

Testimony of Rostin Behnam
Chairman, Commodity Futures Trading Commission
U.S. House Committee on Agriculture
March 6, 2024

Chairman Thompson, Ranking Member Scott and members of the Committee, thank you for the opportunity to appear before you today to provide an update on the work of the Commodity Futures Trading Commission (CFTC), our priorities, and some emerging trends in our jurisdictional space.

For over a century, derivatives markets have played a key role in the U.S. economy, contributing to financial stability and predictability of prices that impact the daily lives of all Americans, especially our nation’s farmers and ranchers. Recognizing the historical roots of our agency and the continued importance of derivatives to agricultural stakeholders, I am pleased to announce that the CFTC and the Center for Risk Management Education and Research (CRMER) at Kansas State University will be hosting the third Agriculture Commodity Futures Conference on April 11th and 12th in Overland Park, Kansas.¹

I know I speak for all the Commissioners when I thank CFTC staff for their commitment to the agency and its mission. My team and I are working closely with staff and their union representatives in order to find a suitable work posture, post-pandemic, that honors the importance of being present and together in the office with appropriate flexibility, and ensures our accountability as good stewards of taxpayer money. The agency’s long-term health and success depend on it.

It has been over 13 years since the Dodd-Frank Wall Street Reform and Consumer Protection Act² expanded the CFTC’s authority. In that time, derivatives markets have experienced massive growth: trading volumes in exchange-traded futures and options have more than doubled; and the swaps market brought within our jurisdiction pursuant to the Dodd-Frank Act is now over \$350 trillion,³ which is approximately half of the estimated \$715 trillion global market.

Today, technology is having a larger impact on CFTC jurisdictional markets than ever before. Innovators eager to meet demand for products and services are proposing traditional and nontraditional models that leverage technology in synergistic ways. At the same time, a growing number of less traditional retail participants are entering our markets, enabled by mobile phone application technology and an endless stream of information to pursue investment opportunities.

¹ See Press Release Number 8857-24, CFTC, CFTC, Kansas State University Announced Featured Panels for AgCon2024 (Feb. 8, 2023), [CFTC, Kansas State University Announce Featured Panels for AgCon2024 | CFTC](#); Press Release Number 8832-23, CFTC, AgCon2024 Set for April 11-12 (Dec. 8, 2023), [AgCon2024 Set for April 11-12 | CFTC](#).

² Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. No. 111-203, 124 Stat. 1376 (2010) (the “Dodd-Frank Act”).

³ CFTC, Weekly Swaps Report, [Weekly Swaps Report | CFTC](#).

Surveying the current landscape, the CFTC's regulations have developed over decades to oversee markets made of individual, discrete entities, each typically performing one function in a multi-step trade cycle. However, we are seeing a shift to structures, driven by technology, that combine or compress what have historically been unique and separate activities into a single or fewer entities. This compression raises many important questions including those regarding conflicts of interest within vertically integrated structures, the strength of capital, margin, and segregation requirements, the role and responsibilities of self-regulatory organizations, affiliate risk management, and most importantly, customer protections.

As this Committee continues to consider reauthorization of the CFTC, I believe there are several important policy questions that will benefit from broader Congressional consideration and debate regarding market structure, permissible products, and retail participation. While our current regulatory agenda demonstrates significant agility within our jurisdictional space, we periodically bump up against the limits of what may be contemplated under existing law given the relatively rapid evolution of markets, market structure, and technology.

To provide a glaring example from the past decade, the recent technology driven increase in direct retail participation in the derivatives markets and underlying commodity markets in areas such as digital commodity assets has tested the limits of the existing regulatory framework. The CFTC's mission and duties, while providing room for some adaptation to new products and structures, are not endlessly flexible: we must be able to ensure that the products offered and available are suitable for all participants, that only appropriate persons or entities may solicit or handle customer funds, and that the disclosure information provided is material for main street customers.

As Chairman, I have stressed that new market structures and participants eager to deploy all manner of financial technology must comply with the agency's rules and regulations.⁴ This is especially true when it comes to protecting customers, consumers, and the larger financial markets from fraud, money laundering, and other financial crimes. For example, when the use of digital assets and related enabling technologies for illicit financial purposes threatens national security and may fund acts of war and terrorism, our laws must continue to aggressively demand that all market entrants implement and comply with know-your-customer (KYC) and anti-money laundering (AML) procedures, and Customer Information Programs (CIPs).

