

Statement of
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Thank you Chairman Conaway, Ranking Member Peterson, and members of the Committee.

I am honored to testify before you today as the 13th Chairman of the U.S. Commodity Futures Trading Commission (CFTC).

In the three years that I served as a Commissioner at the CFTC, I learned a lot from you about the issues facing America's farmers, ranchers, producers, and other users of commodity futures who depend on the CFTC regulated markets for their risk management needs. I am grateful now to give testimony as Chairman of the CFTC. Thank you for the opportunity to hear your concerns and answer your questions.

In 2014, as a nominee to the CFTC, I presented my background in commercial law and business to the Senate Agriculture Committee and acknowledged my rather obvious character flaw of not having been raised on a farm. I spoke about my experiences as a practicing lawyer and how I always tried to spend time with new clients at their business offices to learn what they did and how they did it. I believe you cannot truly serve someone you represent unless you first dig in and understand how they make a living. At that time, I committed to learning everything I could about the agricultural sector.

Since that time, I have had the honor to meet with hundreds of Americans who depend on CFTC-regulated derivatives markets. I have travelled to many of your home states, 19 in fact, to meet with farmers, ranchers, energy producers, and small and large manufacturers, all of whom use our markets to hedge production and price risk. I have milked dairy cows with family farmers in Melrose, Minnesota, and visited with cotton farmers in Bardwell, Texas. I have been 900 feet underground in a Kentucky coal mine and 90 feet above ground on a North Dakota natural gas rig. I have walked factory floors, oil refineries, grain elevators, and power plants all over this country.

And I still have more walking to do. We regulators must learn to walk in the shoes of our fellow Americans so that we can serve their needs back in Washington. While these visits have been

incredible in their own right, they have most importantly made me a better informed regulator of America's commodity futures markets.

I have also spent the past three years on the Commission getting to know the agency, its staff, and its programs. My admiration and respect have not diminished, but grown. In January, upon becoming Acting Chairman, I began a process of looking at every function and expenditure undertaken by the Commission, just as I learned to do in my business career. In the private sector, we would never simply take last year's budget number and add a percentage increase. Rather, each dollar requested had to serve a purpose. Likewise, when I first sat down with the CFTC leadership team, my budget baseline was zero. We built our budget from the ground up.

Drawing on my business experience, I have already identified several ways the agency can run more efficiently and save taxpayer dollars. I also discovered areas within our current mission where we need to devote additional resources. Moving forward, I have trust and confidence that with the right allocation of resources we can meet the challenges of an evolving 21st Century market.

Importance of the CFTC

As you well know, American farmers and ranchers have used listed derivatives markets to hedge their costs of production and delivery for more than 100 years. These markets allow the risks of variable production costs, such as the price of raw materials, energy, foreign currency, and interest rates, to be transferred from those who cannot afford them to those who can. They are the reason why American consumers enjoy stable prices in the grocery store, whatever the conditions out on the farm.

Even Americans not actively participating in the futures markets are impacted by the prices generated by them. Commodity futures markets provide a critical source of information about future harvest prices. For example, a grain elevator uses the futures market as the basis for the price it offers local farmers at harvest. In return, farmers look to exchange prices to determine for themselves whether they are getting fair value for their crop. The U.S. Department of Agriculture (USDA) uses that same information to make price projections, determine volatility measures, and make payouts on crop insurance.¹

But derivatives markets are not just useful for agricultural producers. They impact the price and availability of heating in American homes, energy used in factories, interest rates charged on home mortgages and the returns earned on retirement savings. More than ninety

¹ E.g., USDA, Informational Memorandum: PM-17-012, *2017 Crop Year (CY) Common Crop Insurance Policy and Area Risk Protection Insurance Projected Prices and Volatility Factors; Malting Barley Endorsement Projected Price Component and Volatility Factor; and Hybrid Seed Price Endorsement - Hybrid Seed Corn Prices* (Mar. 1, 2017), available at <https://www.rma.usda.gov/bulletins/pm/2017/17-012.pdf>.

(90%) percent of *Fortune 500* companies use derivatives to manage commercial or market risk in their worldwide business operations.

