

**COMMODITY FUTURES TRADING COMMISSION  
NOMINATIONS OF TIMOTHY G. MASSAD,  
SHARON Y. BOWEN AND  
J. CHRISTOPHER GIANCARLO**

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**HEARING  
BEFORE THE  
COMMITTEE ON AGRICULTURE,  
NUTRITION AND FORESTRY  
UNITED STATES SENATE**

**ONE HUNDRED THIRTEENTH CONGRESS  
SECOND SESSION**

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**MARCH 6, 2014**

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**COMMODITY FUTURES TRADING COMMISSION  
NOMINATIONS OF TIMOTHY G. MASSAD,  
SHARON Y. BOWEN AND  
J. CHRISTOPHER GIANCARLO**

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**Thursday, March 6, 2014**

UNITED STATES SENATE,  
COMMITTEE ON AGRICULTURE, NUTRITION AND FORESTRY,  
*Washington, DC*

The Committee met, pursuant to notice, at 10:30 a.m., room 328A, Russell Senate Office Building, Hon. Debbie Stabenow, Chairwoman of the Committee, presiding.

Present or submitting a statement: Senators Stabenow, Brown, Klobuchar, Donnelly, Heitkamp, Casey, Walsh, Cochran, Chambliss, Hoeven, Johanns, and Thune.

**STATEMENT OF HON. DEBBIE STABENOW, U.S. SENATOR  
FROM THE STATE OF MICHIGAN, CHAIRWOMAN, COM-  
MITTEE ON AGRICULTURE, NUTRITION AND FORESTRY**

Chairwoman STABENOW. Good morning. The Senate Agriculture, Nutrition, and Forestry Committee will come to order.

As we begin, this is the first meeting we have had since the passage of the Farm Bill, and I just want to say thank you to every member of the Committee. I am very proud of the fact that the bill originated in the Senate, not once but twice, and Senator Cochran and I were, I know, both are very proud to have the opportunity to work with all of you.

I hope that now that we are done I am sure it is true that you are feeling as good as we are that it is not only done but that it is the product that it is.

Thanks very much. I am very grateful and proud of not only of our whole Committee but of all the staff and having a chance just to say a little bit of a thank you this morning before the meeting just is a small—

[Applause.]

Chairwoman STABENOW. Yes, to all of our staff. Thank you.

Lots of details, lots of work. I tell people all the time that with 12 titles it is like 12 separate bills, any one of which could be a major piece of legislation on its own.

The staff work really, really well together and I want to thank Chris Adamo on my team and T.A. Hawks on Senator Cochran's team for the great work.

I also want to welcome and recognize our newest member of the Committee.

Senator Walsh, we are glad to have you and we know you are going to continue the strong Montana presence on this Committee and look forward to working with you to make sure that your farmers and ranchers have what they need, as we go forward on so many issues including implementation of the Farm Bill.

I know from Senator Baucus that the Big Sky State's economy was something that was always on his mind, and I know already from talking to you that it is on yours as well. So, welcome.

Senator WALSH. Thank you very much.

Chairwoman STABENOW. Yes, it is good to have you.

I know in a moment that Senator Blumenthal did want to come. When he comes, we will let him. He wanted to have the opportunity to introduce Timothy Massad and we will let him do that at that point, I do not believe I see him. So, we will proceed with opening statements and then turn to him when he arrives.

We are meeting this morning, as we all know, to consider the nomination of Timothy Massad to be the next Chairman of the Commodity Futures Trading Commission as well as the nominations of Sharon Bowen and Christopher Giancarlo to be Commissioners at the CFTC.

We very much appreciate all of you being here. I know that family members are here as well, and we certainly, as you make your opening statements, want to give you an opportunity to introduce your families.

The last time we met as a Committee to confirm a new Chair, we were in the middle of the global financial crisis so deep that eight million jobs were lost.

Today, the economy is adding jobs and our financial markets are getting safer although we certainly have more to do on both accounts, but thanks in part to the work of the Commission, the Wall Street Reform and Accountability Act ushered in a new era of accountability and transparency in the markets, but that only works if the law is implemented and enforced correctly, and a significant part of that falls to the important work of the CFTC.

You have been nominated, each of you, to implement the law that this Committee helped to write and Congress passed to help ensure that we do not have another global financial crisis and all that came with it.

If confirmed, you will have the opportunity to make sure the future, swaps, and options markets are safe for trading and free of fraud and manipulation.

These markets are important to the everyday lives of Americans as we all know, including companies in each of our states and consumers in all of our states. You will need to make sure companies like commercial end-users, energy firms, and agriculture producers are able to use these markets to manage their risks and to find fair prices for a wide range of products from corn to natural gas to aluminum.

If confirmed, you will also need to ensure that the agency is keeping a watchful eye on market participants like clearinghouses, exchanges, swap dealers, to make sure that they are managing risk carefully and doing all that they can to prevent market abuse.

You will have an obligation to make sure that we never see another MF Global or Peregrine Financial shatter faith in either the

markets or the ability of regulators to oversee these markets. This is an enormous responsibility and it is our job to work with you to make sure that you are up to the task.

The Commission has much more responsibility than it ever did even a few years ago, unfortunately, with very limited resources which we also need to address as a Committee.

The agency needs to harmonize with regulators around the world and balance between moving forward with strong reform and being sensitive to different regulatory approaches and time lines for reforms.

The agency needs to work closely with other U.S. agencies to share information, remove unnecessary differences in regulations; and the agency needs to keep up with technological changes like automated trading and challenges like cyber security threats.

I have enjoyed meeting with each of you and look forward to your answers today; and if confirmed, I fully expect each of you to work with this Committee, with our members, with Congress and to show a commitment to open dialogue and pragmatic problem-solving. We are committed to that on this Committee.

So, I thank each of you and would now turn to the distinguished Senator from Mississippi, my Ranking Member, Senator Cochran.

**STATEMENT OF HON. THAD COCHRAN, U.S. SENATOR FROM  
THE STATE OF MISSISSIPPI**

Senator COCHRAN. Madam Chairman, we appreciate your leadership as Chair of this important exercise in reviewing the nominations that are being made by the Administration for service on the Commodity Futures Trading Commission.

We have before us nominees including Timothy Massad to be Chairman and a Commissioner of the CFTC, Sharon Bowen to be Commissioner, and Christopher Giancarlo to be a Commissioner of the CFTC.

First of all, I want to congratulate each of you for accepting the nomination to serve on this important Commission. It is our responsibility to review the nominations and to make a recommendation to the full Senate regarding confirmation and to also, through oversight, be sure that the intent and the clear language of the statute creating the Commission are adhered to and that the purposes for which the Commission was created are well served.

With that, I am happy to defer any additional comments and look forward to the question and answer period of this hearing.

Chairwoman STABENOW. Thank you for much, Senator Cochran; and in the interest of time, we will ask other members, as we always do, to put their opening statements into the record and I do want to say, though, before giving the oath to each of our nominees I know that, Senator Walsh, we want to give you an opportunity as the newest member if you would like to make any comments.

**STATEMENT OF HON. JOHN E. WALSH, U.S. SENATOR FROM  
THE STATE OF MONTANA**

Senator WALSH. Thank you, Chairman Stabenow, and thank you for the kind words. I am very impressed by your success on the Farm Bill as all Montanans are. It was a monumental task and you helped pull together a bill that works for farmers and ranchers

across the country and that includes Montana, and so we all thank you very much for that.

I want to thank you for your leadership of this Committee. I look forward to working with you in the future.

I am excited to represent Montana on the Senate Agriculture Committee. As many know, one in five Montana jobs is tied to agriculture and Montana is one of the most rural states in our country.

As the only member of Montana's congressional delegation on the Ag Committee, I will have the opportunity to bring Montana's agriculture and rural priorities to the forefront of the national discussion, and this is a responsibility that I take very seriously, whether it is providing a farm safety net against natural disasters, spurring rural economic development, or promoting our top-notch products around the world, programs under this Committee's jurisdiction help keep Montana strong.

This is a critical time as well. As a member of this oversight committee, I will fight to make sure the Department of Agriculture keeps Montana in mind as they move to implement policies in the new Farm Bill.

Now, on to the task at hand—the CFTC nominees. The regulators were not on the clock when MF Global stole customer funds, and Montana producers and businesses were the victims. It took them years to get their money back, money that they believed was as safe with MF Global as it was in the bank. That must never happen again.

I look forward to hearing your ideas for further reforms to consider as we move into re-authorization, and you can bet that I will fight for Montana priorities every step of the way.

Thank you, Madam Chairwoman.

Chairwoman STABENOW. Thank you very much. Again we are proud to have you and, of course, implementation of the Farm Bill is something we all care deeply about and we will be working together with the Department to make sure that is done right.

So, let me turn now and I believe that I do not yet see Senator Blumenthal. Certainly if he comes, we are happy to accept his thoughts but we are going to first begin by asking each of you to stand. You can stand together and raise your right hand.

Do you swear or affirm that the testimony that you are about to give is the truth, the whole truth, and nothing but the truth so help you God?

Mr. MASSAD. I do.

Ms. BOWEN. I do.

Mr. GIANCARLO. I do.

Chairwoman STABENOW. Do you agree to appear and testify before a duly constituted Committee of Congress?

Mr. MASSAD. I do.

Ms. BOWEN. I do.

Mr. GIANCARLO. I do.

Chairwoman STABENOW. Thank you very much. You may be seated.

Let me proceed to introduce each of you and then we will be happy to take opening statements. As you know, we are happy to take whatever information you have for the record. We would ask



that your verbal comments be five minutes so that we have ample time for questions.

Mr. Timothy Massad is currently the counsel to the Secretary had the United States Treasury. He was the Assistant Secretary for Financial Stability at the Treasury from June 2011 to October 2013 where he supervised the wind down of TARP, the Troubled Asset Relief Program. Previously, he worked for the Office of Financial Stability at Treasury and was a partner at the law firm of Cravath, Swaine, and Moore.

Secondly, we have Sharon Bowen, who is a partner in the New York office of Latham and Watkins where she represent clients on a range of corporate finance and securities transactions, including mergers and acquisitions, private equity and corporate restructuring.

She was appointed by President Obama to serve as the Vice Chairman, and then Acting Chair of the Board of Directors of the Securities Investment Protection Corporation.

Last and certainly not least, Christopher Giancarlo. Let me proceed and then I will turn to Senator Johanns who wanted to make a comment as well.

Mr. Giancarlo is an executive vice president of GFI Group which provides wholesale market brokerage services in a range of global, over-the-counter, and exchange listed cash and derivatives markets.

He began his career as a lawyer practicing corporate and securities law at the New York firm Brown, Raysman, Millstein, Felder and Steiner. Until early 2013, Mr. Giancarlo was the Chairman of Wholesale Markets Brokers Association, Americas, which represents the world's largest wholesale brokers.

Senator Johanns, I believe you also wished to provide some remarks.

**STATEMENT OF HON. MIKE JOHANNS, U.S. SENATOR FROM THE STATE OF NEBRASKA**

Senator JOHANNS. Madam Chair, thank you very much. I appreciate the privilege of just offering a few words because I cannot be here too long today.

I also want to say congratulations on the Farm Bill. It was a remarkable achievement; and for somebody who has been on the other side of that from the administration standpoint, they are not only tough to put together, they are tough to get the votes to get passed. So, congratulations and to our Ranking Member too. He was a great partner in that effort.

I want to say to each of you welcome; but if I might just use a little speaker's privilege to say to you, Mr. Giancarlo, a special welcome. As you know I know family members very well and they speak very highly of you, and for all of you this is a great day. Your family members can be proud that you are here, that you have been nominated, and I wish you all the best.

If I were to make one pitch, I would ask you to take a very close look at the end-user issue. I do not think there is any controversy over this, and we are hoping to get that to the finish line.

So, I will end there. I will not abuse the privilege of offering a few words but thank you, Madam Chair.

Chairwoman STABENOW. Thank you very much.  
Mr. Massad, we will start with you. Welcome.

**TESTIMONY OF TIMOTHY G. MASSAD, OF CONNECTICUT, NOMINATED TO BE CHAIRMAN AND A COMMISSIONER OF THE COMMODITY FUTURES TRADING COMMISSION**

Mr. MASSAD. Thank you. Chairwoman Stabenow, Ranking Member Cochran, and members of the Committee, it is a privilege to appear before you today, it is a privilege to appear before you today as President Obama's nominee to be the next Chairman of the Commodity Futures Trading Commission.

I would like to introduce the members of my family who are here with me today. My wife Charlotte, my children Emil and Jayne, my mother Delores, and my brother Steve.

Chairwoman STABENOW. Let us have them stand up so that we can welcome them officially. Welcome.

[Applause.]

Mr. MASSAD. My children may sneak out early to get back to school. I am deeply indebted to them for their love and support.

For decades, the CFTC has had the vital mission of preventing fraud and manipulation in our futures markets. These markets are critical to many farmers, ranchers, and businesses.

Today, the CFTC's role is even more important, because it has the responsibility to bring much-needed regulation to the markets for over-the-counter derivatives. I am honored to have the opportunity, if confirmed, to lead the CFTC in carrying out this essential mission.

I have spent the last five years helping our nation recover from the worst financial crisis since the Great Depression. Excessive risk related to derivatives, particularly at American International Group, was one of many factors that contributed to that crisis.

Today, we have recovered every dollar of the taxpayer funds committed to prevent the collapse of AIG, as well as a profit; and indeed, today, we have recovered more on all the crisis investments than was disbursed.

But it was awful and unfair that we had to take these actions in the first place. We must never forget that the true cost of the financial crisis is not the fiscal cost of the programs. It is the millions of jobs lost, the homes foreclosed, the retirements postponed and the dreams deferred. That is why it is so important to continue to implement strong financial reform; and that is a major reason why I embrace the opportunity to lead the CFTC at this time.

I would like to take a moment to tell you about my background before briefly discussing the issues facing the CFTC. I was born in Louisiana and lived in Texas, Oklahoma, and Connecticut as a child.

My grandparents were immigrants from Lebanon who came to this country as teenagers, barely able to speak English and with nothing more than a suitcase.

My parents grew up during the Great Depression. They worked hard to provide our family with more opportunities than they had, and I have been fortunate as a result.

I spent twenty-five years in private law practice before coming to Washington to serve my country. During my career as a lawyer, I

worked on all types of complex financial transactions, and I worked throughout the world, including in New York, London and Hong Kong.

I had substantial experience with derivatives as a lawyer. I helped to draft the original standardized agreements for swaps in the late 1980s. Throughout my career as a lawyer, I helped many businesses negotiate and execute transactions to hedge exposures in commodities and derivatives markets. I saw from personal experience how important these markets are to businesses of all types, including those of farmers and ranchers.

The United States of America has the best financial markets in the world, the most efficient, most innovative and best regulated; and if confirmed as the next Chairman of the CFTC, I want to help make sure that the United States continues to lead the world.

Chairwoman Stabenow, If I may pause, I know Senator Blumenthal's time is limited. Should I perhaps break and allow him to speak?

Chairwoman STABENOW. If you have a moment, Senator Blumenthal, we can allow you to complete your statement and then we will be happy to hear Senator Blumenthal as well. Thank you.

Mr. MASSAD. Let me just say thank you to Senator Blumenthal for appearing today and for supporting my nomination. I am very grateful.

If confirmed, I look forward to addressing the many important issues facing the CFTC. First, I believe there is nothing more important than a robust enforcement program in order to protect the integrity of our financial markets.

We must aggressively pursue wrongdoers, whatever their position or size, and we must deter and prevent unlawful practices. Strong enforcement is vital to maintaining the public's confidence in our markets. Therefore, I will make it a top priority to fulfill the CFTC's responsibility to enforce the laws protecting these markets vigorously.

Second, the CFTC has promulgated almost all of the new rules required by Congress. Now the Commission must make sure that the rules work, that participants comply with the requirements and that the markets operate transparently and effectively. This is true not just for the swaps markets where the new rules have received great attention, but for the futures markets as well.

As we implement important reforms, we must make sure the markets continue to serve their essential functions of providing hedging and price discovery for end-users. In this regard, I look forward to listening to the concerns of traditional end-users such as agricultural stakeholders, as well as participants in the markets newly subject to the CFTC's jurisdiction.

The Commission must also work closely with international regulators. The derivatives markets are global, and we must ultimately achieve strong international regulatory standards.

The United States should be a strong leader in developing such standards, as it has been in regulating the securities markets since the 1930s.

Third, the CFTC faces important technological and data challenges. The markets it regulates are, like all financial markets today, heavily dependent on technology. We must focus on the

issues this creates and make sure the Commission has the up-to-date capabilities to do its job.

In addition, the law requires the collection of vast amounts of data concerning the derivatives market. We must make sure this data is collected wisely and efficiently so that it can be used to monitor and mitigate excessive risk and bring much-needed transparency to these markets.

There are many other areas where the Commission has important responsibilities, such as final action on a position limits rule for physical commodities, margin requirements for uncleared swaps, and ensuring adequate protection of customer funds. If I am confirmed, I pledge to work tirelessly to lead the CFTC in fulfilling its responsibilities.

In conclusion, I consider public service the highest calling, and it would be an honor and a privilege to serve as the next Chairman of the CFTC.

If confirmed, I look forward to working closely with the Members of this Committee and your colleagues as you conduct your important legislative and oversight role.

Thank you for considering me for this important position and for the opportunity to appear before you today. I would be happy to answer any questions.

[The prepared statement of Mr. Massad can be found on page XX in the appendix.]

Chairwoman STABENOW. Thank you very much.

Senator Blumenthal, we are happy to have you with us.

**STATEMENT OF HON. RICHARD BLUMENTHAL, A U.S.  
SENATOR FROM THE STATE OF CONNECTICUT**

Senator BLUMENTHAL. Thank you so much, Madam Chairwoman. I apologize for being a little bit late. As all of you are doing I am sure, I am trying to juggle multiple Committee commitments, and I am so appreciative for the opportunity to be with you today and a support Tim, who is a longtime friend, and I am going to refer to him as Tim if I may because I have known him for a couple of decades and to say that he is well qualified for this job is a supreme understatement.

As you have heard about his background and I am not going to repeat it but I am very, very proud to be here today because he is a Connecticut resident, still has a home in Norwalk, Connecticut, has been a public servant not only at the global level as you heard but he has also been Vice Chairman of the Norwalk redevelopment agency and president of the Norwalk Community College Foundation among his many local and State involvements.

So, he is someone who lives public service, and I think his assignment at this point, as everybody on this Committee knows, is absolutely critical to avoid the kind of excesses and abuses that he has helped the Nation to recover from.

He has been in charge of unwinding the TARP program, first overseeing TARP's hundreds of billions of dollars of investments and eventually reducing them and unwinding them, and he has played a key role in helping our economy and financial system recover from that precipice of disaster and I think President Obama said it best in thanking him for that job, and I am quoting, "I think

it is safe to say that he never wants to have to manage something like TARP again”.

He did it well; but in his new role, he will help the Nation avoid those kinds of laxity and laggardness in law enforcement that brought the Nation in part to the problems that it encountered.

That is what I really welcome in his approach. He stated it well today, his focus on strong enforcement to keep the financial system safe and secure from unchecked risk as we work with our international partners.

On their efforts at derivatives reform, the CFTC must also make sure to contain the rifts that we encounter here and that flow from offshore back to the U.S. economy, and that means a strong regulatory regime here and in the international sphere going forward. I think he will help to impose that standard, the high bar that we need on the international regime.

So, he has a very challenging and important assignment ahead. I am very, very proud to support him here and hope that his nomination will move swiftly.

I also want to thank the others who are with him today for their public service. This body, the CFTC, is not a household name as we all know but it has implications and impacts on all of the households throughout the country, on farmers, on Wall Street, on Main Street, across the United States.

I want to thank you again, Chairwoman Stabenow and Ranking Member Cochran for the opportunity to be with you today. Thank you so much.

Chairwoman STABENOW. Thank you very much. We appreciate your being here and your comments.

We will now turn to Mr. Giancarlo. Welcome.

**TESTIMONY OF J. CHRISTOPHER GIANCARLO, OF NEW JERSEY, NOMINATED TO BE A COMMISSIONER OF THE COMMODITY FUTURES TRADING COMMISSION**

Mr. GIANCARLO. Thank you, Chairwoman Stabenow, Ranking Member Cochran, and members of the Committee, I am honored to be here before you today. I would like to thank Senate Minority Leader Mitch McConnell, for recommending me to the President and to President Barack Obama for nominating me for this position.

With your permission, Madam Chairwoman, I would like to introduce members of my family who are here with me today. I am joined by my dear wife, Regina, and our three children, Emma, Luke, and Henry. I am also pleased to introduce my mother, Mrs. Ella Jane Keegan, and my father, Dr. Hector Giancarlo.

Chairwoman STABENOW. Please stand. We would love to recognize you. Welcome. We are happy to have you at the Committee. [Applause.]

Mr. GIANCARLO. Madam Chairwoman, I hail from a line of nurses and physicians and business owners. They were children of simple emigrants who came to America to work hard and raise their families. They raised and educated their families and served their local communities. They volunteered, fought and died for our country in time of war. They would beam with pride if they saw one of their own here today.

But I was the black sheep in the family by choosing law over medicine. I practiced law for 16 years in New York and London where I advised many early stage technology companies in bringing their products into U.S.

In 2000, I joined a client firm that produced cutting-edge software that brought transparency to the pricing of currency options. I was then introduced to the global markets for swaps and derivatives. I have served over a decade as a senior executive of one of the primary intermediaries in the world's wholesale financial markets. In 2005, I directed the firm initial public offering.

In September 2008, Lehman Brothers filed for Chapter 11 bankruptcy protection. A typical "run on the bank" ensued with rapidly falling asset values that prevented lenders from meeting their cash obligations. This marked the beginning of a financial crisis that was devastating for far too many businesses and families. As you noted, 8 million jobs were lost here in America.

Without question, counter party exposures related to bilaterally cleared over-the-counter swaps helped amplify and spread the financial crisis. Inadequate collateralize and little public information about exposures among swaps users caused third-parties to become less willing to provide credit. Fear of the stability of the U.S. banking system forced the federal government to place emergency capital in the largest U.S. banks and insurance companies at tremendous expense to U.S. taxpayers.

While U.S. swaps markets continued to function during the financial crisis, trading liquidity dried up. I had been a proponent of central counter party clearing since before the financial crisis. During the Dodd-Frank Legislative debate, I publicly called for increased central counter party clearing, regulation of trading platforms, and increased regulatory and marketplace transparency.

My support for these three reforms is based not on academic theory or political ideology. It is based simply on my practical experience in the markets. But I am also a strong believer that vibrant, open and competitive markets are essential to a strong economy. Proper regulatory oversight can go hand-in-hand with open and competitive markets.

But if excessive regulation arbitrarily increases the cost of risk management to end-user, the overall economy will suffer. If confirmed, I will commit myself to ensuring the proper balance.

In the almost four years since the passage of Dodd-Frank, the CFTC has outpaced its peer financial service regulators in the implementing rules, and I compliment the agency staff for their extraordinary work.

But regulatory effectiveness must be a higher priority than speed. It is essential that we get the details right in implementing the core reforms of Title VII. If confirmed, I look forward to bringing my practical business experience and legal judgment to bear in completing the implementation of Dodd-Frank.

While my professional work over the past decade has been focused on financial swaps, I am very conscious that the U.S. futures markets were initially created to hedge price exposure in agricultural commodities. It is essential that U.S. futures and swaps markets continue to serve the needs of farmers, ranchers, feed yards, grain elevator operators, energy producers, refiners, wholesalers

and, yes, manufacturers that are the backbone of our U.S. economy. If confirmed, I will commit myself to attending to concerns of end-users of swaps and futures.

The goal of swaps market reform is to enhance the safety and soundness of hedging markets. The CFTC must fulfill its mission to implement the reforms of Dodd-Frank in a practical manner while continuing to oversee these critical risk hedging marketplaces. If confirmed, I will work faithfully with my fellow Commissioners to further that essential mission.

On a final note, my nomination is to fill the seat vacated last year by Commissioner Jill Sommers, who served the CFTC with distinction and dedication.

Thank you again for the honor of appearing before you. I will be pleased to answer your questions.

[The prepared statement of Mr. Giancarlo can be found on page XX in the appendix.]

Chairwoman STABENOW. Thank you very much.  
Ms. Bowen.

**TESTIMONY OF SHARON Y. BOWEN, OF NEW YORK, NOMINATED TO BE A COMMISSIONER OF THE COMMODITY FUTURES TRADING COMMISSION**

Ms. BOWEN. Chairwoman Stabenow, Ranking Member Cochran, and other distinguished members of the Committee, I am honored to have been nominated by President Obama to serve as Commissioner of the Commodity Futures Trading Commission.

I want to thank the Committee members and staff for meeting with me and for making time for this nomination hearing. I also want to thank Senator Gillibrand from my home State of New York.

I too would like to take this opportunity to introduce my family members who are here today. My sister Sheila Taylor. My sisters-in-law Rita Bowen and Emily Morse Campbell. My niece and nephews Alessandra and Carrington Campbell. A good close family friend Neal Cross Castelly. I want to acknowledge and thank especially my incredibly supportive husband of twenty-seven years, Larry Morse.

Chairwoman STABENOW. Wonderful. Let us ask them to stand as well. It is so wonderful to see all the family members.

[Applause.]

Ms. BOWEN. Although other members of my family could not be here, I want to thank them for their consistent love and support. Also for family members who are no longer with us, I want to acknowledge the support and inspiration they instilled in me to do my best and be my best whenever I could.

As the youngest of five children growing up in the segregated, small town of St. Julien's Creek, Virginia, I understand the importance of being the voice of the under-represented who have not had a chance to have a seat at the table, as I do today.

My commitment to public service runs deep and is not only evidenced by my role as the Acting Chair of the Board of Directors for the Securities Investor Protection Corporation but also by my personal contributions and leadership on behalf of my community.

In order to serve your community, you must understand your community's strengths and challenges.

I have been involved in numerous pro bono, educational, diversity, and civic efforts that address critical issues related to the ethics and sustainability of the legal profession, as well as the needs of the residents and families of New York City.

I currently serve as a member of the Emeritus Board of New York Lawyers for the Public Interest, the Boards of New York City Economic Development Corporation, Northwestern University Law School, and, until recently, the New York City-based nonprofit PENCIL through which my colleagues and I have partnered with middle schools in Harlem and the Bronx for over a decade.

I have served in several professional leadership positions, including co-chair of the Global Diversity Committee of my law firm, Latham & Watkins. I am also co-founder and head of Latham's Women's Initiative. I want to thank my partners and colleagues at Latham, especially my assistant, Audrey Leff, who have been staunch supporters and friends during my twenty-five years at the firm.

My interest in finance started early. After receiving a degree in Economics from the University of Virginia, I received an MBA and JD from Northwestern before moving to New York to begin my legal career.

I have over three decades of experience as a securities lawyer focused on financial markets and regulations. I maintain a deep understanding of regulatory requirements and disclosure obligations, and I understand the importance of, and risks associated with, derivatives.

A fair and efficient financial market not only helps investors but also has a positive impact on farmers, ranchers, manufacturers, and ultimately, consumers and job creation.

As the Acting Chair of SIPC, I have significant experience with the issues and procedures of dealing with failed broker-dealers and futures commission merchants in the financial and derivatives markets.

Early in my career, I worked on swaps and asset securitizations. I have advised companies and financial institutions in the purchase and sale of assets and distressed securities in the bankruptcy context. So, I understand what happens when our markets do not function as expected.

These experiences make me uniquely positioned to effectively guide and help the CFTC as it finalizes its regulatory rulemaking of Dodd-Frank.

The next phase of the CFTC's mandate requires effective implementation of these rules, with the participation and coordination of regulatory bodies both inside and outside of the U.S. I believe my strong analytical skills and reputation for building and leading teams with diverse perspectives across the globe will bring a unique contribution to the CFTC.

I firmly believe that the CFTC should cooperate and work in harmony with foreign regulators. At the same time, though, we must move forward in implementing the rules and mandate of Dodd-Frank.



I know that Congress, in directing the CFTC to establish an expanded regime for financial oversight, recognized that excessive risk-taking in the swaps market and what it did to contribute to the devastation that afflicted our economy in the wake of the financial crisis.

If confirmed, I would bring to my role as Commissioner an understanding of the securities and futures markets laws and regulations, the importance of both markets to the economy, and the terrible cost to the public when those markets fail.

Capital formation in the securities market is different from the management of risk and price volatility in the futures markets. Yet, each has its own nuances that impact consumers and end-users.

I recognize that our physical commodity markets need to be protected from excessive speculation and manipulation, and we must acknowledge that esoteric and other creative financial products do not always benefit consumers.

It would be an honor for me to bring my experience in finance and securities to my role as Commissioner of the CFTC, if confirmed. I have a record of bringing teams together to find solutions, and I believe that my substantive experience and ability to bring my own voice to the table would be of value to a historically independent government agency like the CFTC.

My door is always open and I am really ready and willing to learn and to listen and bring the best of my experience to my role. I believe I have the knowledge and the integrity to foster open, competitive, and financially sound markets; and I look forward to working with you in making our financial system stronger, and one that benefits everyone.

Thank you for your time and consideration. I also look forward to taking questions.

[The prepared statement of Ms. Bowen can be found on page XX in the appendix.]

Chairwoman STABENOW. Thank you very much.

We will proceed with questions. We will do five-minute rounds, and then if we have time, if there is interest, we certainly can do a second round. I believe there is a vote at 11:20 today. So, we will proceed with that in mind.

To each of you, I would like to start out taking about the physical markets. While the futures markets have evolved over the years and they are used by both hedgers and speculators, fundamentally these markets were designed for risk management and price discovery.

The functions are very important to commercial end-users. You will hear that from every single member of our Committee and those in agriculture, energy, and the metals space.

So, could each of you talk—we will start with Mr. Massad—about the importance of futures, options and swap markets to our end-users-agriculture, energy, metals industries, and how your experience, specifically the kind of work you have done, would relate to the CFTC, particularly in this regard.

Mr. MASSAD. Certainly. Thank you, Chairwoman Stabenow for the question, and I think you have said it best. These markets are incredibly important to end-users and we must make sure that

they continue to function well so that end-users can hedge exposures and achieve price discovery.

In the course of my career as a lawyer, I advised a wide range of businesses, for example, many of them touched on the agricultural sector just because the agricultural sector is so important to our economy and it touches on so many businesses.

Those include, for example, a fertilizer company that hedged its exposure to price risk on natural gas which is an important component of fertilizers.

A major lender to rural electric co-ops. Just about any business I dealt with I would say hedged forms of risk in these markets of one kind or another.

So, it is extremely important and I intend as Chairman to make sure that we are listening to the concerns of stakeholders of all types, including the traditional ones in the agricultural markets where the CFTC's jurisdiction really started as well as the other physical commodities.

I look forward to working with you and your staff and the other members of this Committee and their staffs on making sure that we hear their concerns and that we address those concerns.

Chairwoman STABENOW. Thank you very much.

Mr. Giancarlo.

Mr. GIANCARLO. Thank you, Madam Chairwoman.

This Committee and this Commission started out with a focus on Ag interest in the physical markets. That is where the origins are; and through the development of other markets and increasing of the jurisdiction and responsibility of the CFTC, those interests now are less than 10 percent of its mission but they are still a very important component of that.

End-user concerns, whether it be in physical markets or in cash-settled markets, there are a number of concerns of the end-users that deserve our attention carefully at the commission.

There are concerns about inter affiliated swaps and Treasury functions for end-users, and we need to make sure we get that right. There is concern about margin on unclear to swaps and those concerns CFTC has a rule proposal and that has not yet been finalized. We need to make sure that is finalized in a way that suits the interests of end-users.

Its concerns about position limits. As you know, a major per policy proposal is put forward. Thousands of pages have now been received, and it will be for the work of this Commission going forward to wade through those comments and make sure that we get that right.

We do not want to create loopholes but we need to make sure that end-users have the right outcome on position limits so they can hedge real risks as they are meant to, whether that is in physically settled or cash-settled instruments.

So end-users have a number of concerns. They will be the foremost on our list.

On the agricultural side, that will be something that I will be keenly focused on to learn those issues, to get out into the field to meet with the constituents that have concerns about physically settled agricultural issues and be there to understand those issues.

Chairwoman STABENOW. Thank you.

Ms. Bowen.

Ms. BOWEN. Yes. I understand the importance of the integrity of the markets to the agriculture community, as well as end-users. I am also aware of the long-standing and important role of agriculture in the history of the CFTC.

A critically important role of the CFTC, though, is to protect against excessive speculation and manipulation which has been a long-standing concern.

Our markets need to work for farmers, ranchers, and end-users. So, our rules must be balanced and not create undue costs and burdens.

As a consumer, I am also aware of the high impact of gas prices and food and electricity on our families and neighbors. We all pay when our markets do not work. I will bring the full enforcement powers of the CFTC to bear, frankly, to protect against this type of excessive speculation and manipulation of the market.

I frankly look forward to working with all of the stakeholders and to hear their concerns and address their issues.

Chairwoman STABENOW. Thank you very much. I have, obviously, many other questions. I am going to stop to give others the opportunity to hold to five minutes but I do want to come back to issues on position limits and cross-border issues. But at this point, I am going to turn to Senator Cochran.

Senator COCHRAN. Madam Chair, thank you.

Let me begin by asking each of the nominees what your impression has been of the role of the CFTC in managing abuses that have led to investor losses through trading contracts or in trying to deal with the situation such as the Ponzi scheme of recent years that involved Mississippi and a lot of other states too and investors, this so-called Stanford Ponzi scheme.

What is your reaction about how the Commission can act to help safeguard communities and investors in dealing with situations like this?

Mr. MASSAD. Ranking Member Cochran, thank you for the question, it is a very important issue that you have raised.

The incidents involving MF Global and Peregrine are obviously very, very damaging to the participants with those firms as well as to confidence in these markets generally.

The Commission must do all it can to prevent that type of thing. It is my understanding the Commission has taken some actions with respect to protection of customer funds that are designed to address this. I want to make sure, if I am confirmed, that we have done all that we can and I look forward to talking with the staff about this and also talking with you and your staff about actions we might take.

It is also a question of resources. As you know, the Commission relies on self-regulatory agencies to do a lot of the reviews of FCMs and so forth.

But the agency needs to make sure that it does all it can within its capabilities to minimize this. We must take strong enforcement action when we discover any type of improper behavior.

I look forward to making this a priority.

Senator COCHRAN. Thank you.

Mr. GIANCARLO. Thank you, Senator.

Those two instances you mentioned were tremendously damaging to market places. It is true that many years later people that lost money in those have gotten most of their money back but that is not really a complete solution because the loss of that money during that period of time would have been devastating to their agriculture business or to their manufacturing business.

But even more broadly as an operator of markets, I know how important market credibility is; and what suffered in those two events is the credibility of the market places.

As the overseer of the marketplace, the CFTC that is unfortunately a black guy. We need to make sure that does not happen again. There has been a number of steps taken, as you may know, some very good steps taken by the agency but also by the NFA working together with CME at the direction of the agency, the Tack Committee, to have electronic confirmation of customer accounts is a very good step forward.

But I think there are other things that can be done as well. I know there are some suggestions about changes in the bankruptcy code that can be looked at.

Commissioner O'Malley has made, I think, a very good suggestion about a super lien. As you know, many of these FCMs now are part of much a larger financial institution, and yet in the lean in favor of the customers exists at the subsidiary level.

His proposal is that maybe that lien needs to be moved to the top of the house so the entire financial institution will recognize the concerns of customers as a top priority for the entire institution.

I think that it is a suggestion worth looking at. But I look forward to working on these and other ideas with your staff and others as we go forward.

Senator COCHRAN. Thank you.

Ms. BOWEN. Thank you. In my acting role as Acting Chair of SIPC, I am particularly mindful of the importance of consumer protection. I have seen first-hand the devastating effect on everyday people who did nothing, to have their funds being misused and transferred to other entities, essentially creating investment banks.

I think what we should do and I think what Dodd-Frank gives us to do is the enforcement authority which has been enhanced to guard against this type of misbehavior and fraud.

I understand that resources are critically important for us to have the proper oversight, and I agree with Mr. Giancarlo in the sense that the type of work that Commissioner O'Malley is doing with respect to technology is critically important.

We need to have those resources to make sure that the reporting obligations are accurate and effective and useful, and I obviously look forward to working with you and the rest of the Committee members on this important issue, including in the bankruptcy context, as you know I have expertise in that and would be happy to participate in those discussions.

Senator COCHRAN. Thank you.

Chairwoman STABENOW. Thank you very much.

Senator KLOBUCHAR.

Senator KLOBUCHAR. Thank you very much, Chairwoman, and a thank you to our nominees.

I am going to direct my questions to Mr. Massad and it is not under any disrespect for the other two nominees but only because there is a five minute limit. So, I will put my questions in writing.

I also wanted to greet our Minnesotan here. Charlotte, Mr. Massad's wife. I know this means you will bring some Midwestern sensibility to the board. We are excited about that.

I guess I will start with that and just began following up on Senator Cochran's questions. The MF Global and Peregrine abuses really hurt a lot of people in my State. In fact, one farmer unfortunately had invested through both of them, and we had a number of problems because of that. I would just reiterate the importance of doing everything you can to be aggressive with those kinds of practices.

I have also been very involved in the speculation issue, serving as a hub for Delta, agreeing with their CEO and also for a number of people who were hurt very much when there is speculation in the market and urge you to be aggressive about that.

I do have a question on position limits or hard caps on a range of commodities including energy products. I think commercial hedges are based on an actual physical product like corn or wheat are exempt from the position limits.

However, many of the commercial practices used in agriculture are caught by the position limits. For example, farmers will place a hedge on the price of grain from a silo that is to be delivered to market in the future before the grain is delivered to the silo. This provides the farmer with a set price for the grain and budget certainty.

My first question is: Are speculative financial hedges different, do you consider them different, Mr. Massad, than the types of hedges used in common commercial practices used in agriculture?

Mr. MASSAD. Thank you for the question, Senator Klobuchar. You have raised a very important issue, and Congress obviously was very concerned about this issue also in directing the agency to look at the issue of excessive speculation in position limits, and the agency has re-proposed a rule on this.

I think, as we consider that, if I am confirmed, I will clearly want to be thinking about making sure that commercial end-users can still properly engage in the activities they need to engage in, can engage in bona fide hedging at the same time that we address the risk of excessive speculation which can lead to manipulation.

I look forward to working with the staff on that and am happy to work with you and your staff to make sure that we take action in this area that is clear, that works for end-users, that addresses the concerns that Congress had and that is sustainable.

Senator KLOBUCHAR. Thank you. I think we just want to make sure that the rule will allow for normal practices of these types of businesses.

I have some questions on commercial end-users and exemptions to the margin requirements. I think I will put those on the record and get to something that you and I discussed when we met, and that is the importance of the renewable fuel standard for many jobs in my State, Senator Donnelly's State, Senator Hoeven's State.

In fact, we had 16 senators that met recently with the EPA Administrator about this issue and some proposals that came out of

the EPA. This industry generates \$5 billion in economic output, sustains tens of thousands of jobs, and we are concerned about this rule that recently has been proposed.

It is not really in your jurisdiction. But what is in your jurisdiction is speculation, and we are concerned with the renewable fuels standard's RIN market which we talked about. It was volatile last year and there were questions raised about the impact of excessive speculation in the market that may have caused this volatility that led to this proposed rule.

What role do you believe the CFTC can play to reduce volatility and enhance transparency which is what we really want in the RIN market?

Mr. MASSAD. Thank you, Senator.

It is a very important issue and an area for us to be looking at. We have the responsibility to address excessive speculation. We have the responsibility to prevent fraud and manipulation in this market and the RIN market is one that we should be actively looking at and making sure that it is functioning properly.

So, if confirmed, I look forward to working with the staff on that and to getting your ideas on the specific things that we might want to consider to make sure this is. It is a complex market, it is a new market; but it is very important to a lot of producers, a lot of the agricultural sector of this country. So, we need to make sure it works effectively for people.

Senator KLOBUCHAR. Thank you. Because I think it played an unfair role in what happened and what we see in this proposed rule.

I would also mention that Chairwoman Stabenow has shown great leadership in this area and I again will put questions on the record of the other two nominees as well as some on the margin issue and some position limits issues which you and I also discussed earlier.

Thank you very much.

Chairwoman STABENOW. Thank you. Important issues.

Senator Chambliss.

Senator CHAMBLISS. Thank you very much, Madam Chair.

Let me follow up on that. I do not think there are any of us who would disagree that manipulation of the markets is a violation of the current law and it is a very critical oversight responsibility that CFTC has and we are all familiar with cases where manipulation, individuals who have sought to manipulate the market have been dealt with in a severe matter by CFTC and we want that to continue.

But by the same token, speculators are an asset to the market. I want to make sure as we go through this, and you are going to add any number of rules and regulations that you deal with regarding that issue; but if each of you will just give me a simple yes or no. I want to make sure that you have no bias against speculators.

Mr. Massad, let us start with you.

Mr. MASSAD. Certainly. Senator, I can assure you that speculators are important in these markets. That is often the other side of the hedge for a business that is seeking to hedge commercial risk.

Senator CHAMBLISS. Great. Mr. Giancarlo.

Mr. GIANCARLO. The answer, I cannot remember how you rephrase it, yes or no; but I believe speculators play an important role in the market.

I think actually the law does not bar speculation in the market. The law gives the CFTC power to use position limits to prevent excessive speculation. It does not bar speculation.

Speculation allows hedgers to meet a cross time. They play a very important role in markets. As an operator of markets for many years, I understand that.

Senator CHAMBLISS. Ms. Bowen.

Ms. BOWEN. Yes, I do acknowledge that speculators are one player in the market. I absolutely do recognize that. At the same time, I do recognize that excessive speculation is a problem and it is critically important for us to protect our markets. I do not think we are going to have market integrity at all if we allow there to be excessive speculation.

Senator CHAMBLISS. Obviously, you are here because this Committee has jurisdiction over the operation of the Commodity Futures Trading Commission. Within the Commission, there are various advisory committees. One of those is the Agricultural Advisory Committee.

It is interesting to note that there has not been a meeting of the Ag Advisory Committee of the CFTC since 2011. With the confirmation of the three of you, there is not going to be anybody on the Commission that has what I think we could refer to as a background in agriculture which is a little bit unusual because that was the original nature of the CFTC.

Do any of the three of you have any interest in chairing the Ag Advisory Committee within the CFTC?

Mr. MASSAD. Well, Senator, perhaps I should speak first as the nominee for the Chair. It is, I think, vitally important to the Commission that we have the input of agricultural stakeholders. It is an incredibly important part of these markets, and I think the advisory committee is a great way of doing that.

I will tell you I will make sure it is chaired. I am, I think we have to see exactly, if we are all confirmed, who does what. But I will pledge to you that we will make sure it is an important committee that meets regularly.

Mr. GIANCARLO. Senator, I also agree that it is vitally important that committee be chaired. I think it is an unfortunate oversight that it has gone on so long.

If I might add, I believe there is also another committee, and that is the Energy Committee, Advisory Committee, that also has not met for some time.

So, to answer your question, I would be honored to chair either of those committees.

Ms. BOWEN. I would like to say my door is going to be open for any stakeholder, whether we have committee meetings or not; and so I welcome to have the Agriculture Committee committed to come and visit. I do know our Chair will probably have something to say as to who gets which committees. But irrespective that, please look to me to be someone who would be very welcoming to them.

Senator CHAMBLISS. Great. Thank you.

Mr. Massad, when Dodd-Frank passed, I was concerned that CFTC would go too far in regulating the activities of commodity end-users; and based on the comments of my constituents, I think my concerns are justified.

Are you satisfied that the Commission has given due consideration to end-users in the exemptions and exceptions provided to them by Dodd-Frank and the CEA in its rulemaking?

Mr. MASSAD. Well, Senator, if confirmed, I want to make, absolutely sure, that we have. I think that is part of Congress's direction to us in providing the statutory basis to recognize that end-users, particularly non-financial commercial end-users, who are hedging commercial risk are treated differently than the financial entities that may be dealers or other participants in these markets.

So, I look forward. I know there are a wide range of issues that touch on this, and I intend to make sure that we have taken all appropriate action to make sure they are treated properly and again look forward to working with you and your staff in hearing your concerns on that.

Senator CHAMBLISS. My time is up, but, Mr. Giancarlo, you mentioned an issue that is very critical to all of us that are concerned with the markets and that is the issue of position limits.

As you go through the discussion of this, should that take place, what really concerns me is that there is going to be an opportunity to create winners and losers and that should not be the object of at CFTC.

So, as all three of you educate yourself on this issue and go through it, we look forward to dialoguing particularly on that issue of position limits.

Thank you, Madam Chair.

Chairwoman STABENOW. Thank you very much, I would just add my voice to Senator Chambliss about the Agriculture Advisory Committee and I hope you will seriously look to that as an important part of receiving critical input from agriculture.

Senator DONNELLY.

Senator DONNELLY. Thank you, Madam Chair.

Mr. Massad, I thought that this would be the moment when we were together in my office, I said if you do a great job as Chair you could be the Derek Jeter of the CFTC; and you said wait until my son hears that.

[Laughter.]

Senator DONNELLY. Your son was here and he just left to get a drink of water. So, the timing was terrible on this.

Mr. MASSAD. I will make him watch the tape.

Senator DONNELLY. All right. Very good.

In regard to position limits, I have argued that they should be a tool in the CFTC's toolbox that helps fulfill its mission to promote transparent open markets and to protect the public from fraud and manipulation.

I just want to make sure that with all three of you that you will work to finalize a good position limits rule in a timely manner.

Mr. MASSAD. Senator, I believe it is very important that we work to finalize that rule. We have had position limits in place for agricultural commodities, as you know, for many years. I think they



are a very important tool in the toolkit, and Congress obviously has directed us to take action in this regard.

So, I will make that a priority.

Senator DONNELLY. Mr. Giancarlo.

Mr. GIANCARLO. Yes. Along with margin on uncleared swaps, I think that position limits is one of the outstanding rulemakings that are vitally important to the end-user community.

As I said earlier, thousands of pages of comments have now been received. The comment period ended at the beginning of February. It will now fall to the Commission to go through those comments very carefully and make sure that end-users receive the exemption that they deserve and yet at the same time that loopholes are not created through it.

So, we have got to get it right.

Senator DONNELLY. Ms. Bowen.

Ms. BOWEN. Yes. I would just briefly also echo that it is an important tool in the toolbox. At the same time, I do look forward to reading the comments. I know there are hundreds of comments on this issue, and I look forward to reading those and having discussions with constituents.

Senator DONNELLY. Thank you.

Mr. Massad, I think a good argument can be made that excessive speculation leads to increased or exaggerated price fluctuations that can negatively affect the pocketbook of Hoosiers.

As part of the position limits imposed, I understand it creates a position limit five times higher for traders in cash-settled markets if they are not also trading a physically settled contract.

Can you explain why these limits are needed and why I should not be worried that they might increase the potential for manipulation?

Mr. MASSAD. Thank you, Senator, for the question. You have touched on a very important issue. What is called the conditional spot limit rule that is part of the repropose rule.

It is a very complex issue. I know there are strong views on both sides. I look forward to reading the comments on this issue and talking about it with the staff and would be happy to visit further with you on it.

I think we have got to make sure that we end up with any final action we take that it is well reasoned, it is objective, it is justified, it is based on evidence, and it has a sound basis.

So, I pledge to you that is what I will try to make sure we do and again I am happy to work with you on it.

Senator DONNELLY. Thank you.

As you have heard from my good friends and colleagues here, agricultural commodity markets are part of the heart and soul of what we do here.

I just want to make sure that you all are committed to continuing the commitment to that, the emphasis to that and the desire to never forget what a critical part that is in this Committee or of the CFTC. Thank you.

Mr. MASSAD. Yes, Senator.

Senator DONNELLY. On position limits again. We talked about excessive speculation and there have been times in the past, it is extraordinary when all of a sudden you look up and the families in

Logansport, Indiana, and in Evansville, Indiana, are looking at \$4.25 gasoline when it was a dollar cheaper maybe a few months before or whatever.

I was wondering. We have seen the spot markets, 421 million barrels on spec or more. Do you think that numbers of that size affect pricing of the product? Mr. Massad, if you would. I only have about a minute left.

Mr. MASSAD. Well, Senator, thank you for the question. I guess I would say that speculation obviously can affect prices. There are many, many factors that affect prices. Sometimes it is difficult to measure exactly what the impact is of any particular factor.

But I think again Congress directed us to look at the issue of excessive speculation and take action. If I am confirmed, I will make it a priority that we do that.

Senator DONNELLY. Thank you.

Mr. Giancarlo.

Mr. GIANCARLO. One of the accomplishments of Title VII of Dodd-Frank was to create a whole regime for the collection of market data in the swaps market, and the CFTC has gone far into beginning the process of collecting that data, but yet to be done is the process of really mining and interpreting that data, and that is a very important mission, I think, for this Commission going forward so we can look at just questions like that to determine what is the role in the cash-settled market, how does it affect the physically settled market.

So, that is something that I think is going to be an important objective for this Commission to get the data, gathering the data and now being able to interpret it and come to some real conclusions about what is going on in the marketplace and what do we need to do about it.

Senator DONNELLY. Ms. Bowen.

Ms. BOWEN. I do think it is critically important for us to really spend a great deal of time frankly on this issue. A number of you have raised it today and we know how important that is to consumers.

You have my commitment that I will definitely be addressing that issue as well with my colleagues.

Senator DONNELLY. I want to thank all of you for putting yourself forward for public service. Your work, you know, in many ways for all of our families and I will wrap this up. Families have to make decisions on limited paycheck and limited pocketbook of whether sometimes when prices go so high, whether they can fill up the market basket or whether they have to fill up the gas tank. We are very, very grateful for your willingness to step up for all of our fellow citizens.

Thank you.

Chairwoman STABENOW. Thank you.

Senator Hoeven, you are back just in time. You are up.

Senator HOEVEN. Thank you, Madam Chairman, and again my thanks both to you and the Ranking Member for your leadership on the Farm Bill. I truly appreciate it.

Thanks to the witnesses, Mr. Massad, thank you for coming to visit with me. I appreciate it as well as your background, the work that you did with TARP.

Mr. Giancarlo, good to have you here. Ms. Bowen, thank you so much.

My first question is related to position limits. The CFTC, and I apologize if somebody else has already asked this question, but I think it is very important.

The CFTC has recently proposed a position limits rule; and essentially for contracts where you take physical delivery to settle, you could have one position limit. But if you have cash-settled contracts, you could take five times that position limit. I think that is a concern. Furthermore, you have some of the markets that settle their cash contracts pricing off of the physical delivery markets. I think that raises issues of liquidity. I think that raises issues of price volatility.

This rule was proposed before, rejected. I believe the former Chairman was very much opposed to it and now it is being re-proposed.

I would like you to address that starting with Mr. Massad but I would like each of you to address this issue.

Mr. MASSAD. Thank you, Senator Hoeven, for the question. You are referring to the conditional spot limit rule.

Senator HOEVEN. Exactly.

Mr. MASSAD. It is a very important issue and it is included in the re-proposed rule, and I want to say that, if I am confirmed, I look forward to reading the comments about this issue. It is a complex one. I know there are strong views on both sides.

It is very important that we take action which has a justifiable basis, a reasoned basis, is grounded in the data, and is sustainable.

So, I am happy to work with you and talk with you further on this issue. Again, I know it is an issue that there are some strong feelings about, but we need to make sure we take a well reasoned action, and I can just pledge that I will use the best of my abilities to do that.

Senator HOEVEN. Mr. Giancarlo.

Mr. GIANCARLO. This is an important issue. It is an issue that I know there has been a lot of comments received in the comment period. I have not had a chance to see all of them and I would not want to prejudge it until I have had a chance to look at that.

I would say that, it is conceived in the market that physically settled contracts have different dynamics than cash-settled contracts, and there may be different opportunities for manipulation, and one is different than the other.

But one of the things I would really like to look at as I go through the comments is what data was the basis for the CFTC's proposal on the five times exception to the rule. I would like to understand what data it was underlying it and is it current data, is it appropriate data.

I am going to be very data-driven, if confirmed, in the role and I think that is going to have to drive a lot of the decision-making.

Senator HOEVEN. Ms. Bowen.

Ms. BOWEN. It has definitely been a topic very much so not just today but I understand it is an incredibly important topic. The fact that it was re-proposed means that it really is critically important.

I can tell you that I am going to bring a set of fresh eyes to this, look at it with a clean slate. I am not going to presume any posi-

tion on this. I can assure you I will bring my objective best sense to look at the issues, and it is important for us to get it right.

Senator HOEVEN. So, while I think you have tremendous qualifications, all three of you, I would say that I have some concern about, none of you have experience at the farming level at a grass-roots level.

You know, we do not have somebody with an Ag background, and I think that is important. I think other members have brought that up.

But I am encouraged, I think Mr. Giancarlo, and maybe all three of you, express an interest in getting out and actually understanding how farmers and how agriculture uses futures contracts.

I think we have lost track kind of where this came from. This was designed for farmers to hedge their risk when they grow a crop. They take a long position. They grow a crop, and it has turned into all of these financial futures and very complex instruments.

Fortunately, I think you have a pretty good understanding of the complexity of those instruments, the risk they create at both an institutional and at a system level.

But I do hope that you will take time. I think it is very important you get out and interact at maybe the farm level a little bit to get an understanding where is this all starts.

You know, I would hope somebody on the CFTC would have that kind of Ag background. Now with the two we have and the three of you, we will not have that.

So, that is one concern. The other is to look at this position limits rule because of the potential for price manipulation, speculation, price volatility.

I am going to take you at your word. You are coming in with an open mind. That means that maybe a no when you get a chance to vote on this or maybe a yes. I have already asked the Chairman of this Committee to hold a hearing on this issue, and so I do want to emphasize to you that this is something we will be looking at very closely.

I thank you for your service.

Chairwoman STABENOW. Thank you very much.

Senator CASEY.

Senator CASEY. Madam Chair, thank you very much and I appreciate you having us here for this hearing.

I wanted to start off by saying to each of the nominees how much we appreciate your service, your willingness to serve at a tough time. We all here are elected officials. It is a tough time to be an elected official. It is also a tough time to be an appointed official. We are grateful you are willing to do that.

As your families were introduced, I was reminded of my own background. My father was in and out of politics and government over the course of several decades, not years.

Being at events where he was being sworn into office or being questioned about his work, I want to say to your spouses, your children and your family.

We are grateful you are here and you should take great pride in this day and also take great pride in what your family members are doing because you are part of the reason they are here obvi-

ously, but you are also part of the service they will render to their country. We are especially grateful for that.

I will do kind of an itemization of a couple of issues, some of which have already been addressed, but raise them for emphasis, I guess, and also to indicate how important they are to a lot of us.

The end-user issue is a critically important issue for individuals and institutions. In Pennsylvania, we have, contrary to popular belief, we have a huge part of our economy that is an agricultural economy.

There is always a debate about what is the biggest industry in the State, tourism or agriculture. It is probably not well known around the country how significant agriculture is in a state like ours which does have some major urban areas.

So, the end-user issue is critical and I have not had a chance to talk to all of the nominees.

Mr. Massad, we have spoken about this and I know my staff has. So, to the extent you can speak to that and take action in furtherance of the goals that we set forth on end-users I appreciate that.

I want to ask a question about it. Senator Klobuchar raised these so-called RIN volatility issue, and I will not reiterate that. We will talk about that later. But that is critically important.

I would be interested to see if there are ways that you could reduce the volatility in that market. That is something that we hear a lot about.

I guess one very practical question I would ask, though, and I will start with Mr. Massad and others that want to chime in on this. The kind of fundamental question which are resources. I think sometimes we believe that if folks are focused on the right policy and they get through the confirmation process and they have an office to go to that everything is wonderful.

We know that resources are critically important, maybe now more than ever, and I just want to give you an opportunity to speak to that in terms of what you see are the resource issues, if any. I hope there are none but I am afraid I am wrong about that.

Mr. MASSAD. Thank you, Senator Casey. I appreciate the question.

I think the resource issue is a very, very important one. I am very concerned about the adequacy of the resources obviously. This is an agency whose responsibilities have grown enormously and the budget has not grown.

We must make sure that we provide adequate resources to the agency to carry out its mission. It is critically important, and I think it is also a very good investment for our country.

We have the best financial markets in the world; and in part they are the best because they are well regulated, thoughtfully regulated, and it has been that way for decades. We should not lose that mantle and making sure the agency is adequately funded to meet all the challenges of this vastly expanded jurisdiction, of the technology that drives these markets, of the data collection responsibilities that we have, and of making sure we can take strong enforcement to address some of the other concern you highlighted is critical.

I would be delighted to work with you and your staff on making sure that happens.

Senator CASEY. Anyone else want to comment on that issue?

Mr. GIANCARLO. I would if I may. I am just conscious of the fact as we are here today Acting Commissioner Widgin is elsewhere in the capitol testifying on the CFTC's budget, and I do not envy his task this morning.

