

**HEARING TO REVIEW THE 2016 AGENDA FOR
THE COMMODITY FUTURES TRADING
COMMISSION**

HEARING
BEFORE THE
COMMITTEE ON AGRICULTURE
HOUSE OF REPRESENTATIVES
ONE HUNDRED FOURTEENTH CONGRESS

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HEARING TO REVIEW THE 2016 AGENDA FOR THE COMMODITY FUTURES TRADING COMMISSION

WEDNESDAY, FEBRUARY 10, 2016

HOUSE OF REPRESENTATIVES,
COMMITTEE ON AGRICULTURE,
Washington, D.C.

The Committee met, pursuant to call, at 10:00 a.m., in Room 1300 of the Longworth House Office Building, Hon. K. Michael Conaway [Chairman of the Committee] presiding.

Members present: Representatives Conaway, Lucas, King, Thompson, Gibbs, Austin Scott of Georgia, Crawford, DesJarlais, Davis, Allen, Newhouse, Kelly, Peterson, David Scott of Georgia, Costa, Walz, McGovern, DelBene, Lujan Grisham, Kuster, Nolan, Bustos, Maloney, Aguilar, Plaskett, Adams, Graham, and Ashford.

Staff present: Caleb Crosswhite, Jackie Barber, Kevin Webb, Mollie Wilken, Paul Balzano, Scott C. Graves, Stephanie Addison, Faisal Siddiqui, John Konya, Liz Friedlander, Matthew MacKenzie, Mike Stranz, Robert L. Larew, Nicole Scott, and Carly Reedholm.

OPENING STATEMENT OF HON. K. MICHAEL CONAWAY, A REPRESENTATIVE IN CONGRESS FROM TEXAS

The CHAIRMAN. Good morning. This hearing of the Committee on Agriculture to review the 2016 agenda for the Commodity Futures Trading Commission, will come to order.

Good morning and welcome. Today's hearing is held against a bleak backdrop for many commodity producers, especially in farm country. The past 2 years have seen a dramatic fall in commodity prices across the board, creating significant operational challenges for producers. It is in uncertain times that futures and other derivatives markets provide their greatest benefit to our producers. These markets allow hedgers to look over time's horizon and see what the collective wisdom of the crowd says about the future.

The long range price forecasts by futures markets provide invaluable information to farmers, helping them to decide whether to plant, what to plant, and how to plant. Those same prices are used in crop insurance policies that farmers purchase to protect against risk. Bottom-line, the futures markets are instrumental in providing risk management to commodity producers. But, for many, managing risk in the market isn't as easy as it once was.

Many producers face markets that are more brittle than they used to be markets with more volatility and less liquidity than in the past. They also face increased costs to access essential dealing

and clearing services. Some smaller market participants have been *fired* by their brokers because the FCM can no longer afford the regulatory costs of keeping them as clients.

For too many end-users, Dodd-Frank has created more complicated and more intrusive, and more costly regulatory mandates that force hedgers to choose between paying more to manage their risk or risking more to manage their cash. This is not what Congress intended when it enacted Dodd-Frank. I believe that my colleagues who supported Dodd-Frank believed that end-users, the hedgers for whom risk management markets are an essential business tool, would not be harmed by that legislation. To that end, I want to commend the Commissioners for the work they have done to find common ground on reforms to several important regulations that posed needless burdens to end-users.

That said, the Chairman's work on end-user issues, I don't believe, is not done. I am still deeply concerned with the Commission's position limits proposal and the impact the new *bona fide* hedging restrictions will have on agricultural producers, especially when they are struggling with low commodity prices. The proposed reg AT also needs significantly more work to narrow its definitions and eliminate the potential impact on smaller market participants that should not be swept up in it.

Finally, the CPA in me cannot close without touching on the importance of getting to the bottom of the accounting mess the CFTC finds itself in. First, I want to thank Chairman Massad for the CFTC's responsiveness to our inquiries on this matter. The Commission's continued openness will help in this process. But, I am troubled by the accounting irregularities. Any mistake is cause for concern, but especially one that goes unnoticed for years. In this case, the failure of the Commission's internal accounting systems has led to at least one law being broken. That is clearly unacceptable, and I look forward to hearing a plan from the Chairman on how to fix the problem.