Enforcement matters like the CFTC's globally significant BitMex⁵ and Binance⁶ cases amplify the urgency. I believe we could do even more to protect customers and markets if given additional

⁴ See, e.g., Rostin Behnam, Chairman, CFTC, Keynote of Chairman Rostin Behnam at the 2023 U.S Treasury Market Conference (Nov. 16, 2023), [Keynote of Chairman Rostin Behnam at the 2023 U.S. Treasury Market Conference | CFTC](#).

⁵ See Press Release Number 8412-21, CFTC, Federal Court Orders BitMEX to Pay \$100 Million for Illegally Operating a Cryptocurrency Trading Platform and Anti-Money Laundering Violations (Aug. 10, 2021), [Federal Court Orders BitMEX to Pay \\$100 Million for Illegally Operating a Cryptocurrency Trading Platform and Anti-Money Laundering Violations | CFTC](#).

⁶ See Press Release Number 8680-23, CFTC, CFTC Charges Binance and its Founder, Changpeng Zhao, with Willful Evasion of Federal Law and Operating an Illegal Digital Asset Derivatives Exchange (Mar. 27, 2023), [CFTC](#)

authority in the KYC, AML, and CIP space and welcome the opportunity to work with Congress on solutions.

The Commission's exercise of its enforcement authorities to address misconduct that has a direct impact on CFTC jurisdictional markets, affects the larger economy, causes public harm, or interferes with market integrity is one facet of our approach to innovation and the evolution of financial markets.

Nowhere have we been more active than in the digital asset space. In FY 2023, we brought 47 actions involving conduct related to digital commodities, representing more than 49% of all CFTC actions filed during that period. A staggering statistic given the fact that no federal agency retains any direct regulatory authority over the underlying (or cash) digital commodity asset market. To date, FY 2024 is demonstrating a similar cadence.

The lack of legislation addressing the regulatory gap over the digital commodity asset spot market has not hindered the public's enthusiasm for digital assets, and I continue to believe Congress must act, as the 2022 FSOC report highlighted⁷, and as I have mentioned publicly on multiple occasions.⁸ I am grateful to members of this Committee for your continued leadership in recognizing these gaps, and for leading legislative efforts to provide the CFTC with the necessary authority to properly regulate digital commodity assets and protect the U.S. financial system.

A key to the effectiveness of our enforcement division is the CFTC's whistleblower program. The Dodd-Frank Act established the Customer Protection Fund⁹ that supports our Whistleblower Program¹⁰ and the Office of Customer Education and Outreach (OCEO). As of FY 2023, the Whistleblower program has issued 41 orders granting awards totaling almost \$350 million since its inception in FY 2010.¹¹ In fiscal year 2024, the program has, thus far, awarded \$18 million to whistleblowers. The total sanctions ordered in all whistleblower-related enforcement actions has surpassed the \$3 billion milestone. Without this important program, the CFTC would not be as successful in bringing actions against misconduct in the digital commodity asset spot market.

As this Committee knows, the overwhelming success of the Whistleblower Program has unintentionally led to the potential for disruptions in these two vital offices due to their funding mechanisms. In addition to the importance of a long-term fix to avoid depletions greater than the

[Charges Binance and Its Founder, Changpeng Zhao, with Willful Evasion of Federal Law and Operating an Illegal Digital Asset Derivatives Exchange | CFTC.](#)

⁷ Financial Stability Oversight Council, *Report on Digital Assets and Financial Stability Risks and Regulation* (Oct. 2022), [Report on Digital Asset Financial Stability Risks and Regulation 2022 \(treasury.gov\)](#).

⁸ See, e.g., Rostin Behnam, Chairman, CFTC, Keynote of Chairman Rostin Behnam at the ABA Business Law Section Derivatives & Futures Law Commission Winter Meeting (Jan. 26, 2024), [Keynote of Chairman Rostin Behnam at the ABA Business Law Section Derivatives & Futures Law Committee Winter Meeting | CFTC.](#)

⁹ CEA § 23(g), 7 U.S.C 26(g).