I entirely agree that the CFTC's mission has been enormously expanded and its resources have not. Its mandate is the law so it has to meet that mandate and it has to have the right resources to do it.

At the same time, I am informed by my own experience in business over the last 12 years but especially the last five years since the financial crisis. Revenues are down and yet demands on our resources are greater.

We have had to do more with less in business just as probably most Americans in their own households had to do more with less. It is more time in the office, more time working to get more done.

My own staff in my firm is down 10 percent and have not seen raises in six years, and I am not suggesting that you should be a policy but I am making the point that when we live in a time where resources need to be stretched because the American taxpayer's pay the price at the end of the day.

So, we have got to regulate these expanded markets yet we have got to be very, very careful that we are not spending the American taxpayer's money improperly.

So, I think resource allocation within the agency is important. Use of resources, cooperation with other SROs such as the NFA and others are vitally important.

How do we use technology? In business, technology has become more important to do jobs and we need to find a way to do that within the agency as well.

Cooperation with overseas regulators and litigating effectively, not taking on too many things by taking on the right things. So, I think those are things we need to do with in the agency.

If confirmed, I would try to find the right balance.

Senator CASEY. Thank you very much.

Ms. Bowen.

Ms. BOWEN. Just briefly. I would especially focus on our human capital and our knowledge base. With thirty-two years on Wall Street I can tell you there is no end to the imagination of the kinds of products that can be created.

So, we frankly need resources to be able to police the market, to enforce the market, and frankly, to think ahead of the market. I would welcome the use of more resources to really develop our human capital as well.

Senator CASEY. Well, that idea of you as part of an effort to be a cop on the beat is a very important point and we need to make sure what the research is.

I am over time but I want to ask you to answer this question. You said you are the youngest of five?

Ms. BOWEN. Yes.

Senator CASEY. I grew up in a family of eight. My youngest brother is a great lawyer. He is number eight. He would say he is the smartest in the family. I am not going to ask you where you are but I am assuming you are.

Ms. BOWEN. Other than always being right.

[Laughter.]

Senator CASEY. For the purposes of confirmation, I will assert that you are the smartest in the family.

Thank you for your service.

Ms. BOWEN. Thank you so much.

Chairwoman STABENOW. Thank you. Speaking on behalf of firstborns I would like to reiterate that—all right.

Senator THUNE.

Senator THUNE. Thank you, Madam Chairman, and thank you to our nominees for being here today and welcome.

Let me just, if I might, as we meet with these nominees this morning make very clear how important your job is. There are farmers and ranchers and grain elevators and cooperatives in the agricultural community that are increasingly dependent upon the tools that are available and that they utilize in terms of better managing their risk and especially in an era where you are starting to see lower commodity prices and higher production costs and these are all things that are under your jurisdiction.

So, I just want you to know that the job that you have in front of you is an important one and there are an awful lot of people who depend upon the tools that are available.

We all understand the importance as well of the need for transparency, for smart regulations that allow for effective cost analysis of proposed rules. I think it is really important that be an important component of everything that you do at the Commission.

Just a couple of quick questions. I know the Chair is anxious, we have got to take some votes going here momentarily but I wanted to ask and I direct this to you, Mr. Massad.

Since the passage of Dodd-Frank in 2010, the Commission has issued approximately 60 rules followed by more than 140 no-action letters. This reliance on no-action letters has created some confusion for the industries that the CFTC is regulating, and I am wondering what your thoughts are on the use of no-action letters and what, as Chairman, would you propose changing to decrease the CFTC's reliance on no-action letters?

Mr. MASSAD. Thank you for the question, Senator Thune.

As someone who was in private law practice for many years, I think I appreciate very much the importance of good process and the importance of clarity in rulemaking. I also understand that there are appropriate circumstances where, instead of a rule, you may do guidance, you may do no action.

Congress gave the Commission enormous responsibilities with deadlines to bring an entire market into regulation that really was not regulated.

The Commission has promulgated almost all the rules required. It has also issued a number of no-action letters.

What I would pledge to you is that I will use all of my best abilities to make sure that we act in a way that provides certainty, clarity, and sustainability. That we use rules where that is appropriate. That we have good adherence to the requirements of the Administrative Procedures Act so that people can comment on those rules.

There may be situations where guidance and no-action letters are appropriate such as when there are new facts in the market or things are still developing.

But I think it is very important that we act in a manner that market participants can rely on what we are doing and have predictability. Having been a lawyer who advised a lot of businesses, I know predictability about the rules is very critical.

Senator THUNE. Ms. Bowen, a lot of agricultural end-users are raising concerns about CFTC Rule Number 1.35 and the record keeping requirements associated with that. They find the rules so broad and vague that they believe they have to save every email or article that might lead to the execution of a transaction.

I am wondering, as Commissioner, how you would provide more practical guidance to end-users with regard to that rule.

Ms. BOWEN. Yes. I have read comments to that effect, and I do not think rules could be sort of one-size-fits-all. I think that is clear from the feedback that the Commission received.

Particularly with end-users, we do not want to have rules that would create undue costs and burdens on them. So, I would pledge to make sure that we focus on that really, really clearly. I look forward to working with you and your staff.

Senator THUNE. All right. Thank you.

Mr. Giancarlo, tell me about why you would want to leave the private sector and pursue a position as a CFTC Commissioner.

[Laughter.]

Mr. GIANCARLO. Maybe I can tell a little story. In 1942, my grandfather was a physician in private practice in Hudson County, New Jersey, with a family of two and a busy urban practice.

A few months after the bombing of Pearl Harbor, he marched down to the local recruiting office and enlisted in the U.S. Army. He, as a doctor, felt that he had something to bring. Even though he was 40 years old, he felt that he could serve as country following a crisis. He could bring his medical training.

He then went on to serve at Fort Daniel, Georgia, and Fort Thomas, Kentucky. His family lived with my great-grandmother in Cincinnati during that service.

He was the Army Commandant, Medical Commandant. He brought his medical skills to bear to solve a problem that had been a great problem in World War I with all the illness and death on American camps before the GIs even got to the front.

In a similar way, I feel that I have learned a lot through the financial crisis. I was there in the center of it as an operator of marketplaces. I saw the devastation in markets and I realize that markets have to have, to operate efficiently and to serve our country, have to have credibility, have to have the reforms put in place but have to be put in place in the right manner.

So, I think I am at a unique time. I think I have a unique set of skills, and I think I can bring them to bear and somehow follow in my grandfather's footsteps.

Senator THUNE. Thank you. My time has expired. Thank you, Madam Chair.

Thank you all.

Chairwoman STABENOW. Thank you.

Senator Brown.



Senator BROWN. Thank you, Madam Chair.

Mr. Giancarlo, my father was 35 at the time of Pearl Harbor, was a physician, and did not do exactly what your father did but mostly did that and was shipped off. He joined the Army because he did not want to be on a ship and he ended up the whole war on a ship.

[Laughter.]

Senator BROWN. He always rooted for Army or Navy in the Army-Navy game because, I do not understand any of that. But anyway, thank you for joining.

I want to talk about end-users in a different way. During the last decade, Wall Street has expanded into a number of commercial activities. Power generation, what happened to electricity markets in California?

You know about metals warehousing. The New York Times had a front page piece about what happened with aluminum in Detroit. Also in oil refining, oil tankers, even stockpiling yellowcake uranium. You know all of that.

I have particular concerns about aluminum prices for the end-user as there are large breweries, large bottling companies, all soft drink makers, all of that.

As you know, the CFTC can address this issue both through its anti-manipulation authority and its review of foreign boards of trade like the London metal exchange.

As Commissioners, I have two questions. Then I think we need to go vote. One, do you think these institutions have moved too far into some of these commercial activities, Wall Street's movement, especially two or three Wall Street firms moving into these commercial activities? This question is for all three of you as the second one is.

As Commissioners, how would you use your anti-manipulation, your FBOT authority for the foreign boards of trade to address issues in aluminum and other metals.

If you would just answer both of those questions, Mr. Massad.

Mr. MASSAD. Thank you, Senator.

As to the first question, let me just say that I think the issue of what businesses should large bank holding companies be allowed to be in particularly given the fact that they do receive various forms of assistance from the government in the form of deposit insurance, access to the discount window, and so forth is an extremely important one.

It is largely outside the jurisdiction of the CFTC as you and I discussed when we met. Therefore, it is not something that as the CFTC Chair, if confirmed, that I would rule on.

But as an American taxpayer, I think it is a very important question to be considered, and certainly to the extent that other regulatory agencies that are looking at these issues or the Senate or the House needs any assistance from the CFTC, I would be happy to provide it.

As to the second part of the question, I think it is very important that the Commission use its authority, and if confirmed, I would certainly do so, to act if we see evidence of manipulation of any type but particularly in the markets as you have highlighted.

It is important that we act to prevent that. That is our job, and again I would be happy to work with you and your staff on making sure that we are looking at these issues.

Senator BROWN. Mr. Giancarlo.

Mr. GIANCARLO. You know, under Glass-Steagall, these institutions would not be able to engage in this. But I was not involved in the process by which those rules were winnowed down and eventually Glass-Steagall was repealed.

Going forward, what I can say is market manipulation is market manipulation, whether it is done by large financial institutions or small financial institutions, whether it is done through the manipulations of delivery times in metal warehouses or whether it is done through any other means in markets.

Any markets that are overseen by this agency, should I be confirmed, I would be supportive of aggressive action against market manipulation and using all the other tools including the other tools you mentioned which is the oversight, foreign boards of trade like the London metals exchange.

Senator BROWN. Ms. Bowen.

Ms. BOWEN. Yes, I too am aware of some of the situations you cited with respect to aluminum. I agree. That is something we should definitely be looking at particularly if that causes manipulation in the market. Any time you can control both the demand and supply of a commodity that could be a recipe or it needs to be looked at because it could be a recipe for manipulations.

Senator BROWN. Mr. Giancarlo and Ms. Bowen, does it concern you that, I mean, Mr. Massad, answered the first part of that question. But does it concern you that Wall Street is in more of these real economy kinds of activities?

Ms. Bowen.

Ms. BOWEN. Wearing my personal hat, I am concerned and I am aware that the CFTC has sent letters to the LME and other exchanges to ask them to preserve their data, their price and warehousing rules.

I believe the Fed has recently announced that they are taking a look at the issue of whether banks should be allowed to continue to operate in physical commodities.

So, yes, I am concerned.

Senator BROWN. Mr. Giancarlo.

Mr. GIANCARLO. I do not think that good regulation would be in the business of picking winners and losers. So, I would not like to point at a particular industry. What I would say, as an operator markets, it has been my experience that whenever any parties in the market gain a dominant position, dominance can lead to abuses, and absolute dominance can lead to absolute abuses, as the saying about power goes.

So, I think we need to be on the lookout for a dominant positions in any markets whether they be operated by Wall Street banks or whether they be operated by non-banking institutions or any others that were able to gain a dominant position in a market place.

Senator BROWN. Thank you, Madam Chair.

I would only say that this is not in their jurisdiction and not their purview but the issue of risk to a financial system by these large Wall Street firms getting and owning an oil tanker what dis-

aster could mean in terms of risk and stability for financial systems is a very serious issue. Again, not one probably in their purview or that they needed to speak of but importance.

Thank you.

Chairwoman STABENOW. Thank you very much.

I know as a senior member of the Banking Committee that is something that you are deeply involved in as well.

Votes have started and I have a long list of other questions but you will be saved from those at the moment. We will put them in writing.

I do want to indicate again, you have heard over and over again about concerns about end-users. There have been multiple questions on position limits, issues that have been raised about market manipulation, excessive speculation and whether or not the CFTC's proposal that includes higher limits on cash-held contracts plays into excessive speculation.

So, there are a number of different concerns of the Committee. One thing we did not talk about I would just say that is very, very important is the issue of cross-border coordination, what the EU is doing. How we move forward on that.

So, we have not had time to talk about it. I did intend to ask you about it. We have to work very closely together on this. As you know, this is incredibly important in making the system work in a global economy.

Having a full Commission at the CFTC means more than just functional future swaps and options markets. It really is about a strong economy, having confidence in that economy in tools available for our job providers and to the millions of jobs that depend on the markets working.

I would strongly urge that you reinvigorate the Agricultural Advisory Committee. I think that is going to be very, very important.

I would also say to members that we need to have questions for the record submitted to the Committee as soon as possible so that the nominees can begin working on responses.

The deadline for submitting questions for the record is no later than 2:00 p.m. on Monday, March 10.

With that, thank you very much for your willingness to serve.

The meeting is adjourned.

[Whereupon, at 11:37 a.m., the Committee was adjourned.]



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**A P P E N D I X**

MARCH 6, 2014

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Senate Committee on Agriculture, Nutrition & Forestry  
Nominations of Timothy G. Massad, Sharon Y. Bowen & J. Christopher Giancarlo  
Thursday, March 6, 2014  
Opening Statement for the record

Senator Pat Roberts

Madame Chairwoman and Ranking Member Cochran thank you for holding this hearing today to consider these three nominees for the Commodity Futures Trading Commission (CFTC).

I truly hope that the days of inter-galactic regulatory plans are far behind us.

Beyond my concerns with the expansion of the regulatory reach of the commission after Dodd-Frank, I am worried that the actions by the Commission have and will continue to hurt market users with little to no public benefit.

In Kansas, the folks that are impacted directly by the Commission's new and proposed regulations are not just financial institutions and banks, but farmers, ranchers, grain elevators, and small businesses that use the commodity market as a risk management tool.

In a rush to get roughly sixty regulations out the door, I fear that too often a one size fits all approach was used, causing unintended issues for these end users of the markets.

Whether the issue is broad in nature like – who falls under the definition of a swap dealer - or more technical like - residual interest and margin requirements, I continually hear from agriculture commodity users that have concerns with the implementation of CFTC's regulations.

I raise these issues, because it's clear to me that the CFTC's ad hoc approach to regulation has created turmoil and uncertainty within the markets and among its participants.

When I look at the current commissioners and the nominees here today, I wish that there was an "aggie" – someone who has a strong background in the agriculture industry and the CFTC's traditional role in commodity markets.

I think that it is important that the Commission, which was established to help guide the trading of agricultural products, not lose the perspective of the central role agricultural markets hold in our economy and the unique concerns of the participants in these markets, even though they may no longer make up the lion share of the trading governed by the CFTC.

It is one thing to see the commodity markets from DC; it is another to know the impacts of regulation back at the wheat farms in Kansas or the livestock industry around my home town of Dodge City.

**Opening Remarks for Senator Thad Cochran**  
**Hearing on Commodity Futures Trading Commission Nominations**  
**March 6, 2014, SR-328A**

Madam Chairwoman, thank you for holding this hearing today. The Commodity Futures Trading Commission is an important part of the regulatory framework that protects American farmers, ranchers, and businesses which depend on the work of this agency to ensure sound markets.

The Commission has the responsibility of implementing new regulations and mandates passed by Congress in the Dodd-Frank Act. The agency has been working hard to fashion new rules, while enforcing existing rules. Each new action by the Commission shapes policies that impact the marketplace, which is why a respected rulemaking process is so important.

In recent years, the Commission has issued new rules, or what are basically rules through “staff guidance,” only to revise or reverse these very same rules through “no action” letters. In the past four years, the agency has issued approximately 60 new rules and over 140 “no action” letters. This has been a pattern that has brought uncertainty to the marketplace.

The agency should carry out its responsibilities in an open and transparent manner which will provide certainty to the marketplace.

**OPENING STATEMENT**

**SENATOR JOHN THUNE**

**SENATE COMMITTEE ON AGRICULTURE, NUTRITION, AND  
FORESTRY**

**CFTC NOMINATIONS HEARING**

**Thursday, March 6, 2014—10 a.m.**

**328A Russell Senate Office Building**

Madam Chairwoman Stabenow and Ranking Member Cochran thank you for the hard work and tremendous effort you and members of your staffs put forth on the Farm Bill in this Committee and the Conference Committee. And congratulations on successful passage of the Farm Bill as there is now much more certainty and solid direction for the U.S. agriculture industry as our farmers and ranchers continue to feed our nation and the world.

Today as this Committee meets with our panel of nominees for CFTC commissioners and chair today I would like to make very clear to all of them the ever increasing importance of commodity futures trading to the agriculture community, our farmers and ranchers, grain elevators, cooperatives and suppliers who utilize the commodity futures trading tools under the jurisdiction of CFTC to better manage risk,



especially in this new era of lower commodity prices and rising production costs.

I look forward to hearing their views and positions on such critical areas as transparency, overly burdensome rules, and doing no harm to the end users – the grain and livestock industry and farmers and ranchers.

We all understand the need for well-placed regulations, and transparency and effective cost analysis of proposed rules.

The agriculture industry and consumers do not need continuation of an ineffective rule making process that so far under Dodd-Frank rulemaking has resulted in 60 rules and more than 140 no-action letters. I look forward to hearing the views of these nominees as to how they will address this issue that is creating confusion for the industries CFTC is regulating.

Madam Chairwoman, thank you.

**Opening Statement of Sharon Y. Bowen**  
**Nominee to the U.S. Commodity Futures Trading Commission**  
**Before the United States Senate Committee on Agriculture,**  
**Nutrition and Forestry**  
**March 6, 2014**

Chairwoman Stabenow, Ranking Member Cochran, and other distinguished members of the Committee, I am honored to have been nominated by President Obama to serve as Commissioner of the Commodity Futures Trading Commission. I want to thank the Committee members and staff for meeting with me and making time for this nomination hearing, as well as Senator Gillibrand from my home state of New York.

I would like to take this opportunity to thank my family members who are here with me today, especially my incredibly supportive husband of twenty-seven years, Larry Morse. Although other members of my family could not be here, I want to thank them for their consistent love and support. Also for my family members who are no longer with us, I want to acknowledge the support and inspiration they instilled in me to do my best and be my best whenever I could. As the youngest of five children raised with modest means in the segregated, small town of St. Julien's Creek, Virginia, I understand the importance of being the voice of the under-represented and small business owners who have not had a seat at the table, as I do today.

My commitment to public service runs deep, and is not only evidenced by my role as the Acting Chair of the Board of Directors for the Securities Investor Protection Corporation (SIPC), but also by my personal contributions and leadership on behalf of my community. In order to serve your community, you must understand your community's strengths and challenges. I have been involved in numerous pro bono, educational, diversity and civic efforts that address critical issues related to the ethics and sustainability of the legal profession, as well the needs of the residents and families of New York City. I currently serve as a member of the Emeritus Board of New York Lawyers for the Public Interest, the Boards of New York City Economic Development Corporation, Northwestern University Law School, and, until recently, the New York City-based nonprofit, Public Education Needs Civil Involvement in Learning (PENCIL), through which my colleagues and I have partnered with middle schools in Harlem and the Bronx for over a decade.

I have served in several professional leadership positions, including co-chair of the Diversity Committee and co-chair of the Diversity Hiring

Subcommittee at my law firm, Latham & Watkins, LLP. I am also co-founder and head of Latham's Women Enriching Business (WEB) Task Force, whose mission is to create broader networks and productive business development relations for women. I personally implemented a number of diversity initiatives at Latham, including a Diversity Weekend event which resulted in higher applications and offer acceptances by diverse candidates and the Latham Diversity Scholars Program. I want to thank my partners and colleagues at Latham, especially my assistant, Audrey Leff, and staff who have been staunch supporters and friends during my twenty-five years at the firm.

My interest in finance started early. After receiving a degree in Economics from the University of Virginia, I attended business and law schools at Northwestern University, before moving to New York to begin my career in law. I have over three decades of experience as a securities lawyer focused on financial markets and regulations. I maintain a deep understanding of regulatory requirements and disclosure obligations, and I understand the importance of, and risks associated with, derivatives. A fair and efficient financial market not only helps investors, but also has a positive impact on farmers, ranchers, manufacturers, and ultimately, consumers and job creation.

As the Acting Chair of SIPC, I have significant experience with the issues and procedures of dealing with failed broker-dealers and futures commission merchants in the financial and derivatives markets. Early in my career, I worked on swaps and asset securitizations. I have advised companies and financial institutions in the purchase and sale of assets and distressed securities in the bankruptcy context. So I understand what happens when our markets don't function as expected. These experiences make me uniquely positioned to effectively help guide the CFTC as it finalizes regulatory rule writing of Dodd-Frank.

The next phase of the CFTC's mandate requires effective implementation of these rules, with the participation and coordination of regulatory bodies both inside and outside of the US. I believe my strong analytical skills and reputation for building and leading teams with diverse perspectives across the globe would bring a unique contribution to the CFTC. I firmly believe that the CFTC should cooperate and work in harmony with foreign regulators. At the same time, we must move forward in implementing the rules and mandate of Dodd-Frank. I know that Congress, in directing the CFTC to establish an expanded regime for financial oversight, recognized that excessive risk-taking in the swaps market contributed to the devastation that afflicted our economy in the wake of the financial crisis.

If confirmed, I would bring to my role as Commissioner an understanding of the securities and futures markets laws and regulations, the importance of both markets to the economy, and the terrible cost to the public when those markets fail. In many instances the regulatory framework of one cannot be readily applied to the other. Capital formation in the securities market is different from the management of risk and price volatility in the futures markets. Each has its own nuances that impact consumers and end-users. I recognize that our physical commodity markets need to be protected from excessive speculation and manipulation. And we must acknowledge that esoteric and other creative financial products don't always benefit consumers.

It would be an honor for me to bring my experience in finance and securities to my role as Commissioner of the CFTC, should I be confirmed. I have a record of bringing teams together to find solutions, and believe that my substantive experience and ability to bring my own voice to the table would be of value to a historically independent government agency like the CFTC. My door is always open and I am ready and willing to learn and bring the best of my experience to my role. I believe I have the knowledge and the integrity to foster open, competitive, and financially sound markets, and look forward to working with you in making our financial system stronger, and one that benefits everyone fairly.

Thank you for your time and consideration. I am happy to answer any questions.

**Statement of J. Christopher Giancarlo**

**Before the United States Senate Committee on Agriculture, Nutrition and Forestry**

**March 6, 2014**

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Thank you Chairwoman Stabenow, Ranking Member Cochran and members of the Committee. I am honored to be here before you today as a nominee to serve as a Commissioner of the Commodity Futures Trading Commission (CFTC). I would like to thank Senate Minority Leader Mitch McConnell, for recommending me to the White House and President Barack Obama for nominating me. I thank both the majority and minority staffs for their assistance during the nomination process. I am also grateful to appear alongside my fellow nominees, Timothy Massad and Sharon Bowen.

With your permission, Madam Chairwoman, I would like to introduce members of my family who are here with me today from New Jersey. I am joined by my dear wife, Regina, and our three children, Emma, Luke and Henry. I am also pleased to introduce my mother, Mrs. Ella Jane Keegan, and my father, Dr. Hector Giancarlo. I thank our entire family for their support throughout this process.

I hail from a line of nurses and physicians and business entrepreneurs. They were children of simple emigrants who came to America to work hard and make a better life. They raised and educated their families and served their local communities. They volunteered, fought and died for our country in time of war. They would beam with pride were they alive to see one of their own here today.

I was the black sheep in the family by choosing law over medicine. I practiced law for 16 years in New York and London where I advised many early stage technology companies in bringing their products and services into US markets. In 2000, I joined a client firm that produced cutting-edge software that brought transparency to the pricing of currency options. I was then introduced to the global markets for swaps and

derivatives. I have served over a decade as a senior executive of one of the primary intermediaries in the world's wholesale financial markets, including financial and commodity swaps. I often describe the firm's business as operating exchanges for things that don't trade on exchanges. In 2005, the firm went public and is today listed on the New York Stock Exchange.

In September 2008, Lehman Brothers filed for Chapter 11 bankruptcy protection. Its failure was a consequence of the bursting of a "double bubble" of housing prices and consumer credit as lenders became concerned about a fall in property values and repayment of mortgages. A typical "run on the bank" ensued with rapidly falling asset values, preventing US and foreign lenders from meeting their cash obligations. This marked the beginning of a financial crisis that was devastating for far too many businesses and families.

Without question, counterparty exposures related to bilaterally cleared over-the-counter (OTC) swaps helped amplify and spread the financial crisis. Many exposures were inadequately collateralized, causing swap users to record huge losses as counterparty defaults appeared likely. With little public information about bilateral exposures among swaps users, third-parties became less willing to provide credit to institutions that might face such losses. Fear for the stability of the US banking system forced the federal government to place emergency capital in the largest US banks and insurance companies at great expense to US taxpayers.

While US swaps markets continued to function during the financial crisis, trading liquidity dried up due to fears of counterparty failure. It became clear that financial market regulatory reform was needed. It was time for greater transparency in swaps risk exposure and market pricing. It was also time for US swaps intermediaries to be regulated, just as they were in non-US markets. And, most importantly, central counterparty clearing needed to replace bilateral clearing whenever possible to minimize potential risk.

I had been a proponent of central counterparty clearing since before the financial crisis. In 2006, I was involved in an independent effort by non-Wall Street banks to

develop a central clearing house for credit default swaps. During the drafting of the Wall Street Reform and Consumer Protection Act (Dodd-Frank), I publicly called for increased central counterparty clearing, regulation of trading platforms and increased regulatory and marketplace transparency.

Upon passage of Dodd-Frank in July 2010, I commended the work of the President and Congress to enhance the safety and soundness of the OTC derivatives markets. Since that time, I have been a consistent advocate for practical and effective implementation of the three pillars of Title VII of Dodd-Frank: enhanced swaps transparency, regulated swaps execution and central counterparty clearing. My support for these reforms is based not on academic theory or political ideology. It is based simply on practical experience.

But I am also a strong believer that vibrant, open and competitive markets are an essential element to a strong economy. Proper regulatory oversight can go hand-in-hand with open and competitive markets. But if excessive regulation artificially increases the cost of risk management, the overall economy will suffer. If confirmed, I will commit myself to ensuring the proper balance is met.

In the almost four years since the passage of Dodd-Frank, the CFTC has finalized over 80% of its rulemaking requirements, a higher percentage than its peer financial service regulators. I compliment the agency staff for their extraordinary work in implementing so much of Congress' mandate. Yet, I believe that regulatory effectiveness must be a higher priority than speed, especially when rules are likely to impact the risk hedging needs of America's growers and manufacturers. It is essential that we get the details right in implementing the core reforms of Title VII of Dodd-Frank. If confirmed, I look forward to bringing my practical business experience and legal judgment to bear in completing and fine tuning the CFTC's implementation of Dodd-Frank.

While my professional work over the past decade has been focused on financial swaps, I am very conscious of the CFTC's broad mission and that the US futures markets were initially created to hedge price exposure in agricultural commodities.

Those markets remain as integral as ever to the business of agriculture. It is essential that US futures and swaps markets continue to serve the needs of farmers, ranchers, feed yards, grain elevator operators, renewable fuel facilities, energy producers, refiners and wholesalers involved in the production, processing, transportation and utilization of the commodities that are the backbone of our economy. If confirmed, I will commit myself to attending to the needs and concerns of end-users utilizing swaps and futures to hedge their risks.

The goal of swaps market reform is to enhance the safety and soundness of hedging markets while maintaining broad and transparent liquidity. This allows producers, growers and manufacturers to reduce their balance sheet risk and further their ability to invest in America and American workers. For this to happen, the CFTC must fulfill its mission to implement the reforms of Dodd-Frank in a practical and workable manner while continuing to oversee and supervise these critical risk hedging marketplaces. If confirmed, I will work faithfully with my fellow Commissioners to further that essential mission.

On a final note, my nomination is to fill the seat vacated last year by Commissioner Jill Sommers, who served the CFTC and the American public with dedication and distinction. If confirmed, I will strive to serve as she did.

Thank you again for the honor of appearing before you. I will be pleased to answer your questions.



Hearing of the U.S. Senate Committee on Agriculture, Nutrition and Forestry

STATEMENT OF TIMOTHY MASSAD

MARCH 6, 2014

Chairwoman Stabenow, Ranking Member Cochran, and members of the Committee: it is a privilege to appear before you today as President Obama's nominee to be the next chairman of the Commodity Futures Trading Commission.

I would like to introduce the members of my family who are here with me today: my wife Charlotte, my children Emil and Jayne, my mother Dee and my brother Steve. I am deeply indebted to them for their love and support.

For decades, the CFTC has had the vital mission of preventing fraud and manipulation in our futures markets. These markets are critical to many farmers, ranchers and businesses. Today, the CFTC's role is even more important, because it has the responsibility to bring much-needed regulation to the markets for over-the-counter derivatives. I am honored to have the opportunity, if confirmed, to lead the CFTC in carrying out this essential mission.

I have spent the last five years helping our nation recover from the worst financial crisis since the Great Depression. Excessive risk related to derivatives, particularly at American International Group, was one of many factors that contributed to that crisis. Today, we have recovered every dollar of the taxpayer funds committed to prevent the collapse of AIG, as well as a profit. And indeed, today, we have recovered more on all the crisis investments than was disbursed. But it was awful and unfair that we had to take these actions in the first place. We

must never forget that the true cost of the financial crisis is not the fiscal cost of the programs. It is the millions of jobs lost, the homes foreclosed, the retirements postponed and the dreams deferred.

That is why it is so important to continue to implement strong financial reform. And that is a major reason why I embrace the opportunity to lead the CFTC at this time.

I would like to take a moment to tell you about my background before briefly discussing the issues facing the CFTC. I was born in Louisiana, and lived in Texas, Oklahoma and Connecticut as a child. My grandparents were immigrants from Lebanon who came to this country as teenagers, barely able to speak English and with nothing more than a suitcase. My parents grew up during the Great Depression. They worked hard to provide our family with more opportunities than they had, and I have been fortunate as a result.

I spent twenty five years in private law practice before coming to Washington to serve my country. During my career as a lawyer, I worked on all types of complex financial transactions, and I worked throughout the world, including in New York, London and Hong Kong.

I had substantial experience with derivatives as a lawyer. I helped to draft the original standardized agreements for swaps in the late 1980s. Throughout my career as a lawyer, I helped many businesses negotiate and execute transactions to hedge exposures in commodities and derivatives markets.

I saw from personal experience how important these markets are to businesses of all types, including those of farmers and ranchers. The United States of America has the best financial markets in the world—the most efficient, most innovative and best regulated. And if confirmed as the next chairman of the CFTC, I want to help make sure that the United States continues to lead the world.

If confirmed, I look forward to addressing the many important issues facing the CFTC.

First, I believe there is nothing more important than a robust enforcement program in order to protect the integrity of our financial markets. We must aggressively pursue wrongdoers—whatever their position or size—and we must deter and prevent unlawful practices. Strong enforcement is vital to maintaining the public's confidence in our markets. Therefore, I will make it a top priority to fulfill the CFTC's responsibility to enforce the laws protecting these markets vigorously.

Second, the CFTC has promulgated almost all of the new rules required by Congress. Now the Commission must make sure that the rules work, that participants comply with the requirements and that the markets operate transparently and effectively. This is true not just for the swaps markets where the new rules have received great attention, but for the futures markets as well. As we implement important reforms, we must make sure the markets continue to serve their essential functions of providing hedging and price discovery for end users. In this regard, I look forward to listening to the concerns of traditional end users such

as agricultural stakeholders, as well as participants in the markets newly subject to the CFTC's jurisdiction.

The Commission must also work closely with international regulators. The derivatives markets are global, and we must ultimately achieve strong international regulatory standards. The United States should be a strong leader in developing such standards, as it has been in regulating the securities markets since the 1930s.

Third, the CFTC faces important technological and data challenges. The markets it regulates are, like all financial markets today, heavily dependent on technology. We must focus on the issues this creates and make sure the Commission has the up-to-date capabilities to do its job. In addition, the law requires the collection of vast amounts of data concerning the derivatives market. We must make sure this data is collected wisely and efficiently so that it can be used to monitor and mitigate excessive risk and bring much-needed transparency to these markets.

There are many other areas where the Commission has important responsibilities, such as final action on a position limits rule for physical commodities, margin requirements for uncleared swaps, and ensuring adequate protection of customer funds. If I am confirmed, I pledge to work tirelessly to lead the CFTC in fulfilling its responsibilities.

In conclusion, I consider public service the highest calling, and it would be an honor and a privilege to serve as the next chairman of the CFTC. If confirmed, I look forward to working closely with the Members of this Committee and your

colleagues as you conduct your important legislative and oversight role. Thank you for considering me for this important position and for the opportunity to appear before you today. I would be happy to answer any questions.



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**DOCUMENTS SUBMITTED FOR THE RECORD**

MARCH 6, 2014

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Sharon Y. Bowen  
10 Jay Street, #PH  
New York, N.Y. 10013

March 4, 2014

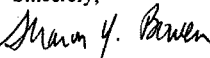
Honorable Debbie Stabenow  
Chairman  
Committee on Agriculture, Nutrition, and Forestry  
United States Senate  
Washington, D.C. 20510-6000

Dear Madam Chairman:

On December 23, 2013, a copy of my OGE 278 Executive Branch Public Financial Disclosure Report required in connection with my nomination to serve as Commissioner of the Commodity Futures Trading Commission was submitted to the U.S. Office of Government Ethics. That report contained all the required financial information for calendar year 2012 and calendar year 2013 through December 9, 2013.

The Ethics in Government Act of 1978, as amended, also requires that I update certain information reported on the OGE 278, i.e., that is required by section 102(a)(1)(a) of the Act, respecting income (other than dividends, interest, rents, and capital gains) and honoraria, to date which occurs five days before the hearing to be held by your Committee to consider my nomination. In addition to the amount previously report on my OGE 278 dated December 9, 2013, I have earned \$7,500 in income from the Securities Investor Protection Corporation and \$553,500 from Latham & Watkins, LLP. I have no other income to report. Additionally, in response to questions from Committee staff, I want to confirm that the assets listed on lines three and four of page six disclosed on my OGE 278 with high asset values and low income values are held in retirement accounts.

I believe that this letter satisfies the additional reporting requirements contained in the Ethics in Government Act. I will be happy to supply any further required information.

Sincerely,  
  
Sharon Y. Bowen



**U.S. SENATE COMMITTEE ON AGRICULTURE, NUTRITION & FORESTRY**  
**Questions for Executive Nominees**  
**113<sup>th</sup> Congress**

**1. Basic Biographical Information**

Please provide the following information.

<i>Position to Which You Have Been Nominated</i>	
<u>Name of Position</u>	<u>Date of Nomination</u>
Commissioner, Commodity Futures Trading Commission	January 7, 2014

<i>Current Legal Name</i>			
<u>First Name</u>	<u>Middle Name</u>	<u>Last Name</u>	<u>Suffix</u>
Sharon	Yvette	Bowen	

<i>Addresses</i>					
<u>Residential Address</u> (do not include street address)			<u>Office Address</u> (include street address)		
			Street: 885 Third Avenue		
City: New York	State: NY	Zip: 10013	City: New York	State: NY	Zip: 10022

<i>Other Names Used</i>						
<u>First Name</u>	<u>Middle Name</u>	<u>Last Name</u>	<u>Suffix</u>	<u>Check if Middle Name</u>	<u>Name Used From</u> (Month/Year) (Check box if estimate)	<u>Name Used To</u> (Month/Year) (Check box if estimate)
					Est <input type="checkbox"/>	Est <input type="checkbox"/>
					Est <input type="checkbox"/>	Est <input type="checkbox"/>

<i>Birth Year and Place</i>	
Year of Birth (Do not include month and day.)	Place of Birth
1956	Chesapeake, VA

<i>Marital Status</i>					
Check All That Describe Your Current Situation:					
Never Married <input type="checkbox"/>	Married <input checked="" type="checkbox"/>	Separated <input type="checkbox"/>	Annulled <input type="checkbox"/>	Divorced <input type="checkbox"/>	Widowed <input type="checkbox"/>

<i>Spouse's Name (current spouse only)</i>			
Spouse's First Name	Spouse's Middle Name	Spouse's Last Name	Spouse's Suffix
Larry	Wayne	Morse	

<i>Spouse's Other Names Used (current spouse only)</i>						
First Name	Middle Name	Last Name	Suffix	Check if Maiden Name	Name Used From (Month/Year) (Check box if estimate)	Name Used To (Month/Year) (Check box if estimate)
					Est <input type="checkbox"/>	Est <input type="checkbox"/>
					Est <input type="checkbox"/>	Est <input type="checkbox"/>

<i>Children's Names (if over 18)</i>			
<u>First Name</u>	<u>Middle Name</u>	<u>Last Name</u>	<u>Suffix</u>

## 2. Education

List all post-secondary schools attended.

<u>Name of School</u>	<u>Type of School</u> (vocational/technical/trade school, college/university/military college, correspondence/distance/extension/on line school)	<u>Date Began School</u> (month/year) (check box if estimate)	<u>Date Ended School</u> (month/year) (check box if estimate) (check "present" box if still in school)	<u>Degree</u>	<u>Date Awarded</u>
University of Virginia	University	09/74    Est <input type="checkbox"/>	06/78    Est <input type="checkbox"/> Present <input type="checkbox"/>	B.A.	06/78
Northwestern University	University	09/78    Est <input type="checkbox"/>	06/82    Est <input type="checkbox"/> Present <input type="checkbox"/>	JD/MBA	06/82
		Est <input type="checkbox"/>	Est <input type="checkbox"/> Present <input type="checkbox"/>		
		Est <input type="checkbox"/>	Est <input type="checkbox"/> Present <input type="checkbox"/>		

### 3. Employment

(A) List all of your employment activities, including unemployment and self-employment. If the employment activity was military duty, list separate employment activity periods to show each change of military duty station. Do not list employment before your 18th birthday unless to provide a minimum of two years of employment history.

<u>Type of Employment</u> (Active Military Duty Station, National Guard/Reserve, USPHS Commissioned Corps, Other Federal employment, State Government (Non-Federal Employment), Self- employment, Unemployment, Federal Contractor, Non- Government Employment (excluding self-employment), Other	<u>Name of Your Employer/ Assigned Duty Station</u>	<u>Most Recent Position Title/Rank</u>	<u>Location</u> (City and State only)	<u>Date Employment Began</u> (month/year) (check box if estimate)	<u>Date Employment Ended</u> (month/year) (check box if estimate) (check "present" box if still employed)
Lawyer	Latham & Watkins LLP	Partner	NY, NY	06/1988 Est <input type="checkbox"/>	Present Est <input type="checkbox"/>
Lawyer	Davis Polk & Wardwell	Associate	NY, NY	10/1982 Est <input type="checkbox"/>	05/88 Est <input type="checkbox"/>
Board Member	Securities Investor Protection Corporation	Vice Chair	Wash. D.C.	02/2010 Est <input type="checkbox"/>	Present Est <input type="checkbox"/>
Summer Intern	Kirkland & Ellis	Summer Intern	Wash. D.C.	06/1981 Est <input type="checkbox"/>	08/81 Est <input type="checkbox"/>
Summer Intern	Chicago Board of Trade	Summer Intern	Chicago, IL	06/1980 Est <input type="checkbox"/>	08/80 Est <input type="checkbox"/>
Summer Intern	Goldman Sachs & Co.	Summer Intern	NY, NY	06/1979 Est <input type="checkbox"/>	08/79 Est <input type="checkbox"/>

(B) List any advisory, consultative, honorary or other part-time service or positions with federal, state, or local governments, not listed elsewhere.

<u>Name of Government Entity</u>	<u>Name of Position</u>	<u>Date Service Began</u> (month/year) (check box if estimate)	<u>Date Service Ended</u> (month/year) (check box if estimate) (check "present" box if still serving)
New York City Economic Development Corporation	Board Member; Executive Committee	10/2002 Est <input type="checkbox"/>	Present Est Present <input type="checkbox"/> <input type="checkbox"/>
		Est <input type="checkbox"/>	Est Present <input type="checkbox"/> <input type="checkbox"/>
		Est <input type="checkbox"/>	Est Present <input type="checkbox"/> <input type="checkbox"/>

#### 4. Honors and Awards

List all scholarships, fellowships, honorary degrees, civilian service citations, military medals, academic or professional honors, honorary society memberships and any other special recognition for outstanding service or achievement.

Academic Scholarship, University of Virginia, September 1974-June 1978  
 Academic Scholarship, Northwestern University School of Law and Kellogg Graduate School of Management, September 1978-June 1982  
 New York State Bar Association Diversity Trailblazer Award, 2011  
 New York City Bar Association Diversity Champion Award, 2007  
 Pencil Partnership Award, December 2004  
 Metropolitan Black Bar Association Leader of the Year 2006 Award, May 2006  
 Association of Black Women Attorneys Professional Achievement Award, 2005  
 Black Enterprise Magazine Top Black Lawyers in America, November 2003  
 Walter N. Ridley Scholarship Fund Trailblazer Award, February 2009  
 Whitney M. Young, Jr. Service Award of Boys Scouts of America, November 2008  
 The Leadership Institute for Women of Color Attorneys, Inc. - Breaking the Glass Ceiling Award, 2011  
 The National Organization for Women, New York City, Women of Power & Influence Award, June 2010  
 DirectWomen Board Institute Member, 2008  
 Practicing Attorneys for Law Students, Inc. Service Award, 2009  
 On Being a Black Lawyer, 100 Most Influential Black Attorneys, 2012

### 5. Memberships

List all memberships that you have held in professional, social, business, fraternal, scholarly, civic, or charitable organizations in the last 10 years.

Unless relevant to your nomination, you do NOT need to include memberships in charitable organizations available to the public as a result of a tax deductible donation of \$1,000 or less, Parent-Teacher Associations or other organizations connected to schools attended by your children, athletic clubs or teams, automobile support organizations (such as AAA), discounts clubs (such as Groupon or Sam's Club), or affinity memberships/consumer clubs (such as frequent flyer memberships).

<u>Name of Organization</u>	<u>Dates of Your Membership</u> (You may approximate.)	<u>Position(s) Held</u>
American Bar Association	1984 to Present	Member
New York State Bar Association	1984 to Present	Member
New York City Bar Association	1984 to Present	Member
National Bar Association	2013 to Present	Member
Metropolitan Black Bar Association	Late 1990's to Present	Member
Association of Black Women Attorneys	Late 1990's to Present	Member
Latham & Watkins LLP	1991 to Present	Partner
Jeffersonian Jay Street Corporation	1994 to Present	Shareholder; Officer
Northwestern University School of Law	1998 to Present	Board Member; Chair
New York City Economic Development Corporation	2002 to Present	Director; Executive Committee
UrbanAmerica, LP	1997 to Present	Board of Managers
Pencil	1999 to Present	Director; Executive Committee

New York Lawyers for the Public Interest	1992 to Present	Board Member; Chair; Emeritus Board
Carrouseels of New York	1998 to Present	Member

## 6. Political Activity

**(A) Have you ever been a candidate for or been elected or appointed to a political office?**

Yes.

<u>Name of Office</u>	<u>Elected/Appointed/ Candidate Only</u>	<u>Year(s) Election Held or Appointment Made</u>	<u>Term of Service (if applicable)</u>
Securities Investor Protection Corporation, Vice Chair	Appointed	Appointed February 12, 2010	02/2010 to present

**(B) List any offices held in or services rendered to a political party or election committee during the last ten years that you have not listed elsewhere.**

None.

[illegible]



(C) Itemize all individual political contributions of \$200 or more that you have made in the past five years to any individual, campaign organization, political party, political action committee, or similar entity. Please list each individual contribution and not the total amount contributed to the person or entity during the year.

<u>Name of Recipient</u>	<u>Amount</u>	<u>Year of Contribution</u>
Democratic Senatorial Campaign Committee	\$1,000	2013
Obama Victory Fund	\$2,500	2012
Obama Victory Fund	\$225	2012
Obama for America	\$475	2012
Obama for America	\$2,025	2012
Obama for America	\$250	2011
Terri Sewell for Congress	\$250	2010
Terri Sewell for Congress	\$1,000	2009
Obama Victory Fund	\$2,300	2008
Obama for America	\$1,050	2008
Obama for America	\$1,250	2008

## 7. Publications

**List the titles, publishers and dates of books, articles, reports or other published materials that you have written, including articles published on the Internet.**

[illegible]

**8. Lobbying**

**In the past ten years, have you registered as a lobbyist? If so, please indicate the state, federal, or local bodies with which you have registered (e.g., House, Senate, California Secretary of State).**

No.

Sharon Y. Bowen  
10 Jay Street, #PH  
New York, N.Y. 10013

March 4, 2014

Honorable Debbie Stabenow  
Chairman  
Committee on Agriculture, Nutrition, and Forestry  
United States Senate  
Washington, D.C. 20510-6000

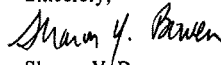
Dear Madam Chairman:

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The Ethics in Government Act of 1978, as amended, also requires that I update certain information reported on the OGE 278, i.e., that is required by section 102(a)(1)(a) of the Act, respecting income (other than dividends, interest, rents, and capital gains) and honoraria, to date which occurs five days before the hearing to be held by your Committee to consider my nomination. In addition to the amount previously report on my OGE 278 dated December 9, 2013, I have earned \$7,500 in income from the Securities Investor Protection Corporation and \$553,500 from Latham & Watkins, LLP. I have no other income to report. Additionally, in response to questions from Committee staff, I want to confirm that the assets listed on lines three and four of page six disclosed on my OGE 278 with high asset values and low income values are held in retirement accounts.

I believe that this letter satisfies the additional reporting requirements contained in the Ethics in Government Act. I will be happy to supply any further required information.

Sincerely,

  
Sharon Y. Bowen

**Executive Branch Personnel PUBLIC FINANCIAL DISCLOSURE REPORT**

Form Approved:  
 OMB No. 3295-10001

Place of Appointment, Candidacy, Election, or Nomination (Month, Day, Year) Reporting Status (Check Appropriate Box) Reporting Individual's Name Position for Which Filing		New Entrant, Nominee, or Candidate Calendar Year Covered by Report Last Name Title of Position		Termination Date (If Applicable) Termination Date (Month, Day, Year) First Name and Middle Initial Department or Agency (If Applicable)	
Location of Office (Include Address) Position(s) Held with the Federal Government during the preceding 12 Months (If Not Same as Above)		Address (Number, Street, City, State, and ZIP Code) 885 Third Avenue, New York, New York Title of Position(s) and Date(s) Held		Telephone No. (Include Area Code) 212-904-1200	
Presidential Nominees Subject to Senate Confirmation		Name of Congressional Committee Considering Nomination Committee on Agriculture, Nutrition and Forestry		Do You Intend to Create a Qualified Diversified Trust? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Certification (CERTIFY that the statements I have made on this form and all attached schedules are true, complete and correct to the best of my knowledge.)		Signature of Reporting Individual Sharon Y. Bowen		Date (Month, Day, Year) December 9, 2013	
Other Review (If Directed by agency)		Signature of Other Reviewer J. P. Davis		Date (Month, Day, Year) 12-23-2013	
Agency Ethics Official's Opinion (On the basis of the information furnished in this report, I conclude that the filer is in compliance with applicable laws and regulations (subject to any comments in the box below).)		Signature of Designated Agency Ethics Official/Reviewing Official J. P. Davis		Date (Month, Day, Year) 12-23-2013	
Office of Government Ethics Use Only		Signature Walter M. Davis		Date (Month, Day, Year) 1/28/14	
Comments of Reviewing Officials (If additional space is required, use the reverse side of this sheet) (Check box if filing extension granted & indicate number of days) <input type="checkbox"/>					
Agency Use Only					
OGE Use Only					

Reporting Individual's Name Bowen, Sharon Y.		SCHEDULE A										Page Number 2 of 18													
Assets and Income BLOCK A		Valuation of Assets at close of reporting period BLOCK B										Income: Type and amount. If "None (or less than \$201)" is checked, no other entry is needed in Block C for that item. BLOCK C													
BLOCK A		BLOCK B										BLOCK C													
For you, your spouse, and dependent children, report the assets and income from the production of income which had a fair market value exceeding \$1,000 at the close of the reporting period, or which generated more than \$200 of income during the reporting period, together with such income.  For yourself, also report the source and actual amount of earned income exceeding \$200 (other than interest, dividends, or capital gains) report the source but not the amount of earned income of more than \$1,000 (except report the actual amount of any honoraria over \$200 of your spouse).		None (or less than \$1,001)	\$1,001 - \$15,000	\$15,001 - \$50,000	\$50,001 - \$100,000	\$100,001 - \$250,000	\$250,001 - \$500,000	\$500,001 - \$1,000,000	Over \$1,000,000*	\$1,000,001 - \$5,000,000	\$5,000,001 - \$25,000,000	Over \$25,000,000	None (or less than \$201)	\$201 - \$1,000	\$1,001 - \$2,500	\$2,501 - \$5,000	\$5,001 - \$15,000	\$15,001 - \$50,000	\$50,001 - \$100,000	\$100,001 - \$1,000,000	Over \$1,000,000*	\$1,000,001 - \$5,000,000	Over \$5,000,000	Other Income (Specify Type & Actual Amount)	Date (Mo., Day, Yr.) Only if Honoraria
Examples																									
Central Airlines Common																									
Doe Jones & Smith, Homestead, State																									
Remittance Equity Fund																									
RFA, Heartland 500 Index Fund																									
1. Brinker Capital Managed Acct: Absolute Opportunities Fd Inst. CI - APOFX																									
2. Brinker Capital Managed Acct: Naldis ASG Global Alternatives Fund Class Y - GAPYX																									
3. Brinker Capital Managed Acct: ASTON/River Road Long Short Class I Shares - ALSIX																									
4. Brinker Capital Managed Acct: Eagle Investment Mgmt Small Cap Growth Fd Inst CI - BGSIX																									
5. Brinker Capital Managed Acct: Calpine Corp-CPN																									
6. Brinker Capital Managed Acct: Credit Suisse Cushing 30 MLP ETN - MLPN																									

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## 3 of 18

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Reporting Individual's Name  
 Bower, Sharon Y.

Page Number  
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# **SCHEDULE A continued** (Use only if needed)

Assets and Income		BLOCK B										BLOCK C										Date (Mo., Day, Yr.) Only if Honorary										
Valuation of Assets at close of reporting period		Income: type and amount. If "None (or less than \$1,001)" is checked, no other entry is needed in Block C for that item.										Income: type and amount. If "None (or less than \$201)" is checked, no other entry is needed in Block C for that item.																				
BLOCK A		None (or less than \$1,001)	\$1,001 - \$15,000	\$15,001 - \$50,000	\$50,001 - \$100,000	\$100,001 - \$250,000	\$250,001 - \$500,000	\$500,001 - \$1,000,000	Over \$1,000,000*	\$1,000,001 - \$25,000,000	\$25,000,001 - \$50,000,000	Over \$50,000,000	Excepted Investment Fund	Qualified Trust	Excepted Trust	Dividends	Rent and Royalties	Interest	Capital Gains	None (or less than \$201)	\$201 - \$1,000	\$1,001 - \$2,500	\$2,501 - \$5,000	\$5,001 - \$15,000	\$15,001 - \$50,000	\$50,001 - \$100,000	\$100,001 - \$1,000,000	Over \$1,000,000*	\$1,000,001 - \$5,000,000	Over \$5,000,000	Other Income (Specify Type & Amount)	
1	Brinker Capital Managed Acct: iShares MSCI Europe Financials Sector Index - EUFN	X											X						X													
2	Brinker Capital Managed Acct: iShares MSCI Germany Index - EWG	X											X						X													
3	Brinker Capital Managed Acct: iShares Russell 1000 Growth ETF - IWF	X											X						X													
4	Brinker Capital Managed Acct: JP Morgan Strategic Income Opportunities Fd CIA - JSOAX	X											X						X													
5	Brinker Capital Managed Acct: MainStay Healthcare Fd CL I - MFLDX	X											X						X													
6	Brinker Capital Managed Acct: Market Vectors Semiconductor ETF - SMH	X											X						X													
7	Brinker Capital Managed Acct: Odyssey Marine Exploration - ONEX	X																	X													
8	Brinker Capital Managed Acct: PowerShares Buyback Achievers - PKW	X																	X													
9	Brinker Capital Managed Acct: PowerShares Listed Private Equity - PSEI	X																		X												

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Reporting Individual's Name

Bowen, Sharon Y.

**SCHEDULE A continued**

(Use only if needed)

Page Number

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Assets and Income	BLOCK A	BLOCK B												BLOCK C																			
		Valuation of Assets at close of reporting period												Type	Amount																		
		None (or less than \$1,001)	\$1,001 - \$15,000	\$15,001 - \$50,000	\$50,001 - \$100,000	\$100,001 - \$250,000	\$250,001 - \$500,000	\$500,001 - \$1,000,000	Over \$1,000,000*	\$1,000,001 - \$5,000,000	\$5,000,001 - \$25,000,000	Over \$25,000,000	Over \$50,000,000		Excepted Investment Fund	Excepted Trust	Qualified Trust	Dividends	Rent and Royalties	Interest	Capital Gains	None (or less than \$201)	\$201 - \$1,000	\$1,001 - \$2,500	\$2,501 - \$5,000	\$5,001 - \$15,000	\$15,001 - \$50,000	\$50,001 - \$100,000	\$100,001 - \$1,000,000	Over \$1,000,000*	\$1,000,001 - \$5,000,000	Over \$5,000,000	Other Income (Specify Type & Amount)
1	Brinker Capital Managed Acct: ProShares Short MSCI Emerging Markets	X																		X													
2	Brinker Capital Managed Acct: ProShares Short Russell 2000 - RWM	X																		X													
3	Brinker Capital Managed Acct: ProShares Short S&P 500 - SH	X																		X													
4	Brinker Capital Managed Acct: Radlun Group, Inc - RADN	X																		X													
5	Brinker Capital Managed Acct: Rivermouth Core Opportunity Fund - RHCOC	X																		X													
6	Brinker Capital Managed Acct: River Park Short Term High Yield Inst Shares - RPHIX	X																		X													
7	Brinker Capital Managed Acct: Royal Bank of Scotland - RBS (ADR)	X																		X													
8	Brinker Capital Managed Acct: Stonegate Bank - SGBK	X																		X													
9	Brinker Capital Managed Acct: Toyota Motor Corp - TM	X																		X													

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**SCHEDULE A continued**  
(Use only if needed)

Reporting Individual's Name  
Bowen, Sharon Y.

Page Number

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BLOCK A		BLOCK B										BLOCK C										Income: type and amount, if "None (or less than \$201)" is checked, no other entry is needed in Block C for that item.											
Assets and Income	Valuation of Assets at close of reporting period	BLOCK B										BLOCK C																					
		None (or less than \$1,001)	\$1,001 - \$15,000	\$15,001 - \$50,000	\$50,001 - \$100,000	\$100,001 - \$250,000	\$250,001 - \$500,000	\$500,001 - \$1,000,000	Over \$1,000,000*	\$1,000,001 - \$5,000,000	\$5,000,001 - \$25,000,000	Over \$25,000,000	Excepted Investment Fund	Excepted Trust	Qualified Trust	Type	Amount								Other Income Type & Amount	Date (Mo., Day, Yr.) Only if Honoraria							
																Dividends	Rent and Royalties	Interest	Capital Gains	None (or less than \$201)	\$201 - \$1,000	\$1,001 - \$2,500	\$2,501 - \$5,000	\$5,001 - \$15,000	\$15,001 - \$50,000	\$50,001 - \$100,000	\$100,001 - \$1,000,000	Over \$1,000,000*	\$1,000,001 - \$5,000,000	Over \$5,000,000			
1	Brinker Capital Managed Acct: Wisatch Frontier Emerging Small Countries Fund - WAFMX		X																	X													
2	Brinker Capital Managed Acct: Wisdom Tree Japan Hedged Equity Fund - DXJ		X																	X													
3	Russell IRA: Russell Commodity Strategies Fund Class S - RCCSX				X															X													
4	Russell IRA: Russell Emerging Markets Funds Class S - REMSX				X															X													
5	Russell IRA: Russell Global Opportunistic Credit Class S - RGCSCX			X																		X											
6	Russell IRA: Russell Global Equity Class S - RGESX					X																X											
7	Russell IRA: Russell Global Infrastructure Fd Cl S - RGISX		X																			X											
8	Russell IRA: Russell International Developed Markets Fund Class I - RIMSX					X																		X									
9	Russell IRA: Russell Multi-Strategy Alternative Fd Cl S - RMASX		X																	X													

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(Use only if needed)

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**SCHEDULE A continued**

(Use only if needed)

Reporting Individual's Name

Bowen, Sharon Y.

Page Number

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[illegible]

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## Page Number

Number

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Reporting Individual's Name

Bowen, Sharon Y.

