killoy". The signature is stylized with a large, looped "R" and a long, sweeping underline.

Rosemary B. Killoy
Assistant General Counsel

United States Senate

WASHINGTON, DC 20510

July 30, 2018

The Honorable Joseph M. Otting
Comptroller
Office of the Comptroller of the Currency
400 7th Street, S.W.
Washington, DC 20219

The Honorable Jerome H. Powell
Chairman
Board of Governors of the Federal Reserve
System
20th Street and Constitution Avenue, N.W.
Washington, D.C. 20551

The Honorable Jelena McWilliams
Chairman
Federal Deposit Insurance Corporation
17th Street, N.W.
Washington, D.C. 20429

The Honorable Jay Clayton
Chairman
Securities and Exchange Commission
100 F Street, N.E.
Washington, DC 20549-1090

The Honorable Christopher Giancarlo
Chairman
Commodity Futures Trading Commission
1155 21st Street, N.W.
Washington, DC 20581

Dear Comptroller Otting, Chairman Powell, Chairman McWilliams, Chairman Clayton, and Chairman Giancarlo:

In response to the financial crisis, Congress in 2010 passed the Dodd-Frank Wall Street Reform and Consumer Protection Act (Wall Street Reform). With the Merkley-Levin Amendment, the law included the “Volcker Rule,” a prohibition on banks engaging in some of the risky trading activities and fund investments that exacerbated significant weaknesses in the banking system and required unprecedented bailouts of the financial sector.¹

Repeated delays have slowed the implementation and enforcement of the law. Just as troubling, though, is the limited transparency into the data and metrics used by the federal financial regulators in order to understand if the provision has been effective at obtaining the change that Congress intended.

While many large global banks covered by the Volcker Rule have shed their standalone proprietary trading desks,² federal financial regulators must examine financial institutions for

¹ The law prohibits banks, bank holding companies, and their affiliates and subsidiaries from such activities, and also limits those activities at systemically significant nonbank financial institutions.

² See, for example, Moyer, Liz, “Investment Banks Move to Dodge Volcker Rule,” *Forbes*, August 4, 2010. Available at: <https://www.forbes.com/sites/streettalk/2010/08/04/investment-banks-move-to-dodge-volcker-rule/#796dc9a0780f>; Baer, Justin, “Morgan Stanley to Spin Off Prop Trading Desk,” *Financial Times*, January 10, 2011. Available at: <https://www.ft.com/content/6c285214-1efe-11e0-8c86-00144feab49a>; and Miller, Don, “JPMorgan Shuts Down Prop Trading Unit as Banks Maneuver Around the Volcker Rule,” *SeekingAlpha.com*, September 3, 2010. Available at: <https://seekingalpha.com/article/223675-jpmorgan-shuts-prop-trading-unit-as-banks-maneuver-around-the-volcker-rule>.

Volcker Rule compliance. Your agencies should share with Congress and the public your data and metrics demonstrating the impact of the Volcker Rule on banks' activities.³

While financial institutions may argue that disclosing such data and metrics would reveal confidential information, there are undoubtedly multiple ways to avoid any such problems, including delaying the release of the data, withholding the name of the institution at which the trading desk is located, or aggregating data in such a way as to address confidentiality concerns. Your agencies have acknowledged that since at least May 2017 that they have been "considering whether, and if so how, metrics information should be published, consistent with safeguarding confidential information and preserving the usefulness of the information."⁴ The agencies have had ample time to devise ways to safeguard confidential information; the time has come to effectuate these changes, particularly given the public's need to understand the impact of the Volcker Rule in light of the agencies' proposed changes.

Exacerbating the problem around data and metrics transparency is a lack of specifics on how your agencies are examining, supervising, and enforcing for Volcker Rule compliance, how data is being shared between your agencies, and the penalties for violations. Without such transparency, accountability is almost certainly impossible, and the American people will continue to doubt that meaningful financial reform is occurring.

Releasing these data and metrics would be in the public interest. Bank counterparties and customers would benefit from greater transparency regarding how the ban on proprietary trading and fund investments is being enforced. Customers could have greater confidence that dealers were facilitating market-making rather than betting against them, and emergent firms could better understand opportunities to compete against established dealer banks. Finally, banks themselves would also have a better, more reliable understanding of what trading and fund investment activities are permitted in practice.

Now that the agencies are proposing changes to the Volcker Rule, it is worth noting that the Notice of Proposed Ruling (NPR) is devoid of any data or analysis that provides support to many of the significant policy changes included in the NPR. Indeed, many of the more than 1,000 questions posed in the NPR are not readily answerable without access to Appendix A data, except perhaps by the banking industry itself.

To that end, we respectfully but urgently request that you share with Congress quantitative data and metrics demonstrating banks' activities under the Volcker Rule, along with the agencies' standards used to demonstrate compliance, the penalties for non-compliance, and banks' success or failure at achieving compliance. This should include the seven factors that banks are required to report to the agencies for each trading desk,⁵ along with a description of how frequently examiners at the agencies have used the quantitative metrics to date, including how metrics are used to evaluate compliance with the Volcker Rule.

³ See letter from Americans for Financial Reform dated December 17, 2015

⁴ Correspondence from the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation and the Commodity Futures Trading Commission to Senator Merkley dated May 4, 2017.

⁵ See the factors at 12 C.F.R. 248, Appendix A, including: (1) risk and position limits and usage; (2) risk factor sensitivities; (3) value-at-risk (VaR) and stress VaR; (4) comprehensive profit and loss attribution; (5) inventory turnover; (6) inventory aging; and (7) customer-facing trade ratios.

Please provide us with this information by August 6, 2018. It is critical that this information and data is publicly available before the end of comment period. Congress intended for the Voleker Rule to function as a modern-day Glass-Steagall Act, acting as a firewall to safeguard traditional loan-making and deposit-taking at banks from high-risk bets that put customers and the financial system at risk. Congress and the public deserve to be able to evaluate it.

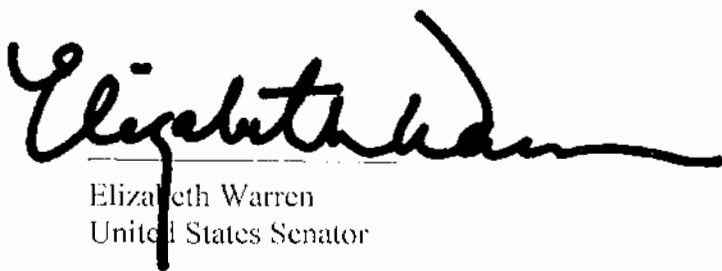
Sincerely,

Handwritten signature of Jeffrey A. Merkley in black ink.

Jeffrey A. Merkley
United States Senator

Handwritten signature of Sherrod Brown in black ink.

Sherrod Brown
United States Senator

Handwritten signature of Elizabeth Warren in black ink.

Elizabeth Warren
United States Senator

United States Senate

January 23, 2019

The Honorable J. Christopher Giancarlo
Chairman
Commodity Futures Trading Commission
1155 21st St. NW, Washington DC 20581

cc: The Honorable Brian Quintenz, Rostin Behnam, Dawn DeBerry Stump, and Dan Berkovitz
Commissioners
Commodity Futures Trading Commission
1155 21st St. NW, Washington DC 20581

Dear Chairman Giancarlo:

I am writing to request information about the impact of the federal government shutdown on the Commodity Futures Trading Commission's (CFTC) ability to effectively regulate and oversee the nation's financial markets. President Trump's shutdown is now the longest in United States history, and while other financial regulators are funded outside of the traditional appropriations process, your agency has been operating under shutdown plans with significantly reduced operations for over one month. Given the important role that your agency plays in overseeing financial markets and protecting investors, consumers, and the public, it is important that I fully understand the difficulties facing the CFTC and the implications of a prolonged government shutdown.

The CFTC serves as one of the primary agencies responsible for regulating financial markets and enforcing laws that protect consumers, investors, and the general public. The agency regulates and polices the derivatives market and works to "lower the risk...to the economy and the public."¹ The CFTC ensures that "farmers, ranchers, producers, commercial companies, municipalities, pension funds, and others" are able to function in the futures and swaps markets.²

The CFTC has seen its tools stripped since the shutdown began. Approximately 11% of CFTC staff are working, leaving the agency with only 77 employees, and capable of addressing only "imminent risk to the safety of human life or the protection of property."³ Efforts to adopt rules

¹ CFTC, "Mission & Responsibilities," <https://www.cftc.gov/About/MissionResponsibilities/index.htm>.

² *Id.*

³ Norton Rose Fulbright, "Impact of partial US government shutdown on federal financial regulatory agencies," Lillian Cardona, January 5, 2019, <https://www.regulationtomorrow.com/us/impact-of-partial-us-government-shutdown-on-federal-financial-regulatory-agencies/>.

under the Dodd-Frank Act have stalled; ongoing work to regulate cryptocurrency has stopped;⁴ staff is not working to issue commodity markets reports; and most other activities have ceased.⁵ According to its own guidelines, the CFTC “expects that the vast majority of the agency’s operations will cease.”⁶

Recent reports also suggest that if the shutdown continues, first-quarter economic growth could come “close to or even below zero.”⁷ And some analysts believe the shutdown is “no longer just a political sideshow, it’s a real recession risk.”⁸ As the shutdown continues and the economy is destabilized, your agency’s role in regulating the securities markets, protecting investors, and safeguarding Americans’ savings will become even more important. In order to better understand the impact of the shutdown on the financial security of the American people, and to fully prepare for the risks of a further extended shutdown, I request answers to the following questions by February 2, 2019.

1. How has the current government shutdown affected your ability to oversee financial markets and protect investors? Please describe all operations that have ceased or decreased since December 22, 2018 as a result of the shutdown.
 - a. How many enforcement actions has the agency initiated, how many settlements has it reached, and how many judgments has it secured since December 22, 2018? How many similar actions, settlements, and judgments occurred during the same time period in 2017-18?
 - b. How many new applications for designated contract markets, swap execution facilities, swap data repositories, and foreign boards has the Division of Market Oversight reviewed since December 22, 2018? How many applications did you review during the same time period in 2017-18?
 - c. How many reports or research products has the Office of the Chief Economist provided to the Commission and Commission staff since December 22, 2018? How many were provided during the same time period in 2017-18?
 - d. How many new or amended rules has the CFTC initiated, begun notice and comment for, or finalized since December 22, 2018? How many of these actions did the agency take during the same time period in 2017-18?
 - e. How many industry filings has the CFTC reviewed since December 22, 2018? How many filings did you review during the same time period in 2017-18?
2. How would a continued lapse in appropriations impact your ability to effectively oversee financial markets?

⁴ Coindesk, “How the US Government Shutdown Is Halting Crypto Progress on Wall Street, Nikhilesh De and Zack Seward, January 14, 2019, <https://www.coindesk.com/how-the-us-government-shutdown-is-halting-crypto-progress-on-wall-street>.

⁵ *Id.*; U.S. Commodity Futures Trading Commission, “CFTC Plan for Lapse in Appropriations,” December 18, 2018, <https://www.cftc.gov/sites/default/files/2018-12/CFTCPlanLapseAppropriations121818.pdf>.

⁶ U.S. Commodity Futures Trading Commission, “CFTC Plan for Lapse in Appropriations,” December 18, 2018, pp. 1, <https://www.cftc.gov/sites/default/files/2018-12/CFTCPlanLapseAppropriations121818.pdf>.

⁷ Politico, “Recession warnings pile up as shutdown wraps up fourth week,” Ben White, January 17, 2019, <https://www.politico.com/story/2019/01/17/government-shutdown-recession-economy-1092089>.

⁸ *Id.*

- a. Is the CFTC at risk of having to shut down currently ongoing activities or send additional employees home?
 - b. Is the CFTC at risk of losing the ability to effectively monitor for emergencies, including those that include "risk to the human life or protection of property[?]"
3. How will you adapt in the event that the shutdown continues for additional weeks or months? Please list all options your agency has for continuing important operations in the event of a continued shutdown.
4. Is your agency prepared to deal with an economic downturn during or in the aftermath of the government shutdown? Please describe any preparations or guidelines for dealing with such an emergency during a government shutdown.

Sincerely,

A handwritten signature in black ink, appearing to read "Elizabeth Warren", with a long horizontal flourish extending to the right.

Elizabeth Warren

United States Senator

PAT ROBERTS, KANSAS
CHAIRMAN

BRUCE MCGONNELL, KENTUCKY
JOHN BOGDMAN, ARKANSAS
JOHN HOLMUN, SOUTH DAKOTA
CONFEREIST, IOWA
CONFEREIST, MISSISSIPPI
VICKI SPAN, INDIANA
DAVID LUGUL, GEORGIA
CHUCK GRASS, IOWA
JOHN F. JUNE, SOUTH DAKOTA
DEBBIE STABENOW, MICHIGAN

United States Senate

COMMITTEE ON
AGRICULTURE, NUTRITION, AND FORESTRY
WASHINGTON, DC 20510-6000
202-224-2035

DEBBIE STABENOW, MICHIGAN
RANKING DEMOCRATIC MEMBER

PATRICK J. LEAHY, VERMONT
SHERROD BROWN, OHIO
AMY KLOBUCHAR, MINNESOTA
MARK CHALLI, DENVER, COLORADO
KIRSTEN E. GILLIBRAND, NEW YORK
ROBERT P. CASEY, JR., PENNSYLVANIA
TINA SMITH, MINNESOTA
RICHARD J. DURBIN, ILLINOIS

January 24, 2019

The Honorable J. Christopher Giancarlo
Chairman
United States Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, D.C. 20581

Dear Chairman Giancarlo:

I write today to raise concerns and obtain information about the impact of the government shutdown on the ability of the U.S. Commodity Futures Trading Commission (CFTC) to do its job. The CFTC's mission is to promote and ensure competitive, transparent, and safe derivatives markets to protect the public and other end users, including farmers, from abusive practices related to swaps and futures. The unregulated swaps market was in part a cause of the 2008 financial crisis. After this crisis, Congress worked to enhance the authorities of the CFTC to protect against any such future financial market crises. Derivatives markets are an important part of our economy and help businesses, including farmers, manage risk. These markets allow business owners, including farmers, to run their businesses, creating jobs and producing food and other important products.

As you know, the lapse of funding for the CFTC is now on day 33 -- the longest shutdown on record. Under the CFTC's plan for a lapse in appropriations, the CFTC will "severely curtail its operations. . . and expects that the vast majority of the agency's operations will cease." According to this plan, only 61 of the CFTC's 673 employees funded through appropriations have been identified as excepted from the shutdown. Sixteen employees in a whistleblower office will also continue to work since they are funded through a separate source. Additionally, the plan states that stop work notices will be issued to contractors for contracts that are not necessary to protect life or property unless the contract is already funded, will not impose new obligations on the government, and will not require oversight by CFTC employees.

While the CFTC is shut down, the markets it regulates are still open. I am deeply concerned that the government shutdown will leave our financial markets susceptible to undue risks. Shutting down the CFTC's robust oversight of our futures and swaps markets endangers the U.S. economy and puts American jobs at risk.

Over the years, the CFTC has built a strong enforcement program to root out financial wrongdoing, which is essential to protecting the American public. During the government shutdown, how many active enforcement cases and investigations are stalled? Recognizing that taking prompt action is key to limiting the losses faced by victims of financial fraud and other crimes, how much has the shutdown reduced the CFTC's ability to respond to new tips or complaints, and investigate those

tips or complaints? How much has the shutdown limited the CFTC's ability to assist state and local law enforcement agencies in their own criminal investigations and prosecutions?

The CFTC also has modernized its data collection and surveillance capabilities to better identify market abuses and systemic risks. The recent volatility of the market reminded us of the importance of these functions. However, the government shutdown raises significant concerns about the CFTC's oversight of exchanges and clearinghouses, as well as swap dealers and others. Any gaps in CFTC oversight may create undue risks. The CFTC plan for a lapse of appropriations indicates that only a handful of individuals are still working at the agency on these important functions. Please describe, in detail, the CFTC's capabilities to carry out each of these critical oversight functions during the shutdown. What concerns do you have about the CFTC's ability during the shutdown to carry out its data collection and surveillance capabilities with respect to exchanges and clearinghouses?

Modern financial markets are global in nature and require strong international coordination. To what extent is the CFTC hindered in its ability to work with financial regulators in other countries during the government shutdown? How has the shutdown impacted the CFTC's ability to continue its work on important cross-border issues, such as clearinghouse oversight and the potential financial market consequences of the ongoing Brexit negotiations in Europe?

One of the important functions of the CFTC is to accept applications from industry to become registered entities, process certifications and requests filed from registered entities regarding approval of new products and rules, and other requests for action from registered entities. I am concerned that the shutdown has hindered industry from moving forward. How many requests from registered entities (or persons seeking to become registered entities) are on hold or being delayed because of the shutdown?

Cybersecurity is always a major concern to integrity and soundness of financial markets. How has the shutdown decreased the CFTC's ability to work to deter against cybersecurity threats?

Finally, the CFTC's employees -- dedicated public servants who have committed their careers to furthering the CFTC's mission to police our financial markets -- are not being paid, hindering them in paying their bills and providing for their families. They deserve better than this.

As you know, I have long been concerned that the CFTC is significantly underfunded and have repeatedly called for increases in its budget given the CFTC's critical role in the swaps and futures markets. This shutdown will make an already bad situation much worse. We cannot afford the risk this shutdown places on our swaps and futures markets. I have and will continue to ask the President to end this shutdown.

Thank you for your prompt responses to these questions and for your consideration of this letter.

Sincerely,

A handwritten signature in black ink, appearing to read "Debbie Stabenow", with a long horizontal flourish extending to the right.

Debbie Stabenow
Ranking Member

cc: The Honorable Brian Quintenz
cc: The Honorable Rostin Behnam
cc: The Honorable Dawn DeBerry Stump
cc: The Honorable Dan Berkovitz

United States Senate

WASHINGTON, DC 20510

August 20, 2019

The Honorable Heath Tarbert
Chairman
Commodity Futures Trading Commission
1155 21st Street, NW
Washington, D.C. 2058

Dear Chairman Tarbert:

On August 9, 2019, a fire broke out at the Tyson beef processing plant in Holcomb, Kansas, causing major disruptions in the cattle and beef markets.

This plant processed 6,000 head of cattle per day, which is roughly six percent of total U.S. processing capacity. The market reaction to the plant's closure was felt throughout the entire cattle and beef marketing chain.

Last week, we witnessed cattle futures sink to multiyear lows with live cattle contracts settling at their lowest since October 2016 and feeder cattle contracts dropping to their lowest since March 2017.

With already high margins and heavy supplies, the Tyson fire could not have come at a worse time for cattlemen and the beef industry. This is in addition to an already difficult year that has brought extreme weather events and looming trade uncertainty, despite growing consumer demand both domestically and abroad. While other processing locations have stepped up to add shifts in order to increase their capacity, uncertainty and volatility remain and will likely persist into the fall months.

Accordingly, I ask that the Commodity Futures Trading Commission (CFTC) remain vigilant in their oversight of this market to ensure that market participants do not use uncertainty to price gouge, manipulate, or take advantage of the burdensome obstacles our producers are currently facing.

Thank you for your attention to this matter. Please do not hesitate to reach out to me or my office if you need additional information.

Sincerely,



Deb Fischer
United States Senator

Lincoln Office
450 North 8th Street
Suite 120
Lincoln, NE 68508
(402) 441-4600
(402) 476-8753 (fax)

Omaha Office
11819 Miracle Hills Drive
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(308) 630-2321 (fax)

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U.S. Commodity Futures Trading Commission
Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581
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N. Charles Thornton III
Director
Office of Legislative and
Intergovernmental
Affairs

(202) 418-5145
cthorton@cftc.gov

July 15, 2019

The Honorable Ted Cruz
U.S. Senate
127A Russell Office Building
Washington, D.C. 20510

Dear Senator Cruz:

Thank you for your letter dated June 17, 2019, regarding (b)(6) and a whistleblower award. We have notified the Whistleblower office regarding (b)(6) inquiry and they are looking into the matter.

We very much appreciate your outreach, but please know that in the interest of protecting customers, the Commodity Exchange Act prohibits us from disclosing information that could identify a Whistleblower or anything regarding the details of a case. The rule restricts us from sharing information with other agencies, including Congress.

Again, we very much appreciate your outreach. If you have further questions, please contact...

Sincerely,

Commodity Futures Trading Commission Premium Class Travel

October 1, 2016 - March 31, 2019

Departure Date	Traveler	Departure Location	Destination	Seating Class	Compliant with Federal Travel Regulations FTR	FTR Reference and Justification	Total Obligation
08-Oct-2016	PAN, ERIC	Washington, DC, United States	Singapore, Singapore	Business	Yes	FTR §301-10.125 a.1, 2. & 3; Destination Was Outside Continental U.S. & Flight Time Exceeded 14 hours	\$7,531.45
17-Oct-2016	DOYLE, NANCY R	Washington, DC, United States	Hong Kong, Hong Kong	Business	Yes	FTR §301-10.125 a.1, 2. & 3; Destination Was Outside Continental U.S. & Flight Time Exceeded 14 hours	\$9,860.03
17-Oct-2016	PAN, ERIC	Washington, DC, United States	Hong Kong, Kuala Lumpur, Singapore, Tokyo	Business	Yes	FTR §301-10.125 a.1, 2. & 3; Destination Was Outside Continental U.S. & Flight Time Exceeded 14 hours	\$9,803.46
01-Nov-2016	RUTHERFORD, DAN W	Washington, DC, United States	Cape Town, South Africa	Business	Yes	FTR §301-10.125 a.1, 2. & 3; Destination Was Outside Continental U.S. & Flight Time Exceeded 14 hours	\$8,992.47
27-Nov-2016	GORLICK, WARREN R	Washington, DC, United States	Hong Kong & Denpasar, In	Business	Yes	FTR §301-10.125 a.1, 2. & 3; Destination Was Outside Continental U.S. & Flight Time Exceeded 14 hours	\$8,554.03
30-Nov-2016	PAN, ERIC	Washington, DC, United States	Hong Kong, Shenzhen, Beijing, Singapore	Business	Yes	FTR §301-10.125 a.1, 2. & 3; Destination Was Outside Continental U.S. & Flight Time Exceeded 14 hours	\$12,597.27
17-Feb-2017	GIANCARLO, JAMES C	Washington, DC, United States	London & Brussels	Business	Yes	FTR §.301-10.4; Overall Cost Savings	\$6,739.03
18-Feb-2017	PAN, ERIC	Washington, DC, United States	London, Brussels, Milan	Business	Yes	FTR §.301-10.4; Overall Cost Savings	\$4,956.55
19-Feb-2017	GILL, MICHAEL D	Washington, DC, United States	London & Brussels	Business	Yes	FTR §301-10.125 a.1, 2. & 3; Overall Cost Savings	\$5,325.42
05-Sep-2017	PAN, ERIC	Washington, DC, United States	Frankfurt, London, Basel, Paris, Zurich, Tallinn	Business	Yes	FTR §.301-10.4; Overall Cost Savings	\$10,479.95
07-Sep-2017	GIANCARLO, JAMES C	Washington, DC, United States	London & Tallinn, Estonia	Business	Yes	FTR §.301-10.4; Overall Cost Savings	\$12,219.99
07-Sep-2017	GILL, MICHAEL D	Washington, DC, United States	London & Tallinn, Estonia	Business	Yes	FTR §.301-10.4; Overall Cost Savings	\$9,667.44
11-Sep-2017	WALKER, PETAL P	Washington, DC, United States	Tallinn, Estonia	Business	Yes	FTR §.301-10.4; Overall Cost Savings	\$3,952.24
23-Sep-2017	PAN, ERIC	Washington, DC, United States	Hong Kong, Singapore, Beijing	Business	Yes	FTR §301-10.125 a.1, 2. & 3; Destination Was Outside Continental U.S. & Flight Time Exceeded 14 hours	\$9,558.99
05-Nov-2017	PAN, ERIC	Washington, DC, United States	Brussels, Tokyo, Singapore, Hong Kong	Business	Yes	FTR §301-10.125 a.1, 2. & 3; Destination Was Outside Continental U.S. & Flight Time Exceeded 14 hours	\$16,659.24
07-Nov-2017	GILL, MICHAEL D	Washington, DC, United States	Tokyo, Singapore, Hong Kong	Business	Yes	FTR §301-10.125 a.1, 2. & 3; Destination Was Outside Continental U.S. & Flight Time Exceeded 14 hours	\$14,006.33
09-Nov-2017	GIANCARLO, JAMES C	Washington, DC, United States	Hong Kong & Singapore	Business	Yes	FTR §301-10.125 a.1, 2. & 3; Destination Was Outside Continental U.S. & Flight Time Exceeded 14 hours	\$13,535.84
26-Nov-2017	PAN, ERIC	Washington, DC, United States	Singapore, Hong Kong, Shenzhen	Business	Yes	FTR §301-10.125 a.1, 2. & 3; Destination Was Outside Continental U.S. & Flight Time Exceeded 14 hours	\$11,344.21
02-Dec-2017	MELARA, MAURICIO F	San Francisco, CA, United States	Hong Kong, Hong Kong	Business	Yes	FTR §301-10.125 a.1, 2. & 3; Destination Was Outside Continental U.S. & Flight Time Exceeded 14 hours	\$9,415.23
07-Jan-2018	PAN, ERIC	Washington, DC, United States	Zurich and Basel	Business	Yes	FTR §.301-10.4; Overall Cost Savings	\$2,025.94
16-Mar-2018	PADGETT, ELIZABETH C	Washington, DC, United States	Singapore, Singapore	Business	Yes	FTR §301-10.125 a.1, 2. & 3; Destination Was Outside Continental U.S. & Flight Time Exceeded 14 hours	\$10,218.93
18-Mar-2018	PAN, ERIC	Washington, DC, United States	Hong Kong & Mumbai, India	Business	Yes	FTR §301-10.125 a.1, 2. & 3; Destination Was Outside Continental U.S. & Flight Time Exceeded 14 hours	\$9,564.33
18-Mar-2018	QUINTENZ, BRIAN D	Washington, DC, United States	Dubai, United Arab Emirates	Business	Yes	FTR §301-10.125 a.1, 2. & 3; Destination Was Outside Continental U.S. & Flight Time Exceeded 14 hours	\$9,679.07
07-Apr-2018	RICHARDSON, ERICA E	Washington, DC, United States	Tokyo City, Japan	Business	Yes	FTR §301-10.125 a.1, 2. & 3; Destination Was Outside Continental U.S. & Flight Time Exceeded 14 hours	\$10,123.96
08-Apr-2018	RUTHERFORD, DAN W	Washington, DC, United States	Tokyo City, Japan	Business	Yes	FTR §301-10.125 a.1, 2. & 3; Destination Was Outside Continental U.S. & Flight Time Exceeded 14 hours	\$8,314.27
21-May-2018	BUCSA, DANIEL J	Washington, DC, United States	Hong Kong, Hong Kong	Business	Yes	FTR §301-10.125 a.1, 2. & 3; Destination Was Outside Continental U.S. & Flight Time Exceeded 14 hours	\$5,899.56
02-Sep-2018	PAN, ERIC	Washington, DC, United States	Tokyo, Singapore	Business	Yes	FTR §301-10.125 a.1, 2. & 3; Destination Was Outside Continental U.S. & Flight Time Exceeded 14 hours	\$7,564.32
04-Sep-2018	GILL, MICHAEL D	Washington, DC, United States	Hong Kong, Zhenhzhou, Tokyo, Singapore	Business	Yes	FTR §301-10.125 a.1, 2. & 3; Destination Was Outside Continental U.S. & Flight Time Exceeded 14 hours	\$15,371.97
08-Sep-2018	GIANCARLO, JAMES C	Washington, DC, United States	Tokyo, Japan & Singapore	Business	Yes	FTR §301-10.125 a.1, 2. & 3; Destination Was Outside Continental U.S. & Flight Time Exceeded 14 hours	\$10,654.11
18-Sep-2018	FRENCH, WESLEY C	Washington, DC, United States	Chicago, IL, Kansas City, MO	Business	Yes	FTR Note 1 to §301-10.123: Frequent Flyer Upgrade no cost to the agency	\$2,015.13
11-Oct-2018	WEBB, KEVIN S	Washington, DC, United States	Dubai, United Arab Emirates	Business	Yes	FTR §301-10.125 a.1, 2. & 3; Destination Was Outside Continental U.S. & Flight Time Exceeded 14 hours	\$7,149.41
23-Oct-2018	BEHNAM, ROSTIN	Washington, DC, United States	Tokyo City, Japan	Business	Yes	FTR §301-10.125 a.1, 2. & 3; Destination Was Outside Continental U.S. & Flight Time Exceeded 14 hours	\$17,320.90
06-Nov-2018	PAN, ERIC	Washington, DC, United States	Frankfurt, Singapore, London	Business	Yes	FTR §301-10.125 a.1, 2. & 3; Destination Was Outside Continental U.S. & Flight Time Exceeded 14 hours	\$12,800.51
09-Nov-2018	GOMEZ, BIANCA M	Washington, DC, United States	Singapore, Singapore	Business	Yes	FTR §301-10.125 a.1, 2. & 3; Destination Was Outside Continental U.S. & Flight Time Exceeded 14 hours	\$6,904.72
09-Nov-2018	GORFINE, DANIEL S	Washington, DC, United States	Singapore, Singapore	Business	Yes	FTR §301-10.125 a.1, 2. & 3; Destination Was Outside Continental U.S. & Flight Time Exceeded 14 hours	\$6,825.41
25-Nov-2018	MELARA, MAURICIO F	Washington, DC, United States	Singapore, Singapore	Business	Yes	FTR §301-10.125 a.1, 2. & 3; Destination Was Outside Continental U.S. & Flight Time Exceeded 14 hours	\$7,794.07
25-Nov-2018	PAN, ERIC	Washington, DC, United States	Singapore, Singapore	Business	Yes	FTR §301-10.125 a.1, 2. & 3; Destination Was Outside Continental U.S. & Flight Time Exceeded 14 hours	\$6,148.87
26-Nov-2018	WEBB, KEVIN S	Washington, DC, United States	Singapore, Hong Kong, Sydney, Melbourne	Business	Yes	FTR §301-10.125 a.1, 2. & 3; Destination Was Outside Continental U.S. & Flight Time Exceeded 14 hours	\$13,745.42
24-Feb-2019	GILL, MICHAEL D	Washington, DC, United States	London, Brussels, Frankfurt	Business	Yes	FTR §.301-10.4; Overall Cost Savings	\$5,297.61
03-Mar-2019	MAHONEY, JASON A	Washington, DC, United States	Dubai, United Arab Emirates	Business	Yes	FTR §301-10.125 a.1, 2. & 3; Destination Was Outside Continental U.S. & Flight Time Exceeded 14 hours	\$5,951.61

Commodity Futures Trading Commission Premium Class Travel

October 1, 2016 - March 31, 2019

Departure Date	Traveler	Departure Location	Destination	Seating Class	Compliant with Federal Travel Regulations FTR	FTR Reference and Justification	Total Obligation
04-Mar-2019	PAN, ERIC	Washington, DC, United States	Hong Kong, Hong Kong	Business	Yes	FTR §301-10.125 a.1, 2.& 3; Destination Was Outside Continental U.S. & Flight Time Exceeded 14 hours	\$5,434.53

Total Trips = 41 Total Obligations = \$372,003.82

United States Senate

Office of the President of the Senate
United States Capitol Building
Washington, DC 20540-5100

May 1, 2019

The Honorable J. Christopher Giancarlo
U.S. Commodity Futures Trading Commission
1155 21st Street, NW
Washington, DC 20581

Dear Chairman Giancarlo:

Ensuring that taxpayers' hard-earned money is well-spent is one of our most important responsibilities as members of the Appropriations Committee. Accordingly, we are deeply concerned by frivolous and wasteful spending on premium-class airline tickets for government employees. Independent watchdogs, including the Government Accountability Office and inspectors general, have long warned of serious breakdowns in internal controls and the potential for hundreds of millions of dollars in improper purchases.¹

The Federal Travel Regulation (FTR) generally prohibits Federal employees from using first-class and business-class airline travel, with certain limited exceptions.² Furthermore, a new provision in the *Financial Services and General Government Appropriations Act, 2019* prohibits the use of appropriated funds in contravention of this regulation.³ Both the underlying policy and the funding prohibition are intended to promote the economy and efficiency of our government and to protect taxpayer dollars.

The Subcommittee is evaluating compliance with the FTR and section 632 at agencies within its jurisdiction. This oversight may inform consideration of additional legislative action, including new provisions in future appropriations bills. To assist in this matter, please provide the following information:

1. Please describe, with specificity and detail, the CFTC policies for ensuring compliance with sections 301-10.121 through 301-10.125 of title 41, Code of Federal Regulations.
2. Please describe, with specificity and detail, the CFTC policies for ensuring compliance with section 632 of the *Financial Services and General Government Appropriations Act, 2019*.

¹ See, e.g., Gov't Accountability Office, Premium Class Travel: Internal Control Weaknesses Governmentwide Led to Improper and Abusive Use of Premium Class Travel, GAO-07-1268 (Sept. 2007).

² 41 C.F.R. §§ 301-10.121–10.125.

³ Financial Services and General Government Appropriations Act, 2019, Pub. L. 116-6, div. D, sec. 632.

3. For fiscal year 2017 through the first two quarters of fiscal year 2019, please identify:

- a. Each instance of non-coach-class airline travel.
- b. The FTR exemption under which the CFTC authorized or approved each instance of non-coach-class airline travel, including the date of authorization or approval.
- c. The total obligations associated with each instance of non-coach-class airline travel.
- d. Any instances of non-coach-class airline travel not authorized or approved in a manner consistent with the FTR.

Please note that certain exemptions under the FTR implicate medical or disability status; accordingly, please ensure that your responses do not include any personally-identifiable information relating to medical or disability exemptions. We respectfully request a response by May 31, 2019.

Sincerely,



Senator John Kennedy
Chairman
Subcommittee on Financial Services
and General Government
Committee on Appropriations



Senator Christopher Coons
Ranking Member
Subcommittee on Financial Services
and General Government
Committee on Appropriations



CFTC Policy: Premium Class Air Travel

Date: February 2008

Description: **Premium Class Air Travel** –This policy describes the circumstances under which premium airline travel may be authorized, the process for authorization, and when a rest period may be authorized.

Contact: Travel Services Office, 202-418-5196

Coach Class Requirement

Generally, when you travel by air on official business, both domestically and internationally, you must use **coach-class airline** accommodations. However, the Federal Travel Regulations (FTR) provide limited exceptions to this rule under certain circumstances and when pre-authorized by the agency. This policy defines the limited exceptions and sets forth the authorization process.

Applicability

The policy applies to all official business travel funded by the Commission except when:

- Your transportation costs are paid in full through agency acceptance of payment from a non-federal source.
- You pay for an upgrade at your personal expense,
- You use your personal frequent flyer account for a class upgrade, or
- You take advantage of an upgrade that is a promotional item with no cost to the Agency. When an upgrade is provided as a promotional item, you must verify with the Commission Ethics Officer that the upgrade may be accepted.

Definitions

For purposes of this policy, the following definitions apply:

- **Coach Class** means the basic class of accommodations offered to travelers regardless of fare paid. When traveling coach class, you must use the contract city-pair fare.
- **Premium travel** means either first class or business class.
 - **First class**, the highest class of accommodation offered by the airlines in terms of both cost and amenities. If first class is authorized, there are no contract city-pair fares.
 - **Business class**, which is higher than coach and lower than first class, in both cost and amenities. If business class is authorized, the use of contract city-pairs fares is optional.

Justification and Authorization Process

- **Traveler's Justification.** You, as the traveler, must justify the need for premium travel. The justification requirements may vary depending on the reason for the request. Please consult the chart below for guidance. You must prepare the justification in the form of a memorandum on CFTC letterhead addressed to the Chief of Staff through the authorizing official, and must set forth in detail

the rationale for the premium travel and why alternatives that would allow the use of coach travel are not sufficient. In requesting authorization of your travel expenses, you must make every effort to ensure that excess travel costs are minimized; you are expected to employ the same standard of care in incurring expenses for business travel that a prudent person would exercise if traveling on personal business.

- **Approval by Chief of Staff.** Premium travel may only be approved by the Chief of Staff or his/her Designee, in consultation with the Executive Director. The Chief of Staff or his/her Designee will review and make a decision on each request for premium travel on a case by case basis, considering both the cost and the circumstances underlying the request.
- **Authorization in GovTrip.** After the Chief of Staff (or Designee) has approved the travel, you may complete the request for premium travel in GovTrip. Those with authority to approve travel in GovTrip must ensure that all justifications and approvals for premium travel are complete prior to authorizing the use of premium travel in GovTrip.
- **Restrictions on Approval.** Premium travel must be approved for each trip and for each employee. Blanket justifications covering classes of employees or recurring circumstances are not permitted, unless the traveler has a certification of disability or special need as described below. Decisions may **not** be based on the traveler's grade or position.

Circumstances Justifying Business Class Travel

When you are justifying premium class travel, you must first consider business class. Your justification must include detailed information on the circumstance that you believe justifies the use of business class, the options you considered, and the reason why those options will not satisfy agency needs. Business class travel may only be authorized if one or more of the following circumstances are the basis of your justification or your transportation costs are paid in full through agency acceptance of payment from a non-federal source.

Circumstance	Justification Required
No Coach Class Available	Regularly scheduled flights between origin/destination points (including connecting points) provide only premium class accommodations.
No Space/Urgent Mission	No space is available in coach-class accommodations in time to accomplish the mission, which is urgent and cannot be postponed.
Accommodation for Disability	Business class is necessary to accommodate your disability. "Disability" is defined as a physical or mental impairment which substantially limits one or more of a person's major life activities. Requests for business class travel based on disability will be treated as requests under the agency's <u>Reasonable Accommodation policy</u> . A disability justifying business class travel must be substantiated annually in a written statement by a competent medical authority unless the disability is lifelong.
Accommodation for Special Physical Need	Business class is necessary to accommodate your special physical need. "Special physical need" includes physical conditions that do not rise to the level of a disability. Medical documentation is not required when the physical need is visible and discernible. However, if the physical need is not visible and discernible, your justification must include current

	medical documentation, substantiated annually in writing, provided by a competent medical authority which addresses the specific reason premium travel is necessary.
Sanitation and Health	Coach class accommodations on an authorized foreign air carrier to not provide adequate sanitation or health standards.
Cost Savings	The use of premium travel results in an overall cost savings to the Government by avoiding additional subsistence costs, overtime, or lost productive time while awaiting coach-class accommodations.
Trip Time Exceeds 14 Hours	Where the origin or destination is outside the continental United States and the scheduled flight time, including stopovers exceeds 14 hours.
Temporary Duty Station and Permanent Change of Station.	Premium travel may only be approved for Temporary Duty Station (TDY) and Permanent Change of Station (PCS) if the employee is required to report for duty the following day and coach accommodations are unavailable.
Essential Agency Mission	<p>When business class travel is required because of an essential agency mission and when alternatives that would allow the use of coach class accommodations are not sufficient. An essential agency mission is determined by the Chief of Staff. Examples of "Essential Agency Mission" include but are not limited to:</p> <ul style="list-style-type: none"> • Chairman is required to give a significant speech as a part of his official duties the next calendar day and premium travel supports his ability to prepare. • Employee is required to return to official duty station to perform agency critical business the next business day.

Circumstances Justifying First Class Travel

If no coach or business-class accommodations are reasonably available, then you may justify first class.

Circumstance	Justification Required
No Coach or Business Class Reasonably Available	"Reasonably available" means available on an airline that is scheduled to leave within 24 hours of your proposed departure time or scheduled to arrive within 24 hours of your proposed arrival time.
Accommodation for Disability	First class is necessary to accommodate your disability. "Disability" is defined as a physical or mental impairment which substantially limits one or more of a person's major life activities. Requests for first class travel based on disability will be treated as requests under the agency's <u>Reasonable Accommodation policy</u> . A disability justifying first class travel must be substantiated annually in a written statement by a

	competent medical authority, unless the disability is lifelong.
Accommodation for Special Physical Need	First class is necessary to accommodate your special physical need. "Special physical need" includes physical conditions that do not rise to the level of a disability. Medical documentation is not required when the physical need is visible and discernible. However, if the physical need is not visible and discernible, your justification must include current medical documentation, substantiated annually in writing, provided by a competent medical authority which addresses the specific reason premium travel is necessary.
Exceptional Security Requirements	Exceptional security circumstances will be reviewed on a case by case basis. Circumstances may include: (1) use of other than first class accommodations would endanger your life or government property, or (2) you are a courier or control officer accompanying controlled pouches or packages.
Essential Agency Mission.	<p>When first class travel is required because of essential agency mission and when alternatives that would allow the use of coach class or business class accommodations are not sufficient. An essential agency mission is determined by the Chief of Staff. Examples of "Essential Agency Mission" include but are not limited to:</p> <ul style="list-style-type: none"> • Chairman is required to give a significant speech as a part of his official duties the next calendar day and premium travel supports his ability to prepare. • Employee is required to return to official duty station to perform agency critical business the next business day.

Rest Period

You may be authorized a rest period of not more than 24 hours at either an intermediate point or your destination **only** if:

- Your origin or destination point is outside the Continental United States;
- Your air travel time, including stopovers, from your point of origin to your destination is more than 14 hours;
- Your travel is by a direct or usually traveled route; and
- You are traveling by coach class.

You may not be authorized both a rest stop and premium class airline accommodations.

Authorities and References

41 CFR Part 301-10.121-10.124, use of premium travel.

41 CFR Part 301-11.20, rest period.

41 CFR Part 304, payment from non-Federal source.

5 CFR §2635.204(c), acceptance of promotional upgrade.



U.S. Commodity Futures Trading Commission
Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581
www.cftc.gov

N. Charles Thornton
Director
Office of Legislative and
Intergovernmental Affairs

(202) 418-5145
cth Thornton@cftc.gov

June 10, 2019

Ms. Paige Dolby
Constituent Services Representative
U.S. Senator Diane Feinstein
One Post Street, Suite 2450
San Francisco, CA 94104

Dear Ms. Dolby,

Thank you for contacting our office regarding the concerns raised by your constituent (b)(6). We understand that The Commodity Futures Trading Commission (Commission) relies on investors and members of the public, such as your constituent, (b)(6) to share information that may be of assistance to us in our efforts to protect the public interest.

The information you passed along has been shared with the Commission's Division of Enforcement (DOE.) The DOE investigates and prosecutes alleged violations of the Commodity Exchange Act and the Commission's regulations. Potential violations include fraud, manipulation and other abuses that threaten market integrity, market participants and the public.

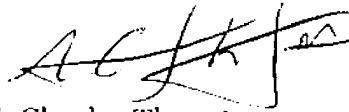
While we have shared (b)(6) information with DOE, any inquiry undertaken by the DOE is confidential and is not disclosed until such time as a public proceeding is brought either before the Commission or in federal court. Also, the Commission is not permitted to represent (b)(6) or act on his behalf in resolving any claim he may have against (b)(6). Should DOE need additional information from (b)(6) they will reach out to him directly.

(b)(6) The Commission does have a reparations program, which may be of interest to
Information about the reparations program, including the forms needed to
file a reparations complaint, can be found on the reparations page on the Commission's
public website at:

<http://www.cftc.gov/ConsumerProtection/ReparationsProgram/index.htm>. Further
information concerning this possible course of action also may be obtained by calling
(202) 418-5250. Information regarding the National Futures Association's arbitration
and mediation programs can be obtained by calling 1-800-621-3570 (In Illinois 1-800-
572-9400).

We hope the information we have provided will assist you in responding to your
constituent. Please feel free to contact me if you have any further questions.

Sincerely,

A handwritten signature in black ink, appearing to read "N. Charles Thornton", with a stylized flourish at the end.

N. Charles Thornton



U.S. Commodity Futures Trading Commission
Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581
www.cftc.gov

J. Christopher Giancarlo
Chairman

(202) 418-5030
jcgiancarlo@cftc.gov

September 26, 2018

The Honorable Diane Feinstein
United States Senator
331 Hart Senate Office Building
Washington, DC 20510

The Honorable Maria Cantwell
United States Senator
511 Hart Senate Office Building
Washington, DC 20510

The Honorable Kamala Harris
United States Senator
112 Hart Senate Office Building
Washington, DC 20510

The Honorable Patty Murray
United States Senator
154 Russell Senate Office Building
Washington, DC 20510

The Honorable Jeffrey A. Merkley
United States Senator
313 Russell Senate Office Building
Washington, DC 20510

The Honorable Ron Wyden
United States Senator
221 Dirksen Senate Office Building
Washington, DC 20510

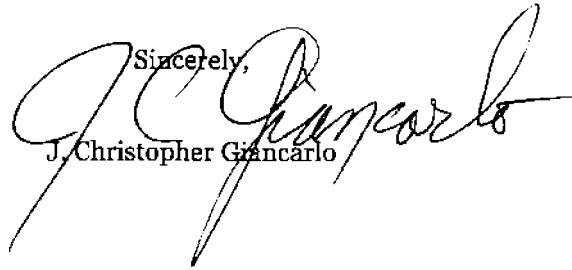
Dear Senators Feinstein, Cantwell, Harris, Murray, Merkley, and Wyden,

Thank you for your July 5, 2018 letter regarding the Commodity Future Trading Commission's (CFTC or Commission) proposed revisions to the de minimis exception within the "swap dealer" definition of the Commission's regulations. I very much appreciate your views on the proposed rule.

The public comment period closed on August 13, 2018. Your letter will be included in the public record.

As you know, on August 28, 2018, the Senate confirmed the nominations of Dawn Stump and Dan Berkovitz as Commissioners of the CFTC. They were respectively sworn in as Commissioners on September 5th and September 7th, completing the slate of five Commissioners to fulfill the agency's mission. It is my hope that our full Commission can consider this issue in the near future.

Again, thank you for your letter. I appreciate hearing from you on this important issue.

Sincerely,

J. Christopher Grancarlo

cc:

Commissioner Brian D. Quintenz
Commissioner Rostin Behnam
Commissioner Dawn DeBerry Stump
Commissioner Dan M. Berkovitz

EMANUEL CLEAVER, II



FIFTH DISTRICT, MISSOURI

FINANCIAL SERVICES COMMITTEE
NATIONAL SECURITY, INTERNATIONAL DEVELOPMENT,
AND MONETARY POLICY SUBCOMMITTEE
CHAIRMAN

HOUSING, COMMUNITY DEVELOPMENT,
AND INSURANCE SUBCOMMITTEE

Congress of the United States House of Representatives

HOMELAND SECURITY COMMITTEE

SELECT COMMITTEE ON THE
MODERNIZATION OF CONGRESS

[HTTPS://CLEAVER.HOUSE.GOV](https://cleaver.house.gov)

January 7, 2020

Heath Tarbert
Chairman
US Commodity Futures Trading Commission
1155 21st St NW
Washington, DC 20581

Dear Chairman Tarbert,

We write to request that financial regulators take all possible precautions to protect their existing financial infrastructure against possible cyber-attacks in the wake of recent threats against the United States and its interests by Iran and its allies.

On January 2, the Department of Defense confirmed that at the direction of President Trump—the U.S. military took actions to kill Qasem Soleimani who commanded the Islamic Revolutionary Guard Corps-Quds Force.^[1] Following this confirmation, Iranian Supreme Leader Ayatollah Ali Khamenei vowed “harsh revenge” for the killing of Soleimani.^[2] This call for retribution against the United States was echoed by other members of Iranian Leadership and affiliated organizations worldwide. The Department of Homeland Security issued a bulletin on January 4 noting an elevated and imminent alert warning of a credible, specific, and impending terrorism threat against the United States in response to Soleimani’s death.^[3] The Bulletin highlighted that “Iran maintains a robust cyber program and can execute cyber-attacks against the United States [and that Iran] is capable, at a minimum, of carrying out attacks with temporary disruptive effects against critical infrastructure in the United States.”^[4] As evidenced from other cyber-attacks against our financial infrastructure and firms in recent years, the threat of a possible attack is wide-ranging and may come by way of formal and informal networks as well as lone actors.

As you are aware, the financial services sector globally has been a primary target for attacks by cybercriminals and state actors because of the significant value of the information available. Reports indicate that financial services firms are hit by security incidents 300 times more often

^[1] “Statement by the Department of Defense.” U.S. DEPARTMENT OF DEFENSE, 2 January 2020, <https://www.defense.gov/Newsroom/Releases/Release/Article/2049534/statement-by-the-department-of-defense/>.

^[2] Ill, Fernando Alfonso, et al. “Iran’s Supreme Leader Vows Revenge for Death of Soleimani.” CNN, Cable News Network, 4 Jan. 2020, https://edition.cnn.com/middleeast/live-news/baghdad-airport-strike-live-intl-hnk/h_996c3bed1255e7e3e30357771c7be380.

^[3] “National Terrorism Advisory System Bulletin - January 4, 2020.” Department of Homeland Security, 7 Jan. 2020, <https://www.dhs.gov/ntas/advisory/national-terrorism-advisory-system-bulletin-january-4-2020>.

^[4] Ibid

PLEASE REPLY TO:

2335 HAYLORN HOB
WASHINGTON, DC 20515
(202) 225-4535 (PHONE)
(202) 225-4403 (FAX)

101 WEST 31ST STREET
KANSAS CITY, MO 64108
(816) 842-4545 (PHONE)
(816) 471-5215 (FAX)

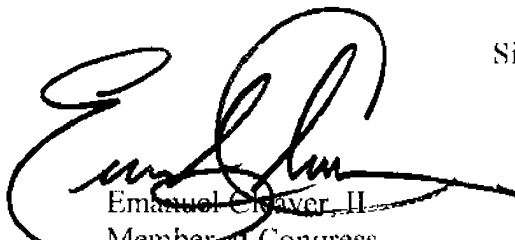
411 WEST MAPLE AVENUE, SUITE F
INDEPENDENCE, MO 64050
(816) 833-4545 (PHONE)
(816) 833-2991 (FAX)

1923 MAIN STREET
HIGGINSVILLE, MO 64037
(660) 584-7373 (PHONE)
(660) 584-7227 (FAX)

than businesses in other industries.^[5] Cybersecurity experts in recent days have warned specifically of Iranian hackers' capacity to "destroy important financial records."^[6] Iran has previously targeted, attacked, and infiltrated U.S. financial institutions. Experts note that in 2012, following the Obama Administration's sanctions against the regime, Iran initiated a rash of denial of services attacks against Bank of America, JPMorgan Chase, and Wells Fargo among other financial institutions.^[7] In 2014, Iran also destroyed company data at Sands Casino. Iran's previous attacks against other sectors has destroyed computers and temporarily endangered the international flow of goods.

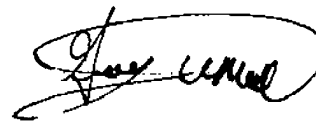
In response to these heightened and credible threats as articulated by U.S. national security elements, we urge financial regulators to strengthen their existing financial infrastructure against possible cyber-attacks. We urge you, our nation's financial regulators, to work in coordination with appropriate law enforcement and regulated entities to increase sharing of appropriate cyber threat information. We request that your institutions communicate a strategy to further mitigate existing cyber vulnerabilities within our financial infrastructure by March 2020.

Thank you for your careful attention to this important issue and we look forward to your response



Emanuel Cleaver, II
Member of Congress

Sincerely,



member of Congress

^[5] Ungarino, Rebecca "Cyberattacks Are 300 Times as Likely to Hit Financial Firms than Other Companies. A Sweeping New Report Finds They're Not Prepared. | Markets Insider." Business Insider, Business Insider, 20 June 2019, <https://markets.businessinsider.com/news/stocks/cyberattacks-impact-major-threats-to-financial-firms-not-prepared> 2019-6-1028296130.

^[6] Marks, Joseph. "The Cybersecurity 202: U.S. Should Brace for Iran to Cross Red Lines in Cyberspace, Experts Warn." The Washington Post, WP Company, 6 Jan. 2020, <https://www.washingtonpost.com/news/powerpost/paloma/the-cybersecurity-202/2020/01/06/the-cybersecurity-202-u-s-should-brace-for-iran-to-cross-red-lines-in-cyberspace-experts-warn/5e123521602ff125ce5bbf7b/>.

^[7] Marks, Joseph. "The Cybersecurity 202: Here's How Iran Disrupted U.S. Businesses the Last Time It Launched Major Cyberattacks." The Washington Post, WP Company, 25 June 2019, <https://www.washingtonpost.com/news/powerpost/paloma/the-cybersecurity-202/2019/06/25/the-cybersecurity-202-here-s-how-iran-disrupted-u-s-businesses-the-last-time-it-launched-major-cyberattacks/5d1107dea7a0a47d87c56e27/>.

From: Dolby, Paige (Feinstein)
Sent: Mon, 20 May 2019 20:29:55 +0000
To: Wright, Ann
Subject: [EXTERNAL] (b)(6) Inquiry
Attachments: (b)(6)

Hi Ann,

Thanks again for returning my call about our constituent (b)(6) and his inquiry regarding some (b)(6)

Please do not hesitate to email or call if you have any questions or need additional information.

Best,
Paige

Paige Dolby | Constituent Services Representative

Office of U.S. Senator Dianne Feinstein

San Francisco | 415-393-0707

[Website](#) | [Twitter](#) | [Facebook](#) | [YouTube](#)

United States Senate

WASHINGTON, DC 20510-0504

<http://feinstein.senate.gov>

May 16, 2019

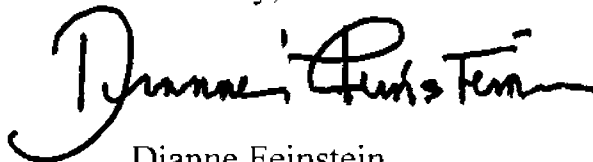
Mr. John P. Riley
Director of Legislative Affairs, Office of the Chairman
Office of the Chairman
U.S. Commodity Futures Trading Commission
1155 21st St., NW
Washington, D.C. 20581

Dear Mr. Riley:

I am writing to bring to your attention a letter from ^{(b)(6)} regarding the margin debt in his account. Please look into the issues raised, as quickly as possible, so I can appropriately respond to ^{(b)(6)}

Attached you will find the enclosures from my constituent to assist you with your review. After you have completed your review, please send your written response to Paige Dolby of my San Francisco office. Ms. Dolby may be contacted at (415) 393-0707 if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Dianne Feinstein", written in a cursive style.

Dianne Feinstein
United States Senator

DF:PD

October 16, 2018

The Honorable Steven T. Mnuchin
Secretary
U.S. Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

The Honorable Joseph M. Otting
Comptroller
Office of the Comptroller of the Currency
400 Seventh Street, SW
Washington, DC 20219

The Honorable Jerome H. Powell
Chairman
Board of Governors of the
Federal Reserve System
20th St. and Constitution Ave., NW
Washington, DC 20551

The Honorable Jelena McWilliams
Chairman
Federal Deposit Insurance Corporation
17th Street, NW
Washington, DC 20429

The Honorable Jay Clayton
Chairman
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

The Honorable Christopher Giancarlo
Chairman
Commodity Futures Trading Commission
1155 21st Street, NW
Washington, DC 20581

Dear Secretary Mnuchin, Comptroller Otting, Chairman Powell, Chairman McWilliams, Chairman Clayton, and Chairman Giancarlo:

We write in support of your efforts to simplify and streamline the regulatory burdens associated with Section 619 of the Dodd-Frank Act, also known as the Volcker Rule.¹ Since January 2011, the Committee on Financial Services has held numerous hearings and received compelling testimony regarding the rule's overly complex aspects. The verdict is clear: Important market making functions have been chilled because, consistent with former Federal Reserve Governor Dan Tarullo's observation in his farewell remarks, the Volcker Rule "as it has been drafted and implemented...is too complicated." Unfortunately, the effects of this overregulation and the resultant lack of liquidity are being felt, in particular, on Main Street—where job creators rely on market making to obtain funding for short-term operations and long-term growth, consumers rely on liquid debt markets to obtain credit cheaper and to more easily access a variety of credit products, and savers rely on market makers to efficiently satisfy redemptions and preserve their asset values.

Regardless of whether you believe, as we do, that the Volcker Rule is a solution in search of a problem,² lawmakers and regulators have a duty to ensure the regulatory

¹ See OCC, Federal Reserve, FDIC, SEC, and CFTC, *Proposed Revisions to Prohibitions on Restrictions on Proprietary Trading and Certain Interests in, and Relationships with, Hedge Funds and Private Equity Funds*, 83 Fed. Reg. 33432 (July 17, 2018) (the "Notice of Proposed Rulemaking"). Under Section 619 the Secretary of the Treasury, in his capacity as Chairperson of the Financial Stability Oversight Council, is "responsible for coordination of the regulations issued under" the Volcker Rule.

² In remarks before the Peterson Institute of International Economics on March 30, 2010, Former Federal Reserve Chairman Paul Volcker, himself, conceded that "proprietary trading in commercial banks was...not central" to the financial crisis; and Former Treasury Secretary Timothy Geithner testified before Congress on September 10,

framework of any regulation is efficient, clear, and transparent so that the consequences of the regulation do not unduly impede economic growth. While Congress continues to pursue statutory fixes to alleviate its inefficiencies, time is past for the implementing regulators to revise the Volcker Rule to limit the many unintended consequences of their own doing from when the Rule was implemented four years ago. The Notice of Proposed Rulemaking (“NPR”) was an important “first step” in that process, as the proposal raises important points regarding the Volcker Rule’s implementation. Nonetheless, we urge you to consider all comments and to adopt a simplified final rule that is better tailored, reduces disproportionate compliance costs, and ensures greater harmony among the litany of regulators currently charged with administering the Rule.³

One specific area in which the NPR fails to reduce the Volcker Rule’s unnecessary complexities is the limited amendments proposed to the Rule’s “covered funds” provisions. Businesses, infrastructure projects, and real estate developments, among others, historically have obtained financing through funds raised by banks in partnership with clients who make long-term investments and extensions of credit to growing companies. Such funds provide the same types of financing that banking entities are authorized to do on their own balance sheet, and they do so in a manner that provides an added layer of safety and soundness for the banking entity by sharing any risks with clients. But the current construct of the Volcker Rule’s covered funds definition unduly impedes banks’ and their affiliates’ abilities to perform their traditional functions through fund structures. Accordingly, pursuant to the discretion Congress granted to your agencies in Section 619, the final amended Volcker Rule should provide greater regulatory relief and offer additional exclusions under the definition of a “covered fund” for venture capital and other entities engaged in lending and long-term investing that promote both growth and capital formation. There is no good reason for the Volcker Rule to deny banks and their affiliates the ability to accomplish through fund structures—particularly those that provide stable capital and encourage economic growth—what they can do directly. As Federal Reserve Chairman Powell recently testified before this Committee, “these activities are not ones generally that threaten safety and soundness.”⁴

2009, that “most of the losses that were material for the weak institutions—and the strong, relative to capital—did not come from [proprietary trading] activities.”

³ H.R. 4790, the “Volcker Rule Regulatory Harmonization Act,” will streamline regulatory authority under the Rule by consolidating rulemaking authority with a single regulator and, for the purposes of examination and enforcement, designating the primary Federal regulator for a covered entity as the sole regulator in those capacities. This important legislation garnered the support of 300 members of the House, including more than 80 percent of this Committee, and we hope the Senate will move swiftly to send it to the President’s desk. In the meantime, the multitude of regulators responsible for finalizing the proposed amendments must ensure those amendments provide for consistency in treatment across agencies, which to date has been lacking.

⁴ Testimony of the Honorable Jerome H. Powell, Chairman of the Board of Governors of the Federal Reserve System, before the Committee on Financial Services, “Hearing on Monetary Policy and the State of the Economy” (July 18, 2018). Legislative history reflects that the two primary authors of the Dodd-Frank Act shared in 2010 the views Chairman Powell stated more recently: After Representative Jim Himes expressed concern that the covered funds provision of the Rule “could technically apply to lots of corporate structures,” including “when firms own or control subsidiaries or joint ventures that are used to hold other investments,” and thus may “disrupt the way...firms structure their normal investment holdings,” then-House Financial Services Committee Chairman Barney Frank responded that “the distinction [Mr. Himes drew] is very much in this bill” and expressed his expectation that the regulators also would “appreciate that distinction [and] maintain it.” Similarly, then-Senate Banking Committee Chairman Chris Dodd responded to a question from then-Senator Barbara Boxer—who had expressed concern with the potential impact of the Rule on venture capital investment—by stating that “properly conducted venture capital investment will not cause the harms at which the Volcker Rule is directed” and that he “would expect the appropriate Federal regulators to exempt it using their authority under Section 619.”

October 16, 2018

Page 3 of 3

We look forward to a final rule that will fix the needless complexities of the Volcker Rule and, in turn, decrease costs for investors, savers, and the economy which rely on liquid markets.

Sincerely,



JEB HENSARLING
Chairman



BILL HUIZENGA
Chairman
Subcommittee on
Capital Markets, Securities,
and Investment



BLAINE LUETKEMEYER
Chairman
Subcommittee on
Financial Institutions
and Consumer Credit

United States Senate

WASHINGTON, DC 20510

October 3, 2018

The Honorable Jerome H. Powell
Chairman
Board of Governors of the Federal Reserve
System
20th Street and Constitution Avenue NW
Washington, DC 20551

The Honorable Jelena McWilliams
Chair
Federal Deposit Insurance Corporation
550 17th Street NW
Washington, DC 20429

The Honorable Joseph M. Otting
Comptroller
Office of the Comptroller of the Currency
400 7th Street SW
Washington, DC 20219

The Honorable Jay Clayton
Chairman
U.S. Securities and Exchange Commission
100 F Street NE
Washington, DC 20549

The Honorable J. Christopher Giancarlo
Chairman
U.S. Commodity Futures Trading
Commission
1155 21st Street NW
Washington, DC 20581

Dear Chairman Powell, Chair McWilliams, Comptroller Otting, Chairman Clayton, and Chairman Giancarlo:

On May 30, 2018, your agencies issued "Proposed Revisions to Prohibitions and Restrictions on Proprietary Trading and Certain Interests in, and Relationships With, Hedge Funds and Private Equity Funds" to Section 619 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, also known as the Volcker Rule. To be clear, the proposed revisions are a naked attempt to once again allow risky trading practices at federally insured institutions while taxpayers are at risk for footing the bill for another massive bailout.

Former Senator Carl Levin and I were successfully able to include the Volcker Rule in the Dodd-Frank Act to separate traditional banking from Wall Street's reckless trading practices. Congress intended for the Volcker Rule to function as a modern-day Glass-Steagall Act, acting as a firewall to safeguard traditional loan-making and deposit-taking at banks from high-risk bets that put customers and the financial system at risk.

However, the proposed revisions do just the opposite of creating a modern-day Glass-Steagall. SEC Commissioner Kara Stein astutely summarizes the intent of regulators to unwind these

regulatory efforts: “[T]his proposal cleverly and carefully euthanizes the Volcker Rule.”¹ These proposed changes are a creative maneuver to allow Wall Street banks to evade compliance while exposing taxpayers, investors, and our capital markets to enormous risks.

The rule was finalized in 2013 and went into effect in 2015, requiring compliance by covered financial institutions. Since that time, there was only a single penalty for non-compliance of the Volcker Rule.² Nevertheless, numerous press reports highlight very questionable trades and investments, which seem to violate the basic intention of the rule to minimize risks at these institutions.³ The Volcker Rule has not been adequately enforced and I question whether these proposed changes are needed.

Further, what are the justifications for these changes? The Volcker Rule requires financial institutions to report certain metrics from their trading desks so regulators can monitor trading activities, including inventory turnover and inventory aging. Yet my multiple requests for the release to the public of data, reports, and studies regulators have collected, compiled, or received regarding the Volcker Rule have essentially gone unanswered.

As former Federal Deposit Insurance Corporation Chair Sheila Bair recently wrote in *The Wall Street Journal*, “the lack of transparency makes meaningful public input in the rule-making process more difficult.”⁴ Without sufficient data shared with the public and Congress, it is very difficult for an accurate assessment of what changes, if any, are needed. The revisions hint at forthcoming additional changes without any being proposed which leads to further opacity. Leaving commenters without the chance to review changes begs the question as to whether revisions would violate the Administrative Procedure Act.

Additionally, the revisions to the Volcker Rule are not a singular effort to ease compliance for financial institutions. Instead, the revisions are part of holistic effort to dismantle the reforms instituted in the Dodd-Frank Act that were instituted to make the financial system more stable. Many of the critical improvements made to the regulatory system have been or are in the process of being watered down, including stress testing and capital requirements.

The proposed revisions made by the five financial regulators to the Volcker Rule could open major loopholes for the biggest banks to avoid complying with core financial protections. This comment letter considers six of the revisions.

¹ SEC Commissioner Stein’s testimony on proposed revisions to the Volcker Rule, June 5, 2018, available at: <https://www.sec.gov/news/public-statement-statement-stein-060518-2>

² Ben McLannahan and Jessica Dye, “Deutsche Bank fined \$156.6m over currency and Volcker violations,” *Financial Times*, April 21, 2017, available at <https://www.ft.com/content/7de4e7ec-2620-11e7-8691-d517e0cd0a16>.

³ Justin Baer, “How One Goldman Sachs Trader Made More Than \$100 Million,” *The Wall Street Journal*, October 19, 2016, available at <https://www.wsj.com/articles/how-one-goldman-sachs-trader-made-more-than-100-million-1476869402> and Shahien Nasiripour, Sonali Basak, and Steven Arons, “Wild Trading Day at Deutsche Bank Raises Questions on Risk,” *Bloomberg*, June 20, 2018, available at <https://www.bloomberg.com/news/articles/2018-06-20/wild-trading-day-at-deutsche-bank-raises-questions-on-u-s-risk>.

⁴ Sheila Bair and Gaurav Vasisht, “The Volcker Rule Needs Transparency More than ‘Simplification,’” *The Wall Street Journal*, September 9, 2018, available at: <https://www.wsj.com/articles/the-volcker-rule-needs-transparency-more-than-simplification-1536524547?tesla=y>

1. Treatment of RENTD, “The heart of the Volcker Rule.”⁵

Following the financial crisis, it became clear that Wall Street financial institutions were using client funds to make investments for their own gain, also known as proprietary trading. The Volcker Rule’s purpose was to put an end to this type of reckless speculation with clients money. Under current rules, trading is permitted for market making and underwriting purposes—two client-focused activities.

Banks may not engage in the buying and selling of financial instruments beyond the reasonably expected near-term demand, or RENTD, of their clients. As highlighted in *RENTD – The heart of the Volcker Rule*, Deloitte’s report on the proposed changes, “the RENTD requirement is present in the original statutory language and it plays a central role in achieving the broad regulatory objective of eliminating impermissible proprietary trading within financial institutions covered by the Volcker Rule.”⁶ In order to qualify for RENTD, banks demonstrate to regulators specific analyses to justify market making and underwriting activities on behalf of their clients.

However, the proposed revisions essentially drives a stake into the heart of RENTD. As drafted, banks would no longer be required to justify to regulators their activities and whether they were done in anticipation of actual client demand or their own book. Instead, banks will be able to self-regulate. After self-selecting their own internal risk limits using variables and calculations they see fit, regulators will deem banks in “compliance” if they stay within bounds of the risk limits set by their own metrics. These changes would not only make it easier for banks to evade the Volcker Rule, it would also make it harder for regulators to enforce the rebuttable presumption without demonstrable analysis. This was not the approach intended by Congress.

Americans have seen the devastation that came from basing regulation, or the lack thereof, on the incorrect free market theory espoused by former Federal Reserve Chairman Alan Greenspan. In 2008, before a House Oversight Committee, Greenspan himself admitted his free market ideology may have been flawed.⁷ That is why it is all the more surprising that prudential regulators would offer these revisions to water down a critical aspect of Congress’ effort to limit risk in our financial system just ten years after the Great Recession.

2. Hedging

Market events come and go, but J.P. Morgan’s London Whale, or the loss of \$6 billion, in 2012 stands out. At the time, the losses were chalked up to trades that hedged the bank’s risks. However, a subsequent investigation by a Senate Committee found evidence to demonstrate that they were in fact proprietary positions and not legitimate hedging activities.⁸

⁵ Michael Bailey, Rajeev Trehan, and Jeremy Simon, “RENTD – The heart of the Volcker Rule,” Deloitte Report, Summer 2018, available at: <https://www2.deloitte.com/content/dam/Deloitte/us/Documents/risk/us-risk-rentd-heart-of-volcker-rule-summary.pdf>

⁶ Ibid, p. 19

⁷ Brian Naylor, “Greenspan Admits Free Market Ideology Flawed,” *National Public Radio*, October 24, 2008, available at: <https://www.npr.org/templates/story/story.php?storyId=96070766>.

⁸ U.S. Senate Committee on Homeland Security and Governmental Affairs, “JPMorgan Chase Whale Trades: A Case History of Derivatives Risks and Abuses,” March 15, 2013, available at:

In the 2013 final rule, banks were required to demonstrate to regulators that their risk-mitigating hedge and analysis were actually risk mitigating. The goal was to ensure banks would not use this as a loophole to get around the Volcker Rule requirements. While it only went into effect in 2015, there is little doubt that the trading of derivatives in the 2012 London Whale case would have violated the Volcker Rule.

The proposed revisions removes the requirement that banks must perform correlation analysis around their hedging activities and lowers what is considered a hedge. These changes would make it difficult for regulators to detect prohibited activity. Currently regulators are able to examine the correlation analysis and without it banks could engage in poor risk management practices that could lead to significant future losses.

Yet again, regulators are weakening the Volcker Rule in deference to banks by allowing them to determine what works best for their models without considering the risk this roll back could have on the customers of these institutions and the system as a whole. One of the regulators own analysis of the revisions agreed that weakening the hedging protections could allow some banks to engage in proprietary trading under the guise of hedging. The Securities and Exchange Commission noted that these specific revisions “may potentially increase moral hazard and conflicts of interest between banking entities and their customers.”⁹

3. Liquidity Management

In the 2013 final Volcker Rule, trades executed for bona fide liquidity management purposes were carved out. Any effort to expand the carve out further is unnecessary.

That is why it strikes me as exceedingly risky for the proposed revisions to allow banks to incorporate derivatives, including foreign exchange (FX) swaps, cross-currency swaps, and forwards, under the liquidity management carve out.

The types of derivatives included in the proposed revisions to the Volcker Rule could be used in the currency markets for speculative bets under the guise of liquidity management. Currently, banks are permitted to trade these derivatives if they fall under the permitted activities. Therefore, these instruments should not be included without any clear demonstration by regulators that they are needed for liquidity management.

<https://www.hsgac.senate.gov/subcommittees/investigations/hearings/chase-whale-trades-a-case-history-of-derivatives-risks-and-abuses>.

⁹ “Proposed Revisions to Prohibitions and Restrictions on Proprietary Trading and Certain Interests in, and Relationships With, Hedge Funds and Private Equity Funds.” The version published by the Securities and Exchange Commission contains its analysis of the costs and benefits of the proposal, available at:

<https://www.sec.gov/rules/proposed/2018/bhca-3.pdf>.

4. Foreign Bank Financing

No one in the United States is exempt from the law of the land, including foreign financial institutions. The U.S. operations of foreign banks were included in the Volcker Rule to create a level playing field with a single standard for all institutions operating in our well-respected market.

The 2013 final Volcker Rule regulation barred the U.S. operations of foreign banks from financing the prohibited activities of their foreign parents and other foreign affiliates. This was to ensure that the risks associated with investments in hedge funds and private equity funds conducted abroad did not wind up showing up as risks in U.S. markets.

It is not prudent to give foreign banks a green light for risky trading. The proposed revisions allows U.S. operations of foreign banks to fund otherwise prohibited activities of their parent firm abroad. This change only adds more risk to the system while creating a dual system for American banks and foreign ones.

5. Trading Account Definition

The Volcker Rule's prohibition on risky, speculative trading extends to the transactions conducted for the bank's trading account. Any transactions that occur outside of the trading account fall outside of the scope of the Volcker Rule, which is why the definition of "trading account" is crucial.

The proposed revisions to the Volcker Rule narrows the definition of trading account without any justification to demonstrate it is needed. As a result, it is expected that fewer trading desks at banks would be under active oversight by regulators. Further, regulators would be less able to restrain and prevent the reckless behavior of banks demonstrated in the lead up to the financial crisis.

6. CEO Attestation

As a matter of accountability, the Volcker Rule instituted a compliance requirement for an attestation by the Chief Executive Officer (CEO) of certain covered financial institutions. CEOs are required to provide, in writing, an annual attestation to their regulator affirming the institution has processes "to establish, maintain, enforce, review, test and modify."¹⁰ The attestation certifies that their compliance program is in line with the Volcker Rule.

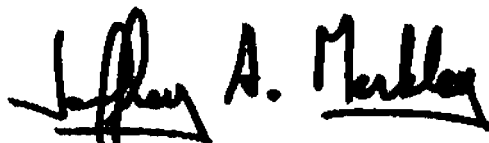
The proposed revisions does not require the CEO attestation for banks in the new limited trading category, which may include some banks that are currently subject to this sensible requirement. I was surprised that regulators chose to weaken this accountability requirement. Just like in the Sarbanes Oxley Act, signed after the Enron scandal in the early 2000s, the head of the firm who bears the responsibility should attest that their firm is complying with the law.

¹⁰ Federal Reserve's Frequently Asked Questions regarding the Volcker Rule, Question 7 regarding CEO Attestation, September 10, 2014, available at: <https://www.federalreserve.gov/bankinfo/reg/volcker-rule/faq.htm#7>.

These revisions are an unfettered effort to try to return to a time of free market ideology where banks essentially made their own rules. Yet as drafted, these proposed revisions are nothing short of watering the Volcker Rule down to render it meaningless. It is unfathomable that this close to the Great Recession regulators would propose these changes. While many Americans are still struggling to make ends meet, these mammoth financial institutions are experiencing historic profits.¹¹

Maintaining a strong Volcker Rule is imperative to protecting taxpayers, investors, and the stability of our financial system. While revisions to the Volcker Rule are considered, I respectfully request you examine and take my comments into account.

Sincerely,

A handwritten signature in black ink that reads "Jeffrey A. Merkley". The signature is stylized with a large, looped "J" and "M".

Jeffrey A. Merkley

¹¹ Yalman Onaran, "U.S. Mega Banks Are This Close to Breaking Their Profit Record," Bloomberg Markets, 21 July 2017, <https://www.bloomberg.com/news/articles/2017-07-21/bank-profits-near-pre-crisis-peak-in-u-s-despite-all-the-rules>.

1875

United States Senate

WASHINGTON, DC 20510

July 5, 2018

The Honorable J. Christopher Giancarlo
Chairman
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street NW
Washington, DC 20581

Dear Chairman Giancarlo:

We write in response to the recent notice of proposed rulemaking on the de minimis threshold for swap dealers. We are concerned that the recently proposed rule leaves the swap dealer registration threshold at \$8 billion instead of allowing it to fall to \$3 billion as laid out in the final rule from May 2012.

The Commodity Futures Trading Commission (CFTC) twice delayed the phase-in period of the \$3 billion de minimis threshold. During the phase-in period, the CFTC staff produced a preliminary report and a final report on the de minimis threshold. Neither report provided sufficient data on non-financial commodity swaps to justify leaving the threshold at \$8 billion instead of lowering it to \$3 billion. This has not changed with the proposed rule.

The proposed rule says that relevant notional data “was not available for non-financial commodity (‘NFC’) swaps” and lists five challenges to calculating notional amounts for these swaps. Therefore, unlike for other types of swaps, notional data was not used in considering the proposed changes. The data that was available for non-financial commodity swaps shows significantly less coverage under an \$8 billion threshold than in other categories. In justifying this, the proposed rule notes the “unique characteristics” of these swaps; however, the analysis provided indicates a series of assumptions and possibilities rather than concrete data.

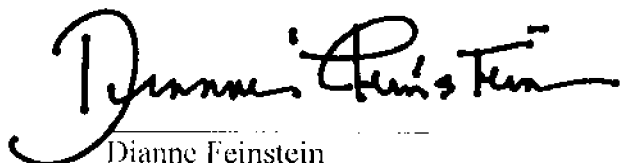
Our concerns are furthered by the decision to delegate the determination for calculating the notional amount to the Director of the Division of Swap Dealer and Intermediary Oversight. This is an important component of ensuring an appropriate de minimis threshold. The commissioners should not remove themselves from that decision-making, particularly given that one of the challenges related to non-financial commodity swaps was a lack of standard calculation for the notional amount. Finally, in addition to leaving the threshold at \$8 billion, the proposal also considers additional exceptions that would further weaken its efficacy and undermine the intent of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank).

Given the lack of relevant data by notional amount for non-financial commodity swaps, please explain why it is necessary to remove the phase-in period for energy swap dealers. Please also provide the CFTC’s plans to analyze the impact of the de minimis thresholds of \$8 billion and \$3 billion on the energy swaps market measured in terms of notional amount. Additionally, please share what steps the CFTC will undertake to ensure that energy market users – particularly consumers and other end users – are not harmed by the CFTC’s potential decision to

maintain a higher de minimis threshold, exempting more swaps from important protections provided by Dodd-Frank.

Thank you for your consideration of our concerns. We hope that in your deliberation of the final rule, you consider additional measures to protect consumers and ensure energy market participants are appropriately regulated.

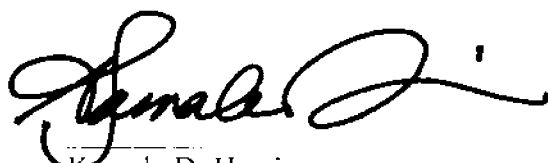
Sincerely,



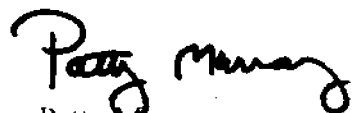
Dianne Feinstein
United States Senator



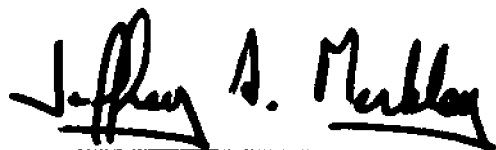
Maria Cantwell
United States Senator



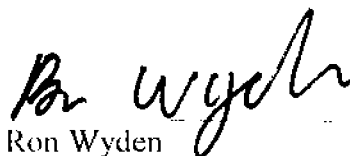
Kamala D. Harris
United States Senator



Patty Murray
United States Senator



Jeffrey A. Merkley
United States Senator



Ron Wyden
United States Senator

CC: Commissioner Brian Quintenz
Commissioner Rostin Behnam

United States Senate

WASHINGTON, DC 20510

August 3, 2018

Honorable Steven Mnuchin
Secretary
Department of the Treasury
1500 Pennsylvania Avenue NW
Washington, D.C. 20220

Honorable J. Christopher Giancarlo
Chair
U.S. Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, D.C. 20581

Honorable Jay Clayton
Chair
U.S. Securities and Exchange Commission
100 F St, NE
Washington, DC 20549

Dear Secretary Mnuchin, Chairman Giancarlo, and Chairman Clayton,

We write to inquire about Treasury's, the Commodity Futures Trading Commission's (CFTC), and the Securities and Exchange Commission's (SEC) planning regarding the United Kingdom's upcoming withdrawal from the European Union ("Brexit"). The impending Brexit may pose significant risks to the U.S. markets. While the details of Brexit are still being negotiated, the risk of severe disruption increases if there is a "hard Brexit," in which the U.K. and E.U. would no longer have full access to each other's markets.