¹⁰ COMMODITY FUTURES TRADING COMMISSION WHISTLEBLOWER PROGRAM, [CFTC's Whistleblower Program | Whistleblower.gov.](#)

¹¹ See CFTC, *FY 2023 Whistleblower Program & Customer Education Initiatives 2023 Annual Report* (Oct. 2023), [FY 2023 Whistleblower Customer Education Report to Congress.pdf.](#)

total balance of the fund, I believe Congress should amend the statutory provisions to clarify the permitted uses of the Customer Protection Fund by the OCEO.¹² This change would allow the Commission to implement a host of new investor protection programs and provide information aimed at ensuring American families have the knowledge and tools to not only protect themselves from fraud and manipulation, but to more fully engage with the Commission and the markets we oversee.

One very important topic that continues to challenge the derivatives industry and the CFTC is cyber risk. Last year at this time, we were addressing the impacts of a cyber-related incident on ION Cleared Derivatives, a third-party service provider.¹³ The severity of the impact on each futures commission merchant's (FCM's) operations, as well as each FCM's ability to work-around impacted applications, varied based on the ION application used.¹⁴ Notably, the incident impacted the timely and accurate submission of positions data to the CFTC, and therefore delayed the timely release of the Commitments of Traders (CoT) report.

Under my direction, the Commission voted unanimously in December to issue a notice of proposed rulemaking to require FCMs, swap dealers (SDs), and major swap participants (MSPs) to establish an operational resilience framework and adopt non-binding Commission guidance related to the management of risks stemming from third-party relationships.¹⁵ The proposed rule would require the covered entities to establish, document, implement, and maintain an Operational Resilience Framework (ORF). This proposal would require a process to identify, monitor, manage, and assess risks relating to IT security, third-party relationships, and emergencies or other significant disruptions to their operations as a CFTC registrant.¹⁶ The ORF would need to include three components: an IT security program, a third-party relationship program, and a business continuity and disaster recovery (BCDR) plan.

¹² See CEA section 23(g)(2); 7 USC 26(g)(2).

¹³ See CFTC, CFTC Statement on Ion and the Impact to the Derivatives Markets (Feb. 2, 2023), [CFTC Statement on ION and the Impact to the Derivatives Markets | CFTC](#); see also, Press Release Number 8655-23, CFTC, CFTC Issues Statement on the Ongoing Impact to Reporting (Feb. 10, 2023), [CFTC Issues Statement on the Ongoing Impact to Reporting | CFTC](#); Press Release Number 8662-23, CFTC Announces Postponement of Commitments of Traders Reports (Feb. 16, 2023), [CFTC Announces Postponement of Commitments of Traders Report | CFTC](#).

¹⁴ See Rostin Behnam, Chairman, CFTC, Keynote of Chairman Rostin Behnam at the FIA Boca 2023 International Futures Industry Conference, Boca Raton, Florida (Mar. 15, 2023), [Keynote of Chairman Rostin Behnam at the FIA Boca 2023 International Futures Industry Conference, Boca Raton, Florida | CFTC](#); Rostin Behnam, Chairman, CFTC, Testimony of Chairman Rostin Behnam Regarding "Oversight of the Commodity Futures Trading Commission" before the U.S. Senate Committee on Agriculture, Nutrition, and Forestry (Mar. 8, 2023), [Testimony of Chairman Rostin Behnam Before the U.S. Senate Committee on Agriculture, Nutrition, & Forestry | CFTC](#).

¹⁵ Operational Resilience Framework for Futures Commission Merchants, Swap Dealers, and Major Swap Participants, 89 FR 4706 (Proposed Jan. 24, 2024) (to be codified at 17 C.F.R. pts. 1 and 23), [2023-28745a.pdf \(cftc.gov\)](#).

¹⁶ See CFTC, Fact Sheet and Q&A – Notice of Proposed Rulemaking to Require Futures Commission Merchants, Swap Dealers, and Major Swap Participants to Establish an Operational Resilience Framework (Dec. 13, 2023), available at [CFTC to Hold a Commission Open Meeting on December 13 | CFTC](#).