In short, derivatives serve the needs of society to help moderate price, supply and other commercial risks to free up capital for economic growth, job creation and prosperity. While often derided in the tabloid press as “risky,” derivatives – when used properly – are tools for efficient risk transfer and mitigation. It has been estimated that commercial derivatives usage added 1.1 percent to the size of the US economy between 2003 and 2012.²

Enforcement

I am committed to supporting and strengthening the CFTC’s mission to foster open, transparent, competitive, and financially sound markets for the trading of commodity and financial futures, swaps, and other derivatives. I am also committed to seeing that America’s derivatives markets operate free from fraud, manipulation, and other trading abuses.

The day after the White House announced its intention to nominate me as Chairman, I said “there will be no pause, let up or reduction in our duty to enforce the law and punish wrongdoing in our derivatives markets; the American people are counting on us.”³

Since then, I have appointed James McDonald as Director of Enforcement, a former federal prosecutor who served as an Assistant United States Attorney from the Southern District of New York. I have strengthened our rules and procedures to better protect whistleblowers, brought new impactful enforcement cases, and successfully resolved other important enforcement cases. Our enforcement resources have also been enhanced. For example, I realigned our Market Surveillance Branch to report directly to the Director of Enforcement.

Since January of this year, the CFTC’s Division of Enforcement has brought important enforcement actions across our markets, which have strengthened market integrity and enhanced customer protections. For example, following an investigation by the Division, the Commission entered an Order earlier this year imposing sanctions for manipulation, among other things, in

² The Milken Institute found the following economic benefits to the US economy from derivatives: “[b]anks’ use of derivatives, by permitting greater extension of credit to the private sector, increased U.S. quarterly real GDP by about \$2.7 billion each quarter from Q1 2003 to Q3 2012; [d]erivatives use by non-financial firms increased US quarterly real GDP by about \$1 billion during the same period by improving the firms’ ability to undertake capital investments; [c]ombined, derivatives expanded US real GDP by about \$3.7 billion each quarter; the total increase in US economic activity was 1.1 percent (\$149.5 billion) between 2003 and 2012; [b]y the end of 2012, use of derivatives boosted U.S. employment by 530,400 (0.6 percent) and industrial production 2.1 percent.” See APANARD PRABHA ET AL., DERIVING THE ECONOMIC IMPACT OF DERIVATIVES, MILKEN INSTITUTE, at 1 (Mar. 2014), available at <http://assets1b.milkeninstitute.org/assets/Publication/ResearchReport/PDF/Derivatives-Report.pdf>.

³ J. Christopher Giancarlo, Chairman, U.S. Comm. Fut. Trading Comm’n, CFTC: A New Direction Forward, Remarks of Acting Chairman J. Christopher Giancarlo before the 42nd Annual International Futures Industry Conference in Boca Raton, FL (Mar. 15, 2017), available at <http://www.cftc.gov/PressRoom/SpeechesTestimony/opagiancarlo-20>.

the live cattle futures market. The Division has continued to bring significant spoofing cases, and recently filed the largest precious metals fraud case in the history of the Commission. It has also prosecuted fraud in virtual currency markets. In fact, the Commission has filed 10 new enforcement actions in September alone. Very recently, the CFTC filed civil fraud charges in the U.S. District Court for the Southern District of New York against a company over an alleged Bitcoin investment scheme, involving fraud, misappropriation, and issuing false account statements.⁴

In addition to actions utilizing the Commission's fraud and manipulation authority, the Division has also recommended actions concerning failure to supervise, as well as violations of position limits, record-keeping and reporting obligations, and registration rules. We are also continuing to work proactively alongside our law enforcement partners, including the Department of Justice, to ensure that, in the appropriate cases, we are facilitating criminal prosecutions of the most culpable actors.

The Division of Enforcement has also leveraged its resources through implementation of a self-reporting program designed to help the Division identify more culpable wrongdoers and hold them accountable. As this program demonstrates, we will follow the facts and the law to prosecute both corporations and responsible individuals. This self-reporting program is designed to help us identify the individuals, and where the evidence supports, prosecuting those individuals, most culpable for any wrongdoing. As we did, for example, in charging individuals at a major bank with spoofing violations earlier this year based in part on the cooperation of other, less culpable individuals.