For example, in June the Bank of England warned that without a firm deal and implementing legislation, 82 billion pounds of insurance liabilities involving 48 million policyholders could be disrupted across Britain and the European Economic Area.¹ The Bank of England also estimated that derivatives worth a notional 29 trillion pounds could be at risk.²

In addition to preparing for financial shocks, we must also be prepared for regulatory changes in the event of a hard Brexit. Specifically, the CFTC has warned that any restrictions the European Union places on the United Kingdom could harm American firms doing business in Europe³ and could result in unfavorable modifications to existing agreements between the U.S. and the E.U. on the oversight of derivatives.

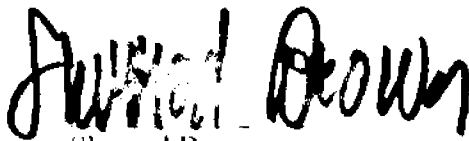
¹ <https://www.nytimes.com/reuters/2018/07/11/business/11reuters-britain-cu-finance.html>

² <https://www.bankofengland.co.uk/financial-stability-report/2018/june-2018>

³ <https://www.cnbc.com/2018/06/26/reuters-america-cu-signals-no-casing-up-on-financial-market-access-after-brexit.html>

Against this backdrop, it is vital that Treasury, the CFTC, and the SEC monitor the situation, engaging appropriately with counterparts in the E.U. and U.K., and prepare for the threat of a “hard Brexit.” We ask that you respond to us with the steps your agencies are taking to prepare for Brexit and mitigate the risks to U.S. investors, markets, and to established regulatory frameworks between the U.S. and the E.U.

Sincerely,

A handwritten signature in black ink, appearing to read "Sherrod Brown".

Sherrod Brown
United States Senator

A handwritten signature in black ink, appearing to read "Sheldon Whitehouse".

Sheldon Whitehouse
United States Senator

A handwritten signature in black ink, appearing to read "Jack Reed".

Jack Reed
United States Senator

Congress of the United States
Washington, DC 20515

May 14, 2019

The Honorable Jerome Powell
Chairman
Board of Governors of the Federal Reserve
System
20th Street and Constitution Avenue, NW
Washington, DC 20551

The Honorable Jay Clayton
Chairman
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

The Honorable Jelena McWilliams
Chairman
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429

The Honorable J. Christopher Giancarlo
Chairman
Commodity Futures Trading Commission
1155 21st Street, NW
Washington, DC 20581

The Honorable Joseph Otting
Comptroller
Office of the Comptroller of the Currency
400 7th Street, SW, Suite 3E-218
Washington, DC 20219

The Honorable Steven Mnuchin, Chair
Financial Stability Oversight Council
U.S. Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20500

Dear Chairs Powell, McWilliams, Giancarlo, Clayton, Comptroller Otting, and Secretary Mnuchin:

We write today to encourage expeditious implementation of several recommendations included in the U.S. Department of Treasury's report series, *A Financial System That Creates Economic Opportunities*. These reports serve as a roadmap for fostering economic growth and improving the efficiency and effectiveness of the regulatory framework. It is our belief that many of the recalibrations recommended would unlock billions of dollars of trapped capital that would in turn be deployed into the real economy to support job creation and economic growth.

While progress has been made to implement some of the recommendations included in the reports, we are concerned about the lack of progress in many critical areas and the pace of implementation. Indeed, over a year and a half after the initial report was issued, the banking agencies have only acted on one third of the recommendations. Many of the changes that have not yet been implemented would have a measurable impact on the economy by improving access to capital and credit and promoting economic growth.

First, the reports recommend that the federal banking agencies revisit U.S. rules implementing international standards, including the risk-based capital surcharge for U.S. global systemically important banks (GSIBs). A recent report authored by the U.S. Chamber of Commerce Center


for Capital Markets Competitiveness suggested that the decision by U.S. regulators to impose more stringent standards on U.S. GSIBs than what is required by Basel III may be a cause of lower than expected growth in small business lending - which remains down 13 percent from 2008. U.S. GSIBs have increased their capital by nearly 40 percent and doubled their liquidity since the financial crisis. Given the totality of post crisis reforms that have been imposed on GSIBs and the significantly enhanced resiliency of the banking system, now is an appropriate time to revisit the international standards placed on U.S. firms, including the GSIB surcharge.

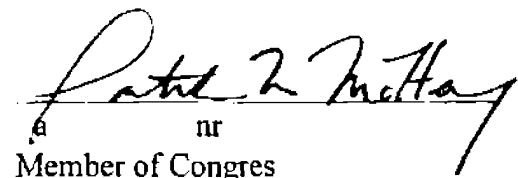
Second, we strongly support exempting transactions between bank affiliates from initial margin requirements on uncleared swaps. According to a 2018 survey conducted by the International Swaps and Derivatives Association, for 11 of the largest global swap dealers, this requirement currently traps nearly \$40 billion inside of these institutions that, if released into the real economy, would help to reduce costs for business end-users. This requirement, which disincentivizes prudent risk management, is not required by the CFTC, European regulators, or Asian regulators that have implemented the relevant requirements to date. Removing this unnecessarily burdensome requirement will both bring efficiency to the regulatory framework and promote safety and soundness by encouraging banks to centrally manage risk. In this context, we also urge the agencies to consider the impact of new derivative regulations, in particular the Standardized Approach for Counterparty Credit Risk (SA-CCR), on the ability of end users to hedge their business risks.

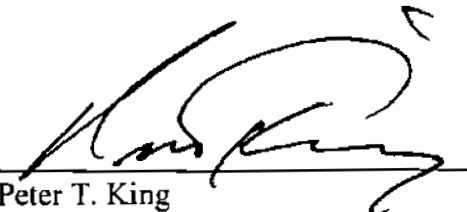
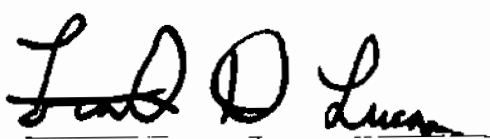
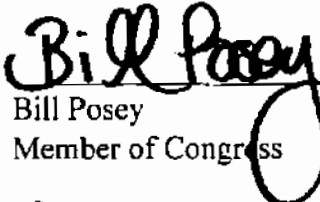
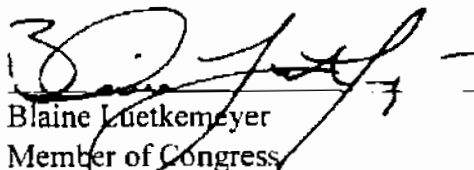
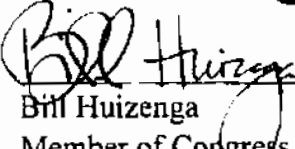
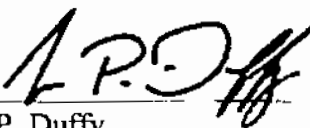
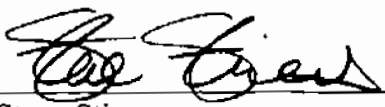
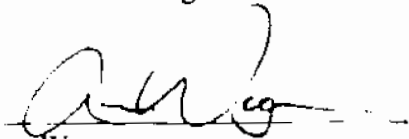
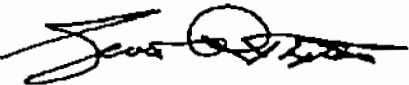
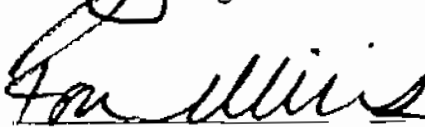
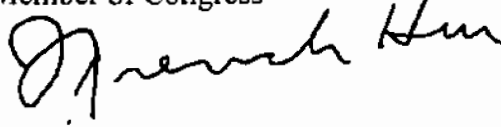
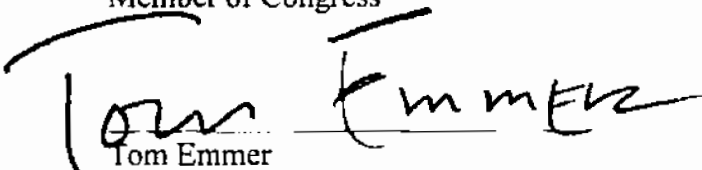
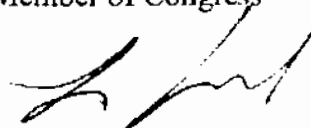
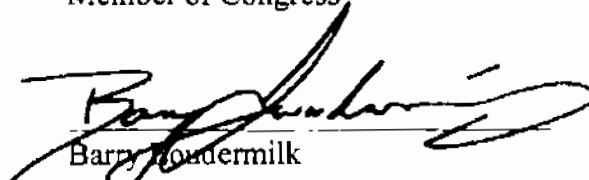
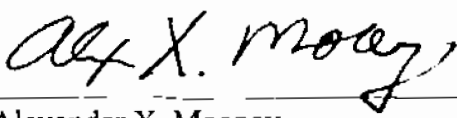
Third, we believe the agencies must bring greater transparency to the capital planning and stress testing process so that lending and investment are not unnecessarily restricted. We encourage the Federal Reserve Board to subject the hypothetical stress scenarios under its Comprehensive Capital Analysis and Review (CCAR) and Dodd-Frank Act stress test programs to notice and public comment.

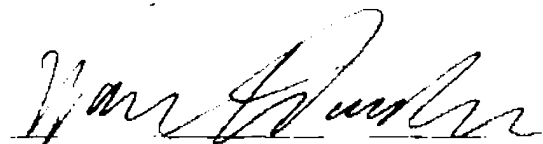
Please provide an update on the progress in each of the above areas described, including a timeline for implementation. To the extent there are currently no plans to implement a specific recommendation, please provide an explanation for that decision. We feel strongly that you should move forward with implementation of these recommendations as soon as possible and that they be given priority alongside other ongoing workstreams. We look forward to working together with you to foster economic growth and promote international competition for U.S. firms.

Sincerely,

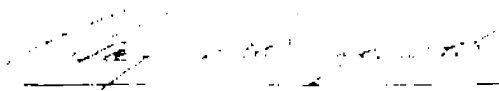

Ted Budd
Member of Congress


Patrick J. McHarty
Member of Congress

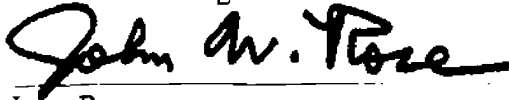

Peter T. King
Member of Congress
Frank D. Lucas
Member of Congress
Bill Posey
Member of Congress
Blaine Luetkemeyer
Member of Congress
Bill Huizenga
Member of Congress
Sean P. Duffy
Member of Congress
Steve Stivers
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Ann Wagner
Member of Congress
Andy Barr
Member of Congress
Scott Tipton
Member of Congress
Roger Williams
Member of Congress
French Hill
Member of Congress
Tom Emmer
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Lee M. Zeldin
Member of Congress
Barry Roudermilk
Member of Congress
Alexander X. Mooney
Member of Congress



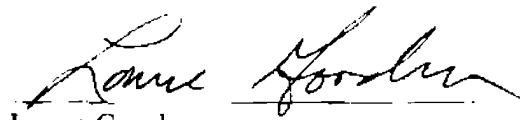
Warren Davidson
Member of Congress



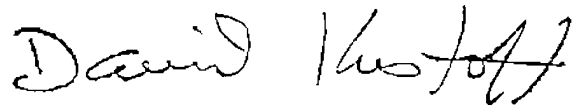
Trey Hollingsworth
Member of Congress



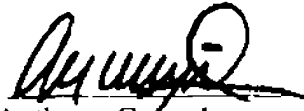
John Rose
Member of Congress



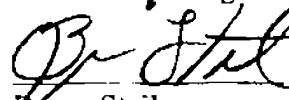
Lance Gooden
Member of Congress



David Kustoff
Member of Congress



Anthony Gonzalez
Member of Congress



Bryan Steil
Member of Congress



Denver Lee Riggleman III
Member of Congress

PAT ROBERTS, KANSAS
CHAIRMAN

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LUTHER STRANGE, ALABAMA

United States Senate

COMMITTEE ON
AGRICULTURE, NUTRITION, AND FORESTRY

WASHINGTON, DC 20510-6000

202-224-2035

DEBBIE STABENOW, MICHIGAN
RANKING DEMOCRATIC MEMBER

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MICHAEL LEE, KENTUCKY
CHRISTOPHER MURPHY, CONNECTICUT

January 8, 2018

The Honorable J. Christopher Giancarlo
Chairman
United States Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, D.C. 20581

Dear Chairman Giancarlo:

We write to you today regarding the critical issue of clearinghouse oversight. Less than two years ago, following years of negotiations, the CFTC and the European Commission (EC) reached an agreement on cross-border clearinghouse oversight. The resulting framework adopted by the CFTC received unanimous and bipartisan support from all CFTC commissioners, including you. The agreement struck a good balance, providing strong cross-border oversight while giving firms the flexibility that is needed in the global derivatives marketplace.

In response to the United Kingdom's 2016 referendum to leave the European Union, also known as "Brexit," the EC has proposed a major overhaul of its financial services regulatory framework for derivatives clearinghouses. This proposed framework threatens the 2016 CFTC-EC agreement and would effectively empower European regulators with broad and duplicative supervisory authority over U.S. clearinghouses.

Failure to abide by the terms of the 2016 CFTC-EC agreement would call into question the credibility of the process that has been undertaken cooperatively by the CFTC and the EC in recent years, particularly given the agreement was finalized less than two years ago. We support your efforts to ensure a universal solution that recognizes the respective supervisory authorities of the CFTC and the EC, and encapsulates the principles set forth in the CFTC-EC agreement. Disjointed regulatory activities will serve no market, and will only cause undue stress.

In a recent speech, you stated that any unilateral change by European authorities would be a violation of trust and cooperation between the U.S. and Europe. We agree with that assessment. If the EC moves away from the 2016 CFTC-EC agreement, the CFTC should review the appropriateness of the exemptions and relief it has granted to foreign entities, including clearinghouses established in the European Union. The CFTC has existing authority to initiate such review, and we would support your efforts if you deem them appropriate and necessary.

We appreciate your work to foster open, transparent, competitive, and financially sound markets, and we thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink that reads "Pat Roberts". The signature is written in a cursive, flowing style with a horizontal line underneath.

Senator Pat Roberts, Chairman

A handwritten signature in black ink that reads "Debbie Stabenow". The signature is written in a cursive, flowing style with a horizontal line underneath.

Senator Debbie Stabenow, Ranking Member

Congress of the United States
Washington, DC 20515

October 21, 2019

The Honorable Joseph M. Otting
Comptroller
Office of the Comptroller of the Currency
400 7th Street, S.W.
Washington, DC 20219

The Honorable Jelena McWilliams
Chairman
Federal Deposit Insurance Corporation
17th Street, N.W.
Washington, DC 20429

The Honorable Heath Tarbert
Chairman
Commodity Futures Trading Commission
1155 21st Street, N.W.
Washington, DC 20581

The Honorable Jerome H. Powell
Chairman
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, N.W.
Washington, DC 20551

The Honorable Jay Clayton
Chairman
Securities and Exchange Commission
100 F Street, N.E.
Washington, DC 20549

Dear Comptroller Otting, Chairman Powell, Chairman McWilliams, Chairman Clayton, and Chairman Tarbert:

We write to express our concern and disappointment with the amendments to the Volcker Rule implemented pursuant to Section 619 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Wall Street Reform Act)¹ recently adopted by your agencies.

Section 619 is a cornerstone of the Wall Street Reform Act that Congress enacted in the wake of the financial crisis to prohibit taxpayer-backed banks from risky proprietary trading and from owning private equity and hedge funds. These latest amendments (2019 rule)² to the Volcker Rule open the door to the very risky, speculative activities that Congress sought to prohibit.

Numerous aspects of the 2019 rule are problematic. Broadly, it appears that all of the amendments to the original Volcker Rule finalized in December 2013 (2013 rule)³ would permit more proprietary trading by banks or result in less information provided to your agencies. Among the rollbacks in the 2019 rule that alarm us are the: narrowing the definition of “trading account,” including by weakening the short-term intent prong; eliminating metrics reporting;

¹ Pub. L. 111-203.

² Revisions to Prohibitions and Restrictions on Proprietary Trading and Certain Interests in, and Relationships With, Hedge Funds and Private Equity Funds, <https://www.fdic.gov/news/board/2019/2019-08-20-notice-dis-a-fr.pdf> [hereinafter 2019 rule].

³ Prohibitions and Restrictions on Proprietary Trading and Certain Interests in, and Relationships With, Hedge Funds and Private Equity Funds, 79 Fed. Reg. 5,536 (Jan. 31, 2014), <https://www.federalregister.gov/documents/2014/01/31/2013-31511/prohibitions-and-restrictions-on-proprietary-trading-and-certain-interests-in-and-relationships-with>.

removing activity restrictions on non-U.S. banks; and expanding permitted activity related to covered funds.

The 2019 rule changes the definition of “trading account” and illustrates the deregulatory approach taken by your agencies. As you know, the Volcker Rule prohibits proprietary trading by banking entities by limiting their ability to act as principal, using their own funds, for their “trading account,” which means any account comprising trading positions that have been taken principally for the purpose of selling in the near term. The 2013 rule put substance over form to capture positions regardless of how they are reported on banks’ balance sheets.

Unfortunately, the 2019 rule upends this restriction by limiting the “trading account” to include only those positions that are reported on banks’ balance sheets as trading assets or liabilities. This significantly reduces the scope of the Volcker Rule.

As FDIC Director Marty Gruenberg explained in his dissenting statement, at the holding company level, the 2019 rule would capture \$1.8 trillion in financial instruments, instead of \$2.4 trillion under the 2013 rule—a 25 percent reduction. He further noted that at the bank level the 2019 rule would capture only \$635 billion of financial instruments, excluding about 46 percent of the financial instruments the 2013 rule would have captured.⁴

There will be less transparency regarding banking activities under the 2019 rule by the elimination of significant reporting and record keeping requirements. As stated in the 2019 rule, “the revised metrics in the final rule would result in a 67 percent reduction in the number of data items and approximately 94 percent reduction in the total volume of data,”⁵ compared to the 2013 rule. We find your stated justification that the remaining reporting requirements are “generally useful” to demonstrate compliance and “do not pose a special calculation burden” to be insufficient explanations for the significant reductions in required information.⁶

This is the type of information that Members of Congress have repeatedly requested your agencies publish in order to provide transparency to policymakers and market participants.⁷ While we appreciate that you will “continue to consider whether some or all of the quantitative measurements should be publicly disclosed,”⁸ we believe reducing the required data diminishes

⁴ Statement by Martin J. Gruenberg, Member, FDIC Board of Directors, The Volcker Rule (Aug. 20, 2019) at 2, <https://www.fdic.gov/news/news/speeches/spring2019/b.pdf>.

⁵ 2019 rule, at 206.

⁶ *Id.*

⁷ Letter from Senators Jeffrey A. Merkley, Sherrod Brown, and Elizabeth Warren to The Honorable Joseph M. Otting, Comptroller, Office of the Comptroller of the Currency, The Honorable Jerome H. Powell, Chairman, Board of Governor of the Federal Reserve System, The Honorable Jelena McWilliams, Chairman, Federal Deposit Insurance Corporation, The Honorable Jay Clayton, Chairman, Securities and Exchange Commission, and The Honorable Christopher Giancarlo, Chairman, Commodity Futures Trading Commission (July 30, 2018) (<https://www.merkley.senate.gov/imo/media/doc/18-07-30-%20SI-%20Financial%20Regulators%20Volcker%20Metrics%20Merkley%20Brown%20Warren%200621.pdf>); Letter from Representative Carolyn Maloney to The Honorable Janet Yellen, Chair, Board of Governor of the Federal Reserve System, The Honorable Thomas Curry, Comptroller, Office of the Comptroller of the Currency, The Honorable Martin Gruenberg, Chairman, Federal Deposit Insurance Corporation, The Honorable Mary Jo White, Chair, Securities and Exchange Commission, and The Honorable Timothy Massad, Chairman, Commodity Futures Trading Commission (Aug. 29, 2016) (<https://maloney.house.gov/media-center/press-releases/rep-maloney-asks-financial-regulators-for-volcker-rule-data-update>).

⁸ 2019 rule, at 212.

its usefulness. In any case, publishing that data, even on a delayed basis without any confidential information, is necessary for proper oversight by Congress.

Overall, the changes in the 2019 rule are contrary to the statutory purpose of Section 619 of the Wall Street Reform Act to prohibit proprietary trading by banking entities. As former Federal Reserve Chairman and the original proponent of the rule, Paul Volcker noted in his recent letter to Chair Powell, the U.S. is enjoying its longest economic expansion, banks are spending their profits on dividends and share buybacks, loan growth exceeds nominal GDP growth and the unemployment rate is at 50-year lows. In concluding, he added, “[t]hese facts belie any justification for the new rule. It bolsters the views of skeptics who believe that the ‘simplification’ effort was merely a ploy to weaken the core elements of reform.”⁹

We agree. In short, the 2019 rule is simply a giveaway to Wall Street banks that puts taxpayer-backed banks at risk. We believe the changes to the Volcker Rule and other regulatory changes proposed and implemented by your agencies threaten the stability of the financial system.¹⁰

So that we may better understand and respond to the potential risks of the exemptions and exclusions in the 2019 rule to taxpayers and the U.S. economy, please respond to the following by October 25, 2019.

1. Please provide the data and metrics, including the quantitative metrics required under the 2013 rule, that you considered in your analysis.¹¹
2. Please explain what you learned from that data to justify eliminating or reducing the information and data reported by banking entities. In particular, please highlight:
 - a. the metrics that you determined were unnecessary and the reporting metrics under the 2019 rule that would provide comparable information;
 - b. the metrics that support establishing the revised reporting thresholds (e.g., setting the \$20 billion level for banking entities with significant trading assets and liabilities);
 - c. how you determined that the reduced data collected under the 2019 rule will not impact any response to or analysis of a potential financial crisis; and
 - d. how you measured the increase in resolution costs for a banking entity as a result of gathering less data.

Finally, you stated that you intend to rewrite additional aspects of the 2013 rule relating to covered funds in a subsequent rulemaking. We are concerned that those revisions will permit additional investments in speculative hedge funds and other vehicles that will increase risks to banks and the financial system.

⁹ Letter from Paul Volcker to The Honorable Jerome Powell, Chairman, Board of Governor of the Federal Reserve System (Aug. 20, 2019).

¹⁰ Letter from Representative Maxine Waters and Senator Sherrod Brown to The Honorable Jerome Powell, Chairman, Board of Governor of the Federal Reserve System, The Honorable Jelena McWilliams, Chairman, Federal Deposit Insurance Corporation, and The Honorable Joseph Otting, Comptroller, Office of the Comptroller of the Currency (July 31, 2019) https://financialservices.house.gov/uploadedfiles/07312019-hr_to_fed_fdic_fcc_swaps.pdf.

¹¹ If necessary, you may protect any confidential or proprietary data in your response.

Accordingly, we urge you to reconsider your decision to adopt the 2019 amendments and any further amendments to the Volcker Rule that permit banks, backed by U.S. taxpayers, to once again engage in risky trading and investment activity.

Thank you for your attention to this matter.

Sincerely,

A bold, black, handwritten signature of Sherrod Brown.

Sherrod Brown
Ranking Member
Committee on Banking, Housing, and Urban
Affairs
U.S. Senate

A black, handwritten signature of Maxine Waters.

Maxine Waters
Chairwoman
Committee on Financial Services
U.S. House of Representatives

ALEX X. MOONEY
2040 RAYBURN HOUSE BUILDING
WASHINGTON, WEST VIRGINIA

FINANCIAL SERVICES COMMITTEE
SUBCOMMITTEE ON
FEDERAL RESERVE, FINANCIAL INSTITUTIONS
AND CAPITAL MARKETS
SUBCOMMITTEE ON
DIVERSITY AND INCLUSION

Congress of the United States
House of Representatives
Washington, DC 20515-4802

Capitol Hill, Room 1001
405 Cannon Street
Suite 300
Charleston, WV 25301
(304) 225-5060

Capitol Hill, Room 1001
303 Foxcroft Avenue
Suite 300
Martinsburg, WV 25401
(304) 224-8810

Capitol Hill, Room 1001
2440 Rayburn House Office Building
Washington, DC 20515
(202) 225-2711

<http://mooney.house.gov>

August 19, 2019

The Honorable Heath P. Tarbert
Chairman
U.S. Commodity Futures Trading Commission
1155 21st Street NW
Washington, DC 20581

Dear Chairman Tarbert:

I am following up on my previous letter dated February 5th, 2019, addressed to former Chairman Giancarlo (see enclosed).

Given the importance of the issues and questions raised in the letter (and by the Gold Anti-Trust Action Committee) regarding gold and silver market manipulation, I am especially disappointed the Commission has inexplicably failed to provide a response.

I ask that you provide a complete and thorough response within 30 days to the questions posed.

Sincerely,



Alex X. Mooney
Member of Congress

Enclosures: Congressman Mooney letter to former Chairman Giancarlo dated
February 5, 2019 (with its original enclosures)

FINANCIAL SERVICES COMMITTEE

SUBCOMMITTEE ON
INVESTOR PROTECTION, ENTREPRENEURSHIP
AND CAPITAL MARKETS

SUBCOMMITTEE ON
DIVERSITY AND INCLUSION

Congress of the United States
House of Representatives
Washington, DC 20515-4802

February 5, 2019

CHARLESTON OFFICE
405 CANNON STREET
SUITE 300
CHARLESTON, WV 25301
(304) 225-5854

MARTINSBURG OFFICE
300 FOXGROVE AVENUE
SUITE 101
MARTINSBURG, WV 25401
(304) 264-8910

WASHINGTON OFFICE
2440 HAYDEN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
(202) 225-2711

<http://mooney.house.gov>

The Honorable J. Christopher Giancarlo
Chairman
U.S. Commodity Futures Trading Commission
1155 21st Street NW
Washington, D.C. 20581

Dear Chairman Giancarlo:

Late last year, the U.S. Justice Department obtained a guilty plea from a former commodities trader for JP Morgan Chase & Co. to charges of manipulating the gold and silver markets between 2009 and 2015, and its investigation into the actions of related parties is ongoing.

The period at issue substantially overlaps the time during which your commission was investigating complaints of manipulation of the silver market – 2008 to 2013. However, in 2013, the commission announced that it had closed its investigation without finding any wrongdoing.

Why did the commission fail to find the wrongdoing the Justice Department has confirmed and continues to investigate? Also, will the commission now be re-opening its investigation into silver market manipulation and opening an investigation into gold market manipulation? If not, why not?

Also, I read with interest the July 28 and September 21, 2018, letters sent to your commission by the Gold Anti-Trust Action Committee, and I reviewed the reply by the commission's legislative affairs director, N. Charles Thornton III.

I am disappointed that Mr. Thornton sent what appeared to be a form letter to brush off the serious questions GATA posed. Thornton did not seem to acknowledge the questions put to the commission, much less answer them.

I enclose copies of these letters for your review.

As we conduct our own research into the fairness and competitiveness of our country's markets (particularly with respect to monetary assets such as gold and silver), and because I believe the commission has a responsibility to address these questions conscientiously, I wish to reiterate and elaborate on them:

- 1) GATA asserts that recently on certain trading days in the New York futures markets there have been big discrepancies between the preliminary gold open interest and the

final open interest reported. Is this correct? If so, what explains it? Does it imply market manipulation?

2) GATA asserts that in recent months there has been a huge increase in the use of the "exchange for physicals" emergency mechanism of settling gold futures contracts in the New York market. Is this correct? If so, are these "exchange for physicals" settlements genuine, representing metal really changing hands between wholly independent parties, or are they mere accounting devices for concealing questionable and possibly manipulative trading between parties actually working together? What explains this development?

3) GATA asserts that huge amounts of gold futures are being traded daily in the New York market even as the exchange operator reports that little metal is registered as available for delivery. Is this correct? If so, is this trading genuine or just speculative or even manipulative of prices? Does the commission have an opinion on the great disproportion alleged between the number of futures contracts traded and the volume of metal available for delivery?

4) GATA asserts that in recent months there has been an extraordinarily close correlation between the gold price and the value of the Chinese yuan. Is this correct, and, if so, has the commission been aware of this correlation? If there has been such a correlation, does it suggest that certain entities are trading gold and the yuan to control their prices, undermining free markets? Has the commission investigated this?

5) GATA asked whether the commission's regulatory jurisdiction covers futures trading by the U.S. government and other governments – or by brokers acting for the U.S. government or for other governments trading with the U.S. government's approval. Please let me know whether the commission has such jurisdiction.

Please also let me know whether the commission is aware if the U.S. government and other governments are trading in U.S. futures markets directly or indirectly.

Thank you, and I look forward to your response.

Sincerely,

Alex X. Mooney
Member of Congress

Enclosures

U.S. HOUSE OF REPRESENTATIVES

WASHINGTON, DC 20515-4802

PUBLIC DOCUMENT

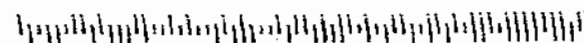
OFFICIAL BUSINESS

Alex X. Mooney

M.C.

Hon. Tarbert
1155 21st Street NW
Washington, DC 20581

NOV 04 2019



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PATRICK J. TOOMEY, PENNSYLVANIA
TIM SCOTT, SOUTH CAROLINA
BEN Sasse, NEBRASKA
TOM COTTON, ARKANSAS
MIKE PENCE, SOUTH DAKOTA
DAVID PERDUE, GEORGIA
THOM HILL, NORTH CAROLINA
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DUSTY JOHNS, ALABAMA
TINA SMITH, MINNESOTA
KYLE SHIMURA, ARIZONA

SENATOR CHARLIE SCHUMER, NEW YORK
ALABAMA SENATOR MIKE CRAIG, DARTMOUTH

United States Senate

COMMITTEE ON BANKING, HOUSING, AND
URBAN AFFAIRS

WASHINGTON, DC 20510 6075

December 18, 2019

The Honorable Jerome H. Powell
Chairman
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue NW
Washington, DC 20551

The Honorable Joseph M. Otting
Comptroller of the Currency
Office of the Comptroller of the Currency
400 7th Street SW
Washington, DC 20219

The Honorable Jay Clayton
Chairman
Securities and Exchange Commission
100 F Street NE
Washington, DC 20549

The Honorable Jelena McWilliams
Chairman
Federal Deposit Insurance Corporation
17th Street NW
Washington, DC 20429

The Honorable Heath P. Tarbert
Chairman
Commodity Futures Trading Commission
1155 21st Street NW
Washington, DC 20581

Dear Chairman Powell, Comptroller Otting, Chairman McWilliams, Chairman Clayton and Chairman Tarbert:

I appreciate the important step forward the Federal Reserve, Federal Deposit Insurance Corporation, Office of the Comptroller of the Currency, Securities and Exchange Commission, and Commodity Futures Trading Commission (“Agencies”) took earlier this year to simplify the Volcker Rule by jointly finalizing amendments to further streamline and tailor the 2013 Volcker Rule. Although these amendments did address many of the flawed aspects of the 2013 Rule, it left the covered funds provisions relatively untouched, maintaining the “covered fund” definition’s overly-broad application to venture capital, other long-term investments and loan creation. As a result, the Volcker Rule will continue to unnecessarily inhibit activity that is critical to innovation, capital formation and economic growth.

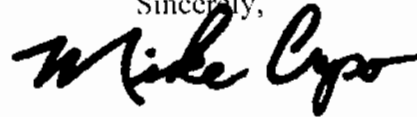
Under Section 13 of the Bank Holding Company Act, which was added by Section 619 of the Dodd-Frank Act, Congress gave the Agencies the discretion to revise the Volcker Rule. The Agencies have already relied on this tailoring authority to exclude 13 types of issuers from the general definition of “covered fund.” Funds that engage in long-term investing and lending activities do not engage in proprietary trading, but instead provide long-term financing, whether it be debt or equity, to companies in need of capital. Responding to a question during a House

Financial Services Committee hearing regarding the impact on long-term investments resulting from the covered funds provisions, Chairman Powell said, "I think we're bound by what the statute says, but within that we don't see this as an activity that typically threatens safety and soundness" of the financial system. The Agencies should ensure that banking entities can continue to engage in these permissible activities that provide capital to companies and spur economic growth whether through or along-side long-term investment funds.

I encourage the Agencies to use the authority granted to them by Congress in Section 619 of the Dodd-Frank Act to further revise the Volcker Rule's definition of "covered fund" to ensure that banking entities can continue to engage in important activities, whether through long-term investment funds, venture capital funds or any other structure or strategy where banking entities can provide capital to companies and spur economic growth without increasing risks to the financial system. During the Senate Banking Committee's most recent hearing on "Oversight of Financial Regulators," I asked both Vice Chairman Quarles and Chairman McWilliams if each would commit to address the covered funds issue quickly and each promptly responded in the affirmative. It is critically important for this country's economic growth that this revision to the covered funds portion of the Volcker Rule happen quickly.

Thank you in advance for your consideration.

Sincerely,

A handwritten signature in black ink that reads "Mike Crapo". The signature is fluid and cursive, with the first name "Mike" and last name "Crapo" clearly distinguishable.

Mike Crapo
Chairman

RICK CRAWFORD
1ST DISTRICT, ARKANSAS

COMMITTEE ON AGRICULTURE
CHIEF CLERK: SUBCOMMITTEE ON COMMODITY
AND CREDIT MARKETS

COMMITTEE ON TRANSPORTATION
AND INFRASTRUCTURE

PERMANENT SELECT
COMMITTEE ON INTELLIGENCE

Congress of the United States
House of Representatives
2422 Rayburn Building
Washington, DC 20515

December 5, 2019

The Honorable Heath P. Tarbert, Chairman
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581

Chairman Tarbert:

It has been widely reported that you are preparing to introduce a new proposed rule regarding speculative position limits. I am passionate about this subject as it directly relates to the agricultural interests of my constituents in Arkansas.

I have strong concerns regarding the impact of excessive speculative trading in agricultural markets. As you review the feedback provided during the comment period, I urge you to pay special attention to the analysis provided by agricultural producers, merchants, and processors regarding the level of the proposed limits. While speculators play an essential role in derivatives markets, it is imperative that the final rule results in markets which continue to work for the agricultural community.

Further, I realize that commodity merchandizers depend upon hedge exemptions for *bona fide hedging* practices. This practice allows producers to shift their price and other risks to merchants and is critical for basic agricultural risk management. I urge you to develop a comprehensive interpretation of *bona fide hedging* that considers all current and practical ways my producer constituents market their crops to merchants.

Thank you for your consideration of these important matters.

Sincerely,



Rick Crawford
MEMBER OF CONGRESS

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WAW CRAWFORD@HOUSE.OW

Congress of the United States
Washington, DC 20515

September 3, 2019

The Honorable Heath Tarbert
Chairman
U.S. Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street NW
Washington, D.C. 20581

Chairman Tarbert:

We write to request that the Financial Stability Oversight Council (FSOC or the Council) convene a meeting and consider designating the three leading providers of cloud-based storage systems for the financial industry: Amazon Web Services, Microsoft Azure, and Google Cloud—as systemically important financial market utilities (SIFMUs).

Last month’s data breach at Capital One Financial Corporation (Capital One) was the most recent in a string of incidences demonstrating the dangerous breadth of banks’ and financial institutions’ increasing reliance on cloud computing—and the reach of Amazon Web Services in particular. While it has been determined that an error by Capital One enabled the breach, the incident raises new and serious questions about banks’ and financial institutions’ dependence on cloud services for their data needs—and the risks these systems pose to the safety and stability of the financial system.

Title VIII of the Dodd-Frank Act was enacted to promote stability in the financial system, in part by granting the FSOC the ability to conduct enhanced oversight of Financial Market Utilities (FMUs). Per the Federal Reserve: “In cases where, among other things, a failure or a disruption to the functioning of an FMU could create, or increase, the risk of significant liquidity or credit problems spreading among financial institutions or markets and thereby threaten the stability of the U.S. financial system, the FMU may be designated as systemically important.” Title VIII authorizes the Board of Governors of the Federal Reserve to, among other powers, conduct examinations of, take enforcement action against, and prescribe risk management standards for entities designated as systemically important FMUs, or SIFMUs.¹

¹ “Designated Financial Market Utilities: Title VIII of the Dodd-Frank Act,” *Board of Governors of the Federal Reserve System* at: <https://www.federalreserve.gov/paymentsystems/title-viii-dfa.htm>

According to the FSOC, it must consider the following four factors when analyzing the appropriateness of a SIFMU designation: “(1) the aggregate monetary value of transactions processed by the FMU; (2) the aggregate exposure of the FMU to its counterparties; (3) the relationship, interdependencies, or other interactions of the FMU with other FMUs or payment, clearing, or settlement activities; and (4) the effect that the failure of or a disruption to the FMU would have on critical markets, financial institutions, or the broader financial system.”² Though there are operational differences between cloud service providers and the eight existing SIFMUs, cloud services have become an essential element of our modern financial system and should be overseen commensurately.

First, though the cloud service providers at issue may not process monetary transactions directly, their operational stability underpins an increasing share of banks’ central functions. For example, Bank of America Corporation intends to deliver 80 percent of its technological functions on virtual platforms and with public cloud infrastructure “within the next several years.”³ According to its Chief Technology Officer, Microsoft Azure “continues to see strong cloud adoption from the financial services industry, with more than 80 percent of the world’s largest banks and more than 75 percent of the global systemically important financial institutions using Azure.”⁴ HSBC’s Chief Information Officer expressed similar sentiments at Google’s 2017 Next conference: “Apart from having the \$2.4 trillion of assets on the balance sheet, we also have at the core of the company a massive asset in our data, and what’s been happening in the last two to three years is a massive growth in the size of our data assets.” HSBC uses Google Cloud; the volume of data held at the time of the conference was over 100 petabytes—or 100 million gigabytes.⁵

As data becomes increasingly monetized, hackers become more sophisticated, and firms put more data on servers or the cloud, these breaches are getting more severe. There have been over 9,000 data breaches made public since 2005, which have exposed over 11 billion records in the United States alone.⁶ In 2005, 1.4 million credit card numbers and the names on those accounts, held by DSW Shoe Warehouse, were breached—the first time a breach compromised over a million records. In 2017, the Equifax breach exposed the personally identifiable information of 148 million people.⁷ First reported in July of this year, a data breach at Capital One, which relies on Amazon Web Services for its data storage, compromised over 100 million Capital One

² Dodd-Frank Act section 804(a)(2); 12 U.S.C. § 5463(a)(2).

³ Bank of America chooses the Microsoft Cloud to support digital transformation,” *Microsoft News Center* (Oct. 2017) at: <https://news.microsoft.com/2017/10/02/bank-of-america-chooses-the-microsoft-cloud-to-support-digital-transformation/>

⁴ Id.

⁵ James Bourne, “Google gets Colgate, Verizon, HSBC on board – a customer step up for enterprise cloud,” *Cloud Tech* (March 2017) at: <https://www.cloudcomputing-news.net/news/2017/mar/13/google-gets-colgate-verizon-hsbc-board-customer-step-enterprise-cloud/>

⁶ “Data Breaches,” *Privacy Rights Clearinghouse* at: <https://www.privacyrights.org/data-breaches>

⁷ Merrit Kennedy, “Equifax Says 2.4 Million More People Were Impacted By Huge 2017 Breach,” *NPR* (March 2018) at: <https://www.npr.org/sections/thetwo-way/2018/03/01/589854759/equifax-says-2-4-million-more-people-were-impacted-by-huge-2017-breach>

customer accounts and credit card applications.⁸ Though cloud service providers may not process monetary transactions like other SIFMUs, these firms provide the world's biggest banks with the technological foundation necessary to link to one another and other financial and commercial market participants, thereby helping to enable monetary and commercial transactions while simultaneously maintaining their clientele's most sensitive information and associated assets.

With regard to the second factor, though there is no direct financial exposure if the cloud fails, the counterparty exposure in the form of a failure to provide the cloud service—and the operational losses that stem from that failure—could be significant.

Third, the volatility of public confidence in cloud services and the necessity of data integrity to maintaining that confidence is common to all cloud service providers. A data breach or other disruptive event that shakes public perception of the trustworthiness of the cloud could discourage consumers from using cloud-reliant banks and potentially spur a bank run. Should any cloud service provider fail, public mistrust of the service would not be limited to that one company. Particularly given the rapid speed of technological development, enforcing appropriate safeguards is critical to maintaining continued public acceptance of the cloud.

Fourth, the effect of a disruption to a cloud services provider on the broader financial system could be catastrophic. According to a 2016 report by McKinsey, 100 percent of financial institutions use cloud services in some capacity.⁹ In addition to financial institutions, our government has come to rely on Amazon Web Services for a massive share of its data storage needs: the Department of Defense holds a \$10 billion cloud computing contract with Amazon Web Services, and NASA and the state of Arizona are also clients of AWS.¹⁰ An Amazon Web Services cloud failure in particular would debilitate major swaths of the financial industry, basic government functions, and our national security.

It is important to note that not all four factors are weighted equally. According to the FSOC in its 2011 Rule describing the criteria the Council would consider in designating SIFMUs, “the two critical determinations for an FMU designation are: (1) Whether the failure of or a disruption to the functioning of the FMU now or in the future could create, or increase, the risk of significant liquidity or credit problems spreading among financial institutions or markets (the “First Determination”); and (2) Whether the spread of such liquidity or credit problems among

⁸ Rob McLean, “A hacker gained access to 100 million Capital One credit card applications and accounts,” CNN (July 2019) at: <https://www.cnn.com/2019/07/29/business/capital-one-data-breach/index.html>

⁹ Nagendra Bomnadevara, Andrea Del Miglio, and Steve Jansen, “Cloud Adoption to Accelerate IT Modernization,” *McKinsey Digital* (April 2018) at: <https://www.mckinsey.com/business-functions/digital-mckinsey/our-insights/cloud-adoption-to-accelerate-it-modernization>

¹⁰ Jefferson Graham, “Capital One data breach: Amazon Web Services is backbone for Netflix, NASA and others,” *USA Today* (July 2019) at: <https://www.usatoday.com/story/tech/talkingtech/2019/07/30/amazon-aws-unit-says-its-not-responsible-capital-one-data-breach/1868862001/>

financial institutions or markets could threaten the stability of the financial system of the United States (the “Second Determination”).”¹¹

While not all banks have made public their cloud service providers, among major financial institutions, Capital One and Liberty Mutual use Amazon Web Services,¹² Bank of America uses Microsoft Azure,¹³ and HSBC uses Google Cloud.¹⁴ Fifty-seven percent of the cloud services market is cornered by those three providers: in the first quarter of this year, Amazon Web Services controlled 33 percent of the market, Microsoft Azure 16 percent, and Google Cloud 8 percent.¹⁵ Given the technical nature of computing services, a firm like Bank of America would not be able to quickly transfer its cloud services to Amazon Web Services, should Microsoft Azure fail. In the interim, while the cloud was nonfunctional, the bank would be unable to perform up to 80 percent of its technological functions—potentially creating significant liquidity disruptions.¹⁶ A lack of substitutability for the services provided by these very few firms creates systemic risk; a disruption at any major cloud computing platform would cause widespread and immediate harm and compromise the stability of the market.

Additionally, cloud services are not currently subject to an appropriate and enforced regulatory regime. In April, Federal Reserve examiners assessed an Amazon.com facility in Virginia,¹⁷ using their limited power under the Bank Service Company Act to oversee nonbank vendors that provide the software to run banks’ deposit and loan platforms.¹⁸ “Chaperoned by an Amazon employee, they were allowed to review certain documents on Amazon laptops, but not allowed to take anything with them.”¹⁹ The perfunctory review of a handful of Amazon-selected documents over the course of a few hours, on-site, is not meaningful oversight. Without a dedicated regulatory regime proportional and tailored to their very unique structure and risks, cloud computing companies will continue to evade supervision.

Our concerns are shared by the world’s major financial market regulators. In February of this year, the Financial Stability Board—an international body comprised of the G-20’s central banks

¹¹ “Authority To Designate Financial Market Utilities as Systemically Important,” Final Rule, Financial Stability Oversight Council, *Federal Register* (July 2011) at <https://www.federalregister.gov/documents/2011/07/27/2011-18948/authority-to-designate-financial-market-utilities-as-systemically-important>

¹² Jefferson Graham, “Capital One data breach: Amazon Web Services is backbone for Netflix, NASA and others,” *USA Today* (July 2019) at <https://www.usatoday.com/story/tech/techtalk/2019/07/30/amazon-aws-unit-says-its-not-responsible-capital-one-data-breach/1868862001/>

¹³ “Bank of America chooses the Microsoft Cloud to support digital transformation,” *Microsoft News Center* (Oct. 2017) at: <https://news.microsoft.com/2017/10/02/bank-of-america-chooses-the-microsoft-cloud-to-support-digital-transformation/>

¹⁴ “HSBC To Launch AML System With Google Cloud,” *PYMNIS.com* (Nov. 2018) at: <https://www.pymnts.com/news/security-and-risk/2018/hsbc-anti-money-laundering-google-cloud/>

¹⁵ Nicole Henderson, “Cloud Market Share: AWS Still Ahead, But Watch Google Grow,” *ITPro Today* (May 2019) at: <https://www.itprotoday.com/iaaspaas/cloud-market-share-aws-still-ahead-watch-google-grow>

¹⁶ “Bank of America chooses the Microsoft Cloud to support digital transformation,” *Microsoft News Center* (Oct. 2017) at: <https://news.microsoft.com/2017/10/02/bank-of-america-chooses-the-microsoft-cloud-to-support-digital-transformation/>

¹⁷ Liz Hoffman, Dana Mattioli, and Ryan Tracy, “Fed Examined Amazon’s Cloud in New Scrutiny for Tech,” *Wall Street Journal* (August 2019) at: https://www.wsj.com/articles/fed-examined-amazons-cloud-in-new-scrutiny-for-tech-11564693812?mod=hp_lead_pos6

¹⁸ 12 U.S.C. § 1867

¹⁹ *Id.*

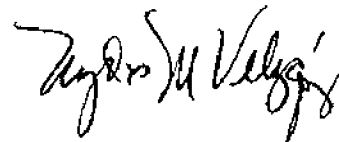
and supervisors—noted that Big Tech is invading the financial sector and could upend the stability of the market.²⁰ In April, top European Union financial regulators issued a report in which they advocated for legislation to monitor cloud computing services that are central to financial institutions. The supervisors highlighted the vulnerabilities implicit in the financial industry’s heavy reliance on third parties and noted that their concerns are “especially acute with regard to cloud services.”²¹

Given the serious and far-reaching risks inherent in our reliance on a handful of cloud service providers to maintain the basic functioning of our economy, we ask that you consider designating as SIFMUs the country’s largest cloud service providers, including but not limited to Amazon Web Services, Google Cloud, and Microsoft Azure. Please respond by September 15th with a description of the FSOC’s plan to consider these designations. If the Council will not evaluate the appropriateness of using its authority under 12 U.S.C. § 5463 to regulate cloud computing providers, please respond with your reasoning.

Sincerely,



Congresswoman Katie Porter



Congresswoman Nydia M. Velázquez

cc: Andrew R. Jassy, Chief Executive Officer, Amazon Web Services
Thomas Kurian, Chief Executive Officer, Google Cloud
Mark Russinovich, Chief Technology Officer, Microsoft Azure

²⁰ Silla Brush, “Big Tech Is Coming for Big Bank Profits, Finance Regulators Warn,” *Bloomberg* (Feb. 2019) at: <https://www.bloomberg.com/news/articles/2019-02-14/big-tech-is-coming-for-big-bank-profits-finance-regulators-warn>

²¹ *Id.*

Congress of the United States
House of Representatives
Washington, DC 20515-1314

July 6, 2018

The Honorable Steve Mnuchin
Secretary
U.S. Department of the Treasury
1500 Pennsylvania Ave., NW
Washington, D.C. 20220

The Honorable Joseph Otting
Comptroller of the Currency
Office of the Comptroller of the Currency
400 7th Street, SW
Washington, D.C. 20219

The Honorable Jerome Powell
Chairman
Board of Governors of the Federal Reserve
System
20th Street and Constitution Avenue, NW
Washington, DC 20551

The Honorable Jelena McWilliams
Chair
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429

The Honorable Jay Clayton
Chairman
U.S. Securities and Exchange Commission
100 F Street N.E.
Washington, D.C. 20549

The Honorable Christopher Giancarlo
Chairman
U.S. Commodity Futures Trading Commission
Three Lafayette Centre, 1155 21st Street, NW
Washington, DC 20581

Dear Secretary Mnuchin, Comptroller Otting, Chairman Powell, Chair McWilliams, Chairman Clayton, and Chairman Giancarlo:

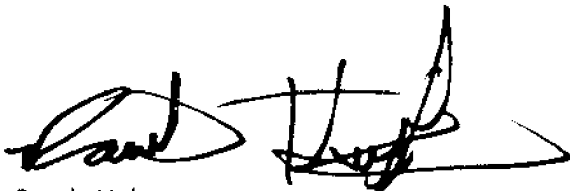
Thank you for your review of regulations issued in response to the financial crisis, including the so-called Volcker Rule ("the Rule") implementing Sec. 619 of the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act"). Congress has expressed a number of concerns with the Volcker Rule – one issue where there is broad agreement is the Rule's detrimental impact to venture capital funds and the start-up companies that they support. Before the Volcker Rule, banks provided 7% of the dollars invested in venture capital funds and were a reliable source of funding for smaller venture capital funds that are not as attractive to large institutional investors. This regulatory impediment to capital formation is especially challenging to communities outside of major metropolitan areas where the economy has not recovered as quickly and which rely on start-up companies to drive job growth.

The Volcker Rule's current prohibition on financial institutions investing in certain "covered funds" inappropriately includes venture capital. Section 619 of the Dodd-Frank Act includes "prohibitions on proprietary trading and certain relationships with hedge funds and private equity funds" without any mention of venture capital. The Congressional Record clearly demonstrates that venture capital was never intended to be covered. In a colloquy with Senator Boxer, then Chairman Dodd noted, "[Senator Boxer's] understanding is correct. ... I expect the regulators to use the broad authority in the Volcker Rule wisely and clarify that funds that invest in technology startup companies, such as venture capital funds, are not captured under the Volcker Rule and fall outside the definition of 'private equity funds.'"

Regulators could easily resolve this issue by excluding venture capital from the definition of covered funds. For example, the Securities and Exchange Commission has provided a narrow definition for venture capital in rule 203(1)-1 under the Investment Advisers Act.

Fortunately, the Administration recognized these concerns in the Treasury Department's June 2017 Report to the President: A Financial System That Creates Economic Opportunities - Banks and Credit Unions. The Report notes, "Treasury believes that changes to the covered fund provisions can greatly assist in the formation of venture and other capital that is critical to fund economic growth opportunities."¹ I urge you to exclude venture capital from the definition of covered funds. Congress stands ready to work together with you to clarify this regulatory impediment to capital formation for start-up companies.

Very Respectfully,

A handwritten signature in black ink, appearing to read "Randy Hultgren", with a stylized flourish extending from the end.

Randy Hultgren
MEMBER OF CONGRESS

RON KIND
THIRD DISTRICT, WISCONSIN
SENIOR WHIP
WAYS AND MEANS COMMITTEE

Congress of the United States
House of Representatives

October 16, 2019

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WEBSITE: kind.house.gov

The Honorable Heath Tarbert
Chairman
Commodities Future Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581

Dear Chairman Tarbert:

I am writing as a concerned member to engage the Commission on an important issue that has been brought to our attention regarding potential irregular activities, practices, and methodologies used in the price assessment of the Midwest Premium (MWP) reference price. This process appears to have dramatically influenced the U.S. cost of aluminum and those practices might be designed to serve aluminum producers and speculators to the detriment of end users. I further believe many of the recent MWP increases may in fact be purely speculation reflecting only offers in the market rather than any actual consumer transactions or physical movement of metal.

The CFTC is charged with the responsibility to prevent illegal price manipulation and unfair trading. It has indicated under Congressional testimony that it has authority to regulate these activities.

To that end, there's a sense of urgency for the Commission to act. The MWP spot price has more than doubled (from 9 cents to 19 cents) since the announcement of aluminum tariffs by the Administration. Each penny movement in the MWP translates into hundreds of millions of dollars in increased costs to consumers.

I appreciate the opportunity to provide my views and look forward to your prompt reply on CFTC action going forward.

Sincerely,



Ron Kind
Member of Congress

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U.S. HOUSE OF REPRESENTATIVES

WASHINGTON, DC 20515-4903

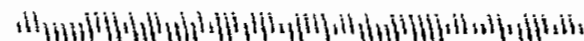
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OFFICIAL BUSINESS

Ron Kind

M.C.

The Honorable Heath Tarbert
Commodities Future Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581



U.S. SENATE

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United States Senate

COMMITTEE ON BANKING, HOUSING, AND
URBAN AFFAIRS

WASHINGTON, DC 20510-6075

October 1, 2018

The Honorable Steven T. Mnuchin
Secretary
Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

The Honorable Jerome H. Powell
Chairman
Board of Governors of the Federal Reserve
System
20th Street and Constitution Avenue, NW
Washington, DC 20551

The Honorable Jay Clayton
Chairman
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

The Honorable Joseph M. Otting
Comptroller
Office of the Comptroller of the Currency
400 7th Street, SW
Washington, DC 20219

The Honorable Jelena McWilliams
Chairman
Federal Deposit Insurance Corporation
17th Street, NW
Washington, DC 20429

The Honorable Christopher Giancarlo
Chairman
Commodity Futures Trading Commission
1155 21st Street, NW
Washington, DC 20581

Dear Secretary Mnuchin, Comptroller Otting, Chairman Powell, Chairman McWilliams,
Chairman Clayton and Chairman Giancarlo:

We write to express our support for your interagency efforts¹ to revise the Volcker Rule.² Since its enactment as part of the Dodd-Frank Act in 2010, the agencies charged with implementing and enforcing the Volcker Rule as well as those banking entities that must comply with it have grappled with understanding and appropriately balancing the tensions inherent in the Volcker Rule. This includes questions around which entities and activities are covered, the impact to market liquidity, coordination of supervision and enforcement, and the collateral damage to smaller entities. Although the Economic Growth, Regulatory Relief, and Consumer Protection Act helped to address the impact of the Volcker Rule on smaller entities, many of these issues remain outstanding.

¹ Section 619 of the Dodd-Frank Act states that the Secretary of the Treasury, in his capacity as Chairperson of the Financial Stability Oversight Council, "shall be responsible for coordination of the regulations issued under this section [619]." We encourage and expect the Treasury Secretary to fulfill this important statutory responsibility.

² See OCC, Federal Reserve, FDIC, SEC and CFTC, *Proposed Revisions to Prohibitions and Restrictions on Proprietary Trading and Certain Interests in, and Relationships With, Hedge Funds and Private Equity Funds*, 83 Fed. Reg. 33432 (July 17, 2018).

October 1, 2018

Page 2 of 3

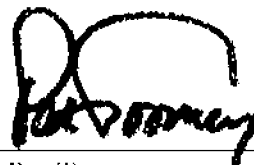
With the benefit of four years' experience with the Voleker Rule, it is altogether appropriate to revisit the decisions the agencies made in the final rule.³ The Notice of Proposed Rulemaking is a first step in that process. We urge you to reexamine all aspects of the Voleker Rule's implementation as you consider the comments you receive and the recommendations made by the Treasury Department in its 2017 report (the "Treasury Report").⁴ In particular, we note that you proposed few changes to the Voleker Rule's "covered funds" provisions. We encourage the agencies to use the discretion granted them by Congress in Section 619 to revise the definition of "covered fund" or include additional exclusions to address the current definition's overly-broad application to venture capital, other long-term investments and loan creation and recommendations from the Treasury Report. As a general matter, any activity permissible for a banking entity to do directly, especially those that provide stable capital and encourage economic growth, should be permissible through a fund structure as well. As Chairman Powell recently stated, these permissible activities do not threaten safety and soundness and themselves are subject to a comprehensive regulatory framework that imposes various requirements and limitations to address inherent risks.

We look forward to your prompt next steps to reevaluate and tailor the Voleker Rule further.

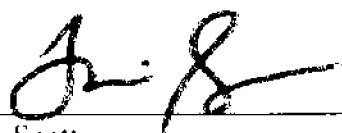
Sincerely,



Mike Crapo
Chairman



Pat Toomey
United States Senator




Tim Scott
United States Senator



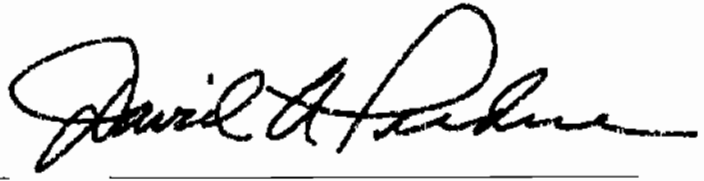
Tom Cotton
United States Senator

³ Indeed, the agencies themselves committed to revisit certain aspects of the final rule at the time it was approved. See, e.g., OCC, Federal Reserve, FDIC, SEC and CFTC, *Prohibitions and Restrictions on Proprietary Trading and Certain Interests in, and Relationships With, Hedge Funds and Private Equity Funds*, 79 Fed. Reg. 5536 (Jan. 31, 2014), at 5765 (stating "[t]he Agencies will review the data collected and revise this collection requirement as appropriate...").

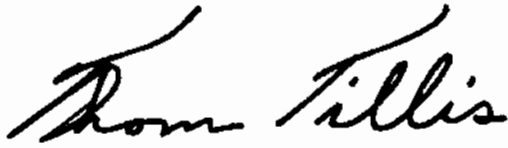
⁴ U.S. Department of the Treasury, *A Financial System That Creates Economic Opportunities: Banks and Credit Unions* (June 12, 2017).



M. Michael Rounds
United States Senator



David Perdue
United States Senator



Thom Tillis
United States Senator

Congress of the United States
Washington, DC 20515

October 17, 2019

Mr. Heath P. Tarbert
Chairman and Chief Executive
U.S. Commodity Futures Trading Commission
1155 21st St., NW
Washington, D.C. 20581

Dear Chairman Tarbert:

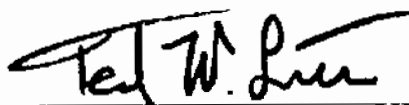
We write to urge you to investigate potentially unlawful behavior related to the trading of electronically traded futures contracts on the Chicago Mercantile Exchange in the last several months.

On October 16, *Vanity Fair* reported on numerous instances in which individuals or groups of individuals made millions, and in some cases billions, of dollars in profits by trading large numbers of Standard & Poor's 500 (S&P) e-mini futures contracts immediately prior to major geopolitical events.^[1] In each of these instances, the e-mini contracts were traded within days, and often within hours, of the S&P rising or falling sharply. The trades preceded such events as the Saudi Aramco attack as well as announcements related to progress in talks between the United States and China over the trade war and the withdrawal of the extradition bill in Hong Kong. In one case occurring in August, the trader or traders made \$1.5 billion when the S&P rose after President Trump lied about phone calls taking place between United States and Chinese officials.

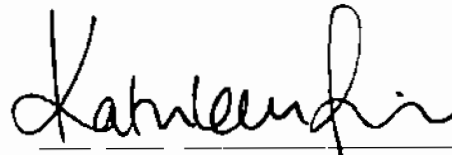
While the aforementioned trades may be purely coincidental, their timing and scale raise serious suspicions about whether the traders received material nonpublic information that would affect the S&P and how they received such information. We urge you to swiftly investigate whether trading on insider information or any other fraudulent behavior occurred in relation to these trades.

Thank you for your attention to this matter. We look forward to your response.

Sincerely,



Ted W. Lieu
Member of Congress



Kathleen M. Rice
Member of Congress

^[1] Cohan, William D. "There is Definite Hanky-Panky Going On" The Fantastically Profitable Mystery of the Trump Chaos Trades." *Vanity Fair*, Condé Nast, 16 Oct. 2019, https://www.vanityfair.com/news/2019/10/the-mystery-of-the-trump-chaos-trades?utm_source=twitter&utm_medium=social&utm_campaign=onsite-share&utm_brand=vanity-fair&utm_social-type=earned.

cc:

Mr. Brian D. Quintenz, Commissioner, U.S. Commodity Futures Trading Commission
Mr. Rostin Behnam, Commissioner, U.S. Commodity Futures Trading Commission
Ms. Dawn DeBerry Stump, Commissioner, U.S. Commodity Futures Trading Commission
Mr. Dan M. Berkovitz, Commissioner, U.S. Commodity Futures Trading Commission

TWL:ea

ED PERLMUTTER

7th District, Congress

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1440 Longwood Drive, Suite 1000, Bethesda, MD 20814
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Congress of the United States

House of Representatives

June 11, 2018

COMMITTEES
FINANCIAL SERVICES
Treasury, Banking, Finance

SCIENCE, SPACE, AND
TECHNOLOGY



The Secretariat
Received

June 20, 2018

Chairman J. Christopher Giancarlo
Commodity Futures Trading Commission
1155 21st Street, NW
Washington, DC 20581

Dear Chairman Giancarlo:

I write concerning possible irregularities in the aluminum market which may be inappropriately inflating the price of aluminum. These price increases impact American consumers at the rate of hundreds of millions of dollars every year in the form of higher prices for aluminum goods. These pricing irregularities appear to stem from the "Midwest Premium" (or MWP). The MWP reference price is charged to all end users of aluminum in the United States, and is intended to account for the cost of storage and transportation of aluminum to end users.

The MWP has recently undergone sharp price increases, despite the fact logistical costs of sourcing metal from around the world have not moved significantly. Most recently, from November 2017 to March 2018, before the announcement of the 10% tariff on imported aluminum by the Trump administration, the MWP more than doubled to over 20 cents per pound.

The MWP is set by the ratings service Platts. I am concerned Platts' pricing methodologies used to set the price of the MWP for the entire U.S. market may be flawed or are not consistently followed. Platts claims its "MW US Transaction Premium," the MWP reference price, is a transactional premium using actual spot transactions between consumers and suppliers to set the reference MWP price, but I have heard concerns Platts does not follow this process consistently. Additionally, some end users believe Platts at times sets the MWP price in cooperation with select aluminum producers, merchants, traders and banks to artificially inflate the MWP price.

I believe any potential market distortions with such wide ranging effects merit an investigation by the CFTC. I ask you to review this matter and respond to my office with the findings of your investigation. Thank you for your attention to this matter.

Sincerely,

Ed Perlmutter
Member of Congress

United States Senate

WASHINGTON, DC 20510

November 22, 2019

The Honorable Jay Clayton
Chairman
U.S. Securities and Exchange Commission
100 F St., NW
Washington, DC 20549-1090

The Honorable Heath P. Tarbert
Chairman
U.S. Commodity Futures Trading Commission
Three Lafayette Centre, 1155 21st St., NW
Washington, DC 20581

Re: Customer Margin Rules Relating to Security Futures

Dear Chairman Tarbert and Chairman Clayton:

We appreciate the joint Securities Exchange Commission (SEC) and the Commodity Futures Trading Commission (CFTC) (together, the “Commissions”) proposed rulemaking on “Customer Margin Rules Relating to Security Futures” (the “Proposal”). As you know, margin requirements for security futures and exchange-traded options were a particular focus of the Commodity Futures Modernization Act of 2000 (CFMA). The CFMA mandated that margin requirements be consistent for security futures and comparable exchange-traded options.

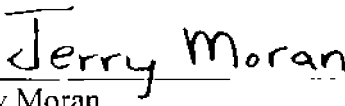
The CFMA specifically amended Section 7(c) of the Securities Exchange Act of 1934 to provide that “initial and maintenance margin levels for a security future product not be lower than the lowest level of margin, exclusive of premium, required for any comparable option contract traded on any [national securities exchange], other than an option on a security future.”

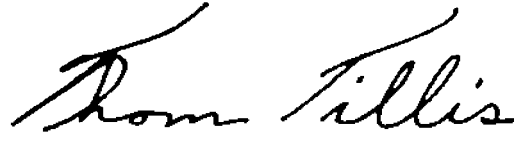
The Commissions’ Proposal would lower margin levels for security futures held outside of a portfolio margin account to 15% while margin levels for exchange-traded options held outside of a portfolio margin account are to remain at 20%.

While we are supportive of the Commissions’ objective to harmonize margin requirements, we are concerned that the Proposal, as written, is inconsistent with the CFMA and its mandate that “the margin requirements for a security future product be consistent with the margin requirements for comparable option contracts.”

We urge the Commissions to reconsider the Proposal as currently drafted to provide for a corresponding change to margin levels for exchange-traded options to ensure any final rule is consistent with the CFMA. Thank you for the opportunity to share our thoughts on this important issue.

Sincerely,


Jerry Moran
United States Senator


Thom Tillis
United States Senator


M. Michael Rounds
United States Senator

CC: Commodity Futures Trading Commission

The Honorable Rostin Benham, Commissioner

The Honorable Dawn DeBerry Stump, Commissioner

The Honorable Dan M. Berkovitz, Commissioner

The Honorable Brian D. Quintenz, Commissioner

Brian Bussey, Director, Division of Clearing and Risk

Sarah E. Josephson, Deputy Director, Division of Clearing and Risk

Melissa A. D'Arcy, Special Counsel, Division of Clearing and Risk

Securities and Exchange Commission

The Honorable Elad L. Roisman, Commissioner

The Honorable Robert J. Jackson Jr., Commissioner

The Honorable Hester M. Peirce, Commissioner

The Honorable Allison H. Lee, Commissioner

Mr. Brett Redfearn, Director, Division of Trading and Markets

Michael A. Macchiaroli, Associate Director, Division of Trading and Markets

Thomas K. McGowan, Associate Director, Division of Trading and Markets

Congress of the United States
Washington, DC 20515

November 13, 2019

The Honorable Heath P. Tarbert
Chairman
U.S. Commodity Futures Trading Commission
Three Lafayette Centre, 1155 21st St., NW
Washington, DC 20581

The Honorable Jay Clayton
Chairman
U.S. Securities and Exchange Commission
100 F St., NW
Washington, DC 20549-1090

The Secretariat

NOV 20 2019

Received

Re: Customer Margin Rules Relating to Security Futures

Dear Sirs:

Margin requirements for security futures and exchange-traded options (which create similar risk profiles to security futures) were a particular area of focus of the Commodity Futures Modernization Act of 2000 ("CFMA"). Ultimately, the CFMA specifically mandated that security futures margin levels could be no lower than margin levels applicable to comparable options positions.


Specifically, the CFMA amended Section 7(c) of the Securities Exchange Act of 1934 to provide that initial and maintenance margin levels for a security future could not be "lower than the lowest level of margin, exclusive of premium, required for any comparable option contract traded on any [national securities exchange], other than an option on a security future."

The Securities and Exchange Commission ("SEC") and the Commodity Futures Trading Commission ("CFTC") (together, the "Commissions") are proposing to lower margin levels for security futures held outside of a portfolio margin account to 15% while margin levels for exchange-traded options held outside of a portfolio margin account are to remain at 20%.


We have both been made aware of concerns that the proposed change to the margin level for security future held outside of a portfolio margin account may not be in line with the spirit or letter of the Commodity Futures Modernization Act of 2000. We would like to call upon the Commissions to outline how you have ensured that the proposal is consistent with the CFMA.

Thank you for the opportunity to share our thoughts on this important issue. If you have any questions or concerns, please reach out to Rep. Bost's office at 202-225-5661 or Rep. Davis's office at 202-225-2371.

Sincerely,



Mike Bost
Member of Congress



Rodney Davis
Member of Congress

United States Senate

WASHINGTON, DC 20510

COMMITTEES:
APPROPRIATIONS
BUDGET
ENVIRONMENT AND
PUBLIC WORKS
FOREIGN RELATIONS

September 12, 2019

The Honorable Jerome H. Powell
Chairman
Federal Reserve Board
20th Street and Constitution Avenue, N.W.
Washington, D.C. 20551

The Honorable Jay Clayton
Chairman
Securities and Exchange Commission
100 F Street, N.E.
Washington, DC 20549-1090

The Honorable Jelena McWilliams
Chair
Federal Deposit Insurance Corporation
550 17th Street, N.W.
Washington, D.C. 20429

The Honorable Heath P. Tarbert
Chairman
Commodity Futures Trading Commission
1155 21st Street, N.W.
Washington, D.C. 20581

The Honorable Joseph M. Otting
Comptroller
Office of the Comptroller of the Currency
400 7th Street, S.W.
Washington, D.C. 20219

Dear Chairman Powell, Chair McWilliams, Comptroller Otting, Chairman Clayton, and Chairman Tarbert:

I am deeply concerned by the Federal Deposit Insurance Corporation (FDIC) vote and Office of the Comptroller of the Currency (OCC) approval on August 20, 2019 to adopt changes to the enforcement of Section 619 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, also known as the Volcker Rule. Your agencies have been charged with enforcement of this rule in order to protect taxpayers from profit-driven proprietary trading. The proposed changes to the Volcker Rule approved by the FDIC and OCC are damaging to its core.¹ If finalized, this rulemaking would constitute yet another attempt to undermine a critical provision of Dodd-Frank, at a time of growing concern about the stability of our economy.

As I stated in my May 31, 2019 letter to your agencies, recent actions towards weakening the Volcker Rule have blatantly ignored evidence of certain banks' substantial non-compliance with the rule. Following my letter, I expected agencies to dig deeper and, where appropriate, enforce

¹ Hamilton, Jesse and Benjamin Bain, "Wall Street Nears a Big Win in the Latest Revamp of Volcker Rule," April 25, 2019. Available at: <https://www.bloomberg.com/news/articles/2019-04-25-wall-street-nears-a-big-win-in-the-latest-revamp-of-volcker-rule>

the Volcker Rule's relevant provisions. Instead, we are seeing that regulatory agencies are now poised to sanction noncompliance by further watering down what constitutes proprietary trading.

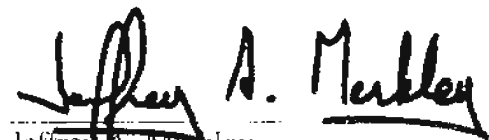
The dangers of proprietary trading are clear. The Federal Reserve Board's own analysis of the Volcker Rule raised serious questions.² Banks amassed weekly trading profits of as much as \$117 million, weekly losses up to \$84 million and weekly exposures as high as \$505 million.³ These findings not only highlight traders raking in windfall profits and suffering outsized losses, but also the frequency and risk with which they may be doing so.⁴

Dodd-Frank is considered one of the most important structural financial reforms to have emerged from the 2008 financial crisis—a reform that the Federal Reserve has stated had “economically large financial stability benefits.”⁵ The impacts of this must be taken seriously. The Volcker Rule not only sought to undo damage of past abuses of proprietary trading, it also safeguards working families’ hard-earned savings from exploitation by financial institutions driven by their bottom line.

I urge leadership of the remaining agencies that have not yet voted to reject this ill-conceived proposal. The need for limits on proprietary trading are as essential as they were during the Great Recession. This is a crucial time for our economy, and we cannot afford another economic crisis fueled by corporate greed. Weakening the Volcker Rule would signal banking regulators’ lack of interest in the financial well-being of working American families and the global economy.

As you consider the future of the Volcker Rule, and by extension the welfare of the American people, I stand ready to work with all five agencies to prevent financial institutions from engaging in reckless and speculative practices.

Sincerely,



Jeffrey A. Merkley
United States Senator

Falato, Antonio, Diana Iercosan, and Filip Zikes (2019). “Banks as Regulated Traders,” Finance and Economics Discussion Series 2019-005. Washington: Board of Governors of the Federal Reserve System. Available at: <https://doi.org/10.17016/FEDS.2019.005>

Ibid, p. 12.

² Nasiripour, Shahien, Sonali Basak, and Steven Arons. “Wild Trading Day at Deutsche Bank Raises Questions on Risk,” June 20, 2018. Available at: <https://www.bloomberg.com/news/articles/2018-06-20/wild-trading-day-at-deutsche-bank-raises-questions-on-risk>

and Bair, Sheila and Gaurav Vasishth. “Re: Proposed Revisions to Prohibitions and Restrictions on Proprietary Trading and Certain Interests in, and Relationships with, Hedge Funds and Private Equity Funds (Docket ID OCC-2018-0010; Board Docket No. R-1608; RIN 7100-AF 06; FDIC RIN 3064-AE67; SEC File Number S7-14-18; CFTC RIN 3038-AE72,” October 17, 2018, p. 8, 24.

³ Falato, Antonio, Diana Iercosan, and Filip Zikes (2019). “Banks as Regulated Traders,” Finance and Economics Discussion Series 2019-005. Washington: Board of Governors of the Federal Reserve System, page 1. Available at: <https://doi.org/10.17016/FEDS.2019.005>

United States Senate

WASHINGTON, DC 20510

October 21, 2019

The Honorable Jay Clayton
Chairman
Securities & Exchange Commission
100 F Street, NE
Washington, D.C. 20549

The Honorable Heath Tarbert
Chairman
Commodity Futures Trading Commission
Three Lafayette Centre, 1155 21st Street, NW
Washington, D.C. 20581

The Honorable William Barr
Attorney General
Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530

The Honorable Christopher Wray
Director
Federal Bureau of Investigation
935 Pennsylvania Avenue, NW
Washington, D.C. 20535

Dear Chairman Clayton, Chairman Tarbert, Attorney General Barr, and Director Wray:

We write regarding disturbing reports of suspicious trading in our futures and equities markets and urge you to investigate immediately whether any rules, laws, or regulations were violated. If any wrongdoing is uncovered, we demand that you swiftly hold violators accountable to the fullest extent possible.

With so many investors and entrepreneurs choosing to access our financial markets, they have become one of our nation's greatest competitive advantages. Our financial markets, while far from perfect, are more stable and offer greater investor protections than many foreign markets. As such, we must do everything to protect this comparative advantage.

This is why reports of certain traders earning potential massive payoffs of more than \$1 billion per trade ahead of actions taken by the Trump Administration, foreign nations, or other entities are so troubling. They suggest that some may have an unfair trading advantage because of privileged access to nonpublic market-moving information potentially from government sources and, as a result, raise concerning questions about the integrity of our financial markets and our public institutions.

Indeed, as a recent article in *Vanity Fair* states:

...the precision and timing of these trades, and the vast amount of money being made as a result of them, make the traders wonder if all this is on the level. Are the people behind these trades incredibly lucky, or do they have access to information that other people don't have about, say, Trump's or Beijing's latest thinking on the trade war or any other of a number of ways that Trump is able to move the markets through his tweeting or slips of the tongue? Essentially, do they have inside information?

We expect you to answer these and other pressing questions and use all of your authorities to protect our financial markets. In so doing, you must demonstrate concretely that no individuals,

including government officials, are above the law, and that those who choose to rig or cheat the system will be held fully accountable.

We thank you for your consideration, and we expect periodic updates on the progress of your investigation into this matter.

Sincerely,

Jack Reed

Shirley Brown

Rebbie Stabenow

Robert Menendez

Dianne Feinstein

Pat Van Hollen

Jerry Bolding

Ron Wyden

Kirsten Gillibrand

Catherine Cortez Masto

Chris Coons

Shirley

Amey Klobutsky

Edward J. Markey

Tim Smith

United States Senate

WASHINGTON, DC 20510

December 10, 2018

The Honorable Jerome H. Powell
Chairman
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, N.W.
Washington, D.C. 20551

The Honorable Jelena McWilliams
Chairman
Federal Deposit Insurance Corporation
550 17th Street, N.W.
Washington, D.C. 20429

The Honorable Jay Clayton
Chairman
Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549

The Honorable Joseph Otting
Comptroller
Office of the Comptroller of the Currency
250 E Street, S.W.
Washington, D.C. 20219

The Honorable J. Christopher Giancarlo
Chairman
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, N.W.
Washington, D.C. 20581

Dear Chairman Powell, Chairman McWilliams, Chairman Clayton, Comptroller Otting, and Chairman Giancarlo:

As your agencies look to update and revise Section 619 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank), commonly known as the “Volcker Rule”, we write to express our support for your efforts to clarify and improve various aspects of the rule. The Volcker Rule is a critical component of the post-crisis regulatory framework. We strongly support the Volcker Rule’s purpose, which is to prevent speculative trading that is at odds with the public interest. While we support the underlying goals of this provision, we, like many others including Paul Volcker, welcome efforts to simplify compliance while upholding Section 619 of Dodd-Frank’s core principles.^[1]

Over the last eight years, your agencies have been charged with implementing and enforcing Section 619 of Dodd-Frank, and banking entities have spent countless hours learning how to comply with this provision, successfully reducing the overall market and liquidity risk profile of banks’ trading desks.

^[1] May 30, 2018, Paul A. Volcker Statement on Federal Reserve Proposal: “I welcome the effort to simplify compliance with the Volcker Rule. What is critical is that simplification not undermine the core principle at stake—that taxpayer-supported banking groups, of any size, not participate in proprietary trading at odds with the basic public and customers’ interests.”

At the same time, ambiguities in the Volcker Rule have resulted in numerous questions regarding supervision and enforcement, and in some cases, have left institutions without clear guidance regarding what activities they can or cannot engage in, putting at risk investments that would benefit the U.S. economy. As we experienced the successes and challenges associated with the Volcker Rule's implementation, we think it is entirely appropriate for the rule to be adjusted in order to ensure that it operates more efficiently and better serves its intended purpose.

Accordingly, we share the views of many regulators appointed under President Obama, including former Federal Reserve Chair Janet Yellen ^[2], Federal Reserve Governor Lael Brainard ^[3] and former Federal Reserve Vice Chair of Supervision Daniel Tarullo ^[4] that support efforts to simplify the Volcker Rule so that it works more efficiently. Simplifying aspects of the rule could provide benefits to the financial system and our economy.

As proponents of the bipartisan Economic Growth, Regulatory Relief, and Consumer Protection Act, S.2155, which helped address the impact of the Volcker Rule on small institutions, we believe that targeted, common-sense reforms are a step in the right direction. As you examine the Volcker Rule, we encourage you to make changes in a thoughtful and consistent manner with principles embodied in Section 619 of Dodd-Frank. Changes must continue to ensure a strong and stable financial system, while providing clear rules of the road for compliance.

As your agencies receive comments about the Volcker Rule from consumer groups, industry and Members of Congress, we encourage you to look for ways to streamline its enforcement and compliance. We also encourage regulators to examine the various aspects of the covered fund definition to ensure that the definition is appropriately precise and avoids unintended results. The covered fund definition should be as simple and clear as possible so that it does not unintentionally hamper appropriate investments that are beyond the original scope of Section 619 of Dodd-Frank.

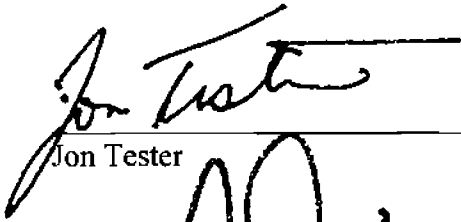
We appreciate your consideration of our request and look forward to working with you to ensure that our financial system has an amended rule, which provides clear guidance to regulated entities while protecting our financial system and the American taxpayer from risky behavior.

^[2] August 25, 2017, Chair Janet L. Yellen, *Financial Stability a Decade after the Onset of the Crisis*: "There may be benefits to simplifying aspects of the Volcker rule."

^[3] May 30, 2018 Statement on the Vocker Rule Proposal by Governor Lael Brainard: "While the purpose of the Volcker rule is compelling, our experience with its implementation over the past few years suggests that the interagency rule has turned out to be needlessly cumbersome in practice."

^[4] April 4, 2017, Governor Daniel K. Tarullo, *Departing Thoughts*: "[S]everal years of experience have convinced me that there is merit in the contention of many firms that, as it has been drafted and implemented, the Volcker rule is too complicated. Achieving compliance under the current approach would consume too many supervisory, as well as bank, resources relative to the implementation and oversight of other prudential standards. And although the evidence is still more anecdotal than systematic, it may be having a deleterious effect on market making, particularly for some less liquid issues."