Page Number

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# **SCHEDULE A continued** (Use only if needed)

Assets and Income		BLOCK B Valuation of Assets at close of reporting period												BLOCK C Type Amount												Date (Mo., Day, Yr.) Only if Honoraria	
		None (or less than \$1,001)	\$1,001 - \$15,000	\$15,001 - \$50,000	\$50,001 - \$100,000	\$100,001 - \$250,000	\$250,001 - \$500,000	\$500,001 - \$1,000,000	Over \$1,000,000*	\$1,000,001 - \$5,000,000	\$5,000,001 - \$25,000,000	\$25,000,001 - \$50,000,000	Over \$50,000,000	None (or less than \$201)	\$201 - \$1,000	\$1,001 - \$2,500	\$2,501 - \$5,000	\$5,001 - \$15,000	\$15,001 - \$50,000	\$50,001 - \$100,000	\$100,001 - \$1,000,000	Over \$1,000,000*	\$1,000,001 - \$5,000,000	Over \$5,000,000	Other Income (Specify Type & Actual Amount)	Date (Mo., Day, Yr.) Only if Honoraria	
1	--Green Equity Investors VI, L.P.																										
2	--Highstar Capital IV, L.P.																										
3	--KKR North America Fund XI, L.P.																										
4	--KKR North America Fund XI, L.P. - Expense Reserve																										
5	--NEA 14/ President's Fund IV, L.P.																										
6	--PIMCO Bravo Fund II, L.P.																										
7	--PWP Growth Equity Fund I, L.P.																										
8	--Real Estate Opportunity Fund II, L.P.																										
9	--Riverstone Global Energy & Power V, L.P.																										

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## Assets and Income

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## Page Number

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## SCHEDULE B

Page Number

## Part I: Transactions

Report any purchase, sale, or exchange of property used solely for your personal residence, or your spouse, or dependent child, during the reporting period of any real property, stocks, bonds, commodity futures, and other securities when the amount of the transaction exceeded \$1,000. Include transactions that resulted in a loss.

None

Do not report a transaction involving property used solely as your personal residence, or a transaction solely between you, your spouse, or dependent child. Check the "Certificate of divestiture" box to indicate sales made pursuant to a certificate of divestiture from OGE.

[illegible]

\*This category applies only if the underlying asset is solely that of the filer's spouse or dependent children. If the underlying asset is either held by the filer or jointly held by the filer with the spouse or dependent children, use the other higher categories of value, as appropriate.

## Part II: Gifts, Reimbursements, and Travel Expenses

For you, your spouse and dependent children, report the source, a brief description, and the value of: (1) gifts (such as tangible items, transportation, lodging, or entertainment) received from one source totaling more than \$253 and (2) gifts of money or money's worth received from one source totaling more than \$135. For conflicts analysis, it is helpful to indicate a basis for reporting such as personal friend, agency approval under 5 U.S.C. § 4111 or other statutory authority, etc. For travel-related gifts and reimbursements, include travel itinerary, dates, and the nature of expenses provided. Exclude anything given to you by

the U.S. Government; given to your agency in connection with official travel; received from relatives; received by your spouse or dependent child totally independent of their relationship to you; or provided as personal hospitality at the donor's residence. Also, for purposes of aggregating gifts to determine the total value from one source, exclude items worth \$134 or less. See instructions for other exclusions.

☐ None

	Source (Name and Address)	Brief Description	Value
Examples	Nat'l Assn. of Book Collectors, NY, NY	Airline ticket, hotel room & meals incident to national conference 6/15/99 (personal activity unrelated to duty)	\$500
	Frank Jones, San Francisco, CA	Leather briefcase (personal framed)	\$150
1			
2			
3			
4			
5			

SCHEDULE C		Page Number: 16 of 18			
<p><b>Part I: Liabilities</b></p> <p>Report liabilities over \$10,000 owed to any one creditor at any time during the reporting period by you, your spouse, or dependent children. Check the highest amount owed during the reporting period. Exclude accounts.</p> <p>a mortgage on your personal residence unless it is rented out; loans secured by automobiles, household furniture or appliances; and liabilities owed to certain relatives listed in instructions. See instructions for revolving charge accounts.</p> <p style="text-align: right;">None <input type="checkbox"/></p>					
Creditor (Name and Address)	Type of Liability	Date Incurred	Interest Rate	Term If Applicable	Category of Amount or Value (\$)
Examples: First District Bank, Washington, D.C. John Jones	Mortgage on Federal Property, Delaware Promissory note	1991	8%	25 yrs.	Over \$50,000,000
1 Chase, New York, New York	Mortgage on personal residence	2011	3.125%	15 yrs	Over \$50,000,000
2 Chase, New York, New York	Mortgage on personal residence	2012	4.375%	30 yrs	Over \$50,000,000
3					Over \$50,000,000
4					Over \$50,000,000
5					Over \$50,000,000
<p>* This category applies only if the liability is solely that of the filer's spouse or dependent children. If the liability is that of the filer or a joint liability of the filer with the spouse or dependent children, mark the other higher categories, as appropriate.</p>					
<p><b>Part II: Agreements or Arrangements</b></p> <p>Report your agreements or arrangements for: (1) continuing participation in an employee benefit plan (e.g. pension, 401k, deferred compensation); (2) continuation of payment by a former employer (including severance payments); (3) leaves of absence; and (4) future employment. See instructions regarding the reporting of negotiations for any of these arrangements or benefits.</p> <p style="text-align: right;">None <input type="checkbox"/></p>					
Status and Terms of any Agreement or Arrangement		Parties		Date	
Example: Pursuant to partnership agreement, will receive lump sum payment of capital account & partnership share calculated as service performed through 1/01.		Doc Jones & Smith, Hometown, State		7/85	
1 Pursuant to my partnership agreement, I will receive the return of my capital account after my resignation from the firm.		Sharon Bowen, Latham & Watkins LLP, New York, New York		01/91	
2 Pursuant to my partnership agreement, I am eligible to receive fixed retirement benefit payments from Latham & Watkins. Two payments will be made monthly over 10 years after my resignation from the firm. See note 2		Sharon Bowen, Latham & Watkins LLP, New York, New York		1/91	
3 Following my resignation, Latham & Watkins LLP will make no further contributions to my Latham & Watkins LLP 401(k) Plan		Sharon Bowen, Latham & Watkins LLP, New York, New York		1/91	
4 If I am a partner of Latham & Watkins as of 12/31/13, I will fund and be enrolled in a Latham & Watkins Cash Balance Plan. Following my resignation, I will receive a lump sum distribution of any contributions and earnings.		Sharon Bowen, Latham & Watkins LLP, New York, New York		1/91	
5 No further contributions will be made to the Cash Balance Plan after my resignation.					
6					

SCHEDULE D		Page Number 17 of 18
Reporting Individual's Name Bowen, Sharon Y.		
<b>Part I: Positions Held Outside U.S. Government</b> Report any positions held during the applicable reporting period, whether compensated or not. Positions include but are not limited to those of an officer, director, trustee, general partner, proprietor, representative, employee, or consultant of any corporation, firm, partnership, or other business enterprise or any non-profit organization or educational institution. Exclude positions with religious, social, fraternal, or political entities and those solely of an honorary nature.		
	Organization (Name and Address) Type of Organization Position Held From (Mo./Yr.) To (Mo./Yr.) None <input type="checkbox"/>	
Examples: 1. Doe Jones & Smith, Hometown, State	Non-profit educational Law firm	President Partner 6/92 7/85 1/00
1. Latham & Watkins, LLP, New York, NY	Law Firm	Partner 06/1988 present
2. Securities Investor Protection Corporation, Washington, DC (uncompensated)	Non-profit	Vice Chair and Acting Chair 02/2010 present
3. New York City Economic Development Corporation, New York, NY (uncompensated)	Non-profit	Board Member, Executive Committee 10/2002 present
4. Northwestern University School of Law, Chicago, Illinois (uncompensated)	Law School	Board Member 01/1998 present
5. New York Lawyers for the Public Interest, New York, New York (uncompensated)	Non-Profit	Emeritus Director 01/1992 present
6. UrbanAmerica, LP, New York, New York (uncompensated)	Private Real Estate Investment Fund	Member, Board of Managers 01/1997 present
<b>Part II: Compensation in Excess of \$5,000 Paid by One Source</b> Report sources of more than \$5,000 compensation received by you or your business affiliation for services provided directly by you during any one year of the reporting period. This includes the names of clients and customers of any corporation, firm, partnership, or other business enterprise, or any other		
	Source (Name and Address) Brief Description of Duties	
Examples: 1. Doe Jones & Smith, Hometown, State Metro University (client of Doe Jones & Smith), Hometown, State	Legal services Legal services in connection with university construction	
2. Fiskulm, USA, Inc., Boston, MA (Latham & Watkins LLP client)	Legal Services	
3. Securities Investor Protection Corporation, Washington, DC	Directors Fees	
4.		
5.		
6.		

OCSE Form 278 (Rev. 09/2010)  
5 C.F.R. Part 2634  
U.S. Office of Government Ethics

SCHEDULE D		Page Number 19 of 19	
<p>Reporting Individual's Name Bowen, Sharon Y.</p>			
<p><b>Part I: Positions Held Outside U.S. Government</b>                      Report any positions held during the applicable reporting period, whether compensated or not. Positions include but are not limited to those of an officer, director, trustee, general partner, proprietor, representative, employee, or consultant of any corporation, firm, partnership, or other business enterprise or any non-profit organization or educational institution. Exclude positions with religious, social, fraternal, or political entities and those solely of an honorary nature. <span style="float: right;">None <input type="checkbox"/></span></p>			
Examples	Organization (Name and Address)	Position Held	From (Mo./Yr.) To (Mo./Yr.)
	Examples 1. Not a law of Rock Collectors, NY Doe Jones & Smith, Bloomtown, State	President Partner	6/92 7/85
1	Pencil, New York, NY (uncompensated)	Director	01/1982 present
2	Jeffersonian Jay Street Corporation, New York, New York (uncompensated)	Officer	05/1984 present
3			
4			
5			
6			
<p><b>Part II: Compensation in Excess of \$5,000 Paid by One Source</b>                      Report sources of more than \$5,000 compensation received by you or your business affiliation for services provided directly by you during any one year of the reporting period. This includes the names of clients and customers of any corporation, firm, partnership, or other business enterprise, or any other non-profit organization when you directly provided the services generating a fee or payment of more than \$5,000. You need not report the U.S. Government as a source. <span style="float: right;">None <input type="checkbox"/></span></p>			
Examples	Source (Name and Address)	Brief Description of Duties	Legislatives Legal Services in connection with university construction
1	Doe Jones & Smith, Bloomtown, State Metro University (Client of Doe Jones & Smith), Montgomery, State		
2			
3			
4			
5			
6			

Prior Editions Cannot Be Used.

**Note 1: Latham & Watkins, LLP - Cash Balance Plan**

If I am employed with Latham & Watkins as of December 31, 2013, I will be enrolled in and fund my participation in a Cash Balance Plan. The Cash Balance plan is a retirement plan made available to partners by the firm. Pursuant to the terms of participation in the Cash Balance Plan, my account balance is payable in a lump sum distribution at the time of my retirement. When I retire from the firm, I will request a lump sum distribution of my account balance in the Cash Balance Plan.

**Note 2: Latham & Watkins, LLP - Fixed Retirement Benefit Payments**

I am a partner of Latham & Watkins, LLP. Pursuant to my partnership agreement, I am eligible to receive a fixed retirement benefit equal to approximately three years total compensation, based on the highest five years of the most recent fifteen years. This fixed retirement benefit will be paid in monthly installments over ten years commencing after my retirement from the firm.

**Note 3: VP Fund 2012, LLC**

This is an investment partnership that was available to partners of Latham & Watkins, LLP and I invested as a partner of the firm. The VP Fund 2012, LLC is invested in private limited liability partnership funds that have sole investment authority for the underlying assets. Underlying assets are not disclosed because of a confidentiality agreement. I will divest this asset if confirmed.

**Note 4: VP Fund 2008, LLC**

This is an investment partnership that was available to partners of Latham & Watkins, LLP and I invested as a partner of the firm. The VP Fund 2008, LLC is invested in private limited liability partnership funds that have sole investment authority for the underlying assets. Underlying assets are not disclosed because of a confidentiality agreement. I will divest this asset if confirmed.

December 9, 2013

Jonathan L. Marcus, Esq.  
General Counsel and  
Designated Ethics Official  
Office of the General Counsel  
Commodity Futures Trading Commission  
Three Lafayette Centre  
1155 21<sup>st</sup> Street, N.W.  
Washington, D.C. 20581

Dear Mr. Marcus:

The purpose of this letter is to describe the steps that I will take to avoid any actual or apparent conflict of interest in the event that I am confirmed for the position of Commissioner, Commodity Futures Trading Commission ("CFTC").

As required by 18 U.S.C. § 208(a), I will not participate personally and substantially in any particular matter that has a direct and predictable effect on my financial interests or those of any person whose interests are imputed to me, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2). I understand that the interests of the following persons are imputed to me: any spouse or minor child of mine; any general partner of a partnership in which I am a limited or general partner; any organization in which I serve as officer, director, trustee, general partner or employee; and any person or organization with which I am negotiating or have an arrangement concerning prospective employment.

Upon confirmation, I will resign from my position as a partner with the law firm of Latham & Watkins, LLP. I currently have a capital account with Latham & Watkins, LLP, and I will receive a refund of that account after my resignation as partner. Until I have received this refund, I will not participate personally and substantially in any particular matter that will have a direct and predictable effect on the ability or willingness of the firm to pay this refund, unless I first obtain a written waiver, pursuant to 18 U.S.C. 208(b)(1). For a period of one year after my resignation, I will not participate personally and substantially in any particular matter involving specific parties in which Latham & Watkins, LLP is a party or represents a party, unless I am first authorized to participate, pursuant to 5 C.F.R. § 2635.502(d). In addition, I will not participate personally and substantially in any particular matter involving specific parties in which a former client of mine is a party or represents a party for a period of one year after I last provided service to that client, unless I am first authorized to participate, pursuant to 5 C.F.R. § 2635.502(d).

If I remain a partner with Latham & Watkins as of February 15, 2014, I will be eligible to receive a bonus for work performed in 2013 if Latham & Watkins, LLP determines that bonus payments are warranted. Latham & Watkins, LLP, will use an objective formula to calculate any



December 9, 2013  
Page 2

potential bonus. Until I have received this potential bonus payment, I will not participate personally and substantially in any particular matter that has a direct and predictable effect on the ability or willingness of Latham & Watkins, LLP, to make this payment to me, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1). Further, if I am employed with Latham & Watkins as of December 31, 2013, I will be enrolled in a Cash Balance Plan. Pursuant to the terms of participation in the Cash Balance Plan, my account balance is payable in a lump sum distribution at the time of my retirement. Until I have received this lump sum distribution, I will not participate personally and substantially in any particular matter that will have a direct and predictable effect on the ability or willingness of the firm to pay this distribution, unless I first obtain a written waiver, pursuant to 18 U.S.C. 208(b)(1).

Pursuant to the partnership agreement with Latham & Watkins, I am eligible to receive a fixed retirement benefit equal to approximately three years total compensation, based on the highest five years of the most recent fifteen years, paid out monthly over ten years. Until I have received these payments, I will not participate personally and substantially in any particular matter that has a direct and predictable effect on the ability or willingness of Latham & Watkins, LLP to make these payments to me, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1).

Upon confirmation, I will resign from my position as Vice Chairman and Acting Chairman of the Board of Directors of the Securities Investor Protection Corporation ("SIPC"). For a period of one year after my resignation, I will not participate personally and substantially in any particular matter involving specific parties in which SIPC is a party or represents a party, unless I am first authorized to participate, pursuant to 5 C.F.R. § 2635.502(d).

Upon confirmation, I will resign from my uncompensated positions as a Member of the Board of the New York Economic Development Corporation, as a Member of the Board of Northwestern University School of Law, as Emeritus Director of the New York Lawyers for the Public Interest, as Manager of the UrbanAmerica, LP., as Director of PENCIL, and as officer of the Jeffersonian Jay Street Corporation Residential Co-op. For a period of one year after my resignation from each of these entities, I will not participate personally and substantially in any particular matter involving specific parties in which that entity is a party or represents a party, unless I am first authorized to participate, pursuant to 5 C.F.R. § 2635.502(d).

I will divest my interests in the Credit Suisse Cushing 30 MLP Index Exchange Traded Note, Calpine Corporation, General Electric Co., Huntington Bancshares Incorporated, Royal Bank of Scotland, and Freeport McMoran Copper, within 90 days of my confirmation. With regard to each of these entities, I will not participate personally and substantially in any particular matter that has a direct and predictable effect on the financial interests of the entity until I have divested it, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2). I understand that I may be eligible to request a Certificate of Divestiture for these assets and that a Certificate of Divestiture is effective only if obtained prior to divestiture. Regardless of whether I receive a Certificate of Divestiture, I will divest these assets within 90 days of my confirmation and will invest the proceeds in non-conflicting assets.

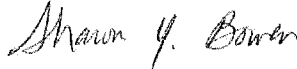
December 9, 2013  
Page 3

I have disclosed in my financial disclosure report a financial interest in the VP Fund 2008, LLC and the VP Fund 2012, LLC. However, the funds' managers declined to permit me to disclose confidential information regarding the holdings of the underlying funds in which the VP Funds invest. Therefore, I will divest my financial interest in the VP Fund 2008, LLC and the VP Fund 2012, LLC, within 90 days of my confirmation. Until I have divested the VP Fund 2008, LLC and the VP Fund 2012, LLC, I will not participate personally and substantially in any particular matter in which to my knowledge I have a financial interest, if the particular matter has a direct and predictable effect on the financial interests of either the VP Fund 2008, LLC, the VP Fund 2012, LLC, or any of their underlying assets, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2). I understand that I may be eligible to request a Certificate of Divestiture for these assets and that a Certificate of Divestiture is effective only if obtained prior to divestiture. Regardless of whether I receive a Certificate of Divestiture, I will divest these assets within 90 days of my confirmation and will invest the proceeds in non-conflicting assets.

I understand that as an appointee I am required to sign the Ethics Pledge (Exec Oder No. 13490) and that I will be bound by the requirements and restrictions therein in addition to the commitments I have made in this and any other ethics agreement.

Finally, I have been advised that this ethics agreement will be posted publicly, consistent with 5 U.S.C. § 552, on the website of the U.S. Office of Government Ethics with other ethics agreements of Presidential nominees who file public financial disclosure reports.

Sincerely,

A handwritten signature in cursive script that reads "Sharon Y. Bowen".

Sharon. Y. Bowen

March 4, 2014

Honorable Debbie Stabenow  
Chairwoman,  
Committee on Agriculture, Nutrition and Forestry  
United States Senate  
Washington, D.C. 20581

Dear Senator Stabenow:

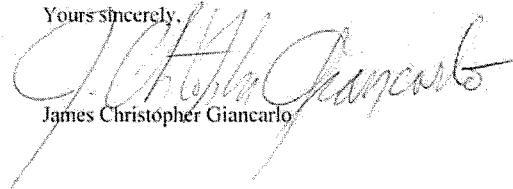
On August 13, 2013, a copy of my OGE Form 278, Executive Branch Personnel Public Financial Disclosure Report, required in connection with my nomination to serve as Commissioner of the Commodity Futures Trading Commission, was submitted to the U.S. Office of Government Ethics. That report contained all required financial information for calendar year 2012 and for calendar year 2013 through July 31, 2013.

The Ethics in Government Act of 1978, as amended, also requires that I update certain of the information reported on the OGE 278 respecting outside earned income and honoraria to date which occurs not more than five days before the date of the hearing to be held by your committee to consider my nomination.

Accordingly, please be advised that I have earned an aggregate of \$923,878 in outside earned income from employment by GFI Group Inc. during calendar year 2013 and for calendar year 2014 through March 3, 2014. During that period, I have not earned honoraria of any amount. I have no other covered income to report.

I trust this letter satisfies the additional applicable reporting requirements contained in the Ethics in Government Act.

Yours sincerely,



James Christopher Giancarlo

JCG DRAFT – 11/26/13

**U.S. SENATE COMMITTEE ON AGRICULTURE, NUTRITION & FORESTRY**  
**Questions for Executive Nominees**  
**113<sup>th</sup> Congress**

**1. Basic Biographical Information**

Please provide the following information.

<i>Position to Which You Have Been Nominated</i>	
<u>Name of Position</u>	<u>Date of Nomination</u>
Commissioner, Commodity Futures Trading Commission	August 1, 2013

<i>Current Legal Name</i>			
<u>First Name</u>	<u>Middle Name</u>	<u>Last Name</u>	<u>Suffix</u>
James	Christopher	Giancarlo	

<i>Addresses</i>					
<u>Residential Address</u> (do not include street address)			<u>Office Address</u> (include street address)		
			Street: 55 Water Street		
City: Haworth	State: NJ	Zip: 07641	City: New York	State: NY	Zip: 07641

<i>Other Names Used</i>						
<u>First Name</u>	<u>Middle Name</u>	<u>Last Name</u>	<u>Suffix</u>	<u>Check if Maiden Name</u>	<u>Name Used From</u> (Month/Year) (Check box if estimate)	<u>Name Used To</u> (Month/Year) (Check box if estimate)
					Est <input type="checkbox"/>	Est <input type="checkbox"/>

<i>Birth Year and Place</i>	
Year of Birth (Do not include month and day.)	Place of Birth
1959	Jersey City, New Jersey

<i>Marital Status</i>					
Check All That Describe Your Current Situation:					
Never Married <input type="checkbox"/>	Married <input checked="" type="checkbox"/>	Separated <input type="checkbox"/>	Annulled <input type="checkbox"/>	Divorced <input type="checkbox"/>	Widowed <input type="checkbox"/>

<i>Spouse's Name (current spouse only)</i>			
<u>Spouse's First Name</u>	<u>Spouse's Middle Name</u>	<u>Spouse's Last Name</u>	<u>Spouse's Suffix</u>
Regina	Marie	Giancarlo	

<i>Spouse's Other Names Used (current spouse only)</i>						
<u>First Name</u>	<u>Middle Name</u>	<u>Last Name</u>	<u>Suffix</u>	<u>Check if Maiden Name</u>	<u>Name Used From</u> (Month/Year) (Check box if estimate)	<u>Name Used To</u> (Month/Year) (Check box if estimate)
Regina	Marie	Beyel		X	June 1989    Est <input type="checkbox"/>	June 1989    Est <input type="checkbox"/>

<i>Children's Names (if over 18)</i>			
First Name	Middle Name	Last Name	Suffix
Emma	Mary	Giancarlo	

## 2. Education

List all post-secondary schools attended.

<u>Name of School</u>	<u>Type of School</u> (vocational/technical/trade school, college/university/military college, correspondence/distance/extension/online school)	<u>Date Began School</u> (month/year) (check box if estimate)	<u>Date Ended School</u> (month/year) (check box if estimate) (check "present" box if still in school)	<u>Degree</u>	<u>Date Awarded</u>
Skidmore College	4 year private college	September, 1977 <input type="checkbox"/>	June 1981 <input type="checkbox"/> Est <input type="checkbox"/> Present <input type="checkbox"/>	B.A.	June 1981
Vanderbilt University	Private University	September 1981 <input type="checkbox"/>	June 1984 <input type="checkbox"/> Est <input type="checkbox"/> Present <input type="checkbox"/>	J.D.	June 1984

### 3. Employment

(A) List all of your employment activities, including unemployment and self-employment. If the employment activity was military duty, list separate employment activity periods to show each change of military duty station. Do not list employment before your 18th birthday unless to provide a minimum of two years of employment history.

<u>Type of Employment</u> (Active Military Duty Station, National Guard/Reserve, USPS Commissioned Corps, Other Federal employment, State Government (Non-Federal Employment), Self-employment, Unemployment, Federal Contractor, Non-Government Employment (excluding self-employment), Other)	<u>Name of Your Employer/Assigned Duty Station</u>	<u>Most Recent Position Title/Rank</u>	<u>Location</u> (City and State only)	<u>Date Employment Began</u> (month/year) (check box if estimate)	<u>Date Employment Ended</u> (month/year) (check box if estimate) (check "present" box if still employed)
Non-Government Employment	GFI Group Inc.	Executive Vice President	New York, NY	May, 2001 Est <input type="checkbox"/>	Present Est <input type="checkbox"/>
Non-Government Employment	Fenics Ltd.	Executive Vice President	New York, NY	April 2000 Est <input type="checkbox"/>	May 2000 Est <input type="checkbox"/>
Non-Government Employment	Brown Raysman Millstein Felder & Steiner LLP	Law Partner	New York, NY	Sept 1997 Est <input type="checkbox"/>	April 2000 Est <input type="checkbox"/>
Non-Government Employment	Giancarlo & Gleiberman	Law Partner	New York, NY	Jan 1992 Est <input type="checkbox"/>	Sept 1997 Est <input type="checkbox"/>
Non-Government Employment	Curtis Mallet-Provest, Colt & Mosle	Associate Attorney	New York, NY	Oct. 1985 Est <input type="checkbox"/>	Dec. 1991 Est <input type="checkbox"/>
Non-Government Employment	Mudge Rose LLP	Associate Attorney	New York, NY	Sept 1984	Oct. 1985

(B) List any advisory, consultative, honorary or other part-time service or positions with federal, state, or local governments, not listed elsewhere.

<u>Name of Government Entity</u>	<u>Name of Position</u>	<u>Date Service Began</u> (month/year) (check box if estimate)	<u>Date Service Ended</u> (month/year) (check box if estimate) (check "present" box if still serving)
Borough of Haworth (N.J.), Board of Adjustment	Member (unpaid) of non-partisan municipal board; appointed by Mayor (Democrat)	Jan 2004 Est <input type="checkbox"/>	Dec. 2012 Est Present <input type="checkbox"/> <input type="checkbox"/>
		Est <input type="checkbox"/>	Est Present <input type="checkbox"/> <input type="checkbox"/>

#### 4. Honors and Awards

List all scholarships, fellowships, honorary degrees, civilian service citations, military medals, academic or professional honors, honorary society memberships and any other special recognition for outstanding service or achievement.

*Phi Beta Kappa* (National Academic Honor Society). Inducted: June 1981

#### 5. Memberships

List all memberships that you have held in professional, social, business, fraternal, scholarly, civic, or charitable organizations in the last 10 years.

Unless relevant to your nomination, you do NOT need to include memberships in charitable organizations available to the public as a result of a tax deductible donation of \$1,000 or less, Parent-Teacher Associations or other organizations connected to schools attended by your children, athletic clubs or teams, automobile support organizations (such as AAA), discounts clubs (such as Groupon or Sam's Club), or affinity memberships/consumer clubs (such as frequent flyer memberships).

<u>Name of Organization</u>	<u>Dates of Your Membership</u> (You may approximate.)	<u>Position(s) Held</u>
French Academy of Bilingual Culture, Board of Directors	Feb. 2007 to August 2013	Chairman of the Board of Directors (unpaid)
Wholesale Markets Brokers Association, Americas	February 2010 to April 8, 2013	Board Member and Past Chairman (unpaid)
Advanced Markets Holdings LLC Board of Directors	July 2010 – March 2013	Board Member (unpaid)
National Investor Relations Institute	2004 – Present	None
New York Athletic Club	1998 – Present	None
Knights of Columbus	2008 – Present	None



**6. Political Activity****(A) Have you ever been a candidate for or been elected or appointed to a political office?**

<u>Name of Office</u>	<u>Elected/Appointed/ Candidate Only</u>	<u>Year(s) Election Held or Appointment Made</u>	<u>Term of Service (if applicable)</u>
Bergen County (NJ) Republican County Committee	Elected	Nov. 2011	2011-2014

**(B) List any offices held in or services rendered to a political party or election committee during the last ten years that you have not listed elsewhere.**

<u>Name of Party/Election Committee</u>	<u>Office/Services Rendered</u>	<u>Responsibilities</u>	<u>Dates of Service</u>
Republican: Romney Victory (NY) Finance Committee	No Office / Fund Raising Services	Fund Raising	April – Nov, 2012
Republican: Giuliani for President Finance Committee (NJ)	No Office / Fund Raising Services	Fund Raising	Sept 2007- Jan 2008

(C) Itemize all individual political contributions of \$200 or more that you have made in the past five years to any individual, campaign organization, political party, political action committee, or similar entity. Please list each individual contribution and not the total amount contributed to the person or entity during the year.

<u>Name of Recipient</u>	<u>Amount</u>	<u>Year of Contribution</u>
<b>2009</b>		
Kanjorski for Congress	\$1,000	1/12/09
Chris Christie for Governor	\$ 250	3/17/09
Nat. Repub. Congressional Cttee.	\$ 250	3/31/09
Garrett for Congress	\$1,000	6/1/09
Chris Christie for Governor	\$ 500	8/15/09
Friends of Blanche Lincoln	\$ 250	12/18/09
<b>2010</b>		
Garrett for Congress	\$4,800	6/10/10
Scontras for Congress	\$ 100	6/10/10
<b>2011</b>		
Haworth Republican Club	\$ 200	6/18/11
Jack Kingston for Congress	\$ 500	11/14/11
SCOTTPAC	\$1,000	12/7/11
Friends of Jack Kingston	\$ 500	12/12/11
Romney for President	\$2,500	12/12/11
<b>2012</b>		
Romney for President	\$2,500	4/17/12
Haworth Republican Club	\$ 100	5/12/12
Joe Kyrillos for Senate	\$2,000	5/22/12
Scott Garrett for Congress	\$2,500	6/13/12
Romney for President	\$2,500	9/8/12
Joe Kyrillos for Senate	\$ 250	9/18/12
PAT PAC	\$ 250	9/27/12
Haworth Republican Club	\$ 200	10/12/12
<b>2013</b>		
Friends of Jack Kingston	\$ 250	4/16/13
Chris Christie for Governor	\$3,800	4/29/13
Garrett for Congress	\$4,800	6/7/13
Friends of Rob Astorino	\$ 500	9/24/13
Haworth Republican Club	\$ 250	9/25/13
Abbott for Governor	\$ 500	9/25/13
Schepisi for Assembly	\$ 250	10/3/13
Bob Auth for Assembly	\$ 250	10/3/13
NJ Senate Republican Majority	\$ 400	10/22/13
McConnell Senate Committee *14	\$1,100	10/24/13

Mike Conaway for Congress	\$ 250	11/8/13
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**7. Publications**

**List the titles, publishers and dates of books, articles, reports or other published materials that you have written, including articles published on the Internet.**

Please see Supplement A (hereto): Media List.

**8. Lobbying**

**In the past ten years, have you registered as a lobbyist? If so, please indicate the state, federal, or local bodies with which you have registered (e.g., House, Senate, California Secretary of State).**

No

**SUPPLEMENT A TO UNITED STATES SENATE  
COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY**

**QUESTIONNAIRE FOR UNITED STATES DEPARTMENT OF AGRICULTURE,  
COMMODITY FUTURES TRADING COMMISSION, AND FARM CREDIT  
ADMINISTRATION NOMINEES**

**Internet Media Appearances**

- December 5, 2012:  
"Chris Giancarlo of GFI Group Discusses the need for Regulatory Balance"  
[http://www.youtube.com/watch?v=-AWkcCN\\_RLo](http://www.youtube.com/watch?v=-AWkcCN_RLo)
- September 27, 2011:  
"Getting ready for SEFCON II – Tabb TV"  
<http://www.youtube.com/watch?v=0wtEfYnHC70>
- October 12, 2011:  
"U.S. House Agriculture Committee Hearing"  
<http://www.wmbaa.com/wp-content/uploads/2012/02/J.-Christopher-Giancarlo-Testimony-10.12.2011.pdf>  
*(To view, please visit the US Agriculture Committee Hearings Archives)*
- October 3, 2011:  
"SEFCON II, C. Giancarlo opening remarks"  
<http://www.youtube.com/watch?v=Pld-lj0hO8A>
- October 12, 2011:  
"American Capital Markets Risk Being Driven Offshore – Again"  
<http://marketswiki.tv/questions/q4/#/?snu=1033>
- March 26, 2012:  
"Dodd-Frank & SEFs"  
<http://www.youtube.com/watch?v=rz3WMgdEy-4>
- July 25, 2012:  
"Financial Regulatory Reform: Past, Present and Future"

<http://www.uschamber.com/webcasts/quarterly-economic-roundtable-discussion-marty-regalia>

SEFCON Conferences  
2010-2012

- SEFCON I, October 4, 2010 - Conference Chairman Opening and Closing Remarks
- SEFCON II, October 3, 2011 - Conference Chairman Opening Remarks
- SEFCON III, November 13, 2012 - Conference Chairman Opening and Closing Remarks:  
[http://www.flaggmgmt.com/SEFCON/opening\\_remarks.htm](http://www.flaggmgmt.com/SEFCON/opening_remarks.htm)

Other Speeches  
2012-2013

- Remarks of Chris Giancarlo to National Chamber Foundation, US Chamber of Commerce – August 2, 2012.
- Remarks of Chris Giancarlo to National Chamber Foundation, US Chamber of Commerce – October 30, 2012.
- Remarks of Chris Giancarlo to National Chamber Foundation, US Chamber of Commerce – January 18, 2013.

Congressional Testimony

1. Testimony Before The House Financial Services Subcommittee on Capital Markets and Government Sponsored Enterprises on “Challenges Facing the U.S. Capital Markets to Effectively Implement Title VII of the Dodd-Frank

Act", December 12, 2012.

<http://financialservices.house.gov/uploadedfiles/hhrg-112-ba16-wstate-cgiancarlo-20121212.pdf>

2. Testimony before The House Committee on Agriculture on "Legislative Proposals Amending Title VII of The Dodd-Frank Wall Street Reform and Consumer Protection Act", October 12, 2011.  
<http://agriculture.house.gov/sites/republicans.agriculture.house.gov/files/pdf/hearings/Giancarlo111012.pdf>
3. Testimony Before The House Committee on Financial Services on "Implementation of the Dodd-Frank Wall Street Reform and Consumer Protection Act", February 15, 2011.  
<http://financialservices.house.gov/media/pdf/021511giancarlo.pdf>

### Other Publications

"SuperMontage: What's Wrong With Nasdaq's New Market System?" eSecurities (Leader Publications), (March, 2001).

"Issuer Liability for Hyper linked Content," eSecurities (Leader Publications), (July, 2000).

"SEC Internet Report" (with Sarah Hewitt & Peter J. Fusco), The National Law Journal, (January 24, 2000).

"Online Shareholder Actions: Coho Revolt Raises Issues of Proxy Rules," eSecurities (Leader Publications), (Oct., 1999).

"Corporate Finance: International Regulation of Internet Securities," (with Sarah Hewitt) New York Law Journal, (July 8, 1999).

"*Securities Law in Practice*: SEC Amends Rule 504 to Fight Fraud," New Jersey Law Journal, (July 5, 1999).

"What You Need to Know about [Alternative Trading Systems]," eSecurities (Leader Publications), (December 1998).

Giancarlo, *Methods of Doing Business Abroad*, 1998 N.J. INST. FOR CONTINUING LEGAL EDUC. 69.

"Using New Jersey Limited Liability Companies as Vehicles for Overseas Investment in the United States," International Law and Organizations Section



Newsletter (New Jersey State Bar Association), (June 1995).

“United States Business Law: *A Handbook for the British Entrepreneur*,” (2nd. Ed.) self-published, March 1995. (1st. Ed., June 1993)

“Foreign Investment in Hungary,” International Law and Organizations Section Newsletter (New Jersey State Bar Association), November 1992.

“Reciprocal Sales of US and UK Mutual Funds,” International Financial Law Review, June 1986 (co-written with A. Francke & M. Day).



United States  
**Office of Government Ethics**  
1201 New York Avenue, NW, Suite 500  
Washington, DC 20005-3917

The Honorable Debbie Stabenow  
Chairwoman  
Committee on Agriculture, Nutrition  
and Forestry  
United States Senate  
Washington, DC 20510

Dear Madam Chairwoman:

In accordance with the Ethics in Government Act of 1978, I enclose a copy of the financial disclosure report filed by James Christopher Giancarlo, who has been nominated by President Obama for the position of Commissioner, Commodity Futures Trading Commission.

We have reviewed the report and have obtained advice from the agency concerning any possible conflict in light of its functions and the nominee's proposed duties. Also enclosed is an ethics agreement outlining the actions that the nominee will undertake to avoid conflicts of interest. Unless a date for compliance is indicated in the ethics agreement, the nominee must fully comply within three months of confirmation with any action specified in the ethics agreement.

Based thereon, we believe that this nominee is in compliance with applicable laws and regulations governing conflicts of interest.

Sincerely,

A handwritten signature in cursive script, reading "Walter M. Shaub, Jr.".

Walter M. Shaub, Jr.  
Director

Enclosures

August 12, 2013

Jonathan L. Marcus  
General Counsel and  
Designated Agency Ethics Official  
Office of the General Counsel  
Commodity Futures Trading Commission  
Three Lafayette Centre  
1155 21<sup>st</sup> Street, N.W.  
Washington, D.C. 20581

Dear Mr. Marcus:

This letter describes the steps I will take to avoid any actual or apparent conflict of interest in the event that I am confirmed for the position of Commissioner for the Commodity Futures Trading Commission.

As required by 18 U.S.C. § 208(a), I will not participate personally and substantially in any particular matter that has a direct and predictable effect on my financial interests or those of any person whose interests are imputed to me, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2). I understand that the interests of the following persons are imputed to me: any spouse or minor child of mine; any general partner of a partnership in which I am a limited or general partner; any organization in which I serve as officer, director, trustee, general partner or employee; and any person or organization with which I am negotiating or have an arrangement concerning prospective employment.

Upon confirmation, I will resign from my position with GFI Group, Inc. ("GFI"). Following my resignation and pursuant to the terms of a pre-existing separation package consistent with the terms of my Employment Agreement, I will receive from GFI a severance payment in the amount of \$2.5 million. GFI will make this payment to me before I assume the duties of the position of Commissioner. For a period of two years from the date of my resignation, I will not participate personally and substantially in any particular matter involving specific parties in which GFI or any of its wholly owned subsidiaries is a party or represents a party, unless I am first authorized to participate, pursuant to 5 C.F.R. § 2635.503(c). Pursuant to the terms of my Employment Agreement, I am also entitled to a one year option for medical benefits upon my resignation. I will forfeit this benefit upon my resignation from GFI.

I and my children own shares of GFI common stock. Pursuant to a 2002 Stock Option Agreement with GFI, I also own vested stock options for shares of GFI common stock. Pursuant to a 2008 Senior Executive Bonus Plan with GFI, I own unvested restricted stock units. I do not own unvested stock options or any vested restricted stock units for shares of GFI common stock.

My unvested restricted stock units will vest upon my resignation from GFI. Within 90 days of my appointment, I will divest all of my and my children's GFI common stock, all of my stock options, and all of my restricted stock units. If I divest the stock options by exercising them, I will divest the resulting stock within 90 days of my appointment. Until I have divested all of these financial interests, I will not participate personally and substantially in any particular matter that has a direct and predictable effect on the financial interests of GFI or any of its wholly owned subsidiaries unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2).

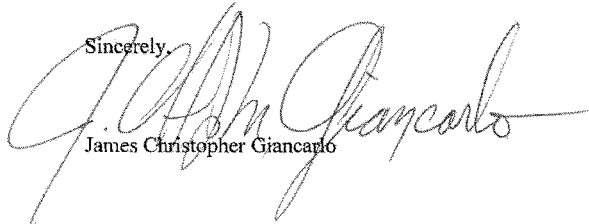
Prior to my appointment, I will resign my position a trustee for my brother's three family trusts. I did not receive any fees for services that I provided during my appointment and do not have any beneficial interest in the holdings of the trusts. I also will not participate personally or substantially in any particular matter involving specific parties in which any of these three trusts is a party, unless I am first authorized to participate pursuant to 5 C.F.R. § 2635.502(d).

I have resigned from my positions from the following entities: The Wholesale Market Brokers Association Americas, Advanced Markets Holdings LLC, and the Borough of Haworth Board of Adjustment. Prior to appointment, I will also resign from the French Academy of Bilingual Culture and the Parish Finance Council of Sacred Heart Church. For a period of one year after my resignation from each of these entities, I will not participate personally and substantially in any particular matter involving specific parties in which that entity is a party or represents a party, unless I am first authorized to participate, pursuant to 5 C.F.R. § 2635.502(d).

Finally, I understand that as an appointee I am required to sign the Ethics Pledge (Exec Order No. 13490) and that I will be bound by the requirements and restrictions therein in addition to the commitments I have made in this and any other ethics agreement.

I have been advised that this ethics agreement will be posted publicly, consistent with 5 U.S.C. § 552, on the website of the U.S. Office of Government Ethics with other ethics agreements of Presidential nominees who file financial reports.

Sincerely,

A handwritten signature in dark ink, appearing to read "J. Christopher Giancarlo", written in a cursive style. The signature is positioned above the printed name.

James Christopher Giancarlo

Executive Branch Personnel Public Financial Disclosure Report

Direct Appointment, Candidacy, Election, or Nomination (Month, Day, Year)		Reporting Status (Check Appropriate Boxes)	Incumbent <input type="checkbox"/>	Calendar Year Covered by Report	New Entrant, Nominee, or Candidate <input checked="" type="checkbox"/>	Termination Date (If Applicable) <input type="checkbox"/>	Termination Date (If Applicable) <input type="checkbox"/>
Reporting Individual's Name		Last Name: <u>Glancarlo</u> First Name and Middle Initial: <u>James Christopher</u>					
Position for Which Filing		Title of Position: <u>Commissioner</u> Department or Agency (If Applicable): <u>Commodity Futures Trading Commission</u>					
Location of Present Office (or forwarding address)		Address (Number, Street, City, State, and ZIP Code): <u>1155 21st Street, N.W., Washington, D.C. 20591</u> Telephone No. (Include Area Code): <u>202-418-5000</u>					
Position(s) held with the Federal Government during the preceding 12 months (If Not Same as Above)		Title of Position(s) and Date(s) Held: <u>None</u>					
Presidential Nominee Subject to Senate Confirmation		Name of Congressional Committee Considering Nomination: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Do You Intend to Create a Qualified Diversified Trust? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No					
Certification I CERTIFY that the statements I have made on this form and all attached schedules are true, complete and correct, to the best of my knowledge.		Signature of Reporting Individual: <u>[Signature]</u> Date (Month, Day, Year): <u>8/12/13</u>					
Other Review (If desired by agency)		Signature of Other Reviewer: <u>[Signature]</u> Date (Month, Day, Year): <u>8/13/13</u>					
Agency Ethics Official's Opinion On the basis of information submitted in this report, I conclude that the filer is in compliance with applicable laws and regulations (subject to any comments in the box below).		Signature of Designated Agency Ethics Official (Reviewing Official): <u>[Signature]</u> Date (Month, Day, Year): <u>8/13/2013</u>					
Office of Government Ethics Use Only		Signature: <u>[Signature]</u> Date (Month, Day, Year): <u>8/13/13</u>					
Comments of Reviewing Officials (If additional space is required, use the reverse side of this sheet)							
(check box if filing extension granted & indicate number of days _____) <input type="checkbox"/>							
Agency Use Only							
OGE Use Only							

**SCHEDULE A**

Page Number

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[illegible]

\* This category applies only if the asset/income is solely that of the filer's spouse or dependent children. If the asset/income is either that of the filer or jointly held by the filer with the spouse or dependent children, mark the other higher categories of value, as appropriate.

<b>SCHEDULE A continued</b> (Use only if needed)		Page Number
Reporting Individual's Name Glencarlo, James Christopher		3 of 12
Assets and Income	Valuation of Assets at Close of Reporting Period	Income: type and amount. If "None (or less than \$201)" is checked, no other entry is needed in Block C for that item.
BLOCK A	BLOCK B	BLOCK C
	None (or less than \$1,001)	Type
	\$1,001 - \$15,000	Dividends
	\$15,001 - \$50,000	Rent and Royalties
	\$50,001 - \$100,000	Interest
	\$100,001 - \$250,000	Capital Gains
	\$250,001 - \$500,000	None (or less than \$201)
	\$500,001 - \$1,000,000	\$201 - \$1,000
	\$1,000,001 - \$5,000,000	\$1,001 - \$2,500
	\$5,000,001 - \$25,000,000	\$2,501 - \$5,000
	\$25,000,001 - \$50,000,000	\$5,001 - \$15,000
	Over \$50,000,000	\$15,001 - \$50,000
	Excepted Investment Fund	\$50,001 - \$100,000
	Excepted Trust	Over \$1,000,000
	Qualified Trust	Over \$5,000,000
		Other Income (Specify Type & Amount)
		Date (Mo., Day, Yr.) (only if Honoraria)
1	GFI GROUP 401K PLAN	
2	Alliance Bernstein Global Bond Fund	
3	JP Morgan High Yield Select (Bond) Fund	
4	Pimco Total Return A (Bond) Fund	
5	American Century Equity Income Investment Fund	
6	American Funds Fundamental Investors R4 Fund	
7	Principal Large Cap S&P 500 Index R5 Fund	
8	Goldman Sachs MidCap Value I R5 Fund	
9	Janus Capital Group Enterprise Fund	

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## Page Number

4 of 12

4 of 12

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OGE Form 278e (Rev. 08/2010)  
 5 C.F.R. Part 2634  
 U.S. Office of Government Ethics

Reporting Individual's Name  
 Galincardo, James Christopher

Page Number  
 5 of 12

### SCHEDULE A continued

(Use only if needed)

Assets and Income		BLOCK B Valuation of Assets at close of reporting period												BLOCK C Income: type and amount. If "None (or less than \$201)" is checked, no other entry is needed in Block C for that item.																					
BLOCK A		BLOCK B												BLOCK C																					
		None (or less than \$1,001)	\$1,001 - \$15,000	\$15,001 - \$50,000	\$50,001 - \$100,000	\$100,001 - \$250,000	\$250,001 - \$500,000	\$500,001 - \$1,000,000	Over \$1,000,000*	\$1,000,001 - \$5,000,000	\$5,000,001 - \$25,000,000	\$25,000,001 - \$50,000,000	Over \$50,000,000	Exceptional Investment Fund	Exceptional Trust	Qualified Trust	Dividends	Rent and Royalties	Interest	Capital Gains	None (or less than \$201)	\$201 - \$1,000	\$1,001 - \$2,500	\$2,501 - \$5,000	\$5,001 - \$15,000	\$15,001 - \$50,000	\$50,001 - \$100,000	\$100,001 - \$1,000,000	Over \$1,000,000*	\$1,000,001 - \$5,000,000	Over \$5,000,000	Other Income (Specify Type and Actual Amount)	Date (Mo., Day, Yr.) Only if Honoraria		
1	- Harbor Commodity Real Return Strategy Fund	X												X																					
2	- Perkins MidCap Value Fund													X																					
3	- MFS Value Fund, Class I													X																					
4	- American Funds New Perspective Class F-1													X																					
5	- T. Rowe Price Emerging Market Fund													X																					
6	- T. Rowe Price Real Estate Fund													X																					
7	IRA FBO SPOUSE NORTHWEST NORTHWEST MUTUAL CUSTODIAN													X																					
8	- American Funds Bond Fund America, Class A													X																					
9	- Dodge & Cox Income (Bond) Fund													X																					

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Page Number
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5 of 12

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Reporting Individual's Name Glumacinski, James Christopher		Page Number 7 of 12	
SCHEDULE A continued (Use only if needed)			
Assets and Income		Income: type and amount. If "None (or less than \$201)" is checked, no other entry is needed in Block C for that item.	
BLOCK A		BLOCK B	
BLOCK C		BLOCK D	
BLOCK E		BLOCK F	
BLOCK G		BLOCK H	
BLOCK I		BLOCK J	
BLOCK K		BLOCK L	
BLOCK M		BLOCK N	
BLOCK O		BLOCK P	
BLOCK Q		BLOCK R	
BLOCK S		BLOCK T	
BLOCK U		BLOCK V	
BLOCK W		BLOCK X	
BLOCK Y		BLOCK Z	
BLOCK AA		BLOCK AB	
BLOCK AC		BLOCK AD	
BLOCK AE		BLOCK AF	
BLOCK AG		BLOCK AH	
BLOCK AI		BLOCK AJ	
BLOCK AK		BLOCK AL	
BLOCK AM		BLOCK AN	
BLOCK AO		BLOCK AP	
BLOCK AQ		BLOCK AR	
BLOCK AS		BLOCK AT	
BLOCK AU		BLOCK AV	
BLOCK AW		BLOCK AX	
BLOCK AY		BLOCK AZ	
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BLOCK BC		BLOCK BD	
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BLOCK BG		BLOCK BH	
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BLOCK BK		BLOCK BL	
BLOCK BM		BLOCK BN	
BLOCK BO		BLOCK BP	
BLOCK BQ		BLOCK BR	
BLOCK BS		BLOCK BT	
BLOCK BU		BLOCK BV	
BLOCK BW		BLOCK BX	
BLOCK BY		BLOCK BZ	
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BLOCK CC		BLOCK CD	
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BLOCK CG		BLOCK CH	
BLOCK CI		BLOCK CJ	
BLOCK CK		BLOCK CL	
BLOCK CM		BLOCK CN	
BLOCK CO		BLOCK CP	
BLOCK CQ		BLOCK CR	
BLOCK CS		BLOCK CT	
BLOCK CU		BLOCK CV	
BLOCK CW		BLOCK CX	
BLOCK CY		BLOCK CZ	
BLOCK DA		BLOCK DB	
BLOCK DC		BLOCK DD	
BLOCK DE		BLOCK DF	
BLOCK DG		BLOCK DH	
BLOCK DI		BLOCK DJ	
BLOCK DK		BLOCK DL	
BLOCK DM		BLOCK DN	
BLOCK DO		BLOCK DP	
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BLOCK DS		BLOCK DT	
BLOCK DU		BLOCK DV	
BLOCK DW		BLOCK DX	
BLOCK DY		BLOCK DZ	
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BLOCK EE		BLOCK EF	
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BLOCK EI		BLOCK EJ	
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BLOCK PG		BLOCK PH	
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BLOCK PK		BLOCK PL	
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BLOCK PS		BLOCK PT	
BLOCK PU		BLOCK PV	
BLOCK PW		BLOCK PX	
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BLOCK RQ		BLOCK RR	
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BLOCK UI		BLOCK UJ	
BLOCK UK		BLOCK UL	
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BLOCK UQ		BLOCK UR	
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BLOCK UU		BLOCK UV	
BLOCK UW		BLOCK UX	
BLOCK UY		BLOCK UZ	
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BLOCK VC		BLOCK VD	
BLOCK VE		BLOCK VF	
BLOCK VG		BLOCK VH	
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BLOCK VK		BLOCK VL	
BLOCK VM		BLOCK VN	
BLOCK VO		BLOCK VP	
BLOCK VQ		BLOCK VR	
BLOCK VS		BLOCK VT	
BLOCK VU		BLOCK VV	
BLOCK VW		BLOCK VX	
BLOCK VY		BLOCK VZ	
BLOCK WA		BLOCK WB	
BLOCK WC		BLOCK WD	
BLOCK WE		BLOCK WF	
BLOCK WG		BLOCK WH	
BLOCK WI		BLOCK WJ	
BLOCK WK		BLOCK WL	
BLOCK WM		BLOCK WN	
BLOCK WO		BLOCK WP	
BLOCK WQ		BLOCK WR	
BLOCK WS		BLOCK WT	
BLOCK WU		BLOCK WV	
BLOCK WW		BLOCK WX	
BLOCK WY		BLOCK WZ	
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BLOCK XU		BLOCK XV	
BLOCK XW		BLOCK XX	
BLOCK XY		BLOCK XZ	
BLOCK YA		BLOCK YB	
BLOCK YC		BLOCK YD	
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BLOCK YK		BLOCK YL	
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Reporting Individual's Name		Page Number	
Ciannello, James Christopher		8 of 12	
SCHEDULE A continued (Use only if needed)			
Assets and Income	Valuation of Assets at close of reporting period	Income: type and amount. If "None (or less than \$201)" is checked, no other entry is needed in Block C for that item.	
BLOCK A	BLOCK B	BLOCK C	
		Type	Amount
		Dividends	Other Income (Specify Type and Actual Amount)
		None (or less than \$201)	Date (Mo., Day, Yr.) Only if Honoraria
1	Northwest Mutual Insurance Co. Select 100 - Whole Life Cash Value	X	
2	Northwest Mutual Insurance Co. Select Complete Estate Whole Life Cash Value	X	
3	MERRILL LYNCH NEXT GEN 529 College Savings Plan (MAINE)		
4	- Franklin Templeton Growth & Income Class C Fund	X	
5	- Blackrock Age 17 to 19 Class C Fund	X	
6	- Blackrock Age 14 to 16 Class C Fund	X	
7	JOHN HANCOCK FREEDOM 529 College Savings Plan (ALASKA)	X	
8	- John Hancock Equity Portfolio C	X	
9			

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Do not complete Schedule B if you are a new entrant, nominee, or Vice Presidential or Presidential Candidate

Reporting Individual's Name Galeandro, James Christopher		Page Number 9 of 12	
<b>SCHEDULE B</b>			
<b>Part I: Transactions</b> Do not report a transaction involving property used solely as your personal residence, or a transaction solely between you and your dependent children. Check the "Certificate of divestiture" block to indicate sales made pursuant to a certificate of divestiture from OGE.		None <input type="checkbox"/>	
Identification of Assets		Amount of Transaction (x)	
Example: Central Airlines Common	Date (Mo., Day, Yr.)	Certificate of Divestiture of	
1	7/1/99	\$50,000.001	
2		\$50,000.001	
3		\$50,000.001	
4		\$50,000.001	
5		\$50,000.001	

\* This category applies only if the underlying asset is solely that of the filer's spouse or dependent children. If the underlying asset is either held by the filer or jointly held by the filer with the spouse or dependent children, use the other higher categories of value, as appropriate.