This program does not - in any way, shape or form - suggest a lessening of the agency's efforts to enforce the law. Rather, it signals the CFTC's determination to prosecute a broader range of misbehavior than would otherwise be uncovered without self-reporting by responsible parties.

Moreover, the CFTC's self-reporting program enjoys bipartisan support. The foundation of the program is in the deferred prosecution protocols established under the chairmanship of Timothy Massad and adopted unanimously by the Commission. The current cooperation program was fully supported by former Commissioner Sharon Bowen⁵ and mirrors similar programs established by the Justice Department, and the SEC during the Obama Administration.

⁴ Press Release, U.S. Comm. Fut. Trading Comm'n, CFTC Charges Nicholas Gelfman and Gelfman Blueprint, Inc. with Fraudulent Solicitation, Misappropriation, and Issuing False Account Statements in Bitcoin Ponzi Scheme (Sept. 21, 2017), available at <http://www.cftc.gov/PressRoom/PressReleases/pr7614-17>.

⁵ Neil Roland, *CFTC plan to reward firms that self-report misconduct is 'no lessening or softening' of enforcement*, Bowen says, MLEX, September 27, 2017.

21st Century Regulator

As Chairman, I believe the CFTC's regulatory mission best serves the public interest when it fosters broad-based economic growth and American prosperity. It is my strong belief that for all segments of our economy to flourish, we need well-crafted and practical rules, regulations, and regulatory approaches that encourage participation and responsible innovation in our markets.

So much of our world today, from information to music to manufacturing to transportation to commerce – even farming, is undergoing a digital transformation. It should be no surprise that our capital, commodity, and futures markets are going through the same transformation. The electronification of markets over the past 30 to 40 years and the advent of exponential growth in digital technologies have altered trading, markets, and the entire financial landscape with far-ranging implications for capital formation and risk transfer.

The world is changing. Our parents' financial markets are gone. The 21st century digital transformation is well underway. And, as our markets continue to evolve, the CFTC cannot be an analog regulator in a digital age – instead we must also evolve. We must learn from the changes enveloping our world and adopt them in pursuit of our regulatory mission and the betterment of our markets.

LabCFTC

With this in mind, CFTC recently launched an initiative called LabCFTC.⁶ It serves as the focal point for Commission efforts to facilitate market-enhancing financial technology (FinTech) innovation and fair competition for the benefit of the American public. LabCFTC is designed to make the CFTC more accessible to FinTech innovators. It serves as a platform to inform the Commission's understanding of emerging technologies. LabCFTC will enable the CFTC to be proactive and forward-thinking as FinTech applications continue to develop, and to help identify related regulatory opportunities, challenges, and, risks.

The LabCFTC initiative will accomplish its mission through three primary work streams: The first is to provide greater regulatory certainty and understanding that encourages market-enhancing financial technology innovation to improve the quality, resiliency, and competitiveness of our markets. The second is to identify, understand, and utilize emerging technologies that will enable the CFTC to carry out its mission more effectively and efficiently in the new digital world. And, the third is to establish an internal resource to inform our staff on emerging technologies, while collaborating with external stakeholders, including domestic and international regulators, in order to share best practices related to FinTech innovation.

Emerging financial technologies ranging from blockchain to machine learning to predictive data analytics are transforming financial markets and services. The rapid pace of

⁶ Press Release, U.S. Comm. Fut. Trading Comm'n, CFTC Launches LabCFTC as Major Fintech Initiative (May 17, 2017), available at <http://www.cftc.gov/PressRoom/PressReleases/pr7558-17>.

innovation and adoption, the potential disintermediation of traditional financial market functions, and the increasing speed and power of computers are raising important new opportunities and challenges for key market stakeholders, including banks, end-users, and regulators. In order to remain proactive and facilitate the emergence of market-enhancing technologies, regulators around the world are working to share developments, trends, and insights in order to understand and harness the potential of these innovations.