Sincerely,



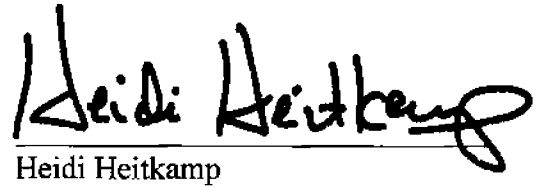
Jon Tester



Doug Jones



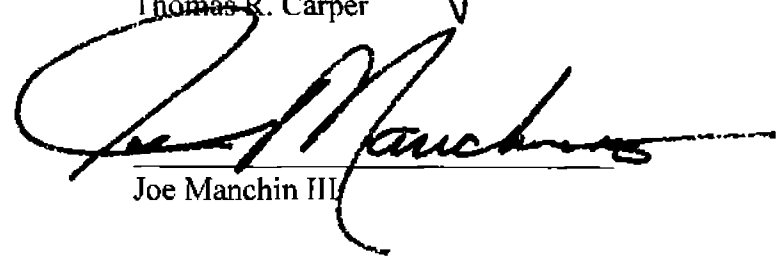
Tim Kaine



Heidi Heitkamp



Thomas R. Carper



Joe Manchin III

SHERROD BROWN

U.S. SENATOR

OHIO

APPROPRIATIONS, HEALTH,
AND FORESTY

BANKING, HOUSING
AND URBAN AFFAIRS

FINANCE

VETERANS AFFAIRS

United States Senate

WASHINGTON, DISTRICT OF COLUMBIA

August 6, 2018

The Honorable Jerome H. Powell
Chairman
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, N.W.
Washington, D.C. 20551

The Honorable Joseph M. Otting
Comptroller
Office of the Comptroller of the Currency
400 7th Street, S.W.
Washington, D.C. 20219

The Honorable Jelena McWilliams
Chairman
Federal Deposit Insurance Corporation
17th Street, N.W.
Washington, D.C. 20429

The Honorable Jay Clayton
Chairman
Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549

The Honorable Christopher Giancarlo
Chairman
Commodity Futures Trading Commission
1155 21st Street, N.W.
Washington, D.C. 20581

Dear Chairman Powell, Comptroller Otting, Chairman McWilliams, Chairman Clayton, and Chairman Giancarlo:

We write to request that your agencies allow for an additional 90 days of public comment for the recently-released proposal related to Section 619 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Wall Street Reform), commonly known as the “Volcker Rule.”¹

The Volcker Rule was enacted in July 2010. The Financial Stability Oversight Council’s (Council) Request for Information to inform the Council’s congressionally-mandated study on the Rule was published in October 2010, and received more than 7,000 public comments.² The proposed rule, released in November 2011, received 600 unique public comment letters.³ Your agencies finalized the

¹ Office of the Comptroller of the Currency, Docket ID OCC-2018-0010, RIN 1557-AE27; Board of Governors of Federal Reserve System, Docket ID R-1608, RIN 7100-AF 06; Federal Deposit Insurance Corporation, RIN 3064-AE67; Securities and Exchange Commission, Release No. BHCA-3, File Number S7-14-18, RIN 3235-AM10; Commodity Futures Trading Commission, RIN 3038-AE72.

² Financial Stability Oversight Council, “Public Input for the Study Regarding the Implementation of the Prohibitions on Proprietary Trading and Certain Relationships with Hedge Funds and Private Equity Funds,” 75 FR 61758, October, 6, 2010. Available at: <https://www.gpo.gov/fdsys/pkg/FR-2010-10-06/pdf/2010-25320.pdf>

³ Office of the Comptroller of the Currency, Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, and Securities and Exchange Commission, “Prohibitions and Restrictions on Proprietary Trading and Certain Interests in, and Relationships with, Hedge Funds and Private Equity Funds,” 76 Fed. Reg. 68846, November 7, 2011. Available at: <https://www.federalregister.gov/d/2011-27184>; and Commodity Futures Trading Commission, “Prohibitions and Restrictions on Proprietary Trading and Certain Interests in, and Relationships with, Hedge Funds and Private Equity Funds,” 77 Fed. Reg. 8332, February 14, 2012. Available at: <https://www.federalregister.gov/d/2012-9335>.

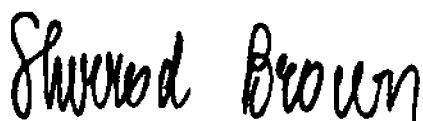
Rule in January 2014⁴ -- taking more than two years to evaluate the vast information received via the public comment process.

Given the time and care your agencies put into finalizing the Volcker Rule in 2014, and the level of public engagement on this topic in the past, it is reasonable to provide for a longer public comment period to give stakeholders adequate time to evaluate and respond to the 342 enumerated questions in the proposal.

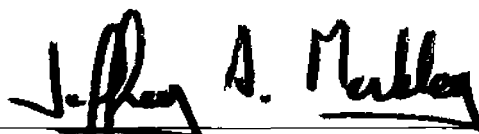
While Vice Chairman Quarles noted at the Fed's public meeting to consider the proposed changes to the Volcker Rule that the agencies adopted these amendments on a "short timeline,"⁵ the amendments to the rule are significant and complicated changes that deserve thoughtful consideration and the benefit of robust public input. Accordingly, a 90-day extension of the public comment period is appropriate for adequate consideration of the proposal.

Thank you for your attention to this matter.

Sincerely,



Sherrod Brown
United States Senator



Jeffrey A. Merkley
United States Senator

⁴ Office of the Comptroller of the Currency, Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, and Securities and Exchange Commission, "Prohibitions and Restrictions on Proprietary Trading and Certain Interests in, and Relationships with, Hedge Funds and Private Equity Funds," 79 Fed. Reg. 5536, January 31, 2014. Available at: <https://www.federalregister.gov/d/2013-31511>; Commodity Futures Trading Commission, "Prohibitions and Restrictions on Proprietary Trading and Certain Interests in, and Relationships with, Hedge Funds and Private Equity Funds," 79 Fed. Reg. 5808, 5812, January 31, 2014. Available at <https://www.gpo.gov/fdsys/pkg/FR-2014-01-31/pdf/2013-31476.pdf>.

⁵ Quarles, Randal K. "Opening Statement on the Volcker Rule Proposal by Vice Chairman for Supervision Randal K. Quarles." *Press release*, May 30, 2018. Available at: <https://www.federalreserve.gov/newsevents/pressreleases/quarles-statement-20180530.htm>

United States Senate

WASHINGTON, DC 20510

August 2, 2018

The Honorable Jerome H. Powell
Chairman
Board of Governors of the Federal Reserve
System
20th Street and Constitution Avenue NW
Washington, DC 20551

The Honorable Jelena McWilliams
Chair
Federal Deposit Insurance Corporation
550 17th Street NW
Washington, DC 20429

The Honorable Joseph M. Otting
Comptroller
Office of the Comptroller of the Currency
400 7th Street SW
Washington, DC 20219

The Honorable Jay Clayton
Chairman
U.S. Securities and Exchange Commission
100 F Street NE
Washington, DC 20549

The Honorable J. Christopher Giancarlo
Chairman
U.S. Commodity Futures Trading
Commission
1155 21st Street NW
Washington, DC 20581

Dear Chairman Powell, Chair McWilliams, Comptroller Otting, Chairman Clayton, and
Chairman Giancarlo:

We write to express our strong disappointment with the recent effort to weaken the Volcker Rule, which prohibits risky trading practices at federally-backed institutions. We are concerned that the proposed rule released on May 30 by the Federal Reserve would undermine a fundamental provision of the Dodd-Frank Wall Street Reform Act that prevents taxpayers from being asked to bail out financial institutions that make high-risk trades.

Reckless gambling on Wall Street played a major role in the financial crisis and resulted in massive taxpayer bailouts. To protect taxpayers and the economy, Congress enacted the Volcker Rule to separate traditional banking from these risky trading practices. The Volcker Rule's ban on high-risk trading by large, federally insured banks was a key provision of the Dodd-Frank Wall Street Reform Act intended to ensure that American taxpayers would never again be on the hook when Wall Street banks gamble.

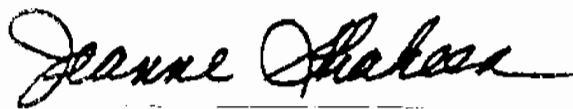
The proposed rule issued by the federal banking regulators is not a minor change or an attempt to cut red tape for community banks and credit unions. Instead, it creates potentially major loopholes for Wall Street banks to avoid complying with a core protection put in place by Congress to protect taxpayers and investors. Loosening the Volcker Rule for Wall Street banks opens the door for them to once again engage in risky trading behavior and put the financial stability of our economy at risk.

As you consider any potential changes to the Volcker Rule, we urge you to consider the potential ramifications of risky trading practices at federally insured institutions.

Sincerely,



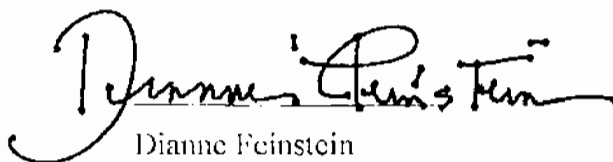
Jeffrey A. Merkley
United States Senator



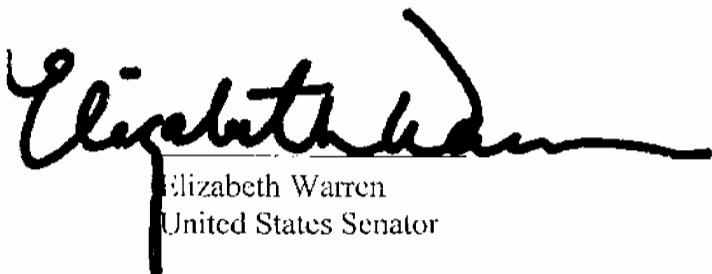
Jeanne Shaheen
United States Senator



Kirsten Gillibrand
United States Senator



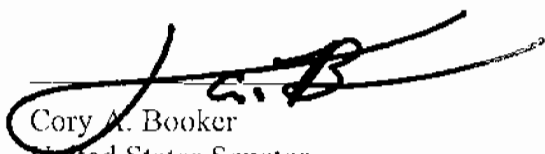
Dianne Feinstein
United States Senator



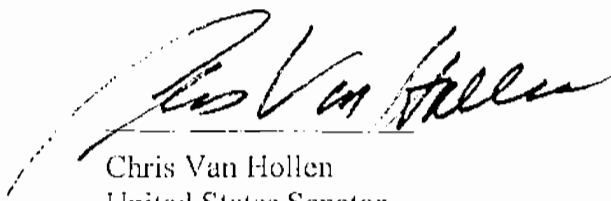
Elizabeth Warren
United States Senator



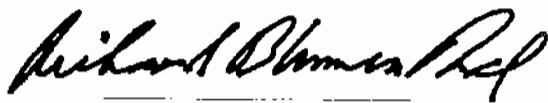
Tina Smith
United States Senator



Cory A. Booker
United States Senator



Chris Van Hollen
United States Senator



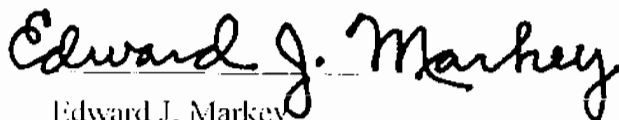
Richard Blumenthal
United States Senator



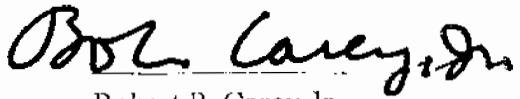
Sherrod Brown
United States Senator



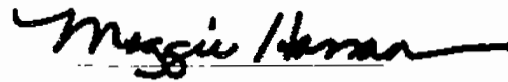
Kamala D. Harris
United States Senator



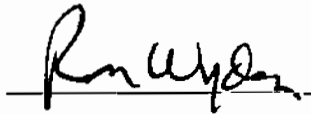
Edward J. Markey
United States Senator



Robert P. Casey Jr.
United States Senator



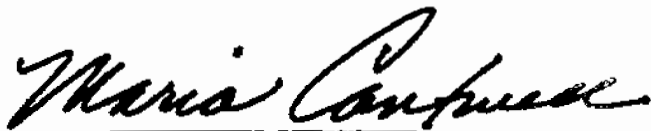
Margaret Wood Hassan
United States Senator



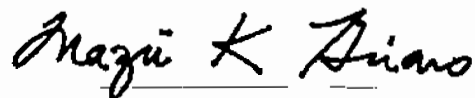
Ron Wyden
United States Senator



Robert Menendez
United States Senator



Maria Cantwell
United States Senator



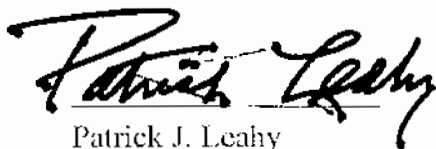
Mazie K. Hirono
United States Senator



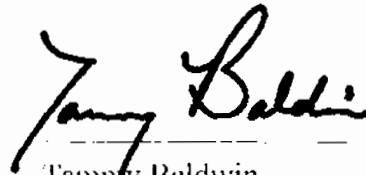
Benjamin L. Cardin
United States Senator



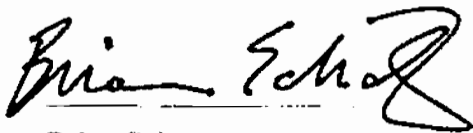
Bernard Sanders
United States Senator



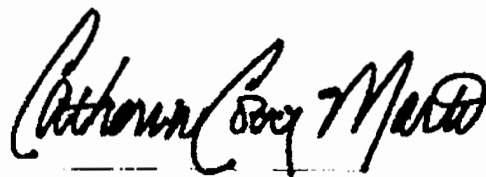
Patrick J. Leahy
United States Senator



Tammy Baldwin
United States Senator




Brian Schatz
United States Senator



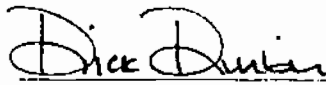
Catherine Cortez Masto
United States Senator




Jack Reed
United States Senator



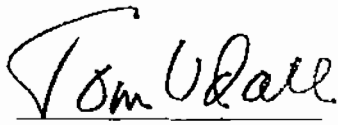
Sheldon Whitehouse
United States Senator



Richard J. Durbin
United States Senator



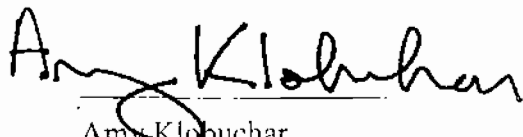
Martin Heinrich
United States Senator



Tom Udall
United States Senator



Bill Nelson
United States Senator



Amy Klobuchar
United States Senator

United States Senate

U.S. Senate Office of Public Affairs

June 6, 2018

The Honorable J. Christopher Giancarlo
Chairman
Commodities Futures Trading Commission
Three Lafayette Centre
1155 21 51 St. NW
Washington, DC 20581

The Honorable Jay Clayton
Chairman
Securities and Exchange Commission
100 F Street N.E.
Washington, DC 20549

Dear Chairman Giancarlo and Chairman Clayton:

We write to express our concern over President Donald Trump's June 1, 2018 violation of federal guidelines restricting government officials from disclosing market-moving economic data prior to their scheduled release and commenting publicly on those data in the immediate aftermath of their release. We ask that your agencies conduct an investigation to identify whether any individual or corporate entity was able to obtain and use market-moving information – either on June 1, 2018 or before – provided to the White House before its official release.

Typically on the first Friday of each month, the Bureau of Labor Statistics (BLS) releases its monthly report on the Employment Situation.¹ The Chairman of the Council of Economic Advisers receives the data the day before they are released by the Department of Labor and briefs an extremely limited number of senior leaders on the report's findings. All Executive Branch employees, including the officials who had access to the data before the release are prohibited from publicly commenting on the contents of the report until an hour after its release.²

The purpose of this policy directive, as stated by the Office of Management and Budget (OMB) on September 25, 1985, was to “preserve the distinction between the policy-neutral release of data by statistical agencies and their interpretation by policy officials.” and to avoid affecting

¹ Bureau of Labor Statistics, “Schedule of Releases for the Employment Situation,” https://www.bls.gov/schedule/news_release/empsit.htm

² Federal Register, “Statistical Policy Directive on Compilation, Release, and Evaluation of Principal Federal Economic Indicators,” September 25, 1985, Office of Management and Budget, <https://www.bea.gov/about/pdf/federalregister09251985.pdf>

“financial and commodity markets.”³ The rules – later codified by the policy directive – were implemented in the wake of the Nixon Administration’s attempt to politicize government data.⁴

On June 1, 2018 at 7:21am, President Donald Trump violated this policy directive by tweeting “Looking forward to seeing the employment numbers at 8:30 this morning.”⁵ President Trump’s remark clearly implied that the employment numbers were positive for the administration and surpassed market expectations. The market reacted immediately – yields on the 10-year Treasury note⁶, the dollar index⁷, and stock futures⁸ all increased following the President’s tweet.

This is not the first time that this long-standing federal rule has been violated during President Trump’s presidency. Last year, President Trump and former White House press secretary Sean Spicer both violated the policy directive by tweeting about a jobs report on March 10, 2017 during the mandatory one-hour cooling off period after the BLS officially released the report.⁹ President Trump violated the cooling-off requirement once again in August 2017.¹⁰

The unemployment report is not the only market-moving data provided to the Chairman of the Council of Economic Advisers before its public prerelease. The Bureau of Labor Statistics, Bureau of Economic Analysis (BEA), Census Bureau, and other federal statistical agencies also provide the White House with periodic economic data, such as the U.S. International Trade in Goods and Services report and Gross Domestic Product report.¹¹ The White House is required to follow the same policy directive with respect to these reports.¹² Advance notice of any of these indicators would undoubtedly provide an advantage to an investor or an investment company.

³ Federal Register, “Statistical Policy Directive on Compilation, Release, and Evaluation of Principal Federal Economic Indicators,” September 25, 1985, Office of Management and Budget, <https://www.bea.gov/about/pdf/federalregister09251985.pdf>

⁴ Los Angeles Times, “Spicer broke a federal rule when he hailed jobs report too soon after its release,” Jim Puzzanghera, March 10, 2017, <http://www.latimes.com/politics/washington/la-na-essential-washington-updates-spicer-broke-a-federal-rule-when-he-1489164146.htmlstory.html>

⁵ Tweet by Donald J. Trump, June 1, 2018, <https://twitter.com/realDonaldTrump/status/1002510522032541701>

⁶ Market Watch, “Trump’s jobs report tweet in advance of release appears to have violated federal rules,” Steve Goldstein and Robert Schroeder, June 1, 2018, <https://www.marketwatch.com/story/trumps-jobs-report-tweet-in-advance-of-release-appears-to-have-violated-federal-rules-2018-06-01>

Note: The yield on the 10-year TMUBMUSD10Y increased +2.07% after the tweet

⁷ Wall Street Journal, “Dollar Rises on Strong Jobs Report,” Ira Josëbashvili, June 1, 2018, https://www.wsj.com/articles/dollar-rises-on-strong-jobs-report-1527864196?mod=article_inline

⁸ Reuters, “Trump tweet before U.S. payrolls report raises eyebrows,” June 1, 2018, <https://www.reuters.com/article/us-usa-economy-trump/trump-tweet-before-u-s-payrolls-report-raises-eyebrows-idUSKCN1IX5HG>

Note: S&P 500 e-mini futures ESv1 were up about 12 points, or 0.45 percent, before his tweet, then nudged about 1 point higher in the moments afterward

⁹ New York Times, “Sean Spicer’s Quick Twitter Reaction to Jobs Report May Break a Rule,” Patricia Cohen, March 10, 2017, <https://www.nytimes.com/2017/03/10/business/february-jobs-report-trump-white-house.html>

¹⁰ USA Today, “Trump tweet on jobs report may have breached a 1985 federal directive,” Kevin McCoy and Adam Shell, June 1, 2018, <https://www.usatoday.com/story/money/2018/06/01/trump-jobs-report-tweet/663233002/>

¹¹ Bureau of Economic Analysis, “2018 News Release Schedule,” https://www.bea.gov/newsreleases/news_release_schedule.htm

¹² Federal Register, “Statistical Policy Directive on Compilation, Release, and Evaluation of Principal Federal Economic Indicators,” September 25, 1985, Office of Management and Budget, <https://www.bea.gov/about/pdf/federalregister09251985.pdf>

In fact, reports indicate that strategists and market observers have started to use the President's twitter feed as a way of preparing for economic data updates.¹³ This demonstrates a lack of precision in protecting these sensitive data and raises the additional concern that the policy directive may be routinely violated in other ways.

We are concerned in particular that the President or other White House staff may have disclosed the prerelease data beyond the very small group authorized to see them before their official publication. A wider dissemination increases the possibility that this inside information could be used to unlawful advantage in the market. The numerous conflicts of interest in the financial holdings of the President¹⁴ and other high-level White House staffers,¹⁵ and their continued secrecy about these holdings heightens our concern about insiders obtaining or using this information.

Federal investigators are familiar with the risks associated with market actors obtaining an unfair advantage by gaining access to government data before an official release. In 2013, the FBI and the SEC conducted a wide-ranging investigation into whether media companies that serve traders were releasing government data a fraction of a second too early, allowing traders using computer algorithms to gain an unfair advantage.¹⁶ Disclosure of data by White House officials potentially hours before its official release could give an exponentially larger advantage.

Therefore, we are writing to ask that the Commodities Futures Trading Commission (CFTC) and Securities and Exchange Commission (SEC) conduct an investigation into: (1) whether or not any individual or entity was able to obtain information on the employment report prior to its June 1, 2018 release; (2) whether or not any individual or entity was able to get information from the President or any employee of the Executive Office of the President on any earlier statistical report given prior to release, and if so; (3) whether they made trades or took any other action based on that information.

In addition, to help us better understand the impact of the President's violation of federal rules about early release of information from economic reports, we ask that you provide answers to the following questions no later than June 25, 2018.

1. Do the SEC and the CFTC consider the information contained in the Employment Situation Report to be market-moving information?

¹³ New York Times, "Trust Touts Jobs Report Before Official Release, Breaking Protocol," Jim Tankerskey and Matt Phillips, June 1, 2018, <https://www.nytimes.com/2018/06/01/us/politics/trump-jobs-twitter.html>

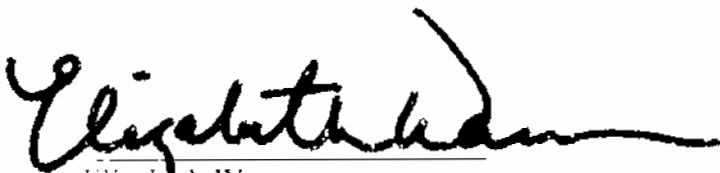
¹⁴ The Hill, "Donald Trump's scandalous conflicts of interest still live," Dan Weiner, January 24, 2018, <http://thehill.com/opinion/white-house/370488-trumps-scandalous-conflicts-of-interest-live-on>; The Sunlight Foundation, "Tracking Trump's Conflicts of Interest," <https://sunlightfoundation.com/tracking-trumps-conflicts-of-interest/>

¹⁵ The Atlantic, "The Trump Administration's Conflicts of Interest: A Crib Sheet," Jeremy Venook, January 18, 201, <https://www.theatlantic.com/business/archive/2017/01/trumps-appointees-conflicts-of-interest-a-crib-sheet/512711/>

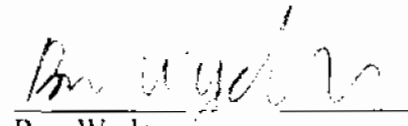
¹⁶ Wall Street Journal, Media Firms Probed on Data Release, Brody Mullins and Devlin Barrett, January 28, 2013, <https://www.wsj.com/articles/SB10001424127887323539804578262280735396300>

2. Which categories of data disclosed to the Chairman of the Council of Economic Advisers by the process described in the OMB policy directive do the SEC and the CFTC consider market-moving?
3. Have the SEC and CFTC observed any unusual or unexpected trends in financial markets in the twenty-four hours before the release of reports that statistical agencies disclose to the White House?
4. Is the President subject to SEC and CFTC rules regarding insider trading and market manipulation?
5. Are other White House or executive branch officials subject to these rules?


Sincerely,



Elizabeth Warren
United States Senator



Ron Wyden
United States Senator



Michael F. Bennet
United States Senator

Congress of the United States
Washington, DC 20515

February 5, 2019

December 18, 2018

The Honorable Steve Mnuchin
Secretary
U.S. Department of the Treasury
1500 Pennsylvania Ave, NW
Washington, D.C. 20220

Dear Secretary Mnuchin,

We write to express our concern regarding the implementation of the Current Expected Credit Loss (CECL) accounting model. As the Financial Stability Oversight Council, or FSOC, will be meeting this week to discuss the status of CECL and possibly delay its implementation, we urge you, as Chairman, to closely evaluate the negative consequences this standard will place on the banking industry, small businesses, and the consumer. In addition, we highly recommend and implore that you delay CECL's effective date until the comprehensive analysis on this standard has been completed.

The Current Expected Credit Loss accounting standard was issued by the Financial Accounting Standards Board (FASB) on June 16, 2016. Its main goal is to measure and recognize credit losses for loans and debt securities. Currently, CECL is set to be implemented for SEC registrants by 2020, in 2021 for public companies that are not SEC registrants, and in 2022 for non-public entities. With this new standard, the FASB is replacing the existing "incurred loss" accounting model with a new "expected loss" model, of which affects any institution issuing credits. This means that CECL will affect how banks and credit unions calculate credit loss reserves and how institutions manage their allowance for loan and lease losses (ALLL). Additionally, CECL requires a recognition of expected losses over the life of the loan on the day of origination. However, and more importantly, this new standard does not allow financial institutions to account for expected interest income upon origination. This, as a result, will cause financial institutions to drastically reduce their lending activities during economic downturns.

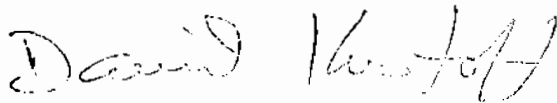
Furthermore, with the implementation of this new standard fast approaching, many within the banking industry have and continue to share their trepidations on CECL's impact on community banks and consumers. Numerous families and individuals throughout the country rely heavily on the use of community banks to obtain a mortgage and access a small business and student loans. However, with CECL, the creation of a large capital shortfall for community banks is at risk of occurring. Under this new standard, loans with longer terms, such as mortgages and student loans, could require these institutions to hold drastically more in their required reserves necessary to cover the loan itself. This may cause many community banks to reduce the number

of financial products offered to consumers. Adopting this standard will not only be burdensome on community banks, which are not multi-billion-dollar institutions, but also on the individuals wanting to access credit. Finally, the new costs associated with implementing this new standard has the potential to force many of these smaller institutions to close or consolidate.

These severe shifts included with CECL instituted by the FASB require a much deeper level of modeling and analysis than has been completed to date. There are unknowns surrounding the implementation of the CECL standard causing great risk to our financial and banking industries. It is imperative we do not rush ahead with this finalized standard, but take the necessary time to truly understand its inner workings and possible unintended consequences. Therefore, until we can fully understand the impact CECL may have on financial institutions, community banks, and consumers, we strongly encourage FSOC to consider a delay to its implementation.

Thank you for your attention to this important matter.

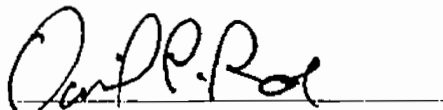
Sincerely,



David Kustoff
Member of Congress



Jeff Bugg
Member of Congress



Carl P. Roe
Member of Congress



Frank Lucas
Member of Congress



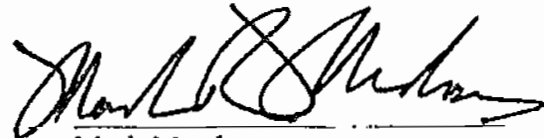
French Hill
Member of Congress



Lee Zeldin
Member of Congress



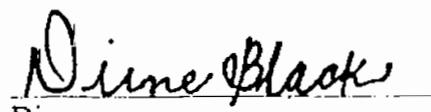
Alex X. Mooney
Member of Congress



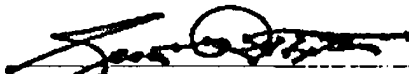
Mark Meadows
Member of Congress



Ralph Norman
Member of Congress



Diane Black
Member of Congress



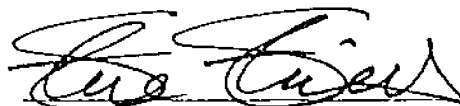
Scott Tipton
Member of Congress



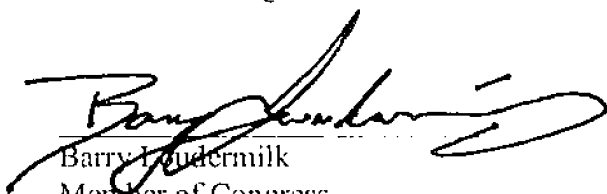
Warren Davidson
Member of Congress



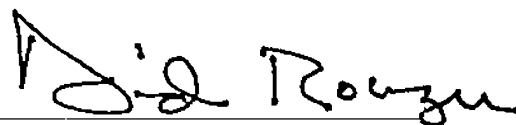
Tom Emmer
Member of Congress



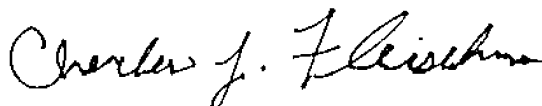
Steve Stivers
Member of Congress



Barry Loudermilk
Member of Congress



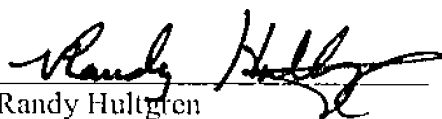
David Rouzer
Member of Congress



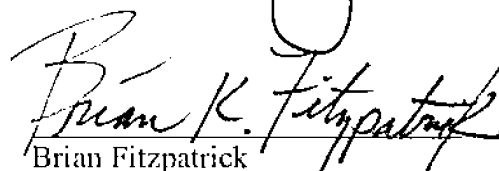
Chuck Fleischmann
Member of Congress



Bill Posey
Member of Congress



Randy Hultgren
Member of Congress



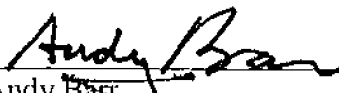
Brian Fitzpatrick
Member of Congress



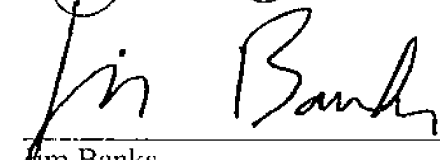
Mark Walker
Member of Congress



George Holding
Member of Congress



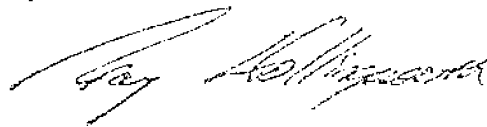
Andy Barr
Member of Congress




Jim Banks
Member of Congress



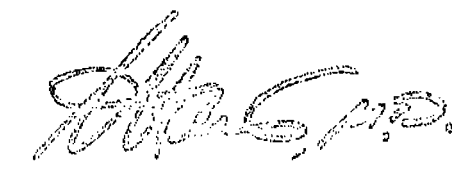
Marsha Blackburn
Member of Congress



Trey Hollingsworth
Member of Congress



Tim Walberg
Member of Congress



Andy Harris, M.D.
Member of Congress

CC: The Honorable Randal Quarles
The Honorable Joseph M. Otting
The Honorable Jelena McWilliams
The Honorable Jay Clayton
Mr. Russell G. Golden
The Honorable Melvin L. Watt
The Honorable J. Mark McWatters
The Honorable Kathy Kraninger
The Honorable J. Christopher Giancarlo
The Honorable Jerome H. Powell

United States Senate

January 15, 2020

The Honorable Randal Quarles
Vice Chairman for Supervision
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue NW
Washington, DC 20551

The Honorable Joseph Otting
Comptroller of the Currency
Office of the Comptroller
250 E Street SW
Washington, DC 20219

The Honorable Jelena McWilliams
Chairman
Federal Deposit Insurance Corporation
550 Seventeenth Street NW
Washington, DC 20429

The Honorable Mark Calabria
Director
Federal Housing Finance Agency
400 Seventh Street SW
Washington, DC 20024

The Honorable Heath Tarbert
Chairman
Commodity Futures Trading Commission
Three Lafayette Centre
1155 Twenty First Street NW
Washington, DC 20581

The Honorable Glen Smith
Chairman
Farm Credit Administration
1501 Farm Credit Drive
McLean, VA 22102

Dear Chairs Quarles, McWilliams, Tarbert, and Smith, Comptroller Otting, and Director Calabria,

I write to you today regarding an uncleared margin rule that requires certain U.S. seeded funds to post initial margin. Specifically, a provision currently in place markedly increases the costs and operational burdens to fund sponsors and new investment funds launched in the U.S., even when they engage in very limited over-the-counter (OTC) swap activity. This regime puts the U.S. financial industry at a global disadvantage given that the European Union, Canada, Australia and Japan have provided an exemption for similar investment funds from having to post initial margin.

Since 2012, major industry groups representing insurers and asset managers have asked for a limited exemption from the rule requiring consolidation of thresholds with a seeding parent. This would allow seeded funds to conduct limited OTC swap trading without having to post initial margin during the brief period during which a fund sponsor tests the fund's investment strategy

and establishes a track record of the fund's performance for marketing purposes (the so-called seeding period), unless the fund's own OTC swap activity exceeded the threshold.


Having to post initial margin and maintain the personnel, systems, and back office necessary to comply with the initial margin rules during this critical seeding period will hurt performance, discourage hedging of risks, stymie financial product innovation, and will put these U.S. funds at a global disadvantage. At the same time, like many regulations we have discussed over the years, the benefits in terms of systemic risk reduction from requiring these funds to post initial margin is non-existent.

An exemption from threshold consolidation for seeded funds will provide relief from the requirement that these funds post initial margin when launched and will allow U.S. insurers and asset managers a level playing field to compete globally. This situation would ultimately benefit America's consumers by providing more opportunity for financial and retirement security through access to a broader array of cost-effective investment funds.

I understand that you currently have an open rule on initial margin and that stakeholders have recently met with the Federal Reserve on this topic. The open rule-making provides a timely opportunity to amend the initial margin rules so that seeded funds won't have to post initial margin during their seeding period as a result of consolidation of positions with the seed money sponsor. Further, under Chair Yellen, the Federal Reserve granted relief to banks for their seeded funds under the Volcker Rule's FAQ 16, so similar relief in the initial margin space would not be unprecedented.

I am glad to see that regulators have re-opened this rule and would appreciate an update on this important issue as revisions are made. Thank you.

Sincerely,

A handwritten signature in black ink that reads "Thom Tillis". The signature is fluid and cursive, with the first name "Thom" and last name "Tillis" clearly distinguishable.

Thom Tillis
United States Senator

United States Senate

April 19, 2019

Chairman Jay Clayton
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

Comptroller Joseph Otting
Office of the Comptroller of the Currency
400 7th Street, NW
Washington DC 20219

Chairman Jay Powell
Federal Reserve Board of Governors
Constitution Ave & 20th Street, NW
Washington, DC 20551

Director Kathleen Kraninger
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, DC 20552

Chairman Jelena McWilliams
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429

Chairman Christopher Giancarlo
Commodities Futures Trading Commission
1155 21st Street, NW
Washington, DC 20851

Dear Chairman Clayton, Chairman Powell, Chairman McWilliams, Comptroller Otting, Director Kraninger, and Chairman Giancarlo,

Congress designed Federal regulatory agencies to be independent from the President's continuing influence so that they could make rules of the road for our economy based on technocratic analysis and data rather than political considerations. In practice, this means that Congress instituted certain protections for independent regulatory agencies, including protection for independent agency heads from dismissal by the President (except for cause) and, in most cases, funded your operations outside of the often-political Congressional appropriations process. I am writing to you in order to better understand how recent actions by the Office of Management of Budget (OMB) may encroach on this independence, which is critical to the functioning of our government and our economy.

The Office of Information and Regulatory Affairs (OIRA) within OMB reviews rules from across the Federal government in order to make a major rule determination under the Congressional Review Act¹, and for compliance with several different rules and executive orders, including the Paperwork Reduction Act and Executive Order 12866 and its successors.² Executive Order 12866 and its successors require agencies to examine the costs and benefits of regulations and "to ensure that regulations are consistent with applicable law, the President's

¹ 5 U.S.C § 804 (2)

² Office of Information and Regulatory Affairs, "Regulatory and Rulemaking Process"
<https://www.reginfo.gov/public/jsp/Utilities/faq.myjsp>.

priorities, and [cost benefit analysis] principles . . . and that decisions made by one agency do not conflict with the policies or actions taken or planned by another agency.³”

However, OIRA has not historically required independent agencies to submit regulations for substantive review under the Executive Orders,⁴⁵ and rules from your agencies have typically not undergone OIRA review.⁶ Like your insulation from dismissal except for cause, declining to submit your rules to OIRA is a safeguard against politicization — it would not, for example, be consistent with longstanding principles of administrative law that safeguard the independence of regulators⁷ for OIRA to review the regulators’ rules to ensure that they are consistent “with the President’s priorities.” Your agencies have, however, apparently made some submissions for evaluation under the Paperwork Reduction Act and the Congressional Review Act, though practices appear to vary among your agencies.

On April 11, 2019, Acting OMB Director Russel Vought sent a memo to all heads of executive departments and agencies, including independent agencies, creating a “systematic process to determine whether rules that would not be submitted to OIRA under Executive Order 12866 are major,” a determination that should be made by looking at whether a rule will cost \$100 million or more annually, will cause a major increase in costs or prices, or will have a significant adverse effect on players in the market. This review “applies to more than just notice-and-comment rules; it also encompasses a wide range of other regulatory actions, including, inter alia, guidance documents, general statements of policy, and interpretive rules.”⁸

The routine and mandatory submission of independent agency rules for review to OMB is a major departure from the status quo. While the memo does not elaborate on the philosophy of OIRA’s review of the agencies’ cost-benefit analysis, or specify how much deference OIRA will afford the experts at your agencies, the quantity of data OIRA is requesting suggests that this review will be searching, and may significantly encroach on your independence and longstanding practice.

To better understand how your agencies have historically interpreted OIRA’s authority, I respectfully request that you provide a copy of any written policy in place at your agency from January 1980 to the present that governed submission of rules or other regulatory actions covered

³ Executive Order 12866, 58 F.R. 190 “Regulatory Planning and Review,” https://www.reginfo.gov/public/jsp/Utilities/EO_12866.pdf.

⁴ See e.g., *ibid* at (3)(b) “Agency,” unless otherwise indicated, means any authority of the United States that is an “agency” under 44 U.S.C. 3502(1), other than those considered to be independent regulatory agencies, as defined in 44 U.S.C. 3502(10).”

⁵ Yale Journal on Regulation Notice & Comment Blog, “OIRA Sends a Smoke Signal on Independent Agencies,” <http://yalejreg.com/nc/oira-sends-a-smoke-signal-on-independent-agencies/>.


⁶ See Office of Information and Regulatory Affairs, “Historical Reports,” <https://www.reginfo.gov/public/do/eoHistReviewSearch>.

⁷ See e.g. *Humphrey’s Executor v. United States*, 295 U.S. 602 (1935)

⁸ <https://www.whitehouse.gov/wp-content/uploads/2019/04/M-19-14.pdf>

by the new OMB memo to OIRA for review under any law or Executive Order, the supporting legal analysis, and the effective dates, no later than April 26, 2019.

Sincerely,



Elizabeth Warren
United States Senator

United States Senate

April 19, 2019

Chairman Jay Clayton
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

Comptroller Joseph Otting
Office of the Comptroller of the Currency
400 7th Street, NW
Washington DC 20219

Chairman Jay Powell
Federal Reserve Board of Governors
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Director Kathleen Kraninger
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Chairman Jelena McWilliams
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429

Chairman Christopher Giancarlo
Commodities Futures Trading Commission
1155 21st Street, NW
Washington, DC 20851

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⁸ <https://www.whitehouse.gov/wp-content/uploads/2019/04/M-19-14.pdf>

by the new OMB memo to OIRA for review under any law or Executive Order, the supporting legal analysis, and the effective dates, no later than April 26, 2019.

Sincerely,



Elizabeth Warren
United States Senator

Congress of the United States
U.S. House of Representatives
Committee on Small Business
2561 Rauburn House Office Building
Washington, DC 20515-0515

May 1, 2018

The Honorable J. Christopher Giancarlo
Chairman
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581

Dear Chairman Giancarlo:

Pursuant to Rules X and XI of the U.S. House of Representatives, the Committee on Small Business is conducting oversight over the Commodity Futures Trading Commission's compliance with the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. No. 104-121, enacted March 29, 1996) (SBREFA), as amended by the Fair Minimum Wage Act of 2007 (Pub. L. No. 110-28, enacted May 25, 2007) (FMWA).¹

Section 212 of SBREFA requires the publication of small entity compliance guides, which explain the actions a small entity must take to comply with agency rules. These guides must be prepared for each rule or group of related rules for which a final regulatory flexibility analysis is required under the Regulatory Flexibility Act (Pub. L. No. 96-354, enacted September 19, 1980).² Agencies must publish these compliance guides by posting the guides in easily identifiable locations on their websites and by distributing the guides to affected entities.³ The guides must be published on the date of publication of the final rule (or as soon as possible after that date) and no later than the effective date of the final rule.⁴ The guides must contain an explanation of the actions a small entity must complete to meet the requirements of a rule and may include a description of possible procedures that may assist a small entity in meeting the requirements.⁵ Agencies must ensure that the guides are written using sufficiently plain language so that they are likely to be understood by the affected small entities.⁶ The agencies may also group issue-related guides when the guides cover similar rules.⁷

Section 212(a)(6) of SBREFA requires an agency to annually submit a report to the Committee on Small Business of the House of Representatives, the Committee on Small Business and Entrepreneurship of

¹ The Small Business and Work Opportunity Act of 2007 amended SBREFA to include specific requirements for small entity compliance guides. *See* U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007, Pub. L. No. 110-28, § 8302, 121 Stat. 112, 204-05 (codified as amended at 5 U.S.C. § 631 note). This letter will cite to the statutory sections of SBREFA, as amended.

² Small Business Regulatory Enforcement Fairness Act of 1996, Pub. L. No. 104-121, § 212(a)(1), 110 Stat. 847 (codified at 5 U.S.C. § 631 note).

³ *Id.* § 212(a)(2).

⁴ *Id.* § 212(a)(3).

⁵ *Id.* § 212(a)(4).

⁶ *Id.* § 212(a)(5).

⁷ *Id.*

the Senate, and any other committee of relevant jurisdiction.⁸ The report must describe the status of the agency's compliance with section 212(a)(1) through (5) of SBRFEA, and must be received no later than one year after the date of the enactment of the FMWA, and annually thereafter.⁹ The FMWA was enacted on May 25, 2007.


To date, the Committee has not received any small entity compliance guide reports from your agency since the statute's enactment in 2007. The Committee requests the following information and documents as soon as possible, but no later than May 25, 2018:

1. Any annual small entity compliance guide reports that have been transmitted to the Committee since the reporting requirement began in 2007. If no reports have been transmitted, an explanation as to why the Committee has not received any reports;
2. The annual small entity compliance guide report on your agency's compliance with section 212 of SBREFA for the year 2017;
3. The location of the small entity compliance guides on your agency's website; and
4. A list of the affected entities that your agency distributed, or will distribute, the guides to.

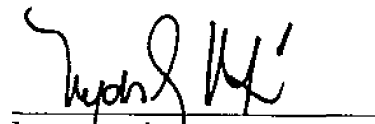
When producing documents to the Committee, please deliver production sets to the Majority Staff in Room 2361 of the Rayburn House Office Building and the Minority Staff in Room 2069 of the Rayburn House Office Building. The Committee prefers, if possible, to receive all documents in electronic format.

If you have any questions about this request, please contact Stephanie Fekete of the Majority Staff at (202) 225-5821 or Melissa Jung of the Minority Staff at (202) 225-4038. Thank you for your attention to this matter.

Sincerely,



Steve Chabot
Chairman
Committee on Small Business



Stephanie Fekete
Committee on Small Business

⁸ *Id.* § 212(a)(6).

⁹ *Id.*

PAT ROBERTS, KANSAS
CHAIRMAN

MITCH V. COHNE, J., KENTUCKY
JOHN BOOZMAN, ARKANSAS
JOHN HUIEVEN, NORTH DAKOTA
JONIE ERNST, IOWA
CINDY HYDE-SMITH, MISSISSIPPI
MARK ESKA, INDIANA
DAVID PERDUE, GEORGIA
CHUCK GRASSLEY, IOWA
JOHN THUNE, SOUTH DAKOTA
DEB FISCHER, NEBRASKA

United States Senate

COMMITTEE ON
AGRICULTURE, NUTRITION, AND FORESTRY

WASHINGTON, DC 20510-6000

202-224-2035

DEBBIE STABENOW, MICHIGAN
RANKING DEMOCRATIC MEMBER

PATRICK J. ITAHY, VERMONT
STEPHEN BROWN, OHIO
AMY KLOBUCHAR, MINNESOTA
MICHAEL T. BENNETT, COLORADO
KIRSTEN L. GILLIBRAND, NEW YORK
ROBERT P. CASOY, JR., PENNSYLVANIA
TINA SMITH, MINNESOTA
RICHARD J. DURBIN, ILLINOIS

July 9, 2019

The Honorable J. Christopher Giancarlo
Chairman
United States Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, D.C. 20581

Dear Chairman Giancarlo:

I write to thank you and congratulate you on your work serving as Chairman of the Commodity Futures Trading Commission (CFTC). The U.S. Senate Agriculture, Nutrition, and Forestry Committee has a strong bipartisan tradition, and we have appreciated your efforts to build consensus on many of the complex issues facing our derivatives markets.

As you know, the U.S. Senate confirmed Dr. Heath Tarbert on June 5, 2019 with a strong bipartisan vote of 84-9 to serve as the next Chairman of the Commission. While Dr. Tarbert has yet to start working at the CFTC, last week you announced that the Commission would consider multiple rule proposals on July 11, just days prior to Dr. Tarbert assuming the Chairmanship.

I am concerned about the appropriateness of the Commission considering these important rules during this transitional period before the incoming Chairman is sworn in, particularly given that your term expired in April 2019. When the Senate confirms a new Chairman, there is an expectation that there will be an orderly and timely transition and that the incoming Chairman would be given deference on the agenda of the Commission. I urge you to strongly reconsider proceeding with additional rulemakings prior to Dr. Tarbert being sworn in as Chairman.

I am also concerned about a recent press report stating that you have expressed interest in leading the Bank of England following your departure from the CFTC. Given that some of the rule proposals on the agenda would directly address cross-border regulatory matters currently under discussion between the CFTC, Bank of England, and others, such reports could suggest potential ethics issues with your involvement in the CFTC's consideration of these rule proposals. Even with assurances from your staff that you have not expressed interest in employment with the Bank of England, I encourage you to make a public statement to avoid any issues involving an appearance of impropriety.

I also ask that you and your staff ensure that you are adhering to all ethics laws and requirements and that you are appropriately notifying, consulting with, and following the advice of the CFTC's ethics advisor on any future employment issues. The Office of Government Ethics

Chairman Giancarlo
July 9, 2019
Page 2

example regarding future employment provides that federal employees cannot leave discussions of potential employment open with an entity where a pending rulemaking would affect the financial interests of an entity.

Thank you again for your service and leadership as Chairman of the CFTC.

Sincerely,

A handwritten signature in black ink, reading "Debbie Stabenow". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Debbie Stabenow
Ranking Member

COLLING, TETERSON, MINNESOTA
 CHAPMAN
 DAVID SCOTT, GEORGIA
 JIM COSTA, CALIFORNIA
 MARGIE L. FIDELL, OHIO
 JAMES P. MCGOVERN, MASSACHUSETTS
 RILEY ON VELA, TEXAS
 STACY E. HASKETT, VIRGINIA
 ALMA S. ADAMS, NORTH CAROLINA
 KRYE CLARK
 ARIANA J. DAVIS, VIRGINIA
 JAHANA DAVIS, CONNECTICUT
 ANTONIO DELGADO, NEW YORK
 TERRY L. CALIFORNIA
 ANNE CRAIG, MINNESOTA
 ANTHONY SCUDERI, NEW YORK
 J. THOMSON VAN DUSEN, NEW JERSEY
 JOSE HAROLD, CALIFORNIA
 KYLE SCHRIER, WASHINGTON
 KYLE SCHRIER, MAINE
 GIFF BUSTON, ILLINOIS
 SPAN PATRICK MARRIOTT, NEW YORK
 RALPH G. CARRAIA, CALIFORNIA
 A. LAWSON, ILLINOIS
 TOMMY HALL, ARIZONA
 JIMMY HANLON, CALIFORNIA
 ANN KIRKPATRICK, ARIZONA
 CYNTHIA KANE, IOWA

U.S. House of Representatives

Committee on Agriculture

Room 1501, Longworth House Office Building
 Washington, DC 20515-6001

(202) 225-2171

June 21, 2019

D. V. HALL, KANSAS
 RANNEY GORDON, VIRGINIA
 GLENN THOMPSON, PENNSYLVANIA
 ALVIN SCOTT, GEORGIA
 LINDA THOMPSON, ARIZONA
 SCOTT THOMPSON, TENNESSEE
 VICKY HARTZELL, MISSOURI
 DOUG LAMARCA, CALIFORNIA
 RODNEY DAVIS, ILLINOIS
 TERRY Y. HILL, FLORIDA
 ROCKWELL, GEORGIA
 YELLYN, ILLINOIS
 DAVID BOUZER, NORTH CAROLINA
 RALPH L. ABRAHAM, LOUISIANA
 TRENT ELLIOTT, MISSISSIPPI
 JAMES COWEN, KENTUCKY
 ROGER W. MARRAS, KANSAS
 DON BAUGH, NEBRASKA
 NEAL E. GUNN, FLORIDA
 DUSTY JOHNSON, SOUTH DAKOTA
 JAMES E. BAIRD, INDIANA
 JIM HAGLORE, MINNESOTA

— — —
 ANNE HAYMONS
 STAFF DIRECTOR
 MATTHEW S. SCHERTZ
 MANAGING STAFF DIRECTOR

The Honorable J. Christopher Giancarlo
 Chairman
 Commodity Futures Trading Commission
 Three Lafayette Centre
 1155 21st Street, NW
 Washington DC 20581

Dear Chairman Giancarlo,

I write to raise my serious concerns with the relaxed regulatory treatment given to certain investors, known in the Commission's rules as Qualified Eligible Persons ("QEPs"), particularly in light of the Securities and Exchange Commission's release of the concept paper seeking comment on ways to relax the SEC's accredited investor rules this week. I am concerned that this document heads in the wrong direction, and, I encourage you to head in the opposite direction and to amplify investor protections for participants in the markets you oversee.

It would be unwise for the Commission to consider any relaxation of QEP standards or any expansion of the eligibility criteria to be recognized as a QEP. Just last year, a Commodity Trading Advisor failed to properly hedge an aggressive options writing strategy that one industry participant described as taking advantage of investors who didn't know any better.

The Commission's most recent efforts to tighten relaxed disclosure requirements for QEPs in part 4.7 of title 17 of the Code of Federal Regulations provides an appropriate blueprint for you to follow. I was pleased to see increased recordkeeping, audit, and accounting standards put in place for QEPs in response to the financial crisis.

The QEP criteria deserve a second look. When the QEP rules were originally put in place, only about 1.5 million American investors would have met the income and net worth eligibility thresholds. According to an analysis by the Wall Street Journal published last year, because those benchmarks have not been adjusted to keep pace with inflation, now 16 million investors would qualify as QEPs.

The QEP rules should not be allowed to become a magnet for fraudulent operators or serve as their default business model.

Thank you for your attention to these concerns, I look forward to engaging with you, your successor, and the other Commissioners on this issue in the months ahead.

Sincerely,

A handwritten signature in black ink, appearing to read 'Collin C. Peterson', followed by a horizontal line.

Collin C. Peterson
Chairman

Congress of the United States
Washington, DC 20515

The Secretariat

DEC 10 2019

December 3, 2019

Received

The Honorable Steve Mnuchin
Secretary
U.S. Department of the Treasury
1500 Pennsylvania Ave., NW
Washington, D.C. 20220

The Honorable Jelena McWilliams
Chair
Federal Deposit Insurance Corporation
550 17th St., NW
Washington, D.C., 20429

The Honorable Joseph Otting
Comptroller of the Currency
Office of the Comptroller of the Currency
400 7th St., SW
Washington, D.C., 20219

The Honorable Jay Clayton
Chairman
U.S. Securities and Exchange Commission
100 F St., N.E.
Washington, D.C., 20549

The Honorable Jerome Powell
Chairman
Board of Governors of the Federal Reserve
System
20th St. and Constitution Ave., NW
Washington, D.C., 20551

The Honorable Heath Tarbert
Chairman
U.S. Commodity Futures Trading Commission
Three Lafayette Centre, 1155 21st St., NW
Washington, D.C. 20581

Dear Secretary Mnuchin, Comptroller Otting, Chairman Powell, Chair McWilliams, Chairman Clayton, and Chairman Tarbert:

Thank you for your work to reform the Volcker Rule, including finalizing changes to the proprietary trading provisions, which will help banks better serve our constituents, our communities, and the economy. Now that the proprietary trading provisions are finalized, we encourage you to move quickly to issue a proposed rule to amend the covered funds provisions in the Volcker Rule. Specifically, we believe you should revise the overbroad definition of "covered fund" to exclude venture capital and other long-term funds.

The current definition of a covered fund has had a significant impact on entrepreneurial capital formation by preventing banks from investing in venture capital and growth funds. Prior to the Volcker Rule's implementation, banks supplied vitally needed capital to venture and growth funds located outside of the traditional regions for this type of investment. Although only a small percentage of the overall capital invested into such funds, banks acted as so-called "anchor investors," signaling confidence in the fund to other investors and members of the community.

The prohibition on investment in covered funds cut off this critical source of capital and made it more difficult for start-ups and small businesses to attract the lifeline investment that enables

them to turn ideas into successful companies. A recent study showed that of all companies that went public between 1974–2015, venture-backed companies were responsible for 85% of total research and development undertaken by companies that went public in that time period.

The Volcker Rule has severely impacted investment to venture funds and businesses in our states, inhibiting growth and the potential to usher in new jobs in the regions that need it the most. If America's heartland is to remain competitive in the 21st Century, it is imperative that government policies support new company formation that drive growth, economic opportunity, and job creation.

The Congressional record demonstrates there was no intention to prohibit investment in venture capital funds. During a colloquy between former Senator Barbara Boxer, the author of the legislation, Senator Chris Dodd, stated: "Properly conducted venture capital investment will not cause the harms at which the Volcker Rule is directed. In the event that properly conducted venture capital investment is excessively restricted by the provisions of Section 619, I would expect the appropriate Federal regulators to exempt it using their authority under Section 619(J)."

Prohibiting investments into venture capital and growth funds unnecessarily restricts investment into states like ours which are outside of Silicon Valley and other traditional areas for venture capital activity.

We urge you to exercise your regulatory authority to exempt venture capital and similar long-term investing funds from the definition of a covered fund to help invigorate our local economies, provide access to capital to more entrepreneurs, and promote the economic growth and competitiveness of the United States. We look forward to working with you to spur economic growth in our communities through implementation of these common-sense reforms.

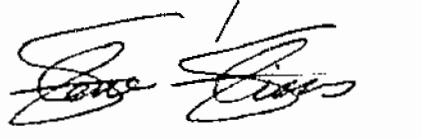
Respectfully,



Anthony Gonzalez
Member of Congress



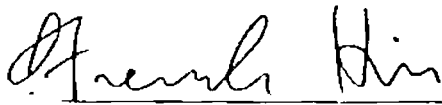
Bryan Steil
Member of Congress



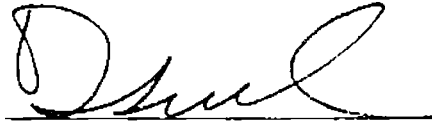
Steve Stivers
Member of Congress



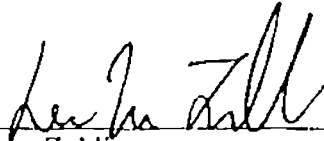
Andy Barr
Member of Congress



French Hill
Member of Congress



Denver Lee Riggleman III
Member of Congress



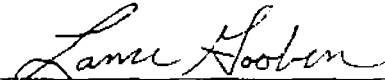
Lee Zeldin
Member of Congress



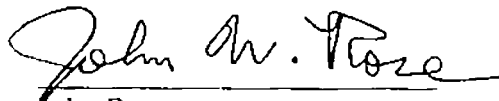
Warren Davidson
Member of Congress



Ted Budd
Member of Congress



Lance Gooden
Member of Congress



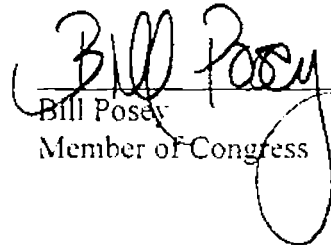
John Rose
Member of Congress



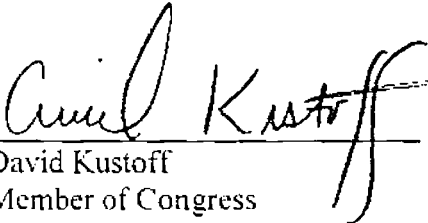
Tom Emmer
Member of Congress

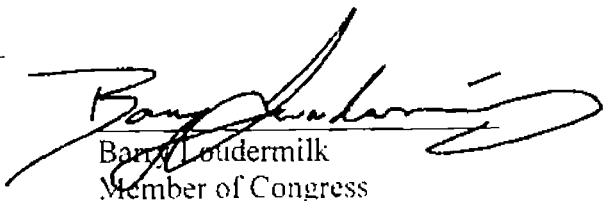


William R. Timmons IV
Member of Congress



Bill Posey
Member of Congress


David Kustoff
Member of Congress


Barry Loudermilk
Member of Congress

United States Senate

WASHINGTON, DC 20510

January 13, 2020

The Honorable Jay Clayton
Chairman
Securities and Exchange Commission
100 F Street SE
Washington, DC 20549

The Honorable Heath P. Tarbert
Chairman
Commodities Futures Trading Commission
Three Lafayette Centre
1155 21st Street NW
Washington, DC 20581

Dear Chairman Clayton and Chairman Tarbert:

We are writing to request that the Securities and Exchange Commission (SEC) and Commodities Futures Trading Commission (CFTC) open investigations into whether there may have been any illegal trading in defense company stocks or commodities related to individuals' advance knowledge of the United States attack on January 2, 2020, that killed Iranian Major General Qasem Soleimani.¹

The attack occurred while President Donald Trump was staying at and mingling with guests at his Mar-a-Lago resort.² According to a report released earlier this month, President Trump gave those guests advance knowledge of potential military action:

In the five days prior to launching a strike that killed Iran's most important military leader, Donald Trump roamed the halls of Mar-a-Lago, his private resort in Florida, and started dropping hints to close associates and club-goers that something huge was coming. ... Trump began telling friends and allies hanging at his perennial vacation getaway that he was working on a 'big' response to the Iranian regime that they would be hearing or reading about very 'soon.' [T]he president specifically mentioned he'd been in close contact with his top national security and military advisers on gaming out options for an aggressive action that

¹ New York Times, "U.S. Strike in Iraq Kills Qasim Suleimani, Commander of Iranian Forces," Michael Crowley, Fahim Hassan, and Eric Schmitt, January 7, 2020, <https://www.nytimes.com/2020/01/02/world/middleeast/qassem-soleimani-iraq-iran-attack.html>.

² Washington Post, "How Trump decided to kill a top Iranian general," Missy Ryan, Josh Dawsey, Dan Lamothe, and John Hudson, January 3, 2020, https://www.washingtonpost.com/national-security/how-trump-decided-to-kill-a-top-iranian-general/2020/01/03/77ce3cc4-2e62-11ea-bcd4-24597950008f_story.html.

could quickly materialize.³

If this report is true, it raises a number of troubling national security questions regarding President Trump's handling of classified and other sensitive national security information. It also means that individuals who were guests at President Trump's resort may have obtained confidential market-moving information and had the opportunity to trade defense industry stocks or commodities or make other trades based on this information. These private individuals, therefore, would have had the opportunity to obtain significant profits simply by being guests or members at President Trump's private resort. According to reports, "the club's nearly 500 paying members include dozens of real estate developers, Wall Street financiers, energy executives and others whose businesses could be affected by Mr. Trump's policies."⁴

Between January 2, 2020, before the announcement of the attack, and the end of the day on January 3, 2020, Northrop Grumman stock prices increased by over 5%; Lockheed Martin's stock prices increased by 3.6%; and the stock prices of Raytheon, Secretary of Defense Mark Esper's former employer, increased by 1.5%.⁵ Additionally, immediately following the killing of Soleimani, the price of crude oil increased by over 4%.⁶

Tensions between Iran and the United States in advance of the January 2, 2020, attack were not a secret. Secretary of State Mike Pompeo, Secretary of Defense Mark Esper, and Joint Chiefs of Staff Chairman General Mark Milley, provided reporters with a briefing on December 29, 2019 from Palm Beach in which Secretary Pompeo said "we will not stand for the Islamic Republic of Iran to take actions that put American men and women in jeopardy."⁷ President Trump threatened via Tweet that he would hold Iran "fully responsible for lives lost, or damage incurred, at any of our facilities" and that "[t]his is not a Warning [*sic*], it is a Threat [*sic*]."⁸ But according to the report, the information President Trump provided to his Mar-a-Lago guests went beyond the information provided publicly, or even to Members of Congress.⁹

We have no way of knowing which individuals received information from President Trump in advance of the attack, what precise information they received and when they received

³ Daily Beast, "Trump Told Mar-a-Lago Pals to Expect 'Big' Iran Action Soon," Spencer Ackerman, Asawin Suebsaeng, Erin Banco, and Betsy Swan, January 4, 2020, <https://www.thedailybeast.com/trump-told-mar-a-lago-pals-to-expect-big-iran-action-days-before-soleimanis-death>.

⁴ The New York Times, "Trump's 'Winter White House': A Peak at the Exclusive Members' List at Mar-a-Lago," Nicholas Confessore, Maggie Haberman and Eric Lipton, Feb. 18, 2017, <https://www.nytimes.com/2017/02/18/us/mar-a-lago-trump-ethics-winter-white-house.html>.

⁵ Los Angeles Times, "Defense stocks jump after U.S. kills Iranian general," Samantha Masunaga, January 3, 2020, <https://www.latimes.com/business/story/2020-01-03/defense-stocks-qassem-suleimani>.

⁶ Quartz, "Oil prices spike after US assassinates Iranian military leader," Max de Haldevang, January 3, 2020, <https://qz.com/1778998/oil-prices-spike-after-us-assassinates-irans-qasem-soleimani/>.

⁷ White House, "Press Briefing by Secretary of State Mike Pompeo and Secretary of Defense Mark Esper," December 30, 2019, <https://www.whitehouse.gov/briefings-statements/press-briefing-secretary-state-mike-pompeo-secretary-defense-mark-esper-palm-beach-fl/>.

⁸ Tweet from President Trump, December 31, 2019, <https://twitter.com/rcalDonaldTrump/status/1212121026072592384>.

⁹ Daily Beast, "Trump Told Mar-a-Lago Pals to Expect 'Big' Iran Action Soon," Spencer Ackerman, Asawin Suebsaeng, Erin Banco, and Betsy Swan, January 4, 2020, <https://www.thedailybeast.com/trump-told-mar-a-lago-pals-to-expect-big-iran-action-days-before-soleimanis-death>.

it, or whether they may have made any securities or commodities trades based on that information. Had they made such trades, they may potentially have violated the *Insider Trading Sanctions Act of 1984*, which bars individuals from “purchasing or selling a security [or security-based swap agreement] while in possession of material, nonpublic information.”¹⁰ Violation of these laws may subject individuals to civil penalties “three times the amount of the profit gained or loss avoided”¹¹ and criminal penalties up to \$5,000,000 or 20 years imprisonment or both.¹² Similarly, any oil futures or other commodities “trading on the basis of material, nonpublic information” could violate CFTC market manipulation rules established under the *Dodd-Frank Wall Street Reform and Consumer Protection Act*.¹³

Given the important national security issues at stake, and the threat to the integrity of the markets, it is important that you resolve any questions about whether any of President Trump’s guests may have engaged in profiteering based on inside information obtained from the President at Mar-a-Lago. We therefore ask that you open an investigation to address the following questions:

1. Which members and guests did President Trump meet or have discussions with at Mar-a-Lago in the days leading up to the January 2, 2020 strike against Iranian Major General Qasem Soleimani?
2. What information did President Trump provide to Mar-a-Lago members and guests regarding the January 2, 2020 strike against Iranian Major General Qasem Soleimani?
 - a. To what extent was this information material and non-public?
3. Which members and guests at Mar-a-Lago or other confidants of President Trump received advanced notice about the potential of the January 2, 2020 military action?
4. Did any of these individuals make any trades based on this information, and if so, did these trades violate insider trading laws?

In addition to opening an investigation, we ask that you provide our staff with a briefing on this matter no later than February 13, 2020.


¹⁰ Insider Trading Sanctions Act of 1984, Public Law 98-376.

¹¹ 15 U.S.C. 78u-1(a)(2)

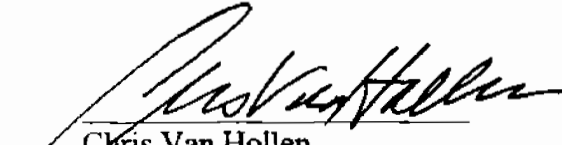
¹² 15 U.S.C. 78ff

¹³ Commodity Futures Trading Commission, Federal Register Notice, “Prohibition on the Employment, or Attempted Employment, of Manipulative and Deceptive Devices and Prohibition on Price Manipulation,” January 14, 2011. <https://www.federalregister.gov/documents/2011/07/14/2011-17549/prohibition-on-the-employment-or-attempted-employment-of-manipulative-and-deceptive-devices-and>.

Sincerely,



Elizabeth Warren
United States Senator



Chris Van Hollen
United States Senator

cc: Office of Government Ethics



U.S. COMMODITY FUTURES TRADING COMMISSION

Three Lafayette Centre
1155 21st Street, NW, Washington, DC 20581
www.cftc.gov

Heath Tarbert
Chairman

(202) 418-5030
Chairman@cftc.gov

December 4, 2019

The Honorable Mike Bost
Member of Congress
1440 Longworth House Office Building
Washington, D.C. 20515

The Honorable Rodney Davis
Member of Congress
1740 Longworth House Office Building
Washington, D.C. 20515

Dear Congressman Bost and Congressman Davis,

Thank you for your letter raising concerns about the joint proposed rule by the Commodity Futures Trading Commission (CFTC) and the Securities and Exchange Commission (SEC) on "Customer Margin Rules Relating to Security Futures."

As you know, on July 9, 2019, the CFTC issued a joint notice of proposed rulemaking (Proposal) with the SEC, to amend the security futures margin requirements. The two commissions have joint rulemaking authority regarding margin requirements for security futures and established the 20 percent level in a joint rulemaking back in 2002. However, in light of lower margin requirements established for comparable financial products and the resulting imbalance, the two agencies determined that it is appropriate to reexamine the minimum margin required for security futures.

The Proposal suggests modifying the required minimum margin to equal 15 percent of the current market value of the security future. Markets have evolved and the proposed rule change is an opportunity for both the CFTC and the SEC to learn more about the security futures markets and establish an effective and appropriate regulatory standard based on how the markets operate today, as well as the statutory standards that are in place. The public comment period closed on August 26, 2019. I look forward to learning from the public comments in response to the Proposal.

Thank you again for sharing your concerns. If you have additional questions, please contact Summer Mersinger, Director of the Office of Legislative and Intergovernmental Affairs at smersinger@cftc.gov.

Sincerely,



U.S. COMMODITY FUTURES TRADING COMMISSION

Three Lafayette Centre
1155 21st Street, NW, Washington, DC 20581
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J. Christopher Giancarlo
Chairman

(202) 418-5030
jcgiancarlo@cftc.gov

September 28, 2018

VIA ELECTRONIC MAIL

The Honorable Sherrod Brown
United States Senate
713 Hart Senate Office Building
Washington, D.C. 20510

The Honorable Jack Reed
United States Senate
726 Hart Senate Office Building
Washington, D.C. 20510

The Honorable Sheldon Whitehouse
United States Senate
530 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Brown, Senator Reed, and Senator Whitehouse,

Thank you for your letter regarding potential systemic risks that could result from the withdrawal of the United Kingdom (UK) from the European Union (EU). The Commodity Futures Trading Commission (CFTC) is very closely monitoring the potential effect of Brexit on U.S. and global financial markets. In addition, my fellow Commissioners and I are very sensitive to the ramifications for U.S. markets of the separation of the UK from the EU and how the EU plans to treat the UK after Brexit. I believe proposed EU policies have the potential to affect adversely the United States and U.S. firms and create needless uncertainty in the global financial markets.

After the Brexit decision, I directed the CFTC's Office of International Affairs to lead a Brexit task force to identify market risks and challenges associated with a "hard Brexit." As part of this effort, CFTC staff have met several times with officials from HM Treasury, Bank of England (BoE), UK Financial Conduct Authority (FCA), European Commission (EC) and European Securities and Markets Authority (ESMA) to discuss preparations for Brexit. I also personally have discussed the importance of regulatory certainty after Brexit with the UK Chancellor of the Exchequer Philip Hammond, BoE Governor Mark Carney, FCA Chief Executive Officer Andrew Bailey, EC Vice President Valdis Dombrovskis and ESMA Chair Steven Maijoor.

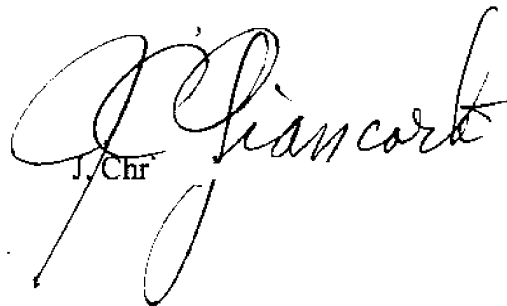
In addition, CFTC staff have met with financial firms and major international trade associations to discuss Brexit contingency planning efforts and their identification of legal, regulatory and operational challenges posed by Brexit.

In brief, we are carefully assessing the potential risks of Brexit to U.S. derivatives markets against a rapidly evolving back drop. We are relaying concerns to the Financial Stability Oversight Council and will take such other action as appropriate.

I am particularly concerned about legal changes being contemplated in the EU regarding how the EU regulates and supervises "third country" firms, including our central clearinghouses. These changes expand the extraterritorial application of EU law and standards over firms operating outside of the EU. As the impetus for many of these new laws appears to be Brexit, these laws, if not limited in scope and application, may both harm U.S. firms seeking to continue to have access to the EU market as well as disregard existing agreements between the CFTC and the EU.

In short, I remain concerned that the United States and its firms may be "collateral damage" to the Brexit negotiations between the UK and EU. I have raised, and will continue to raise, these concerns in the strongest possible terms with all of our EU counterparts, not only in the EC and ESMA, but also in the European Parliament and EU member states.

I look forward to staying in close contact with you and your staffs on this very important issue and would be pleased to meet with you at your convenience.

A handwritten signature in black ink, appearing to read "J. Chr. Giancorte". The signature is fluid and cursive, with the first name "J. Chr." written in a smaller, more compact script than the last name "Giancorte".



U.S. Commodity Futures Trading Commission
Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581
www.cftc.gov

J. Christopher Giancarlo
Chairman

(202) 418-5030
jcgiancarlo@cftc.gov

June 17, 2019

The Honorable Tedd Budd
U.S. House of Representatives
Washington, DC 20515

The Honorable Patrick McHenry
U.S. House of Representatives
Washington, DC 20515

The Honorable Peter T. King
U.S. House of Representatives
Washington, DC 20515

The Honorable Frank D. Lucas
U.S. House of Representatives
Washington, DC 20515

The Honorable Bill Posey
U.S. House of Representatives
Washington, DC 20515

The Honorable Blaine Luetkemeyer
U.S. House of Representatives
Washington, DC 20515

The Honorable Bill Huizenga
U.S. House of Representatives
Washington, DC 20515

The Honorable Sean P. Duffy
U.S. House of Representatives
Washington, DC 20515

The Honorable Steve Stivers
U.S. House of Representatives
Washington, DC 20515

The Honorable Ann Wagner
U.S. House of Representatives
Washington, DC 20515

The Honorable Andy Barr
U.S. House of Representatives
Washington, DC 20515

The Honorable Scott Tipton
U.S. House of Representatives
Washington, DC 20515

The Honorable Roger Williams
U.S. House of Representatives
Washington, DC 20515

The Honorable French Hill
U.S. House of Representatives
Washington, DC 20515

The Honorable Tom Emmer
U.S. House of Representatives
Washington, DC 20515

The Honorable Lee M. Zeldin
U.S. House of Representatives
Washington, DC 20515

The Honorable Barry Loudermilk
U.S. House of Representatives
Washington, DC 20515

The Honorable Alexander X. Mooney
U.S. House of Representatives
Washington, DC 20515

The Honorable Warren Davidson
U.S. House of Representatives
Washington, DC 20515

The Honorable David Kustoff
U.S. House of Representatives
Washington, DC 20515

The Honorable Trey Hollingsworth
U.S. House of Representatives
Washington, DC 20515

The Honorable Anthony Gonzalez
U.S. House of Representatives
Washington, DC 20515

The Honorable John Rose
U.S. House of Representatives
Washington, DC 20515

The Honorable Bryan Steil
U.S. House of Representatives
Washington, DC 20515

The Honorable Lance Gooden
U.S. House of Representatives
Washington, DC 20515

The Hon. Denver Lee Riggleman III
U.S. House of Representatives
Washington, DC 20515

Dear Representatives:

I am writing in response to your letter of May 14, 2019 regarding support for the expeditious implementation of several recommendations included in the U.S. Department of Treasury's report series, *A Financial System That Creates Economic Opportunities*.

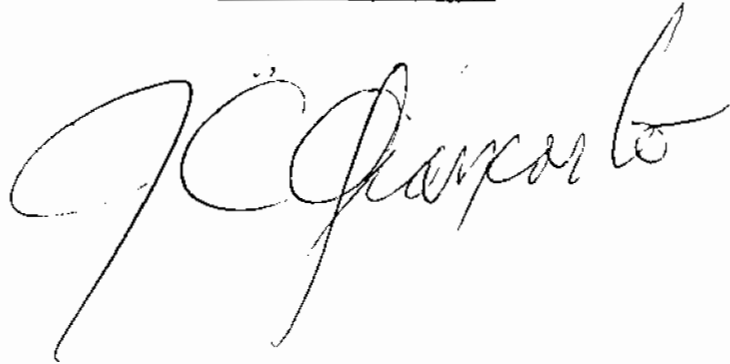
Your letter highlights the report's recommendation that federal banking agencies revisit the U.S. rules implementing international standards, including the risk-based capital surcharge for U.S. global systemically important banks (GSIBs). I am sympathetic to your concerns that we need to review standards and rules placed on U.S. firms post Dodd Frank to ensure that those rules are working properly. Since becoming Chairman I have reviewed the agency's ruleset and have proposed changes that reflect a better understanding of how the markets are functioning today. The U.S. rules governing international standards on global systemically important banks (GSIBs), however, are not under the jurisdiction of the Commodity Futures Trading Commission (CFTC).

Your letter expresses support for exempting transactions between bank affiliates from initial margin requirements on uncleared swaps. As noted in your letter, under CFTC regulations, initial margin is not required to be collected, provided that the counterparties adhere to a risk management program reasonably designed to monitor

and manage risks associated with the swaps (see generally Commission regulation 23.159).

And, lastly while we coordinate and engage with the Federal Reserve Board (FSB) on our stress test programs and examinations of central counterparty clearing houses, I feel that this question is best answered by the FSB.

I appreciate your attention to these important issues. If you should have further questions, please do not hesitate to reach out to Charlie Thornton, Director of Legislative and Intergovernmental Affairs at cthorton@cftc.g

A handwritten signature in black ink, appearing to read "JC Thornton". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.



U.S. Commodity Futures Trading Commission

Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581

J. Christopher Giancarlo
Chairman

(202) 418-5030
JCGiancarlo@CFTC.gov

April 26, 2019

The Honorable Elizabeth Warren
U.S. Senate
317 Hart Senate Office Building
Washington, DC 20510

Dear Senator Warren:

Thank you for your letter dated April 19, 2019, inquiring about the Commission's policy on the application of the Congressional Review Act ("CRA"), in light of the April 11, 2019, CRA guidance issued by the Office of Management and Budget ("OMB Guidance"). Specifically, your letter requests a copy of any written Commission policy from 1980 to the present that governs submission of Commission rules to the Office of Information and Regulatory Affairs ("OIRA") for review covered by the new OMB Guidance.

On April 26, 2011, the Commission's Office of the General Counsel issued a memorandum recommending procedures for compliance with the CRA, attached. It details the Commission's process for obtaining OMB's determination on whether a given final rule is a "major rule" under the CRA. While we are releasing this document to your office, it contains information that ordinarily may be exempt from public disclosure under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552. The Commission has not made this document or information publicly available. We, therefore, request that your office not publicly disclose this document or portions thereof.

The Commission is still evaluating the OMB Guidance for its effect on current agency practice and will continue to engage OMB to better understand the potential implications of the OMB Guidance for the Commission's final rulemakings.

Again, thank you for contacting me about this issue. If you have further questions, please contact Charlie Thornton or Ann Wright in the Office of Legislative Affairs at (202) 418-5145.

Sincerely,



U.S. Commodity Futures Trading Commission
Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581
www.cftc.gov

J. Christopher Giancarlo
Chairman

(202) 418-5030
jcgiancarlo@cftc.gov

October 22, 2018

The Honorable Tom Cotton
Senate Committee on Banking, Housing,
and Urban Affairs
United States Senate
124 Russell Senate Office Building
Washington, D.C. 20510

Dear Senator Cotton,

Thank you for your October 1, 2018, letter regarding the proposed rule, released by the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Securities and Exchange Commission, and the Commodity Futures Trading Commission (the "Agencies"), to revise the rule implementing section 13 of the Bank Holding Company Act (12 U.S.C. § 1851), as added by section 619 of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

We appreciate your views on the proposed rule and will include your letter in the public record. The Agencies have requested comment on all aspects of the proposed rule and will consider carefully all comments in formulating the final rule.

Sincerely,



U.S. Commodity Futures Trading Commission
Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581
www.cftc.gov

J. Christopher Giancarlo
Chairman

(202) 418-5030
jcgiancarlo@cftc.gov

October 22, 2018

The Honorable Mike Crapo
Chairman
Senate Committee on Banking, Housing,
and Urban Affairs
United States Senate
534 Senate Dirksen Office Building
Washington, D.C. 20510

Dear Mr. Chairman,

Thank you for your October 1, 2018, letter regarding the proposed rule, released by the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Securities and Exchange Commission, and the Commodity Futures Trading Commission (the "Agencies"), to revise the rule implementing section 13 of the Bank Holding Company Act (12 U.S.C. § 1851), as added by section 619 of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

We appreciate your views on the proposed rule and will include your letter in the public record. The Agencies have requested comment on all aspects of the proposed rule and will consider carefully all comments in formulating the final rule.