<b>Part II: Gifts, Reimbursements, and Travel Expenses</b>		None <input type="checkbox"/>	
For you, your spouse and dependent children, report the source, a brief description, and the value of: (1) gifts (such as tangible items, transportation, lodging, food, or entertainment) received from one source totaling more than \$134 and (2) reimbursements received from one source totaling more than \$134. For conflicts analysis, it is helpful to indicate a basis for receipt, such as personal, friend, agency approval under 5 U.S.C. § 4111 or other statutory authority, etc. For travel-related gifts and reimbursements, include travel itinerary, dates, and the nature of expenses provided. Exclude anything given to you by the U.S. Government; given to your agency in connection with official travel; received from relatives; received by your spouse or dependent child jointly independent of their relationship to you; or provided as personal gifts to you at the filer's residence. Also, for personal gifts to determine the filer's income tax basis, include the source, exclude items worth \$134 or less. See instructions for other exclusions.		None <input type="checkbox"/>	
Source (Name and Address)	Brief Description	Value	
Examples: Nat'l Assn. of Book Collectors, NY, NY Frank Jones, San Francisco, CA	Airline ticket; hotel room & meals incident to national conference 6/15/99 (personal activity unrelated to duty); Leather briefcase (personal friend)	\$500 \$150	
1			
2			
3			
4			
5			

Reporting Individual's Name Giancarlo, James Christopher		Page Number 10 of 12												
<b>SCHEDULE C</b>														
<p><b>Part I: Liabilities</b>            Report liabilities over \$10,000 owed to any one creditor at any time during the reporting period by you, your spouse, or dependent children. Check the highest amount owed during the reporting period. <b>Exclude</b> accounts.</p> <p>None <input type="checkbox"/> a mortgage on your personal residence unless it is rented out; loans secured by automobiles, household furniture or appliances; and liabilities owed to certain relatives listed in instructions. See instructions for revolving charge accounts.</p>														
Creditor (Name and Address)	Type of Liability	Date Incurred	Interest Rate	Term if applicable	Category of Amount or Value (A)									
Example: First District Bank, Washington, DC John Jones	Mortgage on rental property, Delaware	1993	8%	25 yrs. on demand	Over \$50,000,000	\$50,000,000 - \$75,000,000	\$75,000,000 - \$100,000,000	\$100,000,000 - \$250,000,000	\$250,000,000 - \$500,000,000	\$500,000,000 - \$1,000,000,000	\$1,000,000,000 - \$2,500,000,000	\$2,500,000,000 - \$5,000,000,000	\$5,000,000,000 - \$10,000,000,000	Over \$10,000,000,000
1 Silverlake Technology Assoc. Summit, L.P., Cupertino, CA Tech Inv Fund	Capital Call	2009	N/A	on demand										
2 Bank of America N.A. Sunny Valley, CA	Mortgage on Personal Residence	2009	4.275%	30 years										
3 Bank of America N.A. Sunny Valley, CA	Home Equity Line of Credit on Personal Residence	2009	5%	30 years										
4														
5														
*This category applies only if the liability is solely that of the filer's spouse or dependent children. If the liability is that of the filer or a joint liability of the filer with the spouse or dependent children, mark the other higher categories, as appropriate.														
<p><b>Part II: Agreements or Arrangements</b>            Report your agreements or arrangements for: (1) continuing participation in an employee benefit plan (e.g. pension, 401k, deferred compensation); (2) continuation of payment by a former employer (including severance payments); (3) leaves of absence; and (4) future employment. See instructions regarding the reporting of negotiations for any of these arrangements or benefits.</p> <p>None <input type="checkbox"/></p>														
Status and Terms of any Agreement or Arrangement		Parties		Date										
Example: Pursuant to partnership agreement, will receive lump sum payment of capital account & partnership share calculated on services performed through 1/30/08.		Doe, Jane & Smith, Hometown, State		7/85										
1 I hold unvested GFI restricted stock units pursuant to a 2008 Senior Executive Bonus Plan with GFI, that will vest upon my resignation.		Parties: GFI Group Inc. & James Christopher Giancarlo		05/08										
2 Following my resignation, GFI will make no further contributions to my GFI 401k Plan.		Parties: GFI Group Inc. & James Christopher Giancarlo		3/07										
3 Upon my resignation from GFI and prior to my appointment, I will receive a one-time lump sum cash payment of \$2.5 million pursuant to a pre-existing separation package consistent with the terms of my Employment Agreement.		Parties: GFI Group Inc. & James Christopher Giancarlo		3/07										
4 Pursuant to the terms of my Employment Agreement, I am entitled to a one year option for medical benefits upon my resignation. I will forfeit this benefit upon my resignation from GFI Group, Inc.		Parties: GFI Group Inc. & James Christopher Giancarlo		3/07										
5 Pursuant to a 2002 Stock Option Agreement with GFI, I hold vested stock options for shares of GFI common stock. I will divest all vested stock options within 60 days of my appointment.		Parties: GFI Group Inc. & James Christopher Giancarlo		6/02										
6														

CGE Form 278 (Rev. 09/2010)  
5 C.F.R. Part 2634  
U.S. Office of Government Ethics

SCHEDULE D		Page Number 11 of 12
<p><b>Part I: Positions Held Outside U.S. Government</b>            Report any positions held during the applicable reporting period, whether compensated or not. Positions include but are not limited to those of an officer, director, trustee, general partner, proprietor, representative, employee, or consultant of any corporation, firm, partnership, or other business enterprise or any non-profit organization or educational institution. Exclude positions with religious, social, fraternal, or political entities and those solely of an honorary nature. <span style="float: right;">None <input type="checkbox"/></span></p>		
Reporting Individual's Name  Chancarlo, James Christopher	Organization (Name and Address)	Position Held
Examples: Natl. Assn. of Stock Collectors, NY, NY Doe Jones & Smith, Hometown, State	Type of Organization Non-profit organization Law firm	President Partner From (Mo./Yr.) To (Mo./Yr.) 6/92 7/85 1/00
1	GFI Group, Inc. New York, NY	Executive Vice President 05/2001 Present
2	Advanced Materials Holdings LLC	Board Member (Unpaid) 07/2010 3/2013
3	Wholesale Market Brokers Association, Americas Washington, D.C.	Board Member (Unpaid) Past Chairman 02/2010 4/2013
4	French Academy of Bilingual Culture New Milford, NJ	Board Member (Unpaid) Chairman 02/2007 Present
5	Borough of Hawthorth, Board of Adjustment Haworth, NJ	Board Member (Unpaid) 01/2003 12/2012
6	Brothers Children Family Trust 1401 170th Ave, Menlo Park, CA	Trustee (Unpaid) 12/2009 Present
<p><b>Part II: Compensation in Excess of \$5,000 Paid by One Source</b>            Do not complete this part if you are an Incumbent, Termination Filer, or Vice Presidential or Presidential Candidate.            Report sources of more than \$5,000 compensation received by you or your business affiliation for services provided directly by you during any one year of the reporting period. This includes the names of clients and customers of any corporation, firm, partnership, or other business enterprise, or any other non-profit organization when you directly provided the services generating a fee or payment of more than \$5,000. You need not report the U.S. Government as a source. <span style="float: right;">None <input type="checkbox"/></span></p>		
Source (Name and Address)	Brief Description of Duties	
Examples: Doe Jones & Smith, Hometown, State Metro University (client of Doe Jones & Smith), Hometown, State	Legal services Legal services in connection with university construction	
1	GFI Group, New York Executive Vice President	
2		
3		
4		
5		
6		

OGE Form 278 (Rev. 09/2010)  
5 C.F.R. Part 2634  
U.S. Office of Government Ethics

Reporting Individual's Name <b>Giancarlo, James Christopher</b>		Page Number <b>12 of 12</b>	
<b>SCHEDULE D</b>			
<b>Part I: Positions Held Outside U.S. Government</b> organization or educational institution. Exclude positions with religious, social, fraternal, or political entities and those solely of an honorary nature.			
Report any positions held during the applicable reporting period, whether compensated or not. Positions include but are not limited to those of an officer, director, trustee, general partner, proprietor, representative, employee, or consultant of any corporation, firm, partnership, or other business enterprise or any non-profit organization.		None <input type="checkbox"/>	
Examples	Organization (Name and Address)	Type of Organization	Position Held
1	Part 1/son of Rock Collectors, NY, NY Doe Jones & Smith, Hometown, State	Non-profit education Law firm	President Partner
2	Brothers First Child Trust UAD 11/02/88, Menlo Park, CA	Grantor Trust for Benefit of my Brother's Child	Trustee (Upward)
3	Brothers Second Child Trust UAD 11/02/88, Menlo Park, CA	Grantor Trust for Benefit of my Brother's Child	Trustee (Upward)
4			
5			
6			
<b>Part II: Compensation in Excess of \$5,000 Paid by One Source</b> Do not complete this part if you are an Incumbent, Termination Filer, or Presidential or Presidential Candidate. Report sources of more than \$5,000 compensation received by you or your business affiliation for services provided directly by you during the year of the reporting period. This includes the names of clients and customers of any corporation, firm, partnership, or other business enterprise, or any other non-profit organization when you directly provided the services generating a fee or payment of more than \$5,000. You need not report the U.S. Government as a source.			
None <input type="checkbox"/>			
Examples	Source (Name and Address)	Brief Description of Duties	
1	Doe Jones & Smith, Hometown, State Metro University (client of Doe Jones & Smith), Hometown, State	Legal services Legal services in connection with university construction	
2			
3			
4			
5			
6			

Prior Editions Cannot Be Used.



March 4, 2014

The Honorable Debbie Stabenow  
Chairwoman  
Committee on Agriculture, Nutrition and Forestry  
United States Senate  
Washington, DC 20510-6000

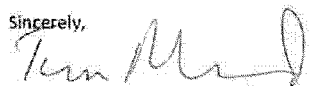
Dear Chairwoman Stabenow:

On November 20, 2013, a copy of my OGE-278, Executive Branch Public Financial Disclosure Report, required in connection with my nomination to serve as Chairman and a Commissioner of the Commodity Futures Trading Commission, was submitted to the U.S. Office of Government Ethics. That report contained all required financial information for calendar year 2012 and for the 2013 calendar year within 31 days prior to the date of the report.

The Ethics in Government Act of 1978, as amended, also requires that I update certain of the information reported on the SF-278, namely that pertaining to outside earned income (consisting of salaries, fees, commissions, wages and any other income from personal services (other than from the U.S. Government) and honoraria through the period ending not more than 5 days prior to the commencement of the hearing to be held by your Committee to consider my nomination. In addition to the amount previously reported on line 6, page 9 and note 3 of my OGE-278 dated November 20, 2013, I received an additional installment payment of \$109,492 from my former law firm in the fourth quarter of 2013. I have no other outside earned income or honoraria to report.

I trust that this letter satisfies the requirement to update the information contained on my OGE-278.

Sincerely,



Timothy G. Massad

Nominee for Chairman and Commissioner of the Commodity Futures Trading Commission

**U.S. SENATE COMMITTEE ON AGRICULTURE, NUTRITION & FORESTRY**  
**Questions for Executive Nominees**  
**113<sup>th</sup> Congress**

**1. Basic Biographical Information**

Please provide the following information.

<i>Position to Which You Have Been Nominated</i>	
<u>Name of Position</u>	<u>Date of Nomination</u>
Chairman and Commissioner, Commodity Futures Trading Commission	November 13, 2013

<i>Current Legal Name</i>			
<u>First Name</u>	<u>Middle Name</u>	<u>Last Name</u>	<u>Suffix</u>
Timothy	George	Massad	

<i>Addresses</i>					
<u>Residential Address</u> (do not include street address)			<u>Office Address</u> (include street address)		
			<u>Street</u>		
			1500 Pennsylvania Avenue		
City: Washington	DC	20508	Washington	DC	20220

<i>Other Names Used</i>						
<u>First Name</u>	<u>Middle Name</u>	<u>Last Name</u>	<u>Suffix</u>	<u>Check if Maiden Name</u>	<u>Name Used From</u> (Month/Year) (Check box if estimate)	<u>Name Used To</u> (Month/Year) (Check box if estimate)
					Est <input type="checkbox"/>	Est <input type="checkbox"/>

<i>Birth Year and Place</i>	
<b>Year of Birth</b> (Do not include month and day.)	<b>Place of Birth</b>
1956	New Orleans, LA

<i>Marital Status</i>					
<b>Check All That Describe Your Current Situation:</b>					
<b>Never Married</b> <input type="checkbox"/>	<b>Married</b> <input checked="" type="checkbox"/>	<b>Separated</b> <input type="checkbox"/>	<b>Annulled</b> <input type="checkbox"/>	<b>Divorced</b> <input type="checkbox"/>	<b>Widowed</b> <input type="checkbox"/>

<i>Spouse's Name (current spouse only)</i>			
<b>Spouse's First Name</b>	<b>Spouse's Middle Name</b>	<b>Spouse's Last Name</b>	<b>Spouse's Suffix</b>
Charlotte	Jayne	Hart	

<i>Spouse's Other Names Used (current spouse only)</i>						
<b>First Name</b>	<b>Middle Name</b>	<b>Last Name</b>	<b>Suffix</b>	<b>Check if Maiden Name</b>	<b>Name Used From</b> (Month/Year) (Check box if estimate)	<b>Name Used To</b> (Month/Year) (Check box if estimate)
					Est <input type="checkbox"/>	Est <input type="checkbox"/>

<i>Children's Names (if over 18)</i>			
<b>First Name</b>	<b>Middle Name</b>	<b>Last Name</b>	<b>Suffix</b>

## 2. Education

List all post-secondary schools attended.

<u>Name of School</u>	<u>Type of School</u> (vocational/technical/trade school, college/university/military college, correspondence/distance/extension/online school)	<u>Date Began School</u> (month/year) (check box if estimate)	<u>Date Ended School</u> (month/year) (check box if estimate) (check "present" box if still in school)	<u>Degree</u>	<u>Date Awarded</u>
Harvard College	College	9/1974	6/1978	A.B.	6/1978
Harvard Law School	Law School	9/1981	6/1984	J.D.	6/1984

## 3. Employment

(A) List all of your employment activities, including unemployment and self-employment. If the employment activity was military duty, list separate employment activity periods to show each change of military duty station. Do not list employment before your 18th birthday unless to provide a minimum of two years of employment history.

<u>Type of Employment</u> (Active Military Duty Station, National Guard/Reserve, USPHS Commissioned Corps, Other Federal employment, State Government (Non-Federal Employment), Self-employment, Unemployment, Federal Contractor, Non-Government Employment (excluding self-employment), Other)	<u>Name of Your Employer/Assigned Duty Station</u>	<u>Most Recent Position Title/Rank</u>	<u>Location</u> (City and State only)	<u>Date Employment Began</u> (month/year) (check box if estimate)	<u>Date Employment Ended</u> (month/year) (check box if estimate) (check "present" box if still employed)
Federal Government	US Department of the Treasury—Office of Financial Stability	Assistant Secretary of Financial Stability	Washington, DC	5/2009 <sup>Est</sup> □	present
Non-government	Cravath, Swaine & Moore	Partner	New York, NY,	2/2009	5/2009
Federal government	Congressional Oversight Panel for TARP	Special Legal Advisor	Washington, DC	12/2008	2/2009
Non government	Cravath, Swaine & Moore	Partner	New York and Hong Kong	1/1989 <sup>Est</sup> □	12/2008

Unemployment				12/1998	12/1998
Non government	Dukakis for President Campaign	Connecticut State Director	Hartford, CT	7/1988	11/1988
Non government	Cravath, Swaine & Moore	Associate	New York and London	9/1984	6/1988
Non government	Fried, Frank, Harris, Shriver & Jacobsen	Summer Associate	New York, NY	6/1983	8/1983
Non government	AFL-CIO	Legal Intern	Washington, DC and Cambridge, MA	6/1982	5/1983
Non government	Center for Study of Responsive Law	Administrative Assistant	Washington, DC	9/1978; 3/1981	9/1980; 7/1981
Non government	Wisconsin Citizens Utility Board	Organizer	Madison, WI	9/1980	3/1981

(B) List any advisory, consultative, honorary or other part-time service or positions with federal, state, or local governments, not listed elsewhere.

<u>Name of Government Entity</u>	<u>Name of Position</u>	<u>Date Service Began</u> (month/year) (check box if estimate)	<u>Date Service Ended</u> (month/year) (check box if estimate) (check "present" box if still serving)
Norwalk Redevelopment Agency	Vice Chairman and Director	4/2004	12/2008

#### 4. Honors and Awards

List all scholarships, fellowships, honorary degrees, civilian service citations, military medals, academic or professional honors, honorary society memberships and any other special recognition for outstanding service or achievement.

Graduated *magna cum laude* and member, Phi Beta Kappa (Harvard College, 1978); and graduated *magna cum laude* (Harvard Law School, 1984).

#### 5. Memberships

List all memberships that you have held in professional, social, business, fraternal, scholarly, civic, or charitable organizations in the last 10 years.

Unless relevant to your nomination, you do NOT need to include memberships in charitable organizations available to the public as a result of a tax deductible donation of

**\$1,000 or less, Parent-Teacher Associations or other organizations connected to schools attended by your children, athletic clubs or teams, automobile support organizations (such as AAA), discounts clubs (such as Groupon or Sam's Club), or affinity memberships/consumer clubs (such as frequent flyer memberships).**

<b><u>Name of Organization</u></b>	<b><u>Dates of Your Membership</u> (You may approximate.)</b>	<b><u>Position(s) Held</u></b>
Norwalk Community College Foundation	2003-2009	President, Vice President, Director
US India Business Council	2007-2009	Director, member of Executive Committee
Roton Point Association (beach/sailing club in Connecticut)	2008-present	Member
Rowayton Yacht Club	2006-present	Member
New York Bar	1985-present	Member
American Bar Association	1985-present	Member
New York State Bar Association	1992-2012	Member
New York City Bar Association	1992-2012	Member
International Bar Association	2005-2012	Member

#### **6. Political Activity**

**(A) Have you ever been a candidate for or been elected or appointed to a political office?**

<b><u>Name of Office</u></b>	<b><u>Elected/Appointed/ Candidate Only</u></b>	<b><u>Year(s) Election Held or Appointment Made</u></b>	<b><u>Term of Service (if applicable)</u></b>
Assistant Secretary for Financial Stability, U.S. Department of the Treasury	Appointed by President Obama	7/2011- present	
Director and Vice Chairman, Norwalk Redevelopment Agency	Appointed by Mayor Alex Knopp, Norwalk, CT	2004-2008	5 years

(B) List any offices held in or services rendered to a political party or election committee during the last ten years that you have not listed elsewhere.

<u>Name of Party/Election Committee</u>	<u>Office/Services Rendered</u>	<u>Responsibilities</u>	<u>Dates of Service</u>
Obama for President Campaign	National Finance Committee member	Fundraising	2008
Kerry for President Campaign	National Finance Committee member	Fundraising	2004

(C) Itemize all individual political contributions of \$200 or more that you have made in the past five years to any individual, campaign organization, political party, political action committee, or similar entity. Please list each individual contribution and not the total amount contributed to the person or entity during the year.

<u>Name of Recipient</u>	<u>Amount</u>	<u>Year of Contribution</u>
Jim Himes for Congress	\$1000	3/2009
Hillary Clinton for President	\$500	12/2008
Franken Recount Fund/Al Franken for Senate	\$1000	11/2008
Georgia Senate 2008/Martin for Senate	\$1000	11/2008

## 7. Publications

List the titles, publishers and dates of books, articles, reports or other published materials that you have written, including articles published on the Internet.

I have done my best to identify all titles, publishers and dates of books, articles, reports or other published materials,

including a thorough review of my personal files and searches of publicly available electronic databases. Despite my searches, there may be other materials that I have been unable to identify, find or remember. I have located the following:

<b><u>Title</u></b>	<b><u>Publisher</u></b>	<b><u>Date(s) of Publication</u></b>
Legal Analysis of the Investments by the Department of the Treasury under TARP	Congressional Oversight Panel	February 2009
Chapter on US law in the book International Acquisition Finance (co-authored with Philip Boeckman)	European Lawyer	2008
Occasional legal outlines for Practicing Law Institute and other legal training courses on securities law issues and capital markets issues in India	Practicing Law Institute	1993-2008
Disruption, Organization, and Reform: A Critique of <u>Poor Peoples' Movements</u>	Dissent Magazine	1980
Battling the Modern Sweatshops (op-ed on unionization effort at JP Stevens, Inc.)	Harvard Crimson	1977

## **8. Lobbying**

**In the past ten years, have you registered as a lobbyist? If so, please indicate the state, federal, or local bodies with which you have registered (e.g., House, Senate, California Secretary of State).**

No.





United States  
**Office of Government Ethics**  
1201 New York Avenue, NW, Suite 500  
Washington, DC 20005-3917

**JAN 09 2014**

The Honorable Debbie Stabenow  
Chairwoman  
Committee on Agriculture, Nutrition,  
and Forestry  
United States Senate  
Washington, DC 20510

Dear Madam Chairwoman:

In accordance with the Ethics in Government Act of 1978, I enclose a copy of the financial disclosure report filed by Timothy G. Massad, who has been nominated by President Obama for the positions of Commissioner and Chairman, Commodity Futures Trading Commission.

We have reviewed the report and have obtained advice from the agency concerning any possible conflict in light of its functions and the nominee's proposed duties. Also enclosed is an ethics agreement outlining the actions that the nominee will undertake to avoid conflicts of interest. Unless a date for compliance is indicated in the ethics agreement, the nominee must fully comply within three months of confirmation with any action specified in the ethics agreement.

Based thereon, we believe that this nominee is in compliance with applicable laws and regulations governing conflicts of interest.

Sincerely,

A handwritten signature in dark ink, appearing to read "Walter M. Shaub, Jr.", written over a horizontal line.

Walter M. Shaub, Jr.  
Director

Enclosures

November 20, 2013

Jonathan L. Marcus  
General Counsel and Designated Ethics Official  
Office of the General Counsel  
Commodity Futures Trading Commission  
Three Lafayette Centre  
1155 21<sup>st</sup> Street, N.W.  
Washington, D.C. 20581

Dear Mr. Marcus:

The purpose of this letter is to describe the steps that I will take to avoid any actual or apparent conflict of interest in the event that I am confirmed for the positions of Chairman and Commissioner of the Commodity Futures Trade Commission.

As required by 18 U.S.C. § 208(a), I will not participate personally and substantially in any particular matter that has a direct and predictable effect on my financial interests or those of any person whose interests are imputed to me, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2). I understand that the interests of the following persons are imputed to me: any spouse or minor child of mine; any general partner of a partnership in which I am a limited or general partner; any organization in which I serve as officer, director, trustee, general partner or employee; and any person or organization with which I am negotiating or have an arrangement concerning prospective employment.

I resigned from my former position as partner of Cravath, Swaine & Moore, LLP in May 2009. Pursuant to the Cravath, Swaine & Moore, LLP partnership agreement, upon withdrawing from the firm, I receive a payment in respect of prior service which is equal to a percentage fixed by the partnership agreement of the average of my income from the firm in 2006, 2007, and 2008. This is being paid in quarterly installments over ten years, commencing with the quarter ending September 30, 2009. Until I have received these payments, I will not participate personally and substantially in any particular matter that has a direct and predictable effect on the ability or willingness of Cravath, Swaine & Moore, LLP to make these payments to me, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1). In addition, until I have received these payments, I will not participate personally and substantially in any particular matter involving specific parties in which Cravath, Swaine & Moore, LLP is a party or represents a party, unless I am first authorized to participate, pursuant to 5 C.F.R. § 2635.502(d).

I will divest my interests in the JP Morgan Alerian MLP Index Exchange Traded Note and my spouse's interest in oil and gas rights in Williams County, North Dakota, which are leased by the Kodiak Oil & Gas Corporation, within 90 days of my confirmation. Until I have divested the JP Morgan Alerian MLP Index Exchange Traded Note and the oil and gas rights in Williams County, North Dakota, which are leased by the Kodiak Oil & Gas Corporation, I will not participate personally and substantially in any particular matter in which to my knowledge I

have a financial interest, if the particular matter has a direct and predictable effect on the financial interests of the JP Morgan Alerian MLP Index Exchange Traded Note or the oil and gas rights in Williams County, North Dakota, which are leased by the Kodiak Oil & Gas Corporation, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1). I understand that I may be eligible to request a Certificate of Divestiture for these assets and that a Certificate of Divestiture is effective only if obtained prior to divestiture. Regardless of whether I receive a Certificate of Divestiture, I will divest these assets within 90 days of my confirmation and will invest the proceeds in non-conflicting assets.

I retain a vested beneficial interest in the holdings of the Alexander H. Massad 2005 Exempt Descendants Trust and the Delores R. Massad 2005 Exempt Descendants Trust, and have disclosed the assets on Schedule A of my OGE Form 278 Public Financial Disclosure Report. I am not a trustee of either trust. I will not participate personally and substantially in any particular matter that has a direct and predictable effect on the financial interests of either the Alexander H. Massad 2005 Exempt Descendants Trust or the Delores R. Massad 2005 Exempt Descendants Trust, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2).

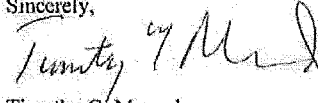
I will retain my position as a trustee of the two trusts for minor children and the Timothy Massad 2012 Exempt Trust listed on Schedule D of my OGE Form 278 Public Financial Disclosure Report. I have disclosed the assets of each trust on Schedule A of my OGE Form 278 Public Financial Disclosure Report. I will not receive any fees for the services that I provide as a trustee to these trusts during my appointment to the position of Chairman and Commissioner. I will not participate personally and substantially in any particular matter that has a direct and predictable effect on the financial interests of any of the trusts, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2).

In my OGE Form 278 Public Financial Disclosure Report, I disclosed an indirect interest in ExxonMobil Corporation, Auburn FOF Investors, LLC, and Auburn FOF Investors II LLC, which I hold through a 1/3 vested beneficial interest in the Alexander H. Massad 2005 Exempt Descendants Trust and the Delores R. Massad 2005 Exempt Descendants Trust that my parents established for the benefit of their children and grandchildren. Having resigned my position as trustee for both trusts, I do not control the trusts or their investments. To my knowledge, each trust currently holds a minority limited partnership interest in a partnership created by my parents, and the partnership owns the Exxon Mobil Corporation stock, and the interests in Auburn FOF Investors, LLC, and Auburn FOF Investors II LLC. My mother owns a majority of the limited partnership interests in the partnership as well as the general partnership interest. She has the right to substitute other assets for the interests in the partnership held by the trusts. I have no control over the investments of the partnership. The partnership has agreed to divest my indirect interest in the Auburn FOF Investors, LLC, and Auburn FOF Investors II LLC within 90 days of my confirmation. I will request a written waiver under 18 U.S.C. § 208(b)(1) regarding my indirect financial interest in ExxonMobil Corporation through this trust. Until I have obtained such a waiver, I will not participate personally and substantially in any particular matter that has a direct and predictable effect on the financial interests of ExxonMobil Corporation.

I understand that as an appointee I must continue to abide by the Ethics Pledge (Exec. Order no. 13490) that I previously signed and that I will be bound by the requirements and restrictions therein in addition to the commitments I have made in this and any other ethics agreement.

Finally, I have been advised that this ethics agreement will be posted publicly, consistent with 5 U.S.C. § 552, on the website of the U.S. Office of Government Ethics with other ethics agreements of Presidential nominees who file public financial disclosure reports.

Sincerely,

A handwritten signature in dark ink, appearing to read "Timothy G. Massad", written in a cursive style.

Timothy G. Massad

## Executive Branch Personnel PUBLIC FINANCIAL DISCLOSURE REPORT

FD-302 (Rev. 12-20-11)  
5 C.F.R. Part 2634

Reporting Status		Reporting Status	Calendar Year	Termination	Termination Date
Reported	Not Reported	Reported	Covered by Report	File	(Month, Day, Year)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Last Name		First Name and Middle Initial			
Massad		Timothy G.			
Title of Position		Commissioner and Chairman			
Address (Number, Street, City, State and ZIP Code)		Commodity Futures Trading Commission			
1500 Pennsylvania Avenue, NW, Washington, DC 20220		Telephone No. (Include Area Code)			
202-622-0178					
Title of Position(s) and Date(s) Held		Is the Intend to Create a Qualified Diversified Trust?			
Assistant Secretary for Financial Stability, U.S. Department of the Treasury, 7/2011-Present		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>			
Name of Congressional Committee Considering Nomination		Agriculture, Nutrition and Forestry			
Signature of Nominating Individual		Date (Month, Day, Year)			
Timothy W. Massad		Nov. 20, 2013			
Signature of Other Reviewer		Date (Month, Day, Year)			
J. P. Taylor		11/20/2013			
Signature of Designated Agency Ethics Official (Reviewing Official)		Date (Month, Day, Year)			
J. P. Taylor		11/20/2013			
Signature		Date (Month, Day, Year)			
Walter Taylor		11/22/13			
Comments of Reviewing Officials (If additional space is required, use the reverse side of this sheet)		(Check box if filing exemption granted & indicate number of days)		<input type="checkbox"/>	

Reporting Status	Reporting Status	Calendar Year	Termination	Termination Date	
Reported	Not Reported	Covered by Report	File	(Month, Day, Year)	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Last Name		First Name and Middle Initial			
Massad		Timothy G.			
Title of Position		Commissioner and Chairman			
Address (Number, Street, City, State and ZIP Code)		Commodity Futures Trading Commission			
1500 Pennsylvania Avenue, NW, Washington, DC 20220		Telephone No. (Include Area Code)			
202-622-0178					
Title of Position(s) and Date(s) Held		Is the Intend to Create a Qualified Diversified Trust?			
Assistant Secretary for Financial Stability, U.S. Department of the Treasury, 7/2011-Present		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>			
Name of Congressional Committee Considering Nomination		Agriculture, Nutrition and Forestry			
Signature of Nominating Individual		Date (Month, Day, Year)			
Timothy W. Massad		Nov. 20, 2013			
Signature of Other Reviewer		Date (Month, Day, Year)			
J. P. Taylor		11/20/2013			
Signature of Designated Agency Ethics Official (Reviewing Official)		Date (Month, Day, Year)			
J. P. Taylor		11/20/2013			
Signature		Date (Month, Day, Year)			
Walter Taylor		11/22/13			
Comments of Reviewing Officials (If additional space is required, use the reverse side of this sheet)		(Check box if filing exemption granted & indicate number of days)		<input type="checkbox"/>	

## Page Number

5

[illegible]

**SCHEDULE A continued**

Use only if needed)

Page Number:

43

Assets and Income		Valuation of Assets at close of reporting period										Income: type and amount. If "None (or less than \$20)" is checked, no other entry is needed in Block C for that item.																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																								
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		None (or less than \$1,001)	\$1,001 - \$15,000	\$15,001 - \$50,000	\$50,001 - \$100,000	\$100,001 - \$250,000	\$250,001 - \$500,000	\$500,001 - \$1,000,000	Over \$1,000,000*	\$1,000,001 - \$5,000,000	Over \$5,000,000	Excepted Investment Fund	Qualified Trust	Type										Amount					Other Income (Specify Type & Actual Amount)	Date (Mo., Day, Yr.)  Only if Homestead																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																						
														Dividends	Rent and Royalties	Interest	Capital Gains	None (or less than \$20)	\$201 - \$1,000	\$1,001 - \$2,500	\$2,501 - \$5,000	\$5,001 - \$15,000	\$15,001 - \$50,000	\$50,001 - \$100,000	\$100,001 - \$1,000,000	Over \$1,000,000*	\$1,000,001 - \$5,000,000	Over \$5,000,000																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																								
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This category applies only if the asset/income is solely that of the filer's spouse or dependent children. If the asset/income is either that of the filer or jointly held by the filer with the spouse or dependent children, mark the other higher categories of value, as appropriate.

EOE Form 278 (Rev. 12/2011)  
 U.S. Office of Government Ethics  
 Reporting Individual's Name  
 Timothy G. Masasaad

**SCHEDULE A continued**  
 (Use only if needed)

Page Number **4**

Assets and Income	BLOCK A	BLOCK B Valuation of Assets at close of reporting period										BLOCK C Income type and amount. If "None (or less than \$201)" is checked, no other entry is needed in Block C for that item.										Type (Also, Plan, Yr.) Only if Fluctuating								
		None (or less than \$1,001)	\$1,001 - \$15,000	\$15,001 - \$50,000	\$50,001 - \$100,000	\$100,001 - \$250,000	\$250,001 - \$500,000	\$500,001 - \$1,000,000	\$1,000,001 - \$5,000,000	\$5,000,001 - \$25,000,000	\$25,000,001 - \$50,000,000	Over \$50,000,000	Type	Dividends	Rent and Royalties	Interest	Capital Gains	None (or less than \$201)	\$201 - \$1,000	\$1,001 - \$2,500	\$2,501 - \$5,000	\$5,001 - \$15,000	\$15,001 - \$50,000	\$50,001 - \$100,000	\$100,001 - \$1,000,000	Over \$1,000,000	\$1,000,001 - \$5,000,000	Over \$5,000,000	Other Income (Specify Type & Actual Amount)	Type (Also, Plan, Yr.) Only if Fluctuating
1	T Rowe Price Latin America Fund (PRLAX)	X																												
2	Rayco Premier Fund (RYPFX)																													
3	Rayco Micro-Cap Fund (RYOTX)																													
4	Scitell Small Company Fund - Class A (SAGWX)																													
5	SunAmerica International Dividend Strategy Fund (SIZAX)																													
6	TCW Emerging Markets Income Fund (TCEIX)																													
7	Virt E&I Global Hard Assets Fund (GHAXX)																													
8	Virtus AlphaSector Rotation Fund - Class A (FWBAX)																													
9	Virtus Emerging Markets Opportunities Fund (HEMXZ)																													

This category applies only if the asset/income is solely that of the filer's spouse or dependent children. If the asset/income is either that of the filer or jointly held



OCI Form 278 (Rev. 12/2013)  
2 C.F.R. Part 204  
U.S. Office of Government Ethics

Reporting Individual's Name  
Timothy G. Massard

SCHEDULE A continued  
(Use only if needed)

Page Number  
5

Assets and Income	Valuation of Assets at close of reporting period										Income: type and amount. If "None (or less than \$201)" is checked, no other entry is needed in Block C for that item.															
	BLOCK B										BLOCK C															
	Type										Amount															
	None (or less than \$1,001)	\$1,001 - \$15,000	\$15,001 - \$50,000	\$50,001 - \$100,000	\$100,001 - \$250,000	\$250,001 - \$500,000	Over \$1,000,000*	Over \$1,000,000*	\$5,000,001 - \$5,000,000	Over \$50,000,000	Dividends	Rent and Royalties	Interest	Capital Gains	None (or less than \$201)	\$201 - \$1,000	\$1,001 - \$2,500	\$2,501 - \$5,000	\$5,001 - \$15,000	\$15,001 - \$50,000	\$50,001 - \$100,000	\$100,001 - \$1,000,000	Over \$1,000,000*	Over \$5,000,000	Other Income (Specify Type & Amount)	Disa. Div. (446, Div. 17.) Only if Honorary
1 Welle Fargo Advantage Short-Term Muni Bond Fund (WSMAX)						X																				
2 Welle Fargo Advantage Growth Fund (SGRMAX)																										
3 JPMorgan Alerian MLP Index ETN (AMJ)																										
4 Eaton Vance Connecticut Muni Income Fund (ETCTX)																										
5 Eaton Vance National Muni Income Fund (ENMAX)																										
6 Fidelity Spartan Extended Market Fund (FSEMAX)																										
7 Fidelity Spartan 500 Index Fund (FUSVX)																										
8 Ivy High Income Fund (IHYHAX)																										
9 Ivy Municipal High Income Fund (IHYMHAX)																										

\* This category applies only if the asset/income is solely that of the filer, spouse or dependent children. If the asset/income is either that of the filer or jointly held by the filer with the spouse or dependent children, mark the other higher categories of value, as appropriate.

OGE Form 278e (Rev. 12/2011)  
 5 C.F.R. Part 2634  
 U.S. Office of Government Ethics

**SCHEDULE A continued**  
 (Use only if needed)

Reporting Individual's Name: Timothy G. Maassad  
 Page Number: 6

Assets and Income	Valuation of Assets at close of reporting period										BLOCK B										BLOCK C										Income: type and amount. If "None (or less than \$201)" is checked, no other entry is needed in Block C for that item.	Date (Mo., Day, Yr.) (Only if Nonrecurring)
	None (or less than \$1,001)	\$1,001 - \$15,000	\$15,001 - \$50,000	\$50,001 - \$100,000	\$100,001 - \$250,000	\$250,001 - \$500,000	Over \$1,000,000*	\$500,001 - \$1,000,000	Over \$1,000,000*	\$1,000,001 - \$25,000,000	\$25,000,001 - \$50,000,000	Over \$50,000,000	Excluded Investment Fund	Qualified Trust	Dividends	Rent and Royalties	Interest	Capital Gains	None (or less than \$201)	\$201 - \$1,000	\$1,001 - \$2,500	\$2,501 - \$5,000	\$5,001 - \$15,000	\$15,001 - \$50,000	\$50,001 - \$100,000	Over \$100,000*	Over \$1,000,000*	Over \$5,000,000	Other Income (Specify Type & Amount)			
1 Loomis Sayles Bond Fund (LSBRX)																																
2 Pimco All Asset Au Authority Fund (PAUAX)																																
3 SunAmerica Focused Dividend Fund (FDSAX)																																
4 Blackrock Health Sciences Fund (HSAX)																																
5 Blackrock Equity Dividend Fund (MIDVX)																																
6 Vanguard 500 Index Fund (VIFSX)																																
7 Vanguard Total International Fund (VGTIX)																																
8 Vanguard Total Stock Market Index Fund (VTSMX)																																
9 JPMorgan Income Builder Fund (JNBIX)																																

\* This category applies only if the asset/income is solely that of the filer, spouse or dependent children. If the asset/income is either that of the filer or jointly held by the filer with the spouse or dependent children, mark the other higher categories of value, as appropriate.

OGE Form 278e (Rev. 12/2014)  
 5 C.F.R. Part 2634  
 U.S. Office of Governmental Ethics

**SCHEDULE A continued**  
 (Use only if needed)

Page Number

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Reporting Individual's Name

Timothy G. Massad

**Assets and Income**

**BLOCK A**

None (or less than \$1,001)

**Valuation of Assets at close of reporting period**

**BLOCK D**

\$1,001 - \$15,000  
 \$15,001 - \$50,000  
 \$50,001 - \$100,000  
 \$100,001 - \$250,000  
 \$250,001 - \$500,000  
 Over \$1,000,000\*  
 \$500,001 - \$1,000,000  
 Over \$1,000,000\*  
 \$5,000,001 - \$25,000,000  
 \$25,000,001 - \$50,000,000  
 Over \$50,000,000

**Income: type and amount. If "None (or less than \$20)" is checked, no other entry is needed in Block C for that item.**

**BLOCK C**

Type  
 Dividends  
 Rent and Royalties  
 Interest  
 Capital Gains  
 None (or less than \$201)  
 \$201 - \$1,000  
 \$1,001 - \$2,500  
 \$2,501 - \$5,000  
 \$5,001 - \$15,000  
 \$15,001 - \$50,000  
 \$50,001 - \$100,000  
 \$100,001 - \$1,000,000\*  
 Over \$1,000,000\*  
 \$1,000,001 - \$5,000,000  
 Over \$5,000,000

Amount  
 Other Income (Type & Amount)  
 Date (Mo., Day, Yr.)  
 Only if Honorary

1 Lord Abbott Short Duration Income Fund (LALDX)

2 Matthews India Fund (MINDX)

3 Pimco Diversified Income Fund (PDIX)

4 Pimco Emerging Local Bond Fund (PELBX)

5 Templeton Global Bond Fund (TPINX)

6 Fidelity Intermediate Municipal Income Fund (FMTMX)

7 Dreyfus Tax Exempt Cash Management Fund (DEVXX)

8 Pershing Government Money Market Fund (GRFXX)

9 Federated Capital Reserves Money Market Fund (FRFXX)

\* This category applies only if the asset/income is solely that of the filer, spouse or dependent children. If the asset/income is either that of the filer or jointly held by the filer with the spouse or dependent children, mark the other higher categories of value, as appropriate.

OMB Form 278 (Rev. 12/2011)  
5 C.F.R. Part 20.54  
U.S. Office of Government Ethics

**SCHEDULE A continued**  
(Use only if needed)

Page Number 8

Reporting individual's Name  
Timothy G. Massad

Assets and Income		Valuation of Assets at close of reporting period										BLOCK C Income: type and amount. If "None (or less than \$201)" is checked, no other entry is needed in Block C for that item.										BLOCK D Date (Mo., Day, Yr.) Only if Honorary	
BLOCK A		BLOCK B										BLOCK C										BLOCK D	
		Type										Amount										Other Income (Type, Yr., & Actual Amount)	
		Type										Amount										Other Income (Type, Yr., & Actual Amount)	
1	Citibank (New York, NY) cash accounts											None (or less than \$201)							Over \$5,000,000				
2	JPMorgan Chase (New York, NY) cash accounts											None (or less than \$201)							Over \$5,000,000				
3	Fidelity Government Income Fund (FGOVI)											None (or less than \$201)							Over \$5,000,000				
4	Fidelity Cash Reserves Fund (FDRXX)											None (or less than \$201)							Over \$5,000,000				
5	Vanguard Extended Market Index Fund (VEXAX)											None (or less than \$201)							Over \$5,000,000				
6	Vanguard 500 Index Fund Admiralty (VFAX)											None (or less than \$201)							Over \$5,000,000				
7	Vanguard Federal Money Market Fund (VFMXX)											None (or less than \$201)							Over \$5,000,000				
8	Merrill Lynch (New York, NY) cash accounts											None (or less than \$201)							Over \$5,000,000				
9	Oil & Gas Rights Lease (Williams County, ND) - Koolik Oil & Gas Corporation											None (or less than \$201)							Over \$5,000,000				

This category applies only if the asset/income is solely that of the filer, spouse or dependent child. If the asset/income is either that of the filer or jointly held by the filer with the spouse or dependent child, mark the other filer's category of value, as appropriate.

**SCHEDULE A continued**  
(Use only if needed)

(Use only if needed)

**income:** type and amount. If "None (or less than \$201)" is checked, no other entry is needed in Block C for that item.

[illegible]

\* This category applies only if the asset/income is solely that of the filer's spouse or dependent children. If the asset/income is either that of the filer or jointly held

## (Use only if needed)

10

[illegible]

\* This category applies only if the asset/income is solely that of the filer's spouse or dependent children. If the asset/income is either that of the filer or jointly held by the filer with the spouse or dependent children, mark the other higher category of value, as appropriate.

Timothy G. Massad

(Use only if needed)

**Income:** type and amount. If "None (or less than \$201)" is checked, no other entry is needed in Block C for that item.

[illegible]

This category applies only if the asset/income is solely that of the filer's spouse or dependent children. If the asset/income is either that of the filer or jointly held by the filer with the spouse or dependent children, mark the other higher categories of value, as appropriate.

[illegible]





OMB Form 278 (Rev. 02/2011)  
 5 C.F.R. Part 2594  
 U.S. Office of Governmental Ethics

**SCHEDULE A continued**  
 (Use only if needed)

Page Number 14

Reporting Individual's Name  
 Timothy G. Massad

Assets and Income		Valuation of Assets at close of reporting period										Income: Type and amount. If "None (or less than \$201)" is checked, no other entry is needed in Block C for that item.										Other Income (Type & Amount)		Date (Mo., Day, Yr.) Only if Fluctuates									
BLOCK A		BLOCK B										BLOCK C																					
1	---JPM Trl Small Cap Equity Fd (NSEIX)	None (or less than \$1,001)	\$1,001 - \$15,000	\$15,001 - \$50,000	\$50,001 - \$100,000	\$100,001 - \$250,000	\$250,001 - \$500,000	\$500,001 - \$1,000,000	\$1,000,001 - \$5,000,000	\$5,000,001 - \$25,000,000	\$25,000,001 - \$50,000,000	Over \$50,000,000	Qualified Trust	Dividends	Rent and Royalties	Interest	Capital Gains	None (or less than \$201)	\$201 - \$1,000	\$1,001 - \$2,500	\$2,501 - \$5,000	\$5,001 - \$15,000	\$15,001 - \$50,000	\$50,001 - \$100,000	\$100,001 - \$1,000,000	Over \$1,000,000	Over \$5,000,000						
2	---Dodge & Cox Intl Stock Fund (DDIPFX)											Excepted Investment Fund																					
3	---Artisan Intl Value Fund (ARTKFX)																																
4	---MFS Intl Value-1 (MINIX)																																
5	---DB Market Plus SXSE 3/15/14 (linked to Euro Stoxx 50)																																
6	---Matthews Pacific Tiger Fd-SIS (MPTFX)																																
7	---Virtus Emerging Mkts Oppor-1 (HEMX)																																
8	---Exxon Mobil Corp (XOM)																																
9	---HMLP Multi Strategy Private Investor LLC, New York, NY (Hedge Fund)																																

\* This category applies only if the asset/expense is solely that of the filer's spouse or dependent children. If the asset/income is either that of the filer or jointly held by the filer with the spouse or dependent children, mark the other higher categories of values, as appropriate.

## Timothy G. Massad

(Use only if needed)

Page Number :

Assets and Income		BLOCK B Valuation of Assets at close of reporting period												BLOCK C Income															Date (Mo./Day/ Yr.) Only if Domestic
		\$1,001 - \$15,000	\$15,001 - \$50,000	\$50,001 - \$100,000	\$100,001 - \$250,000	\$250,001 - \$500,000	\$500,001 - \$1,000,000	Over \$1,000,000*	\$1,000,001 - \$25,000,000	\$25,000,001 - \$50,000,000	Over \$50,000,000	Excluded Investment Fund	Qualified Trust	Dividends	Rent and Royalties	Interest	Capital Gains	None (or less than \$201)	\$201 - \$1,000	\$1,001 - \$2,500	\$2,501 - \$5,000	\$5,001 - \$15,000	\$15,001 - \$50,000	\$50,001 - \$100,000	\$100,001 - \$1,000,000	Over \$1,000,000*	Over \$5,000,000	Other Income Specify Type & Actual Amount	
1	--JPW Access Multi-Strategy Fund RIC, New York, NY (Herjape)		X									X					X												
2	--The Arbitrage Fund-H (AREHX)		X									X					X												
3	--Gateway Fund-Y (GTEYX)	X										X					X												
4	--Eaton Vance Global Macro-I (EIGMX)		X									X					X												
5	--JPW US Real Estate Income and Growth Domestic LP (REIT)		X														X												
6	[INTENTIONALLY LEFT BLANK]																	X											
7	[INTENTIONALLY LEFT BLANK]																												
8	--JPW Tax Free Inst Sweep FD (cash)																	X											
9	--JPW TR I Tax Free Reserve Swcap FS Fund (cash)																	X											

This category applies only if the asset/income is solely that of the filer's spouse or dependent children. If the asset/income is either that of the filer or jointly held

**SCHEDULE A continued**  
(Use only if needed)

(Use only if needed)

Page Number

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BLOCK A		BLOCK B										BLOCK C																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																								
Assets and Income		Valuation of Assets at close of reporting period										Type							Amount			Other Income Specify Type & Actual Amount)	Date (Mo., Day, Yr.)  Only if Nonresident																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																													
1	--JP Morgan Chase (Houston TX) cash account																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																			

ODJ Form 378 Rev. 12/2014  
5 C.F.R. Part 2634  
U.S. Office of Government Ethics

Reporting Individual's Name  
Timothy G. Massad

SCHEDULE A continued  
(Use only if needed)

Page Number  
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Assets and Income	BLOCK B Valuation of Assets at close of reporting period										BLOCK C Income: type and amount. If "None (or less than \$20)" is checked, no other entry is needed in Block C for that item.									
	BLOCK B										BLOCK C									
	None (or less than \$1,001)	\$1,001 - \$15,000	\$15,001 - \$50,000	\$50,001 - \$100,000	\$100,001 - \$250,000	\$250,001 - \$500,000	\$500,001 - \$1,000,000	Over \$1,000,000*	\$1,000,001 - \$25,000,000	Over \$25,000,000	Type	Amount	Amount	Amount	Amount	Amount	Other Income (Specify Type and Actual Amount)	Date (Mo., Day, Yr.)	Only if Honorary	
1 --County of Greene Ohio Water Sys Rev Ref-Govt Enterprise 5% 12/1/15	X										Dividends									
2 --County of Maricopa Arizona Unified Sch Dist No 89 Dyaart Sch Impa Unlimited Tax 5% 7/1/16			X								Capital Gains									
3 --State of Maryland State & Local Facils Loan 2nd Star Unlimited Tax 4.25% 8/1/21			X								Interest									
4 --Eagle Garfield & Routt County's Colorado Sch Dist No 50J Unlimited Tax 5% 12/1/18			X								Rent and Royalties									
5 --County of King Washington Sch Dist No 401 Highline Pub Schs 5.25% 12/1/22			X								Excepted Trust									
6 --State of California Fresno Uni Sch Dist Ref Unlimited Tax 5% 2/1/17			X								Excepted Trust									
7 --Brazosport Tx Cig Dist Univ & College Impa Limited Tax 4% 2/15/17			X								Qualified Trust									
8 --Oro Valley Arizon Municipal PPTY Corp Excise Tax Rev Ref 5% 7/1/17			X								Dividends									
9 --Farmington Minnesota Independent Sch Dist No 182 Ref-Sch Bldg Unlimited Tax 15% 2/1/16			X								Dividends									

\* Tax category applies only if the asset/income is solely that of the filer, spouse or dependent children. If the asset/income is either that of the filer or jointly held by the filer with the spouse or dependent children, mark the other higher categories of value, as appropriate.

## Timothy G. Massad

(Use only if needed)

**Income:** type and amount. If "None (or less than \$201)" is checked, no other entry is needed in Block C for that item.

[illegible]

\* This category applies only if the asset/income is solely that of the filer's spouse or dependent children. If the asset/income is either that of the filer or jointly held by the filer with the spouse or dependent children, mark the other higher categories of value as appropriate.

Timothy G. Massad

(Use only if needed)

Page Number:

BLOCK A		BLOCK B										BLOCK C										Date (Mo./Day/Yr.)  Only if Retirement
Assets and Income		Valuation of Assets at close of reporting period										Income: type and amount. If "None (or less than \$201)" is checked, no other entry is needed in Block C for that item.										
												Type	Amount									
												Capital Gains	\$201 - \$1,000	\$1,001 - \$2,500	\$2,501 - \$5,000	\$5,001 - \$15,000	\$15,001 - \$50,000	\$50,001 - \$100,000	\$100,001 - \$1,000,000	Over \$1,000,000*	Over \$5,000,000	
												Dividends										
												Rent and Royalties										
												Interest										
												Qualified Trust										
												Excepted Trust										
												Excepted Investment Fund										
												Over \$50,000,000										
												\$25,000,001 - \$50,000,000										
												\$5,000,001 - \$25,000,000										
												\$1,000,001 - \$5,000,000										
												Over \$1,000,000*										
												\$500,001 - \$1,000,000										
												\$250,001 - \$500,000										
												\$100,001 - \$250,000										
												\$50,001 - \$100,000										
												\$15,001 - \$50,000										
												\$1,001 - \$15,000										
												None (or less than \$1,001)										
1	Pierce City WA Sch Dist #10 Tacoma Unlimited Tax 4% 6/1/21	X																				
2	--New Mexico Finance Auth Rev Sub Lien- Pub PJ Revolving Fd-A 5% 6/15/21	X																				
3	--Norfolk VA Ref Unlimited Tax 4% 10/1/21	X																				
4	--Roseville MN Unlimited Tax 4% 3/1/22	X																				
5	--Fayette City KY Sch Dist Fiscal 4% G 10/1/22	X																				
6	--New Hampshire State Ref Unlimitec Tax 5% A 7/1/22	X																				
7	--DU Page Only IL Forest Preserve Dist Unlimited Tax 4% 1/1/22	X																				
8	--City of San Antonio Texas Ref Gen Impt Unlimited Tax 5% 2/1/23	X																				
9	--Montgomery City TN Sch & Pub Impt Unlimited Tax 4% 4/1/23	X																				

This category applies only if the asset/income is solely that of the filer's spouse or dependent children. If the asset/income is either that of the filer or jointly held

\* This category applies only if the asset/income is solely that of the filer's spouse or dependent children. If the asset/income is either that of the filer or jointly held by the filer and the filer's spouse or dependent children, it should be reported in the appropriate category.





OMB Form 278 (Rev. 12/2011)  
 5 C.F.R. Part 2624  
 U.S. Office of Government Ethics  
 Reporting Individual's Name  
 Timothy G. Massad

**SCHEDULE A continued**  
 (Use only if needed)

Page Number  
 21

BLOCK A		BLOCK B Valuation of Assets at close of reporting period.												BLOCK C Income: type and amount. If "None (or less than \$201)" is checked, no other entry is needed in Block C for that item.												BLOCK D Date (Mo., Day, Yr.) Only if Honoraria	
1	---JPM TR B High Yield Bond Fd (CHYFX)																										
2	---JPM TR I Tax War Real Ret Fd (TXRSX)																										
3	---Dreyfus Emg Mkt Debt Loc C (DOBIX)																										
4	---Auburn FOF Investors LLC, consisting of																										
5	---Charlesbank Equity Fund V, LP																										
6	---Charlesbank Equity Conquest Fund IV, LP																										
7	---Sprout Capital IX, LP																										
8	---Welsh, Carson, Anderson, & Stowe IX, LP																										
9	---WCAS Capital Partners IV, LP																										

\* This category applies only if the asset/income is solely that of the filer, spouse or dependent children. If the asset/income is either that of the filer or jointly held by the filer with the spouse or dependent children, mark the other higher categories of value, as appropriate.

OMB Form 278 (Rev. 12/2011)  
5 CFR Part 1204  
U.S. Office of Government Ethics  
Reporting Individual's Net Worth

Page Number 21A

**SCHEDULE A continued**  
(Use only if needed)

**Assets and Income**

BLOCK A	BLOCK B Valuation of Assets at close of reporting period										BLOCK C Income: type and amount. If "None (or less than \$201)" is checked, no other entry is needed in Block C for that item.										Other Income (Specify Type & Amount)	Data (Mo., Day, Yr.) Only if Homemade					
	None (or less than \$1,001)	\$1,001 - \$15,000	\$15,001 - \$50,000	\$50,001 - \$100,000	\$100,001 - \$250,000	\$250,001 - \$500,000	\$500,001 - \$1,000,000	\$1,000,001 - \$5,000,000	\$5,000,001 - \$25,000,000	Over \$25,000,000	Dividends	Capital Gains	Interest	Rents and Royalties	Qualified Trust	Excepted Investment Fund	None (or less than \$201)	\$201 - \$1,000	\$1,001 - \$2,500	\$2,501 - \$5,000			\$5,001 - \$15,000	\$15,001 - \$50,000	\$50,001 - \$100,000	\$100,001 - \$1,000,000	Over \$1,000,000
1. ---2012 & 2013 WCAS IV & WCAS IX unpaid stock distribution	X																X										
2. ---Auburn POF Investors II, consisting of																	X										
3. ---Welsh, Carson, Anderson, Stowe X LP		X															X										
4. ---Clitcorp Venture Capital Intern Growth Partnership, LP		X															X										
5. ---J.C. Flowers III LP		X															X										
6. ---Riverstone/Carlyle Global Energy & Power Fund IV, LP		X															X										
7. [INTENTIONALLY LEFT BLANK]																											
8. [INTENTIONALLY LEFT BLANK]																											
9. [INTENTIONALLY LEFT BLANK]																											

\* This category applies only if the asset/income is solely that of the filer, spouse or dependent children. If the asset/income is either that of the filer or jointly held by the filer, spouse or dependent children, mark the other filer's category of value, as appropriate.



SCHEDULE C		Page Number 23
<b>Reporting Individual's Name</b> Timothy G. Mastrand		
<b>Part I: Liabilities</b> Report liabilities over \$10,000 owed to any one creditor at any time during the reporting period by you, your spouse, or dependent children. Check the highest amount owed during the reporting period. Exclude a mortgage on your personal residence unless it is rented out, loans secured by automobiles, household furniture or appliances, and liabilities owed to certain relatives listed in instructions. See instructions for revolving charge accounts.		
Creditor (Name and Address)	Type of Liability	Category of Amount or Value (x)
Examples: First District Bank, Washington, DC John Jones, Washington, DC	Mortgage on rental property, Delaware Promissory note	<input type="checkbox"/> None <input type="checkbox"/> 100,000 <input type="checkbox"/> 100,000.01 <input type="checkbox"/> 100,000.05 <input type="checkbox"/> 100,000.15 <input type="checkbox"/> 100,000.55 <input type="checkbox"/> 100,000.95 <input type="checkbox"/> 100,001 <input type="checkbox"/> 100,001.01 <input type="checkbox"/> 100,001.05 <input type="checkbox"/> 100,001.15 <input type="checkbox"/> 100,001.55 <input type="checkbox"/> 100,001.95 <input type="checkbox"/> 100,002 <input type="checkbox"/> 100,002.01 <input type="checkbox"/> 100,002.05 <input type="checkbox"/> 100,002.15 <input type="checkbox"/> 100,002.55 <input type="checkbox"/> 100,002.95 <input type="checkbox"/> 100,003 <input type="checkbox"/> 100,003.01 <input type="checkbox"/> 100,003.05 <input type="checkbox"/> 100,003.15 <input type="checkbox"/> 100,003.55 <input type="checkbox"/> 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OGE Form 278 (Rev. 12/2011)  
5 C.F.R. Part 2634  
U.S. Office of Government Ethics

Reporting Individual's Name

Timothy G. Maassad

Page Number

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### SCHEDULE D

#### Part I: Positions Held Outside U.S. Government

Report any positions held during the applicable reporting period, whether compensated or not. Positions include but are not limited to those of an officer, director, trustee, general partner, proprietor, representative, employee, or

consultant of any corporation, firm, partnership, or other business enterprise or any non-profit organization or educational institution. Exclude positions with religious, social, fraternal, or political entities and those solely of an honorary nature.

Examples	Organization (Name and Address)	Type of Organization	Position Held	None <input checked="" type="checkbox"/>	
				From (Mo., Yr.)	To (Mo., Yr.)
	Natl. Assn. of Rock Collectors, NY, NY One Jones & Smith, Hometown, State	Non-profit education	President	6/92	Present
1	Alexander H. Maassad 2005 Exempt Descendants Trust, Austin, TX	Trust	Trustee	12/05	11/2013
2	Delores R. Maassad 2005 Exempt Descendants Trust, Austin, TX	Trust	Trustee	12/05	11/2013
3	Trust for minor children, NY, NY	Trust	Trustee	4/04	Present
4	Trust for minor children, NY, NY	Trust	Trustee	3/89	Present
5	Timothy Maassad 2012 Exempt Trust, Washington, DC	Trust	Trustee	12/12	Present
6					

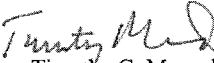
#### Part II: Compensation in Excess of \$5,000 Paid by One Source

Report sources of more than \$5,000 compensation received by you or your business affiliation for services provided directly by you during any one year of the reporting period. This includes the names of clients and sources of any corporation, firm, partnership, or other business enterprise, or any other

Do not complete this part if you are an Incumbent, Termination Filer, or Vice Presidential or Presidential Candidate.

You need not report the U.S. Government as a source.

Examples	Source (Name and Address)	Type of Compensation	None <input checked="" type="checkbox"/>	
			From (Mo., Yr.)	To (Mo., Yr.)
1	One Jones & Smith, Hometown, State Memo University (client of One Jones & Smith), Hometown, State	Legal services		
2		Legal services in connection with university construction		
3				
4				
5				
6				

  
 Timothy G. Massad  
 Notes to Form 278

#### **Note 1 – Auburn Ripplewood Equity Investors LLC**

This is an investment partnership that was available to partners of Cravath, Swaine & Moore, LLP and certain affiliated persons and entities and I invested during the time I was partner. The funds are invested in a private equity fund that has sole investment authority. The commitment period has expired. I have a remaining commitment to pay possible fees and expenses in amount less than \$10,000. Cravath has provided me with the estimated value and income through June 30, 2013 as well as information below as to the underlying investments (and their sectors). (No new investments will be made since commitment period has expired.)

Gogo Inc. (f/k/a Aircell Holdings Inc.) (airborne telecommunications)  
 Hostess Brands, Inc. (f/k/a Interstate Bakeries Corporation)  
 3W Power Holdings, SA (f/k/a Germany 1 Acquisition Limited which acquired AEG Power Solutions, B.V.) (power supplies)

#### **Note 2 – Auburn S Group Associates**

This is an investment partnership that was available to partners of Cravath, Swaine & Moore, LLP and certain affiliated persons and entities, and I invested during the time I was a partner. The funds were placed with third-party private equity managers pursuant to separate sub-partnerships. These managers have sole investment authority. The commitment period has expired. Cravath has provided me with estimated value and income through June 2013 as well as the information below as to the underlying investments (and their sectors). (No new investments will be made since commitment period has expired.) I do not have information on individual values of the investments.