Two weeks ago, under the leadership of the CFTC's first-ever Chief Innovation Officer, LabCFTC held its second set of office hours in NYC. LabCFTC will be holding its next set of office hours in Chicago on Friday, October 20. LabCFTC is also targeting sessions in other technology centers including Silicon Valley, Austin Texas and Route 28 outside of Boston.

Since its launch a few months ago, LabCFTC has held over 100 meetings with market participants and FinTech innovators, ranging from established financial service firms to start-up companies. Among all LabCFTC inquiries, more than 2/3 were successfully resolved or require no further follow-up by LabCFTC. Technologies discussed include distributed ledger and blockchain, smart contracts, artificial intelligence/machine learning, predictive data analytics, algorithmic trading, cloud computing, digital identity, cyber-security, and RegTech. Potential applications of these technologies in CFTC markets could enhance efficiencies, reduce transaction costs, increase transparency, and bolster compliance.

LabCFTC seeks to assist and foster market-enhancing FinTech innovation in CFTC regulated markets here in America. We look to harness these rapidly evolving digital markets to be engines for economic freedom and opportunity – the ingredients that have always been, and always will be, essential for American prosperity.

And, yet, there is another equally important purpose for LabCFTC, one that is quite simple. That is to help the CFTC bridge the gap from where we are today to where we need to be – a twenty-first century regulator for twenty-first century digital markets.

Cybersecurity

And before I move on from speaking about technology, I want to address cybersecurity – at the CFTC and the institutions in the markets we oversee. I know Congress is rightly concerned about cyber risk in light of recently announced breaches of Equifax and the Securities and Exchange Commission. Such concern is appropriate. As I have repeatedly said, cybersecurity is undoubtedly the most important single issue facing our markets today in terms of market integrity and financial stability.⁷

⁷ J. Christopher Giancarlo, Chairman, U.S. Comm. Fut. Trading Comm'n, Harvard Law School Fidelity Guest Lecture Series on International Finance (Dec. 1, 2015), available at <http://www.cftc.gov/PressRoom/SpeechesTestimony/opagiancarlo-11>.

All federal agencies and financial market participants must be vigilant about cybersecurity. That includes the CFTC. It is why we are constantly reviewing and updating our cybersecurity protections to guard against the growing threat of a breach. Our agency has successfully thwarted hundreds of attempted breaches. Yet, we can never be complacent or assume that past success is an indicator of future resilience.

In light of the relentlessness of the cyber threat, I have taken several steps since becoming Chairman. I meet monthly with the CFTC's Chief Cybersecurity Officer and review all recent cyber incidents and agency responses. We also discuss anticipated threats and emerging best practice defenses.

The CFTC recently worked with the Department of Homeland Security to conduct a half day, agency wide disaster recovery exercise based on a simulated cyber-attack on US derivative markets. We have scheduled further exercises in the months to come. We have taken other significant steps to increase the CFTC's cyber defenses that cannot be publically disclosed.

Notwithstanding our commitment to cyber vigilance, the CFTC takes nothing for granted. The cyber threat is persistent and ever-changing. It has rightly been said that it is not a question of "if" a cyber intrusion will occur, but "when" it will occur. That is why I have consistently expressed concerns about the government's handling of proprietary intellectual property for market participants.⁸ We must carefully balance the agency's legitimate need to review market data and other information against unnecessarily holding proprietary trading information that could make us a larger target for a broader group of cybercriminals, including those engaged in commercial espionage.

Turning to the cybersecurity of the markets we oversee, I note that in September 2016 the CFTC unanimously adopted system safeguards and cyber resilience standards for clearinghouses, contract markets, swap execution facilities, and swap data repositories.⁹ It now falls to the CFTC to examine registered entities for compliance with these safeguards. Unfortunately, the CFTC currently has a 75% staff vacancy rate in its CCP cyber-security program. The Commission needs funding to fill these positions with examiners who have the skills needed to measure compliance with CFTC regulations addressing cyber-security. This need is critical if the agency is to fulfill its mission during this time of increased cyber-attack and belligerence.