Sincerely,



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Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581
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J. Christopher Giancarlo
Chairman

(202) 418-5030
jcgiancarlo@cftc.gov

October 22, 2018

The Honorable Jeb Hensarling
Chairman
Committee on Financial Services
U.S. House of Representatives
2129 Rayburn House Office Building
Washington, D.C. 20515

Dear Mr. Chairman,

Thank you for your October 16, 2018, letter regarding the proposed rule, released by the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Securities and Exchange Commission, and the Commodity Futures Trading Commission (the "Agencies"), to revise the rule implementing section 13 of the Bank Holding Company Act (12 U.S.C. § 1851), as added by section 619 of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

We appreciate your views on the proposed rule and will include your letter in the public record. The Agencies have requested comment on all aspects of the proposed rule and will consider carefully all comments in formulating the final rule.



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J. Christopher Giancarlo
Chairman

(202) 418-5030
jcgiancarlo@cftc.gov

October 22, 2018

The Honorable Blaine Luetkemeyer
Chairman
Subcommittee on Financial Institutions
and Capital Credit
Committee on Financial Services
U.S. House of Representatives
2230 Rayburn House Office Building
Washington, D.C. 20515

Dear Mr. Chairman,

Thank you for your October 16, 2018, letter regarding the proposed rule, released by the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Securities and Exchange Commission, and the Commodity Futures Trading Commission (the "Agencies"), to revise the rule implementing section 13 of the Bank Holding Company Act (12 U.S.C. § 1851), as added by section 619 of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

We appreciate your views on the proposed rule and will include your letter in the public record. The Agencies have requested comment on all aspects of the proposed rule and will consider carefully all comments in formulating the final rule



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J. Christopher Giancarlo
Chairman

(202) 418-5030
jcgiancarlo@cftc.gov

October 22, 2018

The Honorable Jeff A. Merkley
United State Senate
313 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Merkley,

Thank you for your October 3, 2018, letter regarding the proposed rule, released by the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Securities and Exchange Commission, and the Commodity Futures Trading Commission (the "Agencies"), to revise the rule implementing section 13 of the Bank Holding Company Act (12 U.S.C. § 1851), as added by section 619 of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

We appreciate your views on the proposed rule and will include your letter in the public record. The Agencies have requested comment on all aspects of the proposed rule and will consider carefully all comments in formulating the final rule.

Sincerely,



U.S. Commodity Futures Trading Commission
Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581
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J. Christopher Giancarlo
Chairman

(202) 418-5030
jcgiancarlo@cftc.gov

October 22, 2018

The Honorable David Perdue
Senate Committee on Banking, Housing,
and Urban Affairs
United States Senate
455 Russell Senate Office Building
Washington, D.C. 20510

Dear Senator Perdue,

Thank you for your October 1, 2018, letter regarding the proposed rule, released by the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Securities and Exchange Commission, and the Commodity Futures Trading Commission (the "Agencies"), to revise the rule implementing section 13 of the Bank Holding Company Act (12 U.S.C. § 1851), as added by section 619 of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

We appreciate your views on the proposed rule and will include your letter in the public record. The Agencies have requested comment on all aspects of the proposed rule and will consider carefully all comments in formulating the final rule.

Sincerely,



U.S. COMMODITY FUTURES TRADING COMMISSION

Three Lafayette Centre
1155 21st Street, NW, Washington, DC 20581
www.cftc.gov

Heath Farbert
Chairman

(202) 418-5030
Chairman@cftc.gov

January 16, 2020

The Honorable Gregory Meeks
United States House of Representatives
2310 Rayburn House Office
Washington, DC 20515

The Honorable Emanuel Cleaver
United States House of Representatives
2335 Rayburn House Office
Washington, DC 20515

Dear Congressmen Cleaver and Meeks,

I thank you for your letter dated January 7, 2020 regarding potential Iranian cyber threats against the United States. The Commodity Futures Trading Commission (the Commission) treats these threats very seriously. We believe that it is imperative for the U.S. financial sector, both public and private, to increase alertness and preparedness concerning the potential for cybersecurity breaches not only in the wake of escalating conflict, but also as a general practice given existing, and ongoing cyber threats.

As of today, the Commission has not received actionable intelligence concerning threats specifically related to recent news. However, U.S. financial agencies have and will continue to take steps to prevent or mitigate such potential threats.

The Commission is a member of the Financial Banking Information Infrastructure Committee (FBIIC), as well as the President's Working Group on Financial Markets (PWGFM). Last week the FBIIC asked each of its members to share with entities they regulate known threat indicators, provided by the Department of Homeland Security and other relevant federal government agencies, related to possible attacks. The Commission's Divisions of Clearing and Risk (DCR) and Market Oversight (DMO) have sent notice of these threat indicators to all regulated entities, including Designated Contract Markets (DCMs), Swap Execution Facilities (SEFs), Derivatives Clearing Organizations (DCOs) and Swap Data Repositories (SDRs). The notice asks each regulated entity to review the threat indicators provided and take appropriate steps to protect against and mitigate associated threats. The notice also asks each regulated entity to promptly notify the Commission if the entity discovers any related vulnerabilities, experiences any cyber-attacks, or learns of any helpful and relevant information.

As a general matter, the U.S. markets have indicated a slight increase in their overall risk profile, but there are no market reports of significant bank, counterparty, or exchange difficulties. We

will continue to monitor our markets and clearing organizations and work closely with our regulated entities. Also, the Commission recently published Examination Priorities for its divisions with the goal to improve communication between the Commission and the entities we regulate and promote compliance. The primary goal of the examination process for our regulated entities is to identify areas of weakness or non-compliance in activities that are critical to a strong and efficient system safeguards program, which includes cyber-security policies, practices, and procedures to assess the entity's system safeguard's maturity, capabilities, and overall resilience.

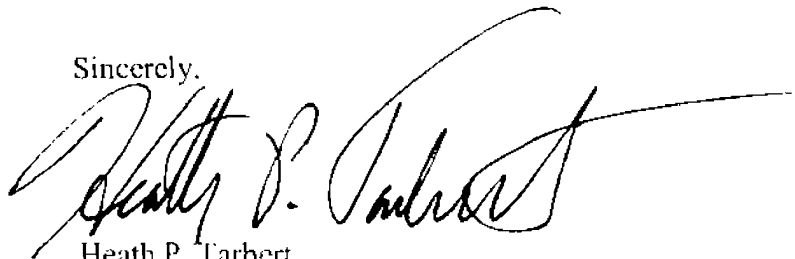
It is also important to note that the Commission's regulations specifically state that a regulated entity must notify Commission staff promptly of cyber security incidents or targeted threats that actually or potentially jeopardize automated system operation, reliability, security, or capacity.

As it pertains to the CFTC internal cybersecurity program, our Chief Information Security Officer (CISO) is working closely with the Department of Homeland Security to identify any related Indicators of Threat (IOTs) and implement the appropriate mitigations. We have issued a staff advisory encouraging employees to stay vigilant in terms of both cyber and physical security while conducting business online or in Commission offices.

It is critical that our derivatives markets operate efficiently and without disruption to ensure that market participants and end-users, like America's farmers and ranchers, continue to use derivatives as part of their risk management program. As a federal regulator, it is equally important that the Commission focus on improving and strengthening our cyber security internally.

Again, thank you for contacting me about this important issue. If you have any questions or concerns, please contact Summer Mersinger, Director of the Office of Legislative and Intergovernmental Affairs at (202) 418-6074.

Sincerely,

A handwritten signature in black ink, appearing to read "Heath P. Tarbert", with a long, sweeping horizontal line extending to the right.

Heath P. Tarbert
Chairman & Chief Executive



U.S. Commodity Futures Trading Commission
Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581
www.cftc.gov

J. Christopher Giancarlo
Chairman

(202) 418-5030
jcgiancarlo@cftc.gov

October 22, 2018

The Honorable M. Michael Rounds
Senate Committee on Banking, Housing,
and Urban Affairs
United States Senate
502 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Rounds,

Thank you for your October 1, 2018, letter regarding the proposed rule, released by the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Securities and Exchange Commission, and the Commodity Futures Trading Commission (the "Agencies"), to revise the rule implementing section 13 of the Bank Holding Company Act (12 U.S.C. § 1851), as added by section 619 of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

We appreciate your views on the proposed rule and will include your letter in the public record. The Agencies have requested comment on all aspects of the proposed rule and will consider carefully all comments in formulating the final rule.

Sincerely,



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Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581
www.cftc.gov

J. Christopher Giancarlo
Chairman

(202) 418-5030
jcgiancarlo@cftc.gov

October 22, 2018

The Honorable Tim Scott
Senate Committee on Banking, Housing,
and Urban Affairs
United States Senate
717 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Scott,

Thank you for your October 1, 2018, letter regarding the proposed rule, released by the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Securities and Exchange Commission, and the Commodity Futures Trading Commission (the "Agencies"), to revise the rule implementing section 13 of the Bank Holding Company Act (12 U.S.C. § 1851), as added by section 619 of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

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Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581
www.cftc.gov

J. Christopher Giancarlo
Chairman

(202) 418-5030
jcgiancarlo@cftc.gov

March 25, 2019

The Honorable John Tester
U.S. Senate
311 Hart Office Building
Washington, D.C. 20510

The Honorable Thomas R. Carper
U.S. Senate
513 Hart Office Building
Washington, D.C. 20510

The Honorable Doug Jones
U.S. Senate
326 Russell Office Building
Washington, D.C. 20510

The Honorable Joe Manchin III
U.S. Senate
306 Hart Office Building
Washington, D.C. 20510

The Honorable Tim Kaine
U.S. Senate
231 Russell Office Building
Washington, D.C. 20510

Dear Senators Tester, Carper, Jones, Manchin, and Kaine:

Thank you for your December 10, 2018 letter regarding the proposed rule, released by the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Securities and Exchange Commission, and the Commodity Futures Trading Commission (the "Agencies"), to revise the rule implementing section 13 of the Bank Holding Company Act (12 U.S.C. § 1851), as added by section 619 of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

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Sincerely,



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J. Christopher Giancarlo
Chairman

(202) 418-5030
jcgiancarlo@cftc.gov

October 22, 2018

The Honorable Thom Tillis
Senate Committee on Banking, Housing,
and Urban Affairs
United States Senate
185 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Senator Tillis,

Thank you for your October 1, 2018, letter regarding the proposed rule, released by the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Securities and Exchange Commission, and the Commodity Futures Trading Commission (the "Agencies"), to revise the rule implementing section 13 of the Bank Holding Company Act (12 U.S.C. § 1851), as added by section 619 of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

We appreciate your views on the proposed rule and will include your letter in the public record. The Agencies have requested comment on all aspects of the proposed rule and will consider carefully all comments in formulating the final rule.

Sincerely,



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Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581
www.cftc.gov

J. Christopher Giancarlo
Chairman

(202) 418-5030
jcgiancarlo@cftc.gov

October 22, 2018

The Honorable Pat Toomey
Senate Committee on Banking, Housing,
and Urban Affairs
United States Senate
248 Russell Senate Office Building
Washington, D.C. 20510

Dear Senator Toomey,

Thank you for your October 1, 2018, letter regarding the proposed rule, released by the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Securities and Exchange Commission, and the Commodity Futures Trading Commission (the "Agencies"), to revise the rule implementing section 13 of the Bank Holding Company Act (12 U.S.C. § 1851), as added by section 619 of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

We appreciate your views on the proposed rule and will include your letter in the public record. The Agencies have requested comment on all aspects of the proposed rule and will consider carefully all comments in formulating the final rule.

Sincerely,



U.S. COMMODITY FUTURES TRADING COMMISSION

Three Lafayette Centre
1155 21st Street, NW, Washington, DC 20581
www.cftc.gov

Heath Tarbert
Chairman

(202) 418-5030
Chairman@cftc.gov

February 12, 2020

The Honorable Mike Crapo
Chairman
United States Senate
Committee on Banking,
Housing and Urban Affairs
534 Dirksen Senate Office Building
Washington, DC 20510

Dear Senator Crapo:

Thank you for your letter dated December 18, 2019, encouraging the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, the Securities and Exchange Commission, and the Commodity Futures Trading Commission ("the Agencies") to exclude venture capital and similar long-term investing funds from the definition of a "covered fund" under the Volcker Rule.

The Agencies recently issued a notice of proposed rulemaking addressing the Volcker Rule covered funds provision. Although this part of the Volcker Rule has only limited implications for the Commodity Futures Trading Commission (CFTC) and the derivatives markets that the agency regulates, the notice of proposed rulemaking includes a provision that would give banking entities increased flexibility to invest in and sponsor venture capital funds. The Agencies will include your letter in the public record.

If you have any further questions, please do not hesitate to reach out to Summer Mersinger, Director of Legislative and Intergovernmental affairs at the CFTC at (202)-418-6074 or smersinger@cftc.gov.

Sincerely,

Heath Tarbert
Chairman & Chief Executive

PS: I hope all is well!



U.S. COMMODITY FUTURES TRADING COMMISSION

Three Lafayette Centre
1155 21st Street, NW, Washington, DC 20581
www.cftc.gov

J. Christopher Giancarlo
Chairman

(202) 418-5030
jcgiancarlo@cftc.gov

July 9, 2019

Senator Debbie Stabenow
Ranking Member
United States Senate
Committee on Agriculture, Nutrition and Forestry
Washington, DC 20510-6000

Dear Senator Stabenow,

Thank you for your letter of July 9, 2019. I write to clarify several issues of concern.

I am aware of idle speculation in the London press on my candidacy for the position of Governor of the Bank of England, the United Kingdom's central bank and prudential regulator.

As I have timely informed my fellow Commissioners, I have not sought or applied for the position, for which I understand the application process is now closed, nor have I had conversations with anyone conducting recruitment for the position.

More broadly, I confirm that I have not, and will not, discuss, consider, apply for or pursue any professional engagement or employment of any kind whatsoever until after the completion of my service on the Commission.

Furthermore, I have and will continue at all times to abide by all ethical obligations concomitant to my Federal government service. I also have consulted, and will continue to consult, and, if appropriate, I will notify and follow the advice of the CFTC's ethics advisor on any future employment issue.

Additionally, I will remind CFTC staff of their obligations to strictly adhere to all ethics laws and requirements and to consult with appropriate ethics officials regarding their obligations impacted by potential future employment.

Let me take this opportunity to thank you most sincerely for your unwavering support for this agency and its mission to foster open, transparent, competitive and financial markets.

Yours sincerely,

A handwritten signature in black ink, reading "J. Christopher Giancarlo". The signature is fluid and cursive, with a long, sweeping underline.



U.S. COMMODITY FUTURES TRADING COMMISSION

Three Lafayette Centre
1155 21st Street, NW, Washington, DC 20581

(202) 418-6074

Heath Tarbert
Chairman

(202) 418-5030
Chairman@cftc.gov

October 25, 2019

The Honorable Ted Lieu
United States House of Representatives
403 Cannon House Office Building
Washington, DC 20515

The Honorable Kathleen Rice
United States House of Representatives
2435 Rayburn House Office Building
Washington, DC 20515

Dear Congressman Lieu and Congresswoman Rice,

Thank you for your letter dated October 17, 2019 citing concerns raised in an October 16, 2019 *Vanity Fair* article concerning potential unlawful behavior related to the trading of e-mini S&P 500 futures contracts on the Chicago Mercantile Exchange.

Working to ensure and promote market integrity is important to the Commodity Futures Trading Commission (CFTC). We regularly monitor market moving events to look for abnormalities and suspicious activities. If abnormalities or suspicious activities are detected, the CFTC's Division of Enforcement (DOE) investigates such allegations and prosecutes violations of the Commodity Exchange Act and the Commission's regulations. Potential violations include fraud, manipulation and other abuses that threaten market integrity, market participants and the public.

The Commission takes all alleged violations seriously, regardless of the source. Any inquiry undertaken by the DOE, however, is confidential and is not disclosed unless a public proceeding is brought either before the Commission or in federal court.

Again, thank you for contacting me about your concerns. If you have any further questions, please contact Summer Mersinger, Director of the Office of Legislative and Intergovernmental Affairs at (202)-418-6074.

Sincerely,



U.S. COMMODITY FUTURES TRADING COMMISSION

Three Lafayette Centre
1155 21st Street, NW, Washington, DC 20581

(202) 418-6074

Heath Tarbert
Chairman

(202) 418-5030
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October 25, 2019

The Honorable Ted Lieu
United States House of Representatives
403 Cannon House Office Building
Washington, DC 20515

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Again, thank you for contacting me about your concerns. If you have any further questions, please contact Summer Mersinger, Director of the Office of Legislative and Intergovernmental Affairs at (202)-418-6074.

Sincerely,

**Board of Governors of the Federal Reserve System
Federal Deposit Insurance Corporation
Office of the Comptroller of the Currency
Securities and Exchange Commission
Commodity Futures Trading Commission**

October 16, 2019

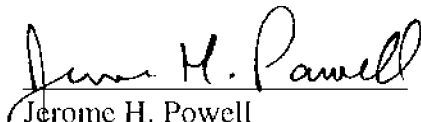
The Honorable Jeffrey A. Merkley
United States Senate
Washington, D.C. 20510


Dear Senator Merkley:

Thank you for your letter dated September 12, 2019, regarding the final rule that amends the regulations implementing section 13 of the Bank Holding Company Act (commonly known as the Volcker Rule). As you know, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, the Commodity Futures Trading Commission, and the Securities and Exchange Commission (collectively, the agencies) recently approved the final rule.

The amendments adopted by the agencies simplify and streamline the regulations implementing the Volcker Rule; all banking entities, as defined by statute, will remain subject to the prohibition on proprietary trading. As described in the notice adopting the final rule, the agencies believe that the rules promulgated in 2013 created unnecessary complexity in a number of areas without furthering the statutory objective of prohibiting proprietary trading. The revised regulations clarify what activities are prohibited, and what activities—including market-making, underwriting, and hedging activities expressly authorized by statute—are permitted. These revisions should facilitate compliance by banking entities and improve the ability of the agencies to supervise firms effectively.

Sincerely,


Jerome H. Powell
Chair
Board of Governors of
the Federal Reserve System

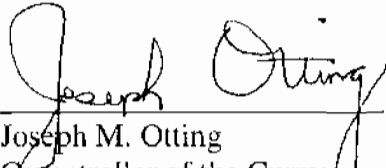

Jay Clayton
Chairman
Securities and Exchange Commission



Jelena McWilliams
Chairman
Federal Deposit Insurance Corporation



Heath P. Tarbert
Chairman
Commodity Futures Trading Commission



Joseph M. Otting
Comptroller of the Currency
Office of the Comptroller of the Currency

**Board of Governors of the Federal Reserve System
Office of the Comptroller of the Currency
Federal Deposit Insurance Corporation
Securities and Exchange Commission
Commodity Futures Trading Commission**

September 7, 2018

The Honorable Jeffrey Merkley
United States Senate
Washington, D.C. 20510

Dear Senator Merkley:

Thank you for your August 2, 2018, letter regarding the proposed rule, released by the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Securities and Exchange Commission, and the Commodity Futures Trading Commission (the "Agencies"), to revise the rule implementing section 13 of the Bank Holding Company Act (12 U.S.C. § 1851), as added by section 619 of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

We appreciate your views on the proposed rule. We will include your letter in the public record. The Agencies have requested comment on all aspects of the proposed rule and will consider carefully all comments in formulating the final rule.

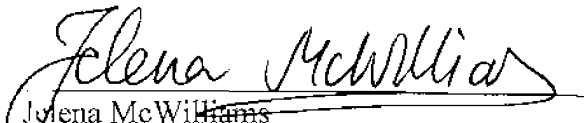
Sincerely,



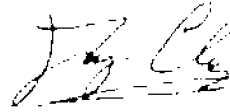
Jerome H. Powell
Chairman
Board of Governors of
the Federal Reserve System



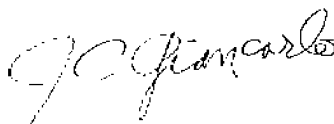
Joseph M. Otting
Comptroller of the Currency
Office of the Comptroller of the Currency



Jelena McWilliams
Chairman
Federal Deposit Insurance Corporation



Jay Clayton
Chairman
Securities and Exchange Commission



J. Christopher Giancarlo
Chairman
Commodity Futures Trading Commission

**Board of Governors of the Federal Reserve System
Office of the Comptroller of the Currency
Federal Deposit Insurance Corporation
Securities and Exchange Commission
Commodity Futures Trading Commission**

September 7, 2018

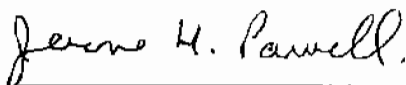
The Honorable Kirsten Gillibrand
United States Senate
Washington, D.C. 20510

Dear Senator Gillibrand:

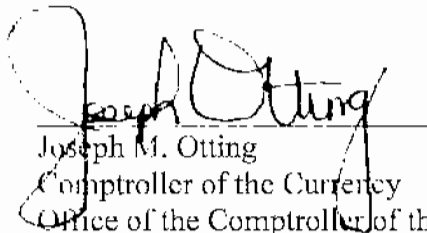
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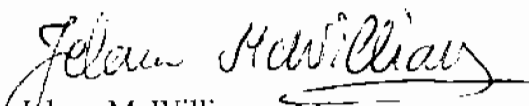
Sincerely,



Jerome H. Powell
Chairman
Board of Governors of
the Federal Reserve System



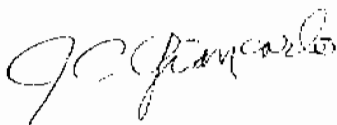
Joseph M. Otting
Comptroller of the Currency
Office of the Comptroller of the Currency



Jelena McWilliams
Chairman
Federal Deposit Insurance Corporation



Jay Clayton
Chairman
Securities and Exchange Commission



J. Christopher Giancarlo
Chairman
Commodity Futures Trading Commission

**Board of Governors of the Federal Reserve System
Office of the Comptroller of the Currency
Federal Deposit Insurance Corporation
Securities and Exchange Commission
Commodity Futures Trading Commission**

September 7, 2018

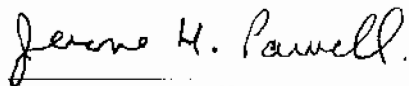
The Honorable Elizabeth Warren
United States Senate
Washington, D.C. 20510

Dear Senator Warren:

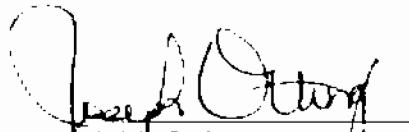
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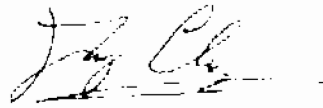
Jerome H. Powell
Chairman
Board of Governors of
the Federal Reserve System



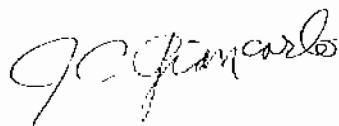
Joseph M. Otting
Comptroller of the Currency
Office of the Comptroller of the Currency



Jelena McWilliams
Chairman
Federal Deposit Insurance Corporation



Jay Clayton
Chairman
Securities and Exchange Commission



J. Christopher Giancarlo
Chairman
Commodity Futures Trading Commission

**Board of Governors of the Federal Reserve System
Office of the Comptroller of the Currency
Federal Deposit Insurance Corporation
Securities and Exchange Commission
Commodity Futures Trading Commission**

September 7, 2018

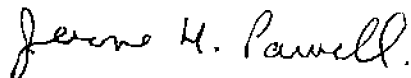
The Honorable Cory A. Booker
United States Senate
Washington, D.C. 20510

Dear Senator Booker:

Thank you for your August 2, 2018, letter regarding the proposed rule, released by the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Securities and Exchange Commission, and the Commodity Futures Trading Commission (the "Agencies"), to revise the rule implementing section 13 of the Bank Holding Company Act (12 U.S.C. § 1851), as added by section 619 of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

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Jerome H. Powell
Chairman
Board of Governors of
the Federal Reserve System



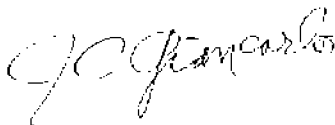
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Comptroller of the Currency
Office of the Comptroller of the Currency



Jelena McWilliams
Chairman
Federal Deposit Insurance Corporation



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Chairman
Securities and Exchange Commission



J. Christopher Giancarlo
Chairman
Commodity Futures Trading Commission

**Board of Governors of the Federal Reserve System
Office of the Comptroller of the Currency
Federal Deposit Insurance Corporation
Securities and Exchange Commission
Commodity Futures Trading Commission**

September 7, 2018

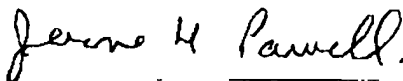
The Honorable Richard Blumenthal
United States Senate
Washington, D.C. 20510

Dear Senator Blumenthal:

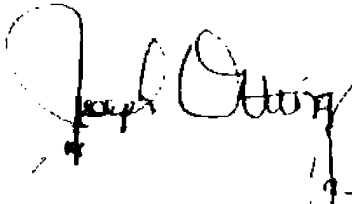
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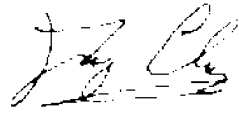
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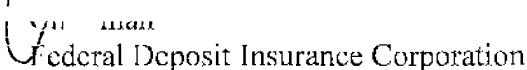
Jerome H. Powell
Chairman
Board of Governors of
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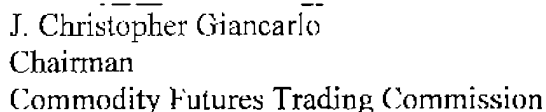
Office of the Comptroller of the Currency



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Securities and Exchange Commission



Federal Deposit Insurance Corporation



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Office of the Comptroller of the Currency
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September 7, 2018

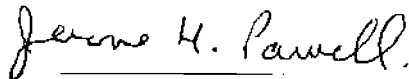
The Honorable Kamala D. Harris
United States Senate
Washington, D.C. 20510

Dear Senator Harris:

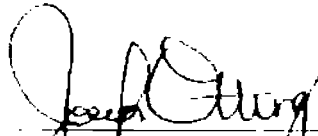
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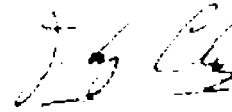
Jerome H. Powell
Chairman
Board of Governors of
the Federal Reserve System



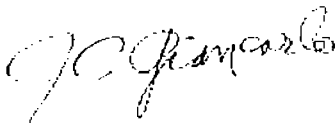
Joseph M. Otting
Comptroller of the Currency
Office of the Comptroller of the Currency



Jelena McWilliams
Chairman
Federal Deposit Insurance Corporation



Jay Clayton
Chairman
Securities and Exchange Commission



J. Christopher Giancarlo
Chairman
Commodity Futures Trading Commission

**Board of Governors of the Federal Reserve System
Office of the Comptroller of the Currency
Federal Deposit Insurance Corporation
Securities and Exchange Commission
Commodity Futures Trading Commission**

September 7, 2018

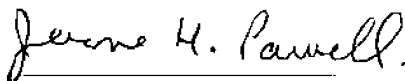
The Honorable Jeanne Shaheen
United States Senate
Washington, D.C. 20510

Dear Senator Shaheen:

Thank you for your August 2, 2018, letter regarding the proposed rule, released by the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Securities and Exchange Commission, and the Commodity Futures Trading Commission (the "Agencies"), to revise the rule implementing section 13 of the Bank Holding Company Act (12 U.S.C. § 1851), as added by section 619 of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

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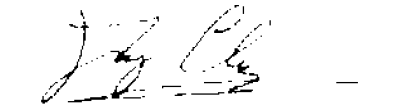
Sincerely,



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Chairman
Board of Governors of
the Federal Reserve System



Joseph M. Otting
Comptroller of the Currency
Office of the Comptroller of the Currency


an
Federal Deposit Insurance Corporation
Jay C.inton
Chairman
Securities and Exchange Commission

J. Christopher Giancarlo
Chairman
Commodity Futures Trading Commission

**Board of Governors of the Federal Reserve System
Office of the Comptroller of the Currency
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Securities and Exchange Commission
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September 7, 2018

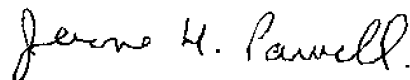
The Honorable Dianne Feinstein
United States Senate
Washington, D.C. 20510

Dear Senator Feinstein:

Thank you for your August 2, 2018, letter regarding the proposed rule, released by the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Securities and Exchange Commission, and the Commodity Futures Trading Commission (the "Agencies"), to revise the rule implementing section 13 of the Bank Holding Company Act (12 U.S.C. § 1851), as added by section 619 of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

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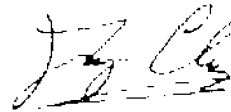
Jerome H. Powell
Chairman
Board of Governors of
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Joseph M. Otting
Comptroller of the Currency
Office of the Comptroller of the Currency



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**Board of Governors of the Federal Reserve System
Office of the Comptroller of the Currency
Federal Deposit Insurance Corporation
Securities and Exchange Commission
Commodity Futures Trading Commission**

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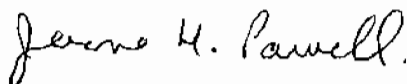
The Honorable Tina Smith
United States Senate
Washington, D.C. 20510

Dear Senator Smith:

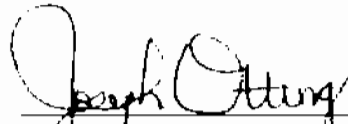
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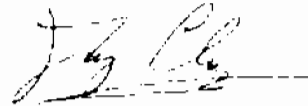
Jerome H. Powell
Chairman
Board of Governors of
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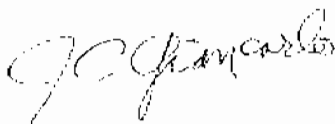
Joseph M. Otting
Comptroller of the Currency
Office of the Comptroller of the Currency



Jelena McWilliams
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Federal Deposit Insurance Corporation



Jay Clayton
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Securities and Exchange Commission



J. Christopher Giancarlo
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Office of the Comptroller of the Currency
Federal Deposit Insurance Corporation
Securities and Exchange Commission
Commodity Futures Trading Commission**

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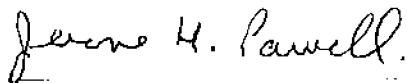
The Honorable Chris Van Hollen
United States Senate
Washington, D.C. 20510

Dear Senator Van Hollen:

Thank you for your August 2, 2018, letter regarding the proposed rule, released by the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Securities and Exchange Commission, and the Commodity Futures Trading Commission (the "Agencies"), to revise the rule implementing section 13 of the Bank Holding Company Act (12 U.S.C. § 1851), as added by section 619 of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

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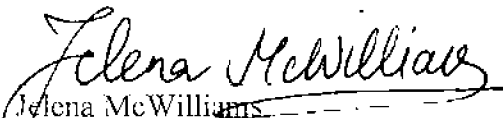
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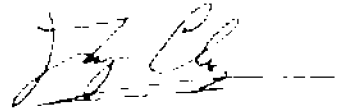
Jerome H. Powell
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Joseph M. Otting
Comptroller of the Currency
Office of the Comptroller of the Currency



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**Board of Governors of the Federal Reserve System
Office of the Comptroller of the Currency
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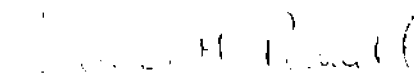
The Honorable Sherrod Brown
United States Senate
Washington, D.C. 20510

Dear Senator Brown:

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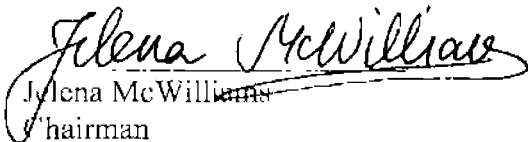
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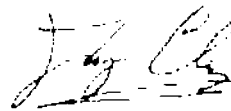
Jerome H. Powell
Chairman
Board of Governors of
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Joseph M. Otting
Comptroller of the Currency
Office of the Comptroller of the Currency



Jelena McWilliams
Chairman
Federal Deposit Insurance Corporation



Jay Clayton
Chairman
Securities and Exchange Commission



J. Christopher Giancarlo
Chairman
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**Board of Governors of the Federal Reserve System
Office of the Comptroller of the Currency
Federal Deposit Insurance Corporation
Securities and Exchange Commission
Commodity Futures Trading Commission**

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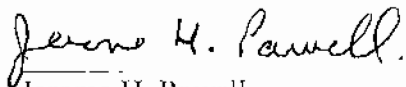
The Honorable Edward J. Markey
United States Senate
Washington, D.C. 20510

Dear Senator Markey:

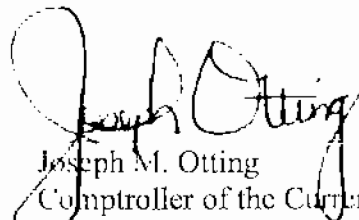
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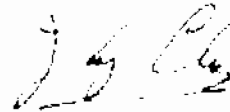
Jerome H. Powell
Chairman
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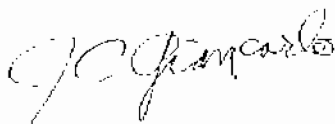
Joseph M. Otting
Comptroller of the Currency
Office of the Comptroller of the Currency



Jelena McWilliam
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Securities and Exchange Commission



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**Board of Governors of the Federal Reserve System
Office of the Comptroller of the Currency
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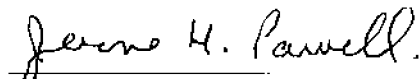
The Honorable Robert P. Casey Jr.
United States Senate
Washington, D.C. 20510

Dear Senator Casey:

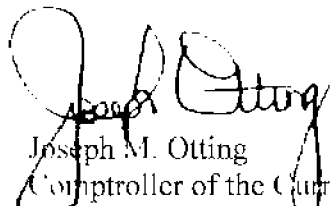
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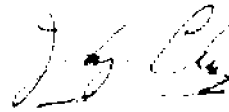
Jerome H. Powell
Chairman
Board of Governors of
the Federal Reserve System



Joseph M. Otting
Comptroller of the Currency
Office of the Comptroller of the Currency



Jelena McWilliams
Chairman
Federal Deposit Insurance Corporation



Jay Clayton
Chairman
Securities and Exchange Commission



J. Christopher Giancarlo
Chairman
Commodity Futures Trading Commission

**Board of Governors of the Federal Reserve System
Office of the Comptroller of the Currency
Federal Deposit Insurance Corporation
Securities and Exchange Commission
Commodity Futures Trading Commission**

September 7, 2018

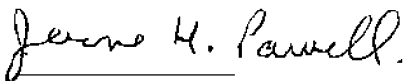
The Honorable Ron Wyden
United States Senate
Washington, D.C. 20510

Dear Senator Wyden:

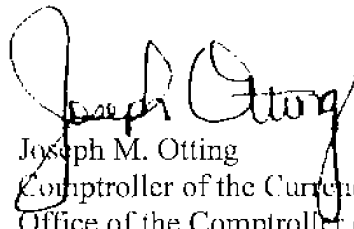
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Office of the Comptroller of the Currency



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Federal Deposit Insurance Corporation



Jay Clayton
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J. Christopher Giancarlo
Chairman
Commodity Futures Trading Commission

**Board of Governors of the Federal Reserve System
Office of the Comptroller of the Currency
Federal Deposit Insurance Corporation
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September 7, 2018

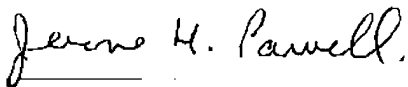
The Honorable Maria Cantwell
United States Senate
Washington, D.C. 20510

Dear Senator Cantwell:

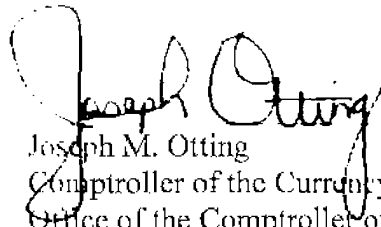
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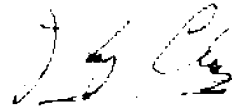
Jerome H. Powell
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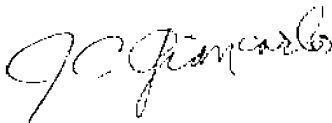
Joseph M. Otting
Comptroller of the Currency
Office of the Comptroller of the Currency



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Chairman
Securities and Exchange Commission



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**Board of Governors of the Federal Reserve System
Office of the Comptroller of the Currency
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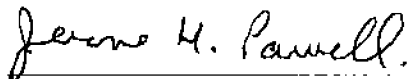
The Honorable Benjamin L. Cardin
United States Senate
Washington, D.C. 20510

Dear Senator Cardin:

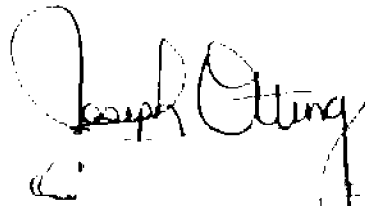
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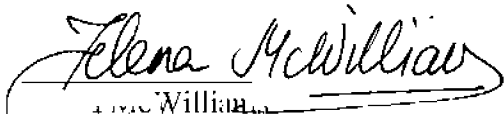
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Board of Governors of
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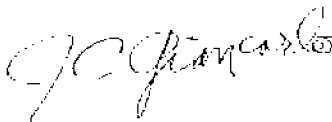
Office of the Comptroller of the Currency



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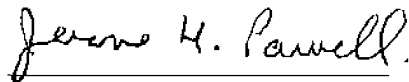
The Honorable Patrick J. Leahy
United States Senate
Washington, D.C. 20510

Dear Senator Leahy:

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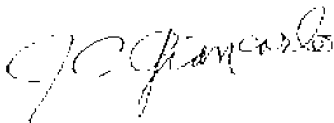
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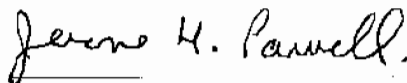
The Honorable Brian Schatz
United States Senate
Washington, D.C. 20510

Dear Senator Schatz:

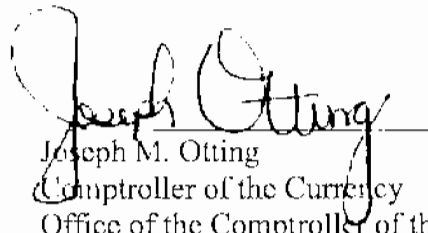
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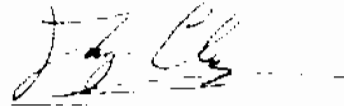
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Office of the Comptroller of the Currency
Federal Deposit Insurance Corporation
Securities and Exchange Commission
Commodity Futures Trading Commission**

September 7, 2018

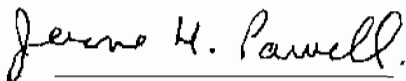
The Honorable Margaret Wood Hassan
United States Senate
Washington, D.C. 20510

Dear Senator Hassan:

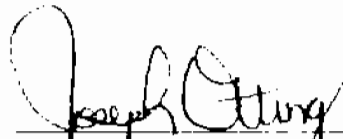
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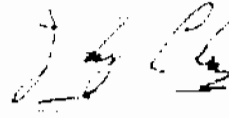
Jerome H. Powell
Chairman
Board of Governors of
the Federal Reserve System



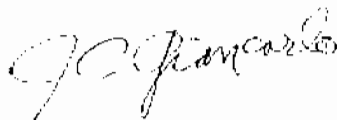
Joseph M. Otting
Comptroller of the Currency
Office of the Comptroller of the Currency



Jelena McWilliams
Chairman
Federal Deposit Insurance Corporation



Jay Clayton
Chairman
Securities and Exchange Commission



J. Christopher Giancarlo
Chairman
Commodity Futures Trading Commission

**Board of Governors of the Federal Reserve System
Office of the Comptroller of the Currency
Federal Deposit Insurance Corporation
Securities and Exchange Commission
Commodity Futures Trading Commission**

September 7, 2018

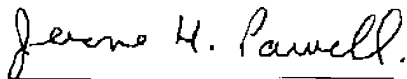
The Honorable Robert Menendez
United States Senate
Washington, D.C. 20510

Dear Senator Menendez:

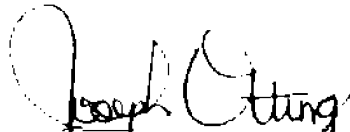
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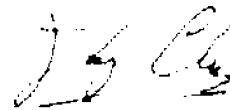
Jerome H. Powell
Chairman
Board of Governors of
the Federal Reserve System



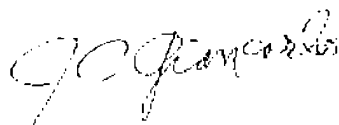
Joseph M. Otting
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Office of the Comptroller of the Currency



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Federal Deposit Insurance Corporation



Jay Clayton
Chairman
Securities and Exchange Commission



J. Christopher Giancarlo
Chairman
Commodity Futures Trading Commission

**Board of Governors of the Federal Reserve System
Office of the Comptroller of the Currency
Federal Deposit Insurance Corporation
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September 7, 2018

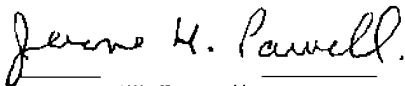
The Honorable Mazie Hirono
United States Senate
Washington, D.C. 20510

Dear Senator Hirono:

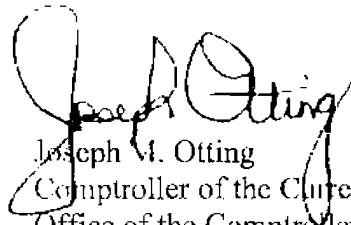
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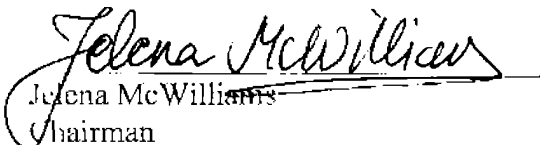
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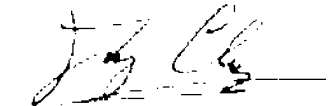
Jerome H. Powell
Chairman
Board of Governors of
the Federal Reserve System



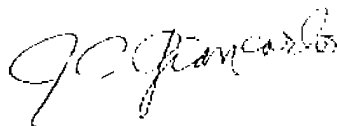
Joseph M. Otting
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Office of the Comptroller of the Currency



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Federal Deposit Insurance Corporation



Jay Clayton
Chairman
Securities and Exchange Commission



J. Christopher Giancarlo
Chairman
Commodity Futures Trading Commission

**Board of Governors of the Federal Reserve System
Office of the Comptroller of the Currency
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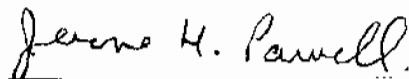
The Honorable Bernie Sanders
United States Senate
Washington, D.C. 20510

Dear Senator Sanders:

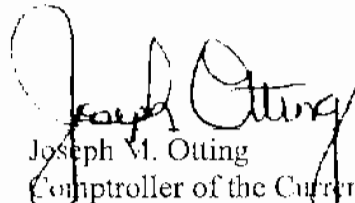
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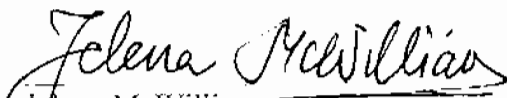
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Jerome H. Powell
Chairman
Board of Governors of
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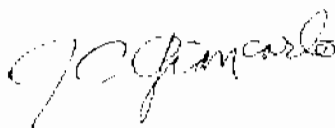
Joseph M. Otting
Comptroller of the Currency
Office of the Comptroller of the Currency



Jelena McWilliams
Chairman
Federal Deposit Insurance Corporation



Jay Clayton
Chairman
Securities and Exchange Commission



J. Christopher Giancarlo
Chairman
Commodity Futures Trading Commission

**Board of Governors of the Federal Reserve System
Office of the Comptroller of the Currency
Federal Deposit Insurance Corporation
Securities and Exchange Commission
Commodity Futures Trading Commission**

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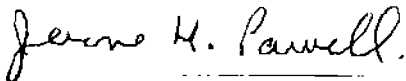
The Honorable Tammy Baldwin
United States Senate
Washington, D.C. 20510

Dear Senator Baldwin:

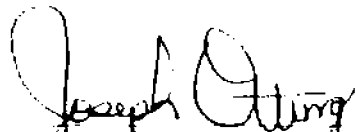
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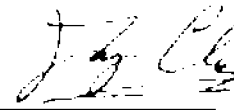
Jerome H. Powell
Chairman
Board of Governors of
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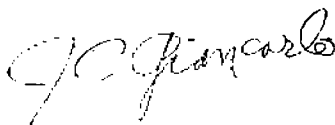
Joseph M. Otting
Comptroller of the Currency
Office of the Comptroller of the Currency



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Securities and Exchange Commission



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**Board of Governors of the Federal Reserve System
Office of the Comptroller of the Currency
Federal Deposit Insurance Corporation
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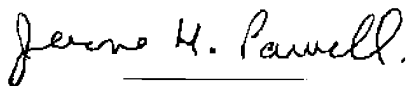
The Honorable Catherine Cortez Masto
United States Senate
Washington, D.C. 20510

Dear Senator Cortez Masto:

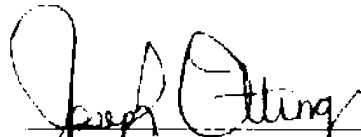
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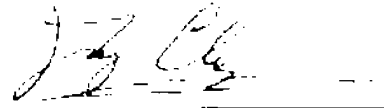
Jerome H. Powell
Chairman
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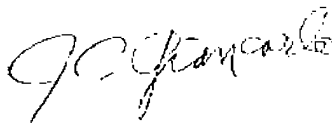
Joseph M. Otting
Comptroller of the Currency
Office of the Comptroller of the Currency



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Federal Deposit Insurance Corporation



Jay Clayton
Chairman
Securities and Exchange Commission



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Office of the Comptroller of the Currency
Federal Deposit Insurance Corporation
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September 7, 2018

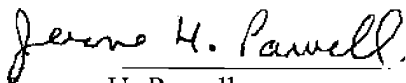
The Honorable Jack Reed
United States Senate
Washington, D.C. 20510

Dear Senator Reed:

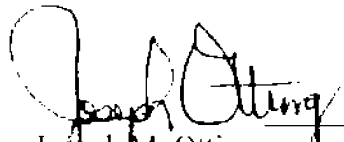
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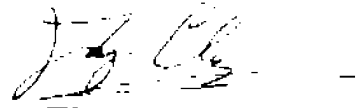
Jerome H. Powell
Chairman
Board of Governors of
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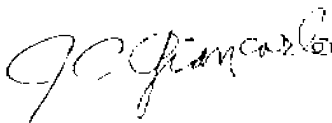
Joseph M. Otting
Comptroller of the Currency
Office of the Comptroller of the Currency



Jelena McWilliams
Chairman
Federal Deposit Insurance Corporation



Jay Clayton
Chairman
Securities and Exchange Commission



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Chairman
Commodity Futures Trading Commission

**Board of Governors of the Federal Reserve System
Office of the Comptroller of the Currency
Federal Deposit Insurance Corporation
Securities and Exchange Commission
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September 7, 2018

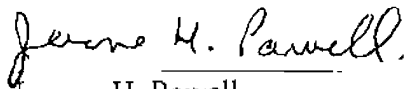
The Honorable Richard J. Durbin
United States Senate
Washington, D.C. 20510

Dear Senator Durbin:

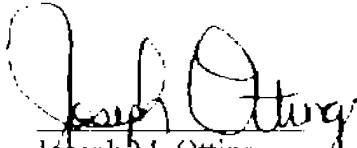
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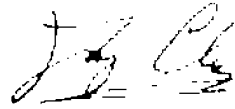
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Board of Governors of
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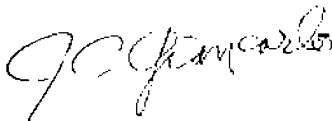
Joseph M. Otting
Comptroller of the Currency
Office of the Comptroller of the Currency



Jelena McWilliams
Chairman
Federal Deposit Insurance Corporation



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Securities and Exchange Commission



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Office of the Comptroller of the Currency
Federal Deposit Insurance Corporation
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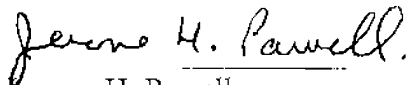
The Honorable Tom Udall
United States Senate
Washington, D.C. 20510

Dear Senator Udall:

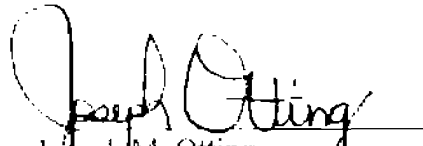
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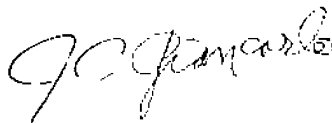
Joseph M. Otting
Comptroller of the Currency
Office of the Comptroller of the Currency



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Chairman
Federal Deposit Insurance Corporation



Jay Clayton
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Securities and Exchange Commission



J. Christopher Giancarlo
Chairman
Commodity Futures Trading Commission

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Office of the Comptroller of the Currency
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September 7, 2018

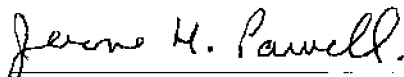
The Honorable Amy Klobuchar
United States Senate
Washington, D.C. 20510

Dear Senator Klobuchar:

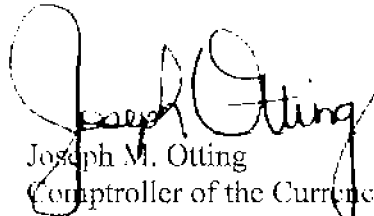
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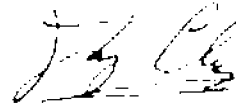
Jerome H. Powell
Chairman
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Joseph M. Otting
Comptroller of the Currency
Office of the Comptroller of the Currency



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Chairman
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**Board of Governors of the Federal Reserve System
Office of the Comptroller of the Currency
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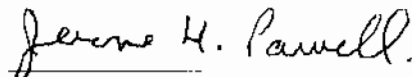
The Honorable Sheldon Whitehouse
United States Senate
Washington, D.C. 20510

Dear Senator Whitehouse:

Thank you for your August 2, 2018, letter regarding the proposed rule, released by the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Securities and Exchange Commission, and the Commodity Futures Trading Commission (the "Agencies"), to revise the rule implementing section 13 of the Bank Holding Company Act (12 U.S.C. § 1851), as added by section 619 of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

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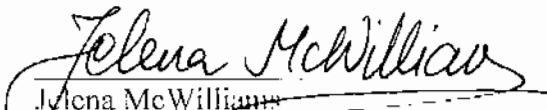
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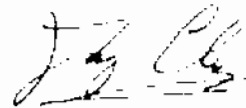
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Chairman
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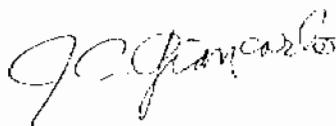
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**Board of Governors of the Federal Reserve System
Office of the Comptroller of the Currency
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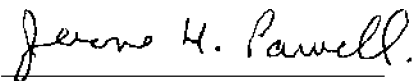
The Honorable Martin Heinrich
United States Senate
Washington, D.C. 20510

Dear Senator Heinrich:

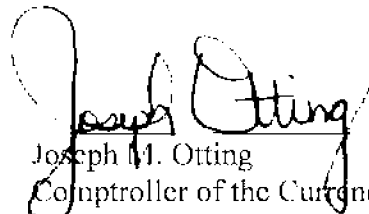
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Sincerely,



Jerome H. Powell
Chairman
Board of Governors of
the Federal Reserve System



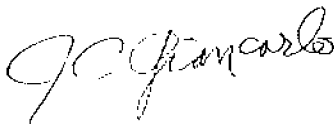
Joseph M. Otting
Comptroller of the Currency
Office of the Comptroller of the Currency



Jelena McWilliams
Chairman
Federal Deposit Insurance Corporation



Jay Clayton
Chairman
Securities and Exchange Commission



J. Christopher Giancarlo
Chairman
Commodity Futures Trading Commission

**Board of Governors of the Federal Reserve System
Office of the Comptroller of the Currency
Federal Deposit Insurance Corporation
Securities and Exchange Commission
Commodity Futures Trading Commission**

September 7, 2018

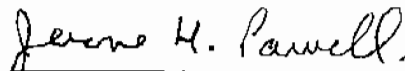
The Honorable Bill Nelson
United States Senate
Washington, D.C. 20510

Dear Senator Nelson:

Thank you for your August 2, 2018, letter regarding the proposed rule, released by the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Securities and Exchange Commission, and the Commodity Futures Trading Commission (the "Agencies"), to revise the rule implementing section 13 of the Bank Holding Company Act (12 U.S.C. § 1851), as added by section 619 of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

We appreciate your views on the proposed rule. We will include your letter in the public record. The Agencies have requested comment on all aspects of the proposed rule and will consider carefully all comments in formulating the final rule.

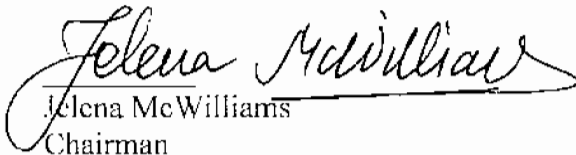
Sincerely,



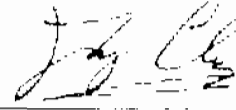
Jerome H. Powell
Chairman
Board of Governors of
the Federal Reserve System



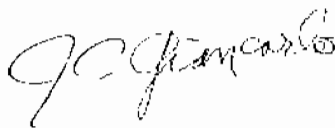
Joseph M. Otting
Comptroller of the Currency
Office of the Comptroller of the Currency



Jelena McWilliams
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Securities and Exchange Commission



J. Christopher Giancarlo
Chairman
Commodity Futures Trading Commission

**Board of Governors of the Federal Reserve System
Office of the Comptroller of the Currency
Federal Deposit Insurance Corporation
Securities and Exchange Commission
Commodity Futures Trading Commission**

October 2, 2018

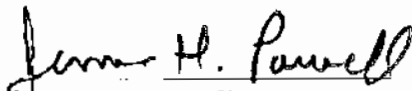
The Honorable Jeffrey Merkley
United States Senate
Washington, D.C. 20510

Dear Senator Merkley:

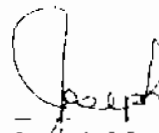
Thank you for your August 6, 2018, letter regarding the comment period for the proposed revisions to the rule implementing section 13 of the Bank Holding Company Act (12 U.S.C. § 1851), as added by section 619 of the Dodd-Frank Wall Street Reform and Consumer Protection Act. The Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Securities and Exchange Commission, and the Commodity Futures Trading Commission (the "Agencies") released the proposal to the public in early June 2018 with a 60-day comment period that began after publication in the *Federal Register* on July 17, 2018. On September 4, 2018, in response to requests from commenters, the Agencies announced an extension of the comment period for an additional 30 days, until October 17, 2018. The extension will allow interested persons additional time to analyze the proposal and prepare their comments. The Agencies will carefully consider all comments in formulating the final rule.

Thank you again for your letter. We appreciate your views on the proposed rule and the comment period, and we will include your letter in the public record.

Sincerely,



Jerome H. Powell
Chairman
Board of Governors of
the Federal Reserve System



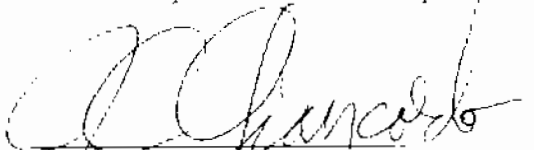
Joseph M.
Comptroller of the Currency
Office of the Comptroller of the Currency



Jelena McWilliams
Chairman
Federal Deposit Insurance Corporation



Jay Clayton
Chairman
Securities and Exchange Commission



J. Christopher Giancarlo
Chairman
Commodity Futures Trading Commission

**Board of Governors of the Federal Reserve System
Office of the Comptroller of the Currency
Federal Deposit Insurance Corporation
Securities and Exchange Commission
Commodity Futures Trading Commission**

October 2, 2018

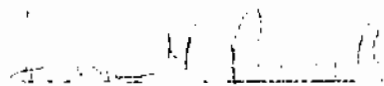
The Honorable Sherrod Brown
United States Senate
Washington, D.C. 20510

Dear Senator Brown:

Thank you for your August 6, 2018, letter regarding the comment period for the proposed revisions to the rule implementing section 13 of the Bank Holding Company Act (12 U.S.C. § 1851), as added by section 619 of the Dodd-Frank Wall Street Reform and Consumer Protection Act. The Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Securities and Exchange Commission, and the Commodity Futures Trading Commission (the "Agencies") released the proposal to the public in early June 2018 with a 60-day comment period that began after publication in the *Federal Register* on July 17, 2018. On September 4, 2018, in response to requests from commenters, the Agencies announced an extension of the comment period for an additional 30 days, until October 17, 2018. The extension will allow interested persons additional time to analyze the proposal and prepare their comments. The Agencies will carefully consider all comments in formulating the final rule.

Thank you again for your letter. We appreciate your views on the proposed rule and the comment period, and we will include your letter in the public record.

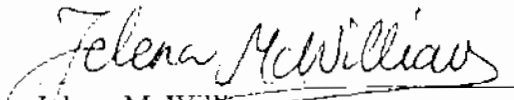
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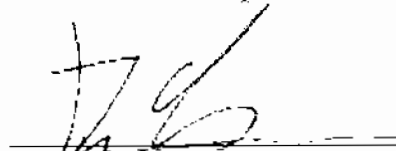
Jerome H. Powell
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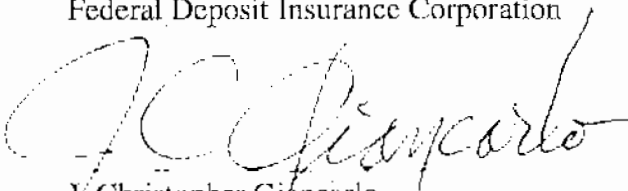
Joseph M. Otting
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Securities and Exchange Commission



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Chairman
Commodity Futures Trading Commission

**Board of Governors of the Federal Reserve System
Office of the Comptroller of the Currency
Federal Deposit Insurance Corporation
Securities and Exchange Commission
Commodity Futures Trading Commission**

September 7, 2018

The Honorable Jeffrey Merkley
United States Senate
Washington, D.C. 20510

Dear Senator Merkley:

Thank you for your letter dated July 30, 2018, regarding the implementation of section 619 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, the statutory provision known as the “Volcker Rule.”¹ In December 2013, the Office of the Comptroller of the Currency, the Federal Reserve Board (the “Board”), the Federal Deposit Insurance Corporation, the Securities and Exchange Commission, and the Commodity Futures Trading Commission (collectively, the “Agencies”) issued final rules implementing the Volcker Rule (the “2013 final rule”). After several years of experience implementing the 2013 final rule, in June of 2018 the Agencies invited comment on a notice of proposed rulemaking (the “proposal”) to amend the 2013 final rule. The proposal is intended to tailor the rule in a manner consistent with the statute and without negatively affecting the safety and soundness of banking entities or the financial system.

Your letter requested that the Agencies publish information about the quantitative trading metrics (“metrics”) collected by the Agencies to both Congress and the public in support of transparency and to facilitate comments on the proposal.

The metrics represent sensitive, confidential business and supervisory information and, as a result, the Agencies have not disclosed such information. The Agencies note that, while we use the metrics in our supervisory work to monitor for firms’ Volcker Rule compliance and to design and conduct our examinations of their compliance programs and activities subject to the 2013 final rule, the metrics are not dispositive for identifying permissible or impermissible activity. The proposal describes changes to the metrics that we believe will enhance the ability of the Agencies to monitor compliance. These proposed changes include new information schedules that the Agencies believe will make it easier to observe whether trading desks’ sources of revenue align with their purported exposures, and whether there are sufficient limits on desks’ exposures. Detailed information regarding the metrics is available on the Agencies’ websites.²

¹ 12 U.S.C. 1851.

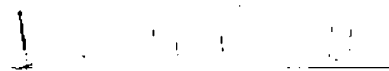
² See, e.g., <https://www.federalreserve.gov/apps/reportforms/review.aspx>; <https://www.occ.gov/topics/capital-markets/financial-markets/trading-volcker-rule/volcker-rule-implementation.htm>; <https://www.fdic.gov/regulations/reform/volcker-rule.html>; https://www.cftc.gov/LawRegulation/DoddFrankAct/Rulemaking/12CFR28_VolckerRule/index.htm; and <https://www.sec.gov/structureddata/dera/taxonomies>.

In an effort to increase transparency regarding the Volcker Rule, the pending proposal solicits comment on the possible disclosure of metrics information, and the Agencies look forward to receiving the public's views on this topic.³ Specifically, the proposal requests information on whether quantitative metrics information should be made publicly available, whether such metrics should be available in the same form they are reported or in aggregate form, and whether metrics should be available soon after they are provided to the Agencies or on a delayed basis.⁴ The proposal also requests comment as to any concerns about reporting of metrics information, including the potential for inadvertent exposure of confidential business information, and how any such risks might be mitigated.⁵ This aspect of the proposal was intended to allow for robust comment on both the public need for the metrics as well as the appropriate protections to be applied to such data.

The undersigned understand the value of transparency and public accountability, as well as the need to strike an appropriate balance between public disclosure and the protection of sensitive, confidential information. As indicated above, the Agencies have invited comment on the proposed revisions to the 2013 final rule, including comments on whether to modify, retain, or replace certain metrics and whether the metrics information should be published, consistent with safeguarding confidential information and preserving the usefulness of the information.

Thank you again for your letter.

Sincerely,



Jerome H. Powell
Chairman
Board of Governors of
the Federal Reserve System



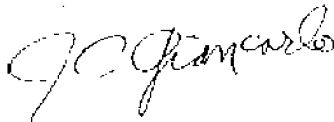
Joseph Otting
Comptroller of the Currency
Office of the Comptroller of the Currency



Helena McWilliam
Chairman
Federal Deposit Insurance Corporation



Jay Clayton
Chairman
Securities and Exchange Commission



J. Christopher Giancarlo
Chairman
Commodity Futures Trading Commission

³ See 83 Fed. Reg. 33432, 33509 (July 17, 2018).

⁴ Id.

⁵ Id.

**Board of Governors of the Federal Reserve System
Office of the Comptroller of the Currency
Federal Deposit Insurance Corporation
Securities and Exchange Commission
Commodity Futures Trading Commission**

September 7, 2018

The Honorable Sherrod Brown
United States Senate
Washington, D.C. 20510

Dear Senator Brown:

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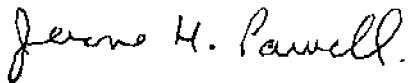
² See, e.g., <https://www.federalreserve.gov/apps/reportforms/review.aspx>; <https://www.occ.gov/topics/capital-markets/financial-markets/trading-volcker-rule/volcker-rule-implementation.htm>; <https://www.ftic.gov/regulations/reform/volcker-rule.html>; https://www.cftc.gov/LawRegulation/DoddFrankAct/Rulemakings/DF_28_VolckerRule/index.htm; and <https://www.sec.gov/structureddata/dera/taxonomies>.

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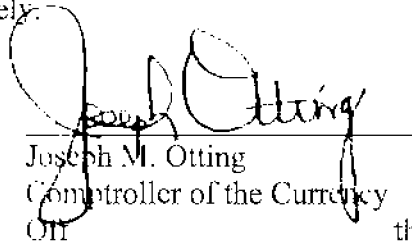
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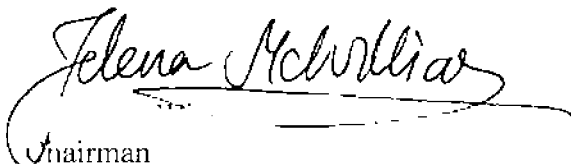
Sincerely,



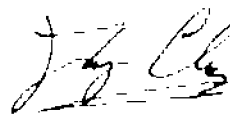
Jerome H. Powell
Chairman
Board of Governors of
the Federal Reserve System



Joseph M. Otting
Comptroller of the Currency
Office of the Comptroller of the Currency



Jelena McWilliams
Chairman
Federal Deposit Insurance Corporation



Jay Clayton
Chairman
Securities and Exchange Commission



J. Christopher Giancarlo
Chairman
Commodity Futures Trading Commission

³ See 83 Fed. Reg. 33432, 33509 (July 17, 2018).

⁴ Id.

⁵ Id.

**Board of Governors of the Federal Reserve System
Office of the Comptroller of the Currency
Federal Deposit Insurance Corporation
Securities and Exchange Commission
Commodity Futures Trading Commission**

September 7, 2018

The Honorable Elizabeth Warren
United States Senate
Washington, D.C. 20510

Dear Senator Warren:

Thank you for your letter dated July 30, 2018, regarding the implementation of section 619 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, the statutory provision known as the “Volcker Rule.”¹ In December 2013, the Office of the Comptroller of the Currency, the Federal Reserve Board (the “Board”), the Federal Deposit Insurance Corporation, the Securities and Exchange Commission, and the Commodity Futures Trading Commission (collectively, the “Agencies”) issued final rules implementing the Volcker Rule (the “2013 final rule”). After several years of experience implementing the 2013 final rule, in June of 2018 the Agencies invited comment on a notice of proposed rulemaking (the “proposal”) to amend the 2013 final rule. The proposal is intended to tailor the rule in a manner consistent with the statute and without negatively affecting the safety and soundness of banking entities or the financial system.

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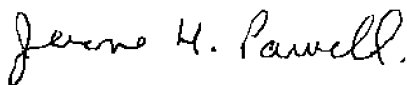
² See, e.g., <https://www.federalreserve.gov/apps/reportforms/review.aspx>; <https://www.occ.gov/topics/capital-markets/financial-markets/trading-volcker-rule/volcker-rule-implementation.htm>; <https://www.fdic.gov/regulations/reform/volcker-rule.html>; https://www.cftc.gov/LawRegulation/DoddFrankAct/Rulemakings/DF_28_VolckerRule/index.htm; and <https://www.sec.gov/structureddata/dera/taxonomies>.

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Thank you again for your letter.

Sincerely,



Jerome H. Powell
Chairman
Board of Governors of
the Federal Reserve System



Joseph M. Otting
Comptroller of the Currency
Office of the Comptroller of the Currency



Jelena McWilliams
Chairman
Federal Deposit Insurance Corporation



Jay Clayton
Chairman
Securities and Exchange Commission



J. Christopher Giancarlo
Chairman
Commodity Futures Trading Commission

³ See 83 Fed. Reg. 33432, 33509 (July 17, 2018).

⁴ Id.

⁵ Id.



U.S. COMMODITY FUTURES TRADING COMMISSION

Three Lafayette Centre
1155 21st Street, NW, Washington, DC 20581
www.cftc.gov

Heath Tarbert
Chairman and
Chief Executive Officer

(202) 418-5030
Chairman@cftc.gov

January 28, 2020

The Honorable Alex X. Mooney
Member of Congress
United States House of Representatives
2440 Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman Mooney:

Thank you for sharing your concerns related to the precious metals markets. I appreciate your interest in the regulatory and enforcement work carried out at the Commodity Futures Trading Commission (CFTC).

Ensuring our futures markets function for all Americans is a top goal for me as Chairman. We should regulate our markets based on clear principals that provide certainty while also fostering innovation. However, those who participate in our markets must also play by the rules. I am committed to being tough on those who break the rules and will continue to support robust oversight and enforcement when necessary.

The CFTC's Division of Enforcement (DOE or Division) may pursue, with the approval of a majority of the Commission, enforcement actions against individuals and companies whose conduct violates the Commodity Exchange Act (CEA) or the regulations pursuant to its statutory authority. The Division may file these enforcement actions either in federal court or in administrative proceedings.

The Division may obtain information relevant to its investigations through a number of avenues, including other CFTC Divisions, industry self-regulatory organizations, other governmental authorities, whistleblowers, victims, cooperating witnesses, self-reports, customer complaints, and members of the general public, as well as through the use of tools, means, and methods the Division has developed internally.

At the conclusion of an investigation, the Division may recommend that the Commission initiate administrative proceedings or seek injunctive and ancillary relief in federal court. When the Division obtains evidence that gives it reason to suspect criminal violations of the CEA may have occurred, it may refer the matter to the Department of Justice or the appropriate state authority for prosecution. Criminal activity involving commodity-related instruments can result in prosecution for criminal violations of the CEA and for violations of other federal criminal statutes.

CFTC's enforcement actions and penalties are civil in nature and are set out in statute by Congress.

In your February 5, 2019 letter you reference both the Department of Justice's recent criminal charges against former JP Morgan Chase & Co. trader John Edmonds and the Commission's September 25, 2013 announcement that it was closing an investigation into alleged manipulation of COMEX silver futures. Since the 2013 announcement, the Commission has authorized the filing of 22 enforcement actions charging a total of 14 companies and 12 traders, including Edmonds, with manipulation, attempted manipulation or spoofing involving gold, silver or other precious metals futures. (See *In re John Edmonds*, CFTC Docket No. 19-16 (Jul. 25, 2019)).

The Commission obtained monetary relief totaling \$80,629,585 in settlement of 20 of these actions; the Commission continues to litigate two of these actions. Please see the attached document for a list of enforcement actions.

Your letter also referenced previous correspondence addressing a list of questions put forth by the Gold Anti-Trust Action Committee. I asked CFTC staff to carefully review and provide responses to those questions. Please see the attached memo with those responses.

Again, thank you for your interest and concern regarding allegations of illegal conduct in the precious metals markets. Please know that I am committed to being tough on those who break the rules and will continue to support robust oversight and enforcement when necessary.

If you have further questions or need additional information, please feel free to reach out to Summer Mersinger, Director of Legislative and Intergovernmental Affairs at 202-418-6074.

Sincerely,



Heath P. Tarbert
Chairman & Chief Executive

Alex,

I trust all is well. I still remember staying over the apartment you and your brother Pat shared during my college years when I attended The Leadership Institute! Don't hesitate to reach out if I can be of service.

Best regards,
Heath

RESPONSE MEMO TO CHAIRMAN TARBERT FROM CFTC DIVISION OF MARKET
OVERSIGHT AND DIVISION OF ENFORCEMENT

Chairman Tarbert – Below you will find detailed responses to the questions from the Gold Anti-Trust Action Committee. If you have any follow up questions or concerns, please let us know.

- 1) *GATA asserts that recently on certain trading days in the New York futures markets there have been big discrepancies between the preliminary gold open interest and the final open interest reported. Is this correct? If so, what explains it? Does it imply market manipulation?*

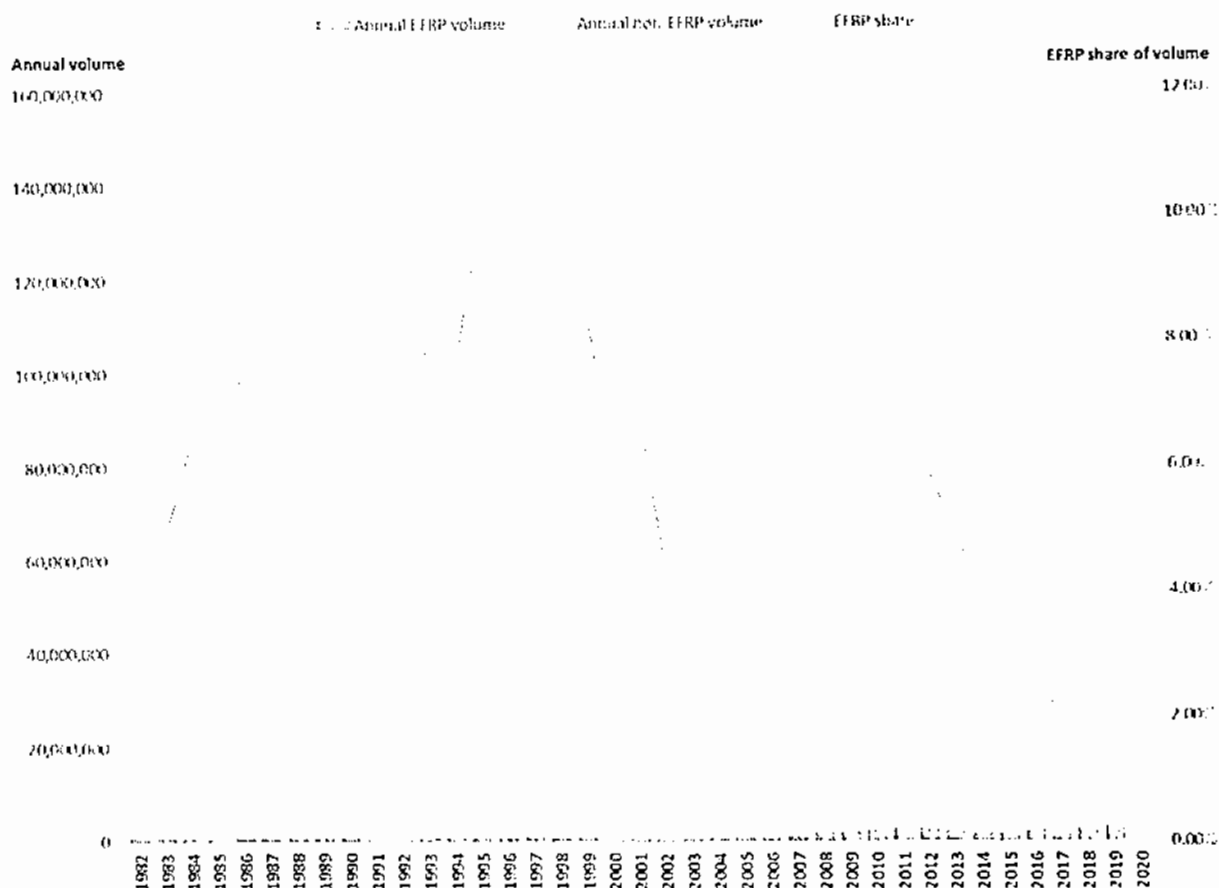
Designated contract markets (DCMs) or exchanges are registered trading platforms for futures and swaps products. As registered entities they must comply with CFTC rules and regulations, which include a list of Core Principles that require risk controls, safeguards for trading and clearing, as well as reporting requirements that ensure transparency into the markets. The CFTC relies on accurate reporting by the exchanges and the exchanges are subject to rule enforcement reviews. The information that comprises open interest is collected at the end of the day. As such, discrepancies between the estimated open interest and the official exchange figures can occur and do not necessarily indicate market abuse.

- 2) *GATA asserts that in recent months there has been a huge increase in the use of the "exchange for physicals" emergency mechanism of settling gold futures contracts in the New York market. Is this correct? If so, are these "exchange for physicals" settlements genuine, representing metal really changing hands between wholly independent parties, or are they mere accounting devices for concealing questionable and possibly manipulative trading between parties actually working together? What explains this development?*

Going back as far as 1982 with our permanent records data, COMEX gold EFRP* volume as a percentage of total futures volume has been declining steadily since 2012. In 2019, EFRPs accounted for 2.3% of total COMEX gold futures volume, the smallest percentage share in the entire period. The orange line on the chart below shows the falling share of EFRP volume in COMEX gold. The share of futures volume accounted for by EFRPs peaked in 1995 at 9.6% and averaged 5.8% annually from 1982 to 2019.

*It is important to note that this data covers all **Exchanges of Futures for Related Positions (EFRPs)** – this includes Exchange for Physical (EFP – futures for spot/forward), Exchange for Risk (EFR – futures for swap/OTC derivative) and Exchange of Option for Option (EOO – option on future for OTC option).

COMEX Gold EFRP analysis



- 3) *GATA asserts that huge amounts of gold futures are being traded daily in the New York market, even as the exchange operator reports that little metal is registered as available for delivery. Is this correct? If so, is this trading genuine or just speculative or even manipulative of prices? Does the commission have an opinion on the great disproportion alleged between the number of futures contracts traded and the volume of metal available for delivery?*

Futures that make or take delivery, including gold and silver, make up a small percentage of the overall futures trading volume in any commodity. Additionally, futures markets have the important function of providing a forum for the transfer of risk without the immediate obligation to make or take delivery of a physical product.

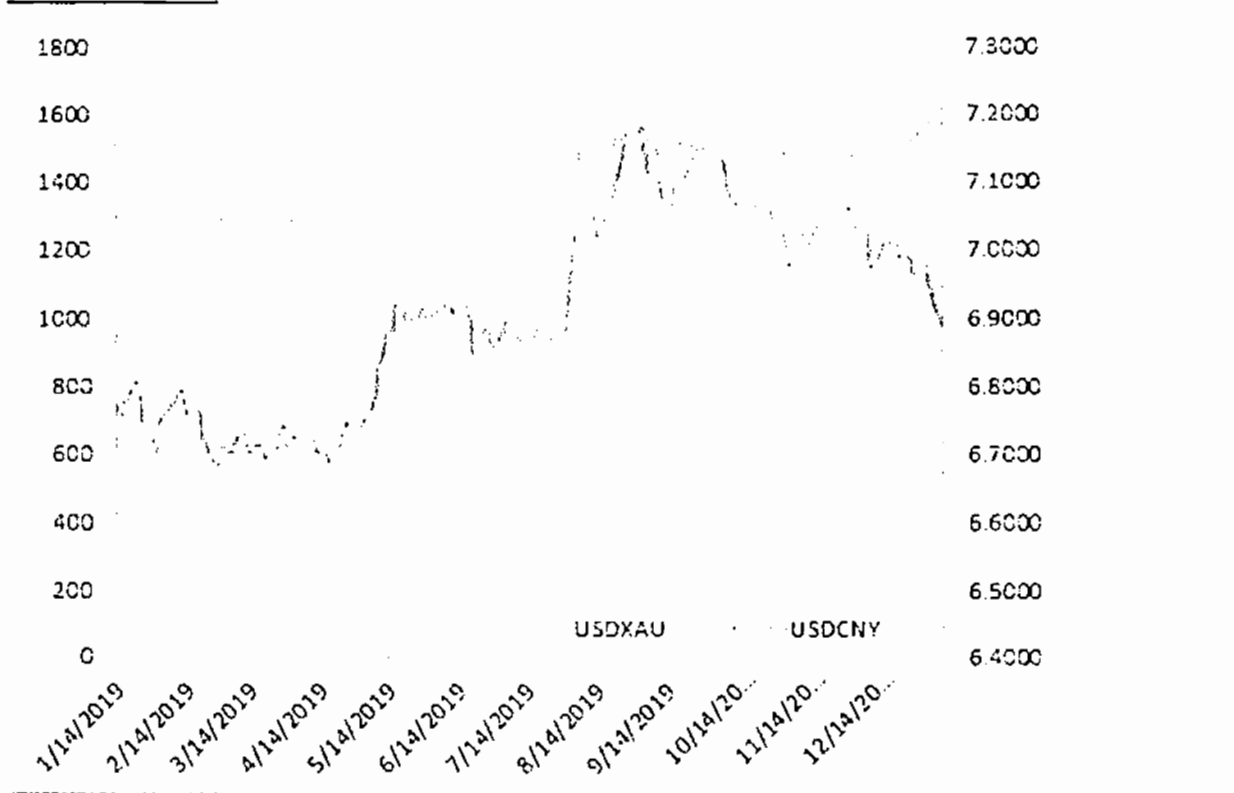
- 4) *GATA asserts that in recent months there has been an extraordinarily close correlation between the gold price and the value of the Chinese yuan. Is this correct, and, if so, has the commission been aware of this correlation? If there has been such a correlation, does it suggest that certain entities are trading gold and the yuan to control their prices, undermining the free markets? Has the commission investigated this?*

The chart below reflects price moves in gold and the yuan over the last twelve months and does not reflect a correlation between the two.

Furthermore, a correlation between the price of gold and the value of the Chinese yuan does not necessarily signal that there is illegal activity being conducted in CFTC regulated markets.