1. Jupiter Partners, LP
  - Fund terminated on July 31, 2009.
2. Jupiter Partners II, LP
  - Fund terminated on June 28, 2013.
3. Palladium Equity Investors II, LP
  - Prince Mineral Holding Corporation – common stock (manufacturer of iron and manganese compounds)

- TB Holdings II -- common stock (regional quick service restaurant chain)

**Note 3 – Cravath, Swaine & Moore LLP**

I was a partner of Cravath, Swaine & Moore, LLP until May 16th 2009. Pursuant to the partnership agreement, upon withdrawing from the firm, I receive a payment in respect of prior service which is equal to a percentage fixed by the partnership agreement of the average of my income from the firm in 2006, 2007 and 2008, which amount is then reduced by a percentage that limits the amount of total firm retirement payments for the payment period. This is being paid in quarterly installments over ten years, commencing with the quarter ending September 30, 2009.

**Note 4 – 529 Savings Plans**

Our Utah 529 Savings Plan Account is currently invested in the following Vanguard funds.

Institutional Index Fund Plus – 50%

Mid-cap Index Fund – 20%

Small-cap Index Fund – 20%

International Stock Fund – 10%

**Note 5 – 401K**

The 401K is a defined contribution plan, fully vested at all times. The plan is administered by Milliman, Inc., as the record keeper and the assets are held by the Charles Schwab Trust Company, an independent trustee. All my assets are currently invested in the Pimco Total Return Bond Fund.

**Note 6 – DRM Descendants Trust and AHM Descendants Trusts**

Each of these trusts was established by my parents for the benefit of their children and grandchildren. I resigned as trustee of both the D.R. Massad Descendants Trust and the A.H. Massad Descendants Trust in November 2013. To my knowledge, each trust currently holds a minority limited partnership interest in a partnership created by my parents. My mother owns a majority of the limited partnership interests in the partnership as well as the general partnership interest. She has the right to substitute other assets for the interests in the partnership held by the trusts I have no control over the investments of the partnership or of the trusts. I have disclosed my interest in the trusts' interest in the partnership's investments (pages 13 through 22 of Schedule A of my

report) as well as my interest in the other investments of the trusts (pages 11-12 of Schedule A).

**Note – 7 Auburn CCP Equity Investors LLC**

This is an investment partnership that was available to partners of Cravath, Swaine & Moore, LLP and certain affiliated persons and entities, and I invested during the time I was a partner. The funds are invested in a private equity fund that has sole investment authority. The commitment period has expired. I have disposed of my equity interest but remain liable for any remaining fees and expenses in the maximum amount shown in Schedule C.



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**QUESTIONS AND ANSWERS**

MARCH 6, 2014

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Responses of Sharon Y. Bowen to Questions of Senator Stabenow

**Questions for the Record for Sharon Y. Bowen  
From Chairwoman Stabenow**

1. Congress recognized the global nature of markets by including Section 722(d) in the Dodd-Frank Act. This provision granted extraterritorial authority to the CFTC. I believe in moving forward with strong financial regulatory reform, meeting G-20 commitments, and having the US lead on these matters, but there have been challenges, especially with cross-border coordination. This is one of the most important issues before the CFTC. Some have argued that the coordination between US and foreign regulators has been insufficient, has caused market fragmentation, and, in other ways, has put US companies at a disadvantage to their foreign counterparts. Others have argued that global regulatory oversight is essential given the global nature of these markets, that risk flows across borders even if regulations don't, and that any delays in this oversight diminish the accountability and transparency so important to preventing another financial crisis.
  - a. Do you agree with these assessments? How would you address or mitigate these concerns?

Response

In directing the CFTC to establish a strong regulatory regime for the swaps markets, Congress recognized that excessive risk-taking contributed to the devastation that affected our economy in the wake of the financial crisis. These markets are global in nature, with risk easily crossing national boundaries. The CFTC's mandate to ensure the integrity of our financial markets requires the coordination of both domestic and global efforts to ensure success.

If confirmed, I will seek out the views of all stakeholders who are interested in and affected by swaps market reform to discuss, among other things, market fragmentation and competitive disparities, while preserving the robust regulatory oversight that Congress required. I will review comments and engage with U.S.-based firms to gain the benefit of their practical experience in complying with domestic and global requirements. In addition, I will look forward to working cooperatively with G-20 counterparts to promote harmonization in advancing the international goal of achieving common sense oversight of the global derivatives market.

- b. How should the CFTC move forward with important regulatory oversight when the EU is taking a different regulatory approach on certain matters and is on a different implementation timeline?

Response

The CFTC should continue to move forward in implementing swaps market reform. If confirmed, I will work with foreign regulators to harmonize the implementation of our rules whenever possible. I will work to foster the close cooperation between the

Responses of Sharon Y. Bowen to Questions of Senator Stabenow

U.S. and EU that I believe is required to ensure effective and fair oversight of the global market.

**c. Where do you deviate, if at all, from the agency's current approach to cross-border guidance?**

Response

If confirmed, I look forward to working closely with industry participants -- including end-users -- to monitor and address their concerns and ensure that requirements are effective and fair. My approach would be to make sure we properly address industry concerns, and that we do so in a transparent and clear way. I would work to strive for clarity and certainty for market participants and consider solutions that preserve the important reforms that Congress has required.

**d. Should we treat branches, subsidiaries, or affiliates of Swap Dealers differently when it comes to their cross-border regulatory treatment?**

Response

I understand that the Commission has sought public comment regarding certain issues related to the U.S. activities of foreign swap dealers. If confirmed, I will carefully consider submitted comments including those related to foreign branches of U.S. swap dealers as well as non-U.S. swap dealers whose swap obligations are guaranteed by a U.S. person. If confirmed, I look forward to working to ensure that these entities, their operations, and their transactions are treated appropriately.

**2. The President's budget included an important increase in funding for the Commodity Futures Trading Commission (CFTC). This funding increase is sorely needed. I believe that by not properly funding the CFTC, we are setting this agency, and our economy, up for failure.**

**a. Could you support additional resources for the agency?**

Response

It is critically important for the CFTC to have adequate funding to fully implement the mandate of Dodd-Frank. Effective oversight of collecting, recording and analyzing data about the vast swaps market requires first-rate technology and capable human capital. I would support having additional resources to carry out this broad mandate.

**b. Could you support alternative funding streams, such as a registration fee or some sort of user fee, to fund the agency?**

Response

If confirmed, I would be pleased to consult with stakeholders regarding appropriate measures for funding the CFTC. In considering options regarding alternative funding sources, I would be pleased to provide any assistance that the Committee would desire in considering the important issues involved.

Responses of Sharon Y. Bowen to Questions of Senator Stabenow

**3. Can you state for the public record how you would manage potential conflicts of interest, or even the appearance of conflicts of interest?**

Response

As a partner at a global law firm with over 2,000 attorneys in over thirty offices inside and outside of the U.S., I am acutely aware of the importance of managing potential conflicts of interests or even the appearance of conflicts of interest. A firm's ability to effectively represent clients depends upon a strong and effective process through which it identifies whether conflicts or potential conflicts exist. It ensures the integrity of our practice and our client's reliance on that integrity.

I would bring that same level of diligence in my role as Commissioner to ensure that I have a process in place to identify likely or actual conflicts. I have signed an Ethics Agreement which specifically addresses areas where I have agreed to take certain actions. For example, I will sever financial ties to the profits and earnings of my law firm, withdraw as a partner and restrict my ability to deal with my clients where my firm represents them before the CFTC.

In addition to these measures, if there is any doubt or question as to whether there is or likely to be a conflict, I will contact CFTC ethics officers and the Office of Government Ethics for advice with regard to the appropriateness of my participation in any given matter.

Responses of Sharon Y. Bowen to Questions of Senator Harkin

**Questions for the Record for Sharon Y. Bowen  
From Senator Tom Harkin**

**1) During the implementation of the Dodd-Frank Act, the CFTC has coordinated closely with other financial regulators including the Treasury, the SEC, and foreign regulators. This is to be applauded. However, despite this close coordination, when these regulatory agencies have differed in their judgments, many have stated that the agencies should not move forward with rulemaking until and unless the agencies are about to harmonize their regulations. The CFTC has been particularly subject to these attacks. As the Chairman of the CFTC, you would be responsible for leading an independent regulatory agency.**

**a) If confirmed, how would you approach situations in which you are pressured to act in a certain way by other financial regulatory agencies?**

Response

If confirmed, I will be guided by a focus on the mission of the CFTC and its broad mandate. Each agency has its own mission and perspectives, and in some cases parts of our general missions overlap. While being respectful of their viewpoints, I would make my decisions based on how best to fulfill the CFTC's mission.

**b) Do you believe that the need to pursue regulatory harmonization should limit the ability of an independent agency to act on its own in order to best fulfill its mission?**

Response

Efforts to harmonize overlaps in regulatory oversight should be practical and not create impediments to an agency's ability to fulfill its mission.

**2) In section 722(d) of the Dodd Frank Act, Congress clearly stated that CFTC derivatives trading requirements may be applied to any swaps activities that "have a direct and significant connection with activities in, or effect on, commerce of the United States." Despite this clear Congressional directive, there is still powerful resistance to the guidance issued by the CFTC on this subject. If confirmed, what will you do to ensure that Dodd-Frank derivatives guidance is properly applied to the full range of swaps transactions that impact the U.S. economy and pose risks to the U.S. financial system?**

Response

Congress recognized that many of the activities that led to the 2008 financial crisis occurred outside of the U.S. The swaps market is global in nature. If confirmed, I look forward to taking those actions that are necessary to ensure that the mandates of the law are fulfilled.

Responses of Sharon Y. Bowen to Questions of Senator Harkin

**3) At the 2009 Pittsburgh G-20 summit, the major G-20 countries committed to comprehensively regulate their derivatives markets by the close of 2012. Yet today in 2014, major jurisdictions such as the European Union still have years to go in fully implementing their rules.**

**a) In order to prevent risks outside the United States from coming back upon our economy and citizens, do you believe the CFTC should apply and enforce its derivatives rules as to subsidiaries of U.S. banks in jurisdictions that have not yet completed their rules?**

**b) Or should the U.S. wait for the rest of the world to catch up with our progress?**

Response to (a) and (b)

In directing the CFTC to establish a strong regulatory regime for the swaps markets, Congress recognized that excessive risk-taking contributed to the devastation that affected our economy in the wake of the financial crisis. These markets are global in nature, with risk easily crossing national boundaries. The CFTC's mandate to ensure the integrity of our financial markets requires the coordination of both domestic and global efforts to ensure success. If confirmed, I will endeavor to ensure that the Commission meets its statutory requirements.

**c) How will you deal with foreign regulators to achieve regulatory regimes that will appropriately protect the people and economy of the United States?**

Response

If confirmed, I look forward to working cooperatively with G-20 counterparts to promote harmonization in advancing the international goal of achieving common sense oversight of the global derivatives market.

**4) The collapse of Peregrine Financial in my state of Iowa caused significant hardship for many Iowans. In the wake of this significant fraud, the CFTC and other futures regulatory bodies took steps to strengthen customer protections.**

**a) Do you believe those steps were sufficient to fully protect customer funds?**

**b) Or, does more need to be done, and if so, what?**

Response to (a) and (b)

I think it is important that the CFTC and self-regulatory organizations took steps to strengthen customer protections. If confirmed, I look forward to meeting with stakeholders regarding the effectiveness of these actions. If further steps can be taken to improve customer protection, I look forward to working with the staff and my fellow Commissioners on those improvements.

Responses of Sharon Y. Bowen to Questions of Senator Harkin

**5) Do you believe that automated and algorithmic trading strategies can present unique and substantial risks to markets?**

**a) What do you see as the Commission's role in addressing these risks?**

Response

The CFTC should take an active role in examining any risks or likely risks to our financial markets that arise from automated trading strategies. I understand that the Commission has taken public comment on a related concept release. If confirmed, I look forward to reviewing these comments and discussing this issue with agency staff and fellow Commissioners. It is important for our markets to be fair and transparent.

**b) How do you envision the Commission working with the Securities and Exchange Commission to provide effective oversight of this part of the markets?**

Response

The Commission and the Securities Exchange Commission both have goals of ensuring the integrity of our financial markets and that those markets function in an open, competitive and fair manner. Given these common goals, I would envision effective cooperation and the sharing of ideas between the two Commissions. If I am confirmed as a Commissioner, I look forward to working with our fellow Commissioners and the SEC to provide effective oversight of our financial markets.

**6) How do you envision working with regulators at the Federal Energy Regulatory Commission (FERC) to ensure full and effective collection, sharing, and analysis of commodity market data?**

Response

It is my understanding that the Federal Energy Regulatory (FERC) has a Memorandum of Understanding (MOU) in place with the CFTC. I look forward to learning more about the MOU and working with Commissioners of FERC to protect energy markets.

**7) The Dodd-Frank Act requires the CFTC to consider certain costs and benefits in its rulemaking process, but some have been pushing the CFTC to do what they call a full "cost-benefit analysis," which tips the balance and overly weights cost to the industry, particularly since so many of the benefits of CFTC rules and actions (like protecting commodity producers and consumers, the markets and financial system, as well as our economy) are incalculable and unquantifiable. How will you ensure that the CFTC does not apply a one-sided economic or cost-benefit analysis that is stricter than required by law and thereby curtail appropriate and necessary rulemaking?**

## Responses of Sharon Y. Bowen to Questions of Senator Harkin

Response

I understand that the Commodity Exchange Act requires that the Commission consider costs and benefits when promulgating a rule or issuing an order. Beyond that, I would always appreciate the opportunity to consider whatever quantitative data is available – along with other factors -- when a new rule or regulation is being contemplated. I believe an analysis of macro-economic factors and feedback from actual participants in the market also serve as important metrics that should be considered. I also look forward to the opportunity to obtain cost, benefit, and other information through public comments and other interactions with market participants and others. If confirmed, I will be eager to examine and consider all appropriate evidence that is relevant to a particular Commission action – including factors which are important considerations even though difficult to quantify.

**8) What steps will you take to ensure that settlements in enforcement actions are transparently documented, explained, and reviewed by courts or other public tribunals?**

**a) When matters are settled out of court, will you commit to full and detailed public disclosure so that the American public can scrutinize for whether the settlement is appropriate and its terms meet the nature of the violation?**

Response

I look forward to examining the kinds of settlements that the CFTC has entered into in its enforcement actions in the past. It is important to be transparent where doing so would have the effect of improving the awareness of the types of behavior that breach our laws and regulations. This is especially the case where such awareness serves as a deterrent against future breaches.

**9) What will you do to make sure that you hear all sides of a debate and get balanced advice and recommendations before making policies or rules?**

Response

The rulemaking process under the Administrative Procedures Act is an effective way to hear different viewpoints in an open and transparent way. Therefore, I would be a strong adherent to the APA. If confirmed, I will look forward to taking meetings with stakeholders on all sides and to carefully weighing various points of view.

**10) Will you continue the current policies of requiring that all meetings and contacts by industry with the agency be promptly and fully disclosed?**

Response

If confirmed, I look forward to learning the CFTC's transparency policies and examining their use. I believe that transparency is an essential element of



Responses of Sharon Y. Bowen to Questions of Senator Harkin

governmental policymaking and I will be pleased to be supportive of disclosing relevant information in a meaningful and useful way.

Responses of Sharon Y. Bowen to Questions of Senator Brown

**Questions for the Record**  
**Senator Sherrod Brown**  
**Hearing Date: March 6, 2014, 10:00 AM – 12:00 PM**

**United States Senate Committee on Agriculture, Nutrition and Forestry Hearing**  
**Commodity Futures and Trading Commission Nomination**

**Ms. Sharon Y. Bowen, of New York, to be a Commissioner of the Commodity Futures Trading Commission**

1. In your testimony you stated that London Metal Exchange (LME) aluminum warehouse activity is “... *something [the CFTC] should definitely be looking at, particularly manipulation of the market.*” You further stated that “*anytime you can control both the demand and supply of a commodity that... needs to be looked at because it could be a recipe for manipulation.*”
  - a. If confirmed, would you encourage the CFTC to take further action to investigate the possibility of market manipulation by participants in the LME aluminum market?
  - b. What would you propose the CFTC do to remedy the irregularities in the aluminum warehouse market?

**Response**

Regarding the LME, I have no specific information beyond what has been in the newspapers. Still, as I noted at the hearing, the allegations regarding the problems with the LME market concern me. It is my understanding that the LME has submitted an application to the CFTC to be a foreign board of trade. If confirmed, I look forward to learning more from staff about this and what the CFTC’s regulatory authorities are that might be relevant. I am committed to ensuring market integrity and using the enforcement authority of the CFTC to effectively police our markets to protect against fraud and manipulation in any of our markets by any market participant.

2. There is a no-action letter between the CFTC and the LME allowing the LME to operate in the U.S. provided the LME ensures fairness to market participants. Specifically, the no-action letter states “members of the LME must promote high standards of fair dealing and integrity in trading.” It has been publically stated by CFTC officials that the CFTC can revoke and suspend any no-action letter that is issued.
  - a. Do you view the current activities of the LME and U.S.-based LME aluminum warehouses as consistent or inconsistent with the existing no-action letter?
  - b. If so, what options does the CFTC have to remedy this type of behavior to return the LME to a proper, free-market exchange of global aluminum price discovery?
  - c. At what point would revoking the no-action letter be an appropriate remedy to the LME aluminum warehouse issue?

Responses of Sharon Y. Bowen to Questions of Senator Brown

- d. If you need more information to answer this question, what steps have you taken or do you need to take to get the information you need?

**Response**

**If confirmed as Commissioner, the first step I would take would be to review all available information regarding the no-action letter you referenced. I would meet with the CFTC staff to understand what actions have been undertaken to date, review any CFTC rules, procedures and positions regarding no-action relief, receive feedback from end-users and other key stakeholders, and meet with you, your staff and the Committee to discuss these concerns.**

3. In 2006, the CFTC subpoenaed Platts, the leading provider of spot and contract prices in the global metals market, to investigate the accuracy of trade data submitted to Platts. McGraw-Hill, Platts's parent company, publicly acknowledged that "some energy companies and individual traders have repeatedly attempted to manipulate the price indexes produced by publishers such as Platts." In 2002, during another CFTC investigation regarding energy prices, two power companies "disclosed that some of their traders provided inaccurate pricing information to Platts." Such benchmarks by price reporting agencies based on producer announcements, negotiations, or gathering of market information have come under scrutiny. The first thing that comes to mind is LIBOR.
- a. If confirmed for this position, would you be committed to making the outcome of the CFTC's investigation into the Platt's pricing mechanism public?
  - b. Do you believe such benchmarks are usual for the market to determine the price if commodities?

**Response**

**If confirmed as Commissioner, I would meet with the CFTC staff to understand what steps have been taken with respect to the subpoena you mentioned. I would need to review any relevant market and other information that is being considered by the CFTC. I would confer with the CFTC Office of General Counsel to understand any rules, procedures and positions regarding public disclosure.**

4. From Long-Term Capital Management in 1998 to AIG Financial Products in 2008, we have seen that U.S. institutions and financial markets can feel the consequences of trades made overseas. That is why the Dodd-Frank Act gave the CFTC authority over cross-border transactions, and that is why the cross-border rules are so important.

Understanding that the courts will weigh in on the cross-border rule, do you support the CFTC's cross-border rules, and what will you do to keep them as strong as possible?

**Response**

Responses of Sharon Y. Bowen to Questions of Senator Brown

**In directing the CFTC to establish a strong regulatory regime for the swaps markets, Congress recognized that excessive risk-taking contributed to the devastation that affected our economy in the wake of the financial crisis. These markets are global in nature, with risk easily crossing national boundaries. The CFTC's mandate to ensure the integrity of our financial markets requires the coordination of both domestic and global efforts to ensure success.**

**If confirmed, I will seek out the views of all stakeholders who are interested in and affected by swaps market reform to discuss, among other things, market fragmentation and competitive disparities, while preserving the robust regulatory oversight that Congress required. I will review comments and engage with U.S.-based firms to gain the benefit of their practical experience in complying with domestic and global requirements. In addition, I will look forward to working cooperatively with G-20 counterparts to promote harmonization in advancing the international goal of achieving common sense oversight of the global derivatives market.**

Responses of Sharon Y. Bowen to Questions of Senator Klobuchar

**Questions for the Record for Sharon Y. Bowen  
From Senator Amy Klobuchar**

- 1) The Dodd-Frank Act sets position limits or hard caps on a range of commodities, including energy products. Commercial hedges are based on an actual physical product, like corn or wheat and are exempt from these position limits. However, many common commercial practices used in agriculture are caught by these position limits. This provides the farmer with a set price and budget certainty. Should the list of allowed hedges include the types of transactions common in agriculture? Will you work with those who trade physical commodities to ensure that the exemptions to the position limit rule allow for the normal practices of these businesses?

Response

Position limits have played an integral role in the long-standing history of our commodity market to protect against excessive speculation and manipulation. I am aware of the proposals under consideration for setting different thresholds for different markets. At the same time we must recognize that our rules must be practical and not create undue burdens and costs that prohibit or impede normal business practices or that price important end-users from the important markets they serve.

If confirmed, I look forward to looking into the issue you raise and will work with farmers, ranchers and end-users to address any concerns about impediments to the normal practices of these businesses.

- 2) The commodities markets involve essentially two kinds of participants: commercial end users and financial institutions. The Dodd-Frank Act requires that both types of derivative trade participants to put up the cash for these derivatives or swap trades in a margin account. The Dodd-Frank Act also provided an exemption from the margin requirement for some of types of the typical transactions used by commercial end users. However, commercial end users still may be required to have a margin account for many of the typical transactions used to conduct their business which can tie up their available cash. What factors would you take into account as the CFTC determines how the margin requirements would apply to commercial end users and financial institutions? Will you work with these commercial end users to ensure that these risk management tools remain affordable for these businesses?

## Responses of Sharon Y. Bowen to Questions of Senator Klobuchar

Response

If confirmed as a Commissioner of the CFTC, I will be committed to ensuring that Commission rules effectively fulfill the requirements of the law and do not impose undue and unnecessary burdens. While our markets must be transparent, fair, and free of fraud and manipulation, oversight should always be conducted with the fundamental hedging and price discovery purposes of the markets in mind. If my nomination is approved, my door will always be open to hear from end-users and I will seek their views in all areas where CFTC rules may impact their businesses.

- 3) **Speculative trading has played a role in the commodities markets, notably the gas, oil and wheat markets in the past. However, end users who have a stake in the actual underlying commodity, such as wheat growers, may not be able to conduct their business because of rules put in place to curb the abuses by speculators and financial institutions. What steps can the CFTC take to make sure that end users are able to conduct their business and that the market best reflect the forces of supply and demand while managing excessive speculation?**

Response

It is the role of the CFTC to ensure the integrity of our markets and protect against excessive speculation and manipulation. Futures contracts for agricultural commodities have been traded for many years and been regulated since the 1920s. I understand that position limits have been used as a tool for many years in those markets to prevent excessive speculation. The Commission has issued a proposed rule with regard to position limits. If confirmed as Commissioner, I will carefully review the comments submitted including those provided by end-users and take those comments into account before taking any final action with regard to the rulemaking. I look forward to working with these key stakeholders to address their concerns.

Responses of Sharon Y. Bowen to Questions of Senator Donnelly

Questions for the Record for Sharon Y. Bowen  
From Senator Donnelly

- 1) **When I met with each of you, I asked each of you for your thoughts about the commission's budget and available resources. You all said you wanted to get into your positions and see the needs first hand. We also talked about the possibility of creating a self-funding mechanism for the commission that would provide you with sufficient resources without restricting access for market participants. Will each of you commit to getting back to this committee in the coming months with your thoughts and ideas for appropriately funding the commission?**

Response

If confirmed, I would be more than pleased to share my ideas with the Committee regarding funding for the CFTC.

- 2) **When the CFTC established its definition of "swap dealer," it created \$25 million de minimis threshold for swaps involving special entities and a \$3 billion level for swaps with all other entities. As a result of this lower threshold, publically-owned utilities, like the Indiana Municipal Power Agency, have fewer counterparties available to help them manage risk when compared to their investor-owned counterparts. As a result, their input prices are more likely fluctuate and ratepayers are more likely to see unanticipated swings in their bills. I've introduced legislation, cosponsored by many members of this committee, that would solve this problem, but I believe the CFTC can address this issue as well. Will you commit to work with stakeholders to see if you can find a solution to this issue?**

Response:

I welcome the opportunity to address issues and concerns that have been raised regarding the effects of the swap dealer definition and de minimis threshold for swaps involving special entities. I am aware that municipalities are having difficulty in being able to hedge because they may have fewer counterparties leading to less competition and higher costs. Their ability to hedge needs to be preserved in a way that does not create undue burdens and higher costs. As a Commissioner, I would commit to work with stakeholders to try to find a solution to this issue.

Responses of Sharon Y. Bowen to Questions of Senator Heitkamp

**Questions for the Record for Sharon Y. Bowen  
From Senator Heitkamp**

- 1) **The CFTC was created to regulate the futures markets for predominantly agricultural commodities. Over time, its authority has expanded as the types of commodities being traded has expanded. However, nothing has changed in that the core function of the CFTC is to provide oversight to the futures market for agricultural commodities. There is a long history of the CFTC having commissioners who understand and have a working knowledge of how agricultural markets operate. While the nominees being considered for the CFTC may all be well qualified, including yourself, I am concerned that none of you have a background that includes the agriculture industry. What are you going to do to ensure you understand how the agricultural futures market works? Will you bring in staff into your office that understands how farmers, grain handlers, and agribusiness use these markets?**

Response

I understand the importance of the integrity of the markets to the agriculture industry. During my graduate business school and law school years at Northwestern University in Chicago, I was a summer intern of the Chicago Board of Trade. That experience introduced me to the long-standing and important role of the futures markets for the agriculture industry. To increase my understanding of how agricultural markets work, I plan to meet with the stakeholders from the agricultural industry as one of the first steps I will take should I be confirmed as Commissioner. My door will always be open to hear the concerns of any stakeholders and I will work with them to address any issues they face.

In addition, I understand that the CFTC staff includes individuals who have worked with agribusiness and understand how these markets work. I plan to draw on their knowledge, as well.

- 2) **I would like to hear your thoughts on the recent rulemaking regarding residual interest. End-users and agricultural marketers in my state are concerned about the increased costs that come with this rule. Even the farmer customers, whom the CFTC is trying to protect with this rule, were opposed to it. The CFTC's residual interest rule seeks to enhance customer protection by requiring futures commission merchants -- the firms that actually place orders to buy and sell futures on behalf of customers -- to do their residual interest calculation earlier. The result is that these FCMs either would have to cover margin calls with their own money or they would be compelled to require that customers pre-margin their hedge accounts. The problem is that pre-margining increases customer costs and may drive some**



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**hedgers -- namely farmers -- out of futures markets. In addition, pre-margining puts more customer money at risk if another MF Global insolvency occurs as a result of a breach of segregated accounts.**

**Can you give me your thoughts on the proposed rule and the timeline for implementation and enforcement?**

**If you are confirmed as a CFTC commissioner, are you willing to reevaluate the residual interest rulemaking, and sitting down with stakeholders to find a workable solution?**

**Are there other approaches to increasing customer protections that you may consider that do not involve increasing costs for hedgers?**

Response

It is my understanding that final rules are now in place regarding residual interest and that requirements are phased-in over five years. I understand there are concerns in the industry that the rules, as they are phased in, will impose costs on end-users and tie up working capital.

The rule requires the CFTC to conduct a study in 30 months to review the practicality of moving the deadline for these requirements, the associated costs and benefits, and to determine whether any changes need to be made. If confirmed, I look forward to talking with stakeholders, staff, and my fellow Commissioners to better understand these issues and the choices that were made in the final rule. Additionally I would review the study and comments received and consider what additional changes or approaches might be appropriate. In these efforts, I would do all that I can to avoid imposing undue costs that could drive farmers and end-users out of the futures markets.

- 3) **You stated in the Senate Agriculture Committee hearing you are aware of the metals practices and said the CFTC should look at it. You also noted that having the same entity control both distribution and supply was a "recipe" for market manipulation and indicated the CFTC has sent letters to the LME asking them to preserve data should the agency decide to look into this further. With all of the key elements of the LME for aluminum and other base metals worldwide being controlled by a few financial institutions do you believe the London Metal Exchange is acting as a proper, free-market exchange of global aluminum price discovery and if not, why not? What do you believe the CFTC should do to address the issue?**

Response

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Regarding the LME, I have no specific information beyond what has been in the newspapers. Still, as I noted at the hearing, the allegations regarding the problems with the LME market concern me. It is my understanding that the LME has submitted an application to the CFTC to be a foreign board of trade. If confirmed, I look forward to learning more from staff about this and what the CFTC's regulatory authorities are that might be relevant. I am committed to ensuring market integrity and using the enforcement authority of the CFTC to effectively police our markets to protect against fraud and manipulation in any of our markets by any market participant.

Responses of Sharon Y. Bowen to Questions of Senator Walsh

**Questions for the Record for Sharon Y. Bowen  
From Senator Walsh**

1. **There is growing evidence that excessive speculation on agricultural commodities has some influence on price volatility. While the futures market provides an important piece of a risk management plan for farmers, increased price volatility means uncertainty. On the other hand, many also believe that the market is largely self-correcting, and that participation in the futures markets provides more information to the supply and demand basics that, ultimately, contribute to a more stable market. Do you think there is excess speculation on any commodities? If the answer is yes, what steps if any do you believe the agency should take within its existing authority to curtail speculation? How should the concerns of commodity end-users be prioritized in this discussion?**

Response

It is the role of the CFTC to ensure the integrity of our markets and protect against excessive speculation and manipulation. Futures contracts for agricultural commodities have been traded for many years and been regulated since the 1920s. The Commission published a proposal rule regarding establishing speculative position limits last year for which the comment period recently closed. If confirmed, I look forward to reviewing the comments and working with stakeholders, staff, and my fellow Commissioners to finalize that rule. In doing that, making sure that these markets work for endusers utilizing them for price discovery and risk management would be a top priority.

2. **When you enter the CFTC you will be met with several proposed rules as well as final rules that have not yet been fully implemented. These rules will have an impact on Montana producers, either directly or indirectly. Considering that you do not have a strong background in agriculture, what outreach initiatives do you have in mind to ensure that the perspectives and priorities of America's farmers and ranchers are heard throughout the process?**

Response

I understand the importance of the integrity of the markets to the agriculture industry. During my graduate business school and law school years at Northwestern University in Chicago, I was a summer intern of the Chicago Board of Trade. That experience introduced me to the long-standing and important role of the futures markets for the agriculture industry. To increase my understanding of agricultural markets works, I plan

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to meet with the stakeholders from the agricultural industry as one of the first steps I will take should I be confirmed as Commissioner. My door will always be open to hear the concerns of any stakeholders and I will work with them to address any issues they face.

In addition, I will seek out with expertise in agribusiness the workings of the markets. I look forward to working with you and other members of the Committee to ensure that our policies are appropriate for the oversight of these essential markets.

Responses of Sharon Y. Bowen to Questions of Senator Cochran

**Questions for the Record for Sharon Y. Bowen  
From Senator Cochran**

**Question 1: An issue of particular concern to me involves the Stanford Ponzi scheme, in which 7,000 customers invested \$7 billion – and many Mississippi families lost their entire life savings. Despite the fact that the Securities and Exchange Commission (SEC) concluded that victims of the alleged Ponzi scheme are entitled to receive Securities Investor Protection Corporation (SIPC) coverage for their losses, SIPC has declined to cover these losses.**

- A. As Vice Chair of SIPC, were you directly involved in this decision? If so, please explain your involvement and whether you agree with the agency's decision to deny aid to the Stanford victims.**

Response

In 2009, the Securities and Exchange Commission (SEC) asked the U.S. District Court for the Northern District of Texas Dallas Division to appoint a receiver to handle the liquidation of Stanford and the recovery of amounts owed to investors. A receiver was appointed by the court to do so. At that time, the SEC did not ask the Securities Investor Protection Corporation (SIPC) to initiate a liquidation proceeding. It is my understanding that both the SEC and SIPC determined that this matter did not fall under the mandate of Securities Investor Protection Act (SIPA) for a number of reasons.

I was appointed Vice Chairman of the SIPC Board of Directors in February 2010, following the Senate's confirmation of my nomination. In June 2011, the SEC changed its position on Stanford and asked SIPC to initiate a liquidation proceeding. The SIPC Board retained independent counsel to advise it. On the advice of counsel, the Board determined that initiating a proceeding would fall outside of the scope of its mandate under SIPA. As a Board member and Vice Chairman of SIPC, I concurred with this unanimous decision. Our Chair stepped down from the Board after his term expired in December 2011, and I assumed his duties consistent with SIPC's bylaws, and have continued to act in that capacity.

In September 2011, the SEC sued SIPC in the U.S. District Court for the District of Columbia, to compel it to commence a liquidation proceeding. SIPC retained separate litigation counsel to advise and represent it in this litigation. The court concurred that a SIPA liquidation proceeding would not be authorized given the circumstances of the case. That decision is on appeal.

- B. Many members of Congress are concerned that SIPC has deliberately taken a narrow interpretation of the law to protect brokers. Please explain your understanding of the law, SIPC's actions regarding the Stanford Ponzi scheme case**

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**and why SIPC determined that the Stanford victims should not receive compensation.**

Response

When SIPC learned of the Stanford fraud in 2009 and the harm suffered by investors who purchased certificates of deposit from a Stanford bank based in Antigua and chartered under Antiguan law, it examined whether this type of loss would fall under its statutory mandate as defined in SIPA. SIPC's mandate is to restore securities and cash up to a certain dollar limit (\$500,000, including a cash limit of \$250,000) in customer accounts held by a failed registered broker-dealer.

The SIPC Board is sympathetic to the losses suffered by the Stanford victims. After a thorough analysis of the facts, the provisions of SIPA, and upon the advice of independent counsel it retained, the Board found no authority under the law for it to take action.

The current Board received requests in December 2013 and January 2014 from a Senator to reconsider the Board's earlier decision. In each instance the Board considered the Senator's request and sought the advice of its counsel. In light of the ongoing litigation, the analysis and advice of counsel, and the absence of any new grounds warranting a reconsideration that would result in a different conclusion from that of the SIPC Board's initial determination, the Board reaffirmed its conclusion and noted that it was awaiting a decision on the SEC's appeal of the District Court decision on the limits of the statute. This conclusion was not based on a narrow interpretation of the law to protect brokers. The Board takes seriously its mandate under SIPA and has a duty to adhere to this law. It has no authority to change the law or expand its scope.

**C. How has your experience with this matter shaped your abilities as a leader, and how will it translate to leadership at the CFTC?**

Response

It has been a privilege for me to serve as Vice Chairman of the SIPC Board and to assume the duties of Acting Chair in January 2012. This experience has enhanced my abilities as a leader in many ways which I believe serve as a strong foundation for the leadership role I would undertake should I be confirmed as Commissioner of the CFTC.

I have increased my expertise in the application of our bankruptcy laws in regard to customer accounts held by failed broker-dealers and futures commission merchants. Since the devastating impact of the 2008 financial crisis, SIPC has overseen some of the largest bankruptcies of financial institutions. These institutions operated throughout the world and hundreds of thousands of customer accounts were affected. Recovery of these funds outside of the United States brought some challenging and unique issues of first impression. These experiences highlighted the global nature of financial risk and the need to work with regulators outside of the United States in addressing it.

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My experience also gave me the opportunity to work with Board members from the federal government, the securities industry, and the private sector. Although each brought their own perspective, we reached consensus on the important decisions SIPC faced. As Acting Chair, I also had the privilege of working with a dedicated and extremely capable staff whose workload these past few years has been increased significantly. Given the magnitude of the bankruptcies overseen by SIPC, our diligence in ensuring the adequacy of the SIPC fund was critically important. We also took steps to improve our operations and technological capabilities.

In my leadership role at SIPC, improving investor education was a key priority. We held open hearings, produced webcasts and created a webpage dedicated to educating the public. We heard first-hand how the crisis and resulting bankruptcies affected ordinary investors personally, with many of them losing their life savings and retirement accounts. This humbling experience not only gave me the opportunity to see the faces and hear the voices of those who were harmed, it also highlighted the importance of being a leader who is directly in touch with those who are most affected.

I also learned that much of the investing public is unaware of the limits of the SIPC program. I feel strongly that improving investor education is essential. The investing public must have the information they need to make sound and prudent investment decisions, whether those investments are in securities or in commodity futures.

**Question 1: The Commission historically has been charged with regulatory authority over the commodity futures markets, such as wheat, corn and cotton. As the agency's oversight role has grown in recent years, groups representing agriculture commodity and producer interests have stressed the need for leaders of the CFTC to recognize and understand the importance of American agriculture and to willingly engage with representative groups as vital stakeholders in the marketplace. It is critical for leaders of the CFTC to recognize and understand the importance of American agriculture. If confirmed, how do you plan to engage with agricultural groups as well as with other end-users?**

Response

I understand the importance of the integrity of the markets to the agriculture industry. During my graduate business school and law school years at Northwestern University in Chicago, I was a summer intern of the Chicago Board of Trade. That experience exposed me to the agriculture industry and the important role of the futures market for price discovery and risk-shifting. If confirmed, I will seek to meet frequently with stakeholders from the agricultural industry. My door will always be open to hear the concerns of any stakeholders and I will work with them to address any issues they face.

**Question 2: This Committee has received comment letters stating that implementation of the Dodd-Frank Act has led to confusion and unwarranted expense for market participants. Some commenters stressed that the CFTC has implemented rules in an**

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**illogical and at times haphazard manner, leading to unnecessary cost and confusion for market participants. The Commission has developed a habit of waiting until the last minute to provide no-action or delayed compliance relief for market participants. How would you address these concerns?**

Response

It is important that we have rules that don't add to confusion or that aren't vague. Interpretive guidance and no-action relief are two important ways for the CFTC to communicate quickly and more specifically to address these types of concerns. So I would want to understand how these types of issues of delay have been addressed in the past, review whether any participant who is seeking no-action relief or guidance has been penalized or incurred unnecessary costs, and use this information as a basis upon which to work to improve our processes and response times in the future.

**Question 3: Do you think the CFTC should be required to fully assess and quantify the costs and benefits associated with the rules and orders it puts forward?**

Response

I understand that the Commodity Exchange Act requires that the Commission consider costs and benefits when promulgating a rule or issuing an order. Beyond that, I would always appreciate the opportunity to consider whatever quantitative data is available -- along with other factors -- when a new rule or regulation is being contemplated. I believe an analysis of macro-economic factors and feedback from actual participants in the market also serve as important metrics that should be considered. I also look forward to the opportunity to obtain cost, benefit, and other information through public comments and other interactions with market participants and others.

**Question 4: We have heard from end-user stakeholders that they should not be subject to margin and capital requirements for their exempt swaps.**

- A. Would you agree that margin and capital requirements should not be imposed on end-users?**
- B. Would you support a rule change to fix this problem yourself?**

Response to A. and B.

I understand that the Dodd-Frank Act exempts from the clearing requirements swaps that are used for hedging by commercial end-users. I believe our rules should be practical and achieve their intended purpose. Whether it is protection of customer assets, adding transparency to the markets or using tools to address excessive speculation and manipulation, it is important that our rules should achieve these objectives without creating undue and unnecessary costs or burdens to end-users.



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In addition, I understand that the Commission's proposed rule on margin for uncleared swaps would exempt swaps that are used for hedging by end-users. If confirmed, I look forward to reviewing comments and weighing all of the relevant facts.

**Question 5: Public power companies provide vital services to urban and rural communities. I understand that utility companies (as well as other non-financial entities) are no longer willing to enter into energy swaps with government-owned utilities for fear of exceeding the "special entity *de minimis*" threshold and thereby having to register with the CFTC solely because of their dealings with government-owned utilities. This concern has been expressed by utilities in Mississippi and across the country.**

- A. How can we address the concern that these government-owned utilities have expressed about having fewer counterparties to their risk mitigating transactions?**
- B. Are you willing to work with fellow Commissioners and market participants to fix this issue?**

Response to A. and B.

I welcome the opportunity to address issues and concerns that have been raised regarding the effects of the swap dealer definition and de minimis threshold for swaps involving special entities. I am aware that municipalities are having difficulty in being able to hedge because they may have fewer counterparties. Their ability to hedge and the special protections provided by Dodd-Frank need to be preserved in a way that does not create undue burdens and higher costs. As a Commissioner, I would commit to work with stakeholders to help find a solution to this issue.

**Question 6: At your confirmation hearing concerns were raised regarding CFTC Rule 1.35 recordkeeping requirements. This rule has proven to be a burden for small and mid-sized market participants. Are you willing to work with these groups to craft regulatory relief that is clear and realistic for these market participants?**

Response

I understand that the recordkeeping requirements of Rule 1.35(a) have created some concerns for agricultural end-users, and that there have been requests for interpretive guidance and rule relief in some instances. Some of these requests have been granted by the Commission, but may have not addressed all the concerns of agricultural end-users. If confirmed, I would listen to the concerns of end-users and work with them to make sure that the rules are clear and realistic to them and that they don't create unnecessary costs and burdens.

**Question 7: The agriculture community is concerned that proposals regarding increased residual interest requirements for futures commission merchants will dramatically raise**

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**the costs of hedging and investing in the futures markets and could result in limited market access for agricultural hedgers and smaller speculative investors.**

- A. Have any customers ever lost money because of the way margin deficiencies are handled under the current system?**
- B. We understand that the CFTC is to undertake a study of this rule change but that irrespective of the outcome of the study the new rule will go into effect absent further rulemaking by the CFTC. Are you willing to take a data driven approach to this issue and change the rule if the study results favor a change?**

Response to A. and B.

I am not aware of a particular instance where customer funds were lost in this way. It is my understanding that final rules are now in place regarding residual interest and that requirements are phased-in over five years. I understand there are concerns in the industry that the rules, as they are phased in, will impose costs on end-users and tie up working capital.

The rule requires the CFTC to conduct a study in 30 months to review the practicality of moving the deadline for these requirements, the associated costs and benefits, and to determine whether any changes need to be made. If confirmed, I look forward to talking with stakeholders, staff, and my fellow Commissioners to better understand these issues and the choices that were made in the final rule. Additionally, I would review the study and comments received and consider what additional changes or approaches might be appropriate. In these efforts, I would do all that I can to avoid imposing undue costs that could drive farmers and end-users out of the futures markets.

**Question 8: Many market participants have significant reservations about the efficacy of position limits as set out in the current CFTC proposed rule.**

- A. Do you agree that position limits should be imposed only after a finding of need and effectiveness on a contract-by-contract basis, using reliable, recent, and relevant market data?**
- C. Would you agree that if the CFTC finds that it must set position limits, such limits should be based on quantitative findings, including the size and depth of markets?**

Response to A. and C.

It is the role of the CFTC to ensure the integrity of our markets and protect against excessive speculation and manipulation. Futures contracts for agricultural commodities have been traded for many years and been regulated since the 1920s. I understand that position limits have been used as a tool for many years in those markets to prevent

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excessive speculation. The Commission has issued a proposed rule with regard to position limits. If confirmed as Commissioner, I will carefully review the comments submitted including those provided by end-users, and take those comments into account before taking any final action with regard to the rulemaking. I look forward to working with these key stakeholders to address their concerns.

**Question 9: A properly functioning position limits regime is not only dependent on a clear understanding of deliverable supply for a particular commodity but also on a workable hedge exemption process.**

- A. Will you ensure that the final position limits rule provides end-users with the flexibility they have historically had under the CFTC's approach to bona fide hedging?**

Response

We must recognize that our rules must be practical and not create undue burdens and costs that prohibit or impede normal business practices or that price important end-users from the markets they serve.

I look forward to looking into the issue you raise and will work with those who trade physical commodities to address any concerns about impediments to the normal practices of these businesses and bona fide hedging that has been a historical part of their markets.

- B. Since federal agencies, generally speaking, do not respond quickly to market innovation and changing practices, would you agree that the CFTC's current proposal with respect to bona fide hedging should not limit end-users' ability to properly and efficiently hedge risk by restricting the availability of the bona fide hedge exemptions from position limits to a limited set of enumerated transactions?**
- C. Would you agree that the CFTC's current bona fide hedge exemptions proposal, which limits exemptions to a very narrow list that does not include many current hedging best practices, is overly restrictive and incompatible with the realities of the market?**
- D. Given the budgetary constraints and the stretched CFTC resources, would you agree that requiring end-users to get specific CFTC approval to hedge certain current or anticipated risks as a bona fide hedge before entering into a transaction will hinder their ability to operate their businesses effectively?**

Response

I understand that the Commission has issued a proposed rule on position limits, including matters related to bona fide hedge exemptions from the limited. If I am confirmed, I look forward to reviewing the public comments that are submitted, as well as the views of the

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Committee and members of Congress. I would carefully consider those comments and all relevant factors and evidence before taking final action.

**Question 10: Given that Congress carefully designated protections for end-users in the Dodd-Frank Act and considering that the CFTC has authority to grant exceptions, would you agree that the CFTC should take measures to ensure that only entities that meet a common sense definition of “financial entity” are regulated as such?**

Response

I am aware that Congress did provide for several exemptions from Dodd Frank for end users. To the extent rules appear to be overly-broad or are vague as to their applicability, if confirmed, I look forward to hearing from end-users and working with my fellow Commissioners to address concerns that end-users might have.

**Question 11: Since a change to the swap dealer *de minimis* level would significantly impact the market structure and potentially harm end-users by limiting the availability of counterparties, will you commit to engaging in a formal rulemaking before any change is made to the \$8 billion swap dealer *de minimis* level?**

Response

I look forward to examining all options to ensure that meaningful, effective and practical thresholds are in place when they are required. It is important to examine situations where rules don’t achieve their intended results or where they create undue burdens and costs. If confirmed, I look forward to reviewing the results of the swaps market staff study that will include data and information regarding the *de minimis* threshold.

**Question 12: As you may know, the CFTC has, in direct contradiction to Congressional intent, indicated that they will regulate certain physical contracts as swaps. The Senate Agriculture Committee has received comment letters from energy companies and other end-users about options and forward contracts with embedded volumetric optionality that physically settle—they believe these contracts should be excluded from the definition of a swap on the basis that they do not pose systemic risk and haven’t traditionally been viewed as swaps.**

- A. Are you aware that (1) the Commodity Exchange Act excludes from the definition of “swap” transactions that are “intended to be physically-settled” and (2) the CFTC has an interim-final rule on this issue outstanding, under which they have taken comment, but not responded to those comments?
- B. Given that exclusion from the definition, would you agree that options that result in the physical delivery of a commodity and forward contracts that contain some level of variability in how much of a physical product is ultimately delivered – but in all cases do involve the actual sale and delivery of a nonfinancial commodity – fall outside of the definition of a “swap”?

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Response

It is my understanding that statute provides that options are swaps. Whether the optionality related to price setting or the delivery of the commodities, or whether the option can be separately and independently traded from the forward contract, are all factors that should be considered. It is my understanding that forwards with volumetric optionality allow one party to alter the amount of the commodity to be delivered if the option is exercised. A forward with volumetric optionality will qualify for the forward contract exclusion if it satisfies certain requirements. I look forward to reviewing comments relating to this issue and guidance as to whether a contract is predominantly a forward or an option. I welcome the opportunity to work with you, your staff and your constituents in addressing your concerns regarding the swap definition.

**C. Finally, will you ensure that the Commission considers the comments submitted to it regarding the interim final rule on this topic and that the Commission issues a final rule that addresses the concerns raised in those comments?**

Response

If confirmed as a Commissioner, I will consider the comments regarding the interim and final rules on this topic and I look forward to working with the Committee and commercial end-users to address any concerns.

**Question 13: In comment letters submitted to this Committee we were informed of an unintended consequence of the CFTC's real-time reporting rule, in which legitimate end-users are experiencing difficulty in hedging their commercial risk with certain physical commodities.**

**Under the real-time reporting rule, end-users have a longer time in which to report trades with other end-users. However, trades that involve a swap dealer or major swap participant must be reported in a much shorter time after execution. Because the rule requires trades between a non-dealer and a swap dealer be reported within the dealer's time limit, swap dealers and major swap participants have limited time to lay off risk before the trade is made public.**

**When a dealer has to report such trades to the market quickly and the dealer may not be able to lay off the risk of that trade in the prescribed time, especially in illiquid markets in far out months, the dealer is taking a risk and will charge the counterparty (here, the commercial end-user) for that increased risk if they are willing to execute the trade at all. This increased cost and possible inability to trade in illiquid markets will hurt commercial end-users. Will you agree to work with the Committee and with commercial end-users to address this issue in a way that helps commercial end-users, but still allows swaps data to be disclosed publicly?**

Response

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I agree, if confirmed, to work with the Committee regarding this matter. I will also appreciate the opportunity to meet with end-users and will work to achieve an appropriate policy outcome. It is important that, in carrying out Congress mandates, the rules don't unduly hinder the ability of commercial end-users to conduct their business.

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**Questions for the Record for Sharon Y. Bowen  
From Senator Pat Roberts**

- 1) If confirmed as a commissioner of the Commodities Futures Trading Commission, what will be your immediate priorities for the commission?**

Response

A key priority is to meet with stakeholders to receive their feedback and hear their concerns about how they have been affected by the CFTC rules. Another priority is to assess CFTC capabilities in the areas of effective market oversight, data collection and analysis, and strong enforcement policies, procedures and personnel.

- 2) The CFTC traditionally has at least one Commissioner with experience and understanding of how end-users and agriculture uses the market. What will you do to increase your personal knowledge of agriculture and end-user's issues?**

Response

I understand the importance of the integrity of the markets to the agriculture industry. During my graduate business school and law school years at Northwestern University in Chicago, I was a summer intern of the Chicago Board of Trade. That experience introduced me to the long-standing and important role of the futures markets for the agriculture industry. If confirmed, I look forward to meeting with the stakeholders from the agricultural industry as one of the first steps I will take should I be confirmed as Commissioner. My door will always be open to hear the concerns of any stakeholders and I will work with them to address any issues they face.

In addition, I understand that the CFTC staff includes individuals who have worked with agribusiness and understand how these markets work. I plan to draw on their knowledge, as well.

- 3) Would you consider chairing the Commission's Agriculture Advisory Committee?**

Response

I understand that Dr. Randall Fortenberry currently chairs the Commission's Agricultural Advisory Committee. If confirmed, I would be honored to be considered to sponsor the Committee if the Chairman and my fellow Commissioners agree. Whether or not I serve in that role, my door will always be open to meet with the key stakeholders in the agricultural industry.

- 4) Ideally before implementing any new policy or regulation the Commission would follow the Administrative Procedure Act and propose a regulation, undergo a cost-**

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benefit analysis, take and listen to public comments, and then publish a final rule. Unfortunately, the CFTC has more frequently issued interim final rules and interpretative guidance. Furthermore, when issues with the regulations have been raised, instead of withdrawing or revising the regulation, temporary staff no action letters or exemptive relief has been issued. If confirmed, when problems arise with implementing regulations or policies, will you and your staff rely on no action letters and exemptive relief or will you work to fix the problematic regulations or policies?

Response

I believe in following the Administrative Procedures Act (APA) requirements in the rulemaking process. The transparency of having an open dialogue and receiving comments and input from key stakeholders is important. The APA's requirement of doing a cost and benefit analysis is also an important requirement before finalizing and implementing any rules.

The APA also recognizes the importance of interpretive guidance and no-action relief as effective tools to clarify rules and offer guidance to participants for their compliance with the rules. Facts and circumstances should dictate when it is more appropriate to use one or the other.

- 5) **What importance would you put on a quantitative cost benefit analysis before a new rule or regulation would be issued, finalized, and enforced?**

Response

I understand that the Commodity Exchange Act requires that the Commission consider costs and benefits when promulgating a rule or issuing an order. Beyond that, I would always appreciate the opportunity to consider whatever quantitative data is available—along with other factors--when a new rule or regulation is being contemplated. I believe an analysis of macro-economic factors and feedback from actual participants in the market also serve as important metrics that should be considered. I also look forward to the opportunity to obtain cost, benefit, and other information through public comments and interactions with market participants and others.

- 6) **According to industry feedback the CFTC's proposal on residual risk has been described as "an industry killing rule" that "jeopardizes the entire existence of the model" and is "likely to raise the overall level of risk to all participants in the market."**

In the same proposal, the CFTC would require "FCMs to be in compliance with margin deficiencies at all times." However, option values and margins are currently not always available in real time.

Will you work with me to fix the residual interest rule and margin requirements? Or do you see either as an issue?

Response



## Responses of Sharon Y. Bowen to Questions of Senator Roberts

It is my understanding that final rules are now in place regarding residual interest and that requirements are phased-in over five years. I understand there are concerns in the industry that the rules, as they are phased in, will impose costs on end-users and tie up working capital.

The rule requires the CFTC to conduct a study in 30 months to review the practicality of moving the deadline for these requirements, the associated costs and benefits, and to determine whether any changes need to be made. If confirmed, I look forward to talking with stakeholders, staff, and my fellow Commissioners to better understand these issues and the choices that were made in the final rule. Additionally I would review the study and comments received and consider what additional changes or approaches might be appropriate. I would also be grateful for the benefit of your views on appropriate action. In these efforts, I would do all that I can to avoid imposing undue costs that could drive farmers and end-users out of the futures markets.

- 7) **Would the proposed changes on residual interest have been able to prevent either the failures of MF Global or Peregrine and would the regulations better protect against similar failures in the future?**

Response

As I understand it, the residual interest provision was included as part of a rulemaking that made various changes in customer protection rules. While the provisions of that rulemaking may have been a response to those FCM failures, it is difficult to determine whether any combination of factors would have served to prevent those failures. If confirmed, I can assure you that I will look with care on the impact of those rules and other measures to address the safety of customer funds.

- 8) **The swaps and futures markets are global and must comply with regulations set not just by the United States but also foreign regulators. Are you concerned that “regulatory arbitrage” could develop and that market participants may move their business out of the United States if our rules are not harmonized?**

Response

I believe business is attracted to a transparent and fair market that is free from excessive speculation and manipulation. Participants also expect protection against the risk of misuse of their assets. The U.S. must continue to take the lead in ensuring the integrity of our global financial markets. Foreign and domestic regulators share this same goal. It is important that our rules not create market imbalances or opportunities for regulatory arbitrage.

If confirmed, I intend to seek out the views of stakeholders who are interested in and affected by Commission requirements. I will review comments and engage with U.S.-based firms to gain the benefit of their practical experience. In addition, I will look forward to working cooperatively with G-20 counterparts to promote harmonization in advancing the international goal of achieving common sense oversight of the global derivatives market.

Responses of Sharon Y. Bowen to Questions of Senator Roberts

- 9) **For the cross border application of derivatives regulations, do you believe that the CFTC should have used a formal rule making process, including a quantitative cost benefit analysis, instead of issuing the regulations through an “Interpretative Guidance and Policy Statement?”**

Response

As the question is currently a matter of litigation, I should refrain from comment. If confirmed, I would be a strong supporter of the rulemaking requirements under the Administrative Procedures Act. I also understand that interpretive guidance and no-action letters have been used over many years as a means to clarify rules. Each of these tools has its place and I will give due consideration to all factors relevant to the consideration of their appropriate use.

- 10) **After Dodd-Frank passed, I have heard complaints regarding the vagueness from the CFTC regarding definitions. For example, “technically what is a swap, who is a swap dealer, what is or is not a bona fide hedge?” How will you work to ensure that there is certainty among market participants regarding these changing definitions and classifications?**

Response

Dodd-Frank gives the CFTC a broad mandate to regulate the swaps markets. We need to make our rules as clear as possible and offer effective and timely guidance when there is confusion or questions about whether certain requirements of the rule apply to specific participants. I will work with the Commissioners and CFTC staff to bring consistency and clarity to the application and interpretation of CFTC rules.

- 11) **Any company that engages in swaps must register as a swap dealer if the notional amount of its swap activity exceeds an \$8 billion “de minimis” threshold. That level is set to automatically go down to \$3 billion after a phase in period. Do you believe that the de-minimis threshold for registering as a swap dealer should automatically decrease or would it be appropriate to re-evaluate the level in the future?**

Response

Under the rule defining “swap dealers”, I understand the Commission is supposed to review the impact of the current definition, including determining whether to raise or lower the de minimis level for swap dealing. It is important to make sure that the definitions of “swap dealer” are sufficient to ensure that all types of swap dealers are appropriately regulated. I look forward to the results of that review and the public’s comment on it and to working with staff and my fellow Commissioners to consider the actions necessary to ensure that entities regularly dealing in swaps are appropriately regulated.