At the request of the U.S. Commodity Futures Trading Commission's Office of the Inspector General, from September 25, 2015 through July 25, 2016, Brown and Company CPAs and Management Consultants audited the CFTC's performance in reviewing information

⁸ J. Christopher Giancarlo, Chairman, U.S. Comm. Fut. Trading Comm'n, Statement of Dissent Regarding Supplemental Notice of Proposed Rulemaking on Regulation Automated Trading (Nov. 4, 2016), available at http://www.cftc.gov/PressRoom/SpeechesTestimony/giancarlostatement110416#P5_827.

⁹ CFTC System Safeguard Testing Requirements, 81 Fed. Reg. 64,272 and 64,322 (Sept. 19, 2016) (codified at 17 C.F.R. pts. 37-39, 49).

technology system safeguards in place at entities subject to CFTC regulatory oversight. Brown and Company's report concluded that the CFTC and its oversight divisions had developed policies and procedures to address cybersecurity risks at CFTC registrants operating in derivatives markets.¹⁰ The review also recommended several areas where the CFTC could enhance its oversight of cybersecurity preparedness of agency registrants.¹¹ The CFTC was fully engaged with OIG, addressed all of the report's findings, and adopted several of its recommendations.

Project KISS

Too often CFTC rules and regulations are applied in a needlessly complex and costly manner. They cause compliance to be too complex, costly or time-consuming for market participants especially derivatives end users such as producers and farmers and ranchers. To address this problem, shortly after assuming the role as acting chairman, I announced our Project KISS initiative.¹²

Project KISS stands for "Keep It Simple Stupid." It is an agency-wide review of CFTC rules, regulations, and practices to make them simpler, less burdensome, and less costly. On February 24, 2017, President Trump issued an Executive Order on "Enforcing the Regulatory Reform Agenda."¹³ Although the CFTC as an independent agency is not strictly bound by President Trump's Executive Order, we believe that Project KISS is in line with the President's objectives.

As part of the Project KISS effort, the CFTC issued a call for recommendations from the public on regulatory reform. We now have a portal on our website for the public to provide suggestions that we can look to implement. The comment period for Project KISS recommendations closed on September 30.

We received 65 comments from the public, each of which is posted on our website. An initial review of the public comments indicates that a broad cross-section of the derivatives industry offered constructive suggestions for reducing regulatory burdens. In addition to the public comments, CFTC staff identified over forty examples of ways in which we might achieve the objectives I have set forth under Project KISS.

¹⁰ OIG Rep., U.S. Comm. Fut. Trading Comm'n, Commodity Futures Trading Commission's Policies and Procedures for Reviewing Registrants' Cybersecurity Policies 8 (Oct. 11, 2016).

¹¹ Id. at 16-24.

¹² J. Christopher Giancarlo, Chairman, U.S. Comm. Fut. Trading Comm'n, CFTC: A New Direction Forward, Remarks of Acting Chairman J. Christopher Giancarlo before the 42nd Annual International Futures Industry Conference in Boca Raton, FL (Mar. 15, 2017), available at <http://www.cftc.gov/PressRoom/SpeechesTestimony/opagiancarlo-20>.

¹³ Id.

Project KISS is NOT about identifying rules for repeal. It is about taking our existing rules and applying them in ways that are simpler, less costly and less burdensome. I believe the American taxpayer expects us to do nothing less. For example, where we have the discretion to take a broad, outcomes-based approach to finding the regulatory regimes of foreign jurisdictions equivalent or comparable to our own, I believe that we should do so. Or, where it makes sense to codify existing, permanent staff no-action relief, again we should do so. Several submissions reference specific No-Action letters, such as void ab initio/error trade procedures (NAL 17-27) and SEFs' obligation to provide confirmations for uncleared swaps (NAL 17-17). Even tweaks as simple as streamlining registration or data submission forms, or changing them to integrate current technology, will make these necessary tasks more efficient and less burdensome for market participants.