CFTC's Division of Enforcement works to protect market participants from illegal activity such as fraud, manipulation and disruptive trading practices in the markets regulated by the Commission. Disclosure of the existence or content of an investigation is generally prohibited.

BLOOMBERG



- 5) GATA asked whether the commission's regulatory jurisdiction covers futures trading by the U.S. government and other governments – or by brokers acting for the U.S. government or for other governments trading with the U.S. government's approval. Please let me know whether the commission has such jurisdiction.

The CFTC has exclusive jurisdiction over futures trading on trading facilities registered with the Commission as Designated Contract Markets.

6) Please let me know whether the commission is aware of the U.S. government and other governments trading in the U.S. futures markets directly or indirectly.

Pursuant to Section 8 of the Commodity Exchange Act and except as otherwise specifically authorized, the Commission may not publish “data and information that would separately disclose the business transactions or market positions of any person and trade secrets or names of customers.”

1. In re Mitsubishi Corporation Rm Japan Ltd., CFTC Docket No. 20-07 (Nov. 7, 2019); spoofing; NYMEX platinum and palladium futures; \$500,000 (CMP); Press Release 8075-19.
2. In re Morgan Stanley Capital Group Inc., CFTC Docket No. 19-44 (Sep. 30, 2019); spoofing; gold, and other precious metals futures; \$1,500,000 (CMP); Press Release 8031-19.
3. In re Mitsubishi International Corporation, CFTC Docket No. 19-46 (Sep. 30, 2019); spoofing; silver and gold futures; \$400,000 (CMP); Press Releases 8031-19 and 8046-19.
4. CFTC v. Michael Nowak and Gregg Smith, No. 1:19-cv-06163 (N.D. Ill. Filed Sep. 16, 2019); spoofing; attempted manipulation; use of a manipulative and deceptive device; gold, silver, platinum, palladium futures; Litigation Pending; Press Release 8013-19.
5. In re Christian Trunz, CFTC Docket No. 19-26 (Sep. 16, 2019); spoofing; gold, silver, platinum, palladium futures; sanctions determination reserved; Press Release 8014-19.
6. In re John Lawrence, CFTC Docket No. 19-27 (Sep. 16, 2019); spoofing; gold, silver, platinum, palladium futures; \$130,000 (CMP); Press Release 8015-19.
7. In re Heraeus Metals New York LLC, CFTC Docket No. 19-28 (Sep. 16, 2019); spoofing; COMEX precious metals futures; \$900,000 (CMP); Press Release 8015-19.
8. In re Corey D. Flaum, CFTC Docket No. 19-15 (Jul. 25, 2019); spoofing; attempted manipulation; gold, silver, platinum, palladium futures; sanctions determination reserved; Press Release 7983-19.
9. In re John Edmonds, CFTC Docket No. 19-16 (Jul. 25, 2019); spoofing; gold, silver, platinum, palladium futures; sanctions determination reserved; Press Release 7983-19.
10. In re Merrill Lynch Commodities, Inc., CFTC Docket No. 19-07 (June 25, 2019); spoofing; manipulation and attempted manipulation; COMEX gold, silver, platinum and palladium futures; \$11,500,000 (CMP), \$2,364,585 (Restitution); \$11,100,000 (Disgorgement); Press Release 7946-19.
11. In re The Bank of Nova Scotia, CFTC Docket No. 18-50 (Sep. 28, 2018); spoofing; CME gold and silver futures; \$800,000 (CMP); Press Release 7818-18.
12. In re Geneva Trading USA, LLC, CFTC Docket No. 18-37 (Sep. 20, 2018); spoofing; gold, heating oil, RBOB gasoline, and platinum futures; \$1,500,000 (CMP); Press Release 7797-18.
13. In re Victory Asset, Inc., CFTC Docket No. 18-36 (Sep. 19, 2018); spoofing involving CMOEX copper and gold futures and NYMEX light sweet crude oil futures; manipulative scheme involving COMEX and LME copper futures; \$1,800,000 (CMP); Press Release 7796-18.
14. In re Michael D. Franko, CFTC Docket No. 18-35 (Sep. 19, 2018); spoofing involving CMOEX copper and gold futures and NYMEX light sweet crude oil futures;

- manipulative scheme involving COMEX and LME copper futures; \$500,000 (CMP); Press Release 7796-18.
15. CFTC v. James Vorley and Cedric Chanu, No. 1:18-cv-00603 (N.D. Ill. filed Jan. 26, 2018); spoofing and a manipulative and deceptive scheme; gold, silver, platinum, palladium futures; litigation pending; Press Release 7686-18.
 16. CFTC v. Andre Flotron, No. 3:18-cv-00158 (D. Conn. filed Jan. 26, 2018); spoofing and a manipulative and deceptive scheme; gold, silver and other precious metals futures; \$100,000 (CMP); Press Releases 7685-18 and 7867-19.
 17. In re HSBC Securities (USA) Inc., CFTC Docket No. 18-08 (Jan. 29, 2018); spoofing; precious metals futures, primarily gold; \$1,600,000 (CMP); Press Release 7684-18.
 18. In re UBS AG, CFTC Docket No. 18-07 (Jan. 29, 2018); attempted manipulation and spoofing; precious metals futures, including gold and silver; \$15,000,000 (CMP); Press Release 7683-18.
 19. In re Deutsche Bank AG and Deutsche Bank Securities Inc., CFTC Docket No. 18-06 (Jan. 29, 2018); manipulation, attempted manipulation and spoofing; gold, silver, platinum, palladium futures; \$30,000,000 (CMP); Press Release 7682-18.
 20. In re Arab Global Commodities DMCC, CFTC Docket No. (Oct. 10, 2017); spoofing; copper futures; \$300,000 (CMP); Press Release 7627-17.
 21. In re David Liew, CFTC Docket No. 17-14 (June 2, 2017); manipulation, attempted manipulation and spoofing; gold and silver futures; sanctions determination reserved; Press Release 7567-17.
 22. In re Simon Posen, CFTC Docket No. 17-20 (July 26, 2017); spoofing; gold, silver, and copper futures; \$635,000 (CMP); Press Release 7594-17.



U.S. COMMODITY FUTURES TRADING COMMISSION

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Heath Tarbert
Chairman

(202) 418-5030
Chairman @ CFTC.gov

September 5, 2019

Ms. Julie Ellingson
Executive Vice President
North Dakota Stockmen's Association
407 S 2nd Street
Bismarck, ND 58504

Dear Ms. Ellingson,

Thank you for your letter dated August 16, 2019 regarding the August 9, 2019 fire and subsequent closure of the Tyson beef processing plant in Holcomb, Kansas. I share your concern about ensuring market participants do not take advantage of the uncertainty created by the fire. I was in Kansas the morning of the fire talking with cattle producers about challenges they currently face, and I understand the importance of well-functioning markets. I also recognize how important cattle-ranching is to North Dakota, and that having stable and sound markets is vital to those businesses.

As a general matter, the agency monitors the live cattle and feeder cattle futures contract markets assessing whether these markets respond to supply and demand fundamentals and perform their price discovery and risk management function. We are also in regular contact with the relevant exchanges, which have the responsibility to survey their markets and work to ensure they are free from manipulation or other conditions that have the potential to distort prices.

With respect to the Holcomb fire, the CFTC's monitoring efforts started before the opening of the markets on August 10th. We remain in touch with major industry participants and the U.S. Department of Agriculture to better understand how the industry is absorbing the supply of cattle while the Holcomb facility is offline. My fellow Commissioners and I get regular updates and briefings from our Markets Intelligence Branch on the impacts of the plant closure on cash and futures markets, understanding that the loss of the facility has caused significant disruptions in the cattle and beef markets. We remain committed to ensuring strong cattle futures contract markets, ensuring those markets are free from manipulation.

Again, thank you for contacting me about this incident. If you have any further questions, please contact Summer Mersinger, Director of the Office of Legislative and Intergovernmental Affairs at (202)-418-6074.

Sincerely,



U.S. COMMODITY FUTURES TRADING COMMISSION

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Heath Tarbert
Chairman

(202) 418-5030
Chairman@CFTC.gov

August 26, 2019

Senator Deb Fischer
United States Senate
454 Russell Senate Office Building
Washington, DC 20510

Dear Senator Fischer,

Thank you for your letter dated August 20, 2019 regarding concerns that have been raised due to the August 9, 2019 fire and subsequent closure of the Tyson beef processing plant in Holcomb, Kansas. I share your concern about ensuring market participants do not take advantage of the uncertainty created by the fire. I was in Kansas the morning of the fire and heard from many members of the community, including cattle producers, about the specific challenges they are facing, even *before* the fire. Well-functioning markets are essential to their business, and it is clear the fire creates a risk of market disruption that we must be aware of and guard against.

As a general matter, the agency has dedicated resources that monitor the live cattle and feeder cattle futures contract markets to assess whether these markets are responding to supply and demand fundamentals and are performing their price discovery and risk management function. We are in regular contact with the relevant exchanges, which have the responsibility to survey their markets and work to ensure they are free from manipulation or other conditions that have the potential to distort prices.

With respect to the Holcomb fire specifically, we are in touch with major industry participants along with the U.S. Department of Agriculture to better understand how the industry is absorbing the supply of cattle while the Holcomb facility is offline. My fellow Commissioners and I are getting regular updates on the impacts of the plant closure on cash and futures markets, understanding that the loss of the facility has caused significant disruptions in the cattle and beef markets.

Again, thank you for contacting me about this incident. If you have any further questions, please contact Ann Wright in the Office of Legislative and Intergovernmental Affairs at (202)-418-5594.

Sincerely,

A handwritten signature in black ink, appearing to read "Heath Tarbert", with a long, sweeping horizontal line extending to the right.



U.S. COMMODITY FUTURES TRADING COMMISSION

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January 28, 2020

The Honorable Thom Tillis
U.S. Senator
113 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Senator Tillis,

Thank you for your letter of January 15, 2020, expressing support for regulatory relief from the Commodity Futures Trading Commission's (CFTC or Commission) initial margin requirements for seeded funds. I appreciate you taking the time to share your concerns. My staff will review the matter as we continue to consider issues raised by the implementation of the margin rules for uncleared swaps (CFTC Margin Rule).

The Commission finalized the CFTC Margin Rule in December of 2015. The rulemaking treats seeded funds as affiliates of the sponsoring seeding entity. As a result, the uncleared swaps of a seeded fund and its sponsoring seeding entity must be aggregated for the purposes of determining whether the entities come within the scope of the initial margin requirements under the CFTC Margin Rule.

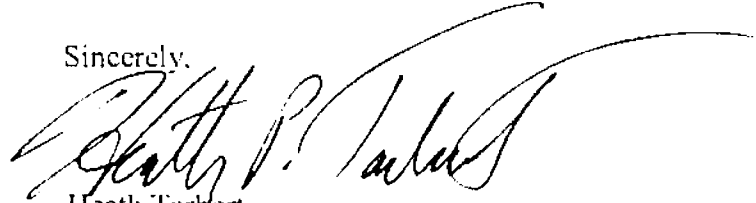
Under my leadership as Chairman of the Commission, the agency has proposed an amendment to the CFTC Margin Rule to extend the phase-in schedule for the implementation of the initial margin requirements. The additional phase-in time would give the Commission a further opportunity to consider implementation issues raised by the CFTC Margin Rule, including the treatment of seeded funds.

In addition, the CFTC's Global Markets Advisory Committee recently published a Federal Register notice announcing the establishment the Subcommittee on Margin Requirements for Non-Cleared Swaps under the Global Markets Advisory Committee (GMAC), which will consider issues raised by the implementation of the CFTC Margin Rule.

Again, I appreciate your thoughtfulness on this important issue and will keep your concerns in mind in the days ahead.

If you have further questions, please do not hesitate to reach out to Summer Mersinger, Director of Legislative and Intergovernmental Affairs at the CFTC. She can be reached at: 202.418.5594 or smersinger@cftc.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Heath P. Tarbert", with a long, sweeping horizontal line extending to the right.

Heath Tarbert
Chairman & Chief Executive

PS: I hope you are well!



U.S. COMMODITY FUTURES TRADING COMMISSION

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Heath Tarbert
Chairman
Chief Executive Officer

(202) 418-5030
Chairman@CFTC.gov

January 28, 2020

The Honorable Chris J. Van Hollen
United States Senate
110 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Van Hollen,

Thank you for your letter dated January 13, 2020 expressing your concerns about potential illegal trading related to military action in Iraq and the death of Iranian Major General Qasem Soleimani on January 2, 2020.

Working to ensure and promote market integrity and transparency is important to the Commodity Futures Trading Commission ("The Commission"). We regularly monitor market moving events to look for abnormalities and suspicious activities. If abnormalities or suspicious activities are detected, the Commission's Division of Enforcement (DOE) investigates such allegations and prosecutes violations of the Commodity Exchange Act and the Commission's regulations, including market manipulation.

The Commission takes all alleged violations seriously, regardless of the source. Any inquiry undertaken by the DOE, however, is confidential and is not disclosed unless a public proceeding is brought either before the Commission or in federal court.

Again, thank you for contacting me about your concerns. If you have any further questions, please feel free to have your staff contact Summer Mersinger, Director of Legislative and Intergovernmental Affairs at (202)-418-6074.

Sincerely,

Heath P. Tarbert
Chairman & Chief Executive

PS: I hope you and your family are well. Please let me know if I can be of service to you or the people of my home state of Maryland.

**Office of the Comptroller of the Currency
Board of Governors of the Federal Reserve System
Federal Deposit Insurance Corporation
Securities and Exchange Commission
Commodity Futures Trading Commission**

February 7, 2020

The Honorable Barry Loudermilk
U.S. House of Representatives
Washington, D.C. 20515

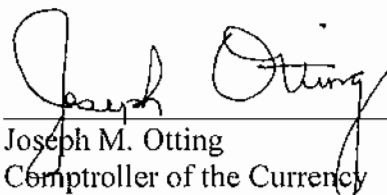
Dear Congressman Loudermilk:

Thank you for your letter of December 3, 2019, encouraging the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, the Securities and Exchange Commission, and the Commodity Futures Trading Commission (the "Agencies") to revise certain provisions of the Agencies' rule implementing section 13 of the Bank Holding Company Act (12 U.S.C. § 1851), as enacted in section 619 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, commonly referred to as the "Volcker Rule." In particular, you requested that the Agencies exclude venture capital and similar long-term investing funds from the definition of a "covered fund" under the Volcker Rule.

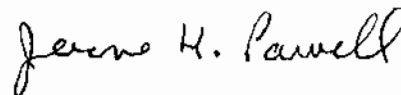
The Agencies recently issued a notice of proposed rulemaking addressing the Volcker Rule covered fund provisions.¹ The notice of proposed rulemaking, which was developed jointly by the Agencies, includes provisions that would give banking entities increased flexibility to invest in and sponsor venture capital funds and funds that extend credit. The Agencies will include your letter in the public record.

Thank you again for your views on venture capital funds and similar funds.

Sincerely,

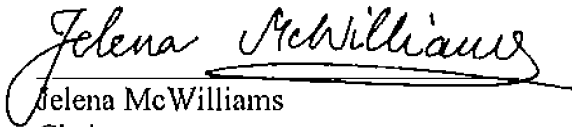


Joseph M. Otting
Comptroller of the Currency
Office of the Comptroller of the Currency



Jerome H. Powell
Chair
Board of Governors of the
Federal Reserve System

¹ See <https://www.federalreserve.gov/aboutthefed/boardmeetings/files/volcker-rule-fr-notice-20200130.pdf>.



Jelena McWilliams

Chairman

Federal Deposit Insurance Corporation



Jay Clayton

Chairman

Securities and Exchange Commission



Heath Tarbert

Chairman

Commodity Futures Trading Commission



U.S. COMMODITY FUTURES TRADING COMMISSION

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Heath Tarbert
Chairman

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Chairman@cftc.gov

December 4, 2019

The Honorable Jerry Moran
United States Senator
521 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Thom Tillis
United States Senator
185 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable M. Michael Rounds
United States Senator
502 Hart Senate Office Building
Washington, D.C. 20510

Dear Senators,

Thank you for your letter raising concerns about the joint proposed rule by the Commodity Futures Trading Commission (CFTC) and the Securities and Exchange Commission (SEC) on "Customer Margin Rules Relating to Security Futures."

As you know, on July 9, 2019, the CFTC issued a joint notice of proposed rulemaking (Proposal) with the SEC, to amend the security futures margin requirements. The two commissions have joint rulemaking authority regarding margin requirements for security futures and established the 20 percent level in a joint rulemaking back in 2002. However, in light of lower margin requirements established for comparable financial products and the resulting imbalance, the two agencies determined that it is appropriate to reexamine the minimum margin required for security futures.

The Proposal suggests modifying the required minimum margin to equal 15 percent of the current market value of the security future. Markets have evolved and the proposed rule change is an opportunity for both the CFTC and the SEC to learn more about the security futures markets and establish an effective and appropriate regulatory standard based on how the markets operate today, as well as the statutory standards that are in place. The public comment period closed on August 26, 2019. I look forward to learning from the public comments in response to the Proposal.

Thank you again for sharing your concerns. If you have additional questions, please contact Summer Mersinger, Director of the Office of Legislative and Intergovernmental Affairs at smersinger@cftc.gov.

Sincerely,

**Board of Governors of the Federal Reserve System
Office of the Comptroller of the Currency
Federal Deposit Insurance Corporation
Securities and Exchange Commission
Commodity Futures Trading Commission**

August 14, 2018

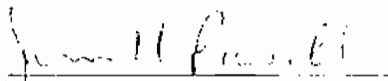
The Honorable Randy Hultgren
House of Representatives
Washington, D.C. 20515

Dear Congressman Hultgren:

Thank you for your July 6, 2018, letter regarding the proposed rule, released by the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Securities and Exchange Commission, and the Commodity Futures Trading Commission (the "Agencies"), to revise the rule implementing section 13 of the Bank Holding Company Act (12 U.S.C. § 1851), as added by section 619 of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

We appreciate your views on venture capital funds, their role in capital formation, and on the proposed rule. We will include your letter in the public record. The Agencies have requested comment on all aspects of the proposed rule and will consider carefully all comments in formulating the final rule.

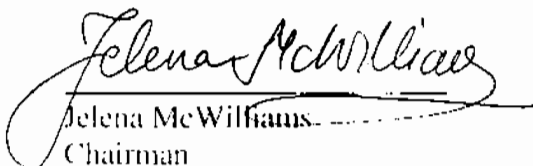
Sincerely,



Jerome H. Powell
Chairman
Board of Governors of
the Federal Reserve System



Joseph M. Otting
Comptroller of the Currency
Office of the Comptroller of the Currency



Jelena McWilliams
Chairman
Federal Deposit Insurance Corporation



Jay Clayton
Chairman
Securities and Exchange Commission



J. Christopher Giancarlo
Chairman
Commodity Futures Trading Commission



U.S. COMMODITY FUTURES TRADING COMMISSION

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Heath Tarbert
Chairman

(202) 418-5030
Chairman@CFTC.gov

December 12, 2019

The Honorable Rick Crawford
Member of Congress
U.S. House of Representatives
2422 Rayburn House Office Building
Washington, DC 20515

Dear Congressman Crawford:

Thank you for your letter dated December 5, 2019 on the Commodity Futures Trading Commission's (CFTC) rules around speculative position limits. As you noted in your letter, in recent public comments I have stated that a rule proposal on position limits is imminent. This is one of my top goals for the CFTC. In my confirmation process to become chairman, I made a commitment to Congress and stakeholders to address this outstanding requirement from the Dodd-Frank Act, and I plan to follow through on that commitment.

Although the CFTC is still in the rule-writing process, understanding the agriculture community's perspective on position limits is a top priority for me. Protecting the integrity of our commodity futures' markets to ensure adequate price discovery and proper risk management is the very foundation of the CFTC. Comments and concerns from those in the agriculture industry are critical to our analysis and consideration in preparing draft rules.

Given your interest in this topic and your long standing commitment to your agricultural community in Arkansas, I will be sure to keep you and your staff informed as the CFTC moves forward in the rulemaking process. Likewise, I will carefully consider your suggestions around bona fide hedging practices and their importance to commodity merchandizers.

Thanks again for reaching out. I look forward to continuing this conversation with you in the near future. In the meantime, if you have any questions or concerns, please feel free to contact my director of legislative and intergovernmental affairs, Summer Mersinger, at 202-418-6074 or via email at smersinger@cftc.gov.

Sincerely,

Heath P. Tarbert
Chairman & Chief Executive



U.S. Commodity Futures Trading Commission
Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581
www.cftc.gov

J. Christopher Giancarlo
Chairman

(202) 418-5030
jcgiancarlo@cftc.gov

June 25, 2018

The Honorable Elizabeth Warren
317 Hart Senate Office Building
Washington, DC 20510

The Honorable Ron Wyden
221 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Michael F. Bennett
261 Russell Senate Building
Washington, DC 20510

Dear Senators Warren, Wyden, and Bennett:

Thank you for your letter dated June 6, 2018. The mission of the Commodity Futures Trading Commission (CFTC or Commission) is to foster open, transparent, competitive, and financially sound derivatives markets, and to protect market participants and the public from fraud, manipulation, and other abusive practices.

As part of this mission, the CFTC works vigilantly to detect wrongdoing in our markets and enforce the law against those responsible. One way we do this is by monitoring market activity to identify any anomalous or suspicious activity. Among other things, the Commission utilizes surveillance, compliance, and enforcement tools to analyze activity in the markets within our jurisdiction. This work is essential to preserve the integrity of our markets.

Much of this work is performed by the Commission's Market Intelligence Branch (within the Division of Market Oversight) and the Market Surveillance Branch (within the Division of Enforcement). Each branch is staffed with career civil servants, who are experts in the commodity and derivatives markets. These staff members routinely analyze a broad spectrum of market information collected by the Commission, including information related to transaction records, large trader positions, volume, open interest, key price relationships, and relevant

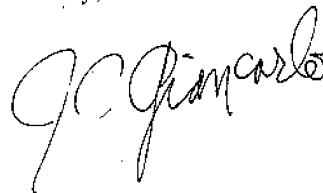
supply and demand information. This routine analysis also includes review of the release of economic data that has the potential to impact markets within the CFTC's jurisdiction.

Where anomalous activity is detected, Commission staff conducts further analysis to determine whether the activity might have been the product of misconduct that violates the Commodity Exchange Act (CEA). This analysis is complex and resource intensive; it requires a multi-factored analysis of the relevant law and facts, which must be tailored to the particular circumstances of each case. Where this analysis reveals misconduct, the Commission possesses broad statutory authority under the CEA to address that misconduct, including by commencing enforcement actions in both administrative proceedings and in federal court. *See, e.g.*, 7 U.S.C. §§ 6c(a), 9(1) (2012).

At the same time the CEA provides the Commission broad authority to address misconduct in our markets, the CEA also requires the Commission to maintain the confidentiality of its investigations. *See* 7 U.S.C. § 12a (2012). This confidentiality requirement extends not only to the facts of any particular investigation, but also to whether an investigation has been commenced in the first place. Consistent with this legal requirement, the consistent policy under past Chairmen of the Commission—in both Democratic and Republican Administrations—has been to decline to comment on investigations, including on the existence of any particular investigation. I will continue to adhere to that policy during my tenure, as the need for confidentiality is critical to maintaining the integrity and effectiveness of the CFTC's administrative process.

Again, thank you for contacting me about this issue. If you have further questions, please contact Charlie Thornton or Ann Wright in the Office of Legislative Affairs at (202) 418-5075.

Sincerely,

A handwritten signature in black ink, appearing to read "JC Giancarlo". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

J. Christopher Giancarlo
Chairman



U.S. COMMODITY FUTURES TRADING COMMISSION

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Heath Tarbert
Chairman

(202) 418-5030
Chairman@CFTC.gov

October 8, 2019

Mr. Zippy Duvall
American Farm Bureau Federation
600 Maryland Ave. SW Suite 1000w
Washington, DC 20024

Dear Mr. Duvall,

Thank you for your letter dated August 29, 2019 regarding your concerns about market volatility and the release of USDA reports.

The nation's financial markets are the meeting place for global price discovery and risk management and transfer and as such are a cornerstone of the US economy. I cannot over-state the importance of their proper functioning to the US free enterprise system. The nation's farmers and ranchers, along with other key participants, have come to rely on the financial markets and they must be able to do so going forward. The markets also rely on the CFTC's vigilance as the primary regulator of futures, options, and swaps.

The mission of the Commodity Futures Trading Commission (CFTC) is to foster open, transparent, competitive, and financially sound markets. The Division of Market Oversight supports this mission by evaluating the price discovery process in a variety of ways to assure that the markets remain competitive and secure through clear rules and effective oversight. Within DMO, the Market Intelligence Branch uses both internal and external market data to study the structural issues that can change and impede price discovery. External events such as weather extremes and other unexpected shocks to demand or supply occur and impact each market in different ways. As you highlight, electronic trading at the release times surrounding USDA reports also factors into the price discovery process.

MIB considers such events along with other market data and communicates findings internally within the Commission, as well as externally to other regulators, governmental agencies, Congress and the public in order to promote confidence in the markets. Given this framework, I wish to convey that CFTC staffs are aware of the factors mentioned and will evaluate and advise in accordance with their roles and expertise.

Again, thank you for contacting me about your concerns. If you have any further questions, please contact Summer Mersinger, Director of the Office of Legislative and Intergovernmental Affairs at (202)-418-6074.

Sincerely,



U.S. COMMODITY FUTURES TRADING COMMISSION

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Chairman@cftc.gov

August 30, 2019

Mr. Collin Woodall
Sr. Vice President of Government Affairs
National Cattleman's Beef Association
1275 Pennsylvania Avenue, NW
Washington, DC 20004

Dear Mr. Woodall,

Thank you for your letter dated August 13, 2019 regarding the August 9, 2019 fire and subsequent closure of the Tyson beef processing plant in Holcomb, Kansas. I share your concern about ensuring market participants do not take advantage of the uncertainty created by the fire. I was in Kansas the morning of the fire talking with cattle producers about challenges they currently face and I clearly understand the importance of well-functioning markets to their business.

As a general matter, the agency monitors the live cattle and feeder cattle futures contract markets assessing whether these markets respond to supply and demand fundamentals and perform their price discovery and risk management function. We are also in regular contact with the relevant exchanges, which have the responsibility to survey their markets and work to ensure they are free from manipulation or other conditions that have the potential to distort prices.

With respect to the Holcomb fire, the CFTC's monitoring efforts started before the opening of the markets on August 10th. We remain in touch with major industry participants and the U.S. Department of Agriculture to better understand how the industry is absorbing the supply of cattle while the Holcomb facility is offline. My fellow Commissioners and I get regular updates on the impacts of the plant closure on cash and futures markets, understanding that the loss of the facility has caused significant disruptions in the cattle and beef markets. We remain committed to ensuring strong cattle futures contract markets, ensuring the markets are free from manipulation.

Again, thank you for contacting me about this incident. If you have any further questions, please contact Summer Mersinger, Director of the Office of Legislative and Intergovernmental Affairs at (202)-418-6074.

Sincerely,



U.S. COMMODITY FUTURES TRADING COMMISSION

Three Lafayette Centre
1155 21st Street, NW, Washington, DC 20581
www.cftc.gov

Heath Tarbert
Chairman

(202) 418-5030
Chairman@CFTC.gov

September 18, 2019

The Honorable Katie Porter
United States House of Representatives
1117 Longworth House Office Building
Washington, DC 20515

The Honorable Nydia Velázquez
United States House of Representatives
2302 Rayburn House Office Building
Washington, DC 20515

Dear Representatives Porter and Velázquez:

Thank you for your letter dated September 3, 2019 requesting the U.S. Financial Stability Oversight Council (FSOC) to convene a meeting and consider designating Amazon Web Services, Microsoft Azure, and Google Cloud as systemically important financial market utilities (SIFMUs). As a member of the FSOC, I understand the importance of identifying risks and responding to emerging threats to financial stability to ensure the safety and the health of the financial system and broader economy.

As your letter noted, SIFMUs are “systemically important financial market utilities” and FSOC makes designations on the basis that a failure or disruption to a financial market utility (FMU) could threaten the stability of the United States financial system. Among other things, designated FMUs become subject to the heightened prudential and supervisory provisions of Title VIII, which promote robust risk management and safety and soundness.

I appreciate your views on this issue and will certainly keep your concerns in mind as I continue to serve as Chairman of the U.S. Commodity Futures Trading Commission and as a voting member of the FSOC.

Again, thank you for contacting me about this important issue. If you have any questions or concerns, please contact Summer Mersinger, Director of the Office of Legislative and Intergovernmental Affairs at (202) 418-6074.

Sincerely,



U.S. COMMODITY FUTURES TRADING COMMISSION

Three Lafayette Centre
1155 21st Street, NW, Washington, DC 20581
www.cftc.gov

Heath Tarbert
Chairman

(202) 418-5030
Chairman@cftc.gov

November 1, 2019

The Honorable Ron Kind
United States House of Representatives
1502 Longworth House Office Building
Washington, DC 20515

Dear Congressman Kind,

Thank you for your letter dated October 16, 2019 citing concerns about the price assessment of the Midwest Premium (MWP) reference price.

The Commodity Futures Commission (CFTC) is the primary regulator of the United States derivatives markets. Ensuring that the derivatives markets operate in a competitive, efficient and transparent manner is the Commission's key mission. The Commodity Exchange Act (CEA) is the basis for Commission's legal authority and its goal is to promote price discovery and sound risk management. The Commission strives to protect market participants and the public from fraud, manipulation, abusive practices and systemic risk related to derivatives, while fostering open, transparent, competitive, and financially sound markets.

Under the CEA, subject to certain limited exceptions, the Commission has full regulatory and enforcement oversight authority over designated contract markets (DCMs) registered with the Commission. Moreover, under the CEA and the Commission's authority to review contracts and rules, DCMs and swap execution facilities (SEFs) are legally obligated to meet certain core principles.

Separately, the Commission has enforcement authority to combat fraud and manipulation involving commodities in interstate commerce such as spot markets, price reporting agencies, and benchmarks. As part of its ongoing market surveillance responsibilities, Commission staff monitors the regulated markets for potential abuses. If abnormalities or suspicious activities are detected, the CFTC's division of Enforcement (DOE) investigates such allegations and prosecutes violations of the Commodity Exchange Act and the Commission's regulations. Potential violations include fraud, manipulation and other abuses that threaten market integrity, market participants, and the public.

Again, thank you for contacting me about your concerns. If you have any further questions, please contact Summer Mersinger, Director of the Office of Legislative and Intergovernmental Affairs at (202)-418-6074.

Sincerely,

United States House of Representatives
Committee on Financial Services
Washington, D.C. 20515

The Secretariat

January 15, 2019

JAN 30 2019

Received

The Honorable J. Christopher Giancarlo
Chairman
U.S. Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, D.C. 20581

Dear Chairman Giancarlo:

Today's vote in the Parliament of the United Kingdom on the Brexit Withdrawal Agreement presages greater uncertainty for global financial markets. While the potential for a prolonged or uncertain Brexit could prove challenging, a no-deal Brexit could be disruptive. As you noted in remarks on December 6, 2018,¹ adverse effects surrounding Brexit may have significant implications for the derivative markets. It is my understanding that the Commission continues to work with its counterparts in the United Kingdom and European Union to better understand such effects and deal with them appropriately.

I am therefore requesting an update on how the Commission plans to mitigate risks that may arise from yesterday's vote, particularly as they relate to the following:

- U.S. market participants,
- Derivatives markets,
- Central clearing houses, and
- Any equivalency considerations.

Sincerely,



PATRICK McHENRY
Ranking Member

cc: The Honorable Maxine Waters, Chairwoman, U.S. House Committee on Financial Services

¹ J. Christopher Giancarlo, Chairman, U.S. Commodity Futures Trading Comm'n., Financial Stability Concerns Regarding Brexit (Dec. 6, 2018).

**Board of Governors of the Federal Reserve System
Office of the Comptroller of the Currency
Federal Deposit Insurance Corporation
Securities and Exchange Commission
Commodity Futures Trading Commission**

August 14, 2018

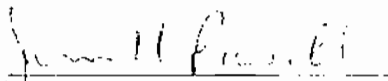
The Honorable Randy Hultgren
House of Representatives
Washington, D.C. 20515

Dear Congressman Hultgren:

Thank you for your July 6, 2018, letter regarding the proposed rule, released by the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Securities and Exchange Commission, and the Commodity Futures Trading Commission (the "Agencies"), to revise the rule implementing section 13 of the Bank Holding Company Act (12 U.S.C. § 1851), as added by section 619 of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

We appreciate your views on venture capital funds, their role in capital formation, and on the proposed rule. We will include your letter in the public record. The Agencies have requested comment on all aspects of the proposed rule and will consider carefully all comments in formulating the final rule.

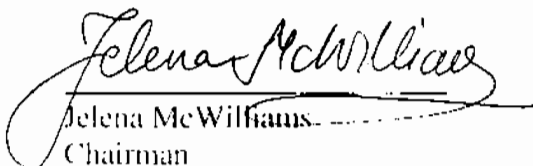
Sincerely,




Jerome H. Powell
Chairman
Board of Governors of
the Federal Reserve System



Joseph M. Otting
Comptroller of the Currency
Office of the Comptroller of the Currency



Jelena McWilliams
Chairman
Federal Deposit Insurance Corporation



Jay Clayton
Chairman
Securities and Exchange Commission



J. Christopher Giancarlo
Chairman
Commodity Futures Trading Commission



U.S. Commodity Futures Trading Commission
Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581
www.cftc.gov

J. Christopher Giancarlo
Chairman

(202) 418-5030
jegiancarlo@cftc.gov

May 29, 2019

The Honorable John Kennedy
Chairman
Subcommittee on Financial Services
and General Government
Committee on Appropriations
Washington, DC 20510

The Honorable Christopher Coons
Ranking Member
Subcommittee on Financial Services
and General Government
Committee on Appropriations
Washington, DC 20510

Dear Chairman Kennedy and Ranking Member Coons,

I am writing in response to your letter dated May 1, 2019 concerning compliance with Federal Travel Regulation (FTR) and section 632 prohibiting or limiting Federal employees from using first-class and business-class airline travel. Thank you for your interest.

The Commodity Futures Trading Commission (CFTC) Office of the Executive Director (OED) has reviewed your inquiry regarding non-coach-class airline travel and has no issues or concerns to report. The Commission has a premium class air travel policy, (see attached – CFTC Premium Travel Policy) which requires documented requests with support for travelers requesting seating upgrades from coach-class. In addition, the Commission's travel system has multiple levels of review and approval to ensure that all travel requests are in compliance with the Federal Travel Regulations. Finally, the Commission's independent accounting services provider undergoes post audit reviews by its Office of Inspector General on a sample of travel authorizations.

The attached table (CFTC Business Class Travel 01 Oct 2016 to 31 Mar 2019) provides a listing of all non-coach-class airline travel incurred during the time requested. As requested; the table includes the FTR exemption under which the CFTC authorized or approved each instance of non-coach-class airline travel, the date of authorization or approval and the total obligations associated with each instance of non-coach-class airline travel. The Commission did not find any instances in which non-coach-class airline travel was authorized or approved in a manner that was inconsistent with the Federal Travel Regulations.

Thank you again for your interest. If you have further questions, please do not hesitate to reach out to Charlie Thornton, Director of the Office of Legislative and Intergovernmental Affairs at ethornton@cftc.gov.

Sincerely,



U.S. COMMODITY FUTURES TRADING COMMISSION

Three Lafayette Centre
1155 21st Street, NW, Washington, DC 20581
www.cftc.gov

Rostin Behnam
Acting Chairman

(202) 418-5575
Chairman@CFTC.gov

October 7, 2021

The Honorable James Lankford
Ranking Member
Subcommittee on Government Operations
and Border Management
Committee on Homeland Security
and Governmental Affairs
United States Senate

The Honorable Richard Burr
Ranking Member
Committee on Health, Education, Labor
and Pensions
United States Senate

The Honorable Mitt Romney
Member
Committee on Health, Education, Labor
and Pensions
United States Senate

The Honorable Ron Johnson
Ranking Member
Permanent Subcommittee on Investigations
Committee on Homeland Security
and Governmental Affairs
United States Senate

The Honorable Rand Paul, M.D.
Member
Committee on Health, Education, Labor
and Pensions
United States Senate

The Honorable Mike Braun
Ranking Member
Subcommittee on Employment
and Workplace Safety
Committee on Health, Education, Labor
and Pensions
United States Senate

Dear Ranking Members, Senators:

Thank you for your letter dated July 29, 2021, requesting information on the use of official time granted to employees within the U.S. Commodity Futures Trading Commission's ("CFTC") collective bargaining unit for performing representational business pursuant to 5 U.S.C. § 7131, the Federal Service Labor-Management Relations Statute, in Fiscal Year 2021.

We hope that you find the information contained in this letter and the attached Microsoft Excel spreadsheet responsive to the questions you have outlined in your letter:

- 1) The categories for which official time is approved for CFTC union representation and the amounts of time used for each purpose are as follows:
 - Term Contract Negotiations or Reopening of Term Contract: 0 hours.
 - Midterm Negotiations of Contract: 0 hours.
 - General Labor-Management Relations: 547.5 hours.
 - Representation of Staff in Grievances or Appeals: 22 hours.
- 2) The job title and total compensation of each employee who has used taxpayer-funded union time in the fiscal year, as well as the total number of hours each employee spent on these activities and the proportion of each employee's total paid hours that number represents.

Please see attached.

- 3) Whether the agency has allowed labor organizations or individuals on taxpayer-funded union time the free or discounted use of government property; if so, please provide the closest estimate for the total number of hours and days this free or discounted use of government property was allowed.

The union has use of some government property without reimbursement through the terms of the CFTC/union Collective Bargaining Agreement, such as office space, furniture, and computer and printing equipment. Although these provisions cover the entirety of FY 2021, the office space, furniture, and printing equipment will have had minimal use due to our maximum telework posture in response to the pandemic.

- 4) Any expenses the agency paid for activities conducted on or for taxpayer-funded union time.

None.

- 5) The amount of any reimbursement paid by the labor organizations for the use of government property.

None.

Thank you again for your interest. If you have further questions related to these issues, please do not hesitate to contact Ann Wright, Acting Director of the Office of Legislative and Intergovernmental Affairs, at awright@cfc.gov or 202-441-0453.

Sincerely,

A handwritten signature in cursive script, appearing to read "R. Behman".

Congress of the United States
Washington, DC 20515

October 20, 2021

Mr. Rostin Benham
Acting Chairman
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581

Dear Acting Charmain Benham,

We are writing to request confirmation of whether the Commodities Future Trading Commission (CFTC) has acted on a referral from the Inspector General at the Department of Homeland Security (DHS IG) in March of this year to investigate irregularities in the application and collection of aluminum tariffs authorized under Section 232 of the Trade Expansion Act (232 tariffs).

As you may know, we alerted the DHS IG to these irregularities because Customs and Border Protection (CBP) is charged with collecting revenue resulting from the importation of goods, including revenue generated by former President Trump's 232 tariffs on imported aluminum. For aluminum end users in the U.S., these tariffs are reflected in the Midwest Premium (MWP), a reference price that is intended to account for storage and transportation costs. We continue to be concerned that a tariff is being applied through a "duty paid" MWP to metal that is either exempt from tariffs or is sourced here in the United States.

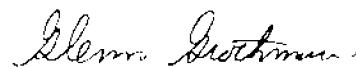
While we understand that under current law no federal agency has direct oversight authority of the aluminum benchmarking system, we understand the CFTC does have enforcement authority to combat fraud and manipulation involving commodities in interstate commerce. We would appreciate an update on the status of the DHS IG's referral of this matter to the CFTC.

Thank you for your attention to this important issue. We look forward to hearing from you.

Sincerely,



Kathleen M. Rice
Member of Congress



Glenn Grothman
Member of Congress

From: Wright, Ann
Sent: Tue, 28 Jun 2022 20:55:43 +0000
To: Murray, Ellen (Appropriations);Reeves Hart;Nunnally, Lauren (Appropriations);martha.foley@mail.house.gov;Miller, Pam
Cc: Mattingley, Joel;Busch, Andrea;Gilbert, Tomeka N;Gardy, Laura
Subject: CFTC Reorganization Notification
Attachments: 2022 06 28 Congressional Notification_Letterhead_Members FY 2022.pdf, Current Org Charts.pdf, Proposed_Behnam Realignment FINAL IMPLEMENTATION.pdf

Good afternoon,

In accordance with Section 716(a) of the Consolidated Appropriations Act, 2022, PL 117-103, the Commodity Futures Trading Commission (CFTC) is notifying Congress of its plan to implement a reorganization of some of the critical functions of the agency with the continued goal of increasing its efficiency and effectiveness as a derivatives markets regulator.

We are available for discussion around any questions or concerns that you may have.

Thank you,

Ann

Ann Wright
Director
Office of Legislative and Intergovernmental Affairs
Commodity Futures Trading Commission
Direct: 202.418.5594
Mobile: 202.441.0453



U.S. Commodity Futures Trading Commission
Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581
www.cftc.gov

Rostin Behnam
Chairman

(202)418-5575
CFTCChairman@cftc.gov

June 28, 2022

The Honorable Chris Van Hollen
Chairman
Subcommittee on Financial Services
and General Government
Committee on Appropriations
U.S. Senate
Washington, D. C. 20510

The Honorable Sanford D. Bishop, Jr.
Chairman
Subcommittee on Agriculture, Rural
Development, Food and Drug
Administration, and Related Agencies
Committee on Appropriations
U.S. House of Representatives
Washington, D. C. 20515

The Honorable Cindy Hyde-Smith
Ranking Member
Subcommittee on Financial Services
and General Government
Committee on Appropriations
U.S. Senate
Washington, D. C. 20510

The Honorable Andy Harris
Ranking Member
Subcommittee on Agriculture, Rural
Development, Food and Drug
Administration, and Related Agencies
Committee on Appropriations
U.S. House of Representatives
Washington, D. C. 20515

Dear Chairman Van Hollen, Chairman Bishop, Ranking Member Hyde-Smith, and Ranking Member Harris,

In accordance with Section 716(a) of the Consolidated Appropriations Act, 2022, PL 117-103, the Commodity Futures Trading Commission (CFTC) is notifying Congress of its plan to implement a reorganization of some of the critical functions of the agency with the continued goal of increasing its efficiency and effectiveness as a derivatives markets regulator.

The Commission's mission, vision, and values seek to promote the integrity, resilience, and vibrancy of the U.S. derivatives markets through sound regulation. To continue our efforts to date in this ever-changing and complex marketplace, as Chairman of CFTC in coordination with our Division of Administration (DA), I am proposing to realign certain key functions within the agency. After over a year of evaluating the operational changes from the previous reform that took place in 2020, it has been determined that the agency mission would be better accomplished through two realignment actions.

We have worked with our union partners regarding the implementation, and would like for the reorganization as described in the following sections to be effective July 17, 2022.

Realign the Data Policy Section of the Data Policy and Standards Branch from the Division of Data (DOD) to the Division of Market Oversight (DMO)

Our oversight responsibilities continue to be highly data acquisitive and involve the use of information and the incorporation of algorithms and analytics to more effectively manage data allows us to use data as a means for solving problems. After over a year of evaluating the function and fit, the current Data Policy Section will realign to the Chief Counsel Branch in DMO with responsibility for: data collection and reporting obligations by registered entities, including Swap Data Repositories (SDRs) and regulations across the CFTC; ensuring compliance with certain data and reporting requirements under the Commodity Exchange Act and Commission regulations; and the implementation of, and compliance with, any amendments with respect to data and reporting; and performing short-term and long-term legal and policy studies of special market issues relating to swap data reporting.

Realign the Office of Customer Education and Outreach (OCEO) to the Office of Public Affairs (OPA)

After over a year of evaluating the impact of the OCEO under MPD, the anticipated outcomes have not been realized. In order to ensure efficient and consistent external outreach for all CFTC operations, the OCEO will return to OPA. DA will work with OPA to plan to recruit for an OCEO Director and confirm proper staff alignment.

Rename LabCFTC

Established within the then Office of General Counsel in 2017 under then-Chairman Chris Giancarlo, LabCFTC was designed to be the agency's focal point to engage with fintech innovators and promote responsible innovation. Two years later, the office was realigned to report directly to then-Chairman Tarbert. To continue the evaluation of fintech, the organization will continue reporting to the Chairman's office, but with an updated operating model to enable staff across the Commission to learn and share knowledge. The office will be renamed the Office of Technology Innovation and will be led by a Director with the potential for internal, rotational detail opportunities. Additionally, one staff member will serve as the Technology Innovation Counsel to the Chairman and continue to engage in fintech activities within the Office of Technology and Innovation.

Organizational Impact

The Division of Administration has considered the specific competencies and knowledge required for the organizational reform proposed herein, as well as common job requirements applicable to each staff member. Based on the proposed changes, DA will change position descriptions and job titles to reflect the above changes, and there will be no change in the affected current employees' series, grades, pay (including locality), or duty locations. If new positions are required at any point, they will be classified and graded in accordance with federal staffing laws, regulations and applicable guidance before recruitment.

Budget

As a result of this reorganization there is only one internal vacancy:

Division	Position	Grade	Solicitation Type	Funding	Hiring
OCEO	Director	CT-0301-15	Internal	Funded	

Space and Facilities

There will be no immediate change in space and facilities requirements.

Thank you for your consideration of this reorganization. Attached you will find the organizational charts for the personnel which reflect the current operations, and also the future workforce plans.

If you have concerns or further questions, please contact Wright, Director of the Office of Legislative and Intergovernmental Affairs at AWright@CFTC.gov.

Sincerely,

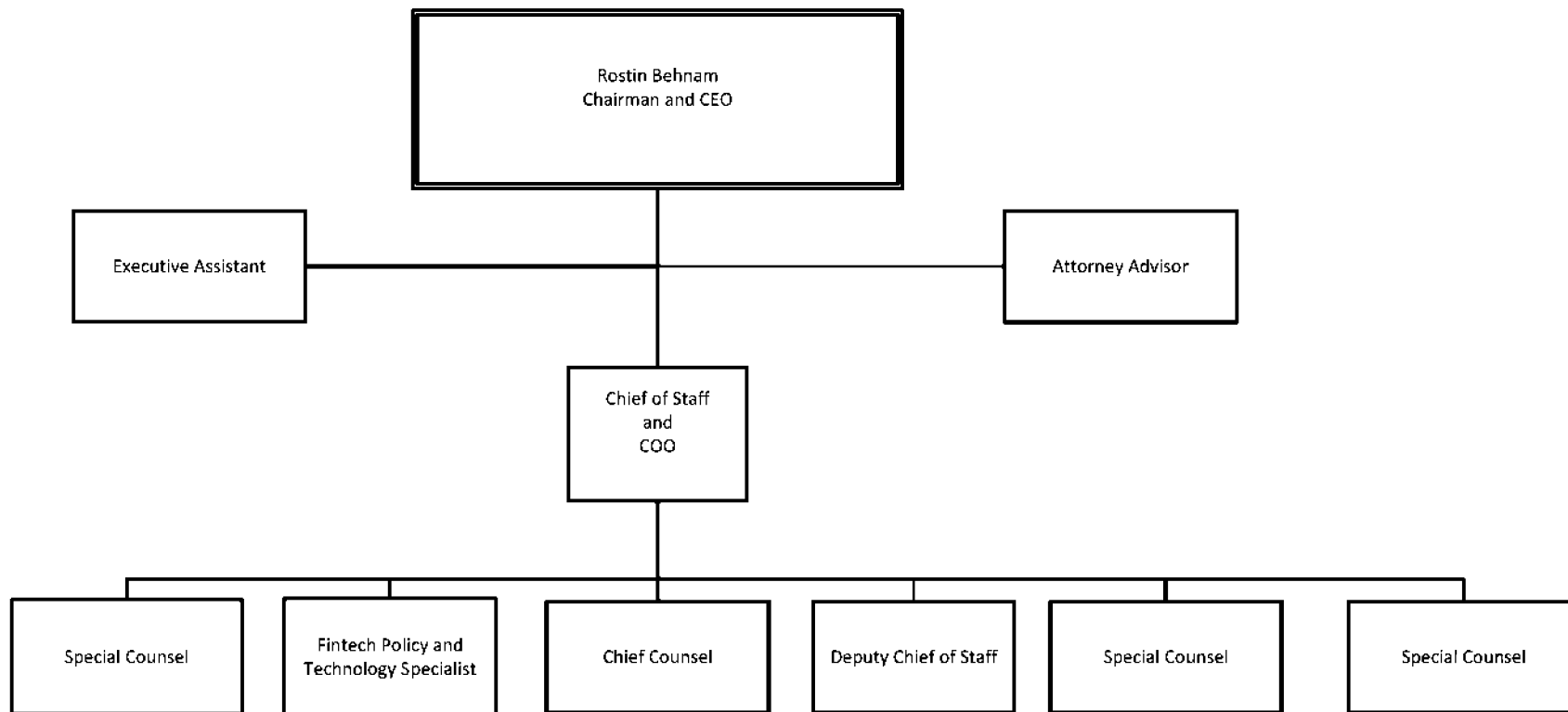


Rostin Behnam

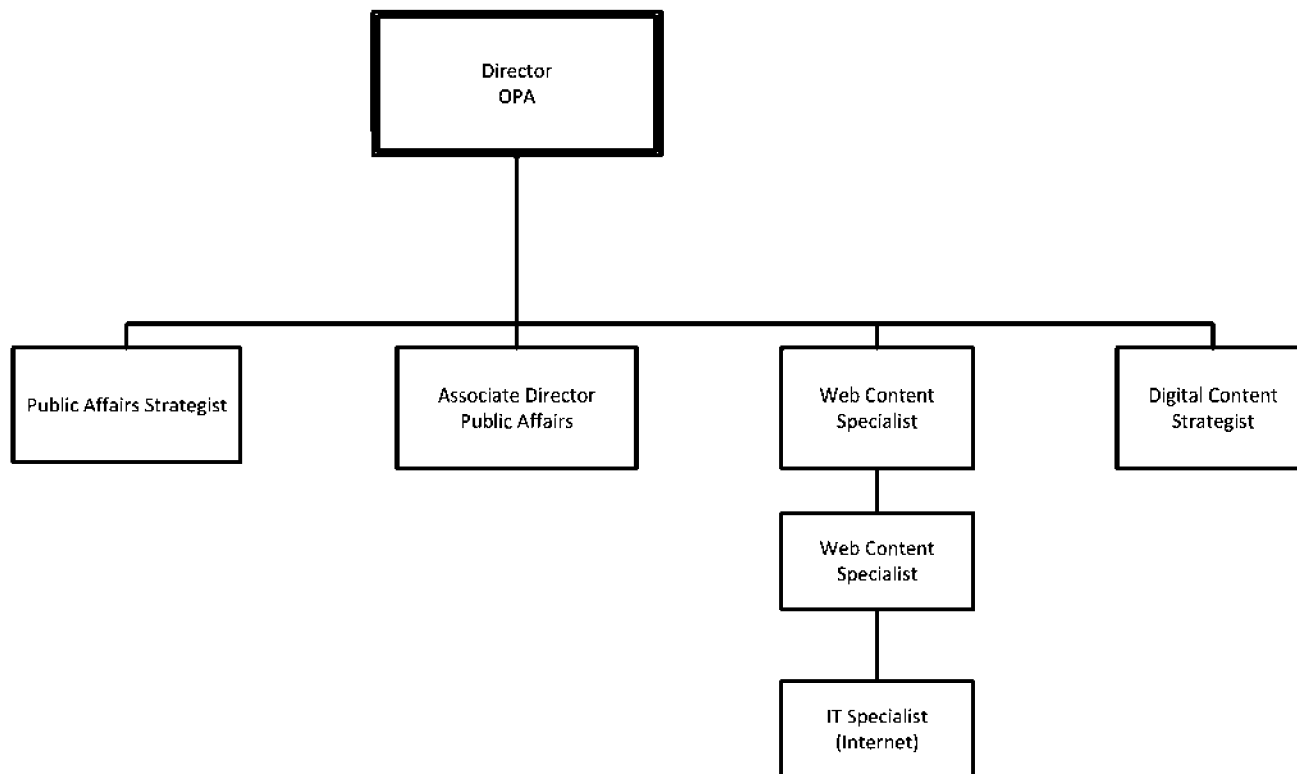
Attachments:

- 1) Current Organizational Charts (Agency Direction, DOD, DMO, MPD, OPA, OIA)
- 2) Proposed Organizational Charts for (Agency Direction, DOD, DMO, MPD, OPA, OIA)

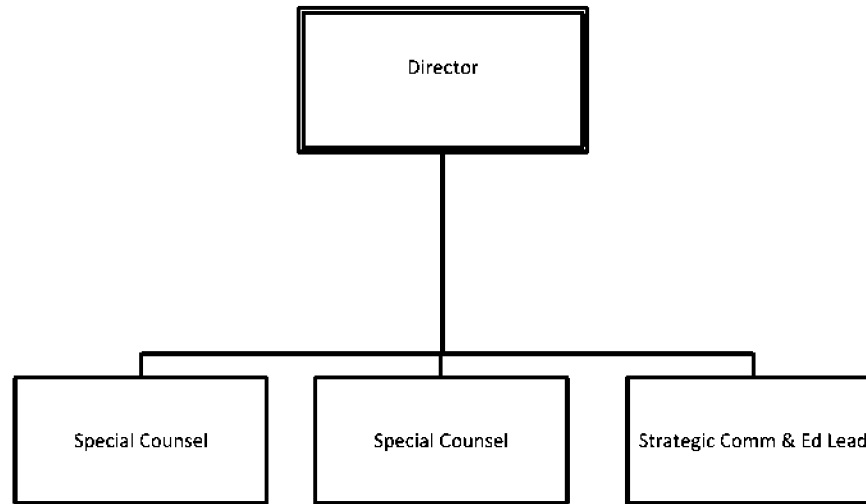
Office of the Chairman



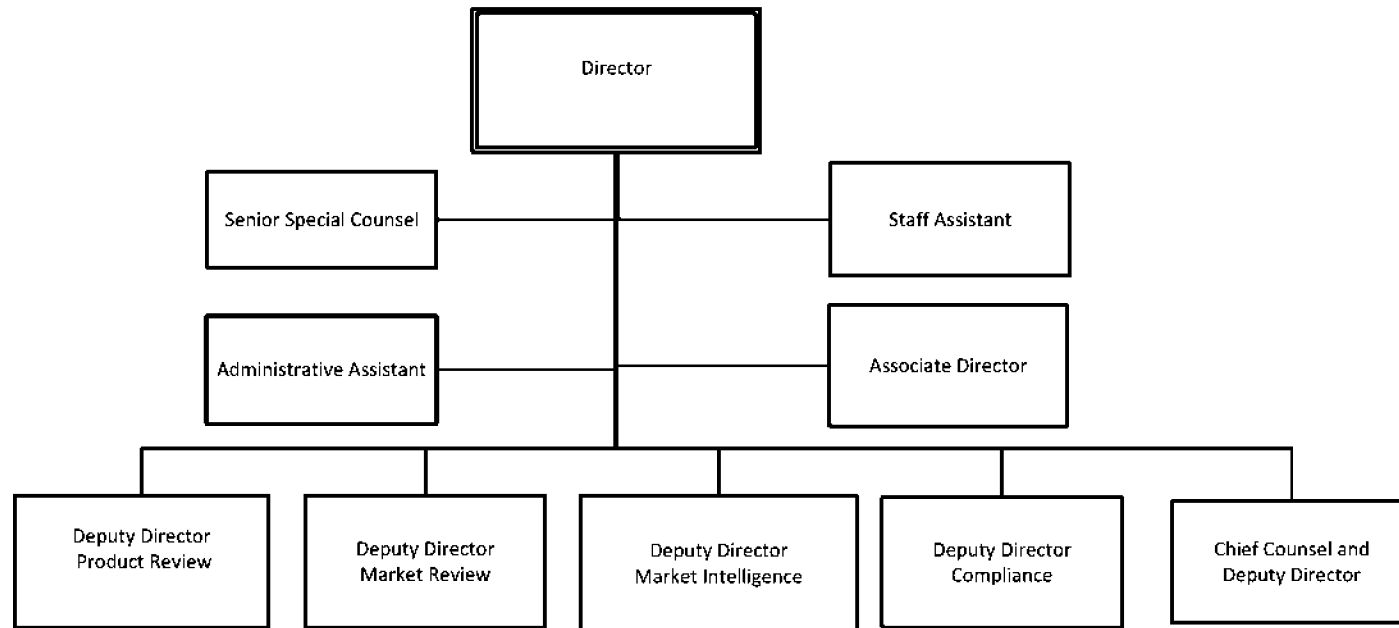
Office of Public Affairs



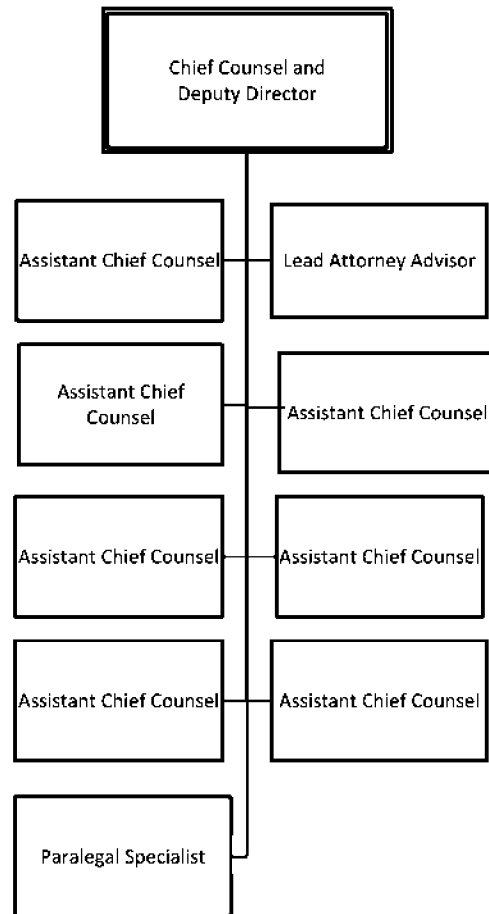
Lab CFTC



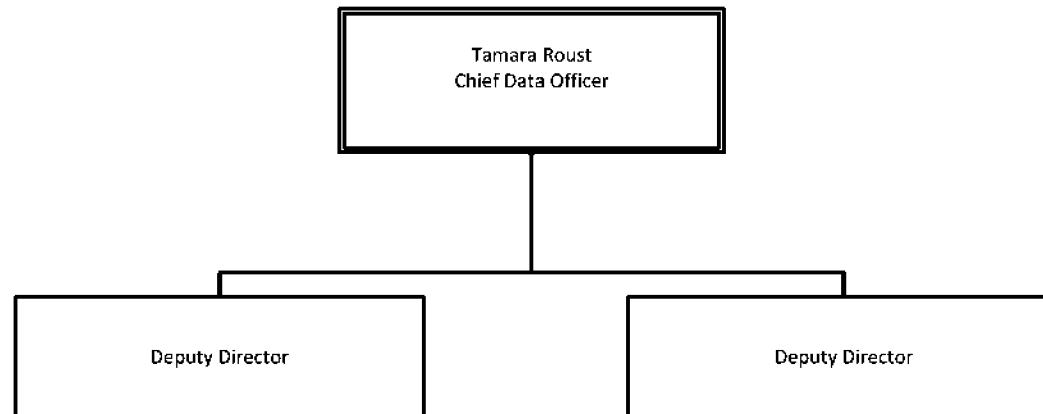
Division of Market Oversight



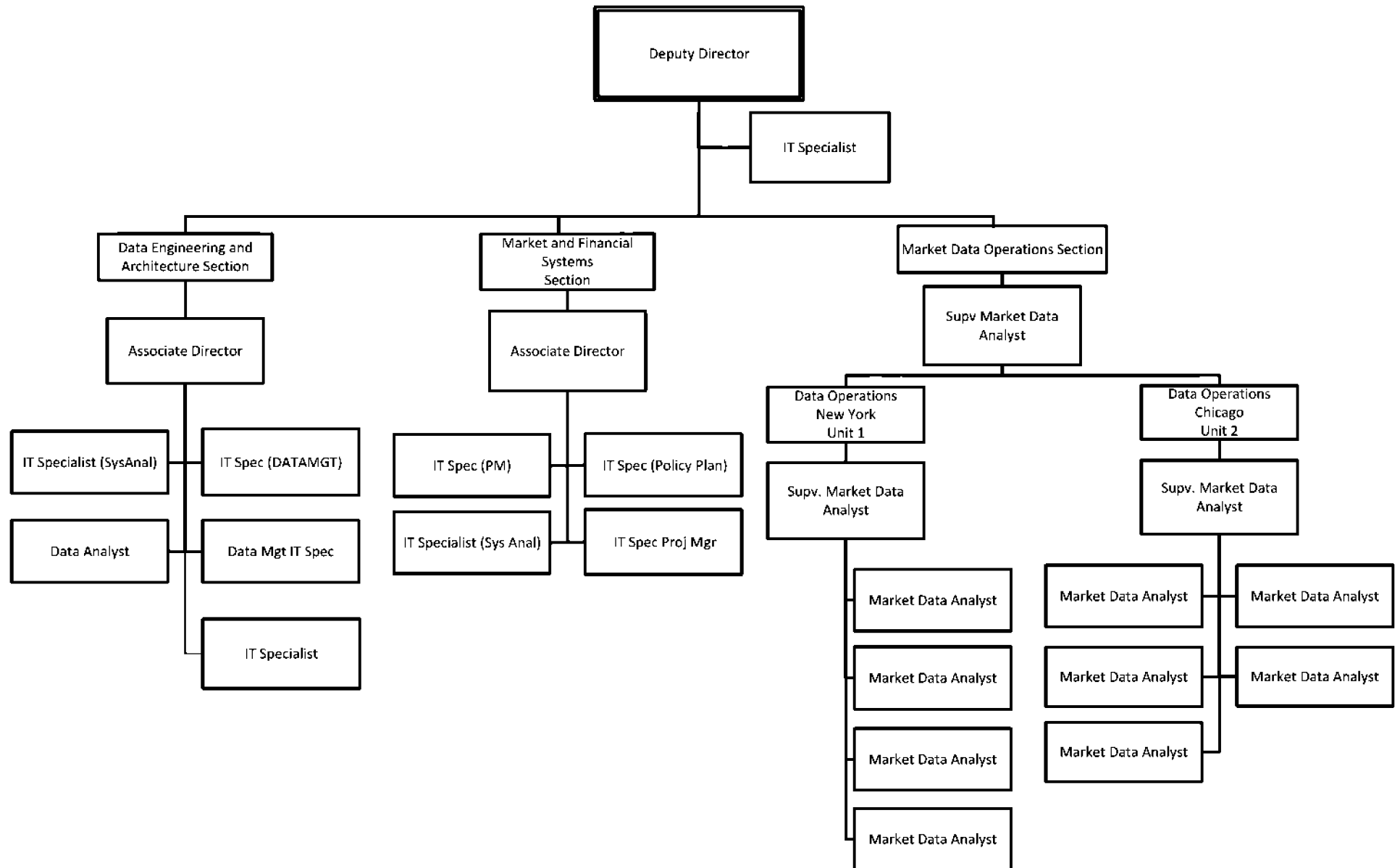
Chief Counsel



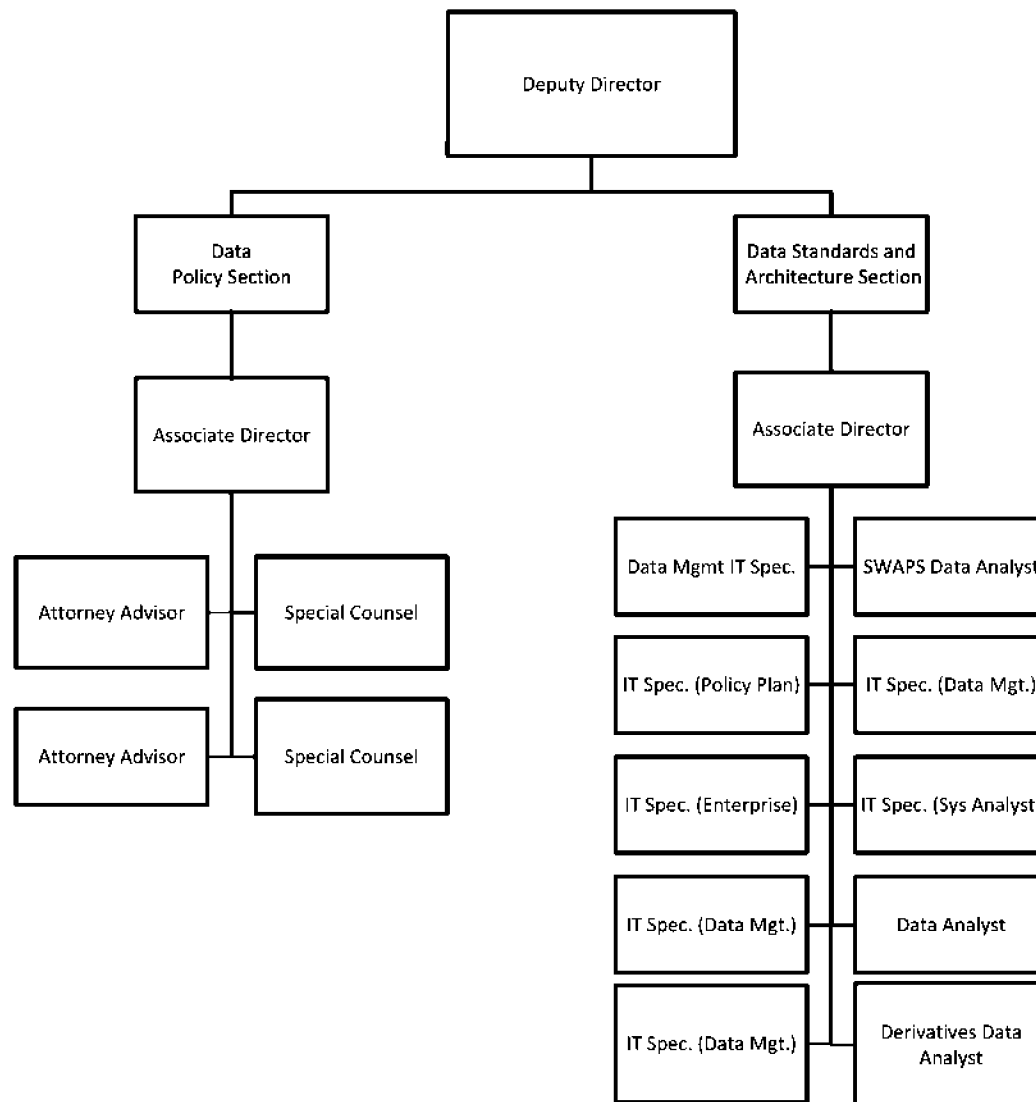
Division of Data



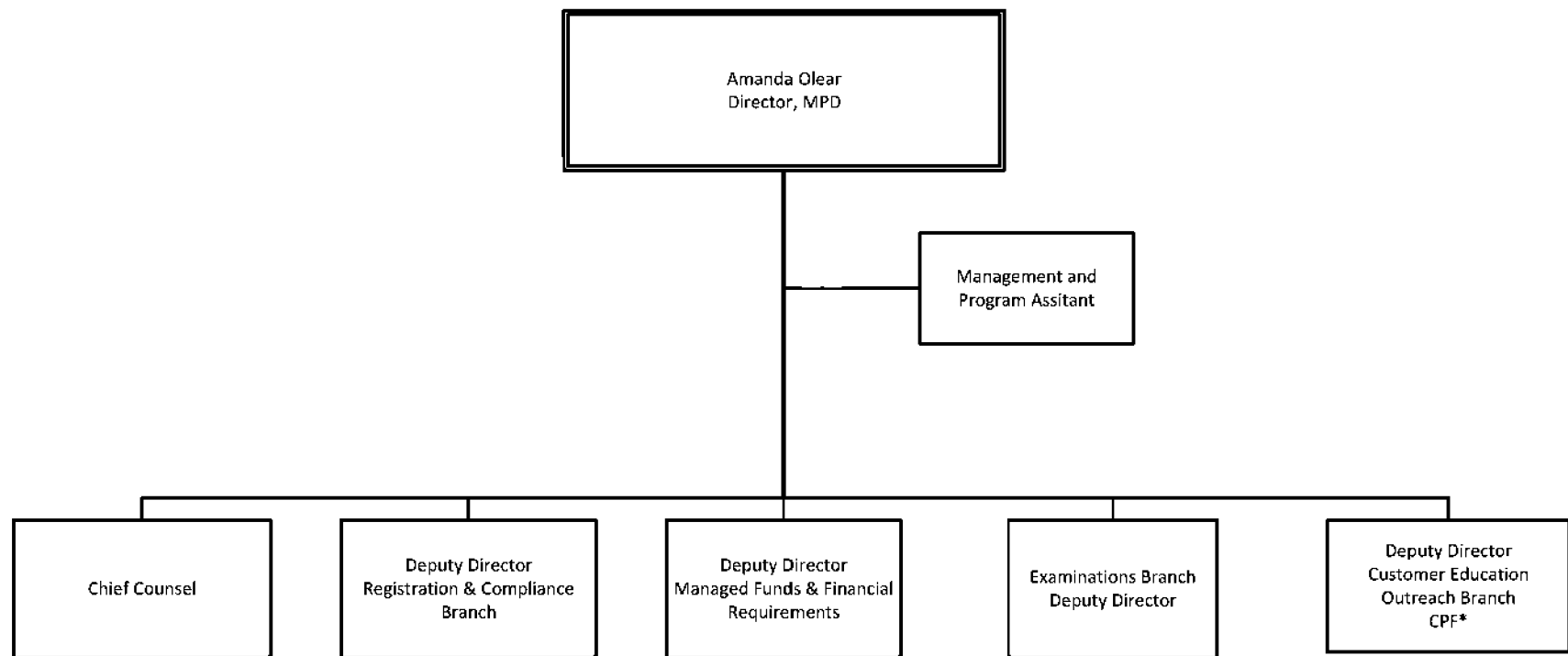
Data Operations Branch



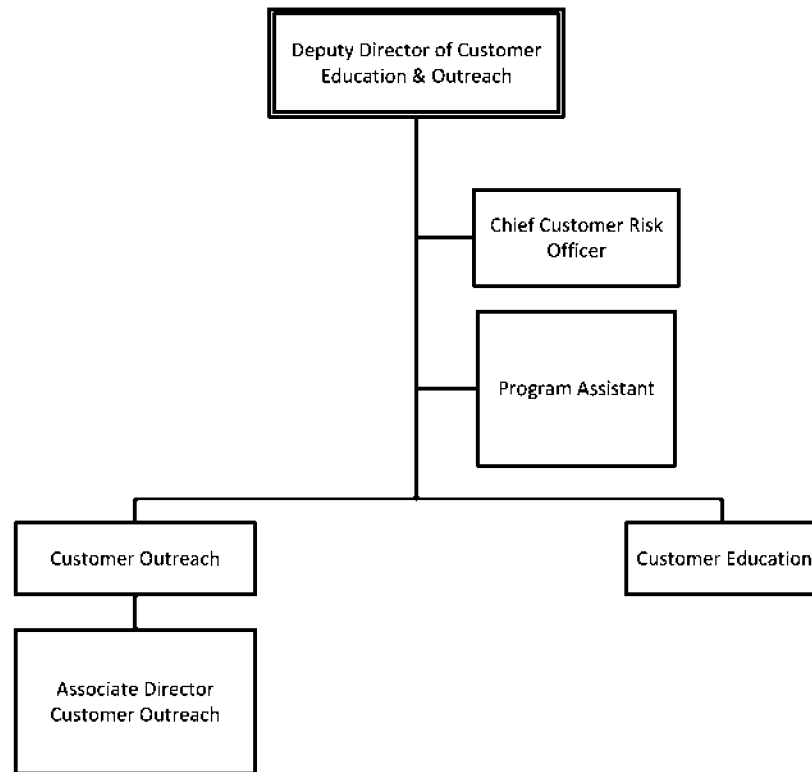
Data Policy and Standards Branch



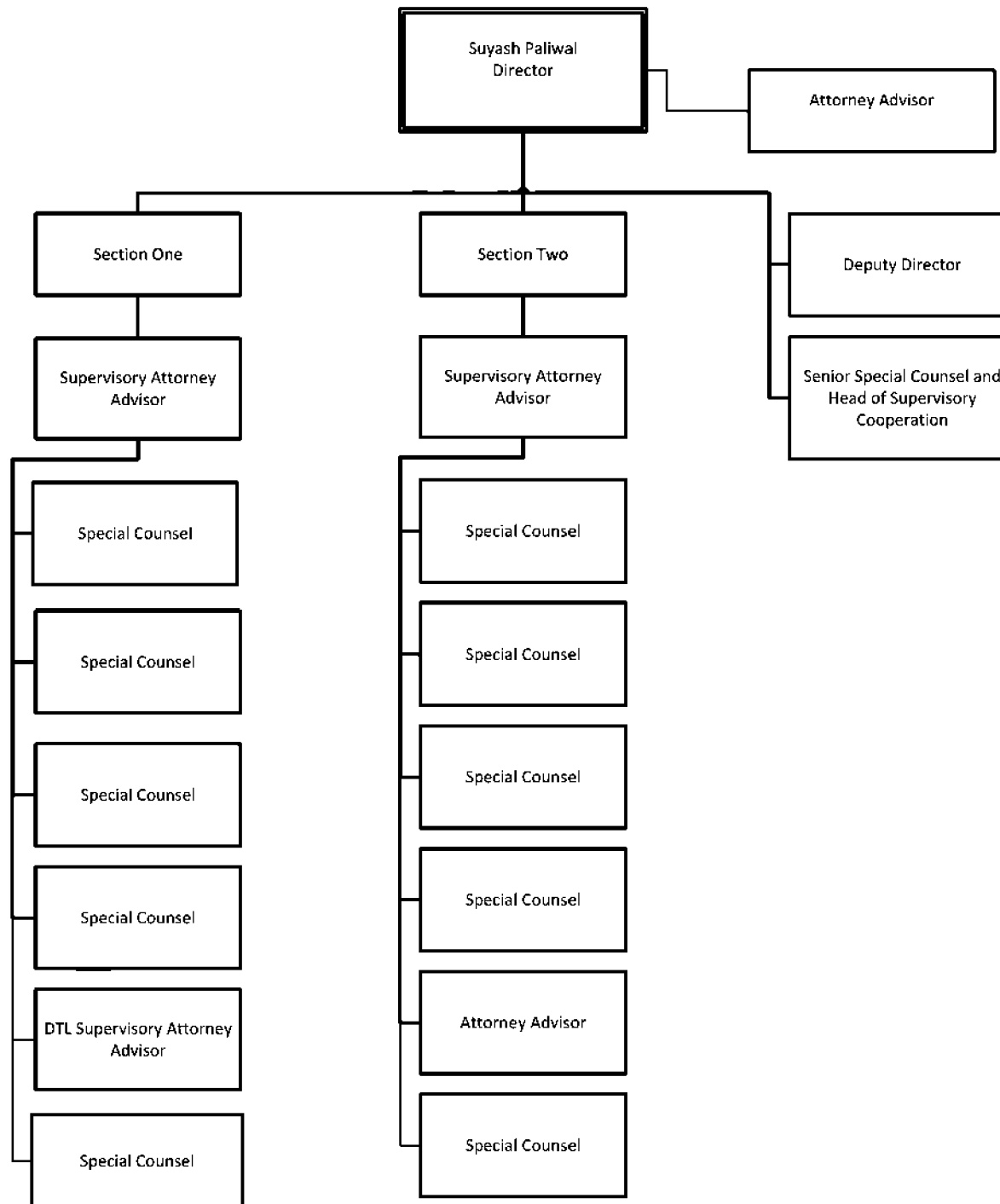
Market Participants Division



Customer Education and Outreach Branch

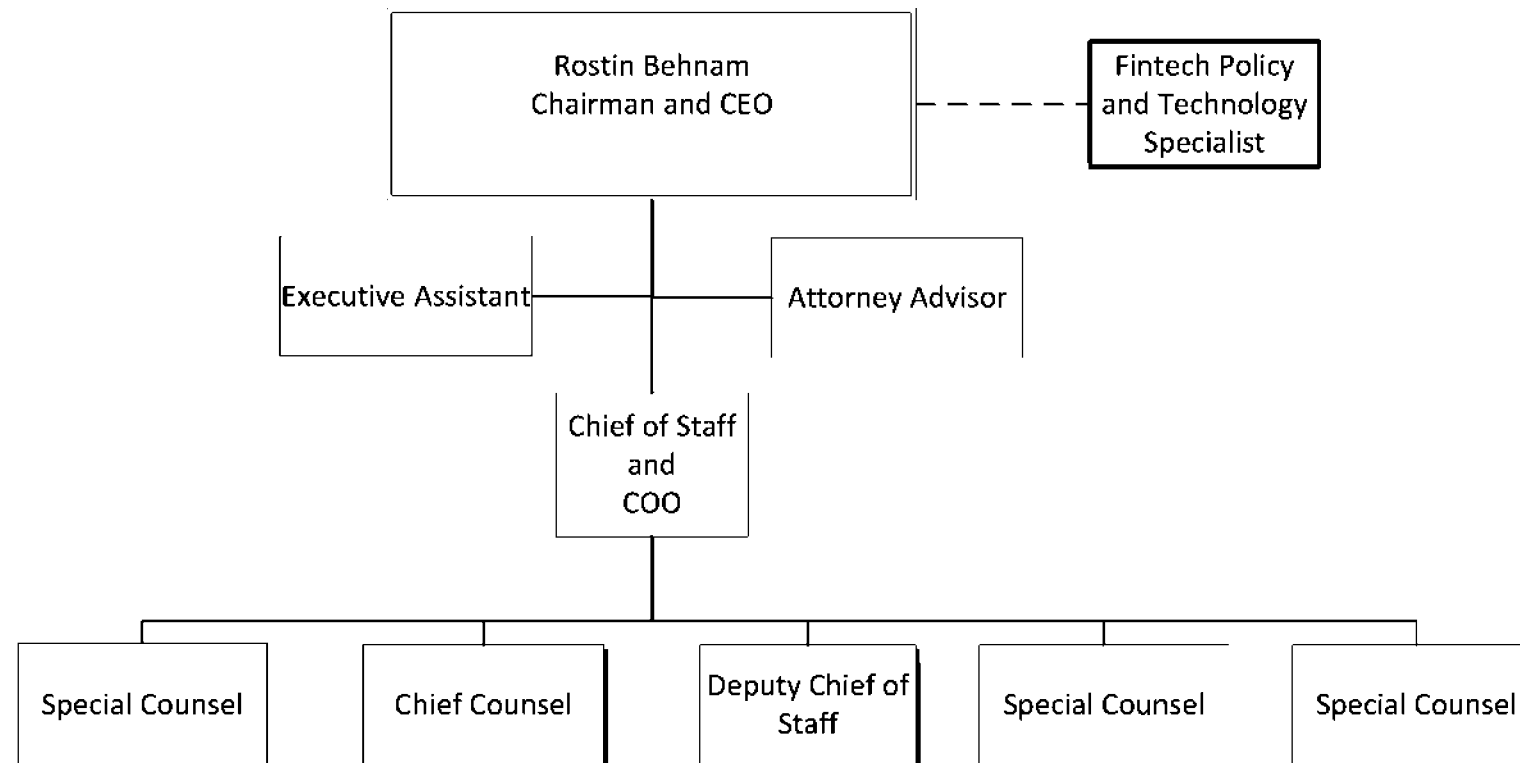


Office of International Affairs



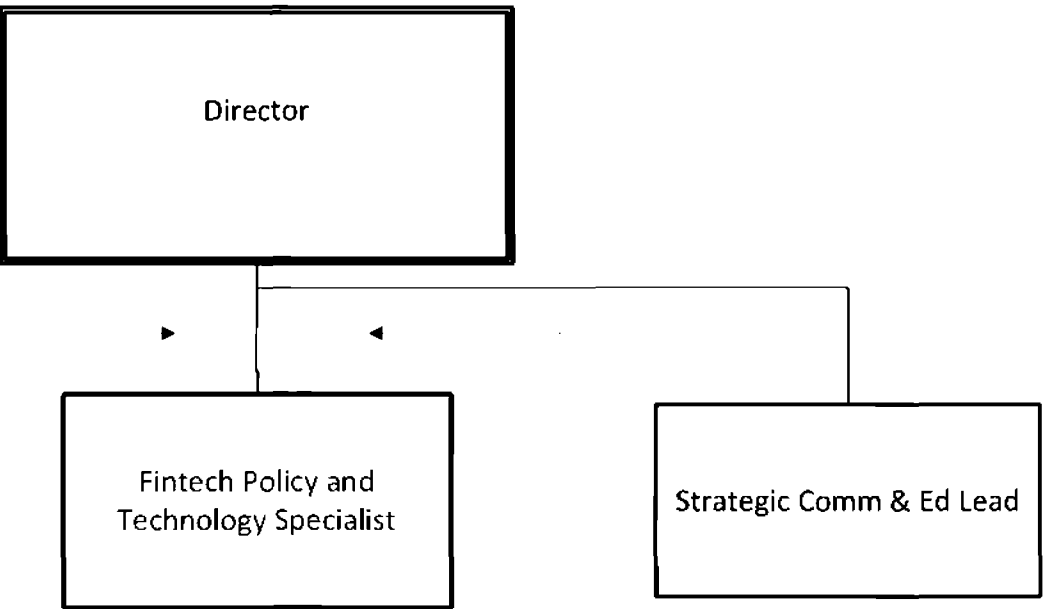
6/17/2022

Office of the Chairman



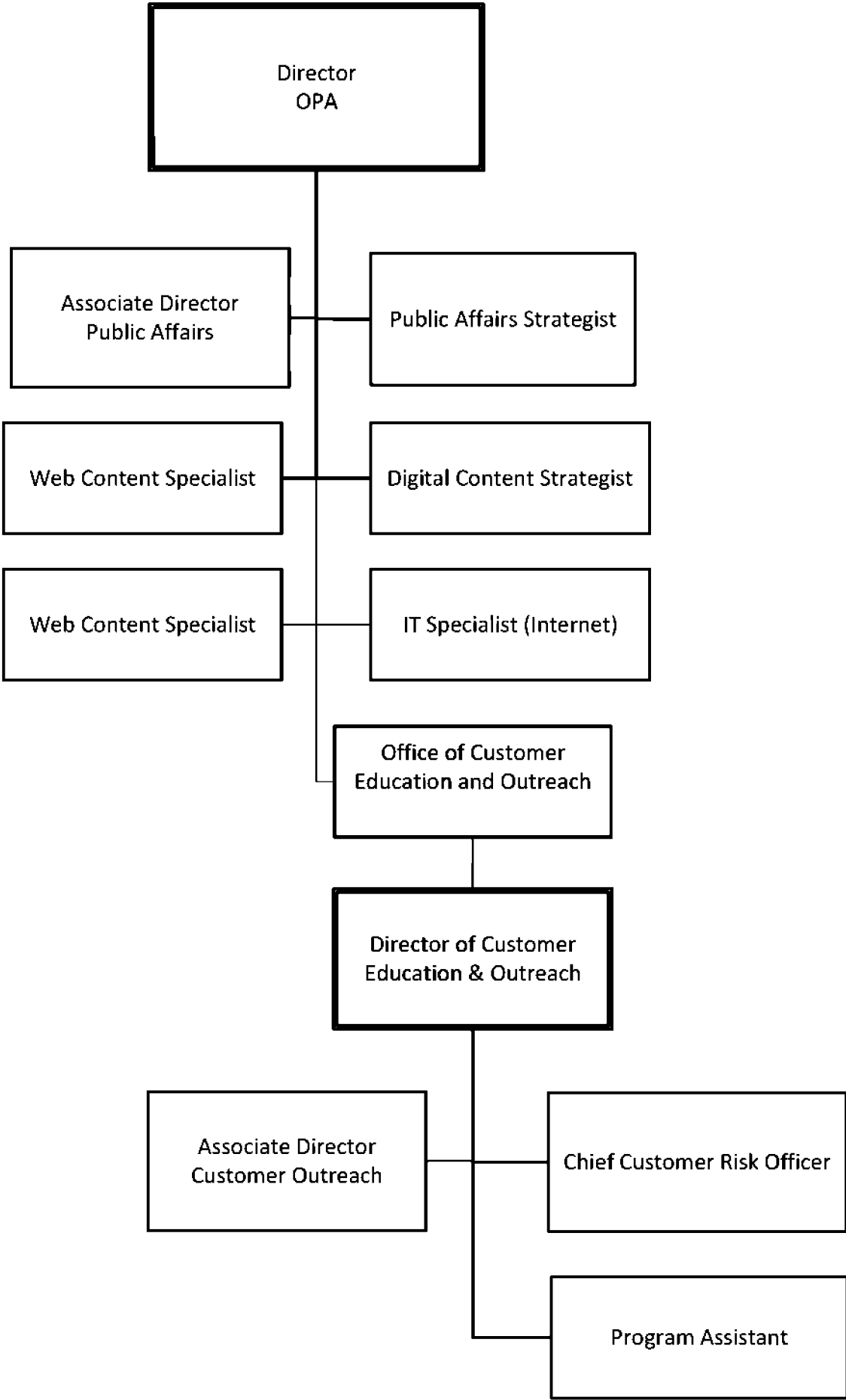
6/21/2022

Office of Technology Innovation



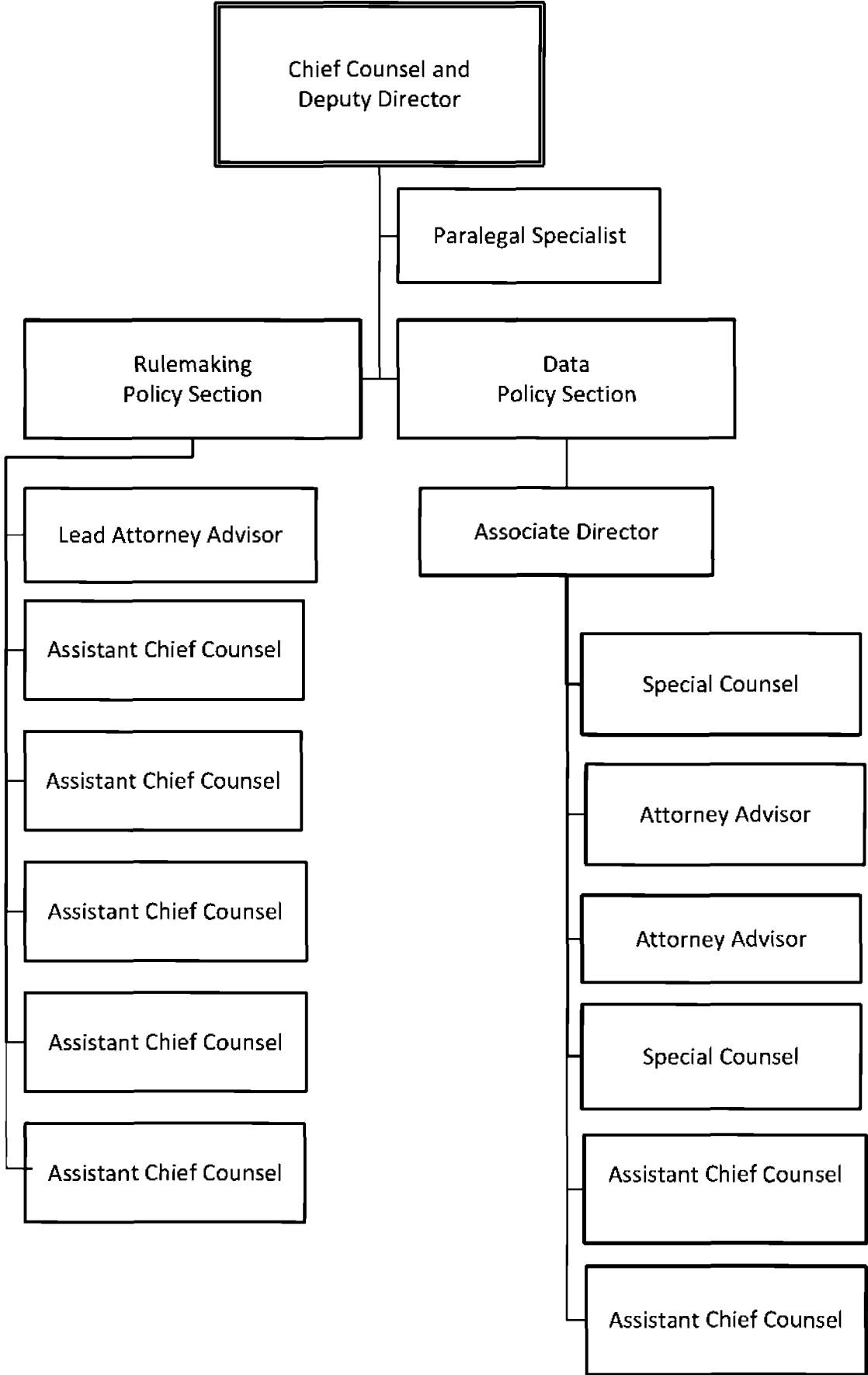
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Chairman’s Office