I want to welcome Chairman Massad back to our Committee. Thank you for putting the time in to prepare for our hearing today. [The prepared statement of Mr. Conaway follows:]

PREPARED STATEMENT OF HON. K. MICHAEL CONAWAY, A REPRESENTATIVE IN
CONGRESS FROM TEXAS

Good morning and welcome to the Agriculture Committee's hearing to review the 2016 agenda for the Commodity Futures Trading Commission.

Today's hearing is held against a bleak backdrop for many commodity producers, especially those in farm country. The past 2 years have seen a dramatic fall in commodity prices, across the board, creating significant operational challenges for producers. It is in uncertain times that futures and other derivatives markets provide their greatest benefit to producers. These markets allow hedgers to look over time's horizon and see what the collective wisdom of the crowd says about the future.

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Many producers face markets that are more brittle than they used to be, with more volatility and less liquidity than in the past. They also face increased costs to access essential dealing and clearing services. Some smaller market participants have even been "fired" by their brokers, because the FCM can no longer afford the regulatory costs of keeping them as clients.

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I want to welcome Chairman Massad back to the Committee. Thank you for putting in the time to prepare for this hearing today.

With that, I'd like to yield to Ranking Member Peterson for any thoughts that he might have.

The CHAIRMAN. And with that, I will turn to the Ranking Member for any thoughts that he might have.

OPENING STATEMENT OF HON. COLLIN C. PETERSON, A REPRESENTATIVE IN CONGRESS FROM MINNESOTA

Mr. PETERSON. Well, thank you, Mr. Chairman. And thank you, Chairman Massad, for being with us today.

I am looking forward to hearing more about the Commission's efforts to harmonize its rules with foreign regulators, create margin rules as a protection in the uncleared swaps markets, address cybersecurity and automated trading, and improve data collection. I would also like to hear the Chairman's thoughts on the state of the derivatives markets today, given the fluctuation that we have seen in the market since the start of the year.

The CFTC's mission is to protect the integrity of the derivatives markets, and in turn, the CFTC protects not just our constituents who use these markets, but the economy as a whole.

So I look forward to your testimony, Chairman Massad. And I yield back the balance of my time.

The CHAIRMAN. I thank the Ranking Member. I do want to welcome the Honorable Timothy Massad, Chairman of the Commodity Futures Trading Commission here in Washington, D.C.

Chairman Massad, please begin when you are ready, sir.

STATEMENT OF HON. TIMOTHY G. MASSAD, CHAIRMAN, COMMODITY FUTURES TRADING COMMISSION, WASHINGTON, D.C.

Mr. MASSAD. Thank you, Chairman Conaway, Ranking Member Peterson, and Members of the Committee. I am pleased to be back to discuss the CFTC's progress and priorities.

I know that the markets we regulate are extremely important to your constituents, not just farmers and ranchers, but businesses of all types that use them to manage risk. We have been working hard to make sure these markets work well for them, and to ensure that the problems we saw in the financial crisis don't undermine their ability to use these markets effectively.

Over the last year, the CFTC completed most of the rules required by the Dodd-Frank Act. These rules were enacted in response to the global financial crisis; a crisis that cost our country millions of jobs, and inflicted pain on millions of American families. We are now making sure those rules work as intended, which includes making adjustments and fine-tuning them where necessary. In particular, we are working to make sure they do not improperly burden the American farmers, ranchers, and businesses who did not cause the crisis. We also remain focused on our traditional responsibilities of surveillance, compliance, and enforcement.

I want to thank our hardworking, talented CFTC staff, and the constructive engagement of my fellow Commissioners Bowen and Giancarlo. Our progress is due to working together collaboratively.