We must also work with other agencies to better harmonize and simplify our rules, particularly where we have shared jurisdiction over certain types of markets. In this vein, SEC Chairman Clayton and I have been speaking since assuming our respective roles. At our very first meeting we discussed ways in which we could harmonize our respective rules and regulations. Since then, we have set up a Chairman to Chairman working group that meets regularly. In fact, we most recently met together for several hours last Monday. We hope to soon announce some interagency understandings that will result in real regulatory efficiencies.

Title VII

In 2014, I thought that my best qualification to serve on the CFTC was my commercial expertise in the global over-the-counter swaps markets. I was then - and remain today - a supporter of the swaps reforms established in 2009 by the G20 leaders and embodied in Title VII of the Dodd-Frank Act. I said that my support for these reforms was not based on academic theory or political ideology. It was based on practical experience.

I have not wavered in my support for these reforms in my three years on the Commission. Yes, I have criticized the agency's implementation of some of the reforms – almost always where I believed it was impractical, overly burdensome or out of step with Congressional intent. In all cases, however, I advocated alternative approaches I believe better support healthy markets and are more faithful to the law. It is with those basic principles in mind that I have developed several policy priorities for the CFTC.

Swap Reforms

The CFTC was the first major regulator worldwide to implement most of the G-20 swaps reforms. You might call that framework “CFTC Swaps Reform Release 1.0.” We now have more than four years of experience with the varied strengths and shortcomings of the first release. I am therefore advocating for new and enhanced edition, CFTC Swaps Reform Release 2.0, which will be engineered to better support market durability, increase trading liquidity and participant diversity, and stimulate broad-based economic growth and revival. These changes will stay true to the Pittsburgh G-20 reforms and be in full accordance with the letter of Dodd-Frank. Yet, they will incorporate lessons from our initial reform efforts into a new and better version.

I have been critical of the CFTC’s implementation of its swaps trading rules. Over two years ago, I published a white paper that analyzed this implementation.¹⁴ In it, I explained the mismatch between the CFTC’s swaps trading framework and the swap market’s fundamental structure. I asserted that the CFTC’s current approach is highly over-engineered, disproportionately modeled on the US futures market, and biased against both human discretion and technological innovation.

As predicted, the CFTC’s swaps trading implementation has caused a number of harms. It has driven global market participants away from transacting with US entities. It has fragmented global markets into a series of distinct liquidity pools that are more vulnerable to market shocks.

Now, the CFTC must incorporate these lessons learned into a revised swaps trading framework. The CFTC must create a framework that is better aligned with swaps market dynamics and liquidity, and more closely adheres to the express language and spirit of Dodd-Frank. The revised swaps trading framework should be more flexible and allow market participants to choose the manner of swap trade execution suited to their business. It should help attract, rather than discourage, global participants to US trading markets. It should better align regulatory oversight with inherent characteristics of the swap market. Most importantly, the CFTC’s revised swaps trading framework should facilitate healthy risk hedging activities in the private sector that are essential for broad-based economic growth and revival.

In many ways, regulatory frameworks are like software applications. Some work well and attract a broad base of users. Others are plagued with bugs and flaws that, if not addressed, fail to attract those not otherwise subject to required usage.

¹⁴ J. Christopher Giancarlo, Pro-Reform Reconsideration of the CFTC Swaps Trading Rules: *Return to Dodd-Frank*, White Paper, Jan. 29, 2015, <http://www.cftc.gov/idc/groups/public/@newsroom/documents/file/sefwhitepaper012915.pdf>.

Like software users, market participants will always look to participate in well-designed, regulatory frameworks. Trading counterparties seek neither the least nor the most regulated marketplaces, but market places that have the right balance of sensible, objective and reliable regulation – in other words: good software. Our goal is to oversee a US swaps regulatory framework that has the optimal mix of well-considered rules and regulations that best foster open, transparent, competitive, and financially sound derivatives markets to support American economic growth, job creation, and prosperity.