Office of Public Affairs

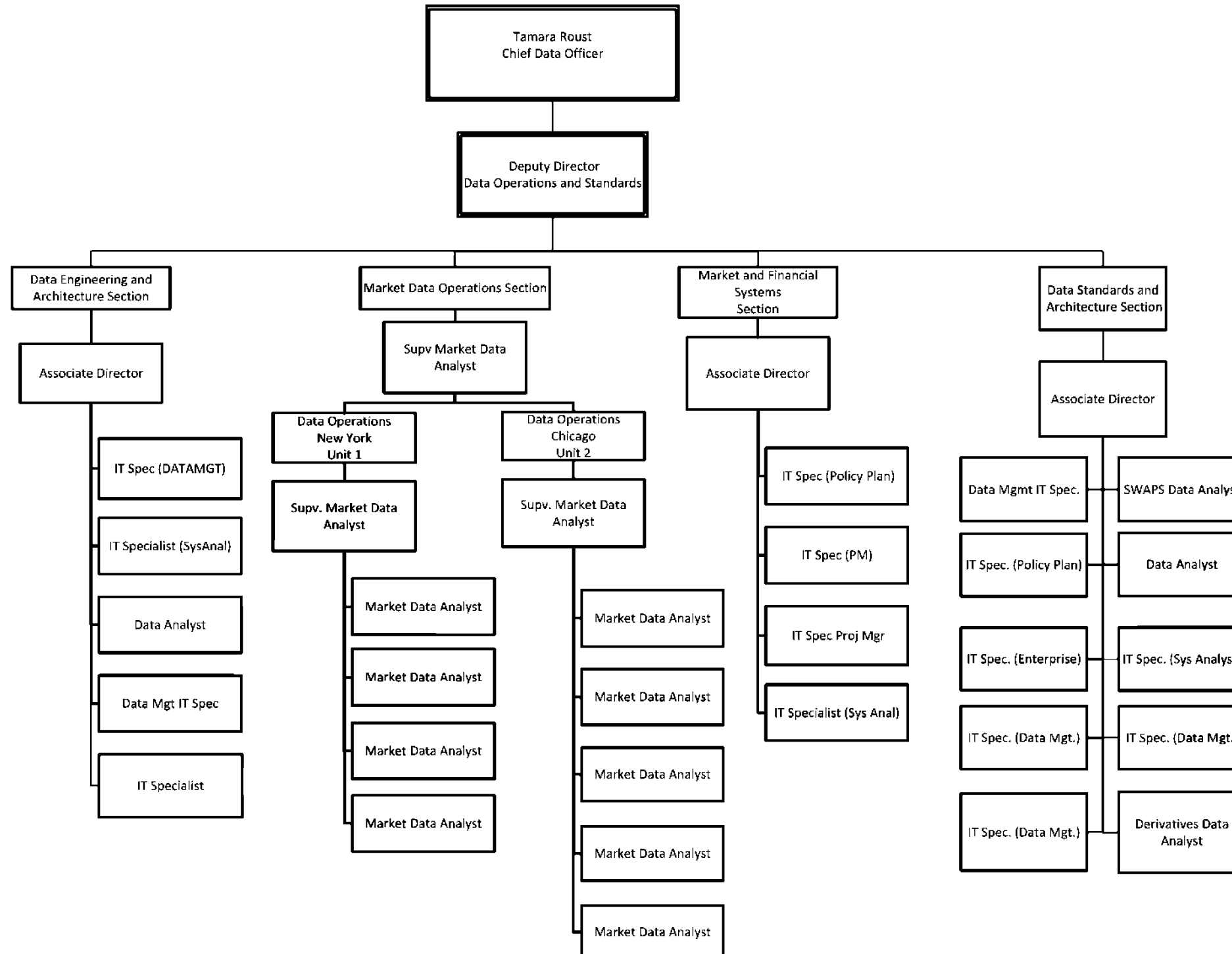


Division of Market Oversight

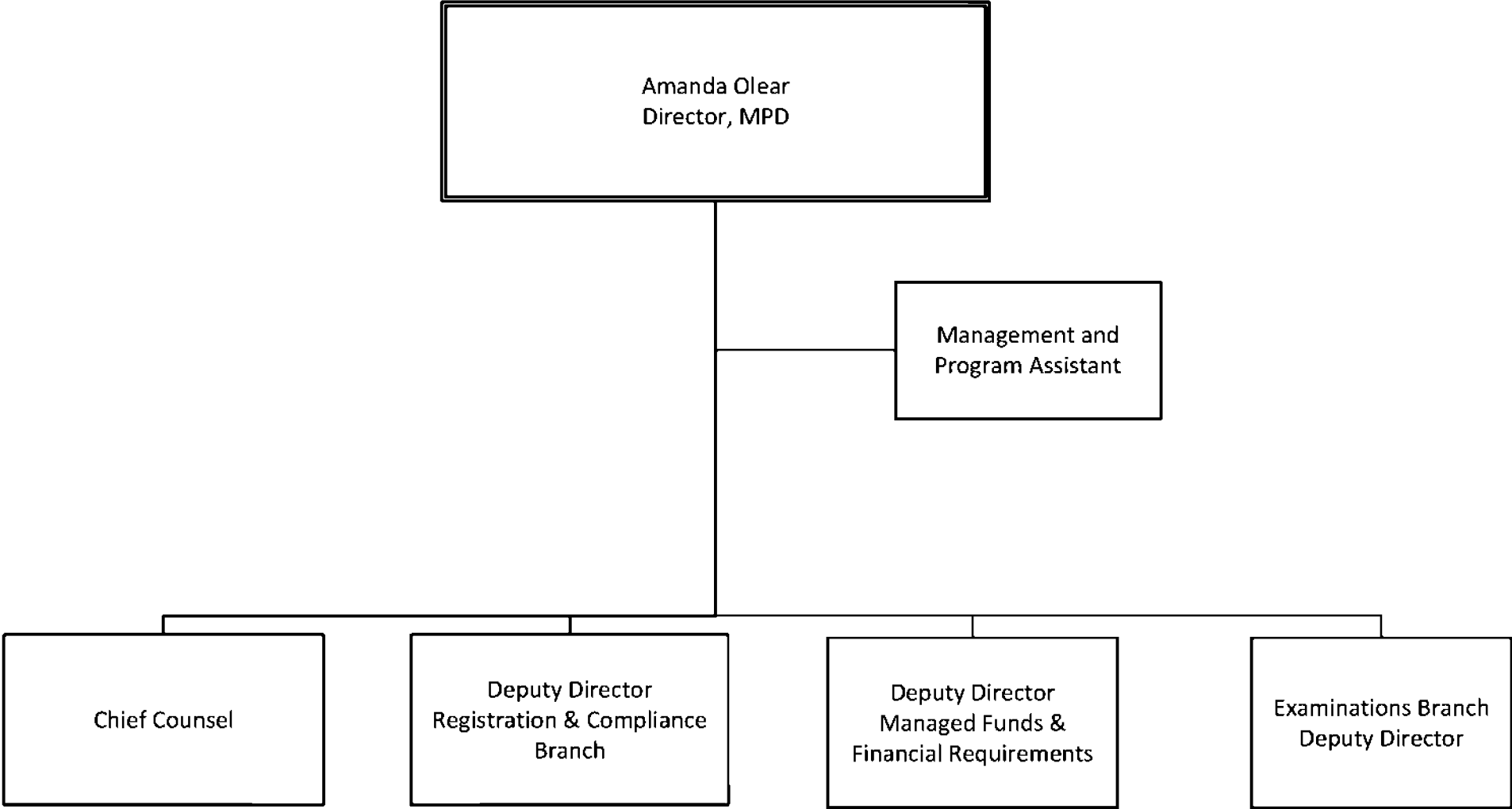
Chief Counsel



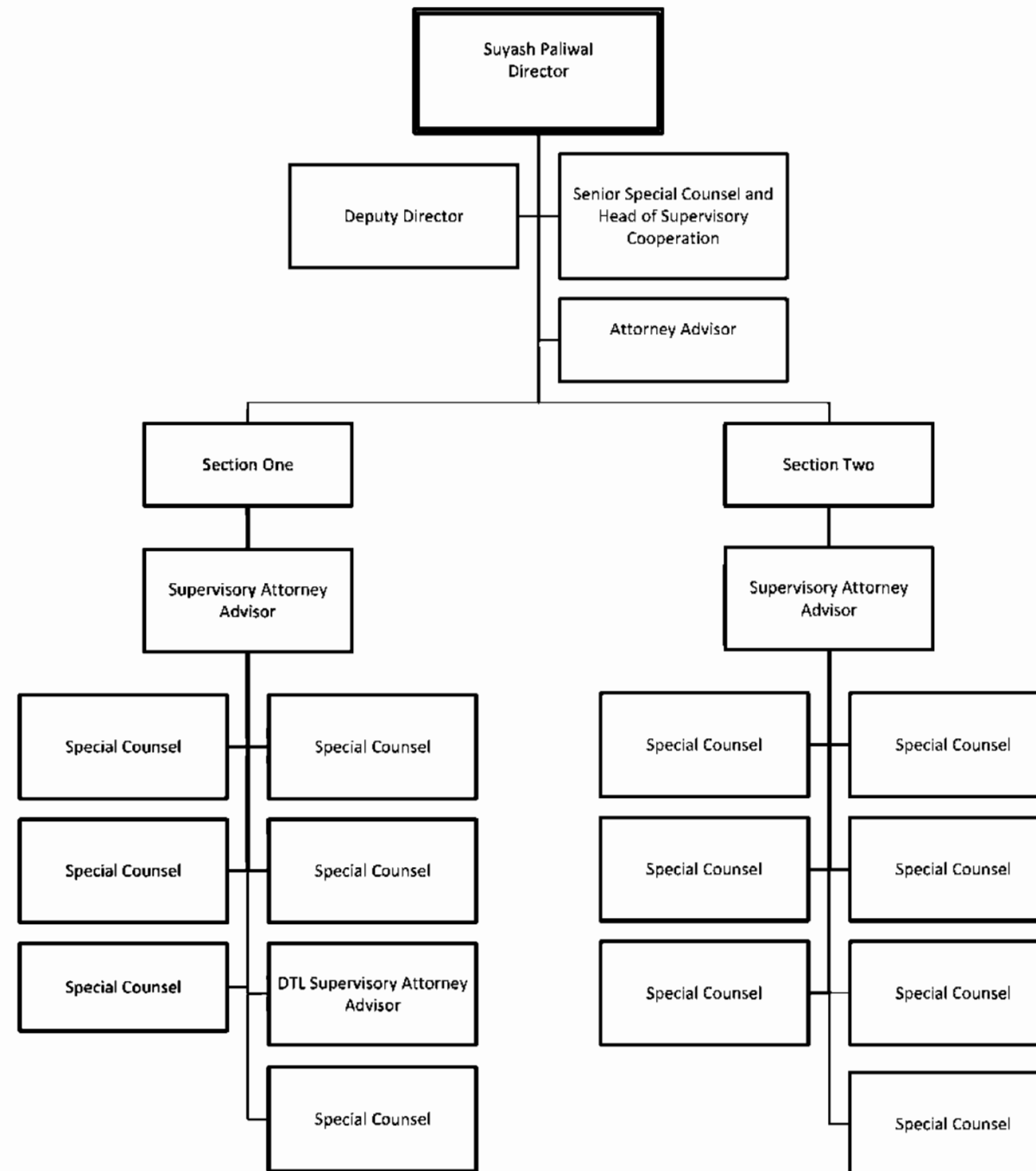
Division of Data



Market Participants Division



Office of International Affairs



6/21/2022

FRANK D. LUCAS
HONORABLE MEMBER

JOHN FRANK ANTHONY HOUSE BUILDING
CLAYTON GIBSON BUILDING
750 2ND FLOOR
www.franklucas.com

DEPT. 100-418

SCIENCE, SPACE, AND
TECHNOLOGY COMMITTEE
BANKING MEMBER

FINANCIAL SERVICES COMMITTEE
CONSUMER PROTECTION AND
FINANCIAL INSTITUTIONS
NATIONAL SECURITY, INTERNATIONAL
DEVELOPMENT, AND MONETARY POLICY
DEBILITY AND DELEGATION

Congress of the United States

House of Representatives

Washington, DC 20515-3605

January 23, 2020

The Honorable Randal Quarles
Vice Chairman for Supervision
Board of Governors of the Federal Reserve
20th Street and Constitution Avenue NW
Washington, DC 20551

The Honorable Jelena McWilliams
Chairman
Federal Deposit Corporation
550 Seventeenth Street NW
Washington, DC 20249

The Honorable Joseph Otting
Comptroller of the Currency
Office of the Comptroller
250 E Street SW
Washington, DC 20219

The Honorable Heath Tarbert
Chairman
Commodity Futures Trading Commission
Three Lafayette Centre
1155 Twenty First Street NW
Washington, DC 20581

The Honorable Mark Calabria
Director
Federal Housing Finance Administration
400 Seventh Street SW
Washington, DC 20024

The Honorable Glen Smith
Chairman
Farm Credit Administration
1501 Farm Credit Drive
McLean, VA 22102

Dear Chairman Quarles, Chairman McWilliams, Comptroller Otting, Chairman Tarbert,
Chairman Smith, and Director Calabria,

I'm writing to ask for your attention to the uncleared margin rules that currently require certain US seeded funds to post initial margin. There is a provision in the rules that significantly increases the costs and operational burdens to fund sponsors and new investment funds launched in the U.S., even when they engage in very limited over-the-counter swap activity, and puts the US financial industry at a global disadvantage given that the E.U. Canada, Australia and Japan have provided an exemption for similar investment funds from having to post initial margin.

Since 2012, major industry groups representing insurers and asset managers have asked for a limited exemption from the rule requiring consolidation of thresholds with a seeding parent. This would allow seeded funds to conduct limited over-the-counter swap trading without having to post initial margin during the brief period during which a fund sponsor tests the fund's investment strategy and establishes a track record of the fund's performance for marketing purposes (the so-called seeding period), unless the fund's own over-the-counter swap activity exceeded the threshold.

Having to post initial margin and maintain the infrastructure necessary to comply with the initial margin rules during this critical seeding period will hurt performance, discourage hedging of

DISTRICT OFFICE

ONE NORTHWEST CORNER
1000 B
WASHINGTON, DC
20540-1000

PRINTED ON RECYCLED PAPER

risks, stymie financial product innovation, and will put these U.S. funds at a global disadvantage. On the other side of the balance, the benefits in terms of systemic risk reduction from requiring these funds to post initial margin are negligible.

Providing an exemption from threshold consolidation for seeded funds will provide relief from the requirement that these funds post initial margin when launched and will allow U.S. insurers and asset managers a level playing field to compete globally, which ultimately benefits America's consumers by providing more opportunity for financial and retirement security through access to a broader array of cost-effective investment funds.

I understand that you currently have an open rule on initial margin and that industry groups have recently met with your agency on this topic. The open rule-making provides a timely opportunity to amend the initial margin rules so that seeded funds won't have to post initial margin during their seeding period as a result of consolidation of positions with the seed money sponsor. Further, under Chairwoman Yellen, the Fed granted relief to banks for their seeded funds under the Volcker Rule's FAQ 16 so similar relief in the initial margin space would not be unprecedented.

I am glad to see that regulators have re-opened this rule and would appreciate an update on this important issue as revisions are made. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Frank D. Lucas". The signature is stylized with a large, looped "F" and "L".

Frank D. Lucas
Member of Congress



U.S. COMMODITY FUTURES TRADING COMMISSION

Three Lafayette Centre
1155 21st Street, NW, Washington, DC 20581
www.cftc.gov

Rostin Behnam
Chairman

(202) 418-5030
Chairman@CFTC.gov

October 5, 2022

The Honorable Raja Krishnamoorthi
Chairman
Subcommittee on Economic and Consumer Policy
House Committee on Oversight and Reform
2157 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Krishnamoorthi,

Thank you for your letter of August 30, 2022 concerning the work of the Commodity Futures Trading Commission (CFTC) in the area of cryptocurrency-related fraud. This letter offers responses to the policy questions that were outlined in your letter. An email sent to your staff on September 13, 2022 provided information responsive to your request for material.

1. **What tools, including but not limited to code audits, disclosure requirements, or consumer alerts, could provide consumers with additional information to better assess the risks associated with a digital asset?**

As a preliminary matter, the most important tool that will enable customers to access additional information to better assess the risks associated with digital assets is for the digital asset markets to be subject to comprehensive federal regulatory oversight. This will enable regulators, such as the CFTC, to ensure that customers, as well as the broader financial markets, are able to obtain critical and timely information that is necessary to assess such risks and to ensure that the platforms operating in the digital asset market are taking necessary steps to mitigate potential risks. This is a view that I, as Chairman of the CFTC, have consistently shared publicly, including most recently on September 15, 2022 before the Senate Committee on Agriculture, Nutrition, and Forestry.¹

If the CFTC is granted more authority over cash (or spot) markets for digital assets as part of a comprehensive federal regulatory regime, then, in addition to utilizing the thoughtful tools referenced in your letter (*i.e.*, code audits, disclosure requirements, and consumer alerts), the CFTC would leverage the protections set forth in the Commodity Exchange Act and its associated CFTC regulations as a model to provide additional key information to customers through various mechanisms, including through mandated disclosures by market intermediaries

¹ *Legislative Hearing to Review S. 4760, the Digital Commodities Consumer Protection Act*, available at <https://www.agriculture.senate.gov/hearings/legislative-hearing-to-review-s4760-the-digital-commodities-consumer-protection-act>.

and exchanges, as well as directly from the CFTC. In addition, the CFTC would be able to create market structures that protect consumers against activity like abusive and manipulative trading and exploitation of conflicts of interest.

2. What regulatory processes could be put in place to ensure that digital assets made available for sale or investment contain sufficient consumer and investor protections? Does CFTC have existing plans to put those regulatory processes in place? If yes, what is the timeline for implementing them?

In order to ensure sufficient consumer and investor protections, digital asset markets must be subject to a comprehensive federal regulatory regime that imposes requirements on digital asset platforms, such as exchanges and dealers, akin to those applicable in traditional financial markets. For example, digital asset platforms should be required to mitigate conflicts of interest, implement robust cybersecurity protections, segregate customer assets, and clearly disclose relevant information and risks to customers. In the traditional financial markets, this is accomplished by requiring entities such as exchanges and market intermediaries to register with the Securities and Exchange Commission (SEC) or the CFTC and comply with applicable regulations. The same is needed for the digital asset markets.

Currently, digital asset markets are not subject to a comprehensive federal regulatory regime that imposes consistent and meaningful regulatory requirements that can effectively protect investors and consumers. Instead, digital asset markets are subject to an insufficient patchwork of regulations imposed mostly at the state level. Moreover, most digital asset platforms operate their businesses in a way that avoids federal regulation, with some limited exceptions.

At this time, the CFTC has a number of customer protection regulations in place that apply to CFTC registrants, including those that offer digital asset-based derivatives. The Commodity Exchange Act requires derivatives exchanges, clearinghouses, and market intermediaries to register with the Commission and authorizes the Commission to promulgate rules and regulations with respect to those entities, including rules to protect customers. These include regulations that define which products can be listed on a derivatives exchange, mandate risk disclosures that must be made to customers, and ensure protection of customer funds in the event of a bankruptcy, as well as other requirements that are foundational to a well-regulated derivatives market.

Beyond regulations that apply to all CFTC registrants, the CFTC has also issued guidance specific to digital asset-related business lines to ensure that registrants are addressing the novel risks presented by digital asset markets. For example, staff issued an advisory to market participants taking custody of digital assets on behalf of customers on how to manage segregation and risk management requirements.² Similarly, staff issued an advisory regarding considerations when self-certifying new futures products tied to digital assets.³

In contrast to the CFTC's authority with respect to digital asset businesses operating in regulated derivatives markets, the CFTC has limited authority to implement such requirements

² *Staff Advisory: Accepting Virtual Currencies from Customers into Segregation* (Oct. 21, 2020), available at <https://www.cftc.gov/esl/20-34/download>.

³ *Staff Advisory: Advisory with respect to Virtual Currency Derivative Product Listings* (May 2018), available at https://www.cftc.gov/sites/default/files/idc/groups/public/_jso40rllettergeneral/documents/letter/2018-05/18-14_0.pdf.

on digital asset platforms operating in cash markets. The CFTC has authority to police cash markets for fraud and manipulation, and has used that authority aggressively.⁴ However, absent comprehensive oversight and surveillance authorized by a federal regulatory regime, the CFTC does not have a full view into these markets and must generally rely on tips and referrals.⁵

Many of the news reports related to frauds, hacks, and scams in digital asset markets relate to platforms purportedly operating in cash markets or otherwise operating outside the jurisdiction of the CFTC or other federal regulators. Unless and until Congress grants the CFTC (and likely other federal regulators) with more authority over the cash markets for digital assets, the customer protections afforded by a federal regulatory regime, including those successfully implemented by the CFTC in the derivatives markets, may not be available to protect investors and customers in the digital asset markets.

**3. Should cryptocurrency holdings be treated as commodities, securities, or both?
Please explain.**

The cryptocurrency ecosystem includes thousands of different digital assets that take many different forms and serve many different purposes. Invariably, some of those digital assets are appropriately treated as commodities, securities, or other types of instruments for purposes of financial regulation.

Under existing law, the vast majority of fungible digital assets in circulation likely meet the broad definition of a commodity, which has been recognized by several federal courts.⁶ However, as discussed above, there is no federal regulatory regime applicable to spot markets for digital assets that are commodities (and not securities). For those digital assets, I have advocated for Congress to enact a federal market regulatory regime and have stated that the CFTC is well-equipped to be the primary regulator of those markets. Certain digital assets that meet the definition of a security, on the other hand, are appropriately the subject of the securities laws.⁷

More broadly, digital assets are being used across many sectors of the economy, which necessarily implicates policy issues for many different agencies that extend beyond the CFTC and the SEC. Indeed, as I recently testified in front of the Senate Committee on Agriculture, Nutrition, and Forestry, regulation of digital asset markets by the SEC and the CFTC should be just one part of a broader, comprehensive regulatory framework.⁸ To that end, I have made sure that the CFTC has been a proactive participant in the robust interagency processes within President Biden's administration, which is reflected in, among other things, the recent

⁴ See the list of digital asset enforcement actions provided in our previous response sent on September 13, 2022 to your request for material.

⁵ It should be noted that certain types of spot transactions are legally treated as if they were futures transactions. Specifically, absent an exception, certain spot transactions known as "retail commodity transactions" conducted on a leveraged or margined basis are treated as futures transactions and must occur on a CFTC-regulated exchange, which comes with the full slate of important rules related to customer protection. See 7 U.S.C. § 2(c)(2)(D).

⁶ E.g., *Commodity Futures Trading Comm'n v. McDonnell*, 287 F. Supp. 3d 213 (E.D.N.Y. 2018) and *Commodity Futures Trading Comm'n v. MX Big Com Pay, Inc.*, 334 F. Supp. 3d 192 (D. Mass. 2018).

⁷ For your reference, we have attached a letter to this response, which was filed by our Office of the General Counsel in a public proceeding that provides a helpful framing of the dynamic between an asset constituting a commodity versus a security.

⁸ *Supra* note 1.

publication of reports pursuant to the Executive Order on Responsible Development of Digital Assets (Executive Order).⁹ As this and similar efforts have demonstrated, appropriate regulation of digital assets should encompass more than the CFTC and the SEC. For example, as Chairman, I participated in the President's Working Group report that recommended that payment stablecoins be subject to prudential supervision by a federal banking regulator.¹⁰

4. Besides CFTC, which other executive branch agencies or institutions play a role to play in regulating cryptocurrencies and addressing cryptocurrency-related scams and frauds? Please explain.

As noted above, the digital asset ecosystem spans across many sectors of the economy. Digital asset companies are promoting products that claim to disrupt everything from financial markets to cloud computing and social media. As a result, and as reflected in the reports published under the Executive Order, the regulation of the industry requires an all-of-government approach, that includes many different agencies.

Specifically, with respect to digital asset scams and frauds, the Federal Trade Commission and Consumer Financial Protection Bureau may be well-positioned to address those issues, in addition to the CFTC and the SEC.

5. What is the existing framework for interagency cooperation on the regulation of cryptocurrencies, cryptocurrency exchanges, and other digital assets? What formal policies, guidance, or other documents coordinating such cooperation?

The CFTC has a long history of working cooperatively with other regulators, including the SEC in particular. With respect to digital assets specifically, both the SEC and the CFTC have dedicated offices responsible for staying abreast of developments in the digital asset space, and there is frequent communication among staff of the various divisions and offices of our respective agencies about these developments. This cooperative relationship can be observed in joint statements and investor alerts from our agencies addressing important digital asset-related issues, such as money laundering concerns,¹¹ fraudulent crypto trading platforms,¹² and the considerations when investing in funds with exposure to the Bitcoin futures market.¹³ This collaboration also is evident in several parallel enforcement actions we have filed against

⁹ Executive Order 14067 (Mar. 9, 2022), available at <https://www.federalregister.gov/documents/2022/03/14/2022-05171/ensuring-responsible-development-of-digital-assets>.

¹⁰ *Report on Stablecoins* (Nov. 2021), available at https://home.treasury.gov/system/files/136/StableCoinReport_Nov1_208.pdf.

¹¹ *Leaders of CFTC, FinCEN, and SEC Issue Joint Statement on Activities Involving Digital Assets* (Oct. 11, 2019), available at https://www.fincen.gov/sites/default/files/2019-10/CFTC%20Joint%20Policy%20Statement%20ENFNA1_0.pdf.

¹² *Investor Alert: Watch Out for Fraudulent Digital Asset and Crypto Trading Websites*, available at https://www.cftc.gov/LearnAndProtect/AdvisoriesAndArticles/watch_out_for_digital_fraud.html.

¹³ *CFTC/SEC Investor Alert: Funds Trading in Bitcoin Futures*, available at https://www.cftc.gov/LearnAndProtect/AdvisoriesAndArticles/fraudadv_funds_trading_in_bitcoin_futures.html.

companies in the digital asset industry that violated regulations within the jurisdiction of each agency.¹⁴

More broadly, the CFTC participates in several different interagency initiatives, which have recently focused on the regulation of the digital asset ecosystem. The CFTC is a member of the President's Working Group on Financial Markets, which released an important interagency report on the regulation of payment stablecoins in November 2021.¹⁵ The CFTC is also a member of the Financial Stability Oversight Council and its associated digital asset working group that has been analyzing stability risks related to digital assets, and recently released a report on the regulation of digital assets as directed by the Executive Order.

Finally, the CFTC is actively engaged in coordinating with its international counterparts in addressing digital asset-related issues by participating in multiple international bodies, such as the International Organization of Securities Commissions and the Financial Stability Board.

Thank you again for your interest in this important topic. If you have further questions, please reach out to Ann Wright, Director for the Office of Legislative and Intergovernmental Affairs at awright@cftc.gov or 202-418-5594.

Sincerely,



¹⁴ E.g., *CFTC Sanctions Two Firms Offering Digital Asset-Based Swaps for Illegal Off-Exchange Trading and Registration Violations* (July 13, 2020), available at <https://www.cftc.gov/PressRoom/PressReleases/8201-20>.

¹⁵ *Supra* note 9.

Congress of the United States
Washington, D.C. 20515

The Honorable Jerome H. Powell
Chair
Board of Governors of the Federal Reserve
20th Street and Constitution Avenue N.W.
Washington, DC 20551

The Honorable Heath Tarbert
Chair
Commodity Futures Trading Commission
1155 21st Street, NW
Washington, DC 20581

May 4, 2020

Dear Chair Powell and Chair Tarbert:

We write concerned with reports that major U.S. banks are poised to take ownership over highly leveraged oil and gas assets.¹ As a result of the novel coronavirus (COVID), demand for oil and gas has plummeted, exposing the over-reliance of the exploration and production (E&P) sector on excessive, high-yield debt. Major oil futures markets have already posted negative prices and there is significant risk they could fall further until enough supply has been cut to match the reductions in demand. Reduced asset value from falling prices coupled with lack of forward cash flow to service existing debt has already driven some of the most highly leveraged firms into Chapter 11 bankruptcy, and more will surely follow. The significant decline in prices of virtually all commodities, including agricultural crops and industrial metals, creates similar risks in other sectors. An analysis by JPMorgan Chase shows that oil and gas firms have been the leading issuer of junk bonds in ten of the past eleven years, and the outlook for the exploration and production sector will surely worsen after a slew of COVID-related bankruptcies and downgrades.²³

All of these conditions have seemingly necessitated a transfer of ownership to existing creditors, at a rate and scale that could prove to be disruptive to credit and commodity markets. Although the Bank Holding Company Act generally prohibits commercial banks from engaging in non-financial activity unrelated to the “business of banking,” it does permit financial holding companies (FHCs) to engage in commodities ownership, so long as the Federal Reserve concludes that that ownership does “not pose a substantial risk to the safety or soundness of depository institutions or the financial system generally.”⁴ It is Congress’ intent that the acquisition and active management of a large swath of physical commodities by financial holding companies be subject to approval by the Federal Reserve’s Board of Governors. As the Federal Reserve reviews the approval the physical commodity activities by financial holding companies (FHCs), we ask that any approval be conditioned on the consideration of the following:

¹ <https://www.reuters.com/article/us-usa-banks-energy-assets-exclusive/exclusive-u-s-banks-prepare-to-seize-energy-assets-as-shale-boom-goes-bust-idUSKCN21R3J1>

² <https://www.nytimes.com/2020/03/20/business/energy-environment/coronavirus-oil-companies-debt.html>

³ <https://www.cnn.com/2020/04/20/business/oil-price-crash-bankruptcy/index.html>

⁴ 12 U.S.C. § 1843(k)(1).

First, all physical commodities activities and investment of FHCs must, at least, comply with the 2016 “Proposed Rule Implementing Strengthened Prudential Requirements, including Risk-based Capital Requirements, for Physical Commodity Activities and Investments of Financial Holding Companies.”⁵ Although this rule was never finalized, it received unanimous approval from the Federal Reserve Board of Governors, including then-Governor Powell and Governor Brainard, and widespread support from the public.⁶ It sets the minimum standard for physical commodity activities and investments of FHCs including a 1,250 percent risk weight for physical commodities and related assets which are not complementary activities, and a 300 percent risk weight to physical commodity holdings permissible under complementary physical commodity trading activities. It would also provide strong limits on permissible physical commodity trading by tightening the limits placed on physical commodity holdings under complementary authorities and clarify that the existing prohibitions on operating storage facilities or transportation includes directing the operations of the third-parties responsible for those services. It is critical this minimum standard be upheld in the approval of commodities ownership by any FHCs.

Second, as banks move these seized assets to their FHCs, they may obtain sufficient market power and information to materially manipulate commodity markets. The Federal Reserve must ensure that those holding companies have proper firewalls and supervision to shield information transfer, both within the holding company and from the holding company to the larger bank. Those firewalls must be accompanied by strict, well-enforced penalties to ensure that the costs of non-compliance exceed the financial gains.

The Commodity Futures Trading Commission (CFTC) must also increase monitoring of trading activity at any financial institution which holds or takes possession of these commodity assets. At the core of the CFTC’s mission is a responsibility to promote fair derivatives markets and protect market participants from manipulation. The significant increase in market power and information that will come with these assets requires a corresponding increase in supervision and oversight. The farmers who depend on commodity markets to sell their crops, the manufacturers who purchase metals and other inputs in these markets, and everyone who is affected by energy prices must be protected from manipulation and able to benefit from fair, transparent markets. That is why we recommend penalties of not less than 150% of the financial gains the bank made on the use of illegal information sharing as these penalties must be significant enough to properly deter this activity from ever occurring, and not simply be the cost of doing business.

Third, energy companies typically operate at much lower debt to equity ratios than banks, in part to account for volatility in commodity markets and environmental liabilities. In order to ensure that the capital structure of FHCs does not exaggerate the broader financial system, the Federal Reserve should require that the FHCs debt to equity ratio does not increase beyond that of the held assets’ previous two year debt to equity ratio average from the time since taking possession of these assets.

Fourth, energy and industrial companies often are required to post cash-collateralized reserves to cover operational and environmental risk. Holding companies must be required to: (a) maintain such reserves as were held prior to acquisition by the holding company; (b) increase those reserves to the extent they are not currently at levels required by statute, consent decree or other regulatory obligation, and; (c) ensure those reserves are not counted as equity for the purposes of the debt/equity ratio outlined above.

⁵ <https://www.federalreserve.gov/newsevents/pressreleases/files/bcreg20160923a1.pdf>

⁶ https://www.federalreserve.gov/apps/foia/ViewAllComments.aspx?doc_id=R_1547&doc_ver=1

Lastly, the Federal Reserve should ensure that counterparty risk from these holding companies is minimized.

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

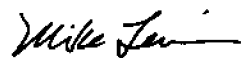
Sincerely,



Sean Casten
Member of Congress



Cindy Axne
Member of Congress



Mike Levin
Member of Congress



Jared Huffman
Member of Congress



Denny Heck
Member of Congress

Congress of the United States
Washington, DC 20515

November 10, 2020

Mr. Anthony “Tony” C. Thompson
Executive Director
Commodity Futures Trading Commission
1155 21st Street, N.W.
Washington, D.C. 20581

Re: Record and Document Preservation Requirements

Dear Director Thompson:

As the 116th Congress and the Trump Administration approach the conclusion of our respective terms, we write to remind you that you and your employees, including all component agencies and offices, must comply with the record preservation obligations set forth in federal law and to remind you of your and your agency’s ongoing obligations to preserve information relevant to congressional oversight.

Over the last four years, the Administration obstructed numerous congressional investigations by refusing to provide responsive information. You are obligated to ensure that any information previously requested by Congress—and any other information that is required by law to be preserved—is saved and appropriately archived in a manner that is easily retrievable.

It is imperative that you remind all employees and officials within your organization of their legal responsibility to take appropriate measures to collect, retain, and preserve all documents, communications, and other records in accordance with federal law, including the Federal Records Act and related regulations.¹ This includes electronic messages involving official business that are sent using both official and personal accounts or devices, including records created using text messages, phone-based message applications, or encryption software.² Any employee who conceals, destroys, or attempts to conceal or destroy a federal record may be subject to fine and imprisonment for up to three years.³ We urge you to ensure that your employees and officials do not delete or destroy any official government records, including “information created, manipulated, communicated, or stored” electronically.⁴

¹ See 44 U.S.C. §§ 3101-3107 (Chapter 31, Records Management by Federal Agencies); 44 U.S.C. §§ 3301-3314 (Chapter 33, Disposal of Records); and 36 C.F.R., Chapter XII, Subchapter B (Records Management).

² See 44 U.S.C. § 2911.

³ See 18 U.S.C. § 2071.

⁴ See 44 U.S.C. § 3301(a)(2) (defining “records” as inclusive of “all traditional forms of records, regardless of physical form or characteristics, including information created, manipulated, communicated, or stored in digital or electronic form”).

In addition to meeting the requirements of federal laws and regulations, we request that you preserve all information that relates to all investigations conducted during the 116th Congress, including all oversight requests or demands from Congress. Specifically, this preservation request should be construed as an instruction to preserve all documents, communications, and other information, including electronic information and metadata, that is or may be potentially responsive to a congressional inquiry, request, investigation, or subpoena that was initiated, continued, or otherwise undertaken during the 116th Congress. For purposes of this request, “preserve” means securing and maintaining the integrity of all relevant documents, communications, and other information, including electronic information and metadata, by taking reasonable steps to prevent the partial or full destruction, alteration, testing, deletion, shredding, incineration, wiping, relocation, migration, theft, mutation, or negligent or reckless handling that could render the information incomplete or inaccessible. This includes preserving all compilations of documents that have already been gathered in response to requests, even if copies of individual documents may still exist elsewhere in the agency.

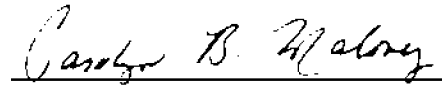
We also request that that you:

1. Exercise reasonable efforts to identify and notify all relevant individuals, including current and former employees, officials, detailees, contractors, subcontractors, and consultants who may have access to potentially relevant information that they should preserve and return such information to the agency;
2. Exercise reasonable efforts to identify, recover, and preserve any potentially relevant electronic information that has been deleted or marked for deletion but is still recoverable;
3. Remind all relevant individuals, including current and former employees, officials, detailees, contractors, subcontractors, and consultants that any federal records sent or received using a nonofficial account must be forwarded to the agency for proper archiving;⁵ and
4. If it is the routine practice of any relevant individuals, including current and former employees, officials, detailees, contractors, subcontractors, or consultants to destroy or otherwise alter potentially relevant information, either halt such practices as they relate to the potentially relevant information or arrange for the preservation of complete and accurate duplicates (including metadata) of such documents, communications, or other information.

Thank you for your cooperation in this matter.

⁵ See 44 U.S.C. § 2911 (requiring disclosure of official business conducted on nonofficial electronic messaging accounts).

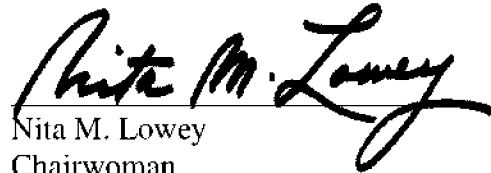
Sincerely,



Carolyn B. Maloney
Chairwoman
Committee on Oversight and Reform



Collin C. Peterson
Chairman
Committee on Agriculture



Nita M. Lowey
Chairwoman
Committee on Appropriations



James P. McGovern
Chairman
Committee on Rules

cc: The Honorable James R. Comer, Ranking Member
Committee on Oversight and Reform

The Honorable K. Michael Conaway, Ranking Member
Committee on Agriculture

The Honorable Tom Cole, Ranking Member
Committee on Rules

The Honorable Kay Granger, Ranking Member
Committee on Appropriations

Congress of the United States

Washington, DC 20515

November 25, 2020

Dear Department, Agency, or Office Head:

We are writing to request information on conversions of political appointees to civil service positions during the Trump Administration at your department, agency, or office, including all component entities. Protecting the nonpartisan expertise of the career civil service is essential to the safety and security of the American people. Federal law requires that personnel actions are carried out in such a way that the “selection and advancement” of employees in the civil service are “determined solely on the basis of relative ability, knowledge, and skills, after fair and open competition,” rather than on the basis of “partisan political purposes.”¹

We are seeking a full accounting of political appointees who have already been hired into career positions or are being considered for such conversions.² The merit system principles of the federal workforce put in place guardrails to ensure that competitive service requirements are not bypassed to inappropriately place political appointees in permanent career service positions. In accordance with civil service protections, the Office of Personnel Management (OPM) requires all agencies to seek its “approval prior to appointing any current or former political appointee to a permanent position ... in the civil service.”³ Following such requests, OPM reviews proposed selections to determine whether conversions are appropriate.⁴

We are also seeking a full accounting of any positions converted, or being considered for conversion, under the new Schedule F recently created through Executive Order 13957.⁵ The creation of this schedule would be a dramatic change in the composition of the civil service and expose it to undue political influence and intimidation.⁶ It is critical that Congress receive timely

¹ Civil Service Reform Act of 1978, Pub. L. No. 95-454.

² For the purposes of this request, political appointees are those requiring Senate confirmation (PAS), those not requiring Senate confirmation (PA), those defined under 5 U.S.C. §§ 5312-5316, Schedule A appointees (5 C.F.R. §§ 213.3101-3199, 5 C.F.R. § 213.3102 (c) and (z)), Schedule C appointees (5 C.F.R. §§ 213.2201-3302), Schedule F appointees (85 Fed. Reg. 67631), SES appointees (5 U.S.C. § 3122(a)(5-7); and 5 C.F.R. § 317 (F)), appointees serving in a political capacity under agency-specific authority, and Provisional Political Appointments to be a “political appointee.” See also Office of Personnel Management, *Frequently Asked Questions: Which Types of Political Appointments Are Subject to OPM’s Pre-Hiring Approval?* (online at www.opm.gov/FAQs/QA.aspx?fid=023f2059-dff7-4307-89b4-c553c218af1d&pid=08248d29-d26c-44b6-9988-57655358d509); Exec. Order No. 13957, 85 Fed. Reg. 67631 (Oct. 21, 2020).

³ Memorandum from Kathleen McGettigan, Acting Director, Office of Personnel Management, to Heads of Departments and Agencies, *Political Appointees and Career Civil Service Positions* (Feb. 23, 2018) (online at <https://ehcgc.gov/content/political-appointees-and-career-civil-service-positions-3>).

⁴ *Id.* citing 5 C.F.R. § 315 (F) and 5 C.F.R. § 337 (B).

⁵ Exec. Order No. 13957 (Oct. 21, 2020).

⁶ Letter from Chairwoman Carolyn B. Maloney, Committee on Oversight Reform, Chairman Gerald E. Connolly, Subcommittee on Government Operations, et al., to Michael J. Rigas, Acting Deputy Director for Management, Office of Management and Budget, and Michael J. Rigas, Acting Director, Office of Personnel

information about any potential and actual conversions made pursuant to this Executive Order.

Based on our legislative and oversight authorities, including those set forth in House Rule X, our Committees request that you produce the following documents and information:

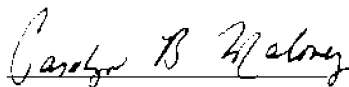
1. A list of all positions not excepted from the competitive service by statute for which your department, agency, or office has petitioned the Director of OPM under Section 5(a)(i) of Executive Order 13957 to place in Schedule F;
2. A list of all positions excepted from the competitive service by statute that your department, agency, or office has determined are of a confidential, policy-determining, policy-making, or policy-advocating character and are not normally subject to change as a result of a Presidential transition, and has identified for placement in Schedule F under Section 5(a)(ii) of Executive Order 13957;
3. A list of all individuals whose positions have been converted to Schedule F or who otherwise have been placed in a Schedule F position at any time, including for each individual:
 - a. the individual's name and dates of employment;
 - b. the title of the individual's most recent position that was not in Schedule F;
 - c. the title of the individual's Schedule F position;
 - d. if the individual was terminated after conversion or placement in Schedule F, the final date of employment;
 - e. a justification for the conversion or placement; and
 - f. if available, the race, gender, and ethnicity of the individuals on the list.
4. Copies of any petition your department, agency, or office has made to the Federal Labor Relations Authority under Section 5(e) of Executive Order 13957 to determine whether any Schedule F position must be excluded from a collective bargaining unit under section 7112(b) of title 5, United States Code;
5. Copies of any rules your department, agency, or office has established to prohibit the same personnel practices prohibited by section 2302(b) of title 5, United States Code, with respect to any employee or applicant for employment in Schedule F of the excepted service, as required by Section 6 of Executive Order 13597; and
6. A list of all individuals who held positions as political appointees since January 20, 2017, who are now employed in permanent competitive positions, non-

political excepted service positions, or career Senior Executive Service (SES) positions, including for each individual:

- a. the individual's name;
- b. the title of the position to which the individual was appointed (or positions, if more than one or if they changed over time);
- c. the start and end dates of such appointment(s);
- d. the title of the individual's current position;
- e. the start date of the individual's current position; and
- f. if available, the race, gender, and ethnicity of the individuals on the list.

We ask that you provide an initial response with the information requested to the Committee on Oversight and Reform and your department, agency, or office's committees of jurisdiction by December 9, 2020. Thereafter, we ask that you produce additional updated responses on a biweekly basis through January 20, 2021. An attachment to this letter sets forth a list of departments, agencies, and offices to which this letter is being sent. Thank you for your cooperation.

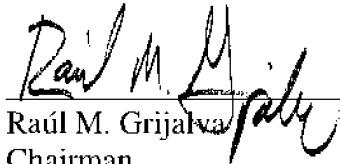
Sincerely,



Carolyn B. Maloney
Chairwoman
Committee on Oversight
and Reform



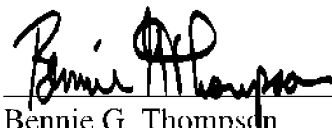
Maxine Waters
Chairwoman
Committee on Financial
Services



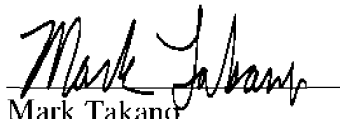
Raúl M. Grijalva
Chairman
Committee on Natural
Resources



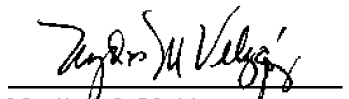
Nita M. Lowey
Chairwoman
Committee on Appropriations



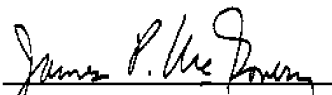
Bennie G. Thompson
Chairman
Committee on Homeland
Security



Mark Takano
Chairman
Committee on Veterans'
Affairs



Nydia M. Velázquez
Chairwoman
Committee on Small
Business



James P. McGovern
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Committee on Rules



Jerrold Nadler
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Committee on the Judiciary



Collin C. Peterson
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Committee on Agriculture



Frank Pallone, Jr.
Chairman
Committee on Energy
and Commerce



Richard E. Neal
Chairman
Committee on Ways
and Means



Zoe Lofgren
Chairperson
Committee on House
Administration



Peter A. DeFazio
Chairman
Committee on Transportation
And Infrastructure



Adam B. Schiff
Chairman
House Permanent Select
Committee on Intelligence



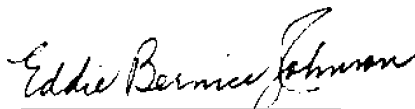
Eliot L. Engel
Chairman
Committee on Foreign
Affairs



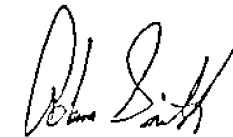
Robert C. "Bobby" Scott
Chairman
Committee on Education
and Labor



John Yarmuth
Chairman
Committee on Budget



Eddie Bernice Johnson
Chairman
Committee on Science, Space
and Technology



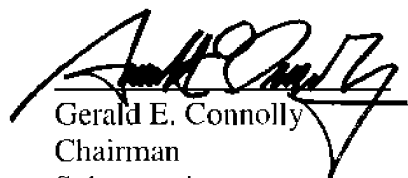
Adam Smith
Chairman
Committee on Armed
Services



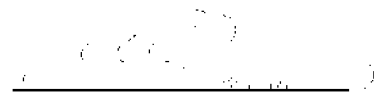
Donald S. Beyer, Jr.
Vice Chairman
Joint Economic Committee



Kathy Castor
Chairwoman
Select Committee on the
Climate Crisis



Gerald E. Connolly
Chairman
Subcommittee on
Government Operations
Committee on Oversight
and Reform



Al Green
Chairman
Subcommittee on Oversight
and Investigations
Committee on Financial
Services

cc: The Honorable James R. Comer, Ranking Member
Committee on Oversight and Reform

The Honorable Patrick McHenry, Ranking Member
Committee on Financial Services

The Honorable Rob Bishop, Ranking Member
Committee on Natural Resources

The Honorable Kay Granger, Ranking Member
Committee on Appropriations

The Honorable Mike Rogers, Ranking Member
Committee on Homeland Security

The Honorable Dr. Phil Roe, Ranking Member
Committee on Veterans' Affairs

The Honorable Steve Chabot, Ranking Member
Committee on Small Business

The Honorable Tom Cole, Ranking Member
Committee on Rules

The Honorable Jim Jordan, Ranking Member
Committee on the Judiciary

The Honorable Neal Dunn, Ranking Member
Committee on Agriculture

The Honorable Greg Walden, Ranking Member
Committee on Energy and Commerce

The Honorable Kevin Brady, Ranking Member
Committee on Ways and Means

The Honorable Rodney Davis, Ranking Member
Committee on House Administration

The Honorable Sam Graves, Ranking Member
Committee on Transportation and Infrastructure

The Honorable Devin Nunes, Ranking Member
House Permanent Select Committee on Intelligence

The Honorable Michael T. McCaul, Ranking Member
Committee on Foreign Affairs

The Honorable Virginia Foxx, Ranking Member
Committee on Education and Labor

The Honorable Steve Womack, Ranking Member
Committee on the Budget

The Honorable Frank Lucas, Ranking Member
Committee on Science, Space and Technology

The Honorable Mac Thornberry, Ranking Member
Committee on Armed Services

The Honorable Mike Lee, Chairman
Joint Economic Committee

The Honorable Garrett Graves, Ranking Member
Select Subcommittee on the Climate Crisis

The Honorable Jody B. Hice, Ranking Member
Subcommittee on Government Operations
Committee on Oversight and Reform

The Honorable Andy Barr, Ranking Member
Subcommittee on Oversight and Investigation
Committee on Financial Services

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1.	Administrative Conference of the United States (ACUS)	Mr. Matthew Lee Weiner Vice Chairman and Executive Director
2.	Agency for Global Media (USAGM)	The Honorable Michael Pack Chief Executive Officer
3.	Agency for International Development (USAID)	Mr. John Barsa Acting Deputy Administrator
4.	Central Intelligence Agency (CIA)	The Honorable Gina C. Haspel Director
5.	Commodity Futures Trading Commission (CFTC)	Mr. Anthony “Tony” C. Thompson Executive Director
6.	Consumer Financial Protection Bureau (CFPB)	The Honorable Kathleen Kraninger Director
7.	Consumer Product Safety Commission (CPSC)	The Honorable Robert S. Adler Commissioner and Acting Chairman
8.	Defense Intelligence Agency (DIA)	Lieutenant General Scott D. Berrier Director
9.	Department of Agriculture (USDA)	The Honorable Sonny Perdue Secretary
10.	Department of Commerce (Commerce)	The Honorable Wilbur L. Ross, Jr. Secretary
11.	Department of Defense (DOD)	The Honorable David L. Norquist Deputy Secretary
12.	Department of Education (DoEd)	The Honorable Betsy DeVos Secretary
13.	Department of Energy (DOE)	The Honorable Dan Brouillette Secretary
14.	Department of Health and Human Services (HHS)	The Honorable Alex M. Azar II Secretary
15.	Department of Homeland Security (DHS)	Mr. Chad F. Wolf
16.	Department of Housing and Urban Development (HUD)	The Honorable Benjamin S. Carson Secretary
17.	Department of Justice (DOJ)	The Honorable William P. Barr Attorney General

18.	Department of Labor (DOL)	The Honorable Eugene Scalia Secretary
19.	Department of State (State)	The Honorable Michael R. Pompeo Secretary of State
20.	Department of the Interior (Interior)	The Honorable David Bernhardt Secretary
21.	Department of the Treasury (Treasury)	The Honorable Steven T. Mnuchin Secretary
22.	Department of Transportation (DOT)	The Honorable Elaine L. Chao Secretary
23.	Department of Veterans Affairs (VA)	The Honorable Robert L. Wilkie Secretary
24.	Election Assistance Commission (EAC)	The Honorable Mona Harrington Executive Director
25.	Environmental Protection Agency (EPA)	The Honorable Andrew R. Wheeler Administrator
26.	Equal Employment Opportunity Commission (EEOC)	The Honorable Janet Dhillon Chair
27.	Executive Office of the President (EOP)	Mr. Pat A. Cipollone Counsel to the President
28.	Export-Import Bank of the United States (EXIM)	Ms. Kimberly A. Reed President and Chairman
29.	Farm Credit Administration (FCA)	Mr. Glen R. Smith Chairman and Chief Executive Officer
30.	Federal Communications Commission (FCC)	The Honorable Ajit Pai Chairman
31.	Federal Election Commission (FEC)	Mr. James E. “Trey” Trainor III Chair
32.	Federal Energy Regulatory Commission (FERC)	The Honorable James Danly Chairman
33.	Federal Housing Finance Agency (FHFA)	The Honorable Mark Anthony Calabria Director
34.	Federal Labor Relations Authority (FLRA)	The Honorable Colleen Duffy Kiko Chairman
35.	Federal Maritime Commission (FMC)	Mr. Michael A. Khouri Chairman

36.	Federal Reserve System	The Honorable Jerome H. Powell Chair, Board of Governors
37.	Federal Trade Commission (FTC)	The Honorable Joseph J. Simons Chairman
38.	General Services Administration (GSA)	The Honorable Emily W. Murphy Administrator
39.	Interagency Council on Homelessness (USICH)	Mr. Robert Marbut Executive Director
40.	International Development Finance Corporation (DFC)	Mr. Andrew Herscowitz Chief Development Officer
41.	International Trade Commission (ITC)	Mr. Jason E. Kearns Chair
42.	Merit Systems Protection Board (MSPB)	Tristan Leavitt General Counsel
43.	Millennium Challenge Corporation (MCC)	Mr. Sean Cairncross Chief Executive Officer
44.	National Aeronautics and Space Administration (NASA)	The Honorable James F. Bridenstine Administrator
45.	National Archives and Records Administration (NARA)	The Honorable David S. Ferriero Archivist of the United States
46.	National Credit Union Administration (NCUA)	The Honorable Rodney E. Hood Chairman
47.	National Geospatial-Intelligence Agency (NGA)	Vice Admiral Robert D. Sharp Director
48.	National Labor Relations Board (NLRB)	The Honorable John F. Ring Chairman
49.	National Reconnaissance Office (NRO)	The Honorable Christopher Scolese, Ph.D. Director
50.	National Science Foundation (NSF)	The Honorable Dr. Sethuraman Panchanathan Director
51.	National Security Agency (NSA)	The Honorable General Paul M. Nakasone Director
52.	Nuclear Regulatory Commission (NRC)	The Honorable Kristine L. Svinicki Chairman
53.	Office of the Director of National Intelligence (ODNI)	The Honorable John Ratcliffe Director of National Intelligence

54.	Office of Management and Budget (OMB)	The Honorable Russell T. Vought Director
55.	Office of Personnel Management (OPM)	The Honorable Michael J. Rigas Acting Director
56.	Office of Special Counsel (OSC)	The Honorable Henry J. Kerner Special Counsel
57.	Peace Corps	The Honorable Josephine K. Olsen Director
58.	Pension Benefit Guaranty Corporation (PBGC)	The Honorable Gordon Hartogensis Director
59.	Securities and Exchange Commission (SEC)	The Honorable Jay Clayton Chairman
60.	Small Business Administration (SBA)	The Honorable Jovita Carranza Administrator
61.	Social Security Administration (SSA)	The Honorable Andrew Saul Commissioner

United States Senate

WASHINGTON, DC 20510

July 29, 2021

The Honorable Rostin Behnam
Acting Chairman
Commodity Futures Trading Commission
1155 21st St., NW
Washington, DC 20581

Dear Acting Chairman Behnam:

We are writing to request information pertaining to the use of taxpayer-funded union time. Federal employees are permitted by law to represent labor organizations and perform other non-agency business while being paid by American taxpayers.¹ Any official time granted to an employee pursuant to 5 U.S.C. § 7131 (“taxpayer-funded union time”) also falls within Congress’s mandate that executive branch agencies interpret the law “in a manner consistent with the requirements of effective and efficient government.”² Federal agencies therefore have a duty to make sure that taxpayer-funded union time is only authorized in amounts that are “reasonable, necessary, and in the public interest.”³ Congress and the public likewise have an interest in knowing that taxpayer-funded union time complies with the purposes for which it is authorized. It is in this interest that we write today.

On May 25, 2018, President Trump issued Executive Order 13837 to ensure transparency, accountability, and efficiency in taxpayer-funded union time use. The Order required that certain information and data be provided to the public and agencies began promulgating policy to comply. Unfortunately, President Biden revoked the Order. However, agencies are able to continue providing transparency on this subject and the public and Congress maintain an interest in a transparent and effective use of taxpayer resources. Please provide the following information relating to fiscal year 2021:

1. The purposes for which the agency has authorized the use of taxpayer-funded union time, and the amounts of time used for each such purpose;
2. The job title and total compensation of each employee who has used taxpayer-funded union time in the fiscal year, as well as the total number of hours each employee spent on these activities and the proportion of each employee's total paid hours that number represents;
3. Whether the agency has allowed labor organizations or individuals on taxpayer-funded union time the free or discounted use of government property; if so, please provide the closest estimate for the total number of hours and days this free or discounted use of government property was allowed.
4. Any expenses the agency paid for activities conducted on or for taxpayer-funded union time; and
5. The amount of any reimbursement paid by the labor organizations for the use of government property.

To the degree possible, please provide this information no later than September 3, 2021 in the format as formed to comply with the guidelines promulgated under the now-revoked Executive Order 13837.⁴ Please reach out to

¹ See 5 U.S.C. § 7131.

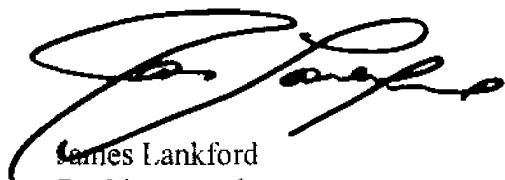
² 5 U.S.C. § 7101(b).

³ 5 U.S.C. § 7101(d).

⁴ See Pon, Jeff T.H., *Memorandum for: Heads of Executive Departments and Agencies, Guidance for Implementation of Executive Order 13837 – Ensuring Transparency, Accountability, and Efficiency in Taxpayer-Funded Union Time* (Jul. 5, 2018), available at <https://www.chcoc.gov/content/guidance-implementation-executive-order-13837-%E2%80%93-ensuring-transparency-accountability->

Clark Hedrick on Ranking Member Lankford's staff at Clark_Hedrick@hsgac.senate.gov and Matt Mimnaugh on Ranking Member Burr's staff at Matt_Mimnaugh@help.senate.gov. Thank you for your attention to this matter.

Sincerely,



James Lankford
Ranking Member
Senate Committee on Homeland
Security and Governmental Affairs,
Subcommittee on Government
Operations and Border Management



Richard Burr
Ranking Member
Senate Committee on Health, Education,
Labor, and Pensions



Ron Johnson
Ranking Member
Senate Committee on Homeland
Security and Governmental Affairs,
Permanent Subcommittee on Investigations



Rand Paul, M.D.
United States Senator
Senate Committee on Health, Education,
Labor, and Pensions

Ranking Member
Senate Committee on Homeland
Security and Governmental Affairs,
Subcommittee on Emerging
Threats and Spending Oversight



Mitt Romney
United States Senator
Senate Committee on Health, Education,
Labor, and Pensions

Senate Committee on Homeland
Security and Governmental Affairs



Mike Braun
Ranking Member
Senate Committee on Health, Education,
Labor and Pensions,
Subcommittee on Employment and
Workplace Safety

Congress of the United States

House of Representatives

August 16, 2021

The Hon. Gary Gensler
Chairman
U.S. Securities and Exchange Commission
100 F St NE
Washington, D.C., 20549

The Hon. Rostin Behnam
Acting Chairman
U.S. Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, D.C., 20581

Chairman Gensler and Acting Chairman Behnam:

We are at a pivotal point with respect to shaping policies that will significantly impact the digital asset ecosystem. Recent comments made by Chairman Gensler and his recent exchange with Senator Elizabeth Warren provide a concerning roadmap for regulatory actions that will have long-term implications. Rather than regulate innovation and job creation out of this country, we should promote an active dialogue between regulators and market participants. This is the goal of H.R. 1602, the *Eliminate Barriers to Innovation Act of 2021*, which passed the U.S. House of Representatives in April.

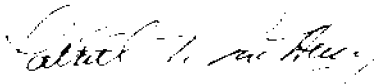
This bipartisan legislation requires the Securities and Exchange Commission (SEC) and the Commodity Futures Trading Commission (CFTC) to establish a joint Working Group on Digital Assets with market participants, organizations involved in academic research, and investor protection organizations, among others. While H.R. 1602 would require the creation of a working group, nothing prevents the SEC and CFTC from undertaking similar activities under existing law.

An open and collaborative dialogue with all relevant agencies, stakeholders, and market participants is critical. A working group on digital assets would enable both the SEC and CFTC to explore how to effectively use their current jurisdiction cooperatively. Such a working group can foster transparent engagement with innovators in the digital asset ecosystem. As Congress contemplates additional legislation to address regulatory gaps, this work could provide us with additional information and clarity as we make these important policy decisions.

Lawmakers and regulators must work together to properly balance protecting innovation with any new regulations to ensure the digital asset marketplace flourishes in the United States. To that end, we request a response from you and your fellow Commissioners describing the ways the SEC and CFTC plan to work together on these critical issues. Before advancing new regulations, the SEC and CFTC should prioritize robust discussions on the current domestic regulatory regime as it relates to digital assets and our regulatory framework's impact on American economic competitiveness.

We look forward to your responses and continuing our discussion on these critical issues in the coming months and working with you both to build an effective regulatory regime for digital assets which protects investors and innovation.

Sincerely,



PATRICK McHENRY
Ranking Member
Committee on Financial Services



GLENN 'GT' THOMPSON
Ranking Member
Committee on Agriculture

cc: The Honorable Hester M. Peirce
The Honorable Elad L. Roisman
The Honorable Allison Herren Lee
The Honorable Caroline A. Crenshaw
The Honorable Brian D. Quintenz
The Honorable Dawn DeBerry Stump
The Honorable Dan M. Berkovitz

United States Senate

WASHINGTON, DC 20510

April 8, 2020

The Honorable Heath P. Tarbert
Chairman
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, N.W.
Washington, DC 20581

Dear Chairman Tarbert,

I write to urge the Commodity Futures Trading Commission (CFTC) to review the market volatility and increasing widening of boxed beef prices to live cattle prices since the beginning of February 2020. We are all watching with concern the unprecedented economic condition and the effect the global pandemic of COVID-19 is having on the entire market. However, a CFTC examination of these particular cattle and beef markets would bring comfort and stability to a market that experienced a volatile 2019 due to natural disasters and issues out of farmers and ranchers control.

As you recall, Nebraska experienced a "bomb-cyclone" in March of 2019 causing major losses for farmers and ranchers and then a fire at a Kansas beef processing facility in August 2019 causing considerable disruption to the cattle industry. Now the global pandemic of COVID-19 has caused an adjustment to retail, consumer and international purchasing of all commodities - especially beef. Economic reports have shown a 25 percent increase in boxed beef prices over a seven day period, meanwhile, the United States Department of Agriculture Livestock Market Reporting data showed a slight decrease in Nebraska weighted average live cattle prices over the same timeframe.

The United States Department of Agriculture Economic Research Service Meat Price Spread data provides average price values and the difference of these values at the farm, wholesale, and retail stages of production. This data from March 11, 2020, shows farm to wholesale at 115.7 cents per retail pound in September 2019 and 55.7 cents per retail pound in February 2020. The farmers share during this timeframe went from 37.2% in September 2019 to 43.3% in February 2020.

It is important that the CFTC to deter market manipulation and allow for open and transparent price discovery in the commodity markets. It is also important that the CFTC conduct examinations where necessary to ensure fairness so market participants cannot take unlawful advantage of global conditions. The commodity market must work and must retain integrity. At this time, it is vital that the CFTC remain vigilant to monitor and surveil any market abuse and take swift and strong enforcement against violators.

Thank you for your immediate attention and for the consideration of the requests made.



Ben Sasse
United States Senator

United States Senate

WASHINGTON, DC 20510

October 20, 2022

The Honorable Rostin Behnam
Chair
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st St. NW
Washington, DC 20581

Dear Chair Behnam:

We write to express our concern regarding the recent volatility in commodities markets and its effect on working families. As our nation continues to emerge from the global pandemic, our economic recovery has experienced widespread job creation and record-low unemployment.¹ Despite notable gains in wages for workers,² however, rising costs continue to inflict financial pain on families across the country.³ Supply chain bottlenecks,⁴ corporate price gouging,⁵ destructive climate events,⁶ and Vladimir Putin's war on Ukraine have all contributed to skyrocketing food and energy prices over the last year.⁷ And yet, while American families are struggling with rising prices,⁸ Wall Street traders are raking in record profits

¹ U.S. Bureau of Labor Statistics, "Employment Situation Summary," press release, September 2, 2022, <https://www.bls.gov/news.release/empsit.nr0.htm>; NPR, "The unemployment rate fell to 3.5%, matching its lowest level in the last 50 years," Scott Horsley, August 5, 2022, <https://www.npr.org/2022/08/05/1116036160/the-unemployment-rate-fell-to-3-5-matching-its-lowest-level-in-the-last-50-years>.

² Pew Research Center, "Majority of U.S. Workers Changing Jobs Are Seeing Real Wage Gains," Rakesh Kochhar, Kim Parker, and Ruth Igielnik, July 28, 2022, <https://www.pewresearch.org/social-trends/2022/07/28/majority-of-u-s-workers-changing-jobs-are-seeing-real-wage-gains/>; MIT Sloan School of Management, Institute for Work and Employment Research, "U.S. Workers' Organizing Efforts and Collective Actions: A Review of the Current Landscape," Thomas A. Kochan, Janice R. Fine, Kate Bronfenbrenner, Suresh Naidu, Jacob Barnes, Yaminette Diaz-Linhart, Johnnie Kallas, Jeonghun Kim, Arrow Minster, Di Tong, Phela Townsend, and Danielle Twiss, June 2022, <https://mitsloan.mit.edu/sites/default/files/2022-06/Report%20on%20Worker%20Organizing%20Landscape%20in%20US%20by%20Kochan%20Fine%20Bronfenbrenner%20Naidu%20et%20al%20June%202022.pdf>.

³ NPR, "Families are continuing to have to deal with the effects of inflation," A Martinez and Scott Horsley, August 10, 2022, <https://www.npr.org/2022/08/10/1116688950/families-are-continuing-to-have-to-deal-with-the-effects-of-inflation>.

⁴ Board of Governors of the Federal Reserve System, FEDS Notes, "Effects of Supply Chain Bottlenecks on Prices Using Textual Analysis," Henry L. Young, Anderson Monken, Flora Haberkorn, and Eva Van Leemput, December 3, 2021, <https://www.federalreserve.gov/econres/notes/feds-notes/effects-of-supply-chain-bottlenecks-on-prices-using-textual-analysis-20211203.html>.

⁵ Economic Policy Institute, Working Economics Blog, "Corporate profits have contributed disproportionately to inflation. How should policymakers respond?," Josh Bivens, April 21, 2022, <https://www.epi.org/blog/corporate-profits-have-contributed-disproportionately-to-inflation-how-should-policymakers-respond/>.

⁶ Axios, "Climate change is a secret driver of inflation," Hope King, August 18, 2022, <https://www.axios.com/2022/08/18/inflation-climate-change-economy-extreme-weather>.

⁷ World Bank Group, "Commodity Markets Outlook," April 2022, p. 1, <https://openknowledge.worldbank.org/bitstream/handle/10986/37223/CMO-April-2022.pdf>.

⁸ New York Times, "Inflation Explained: The Good, the Bad and the Uncertain," Jeanna Smialek, September 13, 2022, <https://www.nytimes.com/2022/09/13/business/cpi-inflation-explained.html>; New York Times, "September Inflation Report: Prices Rise Faster Than Expected," Jeanna Smialek, October 13, 2022, <https://www.nytimes.com/live/2022/10/13/business/inflation-cpi-report>.

trading these very commodities.⁹ According to one report, 100 of the biggest banks by revenue earned a record \$18 billion from commodities trading in 2022, “benefit[ing] from rising prices and market dislocations as the world economy lurched in and out of Covid restrictions” and as the Russian invasion of Ukraine “triggered some of the most dramatic commodity price moves in history.”¹⁰ Excessive speculation in the commodities markets has the potential to worsen the financial pressure on families and exacerbate inflation.¹¹ Indeed, last month, you stated during an interview that “... there is a global commodity crisis going on. Our markets are impacted. We have to make sure the markets are transparent, fair, and orderly, and reflective of price discovery and, you know, supply and demand. And there is a lot of stress in the market.”¹² The Commodity Futures Trading Commission (CFTC, the Commission) has a responsibility to protect American families by fulfilling its mission “to promote the integrity, resilience, and vibrancy of the U.S. derivatives markets through sound regulation”¹³ and ensure that consumers are not paying more for everyday necessities due to excessive speculation.

According to a recent report issued by The World Bank, “commodity markets are facing an unprecedented array of pressures, lifting some prices to all-time highs.”¹⁴ Indeed, in March 2022, food prices were 84 percent higher than they had been in April 2020.¹⁵ That same month, fertilizer prices had risen by 220 percent over their April 2020 lows, and one barrel of Brent crude oil had risen 55 percent over its December 2021 price.¹⁶ While these commodities have been defined by high prices in recent months, their trade has also been characterized by extreme volatility.¹⁷ In late January, prices for “expiring natural-gas futures contracts shot up 46%, the biggest daily gain on record.”¹⁸ As The Wall Street Journal writes, “the timing and sharpness of the move and the few trades involved suggest speculators trapped in wrong-way bets on the direction of prices raced to buy futures at the 11th hour to settle trades. Known as a short-squeeze, the situation can produce sharp gains with little connection to market fundamentals.”¹⁹ This kind of speculation in the commodities markets has a direct impact on

⁹ Bloomberg, “Wall Street’s Commodity Traders on Track to Break Profit Records,” William Shaw and Jack Farhy, September 9, 2022, <https://www.bloomberg.com/news/articles/2022-09-09/wall-street-s-commodity-traders-on-track-to-break-profit-records?leadSource=verify%252520wall>.

¹⁰ *Id.*

¹¹ *Id.*

¹² CNBC, “There are gaps in crypto regulation that need to be filled, says CFTC Chair Rostin Behnam,” September 28, 2022, <https://www.cnbc.com/video/2022/09/28/there-are-gaps-in-crypto-regulation-that-need-to-be-filled-says-cftc-chair-rostin-behnam.html>.

¹³ Commodity Futures Trading Commission, “The Commission,” <https://www.cftc.gov/About/AboutTheCommission>.

¹⁴ World Bank Group, “Commodity Markets Outlook,” April 2022, p. 2, <https://openknowledge.worldbank.org/bitstream/handle/10986/37223/CMO-April-2022.pdf>.