Let me highlight a few recent achievements. First, I am pleased to note that earlier today Commissioner Jonathan Hill of the European Commission and I announced a common approach regarding requirements for clearinghouses located in the U.S. and Europe. This agreement will ensure that European and U.S. clearinghouses can continue to provide clearing services to firms in each other's jurisdictions. It will help ensure that our global derivatives markets remain robust, while keeping our financial system as stable and resilient as possible. It is also a significant milestone in our cross-border harmonization efforts. I would be happy to discuss it in further detail.

Second, the Commission recently approved a strong rule setting margin requirements for uncleared swaps. Our rule exempts end-users, and focuses instead on where the greatest risks exist; that is, between large financial institutions where the interconnectedness means that one entity's default could trigger further defaults by others. We are also addressing cybersecurity, one of the greatest risks to the orderly operation of our financial system. The Commission unanimously voted to propose rules requiring companies that run the core infrastructure under our jurisdiction to adequately evaluate and protect against the risk of cyberattacks. Also recently, the Commission unanimously proposed new safeguards that address the rise in automated and high frequency trading. Currently, approximately 70 percent of the trading in the futures market is automated, and our proposal focuses on minimizing the potential for disruptions that can occur from automated trading, such as from fat fingers or untested algorithms. These proposals rely on a principles-based approach that codifies many industry best practices.

We have also taken many actions to address the concerns of commercial end-users. For example, we recently eliminated certain reporting and record-keeping requirements for end-users. We have made it easier for commercial firms to use certain traditional types of commodity contracts, and we have made it easier recently for our small banks and community development institutions to con-

tinue to use these markets without being subject to new regulations aimed at much larger institutions.

The CFTC is also continuing to engage in robust enforcement in order to maintain the integrity of our markets and protect the public against fraud. We are focused on new, complex forms of manipulation and spoofing that use automated trading strategies, as well as conventional frauds, such as precious metal scams aimed at retirees.

Surveillance is an equally critical function, particularly given the growth and range of products under our jurisdiction. To be successful in both surveillance and enforcement, we must be able to keep up with the technological transformations in these markets. We must be able to continually receive, load, and analyze large volumes of data. This requires a massive information technology investment, sophisticated analytical tools, and experienced professionals to identify problems.

Our priorities in the months ahead include finalizing our proposed rules to address cybersecurity and automated trading concerns. We will continue to focus on the strength and resiliency of clearinghouses, and take steps to improve the new framework for trading of swaps. We are also working to finalize important rules related to position limits to address the risk of excessive speculation, while making sure participants can engage in *bona fide* hedging.

Let me also note, Mr. Chairman, since you raised it, we are moving to address the lease accounting issues that you raised, and I am happy to talk about those.

Mr. Chairman, I appreciate your support for many of the actions we have taken, particularly those to address end-user concerns, and I look forward to working with you, this Committee, and with Congress on reauthorization and other matters in the coming year.

Thank you again for inviting me today.

[The prepared statement of Mr. Massad follows:]

PREPARED STATEMENT OF HON. TIMOTHY G. MASSAD, CHAIRMAN, COMMODITY
FUTURES TRADING COMMISSION, WASHINGTON, D.C.

Thank you, Chairman Conaway, Ranking Member Peterson, and Members of the Committee. I'm very pleased to be back testifying on behalf of the Commodity Futures Trading Commission (CFTC). I appreciate the opportunity to discuss the progress and priorities of the agency.

As you know, the CFTC oversees the futures, options, and swaps markets. While they, and the agency, are not well-known to most Americans, the importance of these markets to American businesses, families and the American economy cannot be overstated.

The derivatives markets allow farmers to lock in a price for their crops, utilities to manage the cost of fuel, and businesses of all types and sizes to hedge commercial risk. And as a result, they shape the prices we all pay for food, energy and a host of other goods and services.

At the CFTC, our job is to ensure these markets are working properly, by helping to deter and prevent fraud and manipulation. We strive to create a regulatory framework that promotes transparency, competition and innovation. This benefits everyone—from the agriculture community to business owners and investors saving for retirement. And we try our best to do this in a way that does not impose undue burdens on those end-users who rely on these markets as an important component of their business.