- 12) **What do you view as the biggest unmet budgetary need at the CFTC?**

Response

If confirmed, I look forward to working with the CFTC staff and Commissioners to hear their views as to what they consider to be the biggest unmet budgetary needs at the

Responses of Sharon Y. Bowen to Questions of Senator Roberts

CFTC. At this point, I have not yet come to a conclusion on what I believe the greatest unmet needs are, but I would be happy to come back and let you know once I have.

**13) Do you believe that the Commission has sufficient data about the swaps market and a reliable economic analysis to finalize the proposal for position limits?**

Response

I don't have sufficient information at this stage to reach that conclusion. I look forward to assessing CFTC capabilities in this area and reviewing public comments that were submitted and carefully considering them.

Responses of Sharon Y. Bowen to Questions of Senator Chambliss

**Questions from the Record for Sharon Y. Bowen  
From Senator Saxby Chambliss**

**1. For all nominees:**

Last summer then-Chairman Gensler testified in the Senate Banking Committee that the CFTC has clear authority to police the physical and derivative markets for aluminum. He also testified that the London Metals Exchange is operating as a Foreign Board of Trade (FBOT) under a no-action letter agreement with the CFTC. An FBOT must maintain the same quality of market expected by American consumers and is typically exhibited in domestic exchanges regulated by the CFTC such as the Chicago Mercantile Exchange and the International Commodities Exchange. Among the criteria an FBOT must maintain are fair and orderly markets and to prohibit fraud, abuse, and market manipulation. Unfortunately, wait times for aluminum can run from 400-600 days and the resultant market premium has been at record highs, due to warehouse owners charging rent on metal that has been paid for and earmarked for delivery.

My first question is, would wait times of 400+ days to receive a commodity in the grain markets be an acceptable wait for consumers where these contracts are typically settled in about 3 days? Second, do each of you concur with the statements of Mr. Gensler that the CFTC has authority to regulate the LME as an FBOT in order to protect American metals end users and consumers?

Response

Regarding the LME, I have no specific information beyond what has been in the newspapers. Still, as I noted at the hearing, the allegations regarding the problems with the LME market concern me. It is my understanding that the LME has submitted an application to the CFTC to be a foreign board of trade. If confirmed, I look forward to learning more from staff about this and what the CFTC's regulatory authorities are that might be relevant. I am committed to ensuring market integrity and using the enforcement authority of the CFTC to effectively police our markets to protect against fraud and manipulation in any of our markets by any market participant.

**2. For all nominees:**

The CFTC and FERC recently announced a data sharing MOU and the creation of a staff-level Interagency Surveillance and Data Analytics Working Group to coordinate information sharing between the agencies. Section 8 of the Commodity Exchange Act protects from public disclosure data and records in the possession of the Commission. This is an important protection for market participants worldwide that use our markets. Yet just last year an incident came to light whereby private academics were given access to this trading data apparently without any form of masking protection in place. I understand the CFTC's Inspector General is

Responses of Sharon Y. Bowen to Questions of Senator Chambliss

**looking into this matter to ascertain whether any violations of law were committed. What measures will you take to ensure that information sharing between the CFTC and FERC pursuant to this MOU will protect confidential and commercially-sensitive information from public disclosure as required by Section 8 of the CEA?**

Response

I am not privy to the facts you state regarding the incident you mention or the CFTC's Inspector General undertaking a review of this matter. The protection of confidential and commercially-sensitive information from public disclosure is paramount in ensuring the integrity of the market. I look forward to reviewing any information or reports relating to the incident you described. Understanding the nature of any possible breaches is important in determining how best to prevent such breaches occurring in the future.

Responses of Sharon Y. Bowen to Questions of Senator Grassley

**Questions for the Record for Sharon Y. Bowen  
From Senator Grassley**

**CFTC OIG transparency question for all nominees**

**In February 2014, the CFTC Office of the Inspector General (OIG) sent the final copy of a report regarding the Office of Chief Economist to CFTC management. It is my understanding that the report addresses concerns about the use of trade data for economic research papers, and the Agency has chosen to redact parts of the report to protect against illegal public disclosures. I would like your assurance that the Agency will make this report available to public as soon as possible. I would also like your assurances that, if you are confirmed, you will work to ensure that all OIG reports are made available to the public as quickly as possible.**

Response

If I am confirmed as a Commissioner, I will make it a priority to look at the issues you described regarding the report. I look forward to working with the IG and CFTC staff to understand what procedures are in place for the review and public dissemination of reports. I would examine whether there are areas of improvement that can be made in the process to make available appropriate public information of all types.

Responses of Sharon Y. Bowen to Questions of Senator Thune

**Questions for the Record for Sharon Y. Bowen  
From Senator John Thune**

- 1) **As the CFTC has issued rulings they have often cast a far wider net than what would seem to be necessary to achieve the ends it is tasked with accomplishing. Far too often, this has significantly and adversely impacted the day-to-day operations of commercial end-users. As a commissioner, would you be committed to working with end-users to protect their ability to utilize derivatives markets without imposing undue and unnecessary regulatory burdens?**

RESPONSE: If confirmed as a Commissioner of the CFTC, I will be committed to ensuring that Commission rules effectively fulfill the requirements of the law and do not impose undue and unnecessary burdens. While our markets must be transparent, fair, and free of fraud and manipulation, oversight should always be conducted with the fundamental hedging and price discovery purposes of the markets in mind. If my nomination is approved, my door will always be open to hear from end-users and I will seek out their views in all areas where CFTC rules may impact their businesses.

- 2) **What will you do to ensure that U.S. based firms, especially their U.S. operations, are not competitively disadvantaged when transacting with foreign clients, as compared to foreign banks doing the same trades?**

RESPONSE: Foreign and domestic regulators share a common same goal in ensuring the integrity of our global markets.

If confirmed, I intend to seek out the views of stakeholders who are interested in and affected by Commission requirements. I will review comments and engage with U.S.-based firms to gain the benefit of their practical experience. In addition, I will look forward to working cooperatively with G-20 counterparts to promote harmonization in advancing the international goal of achieving common sense oversight of the global derivatives market.

- 3) **Many agricultural end users have raised concerns regarding CFTC Rule 1.35 and recordkeeping requirements. They find the rule so broad and vague that they believe they must save every email or article that might "lead to the execution of a transaction." As commissioner, how would you provide more practical guidance to end users with regard to this rule?**

Responses of Sharon Y. Bowen to Questions of Senator Thune

RESPONSE: I understand that the recordkeeping requirements of Rule 1.35(a) have created some concerns for agricultural end-users, and that there have been requests for interpretive guidance and rule relief in some instances. Some of these requests have been granted by the Commission, but may have not addressed all the concerns of agricultural end-users. If confirmed, I would listen to the concerns of end-users and their suggestions of ways in which the recordkeeping requirements can work better without creating unnecessary costs and burdens.

**MARGIN/CAPITAL - Chairman Gensler stated repeatedly in Congressional testimony that “proposed rules on margin requirements should focus only on transactions between financial entities rather than those transactions that involve non-financial end-users.” This was good news to commercial end-users. But given the burdens that the Dodd-Frank rulemakings have thus far imposed on end-users, there is still substantial concern that regulations could inadvertently impact commercial end-users if banks or even non-financial counterparties to these contracts are required to post margin or set aside regulatory capital for swaps with commercial end users. They may then charge a fee or increase prices for swaps with commercial end-user counterparties – or stop transacting with commercial end-users altogether. How would you address this concern?**

Response

I understand that the Dodd-Frank Act exempts from the clearing requirements swaps that are used for hedging by commercial end-users. I believe our rules should be practical and achieve their intended purpose. Whether it is protection of customer assets, adding transparency to the markets or using tools to address excessive speculation and manipulation, it is important that our rules should achieve these objectives without creating undue and unnecessary costs or burdens to end-users.

In addition, I understand that the Commission’s proposed rule on margin for uncleared swaps would exempt swaps that are used for hedging by end-users. If confirmed, I look forward to reviewing comments and weighing all of the relevant facts.

**Further, CFTC has issued a rule which recognizes that the unique member-owner structure of cooperatives merits effectively passing through the end-user exception available to a cooperative’s members to the cooperatives themselves by providing an exemption from the clearing requirements of the DFA for certain swap transactions entered into by qualifying cooperatives. That rule provided important relief from the costs of clearing requirements for cooperatives which act solely on behalf of their member owners who clearly qualify as end-users. It is very important that banking regulators follow CFTC’s lead in regard to margin requirements for such cooperative entities. What do you suggest that the CFTC do to ensure that actions by other federal regulators do not undermine policies set by the CFTC?**



Responses of Sharon Y. Bowen to Questions of Senator Thune

Response

I look forward to meeting with the CFTC staff and reviewing comments from stakeholders regarding the exemption from the clearing requirements for the swap transactions by qualifying cooperatives. I also look forward to learning more about your concern that other regulators could undermine this policy.

**More generally, how do you believe the CFTC can best fulfill Congress's intent to fully exempt commercial end-users from the costs and burdens of regulatory capital and margin?**

Response

If confirmed as a Commissioner, I look forward to talking with stakeholders, CFTC staff and any fellow Commissioners and discussing any proposals that may be appropriate to ensure that commercial end-users aren't exposed to undue burdens or costs.

Senate Committee on Agriculture, Nutrition & Forestry  
Nominations of Timothy G. Massad, Sharon Y. Bowen & J. Christopher Giancarlo  
Thursday March 6, 2014  
Questions for the Record

Responses of J. Christopher Giancarlo

Responses of J. Christopher Giancarlo to Questions of Senator Stabenow

**Questions for the record to J. Christopher Giancarlo  
From Chairwoman Debbie Stabenow**

1. **CROSS-BORDER COORDINATION:** Congress recognized the global nature of markets by including Section 722(d) in the Dodd-Frank Act. This provision granted extraterritorial authority to the CFTC. I believe in moving forward with strong financial regulatory reform, meeting G-20 commitments, and having the US lead on these matters, but there have been challenges, especially with cross-border coordination. This is one of the most important issues before the CFTC. Some have argued that the coordination between US and foreign regulators has been insufficient, has caused market fragmentation, and, in other ways, has put US companies at a disadvantage to their foreign counterparts. Others have argued that global regulatory oversight is essential given the global nature of these markets, that risk flows across borders even if regulations don't, and that any delays in this oversight diminish the accountability and transparency so important to preventing another financial crisis.
  - a. Do you agree with these assessments? How would you address or mitigate these concerns?
  - b. How should the CFTC move forward with important regulatory oversight when the EU is taking a different regulatory approach on certain matters and is on a different implementation timeline?
  - c. Where do you deviate, if at all, from the agency's current approach to cross-border guidance?
  - d. Should we treat branches, subsidiaries, or affiliates of Swap Dealers differently when it comes to their cross-border regulatory treatment?

**Giancarlo Response:**

Upon passage of the Wall Street Reform and Consumer Protection Act (Dodd-Frank) in July 2010, I commended the work of the President and Congress to enhance the safety and soundness of the OTC derivatives markets. Since that time, I have been a consistent advocate for practical and effective implementation of the three pillars of Title VII of Dodd-Frank: enhanced swaps transparency, regulated swaps execution and central counterparty clearing. My support for these reforms is based not on academic theory or political ideology. It is based simply on practical experience.

- a. As an executive in an operator of swaps trading platforms worldwide, I well understand that OTC swaps markets are global in nature. As a supporter of the core reforms of Title VII of Dodd Frank, I believe these core reforms are the right reforms for global swaps markets. Moreover, these core reforms reflect a framework agreed by the group of G-20 countries at the Pittsburgh summit in September 2009. Parties to the G-20 accord, including the European Union, have committed to implementing laws and regulations based on the framework. Therefore, there should be no question that US and EU regulations must dovetail along with other major global markets in implementing the specified reforms that underlie Title VII of Dodd Frank.

## Responses of J. Christopher Giancarlo to Questions of Senator Stabenow

The opportunity and, I believe, the mission for the CFTC is to lead the global effort in implementing the G-20 reforms in a comprehensive and consistent manner across world markets. In the case of swaps market reforms, Congress admirably led the world in passage of Title VII. The CFTC has also led in finalizing over 80% of its rulemaking requirements, a higher percentage than its peer financial service regulators here and abroad. The CFTC staff should be complimented for its extraordinary work in implementing so much of Congress' mandate. Yet, global swaps market reform is not a race where winner takes all. It is rather more akin to rebuilding of a city after a destructive fire. Care needs to be taken to set intelligent building standards that others follow because they see that the new structures are more durable than the ones that were destroyed.

There is both empirical and statistical evidence of a growing fragmentation of global swaps liquidity. Foreign banks and trading firms have announced that they will not trade with "US Persons". Two-tiered trading markets are emerging globally. In one tier, U.S. traders can trade, and, in the other, U.S. traders are effectively prohibited from trading. This development may lead to less trading liquidity, more risk concentration, wider bid-offer spreads, more volatility and increased cost and risk for American growers and end-users.

- b. The CFTC needs to better coordinate with EU and other non-US regulatory counterparts to implement the G-20 reforms in a comprehensive and seamless fashion. The CFTC should implement rules that are sensible, transparent, sound and durable. The CFTC needs to explain its rules to foreign counterparts and encourage the adoption of similar rules abroad to foster harmonization. To succeed, the CFTC needs to demonstrate an astute understanding of global realities, including the different global structures of swaps and futures markets, the competing commercial interests, the different and overlapping regulatory regimes, and ever-present opportunity for regulatory arbitrage. With my commercial experience operating global swaps markets, I believe that, if confirmed, I can support the CFTC in fostering the construction of a global regulatory framework that is flexible enough for local conditions and yet unyielding when it comes to the core reforms agreed by the G-20 nations. It will not be easy, but with hard work, time and effort with foreign regulators, the CFTC can get this right.
- c. In July 2013, the CFTC adopted an "interpretive guidance" that set forth a definition for "U.S. person" and was designed to provide market participants with certainty as to how the CFTC's rules apply in a cross-border context. The interpretive guidance, which was published under a lower administrative standard than a formal rulemaking, created unnecessary confusion that has required dozens of CFTC advisories, staff guidance and no-action letters to ameliorate.

As a supporter of the Title VII reforms, I recognize that clear cross-border application of rules is complex, but critically important. For that reason, I believe that the CFTC's cross-border provisions should not have been issued in the form of "interpretive guidance." I believe more certainty could have been provided if they had been adopted through formal rulemaking pursuant to the Administrative Procedure Act – including notice, comment, and a full cost/benefit analysis. If

## Responses of J. Christopher Giancarlo to Questions of Senator Stabenow

confirmed, I commit to carefully reviewing the cross-border directives issued to date with the hope that the CFTC can formalize its positions in a proposed rule that would codify the appropriate extraterritorial application of U.S. rules.

- d. The “interpretative guidance” drew distinctions between guaranteed and non-guaranteed foreign-based subsidiaries and affiliates of US Persons for purposes of determining whether overseas activities are likely to have a direct and significant effect on the U.S. economy. As a supporter of the Title VII reforms, I recognize that clear cross-border delineations are critically important. If confirmed, I commit to carefully reviewing the cross-border directives issued to date. I will have an open mind on whether the right distinctions have been drawn between guaranteed and non-guaranteed foreign-based subsidiaries and affiliates of US Persons. It is my hope that the CFTC can formalize its extraterritorial rules through the APA-prescribed rulemaking process and as part of a comprehensive global framework. It is essential that the CFTC’s cross-border rules achieve an appropriate balance between promoting vibrant, open, and competitive markets and providing regulatory oversight to protect US swaps market participants and the larger financial system.

1. **CFTC FUNDING:** The President’s budget included an important increase in funding for the Commodity Futures Trading Commission (CFTC). This funding increase is sorely needed. I believe that by not properly funding the CFTC, we are setting this agency, and our economy, up for failure.
  - a. Could you support additional resources for the agency?
  - b. Could you support alternative funding streams, such as a registration fee or some sort of user fee, to fund the agency?

**Giancarlo Response:**

a. As a supporter of reform, I recognize that Title VII enormously increased the CFTC’s mandate. Meanwhile, the agency’s resources have increased more incrementally. The CFTC needs to have the resources to do its job. As Commissioner Chilton has noted, an underfunded agency creates enormous internal pressure on agency personnel. The CFTC staff must have the ability to fulfill its responsibilities and have the training and resources to carry out the mission of the agency.

At the same time, I am informed by my own experience in business during this time of slow US economic growth in which revenues are down and yet demands on human and other resources are greater than ever. American workers have had to do more with less in their businesses and in their household budgets. We live in a time where resources in the public sector need to be stretched because the American taxpayer is stretched. We have to be very careful that we spend taxpayer money wisely.

## Responses of J. Christopher Giancarlo to Questions of Senator Stabenow

For these reasons, I want to consider a range of factors before making particular recommendations for additional resources for the CFTC. Among such factors are the efficiency of agency resource allocation and management, the use of technology to augment human capital (as is increasingly done in the private sector), the balancing of activities between the CFTC and self-regulatory organizations, such as the National Futures Association, the effectiveness of rule compliance processes, the coordination of enforcement actions with other regulators, including the Justice Department, the degree of cooperation with other US and non-US regulators and the thoughtful use of cost benefit analysis to enhance regulation effectiveness and avoid subsequent litigation.

b. In considering any proposals for alternative funding streams, such as a registration or user fees, I would want to carefully consider the costs and benefits of particular approaches and their overall impacts on the markets and market participants, such as increases in trading costs or changes in, market risk concentration, bid-offer spreads and/or market volatility.

2. **CONFLICTS OF INTEREST:** At the agency, you would be tasked with regulating an industry you not only worked in, but represented before the Commission and Congress.

a. While we discussed this privately, can you state for the public record how you would manage potential conflicts of interest, or even the appearance of conflicts of interest?

I first took steps to avoid conflicts of interest almost a year ago. During my vetting by the White House, I resigned from the board and all executive roles with the Wholesale Markets Brokers Association, Americas ("WMBA"). I had served on the board since 2010 and as rotating Chairman in a non-compensated capacity at the direction of my employer, GFI Group Inc. ("GFI"). I relinquished my board position on the WMBA to another GFI executive in April 2013 to avoid any appearance of conflict of interest.

Following the White House's announcement of my nomination in early August 2013, I recused myself from all of GFI's swap execution facility ("SEF") planning, regulation and implementation working groups and committees. Since that time, I have had no involvement with GFI's SEF registration, implementation or compliance nor have I represented GFI before the CFTC, Congress or in any other public or industry forum concerning regulatory matters of any nature.

On August 12, 2013, I agreed in writing that:

- a. Upon confirmation, I will resign from my position with GFI and, for a period of two years thereafter, not participate personally and substantially in any particular matter involving specific parties in which GFI or any of its wholly owned subsidiaries is a party or represents a party, without prior authorization;
- b. Within 90 days of appointment, I will divest all of my and my children's GFI common stock, all stock options and all restricted stock units; and

Responses of J. Christopher Giancarlo to Questions of Senator Stabenow

- c. While serving as a Commissioner of the CFTC, I will not participate personally and substantially in any particular matter that has a direct and predictable effect on my financial interests of those of any person whose interests are imputed to me without obtaining a written waiver.

It is my intention to honor the foregoing agreements and recusals in both and letter and spirit of the law.

Responses of J. Christopher Giancarlo to Questions of Senator Harkin

**Questions for the Record for J. Christopher Giancarlo  
From Senator Tom Harkin**

**1) During the implementation of the Dodd-Frank Act, the CFTC has coordinated closely with other financial regulators including the Treasury, the SEC, and foreign regulators. This is to be applauded. However, despite this close coordination, when these regulatory agencies have differed in their judgments, many have stated that the agencies should not move forward with rulemaking until and unless the agencies are about to harmonize their regulations. The CFTC has been particularly subject to these attacks. As the Chairman of the CFTC, you would be responsible for leading an independent regulatory agency.**

- a) If confirmed, how would you approach situations in which you are pressured to act in a certain way by other financial regulatory agencies?**
- b) Do you believe that the need to pursue regulatory harmonization should limit the ability of an independent agency to act on its own in order to best fulfill its mission?**

**Giancarlo Response:** I appreciate this concern, though I recognize any such pressure from other financial regulators to delay rulemaking will be more greatly focused on the Chairman of the CFTC. Nevertheless, I respect that any such pressure may also be brought to bear on a Commissioner. If confirmed, I recognize that maintaining the independence of the CFTC is essential in order for the Commission to fulfill the mission with which Congress charged it. While I would certainly seek out and listen to the viewpoints of fellow regulators, as a Commissioner, my decisions would always be made based on what I think the best course of action is for the CFTC and the markets it oversees. As I noted in my testimony, I am a consistent and vocal supporter of swaps market reform, including the core tenants of Title VII of Dodd Frank. Because I continue to believe they are the right reforms for US and global markets, I will work to support the Chairman in seeing that these reforms are implemented effectively and expeditiously.

**2) In section 722(d) of the Dodd Frank Act, Congress clearly stated that CFTC derivatives trading requirements may be applied to any swaps activities that “have a direct and significant connection with activities in, or effect on, commerce of the United States.” Despite this clear Congressional directive, there is still powerful resistance to the guidance issued by the CFTC on this subject. If confirmed, what will you do to ensure that Dodd-Frank derivatives guidance is properly applied to the full range of swaps transactions that impact the U.S. economy and pose risks to the U.S. financial system?**

**Giancarlo Response:** As a supporter of the core reforms of Title VII of Dodd Frank, I believe they are the right reforms for global swaps markets. Moreover, these reforms reflect a framework agreed by the group of G-20 countries at the Pittsburgh summit in September 2009. Parties to the G-20 accord, including the European Union, have committed to



## Responses of J. Christopher Giancarlo to Questions of Senator Harkin

implementing laws and regulations based on the framework. Therefore, there should be no question that US and EU regulations must dovetail along with other major global markets in implementing the specified reforms that underlie Title VII of Dodd Frank.

As an executive in an operator of swaps trading platforms worldwide, I well understand that OTC swaps markets are global in nature. The opportunity and, I believe, the mission for the CFTC is to lead the global effort in implementing the G-20 reforms in a comprehensive and consistent manner across world markets. In the case of swaps market reforms, Congress admirably led the world in passage of Title VII. The CFTC has also led in finalizing over 80% of its rulemaking requirements, a higher percentage than its peer financial service regulators here and abroad. The CFTC staff should be complimented for its extraordinary work in implementing so much of Congress' mandate. Yet, global swaps market reform is not a race where winner takes all. It is rather more akin to rebuilding of a city after a destructive fire. Care needs to be taken to set intelligent building standards that others follow because they see that the new structures are more durable than the ones that were destroyed.

**3) At the 2009 Pittsburgh G-20 summit, the major G-20 countries committed to comprehensively regulate their derivatives markets by the close of 2012. Yet today in 2014, major jurisdictions such as the European Union still have years to go in fully implementing their rules.**

**a) In order to prevent risks outside the United States from coming back upon our economy and citizens, do you believe the CFTC should apply and enforce its derivatives rules as to subsidiaries of U.S. banks in jurisdictions that have not yet completed their rules?**

**Giancarlo Response:** The CFTC's July 2013 "interpretive guidance" sets forth a definition for "U.S. person" designed to provide market participants with certainty as to how the CFTC's rules apply in a cross-border context. The "interpretative guidance" appropriately used as its guiding principle a determination of whether overseas swaps activities are likely to have a direct and significant effect on the U.S. economy. As a supporter of the Title VII reforms, I recognize that clear cross-border delineations are critically important. If confirmed, I commit to carefully review with an open mind the practical issues raised by the cross-border directives. It is essential that the CFTC's cross-border rules achieve an appropriate balance between promoting vibrant, open, and competitive markets and providing regulatory oversight to protect US swaps market participants and the larger US economy.

**b) Or should the U.S. wait for the rest of the world to catch up with our progress?**

**Giancarlo Response:** I believe the US has and should continue to lead the world in swaps market reform efforts.

**c) How will you deal with foreign regulators to achieve regulatory regimes that will appropriately protect the people and economy of the United States?**

**Giancarlo Response:** The CFTC needs to coordinate effectively with EU and other non-US regulatory counterparts to implement the G-20 reforms in a comprehensive and seamless fashion. The CFTC needs to explain the attributes of its rules and encourage the adoption of similar rules

Responses of J. Christopher Giancarlo to Questions of Senator Harkin

abroad to foster harmonization. To succeed, the CFTC needs to demonstrate an astute understanding of global realities, including the different global structures of swaps and futures markets, the competing commercial interests, the different and overlapping regulatory regimes, and ever-present opportunity for regulatory arbitrage. With my commercial experience operating global swaps markets, I believe I can support the staff of the CFTC in fostering the construction of a global regulatory framework that is flexible enough for local conditions and yet unyielding when it comes to the core reforms agreed by the G-20 nations. It will not be easy, but with hard work, time and effort with foreign regulators, the CFTC can get this right.

**4) The collapse of Peregrine Financial in my state of Iowa caused significant hardship for many Iowans. In the wake of this significant fraud, the CFTC and other futures regulatory bodies took steps to strengthen customer protections.**

**a) Do you believe those steps were sufficient to fully protect customer funds?**

**Giancarlo Response:** As I said in my testimony, the collapse of Peregrine Financial was tremendously damaging to the people and businesses affected. The failure was the result of misappropriation of customer funds that clearly violated law and regulation. It also affected marketplace credibility, which is essential to America's economic health. Since Peregrine's failure, the CFTC has taken a number of steps to fortify its regulations to protect customer funds. Among these steps is a new regulatory framework to minimize the exposure of customer funds to systemic risk posed by poor credit and illiquidity. The CFTC also now makes FCMs use a more accurate technique for calculating the amount of customer funds that must be retained in secured accounts to satisfy customer obligations. Additionally, the CFTC now specifies training and review protocols for SRO inspectors and has created a new division dedicated to overseeing SRO reviews of FCMs. I believe these are good steps to decrease the chances that Peregrine's malfeasance can happen again. If confirmed, I will look to see if there are additional steps that would further protect the public interest in this regard.

**b) Or, does more need to be done, and if so, what?**

**Giancarlo Response:** A number of additional reforms have been publicly proposed that are worthy of thoughtful consideration. While FDIC and SIPC offer extensive protection to customer funds entrusted to banks and broker dealers, respectively, in the event of bankruptcy, no such insurance program protects FCM customers from FCM failure. CFTC Commissioner Bart Chilton has proposed the creation of such a protection fund modeled on SIPC. The CME Group has taken the initiative to organize its own customer protection fund that provides some degree of reimbursement for end-user customers who utilize CME Group's markets to hedge CME traded products. That fund did help mitigate damage to some victims of Peregrine's bankruptcy. Additional reforms that merit consideration include authorizing the CFTC to appoint a bankruptcy trustee in a similar way to the SEC's trustee appointment in MF Global. Another worthy proposal that I referenced in my testimony was made by Commissioner O'Malia that large financial institutions that have FCM subsidiaries bear a "super lien" at the parent company entity in favor of FCM customers in the event of FCM bankruptcy. If confirmed, I will work to more fully explore these proposals to determine whether they will help serve the public interest.

**5) Do you believe that automated and algorithmic trading strategies can present unique and substantial risks to markets?**

Responses of J. Christopher Giancarlo to Questions of Senator Harkin

- a) What do you see as the Commission's role in addressing these risks?
- b) How do you envision the Commission working with the Securities and Exchange Commission to provide effective oversight of this part of the markets?

**Giancarlo Response:** I believe the CFTC has been appropriately proactive regarding automated and algorithmic trading. The CFTC's Technology Advisory Committee (TAC) has worked for the last 18 months on defining "high frequency trading" and even established a Subcommittee tasked with this assignment. In September 2013, the CFTC published a "concept release" designed to "catalogu[e] existing industry practices, determining their efficacy and implementation to date, and evaluating the need for additional measures, if any." The concept release sought feedback designed to help educate the CFTC in formulating a proposed regulation, if necessary. The TAC held a day-long public hearing on February 10, 2014 to hear from market operators and participants on a broad range of issues raised by the concept release. A number of scholarly papers were presented by recognized academics. The hearing was conducted before senior members of the CFTC staff and presided over by Commissioner O'Malia and Acting Chairman Wetjen.

If confirmed, I look forward to discussing with the CFTC staff and my fellow Commissioners what has been learned from the "concept release" and special TAC subcommittee process about the role of automated and "high speed" trading in derivatives markets. I look forward to forming a well-considered view of what regulatory and other steps, if any, the CFTC should take and what support and cooperation should be undertaken with the SEC to address the issue of automated and high speed trading in US financial markets.

- 6) How do you envision working with regulators at the Federal Energy Regulatory Commission (FERC) to ensure full and effective collection, sharing, and analysis of commodity market data?

**Giancarlo Response:** I believe that one of the public policy lessons of both the 9/11 attacks and the financial crisis is that regulators need to better coordinate and share critical information to best protect the public. If confirmed, I will support the CFTC chairman in working with FERC to share commodity market data subject to any appropriate conditions and protocols for data confidentiality, handling and agency cooperation.

- 7) The Dodd-Frank Act requires the CFTC to consider certain costs and benefits in its rulemaking process, but some have been pushing the CFTC to do what they call a full "cost-benefit analysis," which tips the balance and overly weights cost to the industry, particularly since so many of the benefits of CFTC rules and actions (like protecting commodity producers and consumers, the markets and financial system, as well as our economy) are incalculable and unquantifiable. How will you ensure that the CFTC does not apply a one-sided economic or cost-benefit analysis that is stricter than required by law and thereby curtail appropriate and necessary rulemaking?

Responses of J. Christopher Giancarlo to Questions of Senator Harkin

**Giancarlo Response:** Generally speaking, I believe that cost benefit analysis is good public policy. For decades – under both Democratic and Republican administrations – cost benefit analysis has been a fundamental tool of sound regulation. Among other benefits, cost benefit analysis promotes: better informed decision-making, less risk of unintended consequences, well-tailored and better understood regulations, transparency in rule making, regulator accountability, preservation of limited agency resources and reduced prospects of agency litigation.

The Commodity Exchange Act requires the CFTC to consider “the costs and benefits of the action of the commission” and expressly articulates certain costs and benefits that must be considered including effects on “efficiency, competitiveness and financial integrity of future markets.” Such cost benefit analysis should be in accordance with this standard. If confirmed, I will be bound to take into account any such analysis of the costs and burdens in promulgating appropriate and necessary rules and regulations.

**8) What steps will you take to ensure that settlements in enforcement actions are transparently documented, explained, and reviewed by courts or other public tribunals?**

- a) When matters are settled out of court, will you commit to full and detailed public disclosure so that the American public can scrutinize for whether the settlement is appropriate and its terms meet the nature of the violation?

**Giancarlo Response:** If confirmed, I will encourage the CFTC chairman to provide appropriate public disclosure of enforcement actions settled out of court, subject to any appropriate conditions and protocols for confidentiality and enforcement effectiveness.

**9) What will you do to make sure that you hear all sides of a debate and get balanced advice and recommendations before making policies or rules?**

- a) Will you continue the current policies of requiring that all meetings and contacts by industry with the agency be promptly and fully disclosed?

**Giancarlo Response:** It is in my personal nature and professional practice to hear all sides of a debate and get balanced advice and recommendations before forming views on important matters. If confirmed, I will encourage the CFTC chairman to continue current policies of disclosure of meetings and contacts with industry and public interest organizations.

**10) Despite being given significant new requirements under the Dodd-Frank Act, the CFTC has received very little in additional funding to carry out its enlarged responsibilities.**

- a) If confirmed, what would you do as a Commissioner to use these limited resources most effectively?
- b) What would you do to help the CFTC find additional resources?

Responses of J. Christopher Giancarlo to Questions of Senator Harkin

**Giancarlo Response:** As a supporter of reform, I recognize that Title VII enormously increased the CFTC's mandate. Meanwhile, the agency's resources have increased more incrementally. The CFTC needs to have the resources to do its job. As Commissioner Chilton has noted, an underfunded agency creates enormous internal pressure on agency personnel. We need to make sure that the CFTC staff is the right size for its responsibilities and has the training and resources to carry out the mission of the agency.

At the same time, I am informed by my own experience in business during this time of slow US economic growth in which revenues are down and yet demands on human and other resources are greater than ever. American workers have had to do more with less in their businesses and in their household budgets. We live in a time where resources in the public sector need to be stretched because the American taxpayer is stretched.

For these reasons, I want to consider a range of factors before making particular recommendations for additional resources for the CFTC. Among such factors are the efficiency of agency resource allocation and management, the use of technology to augment human capital (as is increasingly done in the private sector), the balancing of activities between the CFTC and self-regulatory organizations, such as the National Futures Association, effectiveness of rule compliance processes, the coordination of enforcement actions with other regulators, including the Justice Department, the degree of cooperation with other US and non-US regulators and the proper use of cost benefit analysis to enhance regulation effectiveness and avoid subsequent agency litigation.

In considering any proposals for alternative funding streams, such as a registration or user fees, I would want to carefully consider the costs and benefits of particular approaches and their overall impacts on the markets and market participants, such as increases in trading costs or changes in, market risk concentration, bid-offer spreads and/or market volatility.

**11) You worked for a derivatives brokerage company in New York for many years and were chairman of the Wholesale Markets Brokers' Association, Americas -- an association that advocates on behalf of voice brokers. I am informed that large swap dealers make demands upon voice brokers in the United States that they circulate their best swap prices only to other swap dealers, and withhold those best prices from the customers, that is, the "end users" of swaps.**

**a) Based on your extensive personal experience in and knowledge of the practices of large swap dealers and voice brokers, please provide a yes or no answer whether the statement in the preceding sentence is true.**

**Giancarlo response:** No.

**b) When did you first become aware of these restrictive demands by large swap dealers upon voice brokers?**

**Giancarlo response:** At no time.

Responses of J. Christopher Giancarlo to Questions of Senator Harkin

**12) Did any bank or investment bank employee, or anyone with a material interest in the matter, ever approach you or others at your company and ask you or your colleagues directly or indirectly to pledge not to transmit the bank or investment bank's swap prices outside a certain set of swap counterparties?**

**Giancarlo response:** To my knowledge, no.

**13) Did you ever hear any report that any bank or investment bank employee, or anyone with a material interest in the matter, had approached any other voice broker asking for a pledge not to transmit the bank or investment bank's swap prices outside a certain set of swap counterparties?**

**Giancarlo response:** To my knowledge, no.

**14) As a lawyer, you know that if large banks were to work in concert to withhold their best swap prices and lean on voice brokers to join that combination in restraint of trade, such action would appear to violate our antitrust laws.**

**a) Did you or would you ever consider using your position of leadership and responsibility in the interdealer brokerage industry to end such restraints of trade?**

**Giancarlo response:** As Chairman of the Wholesale Markets Brokers Association Americas during the drafting of the Wall Street Reform and Consumer Protection Act (Dodd-Frank), I publicly called for increased central counterparty clearing, regulation of trading platforms and increased regulatory and marketplace transparency. Upon passage of Dodd-Frank in July 2010, I commended the work of the President and Congress to enhance the safety and soundness of the OTC derivatives markets. Since that time, I have been a consistent advocate for practical and effective implementation of the three pillars of Title VII of Dodd-Frank: enhanced swaps transparency, regulated swaps execution and central counterparty clearing. My support for these reforms is based on my practical business experience.

**b) Did you or would you consider reporting what you knew to the Department of Justice?**

**Giancarlo response:** No.

**15) Provisions of the Dodd-Frank Act were written specifically to break these kinds of swap dealer cartels by requiring pre-trade transparency and thereby pulling the swaps business out into the sunlight. The most and perhaps only effective way to achieve this critical transparency is through requiring swap dealers to put their prices, including their best prices, on electronic platforms for all swap customers to see and bid upon. The trade association you chaired fought against this pre-trade transparency in Congress, and since the law was passed the trade association has gone to the CFTC and urged a misinterpretation of the law and asked the agency to weaken substantially the requirement for pre-trade price transparency.**

Responses of J. Christopher Giancarlo to Questions of Senator Harkin

**a) Were you ever asked by a member or members of your trade association to work to block, delay, or lessen pre-trade transparency requirements, including for electronic platforms, in the regulations issued to carry out the Dodd-Frank Act?**

**Giancarlo response:** No.

**b) Did you in fact work to block, delay, or lessen pre-trade transparency requirements, including for electronic platforms, in regulations issued to carry out the Dodd-Frank Act?**

**Giancarlo response:** No.

**c) Why should we believe that you would, if confirmed as a CFTC commissioner, interpret and enforce the law properly, that is, to create pre-trade transparency by requiring all swap prices, including the best prices, to be disseminated and offered simultaneously to all market participants?**

**Giancarlo response:** As I noted in my testimony, I am a consistent and vocal supporter of swaps market reform, including the core tenants of Title VII of Dodd Frank: increased central counterparty clearing, regulation of trading platforms and increased regulatory and marketplace transparency, including pre and post trade price transparency. As a Republican, I have withstood some pressure from a few members of my party for supporting these legislative mandates. Yet, because I believe they are the right reforms for US and global markets, I have continued to encourage their effective and expeditious implementation.

More specifically, I was and I remain a supporter of Title VII's SEF rule of construction (CEA §5h(e)) that provides, "The goal of this section is to promote the trading of swaps on swap execution facilities and to promote pre-trade price transparency in the swaps market." A review of my written record confirms that I have never wavered from this position.

Additionally, during the drafting of Title VII, I was and remain a proponent of a two critical provisions in Title VII: "non-discriminatory access" to swaps clearing (CEA §2(h)(12)(B)(ii)) and "impartial access" by market participants (CEA §5h (f)(2)) to swap execution facilities ("SEFs"). I believe these provisions provide the CFTC with important tools to encourage broader participation in swaps markets and guard against market concentrations by particular participants. If confirmed, I will encourage the staff of the Commission to make more effective use of these tools in their rule writing, surveillance and, as appropriate, enforcement actions.

If confirmed, I will continue to be a vocal champion of swaps market reform. I believe that, because of my prominent career in the swaps industry, my support for swaps reform will lend credibility to the CFTC's important work. If confirmed, I will use all my efforts to see that the CFTC's crucial work succeeds.

I will make myself available at any time and welcome the opportunity to meet with you and/or your staff to discuss my background, professional experience, policy positions or any other issue

Responses of J. Christopher Giancarlo to Questions of Senator Harkin

that may be of interest or concern. I hope you will not hesitate at any time to make me aware of important issues affecting these markets and the broader public interest.



Responses of J. Christopher Giancarlo to Questions of Senator Brown

**Questions for the record to J. Christopher Giancarlo  
From Senator Sherrod Brown**

**J. Christopher Giancarlo, of New Jersey, to be a Commissioner of the Commodity Futures Trading Commission**

1. You stated in your testimony that “... any markets that are overseen by this agency, should I be confirmed, I would be supportive of aggressive action against market manipulation, and using all the other tools, including the other tools you mentioned which is the oversight of foreign boards of trade like the London Metals Exchange.” You further stated that “it’s been my experience that whenever any parties in the market gain a dominant position, dominance can lead to abuses. And absolute dominance can lead to absolute abuses, as the saying about power goes... I think we need to be on the lookout for dominant positions in any markets, whether they be operated by Wall Street banks or whether they be operated by non-banking institutions or any others that were able to gain a dominant position in a marketplace.”
  - a. If confirmed, how would you take action to investigate the possibility of market manipulation by participants in the LME aluminum market?
  - b. What would you propose the CFTC do to remedy the irregularities in the aluminum warehouse market?

**Giancarlo Response:** If confirmed, I will endeavor to obtain a full briefing from CFTC staff with regard to matters related to trading and delivery of aluminum. I will not hesitate to encourage the CFTC to use appropriate tools to remedy any violations of the laws and regulations under the agency’s enforcement jurisdiction, including enforcement of prohibitions of market manipulation.

2. There is a no-action letter between the CFTC and the LME allowing the LME to operate in the U.S. provided the LME ensures fairness to market participants. Specifically, the no-action letter states “members of the LME must promote high standards of fair dealing and integrity in trading.” It has been publically stated by CFTC officials that the CFTC can revoke and suspend any no-action letter that is issued.
  - a. Do you view the current activities of the LME and U.S.-based LME aluminum warehouses as consistent or inconsistent with the existing no-action letter?

**Giancarlo response:** I am not sufficiently familiar with the provisions of the referenced no-action letter and do not yet know the factual conclusions of the CFTC’s investigation to state an opinion of whether the terms of the no action letter have been violated. I am aware that the LME has applied to the CFTC for registration as a foreign board of trade. If confirmed, I will look carefully into these matters and give appropriate consideration to the issues involved.

- b. If so, what options does the CFTC have to remedy this type of behavior to return the LME to a proper, free-market exchange of global aluminum price discovery?

Responses of J. Christopher Giancarlo to Questions of Senator Brown

- c. At what point would revoking the no-action letter be an appropriate remedy to the LME aluminum warehouse issue?**

**Giancarlo response to b. and c.:** If confirmed, I will not hesitate to encourage the CFTC to use all available options, including revocation or suspension of the no action letter, to remedy any improprieties that may be uncovered by the investigation.

- 3. If you need more information to answer this question, what steps have you taken or do you need to take to get the information you need? In 2006, the CFTC subpoenaed Platts, the leading provider of spot and contract prices in the global metals market, to investigate the accuracy of trade data submitted to Platts. McGraw-Hill, Platts's parent company, publicly acknowledged that "some energy companies and individual traders have repeatedly attempted to manipulate the price indexes produced by publishers such as Platts." In 2002, during another CFTC investigation regarding energy prices, two power companies "disclosed that some of their traders provided inaccurate pricing information to Platts." Such benchmarks by price reporting agencies based on producer announcements, negotiations, or gathering of market information have come under scrutiny. The first thing that comes to mind is LIBOR.**

- a. If confirmed for this position, would you be committed to making the outcome of the CFTC's investigation into the Platt's pricing mechanism public?**

**Giancarlo response:** I cannot comment constructively at this time. If confirmed, I will undertake to look carefully into the matter and speak to appropriate members of the Commission staff. Thereafter, I will be pleased to meet with you and your staff to better understand your concerns.

- b. Do you believe such benchmarks are usual for the market to determine the price of commodities?**

**Giancarlo response:** As a general principle, benchmarks are widely used in setting prices of commodities and various financial instruments. They have come under wide and deserved scrutiny in recent years. Various regulatory and legislative bodies, including the European Commission have put forth proposals for the enhanced regulation of pricing benchmarks. I commend the CFTC for its aggressive enforcement action against several market participants for manipulation of the LIBOR rate. As a general matter, I believe that benchmarks must be transparent, competitive and, most importantly, reliable. If confirmed, I will work to see that manipulation in the setting of benchmarks is not tolerated.

Responses of J. Christopher Giancarlo to Questions of Senator Brown

4. **From Long-Term Capital Management in 1998 to AIG Financial Products in 2008, we have seen that U.S. institutions and financial markets can feel the consequences of trades made overseas. That is why the Dodd-Frank Act gave the CFTC authority over cross-border transactions, and that is why the cross-border rules are so important.**

**Understanding that the courts will weigh in on the cross-border rule, do you support the CFTC's cross-border rules, and what will you do to keep them as strong as possible?**

**Giancarlo Response:** As an executive with a company that operates swaps trading platforms worldwide, I well understand that OTC swaps markets are global in nature. As a supporter of the core reforms of Title VII of Dodd Frank, I believe they are the right reforms for global swaps markets. Moreover, these reforms reflect a framework agreed by the group of G-20 countries at the Pittsburgh summit in September 2009. Parties to the G-20 accord, including the European Union, have committed to implementing laws and regulations based on the framework. Therefore, there should be no question that US and EU regulations must dovetail along with other major global markets in implementing the specified reforms that underlie Title VII of Dodd Frank.

The opportunity and, I believe, the mission for the CFTC is to lead the global effort in implementing the G-20 reforms in a comprehensive and consistent manner across world markets. In the case of swaps market reforms, Congress admirably led the world in passage of Title VII. The CFTC has also led in finalizing over 80% of its rulemaking requirements, a higher percentage than its peer financial service regulators here and abroad. The CFTC staff should be complimented for its extraordinary work in implementing so much of Congress' mandate. Yet, global swaps market reform is not a race where winner takes all. It is rather more akin to rebuilding of a city after a destructive fire. Care needs to be taken to set intelligent building standards that others follow because they see that the new structures are more durable than the ones that were destroyed.

In July 2013, the CFTC adopted an "interpretive guidance" that set forth a definition for "U.S. person" and was designed to provide market participants with certainty as to how the CFTC's rules apply in a cross-border context. The "interpretative guidance" appropriately used as its guiding principle a determination of whether overseas swaps activities are likely to have a direct and significant effect on the U.S. economy. As a supporter of the Title VII reforms, I recognize that clear cross-border delineations are critically important. If confirmed, I commit to carefully review with an open mind the practical issues raised by the cross-border directives. It is essential that the CFTC's cross-border rules achieve an appropriate balance between promoting vibrant, open, and competitive markets and providing regulatory oversight to protect US swaps market participants and the larger US economy.

Responses of J. Christopher Giancarlo to Questions of Senator Klobuchar

**Questions for the record to J. Christopher Giancarlo  
From Senator Amy Klobuchar**

- 1) **The Dodd-Frank Act sets position limits or hard caps on a range of commodities, including energy products. Commercial hedges are based on an actual physical product, like corn or wheat and are exempt from these position limits. However, many common commercial practices used in agriculture are caught by these position limits. This provides the farmer with a set price and budget certainty. Should the list of allowed hedges include the types of transactions common in agriculture? Will you work with those who trade physical commodities to ensure that the exemptions to the position limit rule allow for the normal practices of these businesses?**

**Giancarlo Response:** In Title VII, Congress authorized the CFTC to utilize position limits on both physical and cash-settled derivatives to curb excessive speculation. I recognize the implications of the exercise of that authority on market participants and the need to use care and precision in setting appropriate limits and exemptions, especially for commercial hedgers. The CFTC has put forward a comprehensive rule proposal on position limits that has received thousands of pages of public comments.

I am concerned that some end-users believe that the proposed position limits rule does not provide them with sufficient flexibility to engage in common agricultural hedging practices. If confirmed, I will work to understand the implications of the proposed rule on those who trade physical commodities. I believe it is critical that we achieve the right outcome for agricultural and commercial end-users so that they can hedge real risk whether in physically settled or cash-settled instruments.

If confirmed, I look forward to carefully reviewing those comments and all underlying market data. From that I would seek to understand the impact of the rule proposal on market participants, particularly agricultural commodity end-users.

- 2) **The commodities markets involve essentially two kinds of participants: commercial end users and financial institutions. The Dodd-Frank Act requires that both types of derivative trade participants to put up the cash for these derivatives or swap trades in a margin account. The Dodd-Frank Act also provided an exemption from the margin requirement for some of types of the typical transactions used by commercial end users. However, commercial end users still may be required to have a margin account for many of the typical transactions used to conduct their business which can tie up their available cash. What factors would you take into account as the CFTC determines how the margin requirements would apply to**

Responses of J. Christopher Giancarlo to Questions of Senator Klobuchar

**commercial end users and financial institutions? Will you work with these commercial end users to ensure that these risk management tools remain affordable for these businesses?**

**Giancarlo Response:** I look forward to better understanding concerns that specific exemptions may be inadequate to exempt commercial end users from posting margin, tying up cash in hedging transactions that are customary in their ordinary business activities. I would seek to consider a number of factors, including the range of transactions that are typical for commercial hedgers impacted by the rules. If confirmed, I will work with the Commission staff and commercial end users to see how we can better ensure that these risk management tools remain affordable for American agriculture and small business.

- 3) **Speculative trading has played a role in the commodities markets, notably the gas, oil and wheat markets in the past. However, end users who have a stake in the actual underlying commodity, such as wheat growers, may not be able to conduct their business because of rules put in place to curb the abuses by speculators and financial institutions. What steps can the CFTC take to make sure that end users are able to conduct their business and that the market best reflect the forces of supply and demand while managing excessive speculation?**

**Giancarlo Response:** As I said in my testimony, one of the accomplishments of Title VII of Dodd Frank was to create a whole regime for the collection of market data in the swaps market. The CFTC has gone far into beginning the process of collecting that data. Yet to be done, however, is the task of deeply mining and interpreting that data so that we can determine what is the effect of speculation in markets. If confirmed, I look forward to working with the Commission staff to delve deeply into these new data sets to better understand the role of speculators in agricultural commodity markets. Thereafter, I will be pleased to discuss any findings and conclusions with you and your staff.

In Title VII, Congress authorized the CFTC to utilize position limits on both physical and cash-settled derivatives to curb excessive speculation. I recognize the implications of the exercise of that authority on market participants and the need to use care and precision in setting realistic limits and appropriate exemptions for end users. The CFTC has put forward a comprehensive rule proposal on position limits that has received thousands of pages of public comments. If confirmed, I look forward to carefully reviewing those comments and understanding the impact of the rule proposal on market participants, especially agricultural and commodity end-users. I believe it is critical that we achieve the right outcome for end-users so that they can hedge real risk whether in physically settled or cash-settled instruments.

Responses of J. Christopher Giancarlo to Questions of Senator Donnelly

**Questions for the record to J. Christopher Giancarlo  
From Senator Donnelly**

**CFTC FUNDING:** When I met with each of you, I asked each of you for your thoughts about the commission's budget and available resources. You all said you wanted to get into your positions and see the needs first hand. We also talked about the possibility of creating a self-funding mechanism for the commission that would provide you with sufficient resources without restricting access for market participants. Will each of you commit to getting back to this committee in the coming months with your thoughts and ideas for appropriately funding the commission?

**Giancarlo Response:** As a supporter of reform, I recognize that Title VII enormously increased the CFTC's mandate. Meanwhile, the agency's resources have increased more incrementally. The CFTC needs to have the resources to do its job. As Commissioner Chilton has noted, an underfunded agency creates enormous internal pressure on agency personnel. The CFTC staff must have the capabilities to meet its responsibilities and have the training and resources to carry out the mission of the agency.

At the same time, I am informed by my own experience in business during this time of slow US economic growth in which revenues are down and yet demands on human and other resources are greater than ever. American workers have had to do more with less in their businesses and in their household budgets. We live in a time where resources in the public sector need to be stretched because the American taxpayer is stretched. We have to be very careful that we are spending taxpayer money wisely.

For these reasons, I want to consider a range of factors before considering a call for additional resources for the CFTC. Among such factors are the efficiency of agency resource allocation and management, the use of technology to augment human capital (as is increasingly done in the private sector), the balancing of activities between the CFTC and self-regulatory organizations, such as the National Futures Association, the effectiveness of rule compliance processes, the coordination of enforcement actions with other regulators, including the Justice Department, the degree of cooperation with other US and non-US regulators and the careful use of cost benefit analysis to enhance regulation effectiveness and avoid subsequent litigation.

If confirmed, I would be pleased to meet with you again in a few months with my more well considered views and ideas for appropriately funding the Commission.

**SWAP DEALER DE MINIMIS:** When the CFTC established its definition of "swap dealer," it created \$25 million *de minimis* threshold for swaps involving special entities and a \$3 billion level for swaps with all other entities. As a result of this lower threshold, publically-owned utilities, like the Indiana Municipal Power Agency, have fewer counterparties available to help them manage risk when compared to their investor-owned counterparts. As a result, their input prices are more likely fluctuate and ratepayers are more likely to

Responses of J. Christopher, Giancarlo to Questions of Senator Donnelly

**see unanticipated swings in their bills. I've introduced legislation, cosponsored by many members of this committee, that would solve this problem, but I believe the CFTC can address this issue as well. Will you commit to work with stakeholders to see if you can find a solution to this issue?**

**Giancarlo Response:** If confirmed, I would be pleased to work with stakeholders to help find a solution to this issue. As I understand it, the rule has discouraged energy companies from trading with municipal utilities, such as the Indiana Municipal Power Agency, because energy companies fear having to register as swap dealers. While Congress did mandate special protections for municipal entities, I am worried that the end result of the rule has been a decrease in the number of counterparties available to municipal utilities, lessening competition and raising their costs.

I am aware that the CFTC has issued no action relief allowing the *de minimis* threshold to be increased to \$800 million for utility commodity swaps, but that there remain concerns about the effectiveness of that relief. If confirmed, I will listen carefully to these concerns and look forward to exploring possible solutions.

Responses of J. Christopher Giancarlo to Questions of Senator Heitkamp

**Questions for the record to J. Christopher Giancarlo  
From Senator Heitkamp**

- 1) If you are confirmed as a CFTC commissioner, will you pursue specific actions to enhance transparency in the derivatives market? If so, what specific action would you take? What do you see as the greatest challenges to achieving adequate transparency in the swaps and derivatives markets?**

**Giancarlo Response:** Transparency in the derivatives markets has two components: regulatory transparency and market price transparency. Both are essential.

Regulatory Transparency provides regulators with the ability to assess derivatives counterparty risk exposures for the purposes of identifying and addressing systemic risk. As I said in my testimony, one of the accomplishments of Title VII of Dodd Frank was to create a whole regime for the collection of market data in the swaps market. The CFTC has gone far into beginning the process of collecting that data. Yet to be done, however, is the task of deeply mining and interpreting that data so that the Commission can recognize and respond to excessive counterparty risk exposure and potential systemic risk. If confirmed, I look forward to working with the Commission staff to greatly enhance its data mining and risk assessment capabilities.

Market price Transparency provides market participants, including commercial end-users, with the ability to engage in price discovery and fair competition. Market price transparency is an important component of vibrant and efficient markets, including futures and swaps markets. Market price transparency has two dimensions: pre-trade and post-trade information. Each dimension has unique characteristics and impacts on market dynamics and participant behavior.

If confirmed, I will work to enhance transparency in the derivatives markets. I have been a consistent advocate for enhanced swaps market transparency for many years. As I stated in my testimony, my support for transparency and other Title VII reforms is based not on academic theory or political ideology, but on practical experience in the markets. To enhance regulatory transparency I will be a strong advocate for strengthening the CFTC's technical capabilities in data mining, "big data" analysis and market risk assessment. To enhance market price transparency, I will work with the Commission staff and regulated entities including DCMs, SEFs and SDRs to assure that regulations and market practices are best designed to enhance pre and post trade transparency in a way that furthers healthy and vibrant derivatives markets and fairness for market participants.



Responses of J. Christopher Giancarlo to Questions of Senator Heitkamp

**Are you satisfied with the rulemaking to date to govern the use and functions of swap execution facilities (SEFs)? Why are SEFs so important to the health of the swaps and derivatives market? What are some regulatory risks you see that are related to the design of SEFs?**

**Giancarlo Response:** In addition to my long-standing support for enhanced transparency, I have been a consistent advocate for regulated intermediation of swaps transactions. When I first entered the swaps industry, I saw that the activities of wholesale swaps intermediaries were specifically recognized for regulation in the United Kingdom and other major financial markets, but not in the United States. I believe such omission was counterproductive because well-crafted and well enforced regulation promotes market confidence and market confidence increases market vibrancy and participation. As a result, I commended Dodd-Frank's classification of swap execution facilities (SEFs) as an appropriate recognition and regulation of the activities of swaps intermediaries. I also commend the CFTC staff for completing comprehensive SEF rules and provisionally registering over 20 SEFs. If confirmed, I will draw upon my experience as an operator of swaps trading platforms worldwide to address issues of SEF operation and compliance. I will work with the Commission staff and regulated entities to assure that SEF regulations and market practices are best designed to further principles of transparency, recordkeeping, compliance, surveillance, supervision and other reform imperatives that are essential to safe, sound and vibrant risk hedging markets.

- 2) **The CFTC was created to regulate the futures markets for predominantly agricultural commodities. Over time, its authority has expanded as the types of commodities being traded has expanded. However, nothing has changed in that the core function of the CFTC is to provide oversight to the futures market for agricultural commodities. There is a long history of the CFTC having commissioners who understand and have a working knowledge of how agricultural markets operate. While the nominees being considered for the CFTC may all be well qualified, including yourself, I am concerned that none of you have a background that includes the agriculture industry. What are you going to do to ensure you understand how the agricultural futures market works? Will you bring in staff into your office that understands how farmers, grain handlers, and agribusiness use these markets?**

**Giancarlo Response:** If confirmed, I will be keenly focused on understanding the perspectives and priorities of America's farmers and ranchers. I would be honored to sponsor the Agricultural Advisory Committee and would encourage regular meetings. I will travel often and meet with agricultural and commercial users in markets under the CFTC's jurisdiction. I will listen carefully and make sure I understand their critical concerns. I will consider hiring staff with knowledge of these critical agricultural futures markets.

Responses of J. Christopher Giancarlo to Questions of Senator Heitkamp

- 3) I would like to hear your thoughts on the recent rulemaking regarding residual interest. End users and agricultural marketers in my state are concerned about the increased costs that come with this rule. Even the farmer customers, whom the CFTC is trying to protect with this rule, were opposed to it. The CFTC's residual interest rule seeks to enhance customer protection by requiring futures commission merchants -- the firms that actually place orders to buy and sell futures on behalf of customers -- to do their residual interest calculation earlier. The result is that these FCMs either would have to cover margin calls with their own money or they would be compelled to require that customers pre-margin their hedge accounts. The problem is that pre-margining increases customer costs and may drive some hedgers -- namely farmers -- out of futures markets. In addition, pre-margining puts more customer money at risk if another MF Global insolvency occurs as a result of a breach of segregated accounts.