Swaps Data Reporting

At the heart of the 2008 financial crisis was the inability of regulators to assess and quantify the counterparty credit risk of large banks and swap dealers.¹⁵ The legislative solution was to establish swap data repositories (SDRs) under the Dodd-Frank Act.¹⁶ Although much hard work and effort has gone into establishing SDRs and supplying them with swaps data, nine years after the financial crisis the SDRs still cannot provide regulators with a complete and accurate picture of bank counterparty credit risk in global markets.¹⁷ In part, that is because international regulators have not yet harmonized global reporting protocols and data fields across international jurisdictions.¹⁸

Of all the many mandates to emerge from the financial crisis, visibility into counterparty credit risk of major financial institutions was perhaps the most pressing. The failure to accomplish it is certainly the most disappointing.

The CFTC is committed to success in the global reform efforts towards swaps data reporting. That is why we are actively engaged in global swaps data harmonization efforts while simultaneously looking to improve upon the current processes for swaps reporting that were put in place back in 2012 and 2013.

On the international front, the CFTC is co-leading several global initiatives to harmonize derivatives reporting along with fellow overseas regulators via Committee on Payments and Infrastructures-International Organization of Securities Commissioners (CPMI-IOSCO) and the Financial Stability Board (FSB):

¹⁵ Fin. Crisis Inquiry Comm'n, Final Report of the National Commission on the Causes of the Financial and Economic Crisis in the United States 298–300, 329, 363, 386 (2011), available at http://fcic-static.law.stanford.edu/cdn_media/fcic-reports/fcic_final_report_full.pdf.

¹⁶ 7 U.S.C. § 24a (2012), Commodity Exchange Act § 21.

¹⁷ Silla Brush, *Dodd-Frank Swap Data Fails to Catch JPMorgan Whale, O'Malia Says*, Bloomberg, Mar. 19, 2013, available at <http://www.bloomberg.com/news/articles/2013-03-19/dodd-frank-swap-data-fails-to-catch-jpmorgan-whale-o-malia-says>.

¹⁸ Neil Roland, *IOSCO's Wright Faults Authorities' Coordination on Derivatives Trade Reporting*, MLex FS Core, Nov. 18, 2015, available at <http://www.mlexfs-core.com/?r=EAAAABgJFMI6s4sxd6kwCIh1BeL7zWr2TdKX9gEasKt9evFi>.

- Unique transaction identifiers (or UTIs) to track the lifecycle of a derivative transaction from creation until final termination;
- Unique product identifiers (or UPIs) to identify the instrument type and elements of the product referenced in a derivative; and
- Critical data elements (or CDEs) to provide basic information about the terms of the transaction, such as notional amount, price, and collateral movements.

CPMI-IOSCO published final technical guidance on UTIs in early 2017 and final guidance on UPIs is expected soon. We expect that guidance on CDE fields to be published by Q1 of 2018.

An FSB sponsored group, the Group on UPI and UTI Governance, continues to work on governance issues for these identifiers, such as implementation. This important international work is ongoing with the CFTC's full support and involvement.

Meanwhile, here at home, the CFTC issued for comment in July a swaps data reporting "Roadmap."¹⁹ The CFTC has received 20 comment letters on the Roadmap that were overwhelmingly well informed and supportive. DMO staff is carefully considering them.

A major focus of implementing the Roadmap will be incorporating harmonized UTI, UPI, and CDE guidance into our reporting regime. Wherever possible, we want to harmonize CFTC reporting elements with international CDE guidance. Still, it is possible that the CFTC will require some additional fields for CFTC specific use cases that are not addressed at the international level.

The Roadmap has carefully calibrated the release of CFTC rules to follow the release of international technical guidance on CDE in order to avoid conflict. Furthermore, the Roadmap attempts to incorporate a realistic implementation timeline to allow for the appropriate building and testing by all relevant parties. We are sensitive to the complexity of changes to rules with multiple interconnected parts like swaps reporting. We will work with market participants to set realistic compliance dates.

To be clear, the international CPMI-IOSCO process is aimed at harmonizing what must be reported on a derivative, not when and how to report. We need to make sure that the when and how are also covered. In the end, CFTC when and how rules for swaps reporting may be different than those adopted by overseas regulators. In some areas, where we believe we have the better approach, such as single-sided reporting, we intend to pursue the CFTC's current approach. Yet, in other areas where, in light of experience, it appears that overseas regulators have adopted a better way, such as T+1 regulatory reporting, we will consider making changes.