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ The Wall Street Journal, “Natural-Gas Futures Spike in Latest Market Turmoil,” Ryan Dezember, January 27, 2022, https://www.wsj.com/articles/natural-gas-futures-spike-in-latest-market-turmoil-11643329448?mod=article_inline; The Wall Street Journal, “Lumber Trading Is So Hot That It Almost Never Happens,” Ryan Dezember, February 23, 2022, <https://www.wsj.com/articles/lumber-trading-futures-wood-11645631506>; The Wall Street Journal, “JPMorgan Leads Talks to Contain Nickel Crisis Damage,” Joe Wallace, Rebecca Feng, and Jing Yang, March 13, 2022, <https://www.wsj.com/articles/jpmorgan-leads-talks-to-contain-nickel-crisis-damage-11647203014>; The Wall Street Journal, “Chaotic Trading in Energy, Metals and Food Spills Into Real World,” Ryan Dezember, April 12, 2022, <https://www.wsj.com/articles/chaotic-commodity-markets-spill-over-into-real-world-11649771900>.

¹⁸ The Wall Street Journal, “Natural-Gas Futures Spike in Latest Market Turmoil,” Ryan Dezember, January 27, 2022, https://www.wsj.com/articles/natural-gas-futures-spike-in-latest-market-turmoil-11643329448?mod=article_inline.

¹⁹ The Wall Street Journal, “Chaotic Trading in Energy, Metals and Food Spills Into Real World,” Ryan Dezember, April 12, 2022, <https://www.wsj.com/articles/chaotic-commodity-markets-spill-over-into-real-world-11649771900>.

everyday people. “Since many sales to residential gas customers are linked to futures prices, the sharply higher futures mean a big increase in what many Americans had to pay for heat and electricity in February.”²⁰

While some commodity prices have eased in recent months,²¹ the CFTC has a responsibility “to protect the integrity of the commodity futures markets, to ensure that prices reflect the legitimate forces of supply and demand, and to combat excess speculation and manipulation.”²² The global commodity market remains highly volatile – the Organization of Petroleum Exporting Countries, along with Russia and other oil-producing allies, have announced that they intend to cut oil production targets by 2 billion barrels a day, resulting in a three-week price high for the commodity.²³ Across the country, the downward trend of gas prices is beginning to reverse.²⁴ With families continuing to struggle with the sharply rising prices of food and other household necessities,²⁵ it is even more urgent that the Commission achieve these ends.

As Commissioner Christy Goldsmith Romero recently proposed, the CFTC can “ensure that American families are not paying artificially increased prices due to excess speculation” by “conduct[ing] a series of deep-dive studies in key commodities markets, starting with those that have been experiencing the most recent stress – natural gas, crude oil, and wheat” to “study whether prices are being determined by market fundamentals”²⁶ rather than through fraud, manipulation, or other factors. Such studies would strengthen the CFTC’s work to protect American families from artificially high prices and ensure it is using its tools to identify “any factor that might contribute to increased food, energy, and metal costs.”²⁷ Moreover, such studies would “lead to greater public and market confidence that [derivatives] markets are serving their price discovery and risk management functions and prioritizing the interests of the farmers, ranchers, and producers who provide food, fiber and fuel for the world”²⁸ and American families.

To gain more information about how the Commission intends to use its data and authorities to protect American families from the whims of overzealous Wall Street traders, we request that you provide responses to the following questions by November 3, 2022.

1. To what extent does the Commission believe excessive speculation may be contributing to rising commodity prices in key sectors?
2. Does the Commission have plans to conduct a study of the extent to which price increases in key commodities markets such as natural gas, crude oil, and wheat have been affected by excessive speculation?

²⁰ *Id.*

²¹ New York Times, “Inflation Explained: The Good, the Bad and the Uncertain,” Jeanna Smialek, September 13, 2022, <https://www.nytimes.com/2022/09/13/business/cpi-inflation-explained.html>.

²² Commodity Futures Trading Commission, “Opening Statement of Commissioner Christy Goldsmith Romero Before the Energy and Environmental Markets Advisory Committee,” September 20, 2022, <https://www.cftc.gov/PressRoom/SpeechesTestimony/romerostatement092022>.

²³ Reuters, “Oil prices rise 1% on cuts to OPEC+ output targets,” Laila Kearney, October 6, 2022, <https://www.reuters.com/business/energy/oil-prices-rise-after-opec-agrees-slash-crude-output-2022-10-06/>.

²⁴ CNN, “Gas prices are starting to take off again. More increases are on the way,” Chris Isidore and Matt Egan, October 6, 2022, <https://www.cnn.com/2022/10/05/energy/gas-prices/index.html>.

²⁵ New York Times, “September Inflation Report: Prices Rise Faster Than Expected,” Jeanna Smialek, October 13, 2022, <https://www.nytimes.com/live/2022/10/13/business/inflation-cpi-report>.

²⁶ Commodity Futures Trading Commission, “Opening Statement of Commissioner Christy Goldsmith Romero Before the Energy and Environmental Markets Advisory Committee,” September 20, 2022, <https://www.cftc.gov/PressRoom/SpeechesTestimony/romerostatement092022>.


²⁷ *Id.*

²⁸ *Id.*

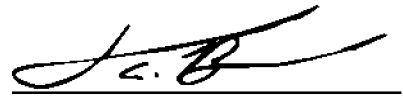
- a. If so:
 - i. Which commodities will this study focus on?
 - ii. What drivers of pricing and market volatility will this study examine?
 - iii. What is the timeline on which the Commission plans to complete this study?
 - iv. Does the Commission have plans to make the results of this study public? If not, will you commit to making the results public?
 - b. If not:
 - i. Will you commit to directing the Commission to conduct and publish an independent study of the extent to which rising commodity prices and market volatility have been driven by excessive speculation?
3. Does the Commission have plans to implement a regularized system for understanding and sharing information regarding the mechanisms by which commodity pricing and market volatility impact everyday Americans?

Thank you for your attention to this important matter.

Sincerely,



Elizabeth Warren
United States Senator



Cory A. Booker
United States Senator

[illegible]

COMMITTEE ON BANKING, HOUSING, AND
URBAN AFFAIRS

March 4, 2020

¹ <http://www.peed.org/newsroom/global-economy-faces-gravest-threat-since-the-crisis-as-coronavirus-spreads.htm>

I am also concerned that you remain beholden to the powerful companies you have been charged by Congress with overseeing. The industry has made it clear that no matter what the threat our country faces, their priority remains gutting rules that protect our economy because they curb bank profits.⁸ You must resist the temptation to again favor corporate profits over economic stability.

I respectfully request that you brief members of the Senate Committee on Banking, Housing and Urban Affairs at the earliest time possible after this week's meeting to communicate the Council's plans to address the potential threat of an economic downturn. We also request a representative from each of the FSOC's member agencies to be present at the briefing to describe the steps each agency will take to implement the Council's plan, as well as the steps they will take to rebuild and restore the protections put in place after the last financial crisis to guard against financial instability that this Administration has recklessly removed.

Sincerely,

A handwritten signature in black ink that reads "Sherrod Brown". The signature is stylized with a large, looped "S" and a cursive "Brown".

Sherrod Brown
Ranking Member

cc: Hon. Jerome H. Powell, Chair, Board of Governors of the Federal Reserve System
Hon. Joseph Otting, Comptroller, Office of the Comptroller of the Currency
Hon. Kathleen Kraninger, Director, Consumer Financial Protection Bureau
Hon. Jay Clayton, Chair, Securities and Exchange Commission
Hon. Jelena McWilliams, Chair, Federal Deposit Insurance Corporation
Hon. Heath Tarbert, Chair, Commodity Futures Trading Commission
Hon. Rodney Hood, Chair, National Credit Union Administration
Hon. Thomas E. Workman, Independent Member Having Insurance Expertise, Financial Stability Oversight Council
Hon. Mark Calabria, Director, Federal Housing Finance Agency
Hon. Dino Falaschetti, Acting Director, Office of Financial Research
Steven Seitz, Director, Federal Insurance Office
Charles G. Cooper, Commissioner, Texas Department of Banking
Eric Cioppa, Superintendent, Maine Bureau of Insurance
Melanie Lubin, Securities Commissioner, Maryland Office of the Attorney General

⁸ <https://bpi.com/actions-the-fed-could-take-in-response-to-covid-19/>

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United States Senate
COMMITTEE ON BANKING, HOUSING, AND
URBAN AFFAIRS
WASHINGTON, DC 20510-6075

August 6, 2020

The Honorable Heath Tarbert
Chair
Commodity Futures Trading Commission
1155 21st Street, NW
Washington, DC 20580

Dear Chair Tarbert:

I write regarding the unusual trading in oil futures that occurred in April and the recent press reports that one trading firm was central to the market conditions that caused the price of oil to fall below zero for the first time.¹

As you know, on April 20, the price of a barrel of oil collapsed from \$18 to negative \$37, including sinking \$40 over the course of an hour. The speed at which the oil price fell into negative territory creates the impression of a market susceptible to manipulation and needing additional regulatory safeguards. These concerns increase when such price swings are potentially attributable to one market participant.

While I understand the CFTC will release a detailed report on the oil price crash in the coming months, your initial comments in April, featured on CNBC, that “this situation does appear to be a fundamental supply and demand issue,”² were at a minimum premature and now seem incorrect. Even your subsequent comments understate the potential for market manipulation as the cause of the oil price crash. Your statement last month that, “we can’t really say one way or the other at this point whether there in fact was any wrongdoing,”³ suggests that your analysis must continue, including careful consideration of the recently reported details.

The integrity of our financial markets is critical to protect American consumers from needless volatility and harmful manipulation that could ultimately lead to higher prices at a time when families across the country are under financial strain. I look forward to the timely completion of a thorough and comprehensive report and for the CFTC to pursue enforcement actions, as necessary.

Sincerely,



Sherrod Brown
Ranking Member

¹ Liam Vaughan, Kit Chellel, and Benjamin Bain, *London Traders Hit \$500 Million Jackpot When Oil Went Negative*, Bloomberg, Aug. 4, 2020, <https://www.bloomberg.com/news/articles/2020-08-04/oil-s-plunge-below-zero-was-500-million-jackpot-for-a-few-london-traders>.

² <https://www.cnbc.com/video/2020/04/21/commodity-futures-trading-commission-chair-heath-tarbert-on-oil-futures-plummet.html>.

³ Kadhim Shubber, *US Regulator Investigates Oil Fund Disclosures*, Financial Times, July 15, 2020, <https://www.ft.com/content/1e689137-2d1f-4393-a18f-fe0da02141ee>.

Congress of the United States
House of Representatives
Washington, DC 20515-0919

September 16, 2022

Chairman Rostin Behnam
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581

Dear Chairman Behnam,

We write to you to express concerns over the Commodity Futures Trading Commission's Request for Information on Climate-Related Financial Risk, Document Number 2022-12302. While recognizing this RFI comes in direct response to President Biden's Executive Order 14030 and is in conjunction with the Financial Stability Oversight Council, we fear this is yet another attempt by the current Administration to circumvent the legislative process and further politicize federal agencies to the detriment of the free market.

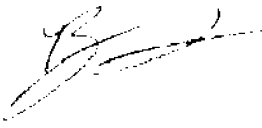
Although the request is being presented as a neutral fact-finding endeavor designed to reduce risk and ensure financial integrity, the supplemental information subsections suggest the CFTC is seeking justification to expand its jurisdictional scope and take part in the Biden administration's Green New Deal push. For example, the "Disclosure" subsection suggests a desire to follow the SEC's recent regulatory action and impose burdensome and subjective disclosure requirements on market participants. Not only is environmental policy outside the purview of the CFTC's statutory authority, but the proposals alluded to in the RFI will only add to operational costs, create unnecessary barriers, and smother innovation. Nowhere is this more evident than in the digital asset ecosystem.

As digital assets continue to grow in popularity and usage, the resulting market pressures have led to an exploration of alternative energy sources to match demand. For instance, recognizing the increased need for power, cryptocurrency miners have begun collaborating with nuclear power plants to create a mutually beneficial partnership. Since mining is an interruptible load, excess energy can be transferred to the general power grid, and in turn, increase our domestic energy production, lessen our dependence on foreign nations, and lower energy costs for all Americans. This symbiotic relationship perfectly illustrates how the private sector, rather than government intervention, provides the best course of action.

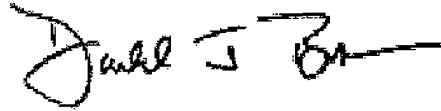
With these concerns in mind, we encourage the CFTC to follow the advice of its two concurring commissioners and confine its regulatory reach to its statutory boundaries.

Further, we caution against substituting political ideology and overly burdensome government involvement for economic realities, especially in this time of great market fluctuation. We respectfully urge the CFTC to reconsider and abandon its efforts to aid the Biden administration's undemocratic implementation of environmental policy. We look forward to your response.

Sincerely,

A handwritten signature in black ink, appearing to read 'Byron Donalds', with a stylized flourish at the end.

Byron Donalds
Member of Congress

A handwritten signature in black ink, appearing to read 'Don Bacon', with a horizontal line extending from the end.

Don Bacon
Member of Congress

ALEX X. MOONEY
2ND DISTRICT, WEST VIRGINIA

FINANCIAL SERVICES COMMITTEE

SUBCOMMITTEE ON
FUTURES REGULATION, ENTERPRISE RISK
AND CAPITAL MARKETS

SUBCOMMITTEE ON
DIVERSITY AND INCLUSION

Congress of the United States
House of Representatives
Washington, DC 20515-4802

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WASHINGTON, DC 20515
(202) 225-2711

<http://mooney.house.gov>

April 13, 2020

The Secretariat

MAY 26 2020

Received

The Honorable Heath P. Tarbert
Chairman
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, D.C. 20515

Re: Growing concerns about delivery defaults in gold and silver

Dear Chairman Tarbert:

As you know, there have been significant stresses and delivery difficulties unfolding in the CFTC-regulated gold market.

In fact, the entities running the Comex and London markets hastily changed their rules last month to allow 400-ounce gold bars located in London to be substituted in satisfaction of CFTC-regulated contracts standing for delivery of 100-ounce gold bars in the U.S.

This remarkable new trans-oceanic mechanism appears, essentially, to have institutionalized the Exchange for Physical (EFP) emergency mechanism about which I raised concerns to you previously. Because there is apparently a dearth of gold and silver available for delivery in our country, use of this EFP mechanism to offload the physical demand to London had already become massive and routine.

Why is the Commission permitting large gold delivery liabilities in the U.S. to be so routinely transferred to London markets?

I am increasingly concerned about the rising risk of defaults in the U.S. gold and silver markets and a resulting loss of confidence in our markets. A major default in gold and/or silver could have profound monetary policy implications as well.

Furthermore, I ask for direct answers to two questions I posed previously. My questions (*in italics*) and your responses provided on January 28 are as follows:

1) Does the commission have jurisdiction over manipulative futures trading by the U.S. government or its brokers or agents or other governments?

ALEX X. MOONEY
2401 DENTON, WEST VIRGINIA

FINANCIAL SERVICES COMMITTEE

SUBCOMMITTEE ON
INVESTOR PROTECTION, ENTREPRENEURSHIP
AND CAPITAL MARKETS

SUBCOMMITTEE ON
DIVERSITY AND INCLUSION

Congress of the United States
House of Representatives
Washington, DC 20515-4802

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<http://mooney.house.gov>

"The CFTC has exclusive jurisdiction over futures trading on trading facilities registered with the Commission as Designated Contract Markets."

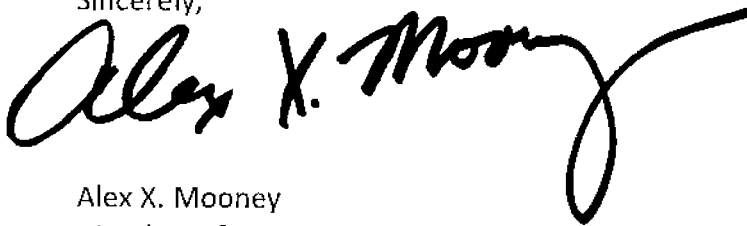
2) Is the commission aware of futures trading by the U.S. government, its brokers, or agents?

"Pursuant to Section 8 of the Commodity Exchange Act and except as otherwise specifically authorized, the Commission may not publish 'data and information that would separately disclose the business transactions or market positions of any person and trade secrets or names of customers.'"

Both of my questions call for simple "Yes" or "No" answers. Direct answers to these questions should not violate Section 8 of the Commodity Exchange Act. Simply acknowledging trading by governments, or on behalf of governments, would not disclose business transactions or market positions.

Thank you, and I await your response.

Sincerely,



Alex X. Mooney
Member of Congress

JIM COOPER
SEN. DUFFIELD, Tennessean
HOUSE ARMED SERVICES COMMITTEE
SUBCOMMITTEE ON STRATEGIC FORCES –
Chairman
SUBCOMMITTEE ON BATTLE-READY FORCES –
Defense and Casualties
SUBCOMMITTEE ON STRATEGIC AND PROTECTIVE
Forces
COMMITTEE ON OVERSIGHT
AND REFORM
SUBCOMMITTEE ON NATIONAL SECURITY
COMMITTEE ON THE BUDGET

Congress of the United States
House of Representatives
Washington, DC 20515

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(202) 225-4311
FAX: (202) 225-1035
Website: jimcooper.house.gov

May 26, 2021

The Honorable Rostin Behnam
Acting Chairman
Commodity Futures Trading Commission
Washington, DC 20581

Dear Acting Chairman Behnam,

I am very interested in event contract markets and want to express my concern about the current regulatory uncertainty impacting the ability to generate credible predictive trade data.

The CFTC granted limited no action relief to Victoria University of Wellington in 2014 to allow trading of political event contract markets on PredictIt. Since then, PredictIt has produced predictive data about election results, political and judicial nominations, important policy developments, and decision making in the Executive, Legislative, and Judicial branches.

Academics, economists, and the media agree that the market data produced by PredictIt is much more accurate than traditional public opinion polling. This data has become the new gold standard and PredictIt interest and trading have surged in recent years. However, the 2014 limited no action relief that was granted provides little room for PredictIt to meet surging demands. Updated regulation is necessary and the CFTC needs to act so PredictIt may continue meeting market demand.

The PredictIt market yields greater certainty on outcomes of important events to academics, economists, consumers, and businesses. Businesses in particular rely on predictive data on a range of issues with political and policy characteristics, such as the likelihood of climate change developments, a COVID-19 vaccine, tax cuts or increases, etc., to plan their operations.

Uncertainty is our enemy; it directly impacts the stock market, business plans, jobs, even our economy. This data has become critical to reducing any uncertainty in business decisions; absent swift and updated guidance allowing PredictIt to function, I am deeply concerned we risk the prediction market moving offshore. Do we want to rely on data that can be easily manipulated by totally unregulated entities who want to hurt America?

Mr. Acting Chairman, there is so much potential here, and the CFTC has the opportunity and the authority to provide needed regulatory certainty for these markets. I respectfully request that you quickly review and determine the most appropriate way to update the regulations for PredictIt and other types of predictive event contract markets that we have come to depend on.

Thank you for your consideration. I look forward to your prompt response.

Sincerely,



Jim Cooper
Member of Congress

KEVIN CRAMER
NORTH DAKOTA

SUITE 400
RUSSELL BUILDING
WASHINGTON, DC 20510
202 224 2043

United States Senate

COMMITTEES
ARMED SERVICES
BANKING, HOUSING, AND URBAN AFFAIRS
THE BUDGET
ENVIRONMENT AND PUBLIC WORKS
VETERANS' AFFAIRS

July 28, 2020

Commodity Futures Trading Commission
Attn: Chairman Heath P. Tarbert
Commissioner Rostin Behnam
Commissioner Dan M. Berkovitz
Commissioner Dawn DeBerry Stump
Commissioner Brian D. Quintenz
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581

Re: West Texas Intermediate Pricing on April 20, 2020

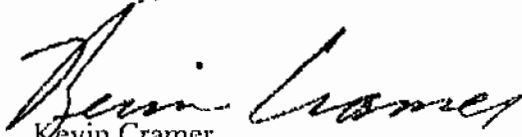
Dear Chairman and Commissioners:

As you are aware, on April 20, 2020, the price of the May NYMEX West Texas Intermediate (WTI) crude oil futures contract settled at negative 37.63 per barrel. This event is of substantial significance to persons and businesses in the oil and gas sector in my State of North Dakota and throughout the world who trade and rely on the WTI price as a benchmark. Many of them have expressed their concern about this event and how it came to pass.

It is my understanding the negative April 20 WTI price was disconnected from the price of crude oil in the physical market as well as other industry benchmarks, such as the ICE Brent, all of which remained positive on and around the same trading day. Public reports since April 20 have raised questions as to the cause of the April 20 WTI price anomaly and the reliability of the WTI futures.

I understand the CFTC continues to investigate this significant issue of interest to me and my constituents. Attached are a series of questions critical to getting to the root of the problem as part of your inquiry. I look forward to your prompt response.

Sincerely,



Kevin Cramer
United States Senator

Questions

1. What prompted CME Group to switch its options pricing and valuation model from the Whaley model to the Bachelier model to accommodate negative prices used to calculate futures contract prices?
2. Does CME believe its April 8, 2020, Clearing Advisory No. 20-152, indicating the change in pricing models, was sufficient notice to clearing firms, members and clients?
3. Why did CME fail to provide a notice and comment period for the change in pricing models to the actual market participants relying on NYMEX WTI futures?
4. Does CME believe its April 8, 2020, Clearing Advisory provided enough time for markets relying on NYMEX WTI future settlements and pricing to adjust in physical contracts between buyers and sellers?
5. Why does CME's April 21, 2020, Advisory No. 20-171 suggest the new methodology with no low limit and trading negative is not permanent and will only remain in place until further notice? Why would a pricing model only be applicable for certain futures contracts, but not others?
6. If CME's pricing model is fundamentally driven by storage for physical delivery at Cushing, OK then why did daily settlements fluctuate widely from April 19th to April 21st, even though according to industry participants there was enough storage during that period?
7. Why does CME's model require expiry based on physical settlement in Cushing? Why is this even a necessary requirement versus cash settlements?
8. Is it a CME requirement for market participants to have the ability to make physical delivery at expiry? If not, then why would CME allow such parties to participate in NYMEX WTI futures trading?
9. How much of the magnitude in the steep drop from April 19th through April 21st was driven by speculators in NYMEX WTI futures—parties with no arrangements in place to carryout physical delivery in Cushing?
10. News agencies have reported exchange-traded funds (ETFs) and retail brokerage houses involved in trading leading up to the April 20 price had inadequate control measures. What was the trading volume by participant for these ETFs and retail brokerage houses?
11. What was the level of liquidity leading up to May futures contract expiry?
12. Why are daily settlements finalized at end of a trading day rather than a weighted average of all the trades during such a day?
13. What controls are being put in place to prevent similar pricing events from happening again?
14. Will the negative price print on April 20th be removed permanently because it does not represent a market price on that day, as shown by other indices such as Brent and longer dated WTI positions, each of which traded positive?

Congress of the United States

Washington, DC 20515

March 2, 2022

President Joseph R. Biden, Jr.
The White House
1600 Pennsylvania Avenue NW
Washington, D.C. 20500

Dear President Biden:


As Chairman and Ranking Member of the House Agriculture Subcommittee on Commodity Exchanges, Energy, and Credit, we continue to weigh what additional authorities under the subcommittee's jurisdiction are needed to regulate digital assets, such as cryptocurrencies. We respectfully write to you today to urge you to ensure the Commodity Futures Trading Commission (CFTC) plays an appropriate role in your forthcoming comprehensive federal executive order on cryptocurrencies.

On January 12, bicameral leaders of the U.S. Senate Committee on Agriculture, Nutrition and Forestry and the U.S. House Committee on Agriculture's January 12 sent a letter to the Commission calling for the CFTC to take on an expanded central role in the regulation of the digital assets industry through its traditional and flexible principles-based approach. The CFTC's response concurred with that statement, stating that "Despite historically focusing on the derivatives market, the CFTC is prepared and well-suited to play an increasingly central role in overseeing the cash markets for digital assets." We echo the sentiments shared in those letters and believe the CFTC must continue to play an important role in the regulation and oversight of this industry in the years to come.

Since 2015, the CFTC has demonstrated its ability to oversee the rapidly developing market. For example, the agency has used enforcement authorities to file 49 enforcement actions pertaining to digital assets. These enforcement actions addressed fraudulent schemes and price manipulations connected with digital assets. Several technical complexities in the digital asset market would benefit significantly from CFTC oversight. We understand existing challenges do not stem from a lack of regulation in the industry, but rather a lack of regulatory clarity as a result of the existing patchwork of federal and state regulators and frameworks.

To that end, we respectfully request that the CFTC's jurisdiction be clearly reflected in your forthcoming executive order. We look forward to working with the CFTC and others across your administration in managing the emerging and rapidly evolving digital assets sector.

Sincerely,



Antonio Delgado
Chairman, Commodity Exchanges, Energy &
Credit Subcommittee



Michelle Fischbach
Ranking Member, Commodity Exchanges,
Energy & Credit Subcommittee

Antonio Delgado
Chairman
Subcommittee on Commodity Exchanges, Energy and Credit

Congress of the United States
Washington, DC 20515

May 9, 2022

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

Dear Chairman Behnam,

We are writing to applaud the Commodity Futures Trading Commission's ("CFTC") deliberate actions related to oversight over the trading of derivatives on digital assets, and your commitment to and work in support of President Biden's recently issued Executive Order on Ensuring Responsible Development of Digital Assets.¹ We believe that these efforts are critically important to ensuring the competitiveness of the U.S. globally, as well as competition within our U.S. capital and derivatives markets, with respect to digital assets and other asset classes.

During a recent hearing of the House Agriculture Committee on March 31, 2022, you spoke clearly about the responsibilities mandated by statute that the CFTC shoulders to promote competition globally and domestically as it relates to digital assets and derivatives market more generally:

"[A]s Chairman, I feel I have a responsibility to give every stakeholder [and] every market participant an opportunity to share their views and to present ideas [to the CFTC] that they have for the market. I think that's the responsibility of the agency . . . [Under] the Commodity Exchange Act, specifically section five, we are mandated to support responsible innovation . . . I do think I have to consider [the] possibility for a new market structure that could provide innovation, provide more efficient markets, better pricing, and better hedging tools."

We strongly endorse this viewpoint and sentiment and commend you for appropriately highlighting your statutory mandate to support responsible innovation. We also appreciate your efforts to implement this sentiment by permitting significant public participation, comment, and debate in the Commission's work to examine new and potentially innovative market structure proposals.

It is of paramount importance that U.S. financial markets remain a vibrant source of capital, provide a strong regulatory framework, and encourage innovation of new ideas, products, and services. At the same time, U.S. market participants should have ready access to the necessary tools to hedge risk and adequately grow their businesses. As the use and trading of digital assets continues to grow, we anticipate that digital assets will continue to integrate with traditional capital

¹ See <https://www.whitehouse.gov/briefing-room/presidential-actions/2022/03/09/executive-order-on-ensuring-responsible-development-of-digital-assets>.

markets and become an increasingly important segment of our country's financial markets more broadly.

In keeping with this trend, U.S. policymakers, including the CFTC, must continue to explore ways to provide needed guard rails around the trading of digital assets and related derivatives under existing legislative authority, as Congress continues considering whether new authorities are needed. In this spirit, we support decisions by the CFTC that would allow U.S. futures and derivatives markets to continue to compete for global liquidity.

The U.S. and its financial regulators have an opportunity to ensure that the next generation of financial innovation is created within the U.S. This innovation could have broad and positive impacts on markets for both digital and more traditional assets as well.

U.S. investors should be on a level playing field with the rest of the world. The CFTC's commitment to promoting innovation as required by statute will help ensure these broadly beneficial policy outcomes.

We urge the CFTC to continue its openness to new innovations that will promote U.S. competitiveness for digital assets, ensure a level playing field for new entrants to CFTC-regulated markets, and deliver on all aspects of the CFTC's important mission.

Sincerely,



Michelle Fischbach
Member of Congress



Ro Khanna
Member of Congress

Congress of the United States

Washington, DC 20515

June 28, 2022

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

Dear Chairman Behnam,

We applaud the Commodity Futures Trading Commission's ("CFTC") deliberate actions to provide clarity of federal-market oversight of digital asset derivatives, and particularly your leadership in considering innovative business models that leverage emerging technology to offer more equitable access to these markets. The Commission should seize this opportunity to fulfil its mandate¹ of promoting responsible innovation, which can ultimately expand access to new financial technologies, and advance economic opportunities to make the lives of all Americans more prosperous.

To this end, we commend your efforts to protect and enhance competition and investor choice in U.S. financial markets, and in the digital asset sector, in particular. While fair and open markets have been the hallmark of American prosperity and economic liberty, industry consolidation hurts consumer through high fees and lower quality services.

It is vital to U.S. economic and national security that our markets remain a strong source of capital, made possible by a robust and reliable regulatory framework that encourages open access and innovation. As more consumers use and trade digital assets, we anticipate that digital assets will continue to become more integrated with traditional financial markets.

U.S. financial regulators have the responsibility to ensure that the next generation of financial innovation is created and flourishes within the United States. This innovation could tremendously benefit markets for both digital and traditional finance.

We are concerned that America risks falling behind in the global digital economy. To sustain a competitive advantage in these dynamic international markets, the United States must ensure that new entrant innovators and American entrepreneurs are not needlessly pushed abroad as a boon to international competitors. More than 90 percent of trading volumes for derivatives on Bitcoin and Ethereum trade outside our country. If the United States does not sufficiently support innovation, digital asset markets will flourish overseas at the expense of U.S. businesses and consumers alike. The United States will continue to lose ground to other countries – including strategic competitors who oppose our values – if we do not cement our leadership in the digital asset marketplace.

¹ "Commodity Exchange Act," 7 U.S.C. § 5(b).

U.S. investors should be on a level playing field with the rest of the world, and they should have choice within the United States among those firms that offer products for investment and risk-management purposes. The CFTC's commitment to promoting innovation as required by statute will help ensure these broadly beneficial policy outcomes.

Sincerely,



Ted Budd
Member of Congress



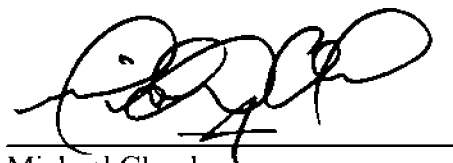
Josh Gottheimer
Member of Congress



Kat Cammack
Member of Congress



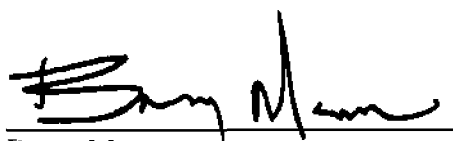
Angie Craig
Member of Congress



Michael Cloud
Member of Congress



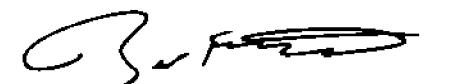
Jimmy Panetta
Member of Congress



Barry Moore
Member of Congress



Darren Soto
Member of Congress



Randy Feenstra
Member of Congress

cc: Commissioner Kristin N. Johnson
Commissioner Christy Goldsmith Romero
Commissioner Summer K. Mersinger
Commissioner Caroline D. Pham

RON JOHNSON, WISCONSIN, CHAIRMAN

BOB PORTMAN, OHIO
RAND PAUL, KENTUCKY
JAMES LANKFORD, OKLAHOMA
MIKE ROUNDS, UTAH
DICK SCOTT, FLORIDA
MICHAEL B. ENZ, WYOMING
JOSE HAWLEY, MISSOURI

GARY C. PETERS, MICHIGAN
THOMAS R. CARPER, DELAWARE
MAGGIE HASSAN, NEW HAMPSHIRE
KAMALA D. HARRIS, CALIFORNIA
KYRSTEN SINEMA, ARIZONA
JACKY ROSEN, NEVADA

United States Senate

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

WASHINGTON, DC 20510-6250

GABRIELE DIADAYO-SANCER, STAFF DIRECTOR
JAY D. V. WINDLER, MINORITY STAFF DIRECTOR

November 18, 2020

The Honorable Heath P. Tarbert
Chairman and Chief Executive
Commodity Futures Trading Commission
1155 21st Street, NW
Washington, DC 20581

Dear Chairman Tarbert:

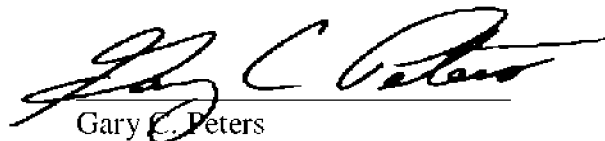
As the Ranking Member of the chief oversight committee of the U.S. Senate and with respect to the committee's broad jurisdiction over all government operations, I am writing to ensure you are aware of your obligation to retain and preserve all documents, records, and communications in your possession, custody, or control in accordance with the law. As you know, concealing, removing, or destroying any document or communication may constitute a federal crime under 18 U.S.C. § 2071.

All officials or employees, including individuals and any task force relying on outside experts or companies should be advised of their obligations under applicable law. Please refer to the attached Schedule A for the types of documents and communications to be preserved.

The Committee on Homeland Security and Governmental Affairs is authorized by Rule XXV of the Standing Rules of the Senate to investigate "the efficiency, economy, and effectiveness of all agencies and departments of the Government." Additionally, Senate Resolution 70 (116th Congress) authorizes the Committee to investigate "the efficiency and economy of operations of all branches of the Government."

Thank you for your prompt attention and cooperation in this matter. If you have any questions about this request, please contact Senator Peters' staff at (202) 224-2627.

Sincerely,



Gary C. Peters
Ranking Member

cc: The Honorable David S. Ferriero, Archivist of the United States
Mr. A. Roy Lavik, Inspector General
The Honorable Michael Rigas, Executive Chair, Council of the Inspectors General on Integrity and Efficiency

Schedule A
Instructions for Responding to a Committee Request
Committee on Homeland Security and Governmental Affairs
United States Senate
116th Congress

A. Responding to a Preservation of Records Request

1. In complying with the Committee's request, preserve all responsive materials that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. You should also preserve documents that you have a legal right to obtain, that you have a right to copy or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party. This preservation request extends to any personal devices utilized for official business. Requested records, documents, data, or information should not be destroyed, modified, removed, transferred, or otherwise made inaccessible to the Committee.
2. Unless otherwise specified, the period covered by this request is from January 1, 2017 to the present.
3. Upon completion of the document production, you should submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control which reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been preserved and will be made available to the Committee.
4. Concealing, removing, or destroying any document or communication can constitute a federal crime under 18 U.S.C. § 2071

B. Definitions

1. The term "document" means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, inter-office and intra-office communications, electronic mail (e-mail), contracts, agreements, cables, notations of any type of conversation, telephone call, meeting or other communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and

electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape, or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.

2. The term “communication” in the request or the instructions means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether face to face, in meetings, by telephone, mail, telex, facsimile, email (desktop or mobile device), computer, text message, instant message, MMS or SMS message, WhatsApp, Signal, any other encrypted messaging service, regular mail, discussions, releases, delivery, or otherwise. This includes communications on encrypted phones and personal devices utilized for official business.
3. The terms “and” and “or” in the request or the instructions should be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information which might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neuter genders.
4. The term “including” shall be construed broadly to mean “including, but not limited to.”
5. The terms “person” or “persons” in the request or the instructions mean natural persons, firms, partnerships, associations, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, or other legal, businesses or government entities, and all subsidiaries, affiliates, divisions, departments, branches, or other units thereof.
6. The term “Company” means the named legal entity as well as any units, firms, partnerships, associations, corporations, limited liability companies, trusts, subsidiaries, affiliates, divisions, departments, branches, joint ventures, proprietorships, syndicates, or other legal, business or government entities over which the named legal entity exercises control or in which the named entity has any ownership whatsoever.
7. The term “identify” in the request or the instructions, when used in a question about individuals, means to provide the following information: (a) the individual’s complete name and title; (b) the individual’s business address, email address, and phone number; and (c) any and all known aliases.
8. The terms “related to” or “referring” or “relating” in the request or the instructions, when used separately or collectively, with respect to any given subject, mean anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with or is pertinent to that subject in any manner whatsoever.
9. The term “employee” in the request or the instructions means agent, borrowed employee, casual employee, consultant, contractor, de facto employee, independent contractor, joint venturer, loaned employee, part-time employee, permanent employee, provisional

employee, or subcontractor.

10. The term “individual” means all natural persons and all persons or entities acting on their behalf.
11. The terms “you” and “your” in the request or the instructions refer to yourself; your firm, corporation, partnership, association, department, or other legal or government entity, including all subsidiaries, divisions, branches, or other units thereof; and all members, officers, employees, agents, contractors, and all other individuals acting or purporting to act on your behalf, including all present and former members, officers, employees, agents, contractors, and all other individuals exercising or purporting to exercise discretion, make policy, and/or decisions.

#

United States Senate

WASHINGTON, DC 20510-2405

COMMITTEE ON
APPROPRIATIONS

COMMITTEE ON
AGRICULTURE, NUTRITION,
AND FORESTRY

COMMITTEE ON
ENERGY AND
NATURAL RESOURCES

COMMITTEE ON
RULES AND
ADMINISTRATION

July 9, 2020

The Honorable Heath P. Tarbert
Chairman and Chief Executive
Commodity Futures Trading Commission
1155 21st Street, NW
Washington, D.C. 20581

Dear Chairman Tarbert:

I am writing regarding legal sports betting, which is a relatively new market to my state. Mississippi is among the 21 states and the District of Columbia that legalized sports betting following the U.S. Supreme Court decision striking down the federal prohibition on sports betting.

Since this activity is relatively new to Mississippi, sports book operators are learning that the regional dynamic of our market could create unbalanced sports books. I am hearing from operators in my state who believe they need a legal way to hedge this exposure.

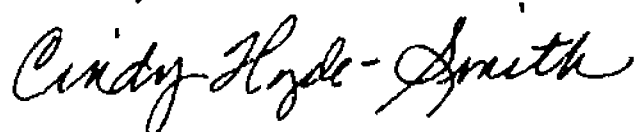
My understanding is that there are companies that have developed specialized sports futures contracts for this market and, if allowed, intend to offer them on the Commodity Futures Trading Commission (CFTC) designated ErisX exchange. I further understand that this solution needs to be reviewed by the Commission before it can be launched. On behalf of my constituents, I would appreciate full and timely consideration of this solution, applicable to all laws, rules and regulations.

Sports betting is now a legal business in Mississippi, and I hope this growing industry will be afforded the same risk management tools as other industries, like agriculture. Proper, well-regulated markets for risk management will allow for future growth in my state and across the country where sports betting is legal.

Let me end by thanking you for your leadership of the CFTC. As you know, agriculture is a leading economic driver in Mississippi. Farmers and ranchers tell me frequently about the value and importance of the CFTC to their operations. I know your agency is on the front line in keeping markets safe from fraud and manipulation, and I appreciate everything you do in this regard.

Thank you, again, for your attention to the growing needs of the sports betting sector. Please let me know if I may be of assistance to you.

Sincerely,

A handwritten signature in black ink that reads "Cindy Hyde-Smith". The script is fluid and cursive, with the first letters of each name being capitalized and prominent.

CINDY HYDE-SMITH
United States Senator

CHS/jc

United States Senate

WASHINGTON, DC 20510

April 24, 2020

The Honorable William Barr
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

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

The Honorable Sonny Perdue
Secretary of Agriculture
U.S. Department of Agriculture
1400 Independence Ave. SW
Washington, DC 20250

Dear Attorney General Barr, Secretary Perdue, and Chairman Tarbert:

The coronavirus (COVID-19) pandemic has exposed troubling vulnerabilities in our meat supply chain that are harming both American livestock producers and consumers. We urge you to work to identify the root causes of these disruptions so we can work together to implement appropriate solutions.

As Americans have gone to buy groceries during this pandemic, they have often been confronted by higher prices for beef and pork products, or in some circumstances, nearly empty meat cases. With many restaurants now closed, food suppliers have struggled to adjust to new consumption patterns to the detriment of consumers, as well as participants up and down the meat supply chain. Livestock producers – especially independent livestock producers – are feeling the pain of these disruptions acutely.

Since the initial phases of the nationwide shut-down, we have seen once again the disparate impact catastrophic events have on cattle and hog producers as compared to their meat packer and processor counterparts. Livestock prices have fallen dramatically since the first weeks of the crisis, with live cattle futures falling by 29 percent and hog futures falling by 39 percent between the middle of January and the first week in April while beef and pork prices at the grocery store rose dramatically. As during past market disruptions, we saw producers' margins fall to unsustainable levels while packers' margins increased.

In more recent weeks, the spread of the virus has forced closures at major meat packing facilities. While some facilities have closed temporarily, others have been shuttered indefinitely. These closures, and the resulting uncertainty, force producers to make difficult decisions that could

threaten our food supply or result in unnecessary increased costs for consumers. During this worldwide pandemic when unprecedented numbers of families are standing in food lines, we cannot afford to waste available food resources that could be utilized if only there were available options for processing and packing.

We recognize the complex nature of these markets and the potential multi-faceted causes of these supply chain disruptions that disproportionately impact independent livestock producers, such as the dominance of formula pricing – which bases livestock pricing on low volume cash markets – or highly concentrated meat packing markets with high entry barriers for new competitors. There have also been allegations of potential market manipulation or anticompetitive conduct.

In light of the above, we ask that each of you, in your respective capacities, investigate the vulnerabilities in these markets that have been exposed by the COVID-19 pandemic and identify areas of concern, regulations that can be modified or relaxed, any verifiable antitrust violations, and/or structural changes in the trading market to help ensure that our country's food markets work for consumers, as well as our farmers, ranchers, and packers.

We look forward to working with you on this important issue.

Sincerely,

A handwritten signature in black ink, appearing to read "Mike Lee".

Mike Lee, Chairman
Subcommittee on Antitrust,
Competition Policy & Consumer Rights

A handwritten signature in black ink, appearing to read "Amy Klobuchar".

Amy Klobuchar, Ranking Member
Subcommittee on Antitrust,
Competition Policy & Consumer Rights

Cc: The Honorable Makan Delrahim, Assistant Attorney General, Antitrust Division
United States Department of Justice

United States Senate

WASHINGTON, DC 20510

May 26, 2021

The Honorable Merrick Garland
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

The Honorable Tom Vilsack
Secretary of Agriculture
U.S. Department of Agriculture
1400 Independence Avenue, SW
Washington, DC 20250

The Honorable Rostin Behnam
Acting Chairman
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581

Dear Attorney General Garland, Secretary Vilsack, and Acting Chairman Behnam:

In April 2020, we wrote to your predecessors about the troubling vulnerabilities in our meat supply chain, which were exposed by the coronavirus pandemic. Although chicken, beef, and pork products are back in supermarket meat cases and major meatpacking facilities have resumed operation, the long-standing problems with our meat supply chain remain. The apparent lack of competition in these markets is an ongoing concern, and market participants continue to see increased consolidation and a lack of market transparency.

The problems with America's meat supply chain are complex and multi-faceted, potentially requiring both antitrust enforcement and updates to government regulation. Confronting them will require a proactive, multi-agency approach. That is why we reiterate our request that your respective agencies investigate any potential legal violations or other impediments to competition in meat supply chain markets. In addition, we urge you coordinate your efforts to identify vulnerabilities, areas of concern, and potential reforms to improve competition, fairness, and transparency throughout the meat supply chain.

Americans deserve a competitive, safe, and resilient meat supply system that works for livestock producers, meatpackers, wholesalers, retailers, and consumers. We look forward to working with you to make that a reality.

Sincerely,



Amy Klobuchar, Chair
Subcommittee on Competition Policy,
Antitrust, and Consumer Rights



Mike Lee, Ranking Member
Subcommittee on Competition Policy,
Antitrust, and Consumer Rights

From: Gavin, Stephen
Sent: Wed, 27 Apr 2022 14:09:12 +0000
To: Wright, Ann
Subject: [EXTERNAL] (b)(6)
Attachments: (b)(6)

CAUTION: This email originated from outside of CFTC. DO NOT click links or open attachments unless you recognize and/or trust the sender. If you believe this is SPAM simply block sender and delete the email. If you suspect this to be a phishing attempt, please use the "Report Phishing" button on your Outlook menu bar.

Dear Ms. Wright:

I respectfully request that your office examine the following information that has been provided to my office by (b)(6)

I am asking that you review (b)(6) case and provide him with any assistance he may be eligible for in accordance with the rules and regulations governing the U. S. Commodity Futures Trading Commission.

Please advise my office about the disposition of this case. You may notify, Stephen Gavin in my Jackson office at 3607 Medgar Evers Boulevard, Jackson, Mississippi 39213 or via email at sgavin@mail.house.gov.

Thank you for your prompt attention to this matter.

Sincerely,

T

Bennie G. Thompson
Member of Congress

COLLIN C. PETERSON, MINNESOTA,
CHAIRMAN

DAVID SCOTT, GEORGIA
JIM COSTA, CALIFORNIA
MARCIA L. FUDGE, OHIO
JAMES P. McGOVERN, MASSACHUSETTS
HILMON VELA, TEXAS
STACEY E. PLASKITT, VIRGINIA ISLANDS
ALMA S. ADAMS, NORTH CAROLINA
VICE CHAIR
ABRAHAM DAVIS SPANBERGER, VIRGINIA
JAHANA HAYLS, CONNECTICUT
ANTONIO DELGADO, NEW YORK
LO COX, CALIFORNIA
ANGIE CRAIG, MINNESOTA
ANTHONY BRINDISI, NEW YORK
JEFFERSON VAN DYKE, NEW JERSEY
JOSEPH BARDER, CALIFORNIA
KIM SCHRIER, WASHINGTON
CHELSE FINGRE, MAINE
CHRISTOPHER STOS, ILLINOIS
SEAN PATRICK MALONEY, NEW YORK
SALUD G. CARBAJAL, CALIFORNIA
AL LAWSON, JR., FLORIDA
TOM O'HALLORAN, ARIZONA
JIMMY PANETTA, CALIFORNIA
ANN KIRKPATRICK, ARIZONA
SYNTHIA AXNE, IOWA

U.S. House of Representatives Committee on Agriculture

Room 1301, Longworth House Office Building

Washington, DC 20515-6001

(202) 225-2171

April 6, 2020

R. MICHAEL CONAWAY, TEXAS,
RANKING MEMBER
GLENN THOMPSON, PENNSYLVANIA
AUSTIN SCOTT, GEORGIA
ERIC A. "BOCK" CRAWFORD, ARKANSAS
SCOTT DEJARNET, ILLINOIS
VICKY HARTZLER, MISSOURI
DOUGLASS MALIA, CALIFORNIA
RODNEY DAVIS, ILLINOIS
TED S. Yoho, FLORIDA
RICK W. ALLEN, GEORGIA
JOEY BOST, ILLINOIS
DAVID ROUZER, NORTH CAROLINA
RALPH LEE ABRAHAM, LOUISIANA
TREV KELLY, MISSISSIPPI
JAMES COMER, KENTUCKY
ROGER W. MARSHALL, KANSAS
DON BACON, NEBRASKA
NEAL P. DUNN, FLORIDA
DURTY JOHNSON, SOUTH DAKOTA
JAMES B. BARR, INDIANA
JIM HAGEDORN, MINNESOTA

ANNE SIMMONS
STAFF DIRECTOR
MATTHEW S. SCHERTZ
MINORITY STAFF DIRECTOR

The Honorable William Barr
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

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

Dear Attorney General Barr and Chairman Tarbert:

Given the diverging market responses related to COVID-19, I write to urge each of you to fully use your existing authorities to closely monitor U.S. cattle and beef markets.

More than 700,000 farms and ranches raise cattle in the U.S., and these farmers and ranchers and the consumers they supply need as much transparency and effective price discovery in both cash and futures markets as possible.

Responses to COVID-19 are changing when and what consumers are choosing to eat, which is having rapid impacts on both the retail price for beef as well as the value of cattle. As consumers shift more to eating at home, grocery store prices have increased while sales to foodservice have been all but eliminated.

These preference shifts, as well as potential future supply chain hurdles, continue to drive unpredictable market movement that is directly impacting farmers and consumers.

In one example, June live cattle futures that were trading at nearly \$120 per hundredweight in January are now trading at just over \$80 today, accounting for over a quarter loss of value in just a few weeks. Meanwhile, popular retail cuts like chucks and rounds were over thirty percent more expensive last week than they were at the same time last year, even while traditionally high-value commercial cuts like ribeyes are dropping in price.

Given the extreme market uncertainty and the thin nature of cash cattle markets, it is essential that each of you do what you can to ensure all market players are acting in good faith. I ask that you

ensure that these markets are closely monitored to prevent manipulation and exploitation of cattle and beef prices.

To that end, I ask that each of you please share regular updates on your efforts to oversee these markets.

I look forward to working with both of you on this important issue going forward.

Sincerely,

A handwritten signature in black ink, appearing to read 'Collin C. Peterson', followed by a horizontal line.

Collin C. Peterson
Chairman

CC: The Honorable Sonny Perdue, Secretary, United States Department of Agriculture

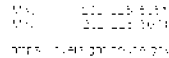
Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143



August 30, 2022

The Honorable Rostin Behnam
Chairman
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, N.W.
Washington, D.C. 20581

Dear Chairman Behnam:

I write to request information and documents about the work that the Commodity Futures Trading Commission (CFTC) is doing to combat cryptocurrency-related fraud. Cryptocurrencies have become scammers' favored means of payment as well as their preferred bait for unsuspecting victims. The annual amount of cryptocurrency lost to fraud is on track to surpass \$1 billion in 2022.¹ Multimillion-dollar cryptocurrency scams have become a regular occurrence.² As shown by recent Department of Justice indictments, these scams take many forms, including as commodity scams, fraudulent coin offerings, and sham investment platforms.³ Given the growing popularity of cryptocurrencies both as a form of payment and as an investment, I am concerned by the rapid growth of fraud and consumer abuse. I am also concerned by the apparent lack of a consensus or coordinated action from executive branch agencies to classify and regulate cryptocurrencies in order to prevent fraud and abuse.

Cryptocurrency is a form of digital currency based on an immutable digital ledger technology called blockchain. Cryptocurrency is kept in an anonymous digital wallet and can be bought, sold, or traded. These transactions occur on cryptocurrency exchanges and cannot be reversed once made. Bitcoin, one of the most popular cryptocurrencies, launched in 2009, and

¹ Federal Trade Commission, *Data Spotlight: Reports Show Scammers Cashing in on Crypto Craze* (June 3, 2022) (online at www.ftc.gov/news-events/data-visualizations/data-spotlight/2022/06/reports-show-scammers-cashing-crypto-craze).

² See, e.g., Commodity Futures Trading Commission, *Press Release: CFTC Charges South African Pool Operator and CEO with \$1.7 Billion Fraud Involving Bitcoin* (June 30, 2022) (online at www.cftc.gov/PressRoom/PressReleases/8549-22). See also Department of Justice, *Press Release: BitConnect Founder Indicted in Global \$2.4 Billion Cryptocurrency Scheme* (Feb. 25, 2022) (online at www.justice.gov/opa/pr/bitconnect-founder-indicted-global-24-billion-cryptocurrency-scheme).

³ See, e.g., Department of Justice, *Press Release: Justice Department Announces Enforcement Action Charging Six Individuals with Cryptocurrency Fraud Offenses in Cases Involving Over \$100 Million in Intended Losses* (June 30, 2022) (online at www.justice.gov/opa/pr/justice-department-announces-enforcement-action-charging-six-individuals-cryptocurrency-fraud).

there are now thousands of cryptocurrencies available. To take advantage of public interest in cryptocurrency, developers use initial coin offerings (ICOs) to secure investments in new cryptocurrencies prior to launch. Despite recent heavy losses to the value of many digital assets, cryptocurrencies continue to have a global market cap in excess of \$1 trillion.

As stories of skyrocketing prices and overnight riches have attracted both professional and amateur investors to cryptocurrencies, scammers have cashed in. The lack of a central authority to flag suspicious transactions in many situations, the irreversibility of transactions, and the limited understanding many consumers and investors have of the underlying technology make cryptocurrency a preferred transaction method for scammers.⁴ Consumer interest has also driven the creation of fraudulent cryptocurrencies, in which developers create tokens, list them on exchanges, and generate investments before absconding with investors' dollars. Chainalysis, a blockchain data platform, noted that these so-called "rug pulls" accounted for roughly 37% of cryptocurrency scam revenue in 2021, compared to 1% in 2020.⁵

The private sector has taken some steps to protect consumers and investors and curb cryptocurrency fraud. Code audits, where a third-party evaluates the terms of a digital asset, can identify and warn consumers of the vulnerabilities that make fraud schemes possible.⁶ Open-source investigators and organizations such as RugDocs conduct audits and warn potential investors of the risks of certain digital assets.⁷ Some exchanges also maintain insurance policies to cover consumer losses from criminal activity.⁸ However, significant risk remains. Consumers are often unaware of the current patchwork of resources available to inform their investing decisions, and insurance companies are wary to provide insurance to individual consumers given the lack of regulation of digital assets.

⁴ Federal Trade Commission, *Data Spotlight: Reports Show Scammers Cashing in on Crypto Craze* (June 3, 2022) (online at www.ftc.gov/news-events/data-visualizations/data-spotlight/2022/06/reports-show-scammers-cashing-crypto-craze). Although FinCEN has released guidance discussing how the Bank Secrecy Act applies to virtual currencies, questions remain as to how well this law can regulate decentralized exchanges that use an automated program to facilitate transactions among a network of users. FinCEN's 2019 guidance notes that a "trading platform [that] only provides a forum where buyers and sellers ... post their bids and offers..., and [where] the parties themselves settle any matched transactions through an outside venue, ... does not qualify as a money transmitter under FinCEN regulations." Department of the Treasury, Financial Crimes Enforcement Network, *Guidance: Application of FinCEN's Regulations to Certain Business Models Involving Convertible Virtual Currencies* (FIN-2019-G001) (May 9, 2019) (online at www.fincen.gov/sites/default/files/2019-05/FinCEN%20Guidance%20CVC%20FINAL%20508.pdf). Such decentralized exchanges pose significantly greater risks to investors, making regulation particularly important. See, e.g., *6 Common Crypto Scams, and How Investors Can Protect Their Coins*, Next Advisor (May 16, 2022) (online at <https://time.com/nextadvisor/investing/cryptocurrency/common-crypto-scams/>).

⁵ Chainalysis, *The 2022 Crypto Crime Report* (Feb. 2022) (online at <https://go.chainalysis.com/rs/503-FAP-074/images/Crypto-Crime-Report-2022.pdf>).

⁶ *Id.*

⁷ *The "Rug Doctor" Who Advises Crypto Investors Against "Horrific" DeFi Scams*, Yahoo Finance (Mar. 5, 2022) (online at <https://finance.yahoo.com/news/this-rug-doctor-has-a-message-for-crypto-investors-hungry-for-de-fi-returns-162804016.html>); *Twitter Vigilantes Are Hunting Down Crypto Scammers*, Wired (Nov. 15, 2021) (online at www.wired.com/story/twitters-crypto-vigilantes-are-just-getting-started/).

⁸ *Can You Insure Bitcoin? Here's What You Need to Know*, CNET (Feb. 23, 2022) (online at www.cnet.com/personal-finance/crypto/can-you-insure-bitcoin/).

Despite these vulnerabilities, the federal government has been slow to curb cryptocurrency scams and fraud. Existing federal regulations do not comprehensively or clearly cover cryptocurrencies under all circumstances. Holdings in cryptocurrency and other digital assets are not held by traditional deposit insurance institutions, which are subject to a broad array of federal regulations.⁹ Debates continue among U.S. government authorities as to whether cryptocurrencies should be treated as securities, commodities, or both in various circumstances.¹⁰ For example, the SEC is currently in a protracted legal battle with Ripple, a cryptocurrency firm, on this issue, the result of which threatens to hinder the Commission's ability to regulate cryptocurrency going forward.¹¹ Likewise, the SEC's first cryptocurrency-related insider trading action drew criticism from a commissioner of the Commodity Futures Trading Commission (CFTC), who called the SEC's filing "regulation by enforcement" and suggested that the CFTC, through the Commodity Exchange Act, was better situated to combat crypto-related fraud.¹² Without clear definitions and guidance, agencies will continue their infighting and will be unable effectively to implement consumer and investor protections related to cryptocurrencies and the exchanges on which they are traded.¹³

For all these reasons, I am concerned about the growth of fraud and consumer abuse linked to cryptocurrencies. Congress may need to pass legislation to help bring stability to the digital asset industry and protect consumers from investment fraud and abuse, but more information is needed to understand what the relevant federal agencies are already doing, both individually and through the interagency process.

To assist the Subcommittee in its review of this matter, by September 12, 2022, please produce the following documents dated from January 1, 2009, to the present:

1. All policies, guidance, or other official documents regarding CFTC's efforts to combat crypto-related scams and fraud and inform consumers about the risks related to investments in cryptocurrencies, excluding documents related to specific investigations or enforcement actions conducted by the agency;

⁹ *Now Might Be a Good Time to Think About Crypto Insurance*, Vox (June 17, 2022) (online at www.vox.com/recode/23171782/crypto-terra-ust-celsius-meltdown-crash-insurance).

¹⁰ *Bipartisan Crypto Regulatory Overhaul Would Treat Most Digital Assets as Commodities Under CFTC Oversight*, CNBC (June 7, 2022) (online at www.cnbc.com/2022/06/07/bipartisan-crypto-bill-lummis-and-gillibrand-want-to-empower-cftc-treat-digital-assets-like-commodities.html); *Bitcoin Is the Only Coin the SEC Chair Will Call a Commodity*, Axios (June 28, 2022) (online at www.axios.com/2022/06/28/bitcoin-is-the-only-coin-the-sec-chair-will-call-a-commodity).

¹¹ *See SEC's Crypto Crusade at Risk in Looming Legal Battle*, Politico (Jan. 29, 2022) (online at www.politico.com/news/2022/01/29/crypto-industry-lawsuits-sec-00002580). See also *SEC Slapdown Is a Wake-Up Call to Congress*, Forbes (July 17, 2022) (online at www.forbes.com/sites/roslynlayton/2022/07/17/sec-slapdown-is-a-wake-up-call-to-congress/?sh=2d30d7f02fbd).

¹² Commodity Futures Trading Commission, *Statement of Commissioner Caroline D. Pham on SEC v. Wahi* (July 21, 2022) (online at www.cftc.gov/PressRoom/SpeechesTestimony/phamstatement072122).

¹³ *Urgency Builds Around Crypto's Regulatory Clarity in the U.S.*, Axios (June 14, 2022) (online at www.axios.com/2022/06/14/crypto-regulation).

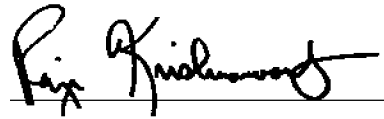
2. All policies, guidance, or other official documents regarding CFTC's authority to identify and investigate potentially fraudulent digital assets or accounts used on cryptocurrency exchanges associated with illicit activities;
3. All policies, guidance, or other official documents setting out CFTC's regulatory authority concerning cryptocurrencies, cryptocurrency exchanges, or crypto-related fraud and abuse; and
4. All policies, guidance, or other official documents setting out the existing framework for interagency cooperation on the regulation of cryptocurrencies, cryptocurrency exchanges, and other digital assets.

The Subcommittee also requests answers to the following questions by September 12, 2022:

1. What tools, including but not limited to code audits, disclosure requirements, or consumer alerts, could provide consumers with additional information to better assess the risks associated with a digital asset?
2. What regulatory processes could be put in place to ensure that digital assets made available for sale or investment contain sufficient consumer and investor protections? Does CFTC have existing plans to put those regulatory processes in place? If yes, what is the timeline for implementing them?
3. Should cryptocurrency holdings be treated as commodities, securities, or both? Please explain.
4. Besides CFTC, which other executive branch agencies or institutions play a role to play in regulating cryptocurrencies and addressing cryptocurrency-related scams and frauds? Please explain.
5. What is the existing framework for interagency cooperation on the regulation of cryptocurrencies, cryptocurrency exchanges, and other digital assets? What formal policies, guidance, or other documents coordinating such cooperation?

The Committee on Oversight and Reform is the principal oversight committee of the House of Representatives and has broad authority to investigate “any matter” at “any time” under House Rule X. An attachment to this letter provides additional instructions for responding to the Subcommittee’s request. If you have any questions regarding this request, please contact Subcommittee staff at (202) 225-5051.

Sincerely,

A handwritten signature in black ink, appearing to read "R. G. Kirschner", written over a horizontal line.

Chairman
Subcommittee on Economic and Consumer Policy

Enclosure

cc: The Honorable Michael Cloud, Ranking Member
Subcommittee on Economic and Consumer Policy

Responding to Oversight Committee Document Requests

1. In complying with this request, produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. Produce all documents that you have a legal right to obtain, that you have a right to copy, or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party.
2. Requested documents, and all documents reasonably related to the requested documents, should not be destroyed, altered, removed, transferred, or otherwise made inaccessible to the Committee.
3. In the event that any entity, organization, or individual denoted in this request is or has been known by any name other than that herein denoted, the request shall be read also to include that alternative identification.
4. The Committee's preference is to receive documents in electronic form (i.e., CD, memory stick, thumb drive, or secure file transfer) in lieu of paper productions.
5. Documents produced in electronic format should be organized, identified, and indexed electronically.
6. Electronic document productions should be prepared according to the following standards:
 - a. The production should consist of single page Tagged Image File ("TIF"), files accompanied by a Concordance-format load file, an Opticon reference file, and a file defining the fields and character lengths of the load file.
 - b. Document numbers in the load file should match document Bates numbers and TIF file names.
 - c. If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.
 - d. All electronic documents produced to the Committee should include the following fields of metadata specific to each document, and no modifications should be made to the original metadata:

BEGDOC, ENDDOC, TEXT, BEGATTACH, ENDATTACH, PAGECOUNT, CUSTODIAN, RECORDTYPE, DATE, TIME, SENTDATE, SENTTIME, BEGINDATE, BEGINTIME, ENDDATE, ENDTIME, AUTHOR, FROM, CC, TO, BCC, SUBJECT, TITLE, FILENAME, FILEEXT, FILESIZE, DATECREATED, TIMECREATED, DATELASTMOD, TIMELASTMOD,

INTMSGID, INTMSGHEADER, NATIVELINK, INTFILPATH, EXCEPTION,
BEGATTACH.

7. Documents produced to the Committee should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, zip file, box, or folder is produced, each should contain an index describing its contents.
8. Documents produced in response to this request shall be produced together with copies of file labels, dividers, or identifying markers with which they were associated when the request was served.
9. When you produce documents, you should identify the paragraph(s) or request(s) in the Committee's letter to which the documents respond.
10. The fact that any other person or entity also possesses non-identical or identical copies of the same documents shall not be a basis to withhold any information.
11. The pendency of or potential for litigation shall not be a basis to withhold any information.
12. In accordance with 5 U.S.C. § 552(d), the Freedom of Information Act (FOIA) and any statutory exemptions to FOIA shall not be a basis for withholding any information.
13. Pursuant to 5 U.S.C. § 552a(b)(9), the Privacy Act shall not be a basis for withholding information.
14. If compliance with the request cannot be made in full by the specified return date, compliance shall be made to the extent possible by that date. An explanation of why full compliance is not possible shall be provided along with any partial production.
15. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) every privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author, addressee, and any other recipient(s); (e) the relationship of the author and addressee to each other; and (f) the basis for the privilege(s) asserted.
16. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (by date, author, subject, and recipients), and explain the circumstances under which the document ceased to be in your possession, custody, or control.
17. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, produce all documents that would be responsive as if the date or other descriptive detail were correct.

18. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data, or information not produced because it has not been located or discovered by the return date shall be produced immediately upon subsequent location or discovery.
19. All documents shall be Bates-stamped sequentially and produced sequentially.
20. Two sets of each production shall be delivered, one set to the Majority Staff and one set to the Minority Staff. When documents are produced to the Committee, production sets shall be delivered to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2105 of the Rayburn House Office Building.
21. Upon completion of the production, submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control that reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committee.

Definitions

1. The term “document” means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, data, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, communications, electronic mail (email), contracts, cables, notations of any type of conversation, telephone call, meeting or other inter-office or intra-office communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape, or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.
2. The term “communication” means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, mail, releases, electronic

message including email (desktop or mobile device), text message, instant message, MMS or SMS message, message application, or otherwise.

3. The terms “and” and “or” shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information that might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neutral genders.
4. The term “including” shall be construed broadly to mean “including, but not limited to.”
5. The term “Company” means the named legal entity as well as any units, firms, partnerships, associations, corporations, limited liability companies, trusts, subsidiaries, affiliates, divisions, departments, branches, joint ventures, proprietorships, syndicates, or other legal, business or government entities over which the named legal entity exercises control or in which the named entity has any ownership whatsoever.
6. The term “identify,” when used in a question about individuals, means to provide the following information: (a) the individual’s complete name and title; (b) the individual’s business or personal address and phone number; and (c) any and all known aliases.
7. The term “related to” or “referring or relating to,” with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is pertinent to that subject in any manner whatsoever.
8. The term “employee” means any past or present agent, borrowed employee, casual employee, consultant, contractor, de facto employee, detailee, fellow, independent contractor, intern, joint adventurer, loaned employee, officer, part-time employee, permanent employee, provisional employee, special government employee, subcontractor, or any other type of service provider.
9. The term “individual” means all natural persons and all persons or entities acting on their behalf.

United States Senate

WASHINGTON, DC 20510

July 21, 2020

COMMITTEES:
APPROPRIATIONS
FOREIGN RELATIONS
SELECT COMMITTEE ON INTELLIGENCE
SMALL BUSINESS AND ENTREPRENEURSHIP
SPECIAL COMMITTEE ON AGING

The Honorable Steven Mnuchin
Secretary
U.S. Department of Treasury
1500 Pennsylvania Avenue, NW
Washington, D.C. 20220

Dear Secretary Mnuchin:

On June 4, 2020, President Trump issued the *Memorandum on Protecting United States Investors from Significant Risks from Chinese Companies*. In this Memorandum, the President notes that Chinese firms access American capital markets without abiding by the same investor protections rules that companies from across the world follow.¹ This creates a two-tiered system within our markets that disadvantages American investors, who expect consistency and equal application of our laws.

I urge you to address the following in your upcoming report to the President, in order to protect American investors and the integrity of U.S. capital markets:

1. **Chinese companies listed on U.S. securities exchanges:** American stock exchanges list Chinese companies, including state-owned enterprises, which are widely shielded by their government from the full oversight of American financial regulators. Most notably, these firms do not have their audits inspected by the Public Company Accounting Oversight Board (PCAOB). As such, Chinese companies listed on American exchanges face a different set of standards than companies headquartered elsewhere. The Chinese government is the only national government to bar PCAOB access to the audits of issuers listed on U.S. exchanges and the consequences are vast. According to data made available by the PCAOB, "In the twelve months ended December 31, 2019, 17 PCAOB-registered firms in mainland China and Hong Kong signed audit reports for 188 public companies with a combined global market capitalization (U.S. and non-U.S. exchanges) of approximately \$1.9 trillion."²

An estimate cited in the 2017 annual report by the U.S. - China Economic and Security Review Commission values the losses to fraud perpetrated by Chinese firms on U.S. exchanges at \$5 billion,³ a figure that has only grown in light of recent, high profile scandals, such that of Luckin Coffee in April of this year.

¹ <https://www.whitehouse.gov/presidential-actions/memorandum-protecting-united-states-investors-significant-risks-chinese-companies/>

² <https://pcaobus.org/International/Pages/China-Related-Access-Challenges.aspx>

³ https://www.ussec.gov/sites/default/files/2019-09/2017_Annual_Report_to_Congress.pdf

Many Chinese firms list on U.S. stock exchanges using a corporate structure called the variable interest entity (VIE). This arrangement allows investors to engage in complex legal contracts with a company, as opposed to direct ownership. To skirt China's foreign ownership restrictions, these firms operate in a state of contradiction, telling the Chinese government that they are not owned by foreign investors, while effectively telling the foreign investors the opposite.⁴ This convoluted state of affairs jeopardizes the rights of American investors. Legal enforceability is questionable and the Chinese government has the power to intervene in a VIE, which it may consider illegal whenever it pleases.

Firms listed on American exchanges whose audits are shielded from inspection by the PCAOB should be deregistered by the SEC subject to a warning period under which such firms can come into compliance. In addition, audit clients of registered accounting firms that the PCAOB is unable to inspect should be barred from Initial Public Offerings on U.S. exchanges. These steps will protect investors from fraudulent foreign firms while upholding the rule of law and integrity of American capital markets. U.S. regulators must also close the VIE loophole by requiring companies to list directly on U.S. exchanges in a manner that complies with all relevant U.S. laws and regulations.

- 2. Inclusion of Chinese equities on securities indexes:** The rise of passive investment funds is reshaping the way Americans invest as well as the structure of capital markets more broadly. From 2007 to 2016, actively managed funds saw roughly \$1.2 trillion in outflows, while index funds saw inflows of over \$1.4 trillion.⁵ At its best, this development has meant that everyday Americans face lower barriers to investment in a diverse group of listings, as the job of picking is done by outside professionals, namely the index providers. On the other hand, reliance on a small group of index providers may leave investors with weakened control over their investments. In addition, it has led to market concentration and the ability of index providers to funnel vast sums to markets and individual companies without proper accountability or oversight.

This dynamic, in which index providers act as the gatekeepers to capital markets, has not gone unnoticed. Concerns of bias or unfair manipulation are particularly relevant to the industry, which has the power to move capital without the direct knowledge or consent of the retail investors who own the assets tracking these indexes.

In addition, the Chinese government has begun to use its influence and coercive power to strong-arm index providers into reallocating capital into its national economy, regardless of worthiness. In February 2019, the Wall Street Journal reported that the Chinese government successfully pressured MSCI, a major index provider, to add the Chinese stock market to its popular investment benchmark.⁶ The concerns related to the rush of index providers to China extends beyond the threat of

⁴ <https://www.chinaaccountingblog.com/weblog/2019-03-vie-gillis.pdf>

⁵ <https://theconversation.com/these-three-firms-own-corporate-america-77072>

⁶ <https://www.wsj.com/articles/how-china-pressured-msci-to-add-its-market-to-major-benchmark-11549195201>

manipulation and conflict of interest. In tying billions of U.S. investors' dollars to the Chinese economy – often unwittingly – index providers are linking U.S. retail investors' fate to China's economic and industrial ambitions; put more starkly, over time, Americans will be rooting for Chinese industrial success to fund their retirement.

In May of this year, the Administration took bold action to protect investors from the risks associated with Chinese firms on securities indexes when it halted the planned move of the Thrift Savings Plan's International Fund to track the MSCI All Country World ex U.S. Investable Market index. According to a letter sent by National Economic Council Director Kudlow and National Security Advisor Robert O'Brien, "Investing in certain Chinese equities based on this latter index poses significant investment risks, which are likely only to increase as China's share of emerging-market investment indexes increases in future years. The financial impact of this risk is significant."⁷

For too long, index providers have acted as de facto fund managers without the associated oversight or disclosure. Investors currently receive insufficient disclosures related to the indexes tracked by passive funds. Index funds should be required to disclose to investors information related to the underlying index, including on index construction and management, fees paid from the fund to the index, and names of individuals who manage the index. Investors must be made aware of the risks associated with Chinese equities that they are invested in through passive funds, including their retirement and pension plans. In addition, decisions to increase funding for Chinese securities by index providers should be subject to the will of investors. Finally, the potential for conflicts of interest is particularly severe for index providers who are unregulated and unaccountable. The SEC should investigate instances of conflict of interest and issue rules to prevent future misconduct.

- 3. Recourse for American investors who have been defrauded by Chinese firms:** As noted in an April 21, 2020 public statement by the SEC and PCAOB, China investments are characterized not only by the risk of fraud and misconduct, but also by the "substantially less access to recourse" that defrauded investors face.⁸ Indeed, the risks go beyond the normal challenges associated with investing in emerging markets as they exist both for investors in Chinese equities listed on Chinese exchanges and for those listed right here in the United States. According to the U.S. - China Economic and Security Review Commission, "Meanwhile, the complex listing structures of Chinese issuers, coupled with Chinese authorities' general unwillingness to actively regulate and protect U.S. investors, leave U.S. shareholders with no legal recourse to dispute fraud cases."⁹ The Chinese government itself enables these fraudulent companies to avoid justice.

⁷ <https://www.foxbusiness.com/markets/trump-orders-federal-retirement-money-invested-in-chinese-equities-to-be-pulled>

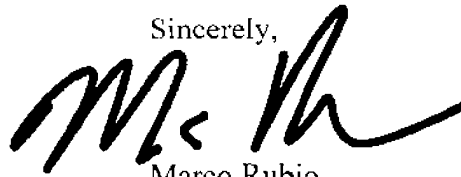
⁸ <https://www.sec.gov/news/public-statement/emerging-market-investments-disclosure-reporting>

⁹ https://www.uscc.gov/sites/default/files/2019-09/2017_Annual_Report_to_Congress.pdf

Federal regulators should ensure that legal accountability exists for Chinese firms seeking to raise capital in the United States. As noted above, Chinese issuers on American exchanges regularly flout our laws and regulations. This misconduct, along with effective legal impunity creates adverse incentives for these firms to take advantage of American investors. For companies listed in China, comprehensive disclosures must be made to American investors warning them of the unique risks and legal challenges associated with this market.

Thank you for your work to protect American investors and the integrity of U.S. capital markets from the risks associated with Chinese equities. I look forward to working with you to ensure that this important concern is fully addressed.

Sincerely,

A handwritten signature in black ink, appearing to read 'M. Rubio', with a stylized flourish at the end.

Marco Rubio
U.S. Senator

CC: Board of Governors of the Federal Reserve System Chairman Jerome Powell
Securities and Exchange Commission Chairman Jay Clayton
Commodity Futures Trading Commission Chairman Heath Tarbert

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TIM RYAN
CONGRESS OF THE UNITED STATES
13TH DISTRICT, OHIO

COMMITTEE ON APPROPRIATIONS
LEGISLATIVE BRANCH SUBCOMMITTEE
CHAIRMAN

DEFENSE SUBCOMMITTEE
VICE CHAIRMAN

ENERGY AND WATER DEVELOPMENT, AND
RELATED AGENCIES SUBCOMMITTEE

June 21, 2021

Acting Chairman Rostin Behnam
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581

Dear Acting Chairman Benham:

Recently you were sent a letter by Representative Jim Cooper regarding the regulatory uncertainty impacting the ability to generate credible predictive trade data. I write to share the concerns expressed by my colleague.

In 2014, the CFTC enabled Victoria University of Wellington to launch an experiment in the trading of political event contracts. That experiment has proven effective at providing valuable data concerning election results and important governmental policy developments. Because political event contract markets do not neatly fit into traditional futures or commodities markets regulation and due to the growth of political engagement across technology, we are urging the CFTC to create an appropriate regulatory environment for these markets.

My perspective on the need for regulatory certainty is aligned with my colleague, Representative Cooper. I respectfully request your expeditious review and determination of the most appropriate way to provide for regulation of other predictive event contract markets that businesses, policymakers, and the public have come to depend upon.

Sincerely,

Tim Ryan
Member of Congress

ELIZABETH WARREN
MASSACHUSETTS

COMMITTEES
BANKING, HOUSING, AND URBAN AFFAIRS
HEALTH, EDUCATION, LABOR, AND PENSIONS
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May 14, 2020

The Honorable Heath P. Tarbert
Chairman
Commodity Futures Trading Commission
1155 21st Street NW
Washington, DC 20581

Dear Chairman Tarbert:

I write in regards to the Commodity Futures Trading Commission's (CFTC) invitation for public comment on issues being addressed by the Climate-Related Market Risk Subcommittee (Subcommittee) of the Market Risk Advisory Committee.¹ The Subcommittee was established to "identify and examine climate change-related financial and market risks, including for derivatives markets,"² and the report will include "policy recommendations on oversight, including disclosures and stress testing against climate events, as well as ideas for new products for hedging against climate risk."³ While public health officials combat the ongoing coronavirus disease 2019 (COVID-19) pandemic and the federal government addresses the associated economic collapse, we cannot afford to lose sight of climate-related threats to our health and economic well-being. To address these threats, the Subcommittee's recommendations must include strong requirements for regulations to incorporate climate risks, such as loss of value of existing fossil fuel investments.

The climate crisis will have significant economic impacts,⁴ but "U.S. regulators have been slow to respond to the threats that a warming planet can pose to financial assets."⁵ The

¹ Commodity Futures Trading Commission, Federal Register Notice, "Climate-Related Market Risk Subcommittee Under the Market Risk Advisory Committee," April 14, 2020, <https://www.cftc.gov/sites/default/files/2020/04/2020-07860a.pdf>; Commodity Futures Trading Commission, "CFTC's Market Risk Advisory Climate Subcommittee Seeks Public Comments," press release, April 17, 2020, <https://www.cftc.gov/PressRoom/PressReleases/8150-20>.

² Commodity Futures Trading Commission, Federal Register Notice, "Climate-Related Market Risk Subcommittee Under the Market Risk Advisory Committee," April 14, 2020, <https://www.cftc.gov/sites/default/files/2020/04/2020-07860a.pdf>.

³ Reuters, "U.S. regulator homes in on climate risks to U.S. markets," Ann Saphir, December 11, 2019, <https://www.reuters.com/article/us-climate-change-market-risks/u-s-regulator-homes-in-on-climate-risks-to-u-s-markets-idUSKBN1YF2D5>.

⁴ New York Times, "Climate Change's Giant Impact on the Economy: 4 Key Issues," Neil Irwin, January 17, 2019, <https://www.nytimes.com/2019/01/17/upshot/how-to-think-about-the-costs-of-climate-change.html>; Brookings Institution, "Ten facts about the economics of climate change and climate policy," Ryan Nunn, Jimmy O'Donnell, Jay Shambaugh, Lawrence Goulder, Charles Kolstad, and Xianling Long, October 23, 2019, <https://www.brookings.edu/research/ten-facts-about-the-economics-of-climate-change-and-climate-policy/>.

⁵ Reuters, "U.S. regulator homes in on climate risks to U.S. markets," Ann Saphir, December 11, 2019, <https://www.reuters.com/article/us-climate-change-market-risks/u-s-regulator-homes-in-on-climate-risks-to-u-s-markets-idUSKBN1YF2D5>.

Market Risk Advisory Committee advises the CFTC on “systemic issues that threaten the stability of the derivatives markets and other financial markets, and makes recommendations on how to improve market structure and mitigate risk,”⁶ and it is critical that the Subcommittee recommends robust climate disclosure, reporting, and stress test requirements.

Recent studies estimate that climate change may cause “permanent damage that would far eclipse the scale of the 2007-2008 financial crisis.”⁷ A 2018 report by 13 federal agencies also found that without significant climate action, as much as ten percent of the American economy may be wiped out by 2100.⁸ Additionally, a separate report argued climate change may lead to tens of trillions of dollars in global damages and will “universally hurt worker health and productivity.”⁹ Meanwhile, the Trump administration has exacerbated the climate crisis by weakening safeguards on air pollution, emissions, fossil fuel extraction, and more.¹⁰ According to government data, these changes may cause thousands of more premature deaths across the country.¹¹ The dangers from climate change, however, continue to grow.