As I have often said, we recognize that our rules apply to covered entities that represent many different business models, and may be a part of a larger corporate family subject to the concurrent supervision of multiple domestic and perhaps international regulators. CFTC staff have strong working relationships with our fellow market and prudential regulators. Whether we are working on joint rulemakings or engaging in discussions regarding policy that impacts the derivatives markets directly or indirectly, our approach is always aimed at harmonizing where we can and avoiding duplicative and unnecessarily burdensome outcomes. We are actively working with our fellow regulators on a number of matters that impact CFTC regulated markets.

Another topic presenting challenges and opportunities for the agency is artificial intelligence (AI). I am proud to say that recently the CFTC's new AI Task Force issued a request for comment (RFC) on the use of AI in CFTC-regulated markets.¹⁷ The AI RFC is part of a greater vision I have had since my first days as Chairman: advancing analytical capabilities through building talent, leveraging the cloud, and developing a forward-looking AI culture. We have a process in place for exploring AI use cases to help the agency better monitor, regulate, surveil, identify pockets of stress, and enforce compliance. Further, our OCEO recently issued a Customer Advisory warning the public about AI-driven fraud and scams.¹⁸

In December, the Commission proposed guidance regarding the listing of voluntary carbon credit (VCC) derivative contracts.¹⁹ Identified as one of the most important developments for the carbon industry,²⁰ this is the first proposed guidance on standards applicable to exchanges listing products aimed at providing tools to manage risk, promote price discovery, and help encourage integrity in these markets.²¹ All landowners, including America's farmers and ranchers, can benefit from high integrity voluntary carbon markets.

Under my direction as Chairman, the CFTC hired its first ever Chief Diversity Officer (CDO) who oversees the agency's Office of Minority and Women Inclusion (OMWI). In the near future, I plan to release the CFTC's first DEIA Strategic Plan. Among other things, the Plan will aim to further develop our workforce. Current efforts through our OMWI include establishing partnerships and recruiting at minority serving institutions and rural colleges and universities,

¹⁷ See Press Release Number 8853-24, CFTC, CFTC Staff Releases Request for Comment on the Use of Artificial Intelligence in CFTC-Regulated Markets (Jan. 25, 2024), [CFTC Staff Releases Request for Comment on the Use of Artificial Intelligence in CFTC-Regulated Markets | CFTC](#).

¹⁸ See Press Release Number 8854-24, CFTC, CFTC Customer Advisory Cautions the Public to Beware of Artificial Intelligence Scams (Jan. 25, 2024), [CFTC Customer Advisory Cautions the Public to Beware of Artificial Intelligence Scams | CFTC](#).

¹⁹ Commission Guidance Regarding the Listing of Voluntary Carbon Credit Derivative Contracts; Request for Comment, 88 FR 89410 (Dec. 27, 2023), [2023-28532a.pdf \(cftc.gov\)](#).

²⁰ See Vasil Valev, *COP28 Update on Day Six: The Most Important Developments for the Carbon Industry*, CARBON HERALD (Dec. 5, 2023), [COP28 Update On Day Six: The Most Important Developments For The Carbon Industry \(carbonherald.com\)](#).

²¹ See Rostin Behnam, Chairman, CFTC, Statement of Chairman Rostin Behnam on the Proposed Commission Guidance Regarding the Listing of Voluntary Carbon Credit Derivative Contracts (Dec. 4, 2023), [Statement of Chairman Rostin Behnam on the Proposed Commission Guidance Regarding the Listing of Voluntary Carbon Credit Derivative Contracts | CFTC](#).

engaging urban and rural communities and related professional associations, and planning a robust mass media campaign to enhance our outreach efforts. I am eager to see the CFTC's OMWI statutorily authorized, similar to other federal financial regulators.²²

Under my direction, the agency also is embarking on developing its first centralized workforce succession planning program. The lack of adequate succession planning poses several risks to the agency, including disruption to processes, workflows, and protocols that can threaten core functions; the loss of mission critical knowledge and expertise; and the increased expense of retaining critical talent in urgent situations. Looking at our workforce demographics and trajectory, the inescapable conclusion is that roughly a decade of budget uncertainty is degrading our ability to effectively and consistently hire and maintain the skilled workforce necessary to keep pace with our jurisdictional markets.