Can you give me your thoughts on the proposed rule and the timeline for implementation and enforcement?

If you are confirmed as a CFTC commissioner, are you willing to reevaluate the residual interest rulemaking, and sitting down with stakeholders to find a workable solution?

Are there other approaches to increasing customer protections that you may consider that do not involve increasing costs for hedgers?

**Giancarlo Response:** If confirmed, I will work to better understand concerns that the residual interest rule inhibits the ability of small agricultural and commercial end-users to use futures products to hedge business risk. Specifically, I will want to understand concerns that the rule may cause financial hardship for smaller futures commission merchants or force them to require customers to pre-margin hedge accounts. I will also want to look carefully at the results of the mandated CFTC study that is to take place 30 months after publication of the final rule. In considering any reevaluation or proposed changes in the rule, I would look carefully at the study's conclusions and all underlying data on the practicality of changing the next day residual interest funding deadline. I would be pleased to work with you and your staff on appropriate improvements to the rule and related margin requirements.

Responses of J. Christopher Giancarlo to Questions of Senator Walsh

**Questions for the Record for J. Christopher  
From Senator Walsh**

1. **There is growing evidence that excessive speculation on agricultural commodities has some influence on price volatility. While the futures market provides an import piece of a risk management plan for farmers, increased price volatility means uncertainty. On the other hand, many also believe that the market is largely self-correcting, and that participation in the futures markets provides more information to the supply and demand basics that, ultimately, contribute to a more stable market. Do you think there is excess speculation on any commodities? If the answer is yes, what steps if any do you believe the agency should take within its existing authority to curtail speculation? How should the concerns of commodity end-users be prioritized in this discussion?**

**Giancarlo Response:** As I said in my testimony, one of the accomplishments of Title VII of Dodd Frank was to create a whole regime for the collection of market data in the swaps market. The CFTC has gone far into beginning the process of collecting that data. Yet to be done, however, is the task of deeply mining and interpreting that data so that we can determine what is the effect of speculation in markets. If confirmed, I look forward to working with the Commission staff to delve deeply into these new data sets to better understand the role of speculators in agricultural commodity markets. Thereafter, I will be pleased to discuss any findings and conclusions with you and your staff.

In Title VII, Congress authorized the CFTC to utilize position limits on both physical and cash-settled derivatives to curb excessive speculation. I recognize the implications of the exercise of that authority on market participants and the need to use care and precision in setting appropriate limits. The CFTC has put forward a comprehensive rule proposal on position limits that has received thousands of pages of public comments. If confirmed, I look forward to carefully reviewing those comments and understanding the impact of the rule proposal on market participants, especially commodity end-users. I believe it is critical that we achieve the right outcome for agricultural and commercial end-users so that they can hedge their risk whether in physically settled or cash-settled instruments.

2. **When you enter the CFTC you will be met with several proposed rules as well as final rules that have not yet been fully implemented. These rules will have an impact on Montana producers, either directly or indirectly. Considering that you do not have a strong background in agriculture, what outreach initiatives do you have in mind to ensure that the perspectives and priorities of America's farmers and ranchers are heard throughout the process?**

**Giancarlo Response:** If confirmed, I will be keenly focused on understanding the perspectives and priorities of America's farmers and ranchers. I will actively travel and

Responses of J. Christopher Giancarlo to Questions of Senator Walsh

meet with agricultural and commercial participants in markets under the CFTC's jurisdiction, including Montana producers. I will listen carefully and make sure I understand their concerns.

In addition, I think Agriculture Advisory Committee is an important forum for hearing from the agricultural community. As I said in my testimony I would be honored to sponsor that committee and look forward to participating in its meetings.

Responses of J. Christopher Giancarlo to Questions of Senator Cochran

**Questions for the Record for J. Christopher Giancarlo  
From Senator Cochran**

**Question 1:** The Commission historically has been charged with regulatory authority over the commodity futures markets, such as wheat, corn and cotton. As the agency's oversight role has grown in recent years, groups representing agriculture commodity and producer interests have stressed the need for leaders of the CFTC to recognize and understand the importance of American agriculture and to willingly engage with representative groups as vital stakeholders in the marketplace. It is critical for leaders of the CFTC to recognize and understand the importance of American agriculture. If confirmed, how do you plan to engage with agricultural groups as well as with other end-users?

**Giancarlo Response:** If confirmed, I will be keenly focused on understanding the perspectives and priorities of America's farmers and agriculture producers. I will actively travel and meet with agricultural and commercial users in markets under the CFTC's jurisdiction. I will listen carefully and make sure I understand their critical concerns. As I said in my testimony, if confirmed, I would be honored to sponsor the Agriculture Advisory Committee

**Question 2:** This Committee has received comment letters stating that implementation of the Dodd-Frank Act has led to confusion and unwarranted expense for market participants. Some commenters stressed that the CFTC has implemented rules in an illogical and at times haphazard manner, leading to unnecessary cost and confusion for market participants. The Commission has developed a habit of waiting until the last minute to provide no-action or delayed compliance relief for market participants. How would you address these concerns?

**Giancarlo Response:** On top of the dozens of regulations, in 2013, the CFTC issued 70 no-action letters, advisories, and other staff actions – often at the 11<sup>th</sup> hour. As a lawyer, from a compliance perspective, I see this as an unsatisfactory process. As a business person, I believe that regulators must provide clear, concise guide lines that allow market participants, especially commercial end-users, to plan and operate their businesses.

The practice of regulating by no-action letters makes it very difficult to provide a clear path for regulatory compliance. It also reduces the trust and reliability of our rules and takes policy setting authority away from the Commission.

As a Commission, we should work with market participants to promulgate rules that are clear and unambiguous. And, if we have regulations that require refinement, we should not be afraid to follow the Administrative Procedures Act to amend rules and get them right. While no action letters are suitable for clarifying existing rule making for specific and unique fact situations, the issuance of a myriad of no-action letters, some of which are designed to exist in perpetuity, is not the ideal way to cure regulatory deficiencies.

Responses of J. Christopher Giancarlo to Questions of Senator Cochran

**Question 3: Do you think the CFTC should be required to fully assess and quantify the costs and benefits associated with the rules and orders it puts forward?**

**Giancarlo Response:** Generally speaking, I believe that cost benefit analysis is good public policy. For decades – under both Democratic and Republican administrations – cost benefit analysis has been a fundamental tool of sound regulation. Among other benefits, cost benefit analysis promotes: better informed decision-making, less risk of unintended consequences, well-tailored and better understood regulations, transparency in rule making, regulator accountability, preservation of limited agency resources and reduced prospects of litigation.

The Commodity Exchange Act requires the CFTC to consider “the costs and benefits of the action of the commission” and expressly articulates certain costs and benefits that must be considered including effects on “efficiency, competitiveness and financial integrity of future markets.” If confirmed, part of my decision-making process will be to look at the costs and burdens for any regulatory requirement and to determine whether there are less onerous alternatives that may be more appropriate. The need for clear, concise cost benefit analysis is particularly important for Dodd-Frank implementation, where end-users have struggled to comply and comprehend the complexities of the new regulatory framework.

**Question 4: We have heard from end-user stakeholders that they should not be subject to margin and capital requirements for their exempt swaps.**

- A. Would you agree that margin and capital requirements should not to be imposed on end-users?
- B. Would you support a rule change to fix this problem yourself?

**Giancarlo Response:** I agree as a general matter that margin and capital requirements should not be imposed on commercial end-users. It is my understanding that the CFTC’s proposed rules include a full exception from the proposed margin requirements for non-financial end users. If confirmed, I would support finalization of this rule subject to any appropriate modifications suggested by meritorious comments received from the public.

**Question 5: Public power companies provide vital services to urban and rural communities. I understand that utility companies (as well as other non-financial entities) are no longer willing to enter into energy swaps with government-owned utilities for fear of exceeding the “special entity *de minimis*” threshold and thereby having to register with the CFTC solely because of their dealings with government-owned utilities. This concern has been expressed by utilities in Mississippi and across the country.**

Responses of J. Christopher Giancarlo to Questions of Senator Cochran

- A. How can we address the concern that these government-owned utilities have expressed about having fewer counterparties to their risk mitigating transactions?
- B. Are you willing to work with fellow Commissioners and market participants to fix this issue?

**Giancarlo Response:** If confirmed, I would be pleased to work with fellow Commissioners and market participants to help find a solution to this issue. As I understand it, the rule has discouraged energy companies from trading with municipal utilities because energy companies fear having to register as swap dealers. While Congress did mandate special protections for municipal entities, I am concerned that the end result of the rule has been a decrease in the number of counterparties available to municipal utilities, lessening competition and raising their costs.

I am aware that the CFTC has issued no action relief allowing the *de minimis* threshold to be increased to \$800 million for utility commodity swaps, but that there remain concerns about the effectiveness of that relief. If confirmed, I will listen carefully to these concerns and look forward to exploring possible solutions.

**Question 6:** At your confirmation hearing concerns were raised regarding CFTC Rule 1.35 recordkeeping requirements. This rule has proven to be a burden for small and mid-sized market participants. Are you willing to work with these groups to craft regulatory relief that is clear and realistic for these market participants?

**Giancarlo Response:** I am aware of concerns raised about the burdensome nature of new recordkeeping compliance rules under CFTC Regulation 1.35. I am aware of assertions that the regulations may cause compliance difficulties for smaller introducing brokers and those that have branch offices. If confirmed, I will work to better understand these concerns and be available to work with these groups to identify appropriate solutions.

**Question 7:** The agriculture community is concerned that proposals regarding increased residual interest requirements for futures commission merchants will dramatically raise the costs of hedging and investing in the futures markets and could result in limited market access for agricultural hedgers and smaller speculative investors.

- A. Have any customers ever lost money because of the way margin deficiencies are handled under the current system?

**Giancarlo Response:** This is an important question. Unfortunately, I do not know the precise answer. If confirmed, I will consult with the Commission staff and examine the data underlying the rule in order to take a well-informed view. Thereafter, I will be pleased to meet with you and your staff to discuss the matter and any further regulatory steps that may be warranted.

Responses of J. Christopher Giancarlo to Questions of Senator Cochran

- B. We understand that the CFTC is to undertake a study of this rule change but that irrespective of the outcome of the study the new rule will go into effect absent further rulemaking by the CFTC. Are you willing to take a data driven approach to this issue and change the rule if the study results favor a change?**

**Giancarlo Response:** If confirmed, I will work to better understand concerns that the residual interest rule inhibits the ability of small agricultural and commercial end-users to use futures products to hedge business risk. In considering proposed changes in the rule, I would look carefully at the mandated CFTC study and all underlying data on the practicality of changing the next day residual interest funding deadline. I would be pleased to work with you and your staff on appropriate improvements to the rule and related margin requirements.

**Question 8:** Many market participants have significant reservations about the efficacy of position limits as set out in the current CFTC proposed rule.

- A. Do you agree that position limits should be imposed only after a finding of need and effectiveness on a contract-by-contract basis, using reliable, recent, and relevant market data?**
- C. Would you agree that if the CFTC finds that it must set position limits, such limits should be based on quantitative findings, including the size and depth of markets?**

**Giancarlo Response:** In November 2013, the Commission published new proposed rules on position limits. The position limit rulemakings were designed to “prevent or deter excessive speculation.” The public comment period closed on February 10, 2014. If confirmed, I look forward to reviewing the public comments very closely. I also look forward to consulting with the Commission staff and examining the data underlying the proposed rule. In considering the adoption of a final rule on position limits, I would be guided by what the data shows and what concerns are raised by the public. Among other matters, I would look to determine the presence of speculation in individual markets and any harm caused to pricing or market liquidity for market participants and end-users. I would seek to gauge whether proposed position limits are properly calibrated to improve market conditions and any benchmarks for determining success after they are put in place. In making these assessments, I would be pleased to meet with you and your staff and hear the concerns of market participants.

**Question 9:** A properly functioning position limits regime is not only dependent on a clear understanding of deliverable supply for a particular commodity but also on a workable hedge exemption process.

- A. Will you ensure that the final position limits rule provides end-users with the flexibility they have historically had under the CFTC’s approach to bona fide hedging?**



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- B. Since federal agencies, generally speaking, do not respond quickly to market innovation and changing practices, would you agree that the CFTC's current proposal with respect to bona fide hedging should not limit end-users' ability to properly and efficiently hedge risk by restricting the availability of the bona fide hedge exemptions from position limits to a limited set of enumerated transactions?
- C. Would you agree that the CFTC's current bona fide hedge exemptions proposal, which limits exemptions to a very narrow list that does not include many current hedging best practices, is overly restrictive and incompatible with the realities of the market?
- D. Given the budgetary constraints and the stretched CFTC resources, would you agree that requiring end-users to get specific CFTC approval to hedge certain current or anticipated risks as a bona fide hedge before entering into a transaction will hinder their ability to operate their businesses effectively?

**Giancarlo Response:** If confirmed, I look forward to exploring end users' concerns that the proposed position limits rule would deny them with the flexibility they have historically had for hedging. I am similarly interested to learn whether the CFTC's current bona fide hedging proposal limits end-users' ability to properly and efficiently hedge risk by restricting the availability of the bona fide hedge exemptions from position limits to a limited set of enumerated transactions. I agree that any final position limits rule should be sufficiently flexible to not restrict current hedging best practices without thorough and well-justified reasoning. From the perspective of a business operator, I do not think it is practical or efficient to require commercial end-users to get specific CFTC prior approval before they are able to hedge real and significant business risk.

**Question 10:** Given that Congress carefully designated protections for end-users in the Dodd-Frank Act and considering that the CFTC has authority to grant exceptions, would you agree that the CFTC should take measures to ensure that only entities that meet a common sense definition of "financial entity" are regulated as such?

**Giancarlo Response:** I do. The Dodd-Frank Act contained several types of exemptions for end users. For instance, swaps transactions between affiliates and by captive treasury affiliates of commercial end-users are not activities that Dodd-Frank sought to address. If confirmed, I will work to ensure that only entities that meet a common sense definition of "financial entity" are regulated as such.

**Question 11:** Since a change to the swap dealer *de minimis* level would significantly impact the market structure and potentially harm end-users by limiting the availability of counterparties, will you commit to engaging in a formal rulemaking before any change is made to the \$8 billion swap dealer *de minimis* level?

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**Giancarlo Response:** The Commission is required to do a study of the effects of the swap dealer definition, including whether the de minimis level (which is initially \$8 billion but which will fall to \$3 billion absent further Commission action) is appropriate. The only way the Commission would avoid the de minimis level falling to \$3 billion is by adopting a new rule. If confirmed, I look forward to meeting with CFTC staff to understand how the original thresholds were calculated and the nature of the underlying data. I also look forward to considering the study, the public comments on it, and what changes might be appropriate to the de minimis levels. Based on such information and analysis, I would be pleased to meet with you and your staff to consider concerns about the appropriateness of a new rule.

**Question 12:** As you may know, the CFTC has, in direct contradiction to Congressional intent, indicated that they will regulate certain physical contracts as swaps. The Senate Agriculture Committee has received comment letters from energy companies and other end-users about options and forward contracts with embedded volumetric optionality that physically settle—they believe these contracts should be excluded from the definition of a swap on the basis that they do not pose systemic risk and haven’t traditionally been viewed as swaps.

- A. Are you aware that (1) the Commodity Exchange Act excludes from the definition of “swap” transactions that are “intended to be physically-settled” and (2) the CFTC has an interim-final rule on this issue outstanding, under which they have taken comment, but not responded to those comments?
- B. Given that exclusion from the definition, would you agree that options that result in the physical delivery of a commodity and forward contracts that contain some level of variability in how much of a physical product is ultimately delivered – but in all cases do involve the actual sale and delivery of a nonfinancial commodity – fall outside of the definition of a “swap”?
- C. Finally, will you ensure that the Commission considers the comments submitted to it regarding the interim final rule on this topic and that the Commission issues a final rule that addresses the concerns raised in those comments?

**Giancarlo Response:** I am aware that the Commodity Exchange Act excludes from the definition of “swap” transactions those that are “intended to be physically-settled.” I am also aware that the CFTC has an outstanding interim-final rule on this issue and that numerous comments have been received. I have not had the opportunity to review those comments, but look forward to doing so. If confirmed, I will give careful consideration to the issue of whether options that result in the physical delivery of a commodity and forward contracts containing some level of variability in how much of a physical product is ultimately delivered – but in all cases do involve the actual sale and delivery of a nonfinancial commodity – fall outside of the definition of a “swap”. If confirmed, I will give thoughtful and thorough consideration to the comments submitted to the CFTC

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regarding the interim final rule on this topic. I will work to support the Commission in issuing a final rule that addresses the concerns raised in those comments.

**Question 13:** In comment letters submitted to this Committee we were informed of an unintended consequence of the CFTC's real-time reporting rule, in which legitimate end-users are experiencing difficulty in hedging their commercial risk with certain physical commodities. Under the real-time reporting rule, end-users have a longer time in which to report trades with other end-users. However, trades that involve a swap dealer or major swap participant must be reported in a much shorter time after execution. Because the rule requires trades between a non-dealer and a swap dealer be reported within the dealer's time limit, swap dealers and major swap participants have limited time to lay off risk before the trade is made public.

When a dealer has to report such trades to the market quickly and the dealer may not be able to lay off the risk of that trade in the prescribed time, especially in illiquid markets in far out months, the dealer is taking a risk and will charge the counterparty (here, the commercial end-user) for that increased risk if they are willing to execute the trade at all. This increased cost and possible inability to trade in illiquid markets will hurt commercial end-users. Will you agree to work with the Committee and with commercial end-users to address this issue in a way that helps commercial end-users, but still allows swaps data to be disclosed publicly?

**Giancarlo Response:** As an executive in a business that operates OTC marketplaces, I understand the impact of market information on market pricing and trading risk, especially for markets with episodic liquidity. If confirmed, I would be pleased to look carefully at the CFTC's real-time reporting rule and any heightened market risk it may have caused to end-users as they engage in legitimate hedging of commercial and business risk.

Responses of J. Christopher Giancarlo to Questions of Senator Roberts

**Questions for the Record for J. Christopher Giancarlo  
From Senator Pat Roberts**

**Questions for Mr. Giancarlo**

- 1) **If confirmed as a commissioner of the Commodities Futures Trading Commission, what will be your immediate priorities for the commission?**

**Giancarlo Response:**

- a. Bringing to bear my legal judgment and commercial experience in implementation of core reforms of the swaps markets;
- b. Using my experience as an operator of global over-the-counter markets to help guide the application of cross border rules and avoid global market fragmentation;
- c. Understanding the concerns and challenges of America's agricultural and commercial end-users of derivatives and reflecting those concerns in effective regulation.

- 2) **The CFTC traditionally has at least one Commissioner with experience and understanding of how end users and agriculture uses the market. What will you do to increase your personal knowledge of agriculture and end user's issues?**

**Giancarlo Response:** If confirmed, I will be keenly focused on understanding the perspectives and priorities of America's farmers, ranchers and other end users. I will actively travel and meet with agricultural and commercial users in markets under the CFTC's jurisdiction. I will listen carefully and make sure I understand their concerns.

- 3) **Would you consider chairing the Commission's Agriculture Advisory Committee?**

**Giancarlo Response:** If confirmed, I would be honored to sponsor of this important committee and see that it meets on a regular basis.

- 4) **Ideally before implementing any new policy or regulation the Commission would follow the Administrative Procedure Act and propose a regulation, undergo a cost-benefit analysis, take and listen to public comments, and then publish a final rule. Unfortunately, the CFTC has more frequently issued interim final rules and interpretative guidance. Furthermore, when issues with the regulations have been raised, instead of withdrawing or revising the regulation, temporary staff no action**

Responses of J. Christopher Giancarlo to Questions of Senator Roberts

**letters or exemptive relief has been issued. If confirmed, when problems arise with implementing regulations or policies, will you and your staff rely on no action letters and exemptive relief or will you work to fix the problematic regulations or policies?**

**Giancarlo Response:** On top of the dozens of regulations, in 2013, the CFTC issued 70 no-action letters, advisories, and other staff publications – often at the 11<sup>th</sup> hour. As a lawyer, from a compliance perspective, I see this as an unsatisfactory process. As a business person, I believe that regulators must provide clear, concise guidelines that allow market participants, especially commercial end-users, to plan and operate their businesses.

The practice of regulating by no-action letters makes it very difficult to provide a clear path for regulatory compliance. It also reduces the trust and reliability of our rules and takes policy setting authority away from the Commission.

As a Commission, we should work with market participants to promulgate rules that are clear and unambiguous. And, if we have regulations that require refinement, we should not be afraid to follow the Administrative Procedures Act to amend rules and get them right. While no action letters are suitable for clarifying existing rules for specific and unique fact situations, the issuance of a myriad of broadly based no-action letters, some of which are designed to exist in perpetuity, is not the ideal way to cure regulatory deficiencies.

**5) What importance would you put on a quantitative cost benefit analysis before a new rule or regulation would be issued, finalized, and enforced?**

**Giancarlo Response:** Generally speaking, I believe that cost benefit analysis is good public policy. For decades – under both Democratic and Republican administrations – cost benefit analysis has been a fundamental tool of good regulation. Among other benefits, cost benefit analysis promotes: better informed decision-making, less risk of unintended consequences, well-tailored and better understood regulations, transparency in rule making, regulator accountability, preservation of limited agency resources and reduced prospects of litigation. Some are concerned that cost benefit analysis can be abused to delay rule promulgation. I believe that it should never be used for such purpose. Rather, it should be used to assure that rules and regulations are properly calibrated to serve the public interest in the most efficient way possible.

The Commodity Exchange Act requires the CFTC to consider “the costs and benefits of the action of the commission” and expressly articulates certain costs and benefits that must be considered including effects on “efficiency, competitiveness and financial integrity of future markets.” If confirmed, part of my decision-making process will be to look at the costs and burdens for any regulatory requirement and to determine whether there are less onerous alternatives that may be more appropriate. The need for clear, concise cost benefit analysis is particularly important for Dodd-Frank implementation,

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where end-users have struggled to comply and comprehend the complexities of the new regulatory framework.

- 6) **According to industry feedback the CFTC's proposal on residual risk has been described as "an industry killing rule" that "jeopardizes the entire existence of the model" and is "likely to raise the overall level of risk to all participants in the market."**

**In the same proposal, the CFTC would require "FCMs to be in compliance with margin deficiencies at all times." However, option values and margins are currently not always available in real time.**

**Will you work with me to fix the residual interest rule and margin requirements?  
Or do you see either as an issue?**

**Giancarlo Response:** If confirmed, I will work to better understand your concerns and those of others that the residual interest rule inhibits the ability of small agricultural and commercial end-users to use futures products to hedge business risk. In considering proposed changes in the rule, I would look carefully at the mandated CFTC study and all underlying data on the practicality of changing the next day residual interest funding deadline. I would be pleased to consult with you and your staff on appropriate improvements to the rule and related margin requirements.

- 7) **Would the proposed changes on residual interest have been able to prevent either the failures of MF Global or Peregrine and would the regulations better protect against similar failures in the future?**

**Giancarlo Response:** This is an important question. Unfortunately, I do not know the precise answer. If confirmed, I will consult with the Commission staff and examine the data underlying the rule in order to take a well-informed view. Thereafter, I look forward to meeting with you and your staff to discuss the matter and any further regulatory steps that may be warranted.

- 8) **The swaps and futures markets are global and must comply with regulations set not just by the United States but also foreign regulators. Are you concerned that "regulatory arbitrage" could develop and that market participants may move their business out of the United States if our rules are not harmonized?**

**Giancarlo Response:** There is both empirical and statistical evidence of a growing fragmentation of global swaps liquidity. Foreign banks and trading firms have announced that they will not trade with "US Persons". Two-tiered trading markets are emerging globally. In one tier, U.S. traders can trade, and, in the other, U.S. traders are effectively prohibited from trading. This development may lead to less trading liquidity,

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more risk concentration, wider bid-offer spreads, more volatility and increased cost and risk for American growers and end-users.

As an executive in a company operating swaps trading platforms worldwide, I well understand that OTC swaps markets are global in nature. As a supporter of the core reforms of Title VII of Dodd Frank, I believe those reforms are the right reforms for global swaps markets. Moreover, these core reforms reflect a framework agreed by the group of G-20 countries at the Pittsburgh summit in September 2009. Parties to the G-20 accord, including the European Union, have committed to implementing laws and regulations based on the framework. Therefore, there should be no question that US and EU regulations must dovetail along with other major global markets in implementing the specified reforms that underlie Title VII of Dodd Frank.

The opportunity and, I believe, the mission for the CFTC is to lead the global effort in implementing the G-20 reforms in a comprehensive and consistent manner across world markets. Global swaps market reform is not a race where winner takes all. It is rather more akin to rebuilding of a city after a destructive fire. Care needs to be taken to set intelligent building standards that others follow because they see that the new structures are more durable than the ones that were destroyed.

- 9) **For the cross border application of derivatives regulations, do you believe that the CFTC should have used a formal rule making process, including a quantitative cost benefit analysis, instead of issuing the regulations through an “Interpretative Guidance and Policy Statement?”**

**Giancarlo Response:** The CFTC’s cross border “interpretive guidance” was designed to provide market participants with certainty as to how the CFTC’s rules apply in a cross-border context. Because it was published under a lower administrative standard than a formal rulemaking, the interpretive guidance has unfortunately created unnecessary confusion that has required dozens of CFTC advisories and no-action letters to ameliorate.

As a supporter of the Title VII reforms, I recognize that clear cross-border delineations are complex, but critically important. For that reason, I believe that the CFTC’s cross-border guidance should have been adopted through formal rulemaking pursuant to the Administrative Procedures Act – including notice, comment, and a full cost/benefit analysis. If confirmed, I commit to carefully reviewing the cross-border directives issued to date with the hope that the CFTC can formalize its positions in a proposed rule that would codify the appropriate extraterritorial application of U.S. rules.

- 10) **After Dodd-Frank passed, I have heard complaints regarding the vagueness from the CFTC regarding definitions. For example, “technically what is a swap, who is a swap dealer, what is or is not a bona fide hedge?” How will you work to ensure that**

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**there is certainty among market participants regarding these changing definitions and classifications?**

**Giancarlo Response:** As a lawyer, I am very sensitive to the challenges of complying with rules and regulations that contain vague terms and definitions. As a business person, I believe that regulations must contain clear and precise provisions that allow market participants, especially commercial end-users, to plan and operate their businesses. If confirmed, I will work with market participants to understand their concerns and see what can be done to address them satisfactorily.

- 11) Any company that engages in swaps must register as a swap dealer if the notional amount of its swap activity exceeds an \$8 billion “de minimis” threshold. That level is set to automatically go down to \$3 billion after a phase in period. Do you believe that the de-minimis threshold for registering as a swap dealer should automatically decrease or would it be appropriate to re-evaluate the level in the future?**

**Giancarlo Response:** The Commission is required to do a study of the effects of the swap dealer definition, including whether the de minimis level (which is initially \$8 billion but which will fall to \$3 billion absent further Commission action) is appropriate. The only way the Commission would avoid the de minimis level falling to \$3 billion is by adopting a new rule. If confirmed, I look forward to meeting with CFTC staff to understand how the original thresholds were calculated and the nature of the underlying data. I also look forward to considering the study, the public comments on it, and what changes might be appropriate to the de minimis levels. Based on such information and analysis, I will consider the appropriateness of a new rule and be pleased to meet with you and your staff to get your views, as well.

- 12) What do you view as the biggest unmet budgetary need at the CFTC?**

**Giancarlo Response:** As a supporter of reform, I recognize that Title VII enormously increased the CFTC’s mandate. Meanwhile, the agency’s resources have increased more incrementally. The CFTC needs to have the resources to do its job. As Commissioner Chilton has noted, an underfunded agency creates enormous internal pressure on agency personnel. We need to make sure that the CFTC staff is the right size for its responsibilities and has the training and resources to carry out the mission of the agency.

At the same time, I am informed by my own experience in business during this time of slow US economic growth in which revenues are down and yet demands on human and other resources are greater than ever. American workers have had to do more with less in their businesses and in their household budgets. We live in a time where resources in the public sector need to be stretched because the American taxpayer is stretched. We have to be very careful that we are spending taxpayer money wisely.



## Responses of J. Christopher Giancarlo to Questions of Senator Roberts

For these reasons, I want to consider a range of factors before making particular recommendations for additional resources for the CFTC. Among such factors are the efficiency of agency resource allocation and management, the use of technology to augment human capital (as is increasingly done in the private sector), the balancing of activities between the CFTC and self-regulatory organizations, such as the National Futures Association, effectiveness of rule compliance processes, the coordination of enforcement actions with other regulators, including the Justice Department, the degree of cooperation with other US and non-US regulators and the careful use of cost benefit analysis to enhance regulation effectiveness and avoid subsequent litigation.

**13) Do you believe that the Commission has sufficient data about the swaps market and a reliable economic analysis to finalize the proposal for position limits?**

**Giancarlo Response:** As I said in my testimony, one of the accomplishments of Title VII of Dodd Frank was to create a whole regime for the collection of market data in the swaps market. The CFTC has gone far into beginning the process of collecting that data. Yet to be done, however, is the task of deeply mining and interpreting that data so that we can determine what is the market impact of “excessive speculation.” If confirmed, I look forward to working with the Commission staff to delve deeply into these new data sets to better understand the role of speculators in swap markets.

In Title VII, Congress authorized the CFTC to utilize position limits on both physical and cash-settled derivatives to curb excessive speculation. I recognize the implications of the exercise of that authority on market participants and the need to use care and precision in setting appropriate limits. The CFTC has put forward a comprehensive rule proposal on position limits that has received thousands of pages of public comments. If confirmed, I look forward to carefully reviewing those comments and all underlying market data. From that I would seek to understanding the impact of the rule proposal on market participants, especially commodity end-users. I believe it is critical that we achieve the right outcome for agricultural and commercial end-users so that they can hedge real risk whether in physically settled or cash-settled instruments.

Responses of J. Christopher Giancarlo to Questions of Senator Chambliss

**Questions for the Record for J. Christopher Giancarlo  
From Senator Saxby Chambliss**

1. Last summer then-Chairman Gensler testified in the Senate Banking Committee that the CFTC has clear authority to police the physical and derivative markets for aluminum. He also testified that the London Metals Exchange is operating as a Foreign Board of Trade (FBOT) under a no-action letter agreement with the CFTC. An FBOT must maintain the same quality of market expected by American consumers and is typically exhibited in domestic exchanges regulated by the CFTC such as the Chicago Mercantile Exchange and the International Commodities Exchange. Among the criteria an FBOT must maintain are fair and orderly markets and to prohibit fraud, abuse, and market manipulation. Unfortunately, wait times for aluminum can run from 400-600 days and the resultant market premium has been at record highs, due to warehouse owners charging rent on metal that has been paid for and earmarked for delivery.

My first question is, would wait times of 400+ days to receive a commodity in the grain markets be an acceptable wait for consumers where these contracts are typically settled in about 3 days? Second, do each of you concur with the statements of Mr. Gensler that the CFTC has authority to regulate the LME as an FBOT in order to protect American metals end users and consumers?

**Giancarlo Response:** Wait times of 400+ days to receive a commodity in the grain markets would not be an acceptable wait for consumers where these contracts are typically settled in about 3 days. As a lawyer, I would not want to render a legal view without conducting appropriate research on the CFTC's authority to regulate the LME as an FBOT. Nevertheless, if confirmed, I will strongly support the CFTC's use of all available means to protect American end-users and consumers from manipulative trade practices of any sort in global markets for metals and the warehousing thereof.

2. The CFTC and FERC recently announced a data sharing MOU and the creation of a staff-level Interagency Surveillance and Data Analytics Working Group to coordinate information sharing between the agencies. Section 8 of the Commodity Exchange Act protects from public disclosure data and records in the possession of the Commission. This is an important protection for market participants worldwide that use our markets. Yet just last year an incident came to light whereby private academics were given access to this trading data apparently without any form of masking protection in place. I understand the CFTC's Inspector General is looking into this matter to ascertain whether any violations of law were committed. What measures will you take to ensure that information sharing between the CFTC and FERC pursuant to this MOU will protect confidential and commercially-sensitive information from public disclosure as required by Section 8 of the CEA?

**Giancarlo Response:** It is vitally important to maintenance of public trust in the CFTC that confidential and commercially sensitive information that it receives in the course of

Responses of J. Christopher Giancarlo to Questions of Senator Chambliss

its regulatory duties is protected from unauthorized disclosure. The importance of this task is increased by the fact that Title VII of Dodd Frank entrusted the CFTC to gather and analyze enormous amounts of sensitive and confidential data about the swaps market and counterparty exposures therein. If confirmed, I will endeavor to ensure that the CFTC honors the letter and spirit of agency requirements for strict confidentiality of non-public information.

Responses of J. Christopher Giancarlo to Questions of Senator Grassley

**Questions for the Record for J. Christopher Giancarlo  
From Senator Grassley**

**In February 2014, the CFTC Office of the Inspector General (OIG) sent the final copy of a report regarding the Office of Chief Economist to CFTC management. It is my understanding that the report addresses concerns about the use of trade data for economic research papers, and the Agency has chosen to redact parts of the report to protect against illegal public disclosures. I would like your assurance that the Agency will make this report available to public as soon as possible. I would also like your assurances that, if you are confirmed, you will work to ensure that all OIG reports are made available to the public as quickly as possible.**

**Giancarlo Response:** As a general principle, an independent government agency such as the CFTC should seek to be as transparent in its workings as the businesses and markets it serves to regulate. Such transparency should extend generally to matters that are the subject of internal investigations of wrongdoing. I am not familiar, however, with the basis for which the CFTC has chosen to redact certain parts of the report in the specific case cited so I cannot comment constructively at this time on that. If confirmed, however, I will look carefully into the matter by examining the report and speaking to appropriate members of the Commission staff. I assure you that if appropriate thereafter I will take every measure to encourage the publication of the full OIG report.

Responses of J. Christopher Giancarlo to Questions of Senator Thune

**Questions for the record for J. Christopher Giancarlo  
From Senator John Thune**

**PERSONAL MOTIVATION:** What prompted you to leave the private sector and pursue this position as CFTC commissioner?

**Giancarlo response:** As I mentioned in my opening statement, I am inspired by my grandfather, Dr. Henry John Schwarz. In 1942, he was a family physician in private practice in North Bergen, New Jersey, with a family of two and many patients. A few months after the bombing of Pearl Harbor, he marched down to the local recruiting office and enlisted in the US Army Air Corps.

At 40 years old, my grandfather knew he was too old to join combat. But he felt he could serve his country in a different way – with his medical training. He knew that in World War I more American Doughboys died from infectious diseases in US army camps than died in combat. Now, the US army was looking for experienced physicians. My grandfather answered the call. He went on to serve with distinction as medical director at Daniel Army Airfield in Georgia and Fort Thomas in Kentucky. When the war ended, he returned to his family and patients in New Jersey proud to have worn the uniform of his country.

In a similar way, I feel that I have a lot to offer in the wake of the financial crisis. I was there as an operator of marketplaces. I saw the devastation and the loss of investor confidence. I realized that markets have to operate with confidence in their safety and soundness. I supported and continue to support the key swaps market reforms of central counterparty clearing, regulation of trading platforms and increased regulatory and marketplace transparency. I believe I can help implement those reforms with credibility and understanding. Like my grandfather did, I want to help my country at a critical juncture. If confirmed, I look forward to bringing my practical business experience and legal judgment to bear in completing the implementation of Dodd-Frank.

**COST BENEFIT ANALYSIS:**

- A. What is your position on the use of cost-benefit analyses in the rule-making process and what changes would you like to make in the current CFTC rule-making process in this regard?**
- B. There have been some criticisms of the CFTC's use of cost/benefit analysis when developing major rules. How would you alter the current process so that it better reflects the true impact these rules are having on various industries and the economy?**

Generally speaking, I believe that cost benefit analysis is good public policy. For decades – under both Democratic and Republican administrations – cost benefit analysis has been a

Responses of J. Christopher Giancarlo to Questions of Senator Thune

fundamental tool of sound regulation. Among other benefits, cost benefit analysis promotes: better informed decision-making, less risk of unintended consequences, well-tailored and better understood regulations, transparency in rule making, regulator accountability, preservation of limited agency resources and reduced prospects of litigation. Some are concerned that cost benefit analysis can be abused to delay rule promulgation. I believe that it should never be used for such purpose. Rather, it should be used to assure that rules and regulations are properly calibrated to serve the public interest in the most efficient way possible.

The Commodity Exchange Act requires the CFTC to consider “the costs and benefits of the action of the commission” and expressly articulates certain costs and benefits that must be considered including effects on “efficiency, competitiveness and financial integrity of future markets.” If confirmed, part of my decision-making process will be to look at the costs and burdens for any regulatory requirement and to determine whether there are less onerous alternatives that may be more appropriate. The need for clear, concise cost benefit analysis is particularly important for Dodd-Frank implementation, where end-users have struggled to comply and comprehend the complexities of the new regulatory framework.

**SWAP DEALER DE MINIMIS:** Many in the financial and agricultural world are concerned about the imminent drop in the de minimis level for swaps dealers. Will you commit to supporting a full rulemaking process prior to lowering the de minimis level for swap dealers from \$8 billion to \$3 billion?

**Giancarlo Response:** The Commission is required to do a study of the effects of the swap dealer definition, including whether the de minimis level (which is initially \$8 billion but which will fall to \$3 billion absent further Commission action) is appropriate. My understanding is that the only way the Commission would avoid the de minimis level falling to \$3 billion is through adopting a new rule. If confirmed, I look forward to meeting with Commission staff to understand how the original thresholds were calculated. I also look forward to considering the study, the public comments on it, and what changes might be appropriate to the de minimis levels.

**RENEWABLE FUEL STANDARDS:** I understand CFTC has spent some time examining the Renewable Fuel Standard’s RIN market, which saw significant volatility last year. Does CFTC have any thoughts on what could be done administratively to reduce volatility and enhance transparency, price discovery and efficiency in the RIN market?

**Giancarlo Response:** I am aware of serious concerns about the integrity of the US Renewable Fuels market, including allegations about disruption of the markets for Renewable Identification Numbers, the tracking mechanism to ensure petroleum blenders and refiners meet their requirements under the Renewable Fuels Standard. If confirmed, I look forward to meeting with interested stakeholders and Commission staff to better understand the issues involved and what additional steps might be warranted.

Responses of J. Christopher Giancarlo to Questions of Senator Thune

**MARGIN/CAPITAL:** Chairman Gensler stated repeatedly in Congressional testimony that “proposed rules on margin requirements should focus only on transactions between financial entities rather than those transactions that involve non-financial end-users.” This was good news to commercial end-users. But given the burdens that the Dodd-Frank rulemakings have thus far imposed on end-users, there is still substantial concern that regulations could inadvertently impact commercial end-users if banks or even non-financial counterparties to these contracts are required to post margin or set aside regulatory capital for swaps with commercial end users. They may then charge a fee or increase prices for swaps with commercial end-user counterparties – or stop transacting with commercial end-users altogether. How would you address this concern?

**Giancarlo Response:** I believe Congress’ intent was generally to exempt commercial end users from the swaps trading and margin requirements of Dodd Frank. I believe Chairman Gensler was right in asserting that margin requirements should not impact transactions involving non-financial end-users. For that reason, I understand the important concern that margin regulations may inadvertently impact commercial end-users if banks or even non-financial counterparties to these contracts are required to post margin or set aside regulatory capital for swaps with commercial end users. I appreciate how this may lead financial institutions to charge new or increased fees or stop transacting with commercial end-users altogether. If confirmed, I will look at this issue carefully by meeting with Commission staff and representatives of commercial end users to see whether appropriate rule changes or adjustments are warranted so that commercial end-users can continue to hedge the true risks of their agricultural or commercial businesses.

**COOPERATIVES:** Further, CFTC has issued a rule which recognizes that the unique member-owner structure of cooperatives merits effectively passing through the end-user exception available to a cooperative’s members to the cooperatives themselves by providing an exemption from the clearing requirements of the DFA for certain swap transactions entered into by qualifying cooperatives. That rule provided important relief from the costs of clearing requirements for cooperatives which act solely on behalf of their member owners who clearly qualify as end-users. It is very important that banking regulators follow CFTC’s lead in regard to margin requirements for such cooperative entities. What do you suggest that the CFTC do to ensure that actions by other federal regulators do not undermine policies set by the CFTC?

More generally, how do you believe the CFTC can best fulfill Congress’s intent to fully exempt commercial end-users from the costs and burdens of regulatory capital and margin?

**Giancarlo Response:** I commend the CFTC for recognizing that the unique member-owner structure of cooperatives merits effectively passing through the end-user clearing exception available to a cooperative’s members to the cooperatives themselves. I believe the CFTC’s rule is a thoughtful approach to the challenges of Dodd Frank’s clearing requirements and the unique structure of member-owned cooperatives. I agree that banking regulators should follow the CFTC’s lead in regard to cooperative margin requirements. If confirmed, I will use my position

Responses of J. Christopher Giancarlo to Questions of Senator Thune

as a CFTC Commissioner to champion the CFTC's approach to cooperative margin requirements to Federal banking regulators and other peer regulatory agencies.

I believe the CFTC can best fulfill Congress's intent to fully exempt commercial end-users from the costs and burdens of regulatory capital and margin by adopting further rules and regulations that address end-user concerns with as much thoughtfulness, thoroughness and precision as is evident in the cooperative margin exemption.



Senate Committee on Agriculture, Nutrition & Forestry  
Nominations of Timothy G. Massad, Sharon Y. Bowen & J. Christopher Giancarlo  
Thursday March 6, 2014  
Questions for the Record

Responses of Timothy G. Massad

Responses of Timothy G. Massad to Questions of Senator Stabenow

**Questions for the Record for Timothy Massad  
From Chairwoman Stabenow**

1. Congress recognized the global nature of markets by including Section 722(d) in the Dodd-Frank Act. This provision granted extraterritorial authority to the CFTC. I believe in moving forward with strong financial regulatory reform, meeting G-20 commitments, and having the US lead on these matters, but there have been challenges, especially with cross-border coordination. This is one of the most important issues before the CFTC. Some have argued that the coordination between US and foreign regulators has been insufficient, has caused market fragmentation, and, in other ways, has put US companies at a disadvantage to their foreign counterparts. Others have argued that global regulatory oversight is essential given the global nature of these markets, that risk flows across borders even if regulations don't, and that any delays in this oversight diminish the accountability and transparency so important to preventing another financial crisis.
  - a. Do you agree with these assessments? How would you address or mitigate these concerns?
  - b. How should the CFTC move forward with important regulatory oversight when the EU is taking a different regulatory approach on certain matters and is on a different implementation timeline?
  - c. Where do you deviate, if at all, from the agency's current approach to cross-border guidance?
  - d. Should we treat branches, subsidiaries, or affiliates of Swap Dealers differently when it comes to their cross-border regulatory treatment?

I believe it is very important that we ultimately achieve a strong international regulatory framework for the derivatives markets. The United States should be a strong leader in this work. We should work closely with our fellow members of the G-20 to fulfill the commitments made five years ago as quickly as possible. If confirmed, I intend to make it a priority to build good relationships with our international counterparts, and use my best efforts to achieve such reforms as quickly as possible. Where timetables and approaches differ, we should work in good faith to achieve the goal of international harmonization as quickly as possible while maintaining our strong standards. We should avoid market fragmentation or putting U.S. companies at a disadvantage, while making sure that foreign exposures do not create excessive risks domestically. I am aware that the Commission has requested public comment on certain aspects of the cross-border guidance, and am also mindful of the fact that the guidance is the subject of litigation, and therefore would simply note that I look forward to considering carefully public comment on these issues and building on the work that has already taken place in this area.

1. The President's budget included an important increase in funding for the Commodity Futures Trading Commission (CFTC). This funding increase is solely

Responses of Timothy G. Massad to Questions of Senator Stabenow

**needed. I believe that by not properly funding the CFTC, we are setting this agency, and our economy, up for failure.**

- a. Could you support additional resources for the agency?**
- b. Could you support alternative funding streams, such as a registration fee or some sort of user fee, to fund the agency?**

The CFTC is an agency whose responsibilities have grown enormously since the passage of the Dodd-Frank Act but its budget has not, and I am very concerned about the agency's ability to fulfill its mission. I believe we must increase that funding and make sure we provide adequate resources to the agency to carry out its mission. As we witnessed during the financial crisis, inadequate regulation and supervision of our financial system can have enormous costs to the economy and the American people. If confirmed, I look forward to discussing with you and your staff the possibility of alternative funding streams that could help fund the agency.

**2. The importance of the CFTC to protecting energy markets from fraud and manipulation can't be overstated.**

- a. Do you commit to coordinating and cooperating closely with agencies like the Environmental Protection Agency (EPA) or the Federal Energy Regulatory Commission (FERC) when it comes to protecting markets, whether that is the RIN markets or power markets?**
- b. Specifically, would you be willing to work with your staff to make sure the CFTC continues to share relevant trading data in a timely manner with the FERC, per the MOU recently worked out between agencies? And as you do that, I would like to highlight the importance of the agency's legal obligation to protect confidential information.**

I believe Americans rightly expect that different agencies of the government will cooperate in good faith and work together toward common goals. If confirmed, I look forward to cooperating closely with other agencies, including continuing the work that the CFTC has already begun with FERC to implement the recently signed MOU. I also agree it is important to make sure the agency fulfills its legal obligation to protect confidential information.

Responses of Timothy G. Massad to Questions of Senator Harkin

**Questions for the Record for Timothy Massad  
From Senator Tom Harkin**

**1) During the implementation of the Dodd-Frank Act, the CFTC has coordinated closely with other financial regulators including the Treasury, the SEC, and foreign regulators. This is to be applauded. However, despite this close coordination, when these regulatory agencies have differed in their judgments, many have stated that the agencies should not move forward with rulemaking until and unless the agencies are about to harmonize their regulations. The CFTC has been particularly subject to these attacks. As the Chairman of the CFTC, you would be responsible for leading an independent regulatory agency.**

**a) If confirmed, how would you approach situations in which you are pressured to act in a certain way by other financial regulatory agencies?**

**b) Do you believe that the need to pursue regulatory harmonization should limit the ability of an independent agency to act on its own in order to best fulfill its mission?**

I deeply appreciate the important role that Congress has established for the Commission as an independent agency and, if confirmed, I will do all I can to make sure the Commission fulfills that role. I would certainly listen to the views of other agencies and seek to work together with them, but in my capacity as Chairman of the Commission, I would make decisions based on what I thought was right and the best way to fulfill the Commission's mission.

**2) In section 722(d) of the Dodd Frank Act, Congress clearly stated that CFTC derivatives trading requirements may be applied to any swaps activities that “have a direct and significant connection with activities in, or effect on, commerce of the United States.” Despite this clear Congressional directive, there is still powerful resistance to the guidance issued by the CFTC on this subject. If confirmed, what will you do to ensure that Dodd-Frank derivatives guidance is properly applied to the full range of swaps transactions that impact the U.S. economy and pose risks to the U.S. financial system?**

I have spent the last five years helping our nation recover from the worst financial crisis since the Great Depression, including dealing with the consequences of the near collapse of American International Group. I am very familiar with the fact that the derivatives market is global, that offshore derivatives activity can create significant risk to our financial system and that our regulatory system was, at that time, very inadequate to monitor or mitigate that risk. If confirmed, I will work to protect the U.S. economy, the U.S. financial system and American taxpayers from excessive risks associated with swaps trading, including from foreign jurisdictions. I am firmly committed to achieving a strong international regulatory framework for the derivatives market that is consistent with the high standards set by the

Responses of Timothy G. Massad to Questions of Senator Harkin

Dodd-Frank Act and the G-20 commitments, and if confirmed I look forward to building on the work that the Commission has already done in this regard.

**3) At the 2009 Pittsburgh G-20 summit, the major G-20 countries committed to comprehensively regulate their derivatives markets by the close of 2012. Yet today in 2014, major jurisdictions such as the European Union still have years to go in fully implementing their rules.**

**a) In order to prevent risks outside the United States from coming back upon our economy and citizens, do you believe the CFTC should apply and enforce its derivatives rules as to subsidiaries of U.S. banks in jurisdictions that have not yet completed their rules?**

**b) Or should the U.S. wait for the rest of the world to catch up with our progress?**

**c) How will you deal with foreign regulators to achieve regulatory regimes that will appropriately protect the people and economy of the United States?**

I believe it is very important that we ultimately achieve a strong international regulatory framework for the derivatives markets. The United States should be a strong leader in this work. If confirmed, I intend to make it a priority to build good relationships with our international counterparts and use my best efforts to see to it that the G-20 commitments are fulfilled and reforms are put in place as quickly as possible. Where timetables and approaches differ, we should work in good faith to achieve the goal of international harmonization as quickly as possible while maintaining our strong standards. While I would work with foreign regulators to avoid market fragmentation, we must also make sure that foreign exposures do not create excessive risks domestically. I am mindful that certain of these matters are the subject of litigation and that the Commission has also deferred implementation of certain aspects of the guidance in order to solicit public comment, but I would simply note that, if confirmed, my responsibility would be to take action to faithfully carry out the Commission's responsibilities under U.S. law, and I would use my best abilities to do so.

**4) The collapse of Peregrine Financial in my state of Iowa caused significant hardship for many Iowans. In the wake of this significant fraud, the CFTC and other futures regulatory bodies took steps to strengthen customer protections.**

**a) Do you believe those steps were sufficient to fully protect customer funds?**

**b) Or, does more need to be done, and if so, what?**

I recognize that the failure of Peregrine was very costly and damaging to your constituents and generally to the customers of the firm, as well as to the general level of confidence in the futures markets. It is my understanding that the Commission has taken measures to strengthen customer protection and the safety and soundness of the marketplace. I believe it is important for the Commission to take all reasonable actions

## Responses of Timothy G. Massad to Questions of Senator Harkin

within its authority to minimize the risk of failures like this while at the same time not creating marketplace inefficiencies or unduly burdening end-users. If confirmed, I look forward to listening to the concerns of market participants and working with staff and my fellow Commissioners to make sure that the Commission's rules achieve the goal of protecting customer funds without unduly burdening end-users or limiting access to markets. I would also look forward to working with you and your staff on this issue and on other actions that the Commission should consider to advance these objectives.

**5) Do you believe that automated and algorithmic trading strategies can present unique and substantial risks to markets?**

**a) What do you see as the Commission's role in addressing these risks?**

**b) How do you envision the Commission working with the Securities and Exchange Commission to provide effective oversight of this part of the markets?**

As I noted in my opening statement, one of my priorities would be to focus on the issues created by the fact that the derivatives markets, like all financial markets today, are heavily dependent on technology. I deeply appreciate the Commission's important role in ensuring the integrity of U.S. derivatives markets and the importance of ensuring that all market participants have confidence that the derivatives markets operate in a fair manner. It is my understanding that the Commission has issued a concept release that looks at a variety of issues raised by automated trading environments and algorithmic trading strategies, including adequacy of risk controls. If confirmed, I look forward to reviewing the comments and discussing these matters with the staff, my fellow Commissioners and the relevant stakeholders and working toward making sure that the potential risks created by these strategies are addressed. In addition, I recognize that the issues posed by automated and algorithmic trading affect both the derivatives and the securities markets as we witnessed in the Flash Crash. To the extent it is appropriate for the CFTC to work with the SEC on these issues, I will do so. Ultimately, however, I will do all I can to make sure the Commission takes appropriate action to address these issues in the markets subject to its jurisdiction.

**6) How do you envision working with regulators at the Federal Energy Regulatory Commission (FERC) to ensure full and effective collection, sharing, and analysis of commodity market data?**

I understand that the CFTC and FERC have entered into a memorandum of understanding regarding data sharing and that the respective staffs have been at work implementing this. If confirmed, I look forward to continuing the cooperation between the agencies.

Responses of Timothy G. Massad to Questions of Senator Harkin

**7) The Dodd-Frank Act requires the CFTC to consider certain costs and benefits in its rulemaking process, but some have been pushing the CFTC to do what they call a full “cost-benefit analysis,” which tips the balance and overly weights cost to the industry, particularly since so many of the benefits of CFTC rules and actions (like protecting commodity producers and consumers, the markets and financial system, as well as our economy) are incalculable and unquantifiable. How will you ensure that the CFTC does not apply a one-sided economic or cost-benefit analysis that is stricter than required by law and thereby curtail appropriate and necessary rulemaking?**

It is my understanding that the Commission is required by law to consider both sides of the analysis--that is, the costs and benefits of its regulations and certain orders. It is also my understanding that the Commission is required to evaluate the costs and benefits in light of five factors: (1) protection of market participants and the public; (2) considerations of the efficiency, competitiveness, and financial integrity of the futures markets; (3) considerations of price discovery; (4) considerations of sound risk management practices; and (5) other public interest considerations. It is also important for the Commission to fully consider comments received on the costs and benefits of Commission action. If confirmed, I would do my best to make sure the Commission appropriately complies with its obligations under the law in this area.

**8) What steps will you take to ensure that settlements in enforcement actions are transparently documented, explained, and reviewed by courts or other public tribunals?**

**a) When matters are settled out of court, will you commit to full and detailed public disclosure so that the American public can scrutinize for whether the settlement is appropriate and its terms meet the nature of the violation?**

As I noted in my opening statement, I believe robust enforcement is critical to maintaining confidence in the integrity of our financial markets and, if confirmed, I will make it a priority. As a matter of promoting market integrity by deterring wrongdoing, I believe it is important that the Commission make both market participants and the general public aware when a wrongdoer has been disciplined for unlawful behavior pursuant to an enforcement proceeding. If confirmed, I will do all I can to make sure that settlements in enforcement actions are appropriately reviewed and disclosed to the public, including a description of the conduct involved, the nature of the violations, and the sanctions imposed.

**9) What will you do to make sure that you hear all sides of a debate and get balanced advice and recommendations before making policies or rules?**

**a) Will you continue the current policies of requiring that all meetings and contacts by industry with the agency be promptly and fully disclosed?**

I deeply appreciate the importance of being well informed in connection with Commission policies and actions and hearing all sides of a particular issue. If confirmed,

## Responses of Timothy G. Massad to Questions of Senator Harkin

I intend to work closely with the staff and my fellow Commissioners, and to proactively engage with all types of stakeholders and interested parties, in order to achieve this. I support the use of advisory committees, public roundtables and other means that agencies may use to obtain public input. I also look forward to listening to you, other Members of the Committee and your colleagues regarding your concerns and views. I will also place emphasis on the important notice and comment process that attends agency rulemakings. With respect to the issue of transparency, I would note that I took a number of steps to increase transparency while overseeing TARP. This included publishing on our website a daily detailed balance sheet showing the status of TARP funds disbursed and collected by program, adding a "TARP Tracker" to the website so that the public could more easily understand the programs and how money was spent, publishing regular reports on our wind down efforts, publishing quarterly reports with specific metrics on mortgage servicer compliance and performance under HAMP, and working with the various oversight bodies to make sure they had the necessary information to do their jobs. If confirmed, I will do my best to make sure that the Commission follows good policies and practices to promote the transparency of agency decisionmaking.



Responses of Timothy G. Massad to Questions of Senator Brown

**Questions for the Record for Timothy Massad  
From Senator Sherrod Brown**

1. You stated in your testimony that banks' involvement in physical commodities activities is an issue "... largely outside the jurisdiction of the CFTC... and therefore not something that, as the CFTC chair if confirmed, that I would rule on." You further stated that "... I think it's very important that the commission use its authority. And if confirmed, I would certainly do so, to act if we see evidence of manipulation of any type... It's important that we act to prevent that. That is our job."
  - a. Given the CFTC's role in protecting and preserving the integrity of commodity and energy markets, are there any Commodity Exchange Act (CEA) statutory barriers or funding issues preventing the CFTC from exerting its proper authority to bring London Metal Exchange (LME) aluminum warehouse practices in accord with other global commodity exchanges where commodities are traded?
  - b. What statutory authority does the CFTC need from the U.S. Congress to address this issue?
  - c. What would you propose the CFTC do to remedy the irregularities in the aluminum warehouse market within its existing authorities?

In my confirmation hearing, I stated that the issue of whether large bank holding companies should be allowed to be in this business or any other particular business—particularly given the fact that they receive various forms of assistance from the government in the form of deposit insurance and access to the discount window—is an extremely important one that deserves consideration. It is my understanding, however, that questions as to permissible activities for banks are not generally in the purview of the Commission. I also stated that to the extent other regulatory agencies are considering that issue and need assistance from the Commission, I would, if confirmed, be happy to provide assistance. With respect to the possibility of manipulative or fraudulent conduct by banks (or by anyone else, for that matter), it is my understanding that the Commission has the authority to prevent and deter manipulation or fraud with respect to any commodity in interstate commerce, futures, or swaps. I am not aware of any changes to statutory authority that would be needed in that regard, but if confirmed, I will also consult with Commission counsel on that issue. I have read with concern the press reports describing some of the practices in this market. If confirmed, I intend to look into this issue fully, discuss it with the staff and my fellow Commissioners, and also speak with the LME, its regulator (as noted below) and market participants to determine if there is conduct that violates the law or otherwise warrants Commission investigation or action. Please also see my response to question 2 below regarding actions that, if confirmed, I would take.