For these reasons, I introduced *The Climate Risk Disclosure Act of 2019* as a climate disclosure regime for the Securities and Exchange Commission to require public companies to disclose climate-related risks so investors can accurately assess threats.¹² It requires rigorous disclosures of critical information about climate-related risks, including greenhouse gas emissions and financing; fossil fuel assets; effects of companies’ valuations under various climate scenarios; and climate risk management strategies.¹³

⁶ Commodity Futures Trading Commission, “Market Risk Advisory Committee,” Accessed May 12, 2020, <https://www.cftc.gov/About/CFTCCommittees/MarketRiskAdvisoryCommittee/index.htm>.

⁷ Center for American Progress, “Climate Change Threatens the Stability of the Financial System,” Gregg Gelzinis and Graham Steele, November 21, 2019, <https://www.americanprogress.org/issues/economy/reports/2019/11/21/477190/climate-change-threatens-stability-financial-system/>.

⁸ New York Times, “U.S. Climate Report Warns of Damaged Environment and Shrinking Economy,” Coral Davenport and Kendra Pierre-Louis, November 23, 2018, <https://www.nytimes.com/2018/11/23/climate/us-climate-report.html>; U.S. Global Change Research Program, “Fourth National Climate Assessment,” November 23, 2018, <https://nca2018.globalchange.gov/>.

⁹ Moody’s Analytics, “The Economic Implications of Climate Change,” Chris Lafakis, Laura Ratz, Emily Fazio, and Maria Cosma, June 2019, <https://www.moodyanalytics.com/-/media/article/2019/economic-implications-of-climate-change.pdf>.

¹⁰ New York Times, “The Trump Administration Is Reversing Nearly 100 Environmental Rules. Here’s the Full List,” Nadja Popovich, Livia Albeck-Ripka, and Kendra Pierre-Louis, May 6, 2020, <https://www.nytimes.com/interactive/2020/climate/trump-environment-rollbacks.html>.

¹¹ New York Times, “Cost of New E.P.A. Coal Rules: Up to 1,400 More Deaths a Year,” Lisa Friedman, August 21, 2018, <https://www.nytimes.com/2018/08/21/climate/epa-coal-pollution-deaths.html>.

¹² Climate Risk Disclosure Act of 2019, S. 2075, <https://www.congress.gov/bill/116th-congress/senate-bill/2075>.

¹³ Office of U.S. Senator Elizabeth Warren, “Senator Warren, Representative Casten Lead Colleagues Introducing a Bill to Require Every Public Company to Disclose Climate-Related Risks,” July 10, 2020, <https://www.warren.senate.gov/newsroom/press-releases/senator-warren-representative-casten-lead-colleagues-introducing-a-bill-to-require-every-public-company-to-disclose-climate-related-risks>.

I am also an original cosponsor of the *Climate Change Financial Risk Act of 2019*,¹⁴ which would create climate risk stress tests for the nation's largest financial institutions.¹⁵ It would require three stress test scenarios: one assuming 1.5 degrees Celsius of warming above pre-industrial levels, one assuming 2 degrees of warming, and one assuming "business-as-usual." These tests will quantify risks on economic conditions and require institutions to define how they will adapt practices to limit climate impacts. The Federal Reserve Board would have the authority to restrict financial firms' capital distributions if they did not adequately integrate climate risk into risk management, internal controls, governance, and capital planning processes.

These bills provide outlines for the Subcommittee, especially given the Subcommittee's role to identify "challenges or impediments to evaluating and managing climate-related financial and market risks" and "how market participants can improve integration of climate related scenario analysis, stress testing, governance initiatives, and disclosures into financial and market risk assessments and reporting."¹⁶ *The Climate Risk Disclosure Act of 2019* and the *Climate Change Financial Risk Act of 2019* ultimately provide a useful framework for the CFTC and the Subcommittee must adapt similar principles as the policies in these bills in its recommendations.

Thank you for your consideration of this important matter.

Sincerely,



Elizabeth Warren
United States Senator

¹⁴ Climate Change Financial Risk Act of 2019, S. 2903, <https://www.congress.gov/bill/116th-congress/senate-bill/2903>.

¹⁵ Office of Senator Schatz, "Schatz Introduces New Legislation to Ensure U.S. Financial System is Prepared for Climate Change," November 20, 2019, <https://www.schatz.senate.gov/press-releases/schatz-introduces-new-legislation-to-ensure-us-financial-system-is-prepared-for-climate-change>.

¹⁶ Commodity Futures Trading Commission, "CFTC Commissioner Behnam Announces Members of the Market Risk Advisory Committee's New Climate-Related Market Risk Subcommittee," press release, November 14, 2019, <https://www.cftc.gov/PressRoom/PressReleases/8079-19>.

United States Senate

WASHINGTON, DC 20510

October 13, 2022

Chairman Rostin Behnam
Commodity Futures Trading Commission
1155 21st St NW
Washington, DC 20581

RE: Climate-Related Financial Risk RFI [87 FR 34856]

Dear Chairman Rostin Behnam,

Thank you for the Commodity Futures Trading Commission's (CFTC) June 2022 release of a Request for Information (RFI) to seek public comment on climate-related financial risk to inform oversight in the derivatives markets and underlying commodities markets. We write today to emphasize the risks and integrity challenges of the current voluntary carbon offsets market and to urge CFTC to pursue strong oversight of these markets. The world needs to reach net-zero greenhouse gas emissions by 2050 to avoid the most catastrophic effects of climate change, and frontline communities—who are disproportionately Black, Indigenous, and low-income—are already experiencing the brunt of climate impacts. We need bold, realistic action to effectively address carbon emissions that exacerbate environmental injustice and drive climate change.

One hundred companies alone have been responsible for 71% of all greenhouse gas emissions since 1988.¹ While some of these corporations have made great strides at reducing their own emissions, many have turned to a strategy of purchasing carbon offsets from organizations claiming to sequester greenhouse gasses through strategies like tree planting or installation of renewable energy. This has led to the rapid growth of offset markets, sometimes referred to as carbon credits. The purchase of offsets allows many of these multinational companies to make bold claims about emission reductions and pledges to reach “net zero,” when in fact they are taking little action to address the climate impacts of their industry. Several studies have highlighted that carbon offset projects are frequently illegitimate, and those that do contribute to meaningful emissions reductions are often representative of broader “pay to pollute” schemes that place profit over protecting frontline communities.²

¹ Dr. Paul Griffin, “CDP Carbon Majors Report 2017,” *The Carbon Majors Database* (2017), <https://cdn.cdp.net/cdp-production/cms/reports/documents/000/002/327/original/Carbon-Majors-Report-2017.pdf?1501833772>.

² “Paying to Pollute: The Environmental Injustice of Pollution Trading,” *Food & Water Watch & Greenaction for Health and Environmental Justice* (2017) https://foodandwaterwatch.org/wpcontent/uploads/2021/03/ibsp_1711_ejpaytopollute-webfin2_0.pdf

The carbon market enables wealthy corporations and countries to continue polluting due to broad standards that ineffectively regulate what counts as an offset. Projects that generate carbon offsets claim to adhere to a standard known as additionality, whereby a project would not have happened without the financial incentive of the “carbon credit”. However, JP Morgan recently wrote a one million dollar check to protect a mountainous region in Pennsylvania that was already preserved land and did not face a threat of deforestation, and in doing so claimed it had achieved carbon neutrality across its operations in 2020.³ Extensive research indicates systemic and persistent issues with offsets, including inaccurate or exaggerated promises of the positive effects, inflated climate benefits, and weak or unenforceable regulations.⁴ These fraudulent investments are a convenient and profitable way to market climate consciousness without requiring real action to reduce emissions.

Relying on offsets rather than direct emissions reduction mechanisms disproportionately harms frontline and environmental justice communities, which have already borne the brunt of decades of pollution and disinvestment. Without adequate safeguards, offset markets also risk violating the rights of local and Indigenous communities when those communities are excluded from land use management decisions that are used to generate offsets.⁵ Carbon offsets as they currently stand are not compatible with climate justice goals, as they enable wealthy corporations to continue emitting while using fraught tactics that prioritize their bottom line over the health and well-being of vulnerable communities.

Voluntary standards and safeguards have done little to alleviate these issues. To reduce risk to frontline communities, investors, and the planet, the CFTC should take concrete steps to implement rules governing the carbon market. These rules should include a clear definition of a carbon credit and a robust standard for auditing, and they must take into account the environmental justice risk of growth in the offset market.

We recommend that the CFTC:

- Investigate the integrity of currently approved derivatives and their underlying carbon offsets, and develop qualifying standards for carbon offsets that effectively reduce greenhouse gas emissions and can serve as underlying commodities for approved derivatives in the future.
- Create a registration framework for offsets, offset brokers, and offset registries.

³ Ben Elgin, “These Trees Are Not What They Seem: How the Nature Conservancy, the world’s biggest environmental group, became a dealer of meaningless carbon offsets.” *Bloomberg* (2020), [JPMorgan, Disney, Blackrock Buy Nature Conservancy’s Useless Carbon Offsets \(bloomberg.com\)](https://www.bloomberg.com/news/articles/2020-08-11-nature-conservancy-carbon-offsets)

⁴ Lisa Song, “An (Even More) Inconvenient Truth: Why Carbon Credits For Forest Preservation May Be Worse Than Nothing” *ProPublica* (2022), <https://features.propublica.org/brazil-carbon-offsets/inconvenient-truth-carbon-credits-dont-work-deforestation-redd-acre-cambodia/>

⁵ Megan Rowling & Lauren Goering, “Rights groups warn Paris pact rules on carbon markets leave indigenous people exposed” *Reuters* (2021), <https://www.reuters.com/business/cop/rights-groups-warn-paris-pact-rules-carbon-markets-leave-indigenous-people-2021-11-12/>

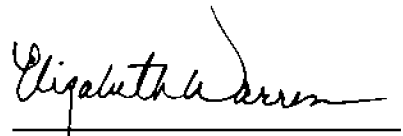
- Pursue cases of individual project fraud.
- Develop a working group to study both the risk to investors associated with carbon offsets and derivatives (legal, reputational, and regulatory) and the systemic climate financial risk created by their availability and usage.

The CFTC has a duty to promote the integrity of U.S. markets through sound regulation and to hold companies accountable for fraud or misrepresentation, and we urge you to set meaningful standards to address these issues in the offset market.

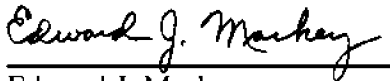
Sincerely,



Cory A. Booker
United States Senator



Elizabeth Warren
United States Senator



Edward J. Markey
United States Senator



Richard Blumenthal
United States Senator



Bernard Sanders
United States Senator



Jeffrey A. Merkley
United States Senator



Kirsten Gillibrand
United States Senator

United States Senate

February 20, 2021

The Honorable David G. Huizenga
Acting Secretary
U.S. Department of Energy
1000 Independent Avenue SW
Washington, DC 20585

The Honorable Richard Glick
Chair
Federal Energy Regulatory Commission
888 1st Street NE
Washington, DC 20426

The Honorable Rostin Behnam
Acting Chair
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street NW
Washington, DC 20581

Dear Acting Secretary Huizenga, Chair Glick, and Acting Chair Behnam:

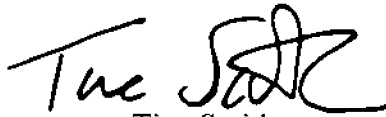
In recent days, extreme cold in large sections of the central United States has caused electric, water and natural gas supply disruptions for millions of families. While the worst of the crisis has been centered in Texas, the effects have rippled across the entire region, including in Minnesota. One such ripple effect has been in the natural gas markets, where natural gas spot prices have spiked, in some cases, to nearly 100 times typical levels. These drastic price increases are forcing utilities and other natural gas users to incur exorbitant costs, much of which could be passed along to consumers in the form of higher electric or natural gas bills over the next year. Further, the price spikes may threaten the financial stability of some utilities that do not have sufficient cash reserves to cover their short-term costs of this extraordinary event. While we don't know all the details yet of what has happened, nor precisely how it will affect utility rates, we do know this situation could be a significant financial burden for utilities and their customers, especially as many Minnesota families are already struggling to get by in the current health and economic crisis.

I write to request that you take three immediate steps to address this situation. First, I urge you to launch an investigation into the conditions in the natural gas market over the last week, including any price gouging by natural gas producers and suppliers. A public report should detail what occurred, make recommendations to prevent such problems in the future, and determine if laws have been broken. Second, I urge you to immediately invoke, as appropriate, any emergency authorities you have, including under the Natural Gas Policy Act, to allocate

natural gas supplies at fair prices. Finally, I urge you to examine options to provide financial support to the utilities and their customers that may be facing a cash crunch or rate increases as a result of the spike in natural gas prices.

Americans must come together to support each other during times of national crisis, and price gouging by natural gas suppliers is a violation of their moral – and potentially legal – obligations. We must come together to provide relief where needed and restore fair and equitable natural gas markets. Thank you for your attention on this urgent matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Tina Smith", with a stylized, flowing script.

Tina Smith
United States Senator

Congress of the United States

Washington, DC 20515

October 24, 2022

The Honorable Rostin Behnam
Chair
Commodity Futures Trading Commission
1155 21st Street NW
Washington, DC 20581

Dear Chair Behnam:

We write seeking information about the steps your agency is taking to stop the revolving door between our financial regulatory agencies and the cryptocurrency (crypto) industry. The crypto sector has rapidly escalated its lobbying efforts in recent months, spending millions in an attempt to secure favorable regulatory outcomes as Congress and federal agencies work to craft and enforce rules to regulate this multi-trillion dollar industry.¹ As part of this influence campaign, crypto firms have hired hundreds of ex-government officials.² We have long been aware of the revolving door in other sectors of the economy – from Big Tech, to the defense industry, to other parts of the financial services sector³ – and we are concerned that the crypto revolving door risks corrupting the policymaking process and undermining the public’s trust in our financial regulators.

According to the Tech Transparency Project, over 200 government officials have moved between public service and crypto firms, serving as advisers, board members, investors, lobbyists, legal counsel, or in-house executives.⁴ These include at least⁵:

¹ Bloomberg, “Crypto Lobbying Skyrocketed Last Year – Even Facebook and IBM Got Involved,” Brody Ford, March 8, 2022, <https://www.bloomberg.com/news/articles/2022-03-08/crypto-lobbying-skyrocketed-last-year-and-quadrupled-since-2018>; Public Citizen, “Capitol Coin: Number of Cryptocurrency Lobbyists Nearly Tripled Since 2018 and Spending Quadrupled, With Help from Revolving Door Lobbyists and Corporate Allies,” Rick Claypool, March 8, 2022, <https://www.citizen.org/article/capitol-coin-cryptocurrency-lobbying-revolving-door-report/>; Protocol, “Crypto’s aggressive bid for more DC firepower,” Benjamin Pimentel, June 15, 2022, <https://www.protocol.com/fintech/crypto-washington-lobby-revolving-door>.

² Tech Transparency Project, “Crypto Industry Amasses Washington Insiders as Lobbying Blitz Intensifies,” February 22, 2022, <https://www.techtransparencyproject.org/sites/default/files/Crypto-Revolving-Door-Report.pdf>.

³ Office of Senator Elizabeth Warren, “Warren, Jayapal Question Raimondo on Big Tech Revolving Door at Department of Commerce and Its Impact on Global Digital Trade Rules,” press release, July 21, 2022, <https://www.warren.senate.gov/newsroom/press-releases/warren-jayapal-question-raimondo-on-big-tech-revolving-door-at-department-of-commerce-and-its-impact-on-global-digital-trade-rules>; Office of Senator Elizabeth Warren, “Warren, Jayapal Call on Treasury, Tax Inspectors General to Investigate Unethical Revolving Door Between Treasury and ‘Big Five’ Accounting Firms,” press release, February 22, 2022, <https://www.warren.senate.gov/newsroom/press-releases/warren-jayapal-call-on-treasury-tax-inspectors-general-to-investigate-unethical-revolving-door-between-treasury-and-big-five-accounting-firms>; Office of Senator Elizabeth Warren, “ICYMI: At Senate Armed Services Committee Hearing, Defense Nominee Agrees to Work with Senator Warren to Address Conflicts of Interest and Ethics at the Pentagon,” press release, July 28, 2022, <https://www.warren.senate.gov/newsroom/press-releases/icymi-at-senate-armed-services-committee-hearing-defense-nominee-agrees-to-work-with-senator-warren-to-address-conflicts-of-interest-and-ethics-at-the-pentagon>.

⁴ Tech Transparency Project, “Crypto Industry Amasses Washington Insiders as Lobbying Blitz Intensifies,” February 22, 2022, <https://www.techtransparencyproject.org/sites/default/files/Crypto-Revolving-Door-Report.pdf>.

⁵ *Id.*

- 31 Treasury Department officials;
- 28 Securities and Exchange Commission officials;
- 15 Commodity Futures Trading Commission officials;
- Six Federal Reserve officials;
- Five Office of the Comptroller of the Currency officials;
- Three Consumer Financial Protection Bureau officials; and
- Two Federal Deposit Insurance Corporation officials.

These officials join at least eight former members of Congress, 79 former congressional staffers, and 32 former White House officials who are currently advising or lobbying for crypto interests.⁶ Amid this hiring spree, crypto firms more than quadrupled their lobbying spending over the last three years.⁷ Just as powerful Wall Street interests have long exercised their influence over financial regulation by hiring former officials with knowledge of government's inner workings, crypto firms appear to be pursuing the same strategy in order to secure "a regulatory system to the industry's exact specifications."⁸ Indeed, hiring former regulators and government officials provides the crypto industry with a sense of legitimacy that is "a vital currency for an industry that designs many of its products to skirt regulatory scrutiny."⁹

Our financial regulators are tasked with ensuring the safety and fairness of our financial markets. The rapid rise of the crypto market has presented regulators with new questions about how these assets will be regulated. But Americans should be able to trust that financial rules are crafted to reduce risk, improve security, and ensure the fair and efficient functioning of the market – not simply to cater to the crypto industry's desire to "avoid the sort of regulatory crackdown it has faced in China and elsewhere."¹⁰ Moreover, Americans should be confident that regulators are working on behalf of the public, rather than auditioning for a high-paid lobbying job upon leaving government service. The rapidly spinning revolving door out of government and into the crypto sector, however, undermines both imperatives.

Given the increasing number of revolving door hires and the implications they may have for crypto regulation, we request answers to the following questions by November 7, 2022:

1. According to your agency's ethics guidelines:
 - a. For what period of time is an individual barred from seeking employment in an industry with which they interacted while working at your agency?
 - b. For what period of time is an individual barred from seeking employment at your agency after leaving an industry that is overseen by your agency?

⁶ *Id.*

⁷ Public Citizen, "Capitol Coin: Number of Cryptocurrency Lobbyists Nearly Tripled Since 2018 and Spending Quadrupled, With Help from Revolving Door Lobbyists and Corporate Allies," Rick Claypool, March 8, 2022, <https://www.citizen.org/article/capitol-coin-cryptocurrency-lobbying-revolving-door-report/>.

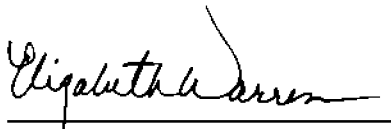
⁸ The American Prospect, "Biden Must Block Crypto's Access to the Revolving Door," Timi Iwayemi and Eleanor Eagan, April 12, 2022, <https://prospect.org/power/biden-must-block-cryptos-access-to-revolving-door/>.

⁹ Revolving Door Project, "Tracking Crypto's Revolving Door," Timi Iwayemi and Dylan Gyauch-Lewis, December 7, 2021, <https://therevolvingdoorproject.org/tracking-cryptos-revolving-door/>.

¹⁰ Tech Transparency Project, "Crypto Industry Amasses Washington Insiders as Lobbying Blitz Intensifies," February 22, 2022, <https://www.techtransparencyproject.org/sites/default/files/Crypto-Revolving-Door-Report.pdf>.

2. What other ethics and transparency rules are in place to ensure the integrity of agency officials and the rulemaking process?
3. What challenges has your agency faced in enforcing and strengthening ethics requirements around revolving door hires?
4. What policies are in place at your agency to protect agency policies from being unduly influenced by current or former employees' potential conflicts of interest?

Sincerely,



Elizabeth Warren
United States Senator



Alexandria Ocasio-Cortez
Member of Congress



Sheldon Whitehouse
United States Senator



Jesús G. "Chuy" García
Member of Congress



Rashida Tlaib
Member of Congress

United States Senate

June 28, 2021

The Honorable Rostin Behnam
Acting Chairman
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21 51 St. NW
Washington, DC 20581

Dear Acting Chairman Behnam:

I write to request that the Commodity Futures Trading Commission (CFTC) investigate Google's "Project Bernanke" and other practices for abusive manipulation of the online advertising market.

Google's Abusive Behavior in Digital Advertising

Today, digital advertising is traded on online exchanges known as ad exchanges. Ad exchanges sit between advertisers and publishers, who use ad-buying and ad-selling software respectively. Specifically, advertisers use ad-buying software to manage advertising budgets and to bid on impressions that are likely to yield the highest return on their investment. At the same time, online publishers use ad-selling software to allocate their ad inventory where it will maximize revenue. The problem is that for more than a decade, Google has controlled the dominant ad exchange, the dominant ad-buying tools, and the dominant ad-selling tools. The situation has been ripe for manipulation, and there is now strong evidence that Google has taken advantage of its position.

I am particularly concerned about revelations of a secret Google program, Project Bernanke.¹ Court documents have revealed the nature of this scheme whereby Google gathered bid data through its ad exchange, AdX, from other market participants and then used that data to give its own ad-buying systems, DV360 and Google Ads, an advantage over their ad-buying competitors. Because Google was able to learn from rival ad buyers' previous bidding data, its ad-buying tools gained a competitive advantage that ultimately boosted their win rates.² Google's ad-buying products thus became more attractive than those offered by rivals, killing off other competing ad buyers that could not deliver advertisers the same win rates as Google.

¹ The Verge, "Google Reportedly Ran Secret 'Project Bernanke' That Boosted Its Own Ad Buying System Over Competitors," Kim Lyons, April 11, 2021, <https://www.theverge.com/2021/4/11/22378296/google-secret-project-bernanke-ad-buying-competitors-texas>.

² A "win rate" is the rate at which an ad-buying platform wins an ad impression when it submits a bid.

Approximately 86 percent of online display advertising in the United States is bought and sold in real time on trading venues called ad exchanges.³ Currently, Google operates the largest ad exchange and dominates the market for tools that publisher-buyers and advertiser-sellers must use to trade. Google's dominance of these markets for advertisement makes their behavior even more concerning. The House Antitrust Subcommittee already noted the danger of Google's conflicts of interest in its Digital Markets Report released in 2020.⁴ These concerns appear well-founded.

Court documents about Project Bernanke explain that Google made hundreds of millions of dollars every year through its secret market-abuse strategy.⁵ While state and federal enforcers are investigating this activity for potential violations of the antitrust laws, the activity raises additional concerns that I believe may be within the CFTC's jurisdiction and warrant close scrutiny.

Display Advertising is a Commodity under the Commodity Exchange Act

I believe digital advertising likely falls within the CFTC's mandate. The Commodity Futures Trading Commission Act (CFTCA) was enacted as an amendment that expands the Commodity Exchange Act (CEA) by "bring[ing] under Federal regulation *all* . . . commodities, goods, and services traded on exchanges."⁶

As commodities and futures fall under its jurisdiction, the CEA and its amendments under the Dodd-Frank Act charge the CFTC with:

Ensur[ing] the financial integrity of all transactions subject to this Act and the avoidance of systemic risk; protect[ing] all market participants from fraudulent or other abusive sales practices and misuses of customer assets; and promot[ing] responsible innovation and fair competition among boards of trade, other markets and market participants.⁷

As you well know, the definition of a commodity under the CEA has proven flexible enough to include new products and technologies as the economy evolves. The CFTC has a long, successful track record of bringing new, previously unimagined markets under its jurisdiction, such as futures based on specific weather events. For example, the CEA has long regulated "livestock" beyond the species specifically enumerated in the statute as subject to futures trading.⁸ In recent years, the CFTC has successfully argued that the CEA grants jurisdiction to regulate

³ Stanford Technology Law Review, "Why Google Dominates Advertising Markets," Dina Srinivasan 24, 55, 56, December 7, 2020, <https://www-cdn.law.stanford.edu/wp-content/uploads/2020/12/Srinivasan-FINAL-Why-Google-Dominates-Advertising-Markets.pdf>.

⁴ Majority Staff of the Subcommittee on Antitrust, Commercial and Admin Law of the H. Comm. On the Judiciary, 116th Congr., Report on the Investigation of Competition in Digital Markets, at 379–80 (2020), https://judiciary.house.gov/uploadedfiles/competition_in_digital_markets.pdf.

⁵ Wall Street Journal, "Google's Secret 'Project Bernanke' Revealed in Texas Antitrust Case," Jeff Horwitz & Keach Hagey, April 11, 2021, <https://www.wsj.com/articles/googles-secret-project-bernanke-revealed-in-texas-antitrust-case-11618097760>.

⁶ S.REP. NO. 93-1131, at 2-3, 1974 U.S.C.C.A.N. at 5844-45.

⁷ CEA § 3(b).

⁸ See Memorandum of Decision, *CFTC v. My Big Coin Pay*, No. 18-CV-10077 (D. Mass., Sept. 26, 2018).

cryptocurrencies like Bitcoin as well.⁹ Display advertising impressions that Google sells on its ad exchanges may similarly fall within the definition of “commodities” under the CEA.¹⁰

To the extent that digital advertising impressions are commodities, Google’s manipulation of ad sales on its exchanges likely falls within the CFTC’s purview under the CEA. Today, the advertising market is functionally unregulated. It is a market worth hundreds of billions of dollars per year, and it is the main revenue driver for some of the country’s largest companies.¹¹

Importantly, if the CFTC determines that the ads Google sells on its ad exchanges are commodities, the CFTC has the authority to investigate under its general jurisdiction rather than its exclusive jurisdiction over futures.¹² Thus, CFTC action would not preempt or interfere with other enforcement actions against Google.¹³

Like high-frequency traders, ad exchanges provide in real time a platform for the sale of ad inventory each time a web page loads. Tens of billions of digital advertisements are traded on ad exchanges every day in the US.¹⁴ The market for digital advertising has become perhaps the most actively traded commodity exchange in the world.

The market is subject to private regulation, however, by the dominant player in the market—Google. Google exercises that regulatory power to benefit itself and to exploit other market participants, both large and small. As the December 2020 complaint filed by 11 State Attorneys General in the Eastern District of Texas aptly put it:

Imagine if the financial markets are controlled by one monopoly company, say Goldman Sachs, and that company then owns the [New York Stock Exchange], which is the largest financial exchange, that then trades on that exchange to advantage itself, eliminate

⁹ *Id.*; see also Press Release, CFTC, Federal Court Finds that Virtual Currencies Are Commodities (Oct. 3, 2018), <https://www.cftc.gov/PressRoom/PressReleases/7820-18>; see also J. Paul Forrester & Matthew Bisanz, *Virtual Currencies as Commodities?*, HARV. L. SCH. F. CORP. GOVERNANCE (Dec. 3, 2018), <https://corpgov.law.harvard.edu/2018/12/03/virtual-currencies-as-commodities/>.

¹⁰ CEA § 1a(9), 7 U.S.C. § 1a(9) (“All other goods and articles . . . and all services, rights, and interests . . . in which contracts for future delivery are presently or in the future dealt in.”).

¹¹ The advertising industry generates approximately \$629 billion in revenue each year, 44 percent of which comes from digital advertising alone. *Vault*, “Advertising,” <https://www.vault.com/industries-professions/industries/advertising#:~:text=The%20advertising%20industry%20is%20a,that%20spending%20in%20digital%20advertising> (last visited May 5, 2021); see also, Statista, “Google: Annual Advertising Revenue 2001-2020,” Joseph Johnson, February 5, 2021, <https://www.statista.com/statistics/266249/advertising-revenue-of-google/>.

¹² The CEA conferred “exclusive jurisdiction over a limited, discrete set of items related to the making of futures contracts. Specifically, these items included “(1) accounts involving contracts of sale of a commodity for future delivery, (2) agreements involving the same, (3) transactions involving the same, and (4) transactions subject to regulation by the CFTC pursuant to section 23 of this title (dealing with so called margin or leverage contracts).” *F.T.C. v. Ken Roberts Co.*, 276 F.3d 583, 589 (D.C. Cir. 2001).

¹³ For example, manipulations of the London Interbank Offered Rate and foreign exchange instruments, have featured concurrent criminal cartel investigations by the Antitrust Division of the Department of Justice. David Yeres, Robert Houck, Tim Cornell & John Friel, “Futures & Derivatives Law Report,” 39 J. L. INV. & RISK MGMT. 1, 5 (Jan. 2019).

¹⁴ Wired “Should Google’s Ad Market Be Regulated Like the Stock Market?”, Gilad Edelman, August 31, 2020, <https://www.wired.com/story/google-ad-market-regulated-like-stock-market/>.

competition, and charge a monopoly tax on billions of daily transactions. That is the world of online display advertising today.¹⁵

The allegations around Project Bernanke, if true, would constitute deeply troublesome market manipulation by Google. To ensure that it maintains its dominant position, Google appears to be using its control over the exchanges to prevent other ad-buying tools from gaining market share against it. Google is not hiding this fact. In its court filings in Texas, Google acknowledges that Project Bernanke used customer bid data submitted in the past to make it more likely that Google Ads would win ad auctions “that would otherwise be won by other buying tools.”¹⁶ This behavior raises serious concerns about the fairness and transparency of these ad exchanges.

* * * * *

I call on the CFTC to investigate Project Bernanke as a potential violation of the CEA. The CFTC has the authority to investigate and file a manipulation claim against any person it believes (i) had the ability to influence the price of a commodity, (ii) specifically intended to create an artificial price, (iii) created an artificial price, and (iv) engaged in conduct that caused the artificial price.¹⁷ Google’s conduct through Project Bernanke fits this description. Other conduct by Google may also fit this description and would also be within the CFTC’s power to investigate these potential violations.¹⁸ Given the power of a company like Google to unilaterally manipulate the online advertising market, it is critical that the CFTC ensures these new digital commodities are traded fairly and without harmful manipulation.

I thank you for your attention to this urgent matter.

Sincerely,



Elizabeth Warren
United States Senator

¹⁵ Complaint, Texas, et al. v. Google LLC at ¶ 33 (E.D. Tx. 2020) (No. 4:20cv957) (hereafter “Texas Complaint”).

¹⁶ MLex Market Insight, “Google Acknowledges it Foresaw Possibility of Probe of ‘Jedi Blue’ Advertising Deal with Facebook,” Michael Acton & Mike Swift, April 7, 2021.

<https://www.mlex.com/GlobalAdvisory/DetailView.aspx?eid=1279161&siteid=257&rdir=1>.

¹⁷ CEA § 9(a)(2).

¹⁸ For example, the Last Look and Average Revenue Share programs discussed in the Texas Complaint. Complaint, Texas, et al. v. Google LLC at ¶ 33 (E.D. Tx. 2020) (No. 4:20cv957) (hereafter “Texas Complaint”).

United States Senate

October 15, 2020

The Honorable Walter Joseph "Jay" Clayton, III.
Chairman
U.S. Securities and Exchange Commission
100 F Street NE
Washington, D.C. 20549

The Honorable Heath P. Tarbert
Chairman and Chief Executive
U.S. Commodities Futures Trading Commission
1155 21st St. NW
Washington, DC 20581

Dear Chairman Clayton and Chairman Tarbert:

I write regarding an October 14, 2020, report in *The New York Times* that in February 2020, as President Trump and his administration publicly assured the American public that the coronavirus disease 2019 (coronavirus) was "very much under control" and that the "stock market [is] starting to look very good to me," his top advisers were privately providing much more dire reports to Republican donors and other members of the conservative Hoover Institution's board of directors, with "nearly every official ... rais[ing] the virus 'as a point of concern, totally unprovoked.'" ¹ According to *The New York Times*, this private briefing "was the first significant sign of skepticism among Trump administration officials about their ability to contain the virus," and indicated to investors that they should "[s]hort everything ... betting on the idea that the stock prices of companies would soon fall."² Two investors indicated "that aspects of the readout from Washington informed their trading that week, in one case adding to existing short positions in a way that amplified ... profits."³

If this report is accurate, it represents an appalling abdication of duty by President Trump and top officials in his administration, revealing that while publicly claiming to be optimistic about the coronavirus and its impact on the economy, they were privately informing donors and conservative allies that conditions were much more dire using information that was likely nonpublic. It also indicates that numerous investors may have used this early and inside information about the looming, tragic economic and public health consequences of the pandemic to extract profits for themselves.

¹ New York Times, "As Virus Spread Early On, Reports of Trump Administration Briefings Fueled Sell-off," Kate Kelly and Mark Mazzetti, October 14, 2020, <https://www.nytimes.com/2020/10/14/us/politics/coronavirus-trump-investors.html>.

² *Id.*

³ *Id.*

This incident – in which “[t]he president’s aides appeared to be giving wealthy party donors an early warning of a potentially impactful contagion at a time when Mr. Trump was publicly insisting that the threat was nonexistent”⁴ – appears to be a textbook case of insider trading, and I am writing to request that you open an investigation of this matter, including a review of the material nonpublic information provided to investors and any trading that occurred as a result of this exchange of material nonpublic information, as expeditiously as possible.

This incident is egregious and shocking, and it is just the latest example of unusual trading activity involving Trump administration officials and agency decisions affecting individuals, companies, or the stock market. I have previously written to you regarding potential insider trading related to the Trump administration’s unusual decision to award Kodak an over \$750 million loan for pharmaceutical production,⁵ suspicious trading related to defense industry stocks or commodities in advance of the administration’s attacks in Iran,⁶ Navient Corporation stock trades in advance of Department of Education announcements,⁷ and suspicious activity by Department of Commerce Secretary Wilbur Ross.⁸ This series of examples of questionable trading activity related to Trump administration actions has become a pattern that deserves intense scrutiny from the Securities and Exchange Commission (SEC) and the Commodities Futures Trading Commission (CFTC).

Federal law bars individuals from “purchasing or selling a security while in possession of material nonpublic information”⁹ – in this case, high-level administration officials’ dire views of the economic risks from the coronavirus that were in stark contrast to the public statements of the President and other top officials. Violation of these laws may subject individuals to civil penalties “three times the amount of the profit gained or loss avoided” and criminal penalties up to \$5,000,000 and 20 years imprisonment.¹⁰ Similarly, insider trading of swaps, futures, or commodities markets may violate CFTC’s insider trading rules promulgated under *the Dodd-Frank Wall Street Reform and Consumer Protection Act*.¹¹

⁴ New York Times, “As Virus Spread Early On, Reports of Trump Administration Briefings Fueled Sell-off,” Kate Kelly and Mark Mazzetti, October 14, 2020, <https://www.nytimes.com/2020/10/14/us/politics/coronavirus-trump-investors.html>.

⁵ Letter to the Honorable Jay Clayton from Sen. Elizabeth Warren, August 3, 2020, <https://www.warren.senate.gov/imo/media/doc/2020.08.03%20Letter%20to%20SEC%20re%20Kodak%20stock%20trades.pdf>.

⁶ Letter to the Honorable Jay Clayton and the Honorable Heath Tarbert, from Sen. Elizabeth Warren, January 13, 2020, <https://assets.documentcloud.org/documents/6641867/Sen-Warrenletter.pdf>;

⁷ Letter to the Honorable Jay Clayton from Sen. Elizabeth Warren, October 23, 2017, https://www.warren.senate.gov/files/documents/2017_10_23_Letter_to_Navient.pdf

⁸ Letter to the Honorable Jay Clayton from Sen. Elizabeth Warren, June 27, 2018, https://www.warren.senate.gov/imo/media/doc/2018-6-27_Letter_to_SEC_about_Wilbur_Ross_and_Navigator_Holdings1.pdf.

⁹ Insider Trading Sanctions Act of 1984, Public Law 98-376.

¹⁰ 15 U.S.C. 78u-1(a)(2); 15 U.S.C. 78ff.

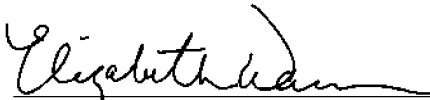
¹¹ Dodd Frank Wall Street Reform and Customer Protection Act, Pub. L. No. 111-2031, § 753 (2010); CFTC, 17 CFR § 180.1 – Prohibition on the employment, or attempted employment, of manipulative and deceptive devices (2011).

Given my concerns about this betrayal of the public by Trump administration officials and about pandemic-related profiteering by well-connected Republican donors and investors, I ask that you investigate this matter as soon as possible, including determining:

1. Which administration officials provided material nonpublic information about the economic and public health risks from the coronavirus to investors, Hoover Institution board directors, and other insiders?
2. How did this information differ in content from the information that the President and other administration officials were providing to the public?
3. Which individuals received this information and to whom did they provide it?
4. Were any trades of securities, swaps, futures, or commodities made by individuals who had access to this nonpublic information, and if so, did these trades represent a violation of insider trading law?

Thank you for your prompt attention to this matter. Please feel free to contact me or my staff if you have any further questions.

Sincerely,



Elizabeth Warren
United States Senator

Congress of the United States

Washington, DC 20515

August 23, 2021

Rostin Behnam
Acting Chairman
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581

Dear Chairman Behnam,

As the COVID-19 pandemic continues to dramatically impact the United States, we appreciate the hard work and leadership you demonstrate at the Commodity Futures Trading Commission (CFTC). Recently, we introduced H.R. 2698 – the Aluminum Pricing Examination (APEX) Act, to bring much needed oversight to the aluminum market by targeting pricing irregularities and clarifying CFTC oversight responsibilities of aluminum reference prices. We are reaching out to obtain input from CFTC on this legislation.

Since 2018, Section 232 tariffs have cost end users of aluminum, like America's beverage and boating industries, millions of dollars. These costs are magnified by problems inherent in the current aluminum pricing structure. Over the past 18 months, the effects of the COVID-19 pandemic have only intensified the enormous costs faced by American businesses, endangering future investment and jobs. In 2020 alone 568,000 jobs were lost in the beer industry and the increasing cost of raw materials has reduced the annual export of new boat sales to Europe by more than 40%. In addition, the Midwest Premium (MWP), on top of the current tariffs and duties on aluminum from outside the country, leaves U.S. competitors vulnerable to competition from foreign suppliers.

This legislation was developed to address concerns surrounding irregularities affecting the price of aluminum for end users. While CFTC currently oversees aluminum swaps, the federal government does not have clear oversight for specific entities that set prices for aluminum. Therefore, the APEX Act would give CFTC proper statutory authority to conduct oversight and investigate price setting and report entities in the aluminum market. This bill also provides the Department of Justice (DOJ) with the ability to consult with CFTC to ensure all oversight and regulatory actions are in accordance with antitrust statutes. Furthermore, the APEX Act allows the Attorney General to formally comment on any proposed CFTC regulatory action or guideline. Nothing in this legislation allows for price setting by the government.

Thousands of business across the country rely on a steady supply of aluminum and deserve to have that supply priced in a fair and transparent manner. The potential anticompetitive behavior that led to MWP's recent irregularities must be examined. We look forward to your response and input on this legislation.

Sincerely,



Al Lawson
Member of Congress



Ken Buck
Member of Congress

From: Wright, Ann
Sent: Mon, 23 May 2022 16:06:30 +0000
To: Gavin, Stephen
Subject: (b)(6)

Stephen,

Thank you for your outreach related to concerns expressed by your constituent, (b)(6) The information you passed along has been shared with the Commission's Division of Enforcement (DOE).

The DOE investigates and prosecutes alleged violations of the Commodity Exchange Act and Commission regulations. Potential violations include fraud, manipulation, and other abuses that threaten market integrity, market participants, and the public.

The CFTC's DOE may pursue, with the approval of a majority of the Commission, enforcement actions against individuals and companies whose conduct violates the Commodity Exchange Act and/or Commission regulations, pursuant to its statutory authority. The Division may file these enforcement actions either in federal court or in administrative proceedings. Any inquiry undertaken by the DOE is confidential and is not disclosed until such time as a public proceeding is brought either before the Commission or in federal court.

(b)(6)

We hope the information we have provided will assist you in responding to your constituent.

Please let us know if we can be of further assistance.

Ann Wright

Ann Wright

Director

Office of Legislative and Intergovernmental Affairs

Commodity Futures Trading Commission

Direct: 202.418.5594

Mobile: 202.441.0453

From: Gavin, Stephen <sgavin@mail.house.gov>

Sent: Wednesday, April 27, 2022 10:09 AM

To: Wright, Ann <AWright@CFTC.gov>

Subject: [EXTERNAL] (b)(6)

CAUTION: This email originated from outside of CFTC. DO NOT click links or open attachments unless you recognize and/or trust the sender. If you believe this is SPAM simply block sender and delete the email. If you suspect this to be a phishing attempt, please use the "Report Phishing" button on your Outlook menu bar.

Dear Ms. Wright:

I respectfully request that your office examine the following information that has been provided to my office by (b)(6)

I am asking that you review (b)(6) case and provide him with any assistance he may be eligible for in accordance with the rules and regulations governing the U. S. Commodity Futures Trading Commission.

Please advise my office about the disposition of this case. You may notify, Stephen Gavin in my Jackson office at 3607 Medgar Evers Boulevard, Jackson, Mississippi 39213 or via email at sgavin@mail.house.gov.

Thank you for your prompt attention to this matter.

Sincerely,

T

Bennie G. Thompson

Member of Congress



U.S. COMMODITY FUTURES TRADING COMMISSION

Three Lafayette Centre
1155 21st Street, NW, Washington, DC 20581
www.cftc.gov

Rostin Behnam
Chairman

(202) 418-5030
Chairman@CFTC.gov

July 29, 2022

The Honorable Kathleen M. Rice
U.S. Representative
House of Representatives
2435 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Glenn Grothman
U.S. Representative
House of Representatives
1427 Longworth House Office Building
Washington, D. C. 20515

Dear Representatives Rice and Grothman,

Thank you for your letter related to concerns regarding the cost of aluminum for end users in the U.S. I appreciate your outreach on this important issue.

In your letter, you express your concern that the Midwest Premium (MWP), a locality differential meant to adjust global aluminum benchmark prices for local supply-demand conditions, such as transportation costs (as well as tariffs), is being misapplied “to metal that is either exempt from tariffs or is sourced here in the United States.” Additionally, you request confirmation of action on a referral from the Inspector General at the Department of Homeland Security (DHS IG) to investigate irregularities in the application and collection of aluminum tariffs.

While the agency cannot comment on any action it might have taken or could take in response to information shared by the DHS IG, we can confirm that the Commodity Futures Trading Commission’s (CFTC) Division of Enforcement has received information from the DHS IG office and will act appropriately. As you note, the CFTC has enforcement authority to combat fraud and manipulation involving commodities in interstate commerce. In addition, while the CFTC has no direct authority over commodity warehouses storing aluminum or Price-Reporting Agencies (PRAs) reporting an MWP, to the extent that a CFTC-registered Designated Contract Market (DCMs) or Swap Exchange Facility (SEFs) has contractual arrangements with such warehouses or PRAs in connection with its marketplace, those arrangements would come within the CFTC’s authority and oversight responsibility if they were to impact the ability of the DCM or SEF to comply with its respective regulatory obligations.¹

As one recent example of the CFTC’s exercise of this authority in a similar market, the CFTC on May 24, 2022, issued an order filing and settling charges against Glencore International A.G. of Switzerland, Glencore Ltd. of New York, and Chemoil Corporation of New York (collectively, Glencore), an energy and commodities trading firm, for manipulative and deceptive conduct. The conduct as addressed in the order involved manipulation and foreign corruption in the U.S.-

¹ For example, the obligation to list contracts that are not readily susceptible to manipulation. See 17 C.F.R. §§ 37.300 (SEFs), 38.200 (DCMs).

based S&P Global Platts physical oil benchmarks and related futures and swaps. The civil monetary penalty of \$865,6430,784 was the highest in any CFTC case. As stated in the May 24, 2022 press release, Glencore engaged in this scheme on hundreds of days in order to manipulate Platts price assessments connected to four fuel oil products, and associated derivatives, in three different United States geographic markets. *See generally* CFTC, Release No. 8534-22, *CFTC Orders Glencore to Pay \$1.186 Billion for Manipulation and Corruption* (May 24, 2022), <https://www.cftc.gov/PressRoom/PressReleases/8534-22>.

The CFTC's enforcement of prohibitions on manipulative and fraudulent conduct in the markets it regulates, as well as the underlying spot commodity markets, protects the integrity of these markets and results in more competitive prices for end-users, market participants, and consumers.

Again, thank you for sharing your concerns on this important issue. If you have further questions, please do contact Ann Wright, Director of Legislative and Intergovernmental Affairs at the CFTC. She can be reached at awright@cftc.gov or 202 418 5594.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Behm". The signature is fluid and cursive, with a large initial "R" and a stylized "Behm".



U.S. COMMODITY FUTURES TRADING COMMISSION

Three Lafayette Centre
1155 21st Street, NW, Washington, DC 20581
www.cftc.gov

Rostin Behnam
Chairman

(202) 418-5030
CFTCChairman@CFTC.gov

February 4, 2022

The Honorable Tommy Tuberville
United States Senate
142 Russell Senate Office Building
Washington, D.C. 20510

Dear Senator Tuberville,

Thank you for your December 1, 2021 letter to me and Chairman Gensler urging consideration of the views and perspectives of state securities regulators in regulatory matters involving digital assets.

The growth and widespread adoption of digital assets presents many challenges for all financial regulators. In that light, the CFTC has actively used our existing statutory authority to address some of these challenges, including the preservation of market integrity and the protection of market participants which increasingly include retail customers through stopping and deterring fraud and manipulation in the digital asset cash market.

The agency has dedicated staff with digital asset expertise who stay current on the development of the technology and innovations that contemplate new uses of digital assets. Staff frequently share those perspectives and information with other financial regulators, including at the state level. The CFTC also has a long history of working with state authorities to address fraud and other unlawful conduct that violates the Commodity Exchange Act. The agency and state regulators may investigate and bring enforcement actions as co-plaintiffs in matters of mutual interest and concern, referring matters to specific jurisdictions where the facts and circumstances favor a more localized forum. As a recent example of this strong partnership, on February 1, 2022, the CFTC and 27 state securities regulators jointly filed an enforcement action to stop a nationwide precious metals fraud, which is the second such joint action over the last few years. These actions show how the CFTC effectively leverages its strong relationships with state authorities to protect U.S. investors.

Having worked as an investigator for the New Jersey Bureau of Securities earlier in my career, I recognize and appreciate the critical role that state agencies play in ensuring our financial markets function as intended with transparency, integrity, robust customer protections, and fair competition, and continue to be recognized as the strongest in the world.

Moving forward, I am ready to work with Congress to reexamine and, if appropriate, expand the CFTC's authority in the digital asset space. I believe this work should address the role of state regulators in the regulatory framework for digital assets.

Please do not hesitate to contact me or have a member of your staff contact Ann Wright, Acting Director of the Office of Legislative and Intergovernmental Affairs at (202) 441-0453 or awright@cftc.gov if we can be of further assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Behman". The signature is fluid and cursive, with the first letter "R" being particularly large and stylized.



U.S. COMMODITY FUTURES TRADING COMMISSION

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Rostin Behnam
Acting Chairman

(202) 418-5030
Chairman@CFTC.gov

September 30, 2021

The Honorable Al Lawson
U.S. House of Representatives
2437 Rayburn House Office Building
Washington, DC 20515

The Honorable Ken Buck
U.S. House of Representatives
2455 Rayburn House Office Building
Washington, DC 20515

Dear Congressman Lawson and Congressman Buck,

Thank you for your letter dated August 23, 2021, regarding the introduction of H.R. 2698 – the Aluminum Pricing Examination (“APEX”) Act. I appreciate you reaching out to the Commodity Futures Trading Commission (“CFTC”) regarding this important matter.

The CFTC plays a critical role in ensuring that derivatives markets function in a competitive, efficient, and transparent way, free from fraud and manipulation. The CFTC’s market oversight responsibilities reflect this mission – and are supported by the agency’s expertise in the use of derivatives instruments as price discovery and risk management tools.

In furtherance of its mission, the CFTC monitors the derivatives markets to help assure that they perform their price discovery and risk management functions. For example, this past year, as it has before, the agency’s staff analyzed and monitored aluminum prices to assess whether derivatives markets were responding to supply chain disruptions and demand fundamentals. This work is critical to our role as derivatives regulators.

In that regard, the CFTC has full regulatory oversight authority over designated contract markets (“DCMs”) and swap execution facilities (“SEFs”) – exchanges on which derivatives instruments are listed for trading. *See* 7 U.S.C. §§7, 7b-3. Among other things, DCMs and SEFs are obligated under the Commodity Exchange Act (“CEA”) to list instruments that are not readily susceptible to manipulation. *See* 7 U.S.C. §§7(d)(3), 7b-3(f)(3). DCMs and SEFs may have contractual arrangements with commodity warehouses and Price Reporting Agencies (“PRAs”) in connection with their listed derivatives instruments that use PRA assessments as a reference point for settlement. If such arrangements were to impact the ability of a DCM or SEF to comply with its regulatory obligations under the CEA and CFTC regulations, including its obligation to list instruments that are not readily susceptible to manipulation, such compliance issues would come within the CFTC’s regulatory authority and oversight responsibility.

The CFTC also has enforcement authority to combat fraud and manipulation involving commodities in interstate commerce (i.e., spot commodity transactions), even where it lacks direct regulatory authority. *See* 7 U.S.C. §§ 9(1), 13(a)(2); 17 C.F.R. §§ 180.1, 180.2. This authority to take enforcement action, as appropriate, for manipulative activity, false reporting, and fraud helps to ensure the integrity of the price discovery process. As relevant here, the CFTC has a strong history of enforcement actions against commercial market participants that have submitted false, misleading, or knowingly inaccurate information to PRAs.

In exercising its regulatory and enforcement authority, the CFTC coordinates with other relevant authorities, including the Department of Justice's Criminal and Antitrust Divisions, and shares information in its possession as requested and appropriate. *See, e.g.*, 7 U.S.C. §§ 12(e) (authorizing the CFTC to share information with any federal department or agency upon request), 19 (requiring the CFTC to take into consideration the public interest to be protected by the antitrust laws in issuing any order or adopting any rule or regulation). Such voluntary coordination and cooperation have served the goals of the CEA and the criminal and antitrust laws well.

I take the role that the CFTC plays in the price discovery and risk management process very seriously, and have full confidence that the agency will continue to use the authorities that it has been granted by Congress to support the integrity of that process, and to foster derivatives markets that are open, transparent, and competitive.

Again, thank you for your letter. If you have further questions, please contact Ann Wright, Acting Director of the Office of Legislative and Intergovernmental Affairs at awright@cftc.gov or 202.441.0453.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Behar". The signature is fluid and cursive, with the first letter "R" being large and prominent.



U.S. COMMODITY FUTURES TRADING COMMISSION

Three Lafayette Centre
1155 21st Street, NW, Washington, DC 20581
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Heath Tarbert
Chairman
Chief Executive Officer

(202) 418-5030
Chairman@CFTC.gov

May 19, 2020

The Honorable Sean Casten
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Cindy Axne
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Mike Levin
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Jared Huffman
The U.S. House of Representatives
Washington, D.C. 20515

The Honorable Denny Heck
U.S. House of Representatives
Washington, D.C. 20515

Dear Representative Casten, Axne, Levin, Huffman and Heck,

Thank you for your letter dated May 4th sharing your concerns about adequate oversight of major banks that under present circumstances related to COVID 19 are potentially poised to take over highly leveraged oil and gas assets. I appreciate hearing from you.

The Commodity Futures Trading Commission (“CFTC” or “Commission”) has a multi layered approach to oversight of trading activities in derivative markets under our jurisdiction. Trading platforms such as designated contract markets (“DCMs” or “Exchanges”) have self-regulatory responsibilities to list contracts that comply with core principle obligations, such as listing of contracts not readily susceptible to manipulation, and to conduct surveillance to ensure compliance with those core principles by traders on those platforms. CFTC’s Division of Market Oversight (DMO) works to ensure that the Exchanges meet and comply with their core principle and related regulatory obligations.

The CFTC separately has a market surveillance program in its Division of Enforcement (“DOE”) that conducts analysis of trader activity across all of the regulated markets to identify and, where appropriate, refer for further investigation and prosecution any activity that potentially violates the Commodity Exchange Act (“CEA”) and Commission regulations. The CEA provides for civil monetary penalties per violation, with limits of \$1 million for manipulation and \$140,000 for other violations, both adjusted for inflation, or three times the gain. Surveillance staff utilizes

a variety of analytical tools to identify trader conduct, regardless of trader identity, that may be manipulative, disruptive or otherwise reflect non bona fide activity in the markets. The Commission has in place a robust mechanism to receive futures trading data in particular on a trade-plus-1 day basis, to receive reports about large traders in the markets and to employ a number of other record keeping and reporting requirements to better understand a market participant's trading activity in our markets.

Thank you again for your letter. If you have further questions, please do not hesitate to reach out to Summer Mersinger, Director of Legislative and Intergovernmental Affairs. She can be reached at smersinger@cftc.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Heath P. Tarbert". The signature is fluid and cursive, with a long horizontal stroke extending from the end.

Heath P. Tarbert
Chairman & Chief Executive



U.S. COMMODITY FUTURES TRADING COMMISSION

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Heath Tarbert
Chairman
Chief Executive Officer

(202) 418-5030
Chairman@cftc.gov

January 28, 2020

The Honorable Frank D. Lucas
Member of Congress
2405 Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman Lucas,

Thank you for your letter of January 23, 2020, expressing support for regulatory relief from the Commodity Futures Trading Commission's (CFTC or Commission) initial margin requirements for seeded funds. I appreciate you taking the time to share your concerns. My staff will review the matter as we continue to consider issues raised by the implementation of the margin rules for uncleared swaps (CFTC Margin Rule).

The Commission finalized the CFTC Margin Rule in December of 2015. The rulemaking treats seeded funds as affiliates of the sponsoring seeding entity. As a result, the uncleared swaps of a seeded fund and its sponsoring seeding entity must be aggregated for the purposes of determining whether the entities come within the scope of the initial margin requirements under the CFTC Margin Rule.

Under my leadership as Chairman of the Commission, the agency has proposed an amendment to the CFTC Margin Rule to extend the phase-in schedule for the implementation of the initial margin requirements. The additional phase-in time would give the Commission a further opportunity to consider implementation issues raised by the CFTC Margin Rule, including the treatment of seeded funds.

In addition, the CFTC's Global Markets Advisory Committee recently published a Federal Register notice announcing the establishment the Subcommittee on Margin Requirements for Non-Cleared Swaps under the Global Markets Advisory Committee (GMAC), which will consider issues raised by the implementation of the CFTC Margin Rule.

Again, I appreciate your thoughtfulness on this important issue and will keep your concerns in mind in the days ahead.

If you have further questions, please do not hesitate to reach out to Summer Mersinger, Director of Legislative and Intergovernmental Affairs at the CFTC. She can be reached at: 202.418.5594 or smersinger@cftc.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Keith P. Taylor". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Chairman & Chief Executive



U.S. COMMODITY FUTURES TRADING COMMISSION

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Heath Tarbert
Chairman
Chief Executive Officer

(202) 418-5030
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July 29, 2020

The Honorable Cindy Hyde-Smith
United States Senator
702 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Hyde-Smith,

Thank you for your recent letter on the issue of futures contracts for legalized sports betting. It is great to hear from you and I truly appreciate your kind words. I often say that if our markets are not working for America's farmers and ranchers, they are not working. Ensuring access to reliable risk mitigation and hedging tools through the use of agriculture commodity futures is a priority for me as Chairman of the Commodity Futures Trading Commission (CFTC or the Commission).

As you mentioned in your letter, we have been in contact with entities interested in using futures contracts to hedge risks related to legalized sports betting. Given the novelty of this product and the fact that the underlying activity may involve gaming and is not legal in all 50 states, this issue requires additional legal analysis, as well as more fulsome consideration of the public policy implications of such a contract. Please know that staff in the CFTC's Division of Market Oversight (DMO) is looking closely at this proposal, carefully weighing all factors involved in the matter. I have asked that they keep me informed on the discussion.

I appreciate hearing your thoughts on this issue and understand the importance of this industry to your home state. If you have further questions or concerns, please contact my Director of Legislative and Intergovernmental Affairs, Summer Mersinger, at 202-418-6074.

Sincerely,

Heath P. Tarbert
Chairman & Chief Executive

Senator Hyde-Smith: I hope all is well with you and your family. Thanks for your outstanding service to our country!



U.S. COMMODITY FUTURES TRADING COMMISSION

Three Lafayette Centre
1155 21st Street, NW, Washington, DC 20581
www.cftc.gov

Rostin Behnam
Acting Chairman

(202) 418-5030
Chairman@CFTC.gov

June 14, 2021

The Honorable Amy Klobuchar
Chair
Subcommittee on Competition Policy,
Antitrust, and Consumer Rights
Senate Judiciary Committee
Washington, D.C. 20510

The Honorable Mike Lee
Ranking Member
Subcommittee on Competition Policy,
Antitrust, and Consumer Rights
Senate Judiciary Committee
Washington, DC 20510

Dear Chairwoman Klobuchar and Ranking Member Lee:

Thank you for your letter of May 26, 2021 raising concerns about vulnerabilities in the U.S. meat supply chain due to lack of competition in the livestock markets. I appreciate hearing your specific concerns and understand the importance of this issue.

This past year brought unprecedented challenges to the entire food supply chain across the country. During that time, the Commodity Futures Trading Commission ("CFTC" or "Commission") brought a heightened focus to the livestock markets to ensure that they continued to be a place for price discovery and risk management. The agency kept a close eye on the derivatives markets and market fundamentals to ensure that futures contracts offered by the exchanges played an effective role for hedging risk.

The mission of the CFTC is to ensure that derivatives markets provide a reliable and transparent market place for price discovery and risk management. For many years, farmers and ranchers have found these markets to be a valuable tool for hedging their costs of production and delivery price, and in return Americans have benefited from affordable food prices. Our oversight of the futures, swaps and options markets includes monitoring prices in the derivatives markets to ensure that they are supported by market fundamentals and monitoring trading activity for illegal behavior prohibited by our statute and regulations.

Should the CFTC identify or otherwise learn of potential illegal activity, the agency's Division of Enforcement would investigate and prosecute, as appropriate, violations of the Commodity Exchange Act and Commission regulations. The Commission has a robust cooperative enforcement program and routinely brings enforcement actions in parallel with the criminal actions brought by the Department of Justice ("DOJ"). The Commission also engages with the U.S. Department of Agriculture ("USDA") in monitoring and conducting investigations of potential illegal activity relating to the agricultural markets. The Commission looks forward to continuing to work with the DOJ and the USDA to further the CFTC's mission as the regulator of the U.S. derivatives markets and to ensure that producers and consumers benefit from strong derivatives markets.

Thank you again for your letter. If you have further questions, please do not hesitate to reach out to Ann Wright, Acting Director of Legislative and Intergovernmental Affairs at awright@cftc.gov or 202.441.0453.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Belm". The signature is fluid and cursive, with a long horizontal stroke at the end.



U.S. COMMODITY FUTURES TRADING COMMISSION

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1155 21st Street, NW, Washington, DC 20581
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Heath Tarbert
Chairman & Chief Executive

(202) 418-5030
Chairman@CFTC.gov

April 28, 2020

The Honorable Mike Lee
Chairman
Subcommittee on Antitrust Competition
Policy and Consumer Rights
Senate Judiciary Committee
Washington, D.C. 20510

The Honorable Amy Klobuchar
Ranking Member
Subcommittee on Antitrust Competition
Policy and Consumer Rights
Senate Judiciary Committee
Washington, D.C. 20510

Dear Senators Lee and Klobuchar,

Thank you for your letter concerning disruptions in the meat supply chain and the related harm to producers and consumers. I appreciate hearing from you on this important issue.

In this time of crisis, farmers, ranchers, and the entire food supply chain play a critical role in ensuring that Americans have ready access to healthy, affordable food. The United States is in the midst of experiencing the devastating impacts and crippling uncertainty caused by COVID-19, including shifts in the fundamentals of supply and demand for agricultural goods, coupled with historic volatility in prices. Please know that the Commodity Futures Trading Commission ("CFTC" or "Commission") is working nonstop to understand the challenges confronting the agricultural sector and to ensure that the derivatives markets are doing their job of providing opportunities for producers and end users to manage risk and the related uncertainty brought on by the pandemic.

In addition to the daily reports on the markets and their performance that is conducted by staff in the Division of Market Oversight ("DMO"), including DMO's Market Intelligence Branch ("MIB"), I have established an agricultural markets task force that will monitor daily, in real time, livestock contracts (Live Cattle, Feeder Cattle and Lean Hogs) with a major focus on Live Cattle. Our market analysts will review a long list of elements each day that may impact the price discovery and risk transfer functions of an efficiently trading futures market. This monitoring will intensify as market conditions warrant and in the run-up to the futures contract expiration. Analysts are watching for any indication prices are moving in an uneconomic manner relative to the underlying commodity's cash prices that could be caused by a trader exerting market power, attempting to manipulate futures prices, or through disruptions caused by supply and demand shocks. If and when the task force suspects a violation of the Commodity

Exchange Act, or CFTC Regulations, that potential violation will be referred to the CFTC's Division of Enforcement.

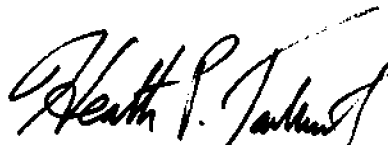
We will continue to work with the appropriate exchanges to ensure that futures contracts are serving as effective tools for risk management and price discovery. Our regulations protect market participants by requiring exchanges to obtain feedback from market participants regarding the design of contracts and to make a good faith effort to address contract performance issues in a timely fashion. The role of CFTC staff is to review whether a contract's terms and conditions are consistent with the Commodity Exchange Act, associated regulations, and to provide guidance. In accordance with our guidance, we focus on examining how contract changes may affect the usefulness of the contract as a risk management and price discovery tool. Equally important is the work of our surveillance team in our Division of Enforcement who continue to watch for illegal trading activity that undermines the integrity of the markets and erodes trust in those markets.

Additionally, as the sponsor of the Agricultural Advisory Committee, I convened a public meeting on Wednesday, April 22, 2020 for members of the committee to receive updates and ask questions about issues affecting end users in the agricultural food supply chain.

Agency staff has been communicating regularly with registrants to understand the obstacles and challenges preventing them from conducting business and meeting deadlines. In response, the Divisions have provided no-action relief to registrants to ensure they have the necessary flexibility and tools to do their job. Details about the relief we have provided can be found on the CFTC's COVID-19 landing page found through the following link:
<https://www.cftc.gov/coronavirus>.

Thank you again for sharing your concerns. I am available if you ever need to reach out about a problem or concern. Please do not hesitate to contact Summer Mersinger, the Director of Legislative and Intergovernmental Affairs at smersinger@cftc.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Heath P. Tarbert". The signature is fluid and cursive, with a long horizontal stroke extending from the end.

Heath P. Tarbert
Chairman & Chief Executive



UNITED STATES
COMMODITY FUTURES TRADING COMMISSION
WASHINGTON, D.C. 20581



UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

September 30, 2021

The Honorable Patrick McHenry
Ranking Member
Committee on Financial Services
U.S. House of Representatives
4340 O'Neill House Office Building
Washington, DC 20515

The Honorable Glenn Thompson
Ranking Member
Committee on Agriculture
400 Cannon House Office Building
Washington, DC 20515

Dear Ranking Members McHenry and Thompson,

Thank you for your August 16, 2021 letter urging an open and collaborative dialogue between the Securities and Exchange Commission (SEC) and the Commodity Futures Trading Commission (CFTC) relating to regulatory matters involving digital assets.

The SEC and CFTC work closely and collaboratively on a wide range of digital asset-related issues. Both agencies have dedicated offices responsible for staying abreast of developments in the digital asset space, and our respective staff communicate frequently about these developments.

Our efforts are assisted further by our respective participation in broader interagency initiatives, such as the President's Working Group on Financial Markets, which is currently working on addressing issues related to stablecoins.¹ The SEC and CFTC also both participate in multiple international bodies that are addressing digital asset-related issues, such as the International Organization of Securities Commissions and the Financial Stability Board.²

¹ *Readout of the Meeting of the President's Working Group on Financial Markets to Discuss Stablecoins* (July 19, 2021), <https://home.treasury.gov/news/press-releases/jy0281>.

² See e.g., *Issues, Risks and Regulatory Considerations Relating to Crypto-Asset Trading Platforms: Final Report of the Board of the International Organization of Securities Commissions* (February 2020), <https://www.iosco.org/library/pubdocs/pdf/IOSCOPD649.pdf>; *Financial Stability Board, Regulation, Supervision and Oversight of "Global Stablecoin" Arrangements: Final Report and High-Level Recommendations* (Oct. 13, 2020), <https://www.fsb.org/wp-content/uploads/P131020-3.pdf>.

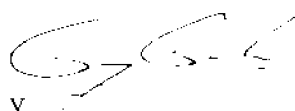
Dating back to the Shad-Johnson accord, the SEC and CFTC have repeatedly been called on to address issues that implicate the unique jurisdictions of each agency and, in response, we have worked collaboratively to ensure there is clarity regarding each agency's authority. Whether those issues are equity derivatives or digital assets, we will continue to closely communicate and work together to ensure the integrity and transparency of our financial markets.

Please do not hesitate to contact us or have a member of your staff contact Kevin Burris, SEC Director of the Office of Legislative and Intergovernmental Affairs, at (202) 551-2010 or Ann Wright, CFTC Acting Director of the Office of Legislative and Intergovernmental Affairs at (202) 441-0453, if we can be of further assistance.

Sincerely,



Rostin Behnam
Chairman
Commodity Futures Trading Commission



Gary Gensler
Chair
Securities and Exchange Commission

cc:

The Honorable Hester M. Peirce
The Honorable Elad L. Roisman
The Honorable Allison Herren Lee
The Honorable Caroline A. Crenshaw
The Honorable Dawn DeBerry Stump
The Honorable Dan M. Berkovitz



U.S. COMMODITY FUTURES TRADING COMMISSION

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Rostin Behnam
Acting Chairman

(202) 418-5575
CFTCChairman@CFTC.gov

February 26, 2021

The Honorable Tina Smith
United States Senator
720 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Smith:

Thank you for your letter of February 20, 2021 raising concerns and questions about volatility in natural gas spot prices related to recent extreme weather conditions that have led to electric, water and natural gas supply disruptions for families across the country. Please know that I am actively in conversation with fellow regulators, and we are monitoring the physical markets closely to assess whether derivative markets, regulated by the Commodity Futures Trading Commission (CFTC), are performing as intended.

The CFTC's mission is to foster open, transparent, competitive, and financially sound derivatives markets. The Commission supports this mission by monitoring the price discovery process to assure that the derivatives markets remain competitive and secure through clear rules and effective oversight. External events such as extreme weather and other supply and demand shocks impact each market in different ways. In this specific instance, agency staff continue to analyze and monitor the natural gas derivatives contract markets to assess whether these markets are responding to supply chain disruptions and demand fundamentals and are performing their price discovery and risk management function.

In addition, Commission staff are also in contact with the relevant exchanges and clearinghouses, which have the responsibility to closely monitor their futures contracts and work to ensure their markets are free from manipulation or other conditions that have the potential to distort prices.

Thank you again for your letter. We look forward to addressing your concerns on this matter and answering any questions you may have. Please contact Ann Wright, Acting Director of Legislative and Intergovernmental Affairs at awright@cftc.gov or 202.441.0453 for additional follow up to your questions.

Sincerely,



U.S. COMMODITY FUTURES TRADING COMMISSION

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Heath Tarbert
Chairman
Chief Executive Officer

(202) 418-5030
Chairman@CFTC.gov

January 28, 2020

The Honorable Elizabeth Warren
United States Senate
309 Hart Senate Building
Washington, DC 20510

Dear Senator Warren,

Thank you for your letter dated January 13, 2020 expressing your concerns about potential illegal trading activity related to military action in Iraq and the death of Iranian Major General Qasem Soleimani on January 2, 2020.

Working to ensure and promote market integrity and transparency is important to the Commodity Futures Trading Commission ("The Commission"). We regularly monitor market moving events to look for abnormalities and suspicious activities. If abnormalities or suspicious activities are detected, the Commission's Division of Enforcement (DOE) investigates such allegations and prosecutes violations of the Commodity Exchange Act and the Commission's regulations, including market manipulation.

The Commission takes all alleged violations seriously, regardless of the source. Any inquiry undertaken by the DOE, however, is confidential and is not disclosed unless a public proceeding is brought either before the Commission or in federal court.

Again, thank you for contacting me about your concerns. If you have any further questions, please feel free to have your staff contact me at (202)-418-6074.

Sincerely,

H
Chairman & Chief Executive



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Heath Tarbert
Chairman & Chief Executive

(202) 418-5030
Chairman@CFTC.gov

April 29, 2020

Mr. Zippy Duvall
President
American Farm Bureau Federation
600 Maryland Avenue, SW
Suite 1000W
Washington, D.C. 20024

Dear Mr. Zippy Duvall,

Thank you for your April 9, 2020 letter expressing concerns about price volatility in the livestock sector. I appreciate the opportunity to follow up with you after our earlier telephone discussion.

In this time of crisis, farmers, ranchers, and the entire food supply chain play a critical role in ensuring that Americans have ready access to healthy, affordable food. The United States is in the midst of experiencing the devastating impacts and crippling uncertainty caused by COVID-19, including shifts in the fundamentals of supply and demand for agricultural goods, coupled with historic volatility in prices. Please know that the Commodity Futures Trading Commission ("CFTC" or "Commission") is working nonstop to understand the challenges confronting the agricultural sector and to ensure that the derivatives markets are doing their job of providing opportunities for producers and end users to manage risk and the related uncertainty brought on by the pandemic.

In addition to the daily reports on the markets and their performance that is conducted by staff in the Division of Market Oversight ("DMO"), including DMO's Market Intelligence Branch ("MIB"), I have established an agricultural markets task force that will monitor daily, in real time, livestock contracts (Live Cattle, Feeder Cattle and Lean Hogs) with a major focus on Live Cattle. Our market analysts will review a long list of elements each day that may impact the price discovery and risk transfer functions of an efficiently trading futures market. This monitoring will intensify as market conditions warrant and in the run-up to the futures contract expiration. Analysts are watching for any indication prices are moving in an uneconomic manner relative to the underlying commodity's cash prices that could be caused by a trader exerting market power, attempting to manipulate futures prices, or through disruptions caused by supply and demand shocks. If and when the task force suspects a violation of the Commodity

Exchange Act, or CFTC Regulations, that potential violation will be referred to the CFTC's Division of Enforcement.

We will continue to work with the appropriate exchanges to ensure that futures contracts are serving as effective tools for risk management and price discovery. Our regulations protect market participants by requiring exchanges to obtain feedback from market participants regarding the design of contracts and to make a good faith effort to address contract performance issues in a timely fashion. The role of CFTC staff is to review whether a contract's terms and conditions are consistent with the Commodity Exchange Act, associated regulations, and to provide guidance. In accordance with our guidance, we focus on examining how contract changes may affect the usefulness of the contract as a risk management and price discovery tool. Equally important is the work of our surveillance team in our Division of Enforcement who continue to watch for illegal trading activity that undermines the integrity of the markets and erodes trust in those markets.

Additionally, as the sponsor of the Agricultural Advisory Committee, I convened a public meeting on Wednesday, April 22, 2020 for members of the committee to receive updates and ask questions about issues affecting end users in the agricultural food supply chain.

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Thank you again for sharing your concerns. I am available if you ever need to reach out about a problem or concern. Please do not hesitate to contact Summer Mersinger, the Director of Legislative and Intergovernmental Affairs at smersinger@cftc.gov.

Sincerely,

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Heath P. Tarbert
Chairman & Chief Executive



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Heath Tarbert
Chairman & Chief Executive

(202) 418-5030
Chairman@CFTC.gov

April 28, 2020

The Honorable Collin C. Peterson
Chairman
Committee on Agriculture
U.S. House of Representatives
1301 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Peterson,

Thank you for your letter concerning the cattle markets and beef prices. I appreciate hearing from you on this important issue.

In this time of crisis, farmers, ranchers, and the entire food supply chain play a critical role in ensuring that Americans have ready access to healthy, affordable food. The United States is in the midst of experiencing the devastating impacts and crippling uncertainty caused by COVID-19, including shifts in the fundamentals of supply and demand for agricultural goods, coupled with historic volatility in prices. Please know that the Commodity Futures Trading Commission ("CFTC" or "Commission") is working nonstop to understand the challenges confronting the agricultural sector and to ensure that the derivatives markets are doing their job of providing opportunities for producers and end users to manage risk and the related uncertainty brought on by the pandemic.

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Heath P. Tarbert
Chairman & Chief Executive



U.S. COMMODITY FUTURES TRADING COMMISSION

Three Lafayette Centre
1155 21st Street, NW, Washington, DC 20581
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Facsimile: (202) 418-5542
www.cftc.gov

December 8, 2020

U.S. House of Representatives
Washington, D.C. 20515

Dear Chairwoman/Chairman:

Thank you for your letter sent on November 25, 2020, requesting a full accounting of political appointees who have been converted or are being considered for conversion to civil service positions and of any positions converted, or being considered for conversion, under the new Schedule F recently created through Executive Order 13957.

The Commodity Futures Trading Commission has not converted any political appointees to permanent positions within the agency. Moreover, after reviewing Executive Order 13957, our agency determined that we did not have any positions requiring conversion to a Schedule F designation.

Please feel free to contact me if you have any additional questions or concerns.

Sincerely,

Anthony C. Thompson
Anthony C. Thompson
Chief Administrative Officer



U.S. COMMODITY FUTURES TRADING COMMISSION

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1155 21st Street, NW, Washington, DC 20581
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Heath Tarbert
Chairman & Chief Executive

(202) 418-5030
Chairman@CFTC.gov

April 28, 2020

The Honorable Ben Sasse
United States Senate
107 Russell Senate Office Building
Washington, D.C. 20510

Dear Senator Sasse,

Thank you for your letter concerning the cattle markets and beef prices. I appreciate hearing from you on this important issue.

In this time of crisis, farmers, ranchers, and the entire food supply chain play a critical role in ensuring that Americans have ready access to healthy, affordable food. The United States is in the midst of experiencing the devastating impacts and crippling uncertainty caused by COVID-19, including shifts in the fundamentals of supply and demand for agricultural goods, coupled with historic volatility in prices. Please know that the Commodity Futures Trading Commission ("CFTC" or "Commission") is working nonstop to understand the challenges confronting the agricultural sector and to ensure that the derivatives markets are doing their job of providing opportunities for producers and end users to manage risk and the related uncertainty brought on by the pandemic.

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Sincerely,

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Heath P. Tarbert
Chairman & Chief Executive



U.S. COMMODITY FUTURES TRADING COMMISSION

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Heath Tarbert
Chairman
Chief Executive Officer

(202) 418-5030
Chairman@CFTC.gov

July 21, 2020

The Honorable Alex X. Mooney
U.S. House of Representatives
2440 Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman Mooney,

Thank you for sharing your concerns related to the gold markets.

In your April 13, 2020 letter you specifically mention concerns about the rising risk of defaults in the U.S. gold and silver markets. Exchange staff monitor deliveries and receipts of gold for defaults or delivery difficulties, and no problems have been observed during this period; and, COMEX gold warehouse stocks have recently reached an all-time high level.

In addition, it is my understanding that the reference COMEX gold contract only has delivery points in the United States and a trader cannot deliver or receive gold against this contract in London, or any other international location. Further, delivery of 400 ounce gold bars is not permitted in the reference contract. During this period, the Chicago Mercantile Exchange (CME) did list a new gold contract that allows delivery of 400-ounce gold bars, in addition to 100-ounce and 1-kilo bars, and, starting with the September 2020 contract, deliveries in London will be allowed against this contract.

In your letter you raise two questions. One, does the Commodity Futures Trading Commission (CFTC or Commission) have jurisdiction over manipulative futures trading by the U.S. government or its brokers or agents or other government? And, two, is the Commission aware of futures trading by the U.S. government, its brokers, or agents?

The answer to the first question is yes. The CFTC has authority to take action with respect to manipulative conduct that affects our markets. If any government (U.S. or foreign) engages in "threatened or actual market manipulations," the CFTC has emergency power under Section 8a(9) of the Commodity Exchange Act to take such action it deems "necessary to maintain or restore orderly trading in or liquidation of any futures contract." The CFTC also has the authority under Sections 6(c)(1), 6(c)(2), 9(a)(2), and Regulations 180.1 and 180.2 to take enforcement action against government agents or brokers who manipulate or attempt to manipulate the price of futures on our markets. The CFTC's jurisdiction covers all participants trading in its markets, including registrants such as brokers.

The answer to the second question is more nuanced. Information about specific entities that trade in our markets is non-public. Generalized information about markets is made publicly available weekly. That information does not include classes of traders. The Commission, however, sees all reportable positions and can review any transaction executed upon any regulated exchange or Swap Execution Facility. Our exams staff also has access to the positions of any clients of futures commission merchants.

Again, thank you for your interest and concern regarding illegal conduct in the precious metals markets. Please know that I am committed to being tough on those who break the rules and will continue to support robust oversight and enforcement when necessary.

If you have further questions or need additional information, please feel free to reach out to Summer Mersinger, Director of Legislative and Intergovernmental Affairs at 202-418-6074.

Sincerely,

A handwritten signature in black ink, appearing to read "Heath P. Talbot". The signature is fluid and cursive, with a long horizontal stroke extending from the end.

TOMMY TUBERVILLE
ALABAMA

142 RUSSELL SENATE OFFICE BUILDING
WASHINGTON, DC 20510-0107
(202) 224-4124

United States Senate

COMMITTEES
ARMED SERVICES

AGRICULTURE, NUTRITION,
AND FORESTRY

HEALTH, EDUCATION,
LABOR, AND PENSIONS

VETERANS' AFFAIRS

December 1, 2021

The Honorable Gary Gensler
Chairman
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

The Honorable Rostin Behnam
Acting Chairman
U.S. Commodity Futures Trading Commission
1155 21st Street, NW
Washington, DC 20581

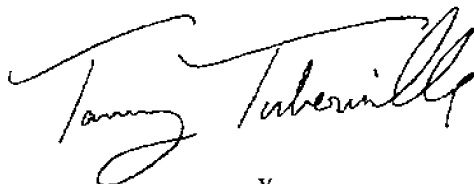
Chairman Gensler and Acting Chairman Behnam,

I am sure that you will both agree it is essential for the United States to be at the forefront of the digital assets game. To achieve this goal and ensure that investor protections are honored, digital asset firms must be brought into the regulatory fold in a way that does not undercut innovation. As your agencies work to address this challenge, I ask that you make a concerted effort to engage with state securities regulators.

States are laboratories for democracy and good government practices. State securities regulators have led the way in the early regulation of digital assets. The Alabama Securities Commission has been a national leader in this regard. Regulators at the state level have unique insights, and collaboration between your agencies and these entities will enhance your ability to achieve your respective missions.

To that end, I ask that you give strong consideration to including representatives from state securities regulators in your internal and joint working groups relating to digital assets. I appreciate your consideration of this suggestion and request a response laying out the specific steps that your respective agencies are taking or plan to take to foster enhanced federal-state dialogue on the regulation of digital assets.

Sincerely,



y
United States Senator

cc: The Honorable Hester M. Peirce
The Honorable Elad L. Roisman
The Honorable Allison Herren Lee
The Honorable Caroline A. Crenshaw
The Honorable Dawn DeBerry Stump