As we near the 50th anniversary of President Ford signing of the Commodity Futures Trading Commission Act of 1974, we should reflect on the past 50 years of market development, evolution, and growth, while also looking forward to the next 50 years, and to the role the CFTC will play in the continued health and dominance of the U.S. financial markets and economy. We cannot simply sit back and hope that the next 50 years will replicate the success of the past 50. Technology is driving change faster than it ever has, and we collectively must keep up, both to set the guardrails that will serve as foundations for customer protections and market resiliency, and to allow for growth and innovation.

The CFTC has consistently been at the forefront of identifying and addressing risks with a balanced, thoughtful, and measured approach. I strongly believe our collective goal is to keep the U.S. derivatives markets the safest, strongest, the most effective, and the most desirable in the world. These goals are necessary to maintain America's position as the preeminent economy in the world. These goals are also necessary to maintain national security for all Americans. As this Committee knows, our nation's agricultural, energy, and precious metals resources are some of our most critical assets. I believe that without a robust derivatives market, these assets cannot be optimally utilized. An investment in the CFTC is an investment in America. As Chairman of the agency, you have my commitment to work with this committee on achieving these goals. I look forward to your questions.

²² Section 342 of the Dodd-Frank Act, codified at 12 U.S.C. 5452, required the Departmental Offices of the Department of the Treasury, the Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve System (Board), each of the Federal Reserve banks, the Federal Deposit Insurance Corporation (FDIC), the National Credit Union Administration (NCUA), the Bureau of Consumer Financial Protection (CFPB), the Federal Housing Finance Agency (FHFA), and the Securities and Exchange Commission (SEC) to each establish an Office of Minority and Women Inclusion (OMWI) to be responsible for all matters of the agency relating to diversity in management, employment, and business activities. The Act also instructed each OMWI Director to develop standards for assessing the diversity policies and practices of entities regulated by the respective agency.

Rostin Behnam was sworn in as the CFTC's 15th Chairman on January 4, 2022 after being unanimously confirmed by the U.S. Senate.

Previously, Chairman Behnam served as CFTC Commissioner since September, 2017. The members of the Commission elected Commissioner Behnam as Acting Chairman effective January 21, 2021.

Since joining the CFTC, Chairman Behnam has individually and as sponsor of the CFTC's Market Risk Advisory Committee (MRAC) advocated for the CFTC to use its authority and expertise to ensure the derivatives markets operate transparently and fairly for participants and customers. Through his MRAC sponsorship, Chairman Behnam convened leading market experts and public interest groups to engage in public dialogue on such timely issues as global interest rate benchmark reform, central counterparty (CCP) risk and governance, evolving market structures, and since the summer of 2019, climate-related market risk.



During his time as Commissioner, Chairman Behnam also spearheaded efforts to invigorate internal discussions on agency-wide diversity and inclusion initiatives. He remains committed to ensuring that the CFTC remains vigilant in building and maintaining an inclusive workforce, supportive of employees and reflective of the diversity in the markets it oversees and the public it serves.

Chairman Behnam's arrival at the CFTC followed extensive experiences in financial and agricultural markets. As Senior Counsel to Senator Debbie Stabenow of Michigan, Chairwoman of the U.S. Senate Committee on Agriculture, Nutrition, and Forestry, he primarily focused on policy and legislative matters related to the CFTC and the U.S. Department of Agriculture, agencies within the direct jurisdictional purview of the Committee. Chairman Behnam's major responsibilities included advising Senator Stabenow on the implementation of the Dodd-Frank Wall Street Reform and Consumer Protection Act and related matters affecting the Treasury Department, the U.S. prudential regulators, and the Securities and Exchange Commission.

After graduating from Georgetown University, Chairman Behnam worked as a proprietary equities trader in New York City before pursuing a Juris Doctorate at Syracuse University. During his legal studies, Chairman Behnam interned with the CFTC's Division of Enforcement in the New York Regional Office.

Upon graduation, he returned to his home state of New Jersey and joined the Bureau of Securities within the state's Office of the Attorney General. Following his time with the Bureau of Securities, Chairman Behnam practiced law in New York City.