Responses of Timothy G. Massad to Questions of Senator Brown

2. **There is a no-action letter between the CFTC and the LME allowing the LME to operate in the U.S. provided the LME ensures fairness to market participants. Specifically, the no-action letter states “members of the LME must promote high standards of fair dealing and integrity in trading.” It has been publically stated by CFTC officials that the CFTC can revoke and suspend any no-action letter that is issued.**
  - a. **Do you view the current activities of the LME and U.S.-based LME aluminum warehouses as consistent or inconsistent with the existing no-action letter?**
  - b. **If so, what options does the CFTC have to remedy this type of behavior to return the LME to a proper, free-market exchange of global aluminum price discovery?**
  - c. **At what point would revoking the no-action letter be an appropriate remedy to the LME aluminum warehouse issue?**
  - d. **If you need more information to answer this question, what steps have you taken or do you need to take to get the information you need?**

As you note, the Commission has issued a no-action letter to the LME with respect to its operation as a foreign board of trade (FBOT) within the United States. It is also my understanding that the LME has applied for registration with the Commission as an FBOT under the rules issued pursuant to the Dodd Frank Act. If confirmed, I intend to discuss these matters with the staff, my fellow Commissioners, market participants, and the LME and consider what action may be appropriate by the Commission. I also intend to work closely with foreign regulators including the United Kingdom’s Financial Conduct Authority (FCA), the home regulatory authority of the LME. I would seek discussions with the LME and the FCA, including around the review of recent modifications made by the LME to the aluminum contract as well as other proposals that may be considered. I would also be happy to discuss these issues further with you and your staff.

3. **In 2006, the CFTC subpoenaed Platts, the leading provider of spot and contract prices in the global metals market, to investigate the accuracy of trade data submitted to Platts. McGraw-Hill, Platts’s parent company, publicly acknowledged that “some energy companies and individual traders have repeatedly attempted to manipulate the price indexes produced by publishers such as Platts.” In 2002, during another CFTC investigation regarding energy prices, two power companies “disclosed that some of their traders provided inaccurate pricing information to Platts.” Such benchmarks by price reporting agencies based on producer announcements, negotiations, or gathering of market information have come under scrutiny. The first thing that comes to mind is LIBOR.**

Responses of Timothy G. Massad to Questions of Senator Brown

- a. **If confirmed for this position, would you be committed to making the outcome of the CFTC's investigation into the Platt's pricing mechanism public?**
- b. **Do you believe such benchmarks are usual for the market to determine the price of commodities?**

The recent enforcement actions concerning manipulation of LIBOR, as well as press reports concerning possible manipulation and other deficiencies involving other benchmarks, have highlighted the importance of benchmarks as well as their vulnerabilities generally. Structurally sound benchmarks free from manipulation are a critical part of sustaining market confidence and integrity. It is my understanding that there is considerable work going on among regulators internationally to arrive at principles and practices that are designed to ensure benchmarks have integrity and are free of manipulation. These reforms are an important priority for me and, if confirmed, I would actively engage in these efforts, and determine with my staff and my fellow Commissioners whether additional efforts are warranted with regard to particular benchmarks affecting markets regulated by the Commission. If confirmed, I would also discuss with the staff and my fellow Commissioners your request that the outcome of the 2002 investigation that you reference be made public and would be happy to get back to you.

- 4. **From Long-Term Capital Management in 1998 to AIG Financial Products in 2008, we have seen that U.S. institutions and financial markets can feel the consequences of trades made overseas. That is why the Dodd-Frank Act gave the CFTC authority over cross-border transactions, and that is why the cross-border rules are so important. Understanding that the courts will weigh in on the cross-border rule, do you support the CFTC's cross-border rules, and what will you do to keep them as strong as possible?**

Having spent the last five years helping our nation recover from the financial crisis and in particular dealing with the near collapse of AIG, I am very familiar with the fact that the derivatives market is global, that offshore derivatives activity can create significant risk to our financial system and that our regulatory system was, at that time, very inadequate to monitor or mitigate that risk. I am mindful that the cross-border guidance published by the Commission is the subject of litigation and therefore it would not be appropriate for me to comment on it at this time. However, I can assure you that I will work to protect the U.S. economy, the U.S. financial system and American taxpayers from excessive risks associated with swaps trading, including from foreign jurisdictions. I believe that it is very important that we achieve a strong international regulatory framework for the derivatives market that is consistent with the high standards set by the Dodd-Frank Act, and I look forward to building on the work that the Commission has already done in this regard.

Responses of Timothy G. Massad to Questions of Senator Klobuchar

**Questions for the record for Timothy Massad  
From Senator Amy Klobuchar**

- 1) **The Dodd-Frank Act sets position limits or hard caps on a range of commodities, including energy products. Commercial hedges are based on an actual physical product, like corn or wheat and are exempt from these position limits. However, many common commercial practices used in agriculture are caught by these position limits. This provides the farmer with a set price and budget certainty. Should the list of allowed hedges include the types of transactions common in agriculture? Will you work with those who trade physical commodities to ensure that the exemptions to the position limit rule allow for the normal practices of these businesses?**

I recognize the important role that the derivatives markets play for hedging commercial risk and believe it is critical that these markets remain effective tools for farmers, ranchers and other end-users to manage their risks efficiently. It is my understanding that the Commission's recently proposed position limits rule contains exemptions for many types of hedging activities that are common in agriculture. I also recognize that there may be some who believe that changes are needed to these or other aspects of the proposed rule. If confirmed, I look forward to reviewing the comments on the proposed rule and discussing these matters with the staff, my fellow Commissioners and stakeholders to make sure that any final action taken by the Commission provides for appropriate exemptions.

- 2) **The commodities markets involve essentially two kinds of participants: commercial end users and financial institutions. The Dodd-Frank Act requires that both types of derivative trade participants to put up the cash for these derivatives or swap trades in a margin account. The Dodd-Frank Act also provided an exemption from the margin requirement for some of types of the typical transactions used by commercial end users. However, commercial end users still may be required to have a margin account for many of the typical transactions used to conduct their business which can tie up their available cash. What factors would you take into account as the CFTC determines how the margin requirements would apply to commercial end users and financial institutions? Will you work with these commercial end users to ensure that these risk management tools remain affordable for these businesses?**

I recognize the importance of making sure that the derivatives markets continue to function efficiently for commercial end users and that such businesses must be able to hedge risks efficiently. It is my understanding that Congress exempted from the clearing requirement swap transactions involving nonfinancial end-users that hedge commercial risk, and that the Commission's proposed rules on margin for uncleared swaps would require swap dealers to

## Responses of Timothy G. Massad to Questions of Senator Klobuchar

collect margin on uncleared swaps for transactions with financial counterparties but not with nonfinancial commercial end users. If confirmed, I look forward to working with the staff, my fellow Commissioners and market participants to make sure we keep in mind the needs of commercial end users, including the overall affordability of such risk management tools.

- 3) Speculative trading has played a role in the commodities markets, notably the gas, oil and wheat markets in the past. However, end users who have a stake in the actual underlying commodity, such as wheat growers, may not be able to conduct their business because of rules put in place to curb the abuses by speculators and financial institutions. What steps can the CFTC take to make sure that end users are able to conduct their business and that the market best reflect the forces of supply and demand while managing excessive speculation?**

It is my understanding that the Commission has proposed a position limits rule designed to prevent or deter excessive speculation in certain commodities while at the same time allowing for end users to continue to use these markets effectively to hedge their commercial risk and engage in price discovery. If confirmed, I look forward to reviewing the comments on the rule and working with staff and my fellow Commissioners and listening to market participants to ensure that the Commission's rules accomplish those objectives. In addition, if confirmed, I would support robust market surveillance and enforcement efforts to prevent and deter fraud and manipulation and pursue wrongdoers.

- 4) Position limits play an important role in reducing excessive speculation and protecting consumers from market manipulation. The CFTC has proposed setting position limits for cash settled contracts at a higher level than the limits for physically settled contracts. How do you think that this aspect of the CFTC's position limit rule would impact liquidity in the physically settled market and its price discovery mechanism? What steps do you believe the CFTC should take to reduce the risk of market manipulation from large market participants using one market to influence the price for similar contracts in another market?**

The Commission has proposed a position limits rule that is intended to prevent and deter excessive speculation. It is my understanding that the proposal contains a conditional spot month limit that would provide for a higher limit for cash settled contracts where, among other things, the market participant does not have a position in the physically settled contracts. It is also my understanding that there are different views among market participants on this issue. If confirmed, I look forward to reviewing the comments and working with staff and my fellow Commissioners to take final action on the proposal in a thoughtful manner.

Responses of Timothy G. Massad to Questions of Senator Bennet

**Questions for the Record for Timothy Massad  
From Senator Bennet**

**As we work to implement Dodd-Frank, it's important that other countries' rules on clearing and trading are consistent with ours. This will promote greater financial stability and ensure that U.S. companies are not placed at a competitive disadvantage to foreign ones. What steps will you take to ensure that our rules on trading and clearing are fully harmonized with other countries? Will you work to create a level playing field for all market participants?**

I believe it is very important that we achieve a strong international regulatory framework for the derivatives markets. The United States should be a strong leader in this work. If confirmed, I intend to make it a priority to build good relationships with our international counterparts and use my best efforts to put these reforms in place as quickly as possible. We should work closely with our fellow members of the G-20 to fulfill the commitments made five years ago to bring transparency and regulation to this market. Where timetables and approaches differ, we should work in good faith to achieve the goal of international harmonization as quickly as possible while maintaining our strong standards. I will work to avoid market fragmentation or putting U.S. companies at a disadvantage while making sure that foreign exposures do not create excessive risks domestically.

Responses of Timothy G. Massad to Questions of Senator Donnelly

**Questions for the Record for Timothy Massad  
From Senator Donnelly**

- 1) When I met with each of you, I asked each of you for your thoughts about the commission's budget and available resources. You all said you wanted to get into your positions and see the needs first hand. We also talked about the possibility of creating a self-funding mechanism for the commission that would provide you with sufficient resources without restricting access for market participants. Will each of you commit to getting back to this committee in the coming months with your thoughts and ideas for appropriately funding the commission?**

It is essential that the Commission has sufficient resources to do its job. If confirmed, I look forward to getting back to the committee in the coming months with my thoughts and ideas on appropriately funding the Commission.

- 2) When the CFTC established its definition of "swap dealer," it created \$25 million de minimis threshold for swaps involving special entities and a \$3 billion level for swaps with all other entities. As a result of this lower threshold, publically-owned utilities, like the Indiana Municipal Power Agency, have fewer counterparties available to help them manage risk when compared to their investor-owned counterparts. As a result, their input prices are more likely fluctuate and ratepayers are more likely to see unanticipated swings in their bills. I've introduced legislation, cosponsored by many members of this committee, that would solve this problem, but I believe the CFTC can address this issue as well. Will you commit to work with stakeholders to see if you can find a solution to this issue?**

It is my understanding that the joint final rule of the CFTC and the SEC, which defines the *de minimis* threshold to register as a swap dealer, set a lower threshold for dealing activity involving special entities in light of the statutory requirement in Title VII to afford a higher level of protection to special entities when they engage in derivatives transactions with swap dealers. I understand the Commission has issued a no-action letter addressing this issue, but that concerns remain with the effectiveness of that relief, and that the Commission intends to hold a public roundtable next month to explore the issue further. If confirmed, I look forward to working with the staff, my fellow Commissioners and stakeholders to make sure the Commission's regulations appropriately balance the business needs of utility special entities with the statutory requirement for a higher level of protection for special entities.

- 3) The Energy and Environmental Markets Advisory Committee was created in Dodd-Frank to advise the Commission on important new developments in energy and environmental futures markets that may raise new regulatory issues, and the appropriate regulatory response to ensure market integrity and competition, and**

Responses of Timothy G. Massad to Questions of Senator Donnelly

**protect consumers. The committee is obligated to meet not less than twice a year, but has not met since September 2009. Will you commit to ensuring this advisory committee will meet as its obligated to under law?**

If confirmed, I will look into why the Energy and Environmental Markets Advisory Committee has not met and work to make sure it meets as required by law.



Responses of Timothy G. Massad to Questions of Senator Heitkamp

**Questions for the Record for Timothy Massad  
From Senator Heitkamp**

- 1) **The CFTC was created to regulate the futures markets for predominantly agricultural commodities. Over time, its authority has expanded as the types of commodities being traded has expanded. However, nothing has changed in that the core function of the CFTC is to provide oversight to the futures market for agricultural commodities. There is a long history of the CFTC having commissioners who understand and have a working knowledge of how agricultural markets operate. While the nominees being considered for the CFTC may all be well qualified, including yourself, I am concerned that none of you have a background that includes the agriculture industry. What are you going to do to ensure you understand how the agricultural futures market works? Will you bring in staff into your office that understands how farmers, grain handlers, and agribusiness use these markets?**

I appreciate the fact that the regulation of agricultural commodity futures was the principal reason for forming the CFTC and it continues to be an extremely important part of its mission today. Agriculture is vital to our economy, and futures markets are vital to the ability of producers and others in the agricultural industry to hedge price and production risk. I also appreciate how the agricultural sector affects many facets of our economy and many businesses. As a lawyer, I advised a wide range of commercial enterprises on their use of derivatives to hedge physical commodity and financial exposure, including many businesses that dealt with the agricultural sector, such as a fertilizer producer and a rural lender. If confirmed, I look forward to reaching out to agricultural stakeholders to obtain their views regarding Commission policies and actions that affect those markets. In this regard, I would want to make sure that the Agricultural Advisory Committee meets regularly. I would also look forward to working with you and other members of the Committee and your respective staffs and listening to your concerns.

- 2) **I would like to hear your thoughts on the recent rulemaking regarding residual interest. End users and agricultural marketers in my state are concerned about the increased costs that come with this rule. Even the farmer customers, whom the CFTC is trying to protect with this rule, were opposed to it. The CFTC's residual interest rule seeks to enhance customer protection by requiring futures commission merchants -- the firms that actually place orders to buy and sell futures on behalf of customers -- to do their residual interest calculation earlier. The result is that these FCMs either would have to cover margin calls with their own money or they would be compelled to require that customers pre-margin their hedge accounts. The problem is that pre-margining increases customer costs and may drive some hedgers -- namely farmers -- out of futures markets. In addition, pre-margining**

Responses of Timothy G. Massad to Questions of Senator Heitkamp

**puts more customer money at risk if another MF Global insolvency occurs as a result of a breach of segregated accounts.**

**Can you give me your thoughts on the proposed rule and the timeline for implementation and enforcement?**

**If you are confirmed as a CFTC commissioner, are you willing to reevaluate the residual interest rulemaking, and sitting down with stakeholders to find a workable solution?**

**Are there other approaches to increasing customer protections that you may consider that do not involve increasing costs for hedgers?**

I believe it is very important that end-users who have traditionally relied on the futures markets to hedge commercial risk can continue to do so efficiently, and that the Commission's rules do not unfairly burden them, particularly smaller businesses and participants. It is my understanding that the recent rulemaking concerning residual interest was intended to enhance the protection of end-users and strengthen the safety and soundness of the marketplace, by providing that one customer's funds cannot be used to cover another customer's margin and by reducing the risk that a nondefaulting customer's funds would be lost in the event of a failure of an FCM. I also appreciate that some are concerned that the rule will effectively require margin to be posted sooner, and that this could be burdensome for some participants. It is my understanding that the Commission has therefore decided to implement the changes to the posting of residual interest over a five year period. I understand that the Commission will study the effects of an initial change to be made in November, as well as the feasibility and desirability of moving the deadline for FCMs to use their own funds to cover any customer's deficit to the time of settlement. If confirmed, I look forward to reviewing the results of the study, listening to the concerns of market participants and working with staff and my fellow Commissioners to make sure that the Commission's rules achieve the goal of protecting customer funds without unduly burdening end-users or limiting access to markets.

- 3) **Chairwoman Debbie Stabenow and other members of this Committee have mentioned their concern that a lack of transparency has opened the door for manipulation in the market for RINs. Prices for the credits, also known as RINs, have been particularly volatile in 2013, rising from their starting point of a few cents in January to \$1.44 in July and settling back in the 70-cent range. Can you share your views on the CFTC's jurisdiction to oversee the RIN market? Understanding that this product is not a future, option, put, or swap – is there a role for CFTC to play in giving certainty to the RIN market? This Committee will soon consider legislation reauthorizing the CFTC. Would providing CFTC oversight authority over the RINs market be a wise option to consider? Are there other regulatory bodies that are better situated to oversee this market?**

I appreciate that recent trading in the RIN market has been a source of concern for many, particularly those involved in the production or sale of ethanol, and that there have been

## Responses of Timothy G. Massad to Questions of Senator Heitkamp

allegations of manipulation in the trading of RINs. It is my understanding that the concerns have largely been focused on the cash market for trading and creating RINs. While there are futures contracts related to RINs, these have been only thinly traded historically. The Commission has the authority to prevent fraud and manipulation with respect to any commodity in interstate commerce, and I believe that strong enforcement is essential to safeguarding our markets. If confirmed, I look forward to discussing with the staff, my fellow Commissioners, and you and your staff the issues facing the RIN market and what might be done to address them.

Responses of Timothy G. Massad to Questions of Senator Walsh

**Questions for the Record for Timothy Massad  
From Senator Walsh**

1. **There is growing evidence that excessive speculation on agricultural commodities has some influence on price volatility. While the futures market provides an important piece of a risk management plan for farmers, increased price volatility means uncertainty. On the other hand, many also believe that the market is largely self-correcting, and that participation in the futures markets provides more information to the supply and demand basics that, ultimately, contribute to a more stable market. Do you think there is excess speculation on any commodities? If the answer is yes, what steps if any do you believe the agency should take within its existing authority to curtail speculation? How should the concerns of commodity end-users be prioritized in this discussion?**

I believe it is critical that the commodity futures markets remain effective tools for farmers, ranchers and other end users to manage their risks efficiently. It is my understanding that the Commission has been given the responsibility to set position limits to, among other things, "diminish, eliminate or prevent" excessive speculation, which Congress has found is "an undue and unnecessary burden on interstate commerce." It is also my understanding that the Commission has proposed a rule to implement position limits in certain commodities, and the proposed rule provides exemptions for bona fide hedging activities. If confirmed, I look forward to reading the comments and discussing these matters with the staff, my fellow Commissioners and stakeholders to make sure that any final action taken by the Commission is thoughtful and takes the concerns of end-users into account.

2. **When you enter the CFTC you will be met with several proposed rules as well as final rules that have not yet been fully implemented. These rules will have an impact on Montana producers, either directly or indirectly. Considering that you do not have a strong background in agriculture, what outreach initiatives do you have in mind to ensure that the perspectives and priorities of America's farmers and ranchers are heard throughout the process?**

Agriculture is vital to our economy, and futures markets are vital to the ability of producers and others in the agricultural industry to hedge price and production risk. I deeply appreciate that the agricultural sector affects many facets of our economy and many businesses. As a lawyer, I advised a wide range of commercial enterprises on their use of derivatives to hedge physical commodity and financial exposure, including many businesses that dealt with the agricultural sector, such as a fertilizer producer and a rural

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lender. If confirmed, I will reach out to agricultural stakeholders to obtain their views regarding Commission policies and actions that affect those markets. In this regard, I would want to make sure that the Agricultural Advisory Committee meets regularly. I would also look forward to working with you and other members of the Committee and your respective staffs and listening to your concerns.

Responses of Timothy G. Massad to Questions of Senator Cochran

**Questions for the Record for Timothy G. Massad  
From Senator Cochran**

**Question 1: In issuing its cross-border guidance, the Commission did not utilize the formal rulemaking process.**

- A. Are you committed to following the Administrative Procedures Act and utilizing the formal rulemaking process during your tenure?**
- B. Do you plan to adhere to the “Path Forward” in working with European and other international regulators to share jurisdiction of these important derivatives markets?**

Having been a lawyer for many years, as a general matter, I appreciate the importance of adherence to the requirements of the Administrative Procedures Act and the rulemaking process. I also recognize that regulatory agencies use notice and comment rulemaking processes as well as other tools, such as guidance and no-action letters, depending on the circumstances. If confirmed, I would do all I can to make sure the Commission abides by its obligations under the law and utilizes notice and comment rulemaking where appropriate. If confirmed, I would also work in good faith with our international counterparts toward the goal of having a strong international regulatory framework for the derivatives market. It is my understanding that much work has already been done in this regard including the understandings set forth in the “Path Forward” document. While it is important to work cooperatively with international counterparts, the responsibility to implement and enforce United States law remains with the Commission.

**Question 2: Congress created the Financial Stability Oversight Council (FSOC) in order to assure that emerging risks to our financial system were identified and to improve coordination among federal financial regulatory agencies. But, Congress specifically didn't ask any of the independent agencies, such as the CFTC, to relinquish their separate views. In fact, the value of the FSOC is that each member brings their agency's expertise and viewpoints to the table. Since your prior Administration experience is squarely within Treasury, I would like your assurance that as you discharge your duties on FSOC you will represent the views and perspective of the CFTC and its regulatory regime. I would be concerned, for example, if you were to support FSOC actions that would give the Fed primary oversight over commodity pool operators and commodity trade advisors since the CFTC has a robust risk-based regulatory regime for these entities.**

- A. Can you assure me that you will maintain the independence and jurisdiction of the CFTC when it participates in FSOC decisions?**
- B. Can you assure me that as an FSOC member you will not vote to extend the jurisdiction of the Fed over entities that the CFTC already regulates?**

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**C. With respect to the discharge of your duties as an FSOC member, can you assure me that you will seek input from your fellow Commissioners and that you will provide a public rationale for any vote that diminishes the independence or jurisdiction of the CFTC, including an explanation as to why CFTC oversight was inadequate to address the concerns identified by FSOC?**

It is my understanding that the FSOC was created to identify and monitor potential threats to the stability of the U.S. economy and financial system and, more generally, as a forum where financial regulators could work together, each bringing particular expertise to assess emerging risks across the financial system. It is also my understanding that the Chairman of the Commission participates on the FSOC as an individual voting member. If confirmed, I would use my best judgment and ability to discharge those responsibilities in accordance with the law. In addition, if confirmed, in my capacity as the Chairman of the Commission, I would use my best judgment and ability to see that the Commission fulfills its responsibilities under the law, including that it fully exercise its duties to regulate the markets and market participants in its jurisdiction and that the independence of the Commission is maintained.

**Question 1: The Commission historically has been charged with regulatory authority over the commodity futures markets, such as wheat, corn and cotton. As the agency's oversight role has grown in recent years, groups representing agriculture commodity and producer interests have stressed the need for leaders of the CFTC to recognize and understand the importance of American agriculture and to willingly engage with representative groups as vital stakeholders in the marketplace. It is critical for leaders of the CFTC to recognize and understand the importance of American agriculture. If confirmed, how do you plan to engage with agricultural groups as well as with other end-users?**

Agriculture is vital to our economy, and futures markets are vital to the ability of producers and others in the agricultural industry to hedge price and production risk. I appreciate that the agricultural sector affects many facets of our economy and many businesses. As a lawyer, I advised a wide range of commercial enterprises on their use of derivatives to hedge physical commodity and financial exposure, including many businesses that dealt with the agricultural sector, such as a fertilizer producer and a rural lender. If confirmed, I look forward to reaching out to agricultural stakeholders to obtain their views regarding Commission policies and actions that affect those markets. In this regard, I would want to make sure that the Agricultural Advisory Committee meets regularly. I would also look forward to working with you and other members of the Committee and your respective staffs and listening to your concerns.

**Question 2: This Committee has received comment letters stating that implementation of the Dodd-Frank Act has led to confusion and unwarranted expense for market participants. Some commenters stressed that the CFTC has implemented rules in an illogical and at times haphazard manner, leading to unnecessary cost and confusion for market participants. The Commission has developed a habit of waiting until the last**

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**minute to provide no-action or delayed compliance relief for market participants. How would you address these concerns?**

As a lawyer who advised commercial businesses engaged in hedging activities and subject to various regulatory regimes, I appreciate the importance of clarity and certainty in rulemaking. I also recognize that guidance and no-action letters can be appropriate tools to respond to particular circumstances, concerns or questions that may arise under the law or Commission rules and regulations. If confirmed, I would seek to ensure that the Commission acts in a manner which provides as much clarity and certainty as possible to market participants as well as opportunity for public input.

**Question 3: Do you think the CFTC should be required to fully assess and quantify the costs and benefits associated with the rules and orders it puts forward?**

It is my understanding that the Commission is required by law to consider the costs and benefits of its regulations and certain orders and evaluate the costs and benefits in light of five factors: (1) protection of market participants and the public; (2) considerations of the efficiency, competitiveness, and financial integrity of the futures markets; (3) considerations of price discovery; (4) considerations of sound risk management practices; and (5) other public interest considerations. It is also important for the Commission to fully consider comments received on the costs and benefits of Commission action. If confirmed, I would do my best to make sure the Commission appropriately complies with its obligations under the law in this area.

**Question 4: We have heard from end-user stakeholders that they should not be subject to margin and capital requirements for their exempt swaps.**

**A. Would you agree that margin and capital requirements should not to be imposed on end-users?**

**B. Would you support a rule change to fix this problem yourself?**

Congress provided that nonfinancial commercial end users are exempt from the clearing mandate when hedging their commercial risks. It is my understanding that under the Commission's proposed rule regarding margin for uncleared swaps, nonfinancial commercial end users would not be required to post margin. It is also my understanding that the Commission's proposed rule on capital requirements would impose capital requirements on certain swap dealers and major swap participants, and not nonfinancial commercial end users. If confirmed, I look forward to listening to the concerns of commercial end-users and taking final action on these rules in a timely and thoughtful manner.

**Question 5: Public power companies provide vital services to urban and rural communities. I understand that utility companies (as well as other non-financial entities) are no longer willing to enter into energy swaps with government-owned utilities for fear of**



Responses of Timothy G. Massad to Questions of Senator Cochran

exceeding the “special entity *de minimis*” threshold and thereby having to register with the CFTC solely because of their dealings with government-owned utilities. This concern has been expressed by utilities in Mississippi and across the country.

- A. How can we address the concern that these government-owned utilities have expressed about having fewer counterparties to their risk mitigating transactions?
- B. Are you willing to work with fellow Commissioners and market participants to fix this issue?

It is my understanding that the joint final rule of the CFTC and the SEC which defines the *de minimis* threshold to register as a swap dealer set a lower threshold for dealing activity involving special entities in light of the statutory requirement in Title VII to afford a higher level of protection to special entities when they engage in derivatives transactions with swap dealers. It is also my understanding that the staff of the CFTC subsequently issued a no-action letter which raised this *de minimis* threshold for swaps with utility special entities to \$800 million, a level which had been previously suggested by certain representatives of utility special entities. I understand that concerns remain with the effectiveness of that relief and the Commission has scheduled a public roundtable on this issue for next month. If confirmed, I look forward to working with the staff, my fellow Commissioners and stakeholders to make sure the Commission’s regulations appropriately balance the business needs of utility special entities with the statutory requirement to provide a higher level of protection for special entities.

**Question 6: At your confirmation hearing concerns were raised regarding CFTC Rule 1.35 recordkeeping requirements. This rule has proven to be a burden for small and mid-sized market participants. Are you willing to work with these groups to craft regulatory relief that is clear and realistic for these market participants?**

It is very important that small and mid-sized market participants are able to hedge risk efficiently in futures and swaps markets. I understand that market participants have raised concerns regarding the recordkeeping requirements set forth in CFTC Rule 1.35. It is also my understanding that the Commission has scheduled a public roundtable on this issue for next month. If confirmed, I look forward to working with the staff, my fellow Commissioners and stakeholders to make sure that Commission regulations do not unduly burden small and mid-sized market participants.

**Question 7: The agriculture community is concerned that proposals regarding increased residual interest requirements for futures commission merchants will dramatically raise the costs of hedging and investing in the futures markets and could result in limited market access for agricultural hedgers and smaller speculative investors.**

- A. Have any customers ever lost money because of the way margin deficiencies are handled under the current system?

Responses of Timothy G. Massad to Questions of Senator Cochran

- B. We understand that the CFTC is to undertake a study of this rule change but that irrespective of the outcome of the study the new rule will go into effect absent further rulemaking by the CFTC. Are you willing to take a data driven approach to this issue and change the rule if the study results favor a change?**

It is my understanding that the Commission's recent rulemaking concerning residual interest was intended to enhance the protection of end-users and strengthen the safety and soundness of the marketplace, by providing that one customer's funds cannot be used to cover another customer's margin and by reducing the risk that a nondefaulting customer's funds would be lost in the event of a failure of an FCM. It is also my understanding that these changes were prompted, in part, by recent failures of FCMs. I understand that some stakeholders are concerned that the rulemaking will effectively require margin to be posted sooner and that this could be burdensome for some participants. It is my understanding that the final rule approved by the Commission provides that these requirements are to be phased in over a five year period. I understand that the Commission intends to study the effects of an initial change to be made in November, as well as the feasibility and desirability of moving the deadline for FCMs to use their own funds to cover any customer's deficit to the time of settlement. If confirmed, I look forward to reviewing the results of the study, listening to the concerns of market participants and working with staff and my fellow Commissioners to make sure that the Commission's rules achieve the goal of protecting customer funds without unduly burdening end-users or limiting access to markets. I would also look forward to working with you and your staff on this issue.

**Question 8: Many market participants have significant reservations about the efficacy of position limits as set out in the current CFTC proposed rule.**

- A. Do you agree that position limits should be imposed only after a finding of need and effectiveness on a contract-by-contract basis, using reliable, recent, and relevant market data?**
- B. Would you agree that if the CFTC finds that it must set position limits, such limits should be based on quantitative findings, including the size and depth of markets?**

It is my understanding that Congress in the Dodd-Frank Act directed the Commission to establish position limits and that the Commission has re-proposed a position limits rule which sets forth a finding of necessity. If confirmed, I look forward to reviewing the comments on the rule and discussing it with the staff, my fellow Commissioners and market participants. In considering the proposed limits, I would consider factors such as the size and liquidity of markets, and I would look forward to being informed by the most recent and reliable data that is available.

**Question 9: A properly functioning position limits regime is not only dependent on a clear understanding of deliverable supply for a particular commodity but also on a workable hedge exemption process.**

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- A. Will you ensure that the final position limits rule provides end-users with the flexibility they have historically had under the CFTC's approach to bona fide hedging?**
- B. Since federal agencies, generally speaking, do not respond quickly to market innovation and changing practices, would you agree that the CFTC's current proposal with respect to bona fide hedging should not limit end-users' ability to properly and efficiently hedge risk by restricting the availability of the bona fide hedge exemptions from position limits to a limited set of enumerated transactions?**
- C. Would you agree that the CFTC's current bona fide hedge exemptions proposal, which limits exemptions to a very narrow list that does not include many current hedging best practices, is overly restrictive and incompatible with the realities of the market?**
- D. Given the budgetary constraints and the stretched CFTC resources, would you agree that requiring end-users to get specific CFTC approval to hedge certain current or anticipated risks as a bona fide hedge before entering into a transaction will hinder their ability to operate their businesses effectively?**

I recognize the important role that the derivatives markets play for hedging commercial risk and believe it is critical that these markets remain effective tools for farmers, ranchers and other end-users to manage their risks efficiently. It is my understanding that there are a variety of elements relating to hedging activities in the Commission's recently proposed position limits rule, including enumerated exemptions which do not require prior approval of the Commission. I also understand that the proposed rule has a procedure for obtaining Commission approval for other activities that a participant believes may not be specifically enumerated in the rule but are nevertheless commonly used in the market. It is my understanding that some market participants believe that changes are needed to these provisions or other aspects of the proposed rules. If confirmed, I look forward to reviewing the comments on this rule and discussing these matters with the staff, my fellow Commissioners and stakeholders to make sure that any final action taken by the Commission provides for appropriate exemptions for bona fide hedging, including enumerated exemptions that cover the most common risk-reducing practices and do not require Commission approval. If confirmed, I would also do the best job I can to enable the Commission to be as responsive as possible, given its budgetary constraints, to the needs of market participants generally, whether they are seeking exemptions, interpretations or other assistance.

**Question 10: Given that Congress carefully designated protections for end-users in the Dodd-Frank Act and considering that the CFTC has authority to grant exceptions, would you agree that the CFTC should take measures to ensure that only entities that meet a common sense definition of "financial entity" are regulated as such?**

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As you noted, Congress provided a variety of exemptions for end-users in the Dodd-Frank Act. It is my understanding that the Commission has proposed or implemented rules related to making those exemptions effective. If confirmed, I look forward to taking final action on any proposed rules, and meeting with end-users to discuss their views on how Commission regulations affect their business, including discussing potential areas where further Commission action may be warranted.

**Question 11: Since a change to the swap dealer *de minimis* level would significantly impact the market structure and potentially harm end-users by limiting the availability of counterparties, will you commit to engaging in a formal rulemaking before any change is made to the \$8 billion swap dealer *de minimis* level?**

It is my understanding that the *de minimis* level in the definition of swap dealer is currently at \$8 billion and is currently set to decrease to \$3 billion after a five-year phase-in period unless the Commission takes further action. I also understand that the Commission has committed to doing a study of the effects of the swap dealer definition, including the *de minimis* level. If confirmed, I look forward to considering the study, once completed, making sure the Commission receives public comments on the study from interested stakeholders, and then determining what action the Commission should take to make sure that the swap dealer definition is appropriate, that entities regularly dealing in swaps are appropriately regulated, and that the markets continue to function efficiently for end users.

**Question 12: As you may know, the CFTC has, in direct contradiction to Congressional intent, indicated that they will regulate certain physical contracts as swaps. The Senate Agriculture Committee has received comment letters from energy companies and other end-users about options and forward contracts with embedded volumetric optionality that physically settle—they believe these contracts should be excluded from the definition of a swap on the basis that they do not pose systemic risk and haven’t traditionally been viewed as swaps.**

- A. Are you aware that (1) the Commodity Exchange Act excludes from the definition of “swap” transactions that are “intended to be physically-settled” and (2) the CFTC has an interim-final rule on this issue outstanding, under which they have taken comment, but not responded to those comments?
- B. Given that exclusion from the definition, would you agree that options that result in the physical delivery of a commodity and forward contracts that contain some level of variability in how much of a physical product is ultimately delivered – but in all cases do involve the actual sale and delivery of a nonfinancial commodity – fall outside of the definition of a “swap”?
- C. Finally, will you ensure that the Commission considers the comments submitted to it regarding the interim final rule on this topic and that the Commission issues a final rule that addresses the concerns raised in those comments?

## Responses of Timothy G. Massad to Questions of Senator Cochran

I am aware that option and forward contracts are essential tools for end-users to manage their commercial risks. I understand that the Commission has taken a variety of actions related to these contracts, but that concerns remain among end-users. If confirmed, I look forward to meeting with the staff, my fellow Commissioners and stakeholders and reviewing comments received on these issues to determine what additional actions in this area may be necessary to ensure that end-users are able to appropriately use these tools to manage their commercial and physical risks.

**Question 13: In comment letters submitted to this Committee we were informed of an unintended consequence of the CFTC's real-time reporting rule, in which legitimate end-users are experiencing difficulty in hedging their commercial risk with certain physical commodities.**

**Under the real-time reporting rule, end-users have a longer time in which to report trades with other end-users. However, trades that involve a swap dealer or major swap participant must be reported in a much shorter time after execution. Because the rule requires trades between a non-dealer and a swap dealer be reported within the dealer's time limit, swap dealers and major swap participants have limited time to lay off risk before the trade is made public.**

**When a dealer has to report such trades to the market quickly and the dealer may not be able to lay off the risk of that trade in the prescribed time, especially in illiquid markets in far out months, the dealer is taking a risk and will charge the counterparty (here, the commercial end-user) for that increased risk if they are willing to execute the trade at all. This increased cost and possible inability to trade in illiquid markets will hurt commercial end-users. Will you agree to work with the Committee and with commercial end-users to address this issue in a way that helps commercial end-users, but still allows swaps data to be disclosed publicly?**

I recognize the importance of end users being able to hedge risk efficiently and appropriately access liquidity in these markets, as well as the importance of timely reporting in order to bring transparency to the derivatives markets. I also understand that commercial end-users have expressed concerns regarding their ability to hedge their commercial risk with certain physical commodities. If confirmed, I look forward to discussing this issue with the staff, my fellow Commissioners and market participants, as well as you and your staff, to make sure that the Commission's rules appropriately take into account the importance of both objectives.

Responses of Timothy G. Massad to Questions of Senator Roberts

**Questions for the Record for Timothy G. Massad  
From Senator Pat Roberts**

- 1) If confirmed as Chairman of the Commodities Futures Trading Commission, what will be your immediate priorities for the commission?**

There are many important issues and challenges facing the Commission. In my opening statement, I highlighted three areas in particular that I would focus on if confirmed. First, if confirmed, I will make sure that the Commission has a robust enforcement program, as it is critical to the task of maintaining the integrity of the financial markets. Second, now that the Commission has issued most of the rules required under the Dodd-Frank Act, I would want to make sure that the rules work and that the markets are operating effectively. In this regard, I would want to listen to the concerns of end users and other stakeholders, including traditional agricultural stakeholders, as well those market participants newly subject to the Commission's jurisdiction. I would also want to work with our international counterparts to build a strong international regulatory framework for the derivatives markets. Third, I would want to focus on the data and technology challenges facing the Commission. Derivatives markets, like all financial markets today, are heavily dependent on technology, which raises important issues for the Commission to consider. The Commission should also focus on collecting data wisely so that it can be used productively to monitor and mitigate risk and bring transparency to the markets. I recognize there are many other important matters currently pending before the Commission, such as proposed rules on position limits and margin rules. If confirmed, I would also be focused on reaching out to market participants and members of this Committee to make sure the Commission is adequately listening to their concerns.

- 2) Considering you oversaw the implementation and wind down of the Troubled Asset Relief Program (TARP), amid public, media, and Congressional scrutiny, what have you learned regarding running an agency as well as communicating your actions and intentions to diverse groups including the public and Congress?**

It was an honor and a privilege to serve my country by assisting with the implementation, and overseeing the wind down, of the Troubled Asset Relief Program. I learned a great deal by overseeing such a large and complex program. Although the program was not popular (for reasons that are understandable, given that no one liked having to use taxpayer funds for this purpose), we were able to recruit and maintain an excellent team with high staff morale and high employee satisfaction. I instituted a number of actions to make sure that staff clearly understood the objectives of TARP and the connection of their work to the overall mission. I also learned about the challenges of explaining the program. I took a number of steps to increase transparency and communication with Congress and the general public, including by publishing a daily detailed balance sheet showing the status of TARP funds disbursed and collected by program, adding a "TARP

## Responses of Timothy G. Massad to Questions of Senator Roberts

Tracker” to the website so that the public could more easily understand the programs and how money was spent, publishing regular reports on our wind down efforts, publishing quarterly reports with specific metrics on mortgage servicer compliance and performance under HAMP, and working with the various oversight bodies to make sure they had the necessary information to do their jobs.

- 3) The CFTC traditionally has at least one Commissioner with experience and understanding of how end users and agriculture uses the market. What will you do to increase your personal knowledge of agriculture and end user’s issues?**

I appreciate the fact that the regulation of agricultural commodity futures was the principal reason for forming the CFTC and it continues to be an extremely important part of its mission today. Agriculture is vital to our economy, and the futures markets are vital to the ability of producers and others in the agricultural industry to hedge price and production risk. I deeply appreciate that the agricultural sector affects many facets of our economy and many businesses. As a lawyer, I advised a wide range of commercial enterprises on their use of derivatives to hedge physical commodity and financial exposure, including many businesses that dealt with the agricultural sector, such as a fertilizer producer and a rural lender. If confirmed, I will reach out to agricultural stakeholders to obtain their views regarding Commission policies and actions that affect those markets. In this regard, I would want to make sure that the Agricultural Advisory Committee meets regularly. I would also look forward to working with you and other members of the Committee and your respective staffs and listening to your concerns.

- 4) Ideally before implementing any new policy or regulation the Commission would follow the Administrative Procedure Act and propose a regulation, undergo a cost-benefit analysis, take and listen to public comments, and then publish a final rule. Unfortunately, the CFTC has more frequently issued interim final rules and interpretative guidance. Furthermore, when issues with the regulations have been raised, instead of withdrawing or revising the regulation, temporary staff no action letters or exemptive relief has been issued. If confirmed, when problems arise with implementing regulations or policies, will you and your staff rely on no action letters and exemptive relief or will you work to fix the problematic regulations or policies?**

The Commission has had the responsibility to bring oversight and transparency to a market that previously had none, and to do it subject to certain statutory deadlines. As a lawyer, I appreciate the challenge of this undertaking by the Commission, as well as the importance of clarity and certainty in rulemaking. While I believe that the rulemaking process typically provides the most certainty and opportunity for public involvement in addressing complex issues, I also recognize that guidance and no-action letters can be appropriate tools to respond to particular circumstances, concerns or questions that may arise under the law or Commission rules and regulations. If confirmed, I would seek to ensure that the Commission acts in a manner that provides as much clarity and certainty as possible to market participants, as well as opportunity for public input.

Responses of Timothy G. Massad to Questions of Senator Roberts

**5) What importance would you put on a quantitative cost benefit analysis before a new rule or regulation would be issued, finalized, and enforced?**

It is my understanding that the Commission is required by law to consider the costs and benefits of its regulations and certain orders and evaluate the costs and benefits in light of five factors: (1) protection of market participants and the public; (2) considerations of the efficiency, competitiveness, and financial integrity of the futures markets; (3) considerations of price discovery; (4) considerations of sound risk management practices; and (5) other public interest considerations. It is also important for the Commission to fully consider comments received on the costs and benefits of Commission action. If confirmed, I would do my best to make sure the Commission appropriately complies with its obligations under the law in this area.

**6) According to industry feedback the CFTC's proposal on residual risk has been described as "an industry killing rule" that "jeopardizes the entire existence of the model" and is "likely to raise the overall level of risk to all participants in the market."**

**In the same proposal, the CFTC would require "FCMs to be in compliance with margin deficiencies at all times." However, option values and margins are currently not always available in real time.**

**Will you work with me to fix the residual interest rule and margin requirements? Or do you see either as an issue?**

It is my understanding that the final rule approved by the Commission provides that these requirements are to be phased in over a five year period. I understand that the Commission intends to study the effects of an initial change to be made in November, as well as the feasibility and desirability of moving the deadline for FCMs to use their own funds to cover any customer's deficit to the time of settlement. If confirmed, I look forward to reviewing the results of the study, listening to the concerns of market participants, and working with staff and my fellow Commissioners to make sure that the Commission's rules achieve the goal of protecting customer funds without unduly burdening end-users or limiting access to markets. I would also look forward to working with you and your staff on this issue.

**7) Would the proposed changes on residual interest have been able to prevent either the failures of MF Global or Peregrine and would the regulations better protect against similar failures in the future?**

I appreciate that the failures of MF Global and Peregrine were very difficult for the customers of these firms and damaging to the markets generally. It is my understanding that the changes to residual interest requirements were made in a rule finalizing customer protection proposals that were developed following the failures of MF Global and Peregrine. It is also my understanding that the changes are designed to enhance the



## Responses of Timothy G. Massad to Questions of Senator Roberts

protection of end-users and strengthen the safety and soundness of the marketplace. I believe it is important for the Commission to consider all reasonable actions within its authority to minimize the risk of such failures while at the same time not creating marketplace inefficiencies or unduly burdening end-users.

- 8) The swaps and futures markets are global and must comply with regulations set not just by the United States but also foreign regulators. Are you concerned that “regulatory arbitrage” could develop and that market participants may move their business out of the United States if our rules are not harmonized?**

I believe it is very important that we ultimately achieve a strong international regulatory framework for the derivatives markets. I will work to avoid market fragmentation or putting U.S. companies at a disadvantage, while making sure that foreign exposures do not create excessive risks domestically. If confirmed, I intend to make it a priority to build good relationships with our international counterparts, and use my best efforts to see to it that these reforms are put in place as quickly as possible.

- 9) For the cross border application of derivatives regulations, do you believe that the CFTC should have used a formal rule making process, including a quantitative cost benefit analysis, instead of issuing the regulations through an “Interpretative Guidance and Policy Statement?”**

I am mindful of the fact that this is a matter that is the subject of litigation, and it would be inappropriate for me to comment more at this time. I would simply note that, if confirmed, I look forward to working with the staff, my fellow Commissioners, market participants and our international counterparts to continue to work toward a strong international regulatory framework for the derivatives markets.

- 10) After Dodd-Frank passed, I have heard complaints regarding the vagueness from the CFTC regarding definitions. For example, “technically what is a swap, who is a swap dealer, what is or is not a bona fide hedge?” How will you work to ensure that there is certainty among market participants regarding these changing definitions and classifications?**

As a lawyer who advised commercial businesses engaged in hedging activities and subject to various regulatory regimes, I appreciate the importance of clarity and certainty for market participants. If confirmed, I would listen to the concerns of market participants and do all I can to see that the Commission provides as much clarity and certainty to market participants as possible. With regards to specific issues regarding definitions, I look forward to working with stakeholders, the staff, and my fellow Commissioners to address these issues.

- 11) Any company that engages in swaps must register as a swap dealer if the notional amount of its swap activity exceeds an \$8 billion “de minimis” threshold. That level is set to automatically go down to \$3 billion after a phase in period. Do you believe**

Responses of Timothy G. Massad to Questions of Senator Roberts

**that the de-minimus threshold for registering as a swap dealer should automatically decrease or would it be appropriate to re-evaluate the level in the future?**

It is my understanding that the Commission has committed to doing a study of the effects of the swap dealer definition, including the *de minimis* level. If confirmed, I look forward to considering the study, once it is completed, making sure the Commission receives public comments on the study from interested stakeholders, and then determining what action the Commission should take to make sure that the swap dealer definition is appropriate, that entities regularly dealing in swaps are appropriately regulated, and that the markets continue to function efficiently for end users.

**12) What do you view as the biggest unmet budgetary need at the CFTC?**

The CFTC is an agency whose responsibilities have grown enormously since the passage of the Dodd-Frank Act but its budget has not, and I am very concerned about the agency's ability to fulfill its mission. If confirmed, I intend to discuss with the staff and my fellow Commissioners how limited resources should be allocated in light of the many important issues and challenges facing the agency. I also look forward to discussing such matters with you and your staff.

**13) Do you believe that the Commission has sufficient data about the swaps market and a reliable economic analysis to finalize the proposal for position limits?**

If confirmed, I look forward to reviewing the comments on the proposed position limits rule and discussing these comments and the availability of data with staff, my fellow Commissioners and market participants. I would also look forward to being informed by the most recent and reliable data that is available.

Responses of Timothy G. Massad to Questions of Senator Chambliss

**Questions for the Record for Timothy G. Massad  
From Senator Saxby Chambliss**

**1. For all nominees:**

Last summer then-Chairman Gensler testified in the Senate Banking Committee that the CFTC has clear authority to police the physical and derivative markets for aluminum. He also testified that the London Metals Exchange is operating as a Foreign Board of Trade (FBOT) under a no-action letter agreement with the CFTC. An FBOT must maintain the same quality of market expected by American consumers and is typically exhibited in domestic exchanges regulated by the CFTC such as the Chicago Mercantile Exchange and the International Commodities Exchange. Among the criteria an FBOT must maintain are fair and orderly markets and to prohibit fraud, abuse, and market manipulation. Unfortunately, wait times for aluminum can run from 400-600 days and the resultant market premium has been at record highs, due to warehouse owners charging rent on metal that has been paid for and earmarked for delivery.

My first question is, would wait times of 400+ days to receive a commodity in the grain markets be an acceptable wait for consumers where these contracts are typically settled in about 3 days? Second, do each of you concur with the statements of Mr. Gensler that the CFTC has authority to regulate the LME as an FBOT in order to protect American metals end users and consumers?

It is very important that end-users be able to hedge risk in our commodities futures markets effectively, and I appreciate your concern about certain practices reported in recent media stories regarding the aluminum market. It is my understanding that the Commission has issued a no-action letter to the LME in 2001 with respect to its operation as a Foreign Board of Trade (FBOT). The LME has also applied for registration with the Commission as an FBOT under the rules issued pursuant to the Dodd Frank Act. Under the existing no-action letter, the exchange may permit participants located in the United States to directly access its market. If confirmed, I look forward to discussing this issue with the staff, my fellow Commissioners, market participants and the LME and considering what action may be appropriate by the Commission. I also look forward to working closely with foreign regulators including the United Kingdom's Financial Conduct Authority (FCA) – the home regulatory authority of the LME. I would seek discussions with the LME and the FCA, including the review of recent modifications made by the LME to the aluminum contract as well as other proposals that may be considered.

**2. For all nominees:**

The CFTC and FERC recently announced a data sharing MOU and the creation of a staff-level Interagency Surveillance and Data Analytics Working Group to coordinate information sharing between the agencies. Section 8 of the Commodity

Responses of Timothy G. Massad to Questions of Senator Chambliss

**Exchange Act protects from public disclosure data and records in the possession of the Commission. This is an important protection for market participants world-wide that use our markets. Yet just last year an incident came to light whereby private academics were given access to this trading data apparently without any form of masking protection in place. I understand the CFTC's Inspector General is looking into this matter to ascertain whether any violations of law were committed. What measures will you take to ensure that information sharing between the CFTC and FERC pursuant to this MOU will protect confidential and commercially-sensitive information from public disclosure as required by Section 8 of the CEA?**

I believe it is important for the CFTC to cooperate with FERC but at the same time to meet the statutory obligation to protect confidential and commercially-sensitive information. I understand that the recently signed MOU contains detailed provisions on the protection of proprietary information. If confirmed, I look forward to discussing with the staff the procedures for sharing information with FERC and for protecting confidential and commercially-sensitive information, and I look forward to working with the staff, my fellow Commissioners and FERC to make sure that we accomplish both objectives.

Responses of Timothy G. Massad to Questions of Senator Grassley

**Questions for the Record for Timothy G. Massad  
From Senator Grassley**

**CFTC OIG transparency question for all nominees**

**In February 2014, the CFTC Office of the Inspector General (OIG) sent the final copy of a report regarding the Office of Chief Economist to CFTC management. It is my understanding that the report addresses concerns about the use of trade data for economic research papers, and the Agency has chosen to redact parts of the report to protect against illegal public disclosures. I would like your assurance that the Agency will make this report available to public as soon as possible. I would also like your assurances that, if you are confirmed, you will work to ensure that all OIG reports are made available to the public as quickly as possible.**

I appreciate the importance of the work of inspector generals in the government. My understanding is that the Office of Inspector General at the CFTC generally determines when to make a report available to the public, and the role of the CFTC is merely ministerial in that regard, which is that staff must first ensure that appropriate redactions are made as you indicated in your question. If confirmed, I would work with the Inspector General to make sure that CFTC staff complete these redactions as expeditiously as possible so that the Inspector General can publish reports.

Responses of Timothy G. Massad to Questions of Senator Thune

**Questions for the Record for Timothy G. Massad  
From Senator John Thune**

- 1) What are your thoughts on the CFTC's role in regulating anticipatory hedging? What changes, if any, would you make to current or pending regulations regarding anticipatory hedging?**

I recognize the important role that the derivatives markets play for hedging commercial risk and believe it is critical that these markets remain effective tools for farmers, ranchers and other end-users to manage their risks efficiently. It is my understanding that there are a variety of elements relating to anticipatory hedging in the Commission's recently proposed position limits rule, and that there may be some who believe that changes are needed to these or other aspects of the proposed rules. If confirmed, I look forward to reviewing the comments on the rule and discussing these matters with the staff, my fellow Commissioners and stakeholders to make sure that any final action taken by the Commission provides for appropriate exemptions for bona fide hedging, including anticipatory hedging.

- 2) When Congress passed Dodd-Frank we certainly did not intend to favor one business model over another in the application of these reforms overseas. Whether it is a foreign branch of a U.S. bank, or a foreign subsidiary of a U.S. broker-dealer, especially one with a guarantee from the U.S. company, it seems they should both have to observe the same standards of transparency, accountability, and safety. What will you do to ensure the uniform treatment of all overseas operations of U.S. firms?**

I appreciate your concern about providing a level playing field for market participants and drafting rules that are consistent. I believe that our rules should aim to regulate activity that creates similar risks in the same way, and that we should work to set uniform standards of conduct. If confirmed, I intend to make it a priority to build good relationships with our international counterparts, and use my best efforts to achieve a strong international regulatory framework as quickly as possible. I will work to avoid market fragmentation or putting U.S. companies at a disadvantage, while making sure that foreign exposures do not create excessive risks domestically.

- 3) Since the passage of the Dodd-Frank Act in 2010, the CFTC has issued approximately 60 rules followed by more than 140 "no action" letters. This reliance on "no action" letters has created some confusion for the industries the CFTC is regulating. What are your thoughts on the use of "no action" letters and what, as chairman, would you propose changing to decrease the CFTC's reliance on "no action" letters?**

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As a lawyer who advised commercial businesses engaged in hedging activities and subject to various regulatory regimes, I appreciate the importance of clarity and certainty in rules and regulations. I also recognize that no-action letters can be an appropriate tool to respond to particular circumstances, concerns or questions that may arise under Commission rules and regulations. If confirmed, I would do all I can so that the Commission acts in a manner which ensures adequate opportunity for stakeholder input and provides as much clarity and certainty as possible to market participants.

- 4) **The *de minimis* threshold to register as a swap dealer is \$8 billion, unless you transact with “special entities,” such as public power utilities. The *de minimis* threshold for dealing with special entities is \$800 million. This puts government-owned utilities at a significant disadvantage and could lead to increased costs for rate payers. What do you believe the reasoning for this disparity in *de minimis* levels was? As chairman, what would you do to alter the current thresholds?**

It is my understanding that the joint final rule of the CFTC and the SEC which defines the *de minimis* threshold to register as a swap dealer set a lower threshold for dealing activity involving special entities in light of the statutory requirement in Title VII to afford a higher level of protection to special entities when they engage in derivatives transactions with swap dealers. It is also my understanding that the staff of the CFTC subsequently issued a no-action letter which raised this *de minimis* threshold for swaps with utility special entities to \$800 million, a level which had been previously suggested by certain representatives of utility special entities. I understand that concerns remain with the effectiveness of that relief and the Commission has scheduled a public roundtable on this issue for next month. If confirmed, I look forward to working with the staff, my fellow Commissioners and stakeholders to make sure the Commission’s regulations appropriately balance the business needs of utility special entities with the statutory requirement to provide a higher level of protection for special entities.

**MARGIN/CAPITAL - Chairman Gensler stated repeatedly in Congressional testimony that “proposed rules on margin requirements should focus only on transactions between financial entities rather than those transactions that involve non-financial end-users.” This was good news to commercial end-users. But given the burdens that the Dodd-Frank rulemakings have thus far imposed on end-users, there is still substantial concern that regulations could inadvertently impact commercial end-users if banks or even non-financial counterparties to these contracts are required to post margin or set aside regulatory capital for swaps with commercial end users. They may then charge a fee or increase prices for swaps with commercial end-user counterparties – or stop transacting with commercial end-users altogether. How would you address this concern?**

Further, CFTC has issued a rule which recognizes that the unique member-owner structure of cooperatives merits effectively passing through the end-user exception available to a cooperative’s members to the cooperatives themselves by providing an

Responses of Timothy G. Massad to Questions of Senator Thune

**exemption from the clearing requirements of the DFA for certain swap transactions entered into by qualifying cooperatives. That rule provided important relief from the costs of clearing requirements for cooperatives which act solely on behalf of their member owners who clearly qualify as end-users. It is very important that banking regulators follow CFTC's lead in regard to margin requirements for such cooperative entities. What do you suggest that the CFTC do to ensure that actions by other federal regulators do not undermine policies set by the CFTC?**

**More generally, how do you believe the CFTC can best fulfill Congress's intent to fully exempt commercial end-users from the costs and burdens of regulatory capital and margin?**

I recognize the importance of making sure that the derivatives markets continue to function efficiently for commercial end users and that such businesses must be able to hedge risks efficiently. I also appreciate that Commission rules should not unfairly burden end-users and that they need to be able to appropriately access these markets.

It is my understanding that Congress exempted from the clearing requirement swap transactions involving nonfinancial end-users that hedge commercial risk. I also understand that the Commission's proposed rules on margin for uncleared swaps would not require swap dealers to collect margin on uncleared swaps for transactions with nonfinancial commercial end users. If confirmed, I look forward to working with the staff, my fellow Commissioners and market participants to make sure we keep in mind the needs of commercial end-users, including the overall affordability of such risk management tools.

In addition, I recognize the important role that certain cooperatives can play in helping end-users hedge their risks efficiently. It is my understanding that the Commission issued a final rule exempting cooperatives meeting certain conditions from the mandatory clearing requirement. If confirmed, I look forward to discussing with the other federal regulators the needs of commercial end-users and the appropriate level of regulation.