¹⁹ U.S. Comm. Fut. Trading Comm'n, Roadmap to Achieve High Quality Swaps Data (July 10, 2017), available at <http://www.cftc.gov/PressRoom/PressReleases/pr7585-17>.

Swaps data reporting is new for all of us. No regulator has yet found the optimal approach to success. Yet, we are all determined to get there. None are more determined than the CFTC. That is why we published the swaps data Roadmap.

There is an old saying, “If you don’t know where you’re going, you’ll never get there.” The Roadmap shows where the CFTC is going. We are determined to get there.

CCP/Cross Border

In order for the CFTC to remain an effective regulator, it must keep pace with the evolution of our markets, or our regulations will become outdated and ineffective. This is especially so in its oversight of derivatives clearinghouses. Mandatory clearing of standardized swaps was a core component of the G20 reform agenda. The world’s largest Central Counterparties (CCPs), which collectively clear over 95 percent of the global cleared swaps market, are directly registered with CFTC as Designated Clearing Organizations (DCOs). These DCOs are located in the United States, as well as in major financial centers in Europe and Asia. I am committed to ensuring that the regulatory approach to oversight over these global markets is effective and robust without fragmenting markets and trading activity.

I recently returned from a 10-day trip in Europe where I met with key regulatory counterparts and policymakers from the European Union, France, Germany, and the United Kingdom to discuss how to ensure effective regulatory cooperation and coordination between the CFTC and Europe, especially with respect to the supervision of major cross-border CCPs. During my trip I spoke publicly, as well as contributed a guest op-ed in the leading French business paper *Les Echos*, expressing the view that regulatory and supervisory deference should underpin how US and EU regulators supervise CCPs.

In the spring of 2016, under the leadership of Chairman Massad, the CFTC reached a key accord with the European Commission on recognition of swaps clearinghouses. This agreement was an important signal to the markets and the international regulatory community that the United States and Europe could work together successfully on critical cross-border issues. That agreement has contributed to stronger and more productive relations between the CFTC and its European and other overseas regulatory counterparts. The CFTC remains committed to honoring its obligations under this agreement.

I fully understand that Brexit raises new and challenging issues for how Europe regulates its financial markets. Nevertheless, if Brexit is indeed a trigger for a new approach in Europe regarding the supervision of cross-border CCPs, then it must be an approach developed with the cooperation and support of the CFTC. If the EU must reconsider its approach to cross-border supervision of systemically important CCPs, then we cannot have piecemeal and contradictory rule making. Instead, we should together strive for a comprehensive and universal solution that supports strong cross-border markets, recognizes and builds upon the strengths of our respective

supervisory programs, and preserves as much as possible the basic tenets of the CFTC-EC equivalence agreement.

Unfinished Business

And, last, but certainly not least, I look forward to working closely with my fellow Commissioners on the priorities I have outlined above, as well as resolution of outstanding regulatory issues before the Commission, such as the *de Minimis* exception and a position limits rule.

The level of the *de Minimis* threshold is a critically important issue. Getting it right requires thoughtful analysis of the latest and most complete data to inform the best path forward in terms of managing risk to the financial system. Currently, work is actively being done by the Division of Swap Dealer and Intermediary Oversight (DSIO) under a new Division Director.

With respect to position limits, I committed in my confirmation hearing to finalizing a rule and I intend to do so. This is an enormously important undertaking that will impact America's farmers, ranchers, and manufacturers and their ability to hedge legitimate production costs. Any final rule must work in practice and not be overly burdensome. It will be complicated. This is a rulemaking has been underway for some time. There are thousands of comment letters on the topic, and there are opinions on all sides of the issue.

That is why final position limits rulemaking should be done properly by a full Commission. It will ensure that any final position limits rule is indeed final and stands the test of time and changes in future administrations.

Conclusion

Again, I am grateful for the chance to testify before you today and to outline issues that I believe are of critical importance to the work of the CFTC. I commit to working with each one of you, with candor and promptness, in our common purpose of serving the American people and the producers upon which we all rely.

Thank you. I look forward to answering your questions.