Since I last testified before this Committee, the CFTC has made considerable progress in a number of areas. The Commission has written, and is working to enforce, most of the rules required by the Dodd-Frank Act, which was enacted in the

aftermath of the worst financial crisis since the Great Depression. We are also focused on fine-tuning our rules, so they do not improperly burden commercial end-users. This work adds to our traditional responsibilities of surveillance, compliance, and enforcement for the futures and options markets. And we have been addressing new developments and challenges in our markets, particularly those created by technological development.

Today, I would like to highlight some of our accomplishments over the past year and also lay out a number of key priorities for the months ahead.

Before I begin, I want to thank our staff for their tireless work on behalf of our mission. I know I speak for my fellow Commissioners Bowen and Giancarlo when I say that the effort, dedication and expertise of the CFTC staff are the reasons we've made such strides this year.

I would also like to thank Commissioners Bowen and Giancarlo for their dedication. Each brings experience, judgment, and an important perspective to the work of the Commission. We have developed a productive working relationship that is grounded in good faith and mutual respect. I appreciate their willingness to collaborate and work together constructively.

Recent Accomplishments

The CFTC has taken many actions during the past year to help make sure our financial markets continue to be the best in the world. There are several I'd like to talk about today.

Margin for Uncleared Swaps. One of our more recent actions was the Commission's approval of a final rule setting margin requirements for uncleared swaps.

Our margin rule is one of the most significant elements of swaps market regulation set forth in the Dodd-Frank Act. There will always be a large part of the market that is not cleared—many swaps are not suitable for central clearing and our clearinghouses will be stronger if we exercise care in what is required to be cleared. And in the absence of clearing, margin requirements protect against excessive risk buildup in the system.

I think the rule we have adopted is strong and sensible. Consistent with Congressional intent, our rule does not require the collection of margin from end-users. It focuses instead on where some of the greatest risk exists—between large financial institutions, where the default of one entity would lead to further defaults by its counterparties, given the interconnectedness of our financial system. It requires swap dealers and major swap participants to post and collect margin with financial entities with whom they have significant exposures. It requires initial margin, which is designed to protect against potential future loss on a default, as well as variation margin, which serves as mark-to-market protection.

We also worked very hard to harmonize our rule with those concurrently issued by the Prudential Regulators, as well as with international standards. Shortly after I took office, I committed to doing all we could to achieve such harmonization. There were many differences 18 months ago. Today, I believe we have succeeded.

To determine how our rule should apply to inter-affiliate transactions, we worked to strike the proper balance between benefits and costs.

It was important that we mandate appropriate protections to help ensure the safety and soundness of swap dealers. So, we require full variation margin be exchanged for all inter-affiliate swaps. We did not require initial margin for all such swaps, however, which is one point of difference with the Prudential Regulators. Instead, to prevent evasion of collection requirements in certain cases, we require initial margin, and we require posting of initial margin to insured depository institutions that are swap dealers. We also require that inter-affiliate swaps be subject to a centralized risk management program appropriate to monitor and to manage these risks.

We have also been working to address new and emerging threats to the financial system.

Cybersecurity. Cyberattacks are perhaps the number one risk to financial stability that we face today. This past year, the Commission unanimously took action to enhance cybersecurity protection in our markets. We proposed rules designed to make sure that the private companies that run the core infrastructure under our jurisdiction—exchanges, clearinghouses, swap execution facilities and swap data repositories—are doing adequate evaluation of cybersecurity risks and testing of their own cybersecurity and operational risk protections. They address concerns related to information security, physical security, business continuity and disaster recovery. The proposals set principles-based testing standards, which are deeply rooted in industry best practices.

The proposals identify five types of testing as critical to a sound system safeguard program: vulnerability testing, penetration testing, controls testing, security inci-

dent response plan testing and enterprise-wide assessment of technology risk. Such efforts are vital to mitigate risk and preserve the ability to detect, contain, respond to, and recover from a cyberattack or other type of operational problem.

Before adopting final rules, we will carefully consider any feedback we may receive. We hope to finalize these important rules before the end of this year.

Internal Cybersecurity. I would note, that in addition to guarding against technological threats among the entities we regulate, we continue to be vigilant regarding our own cybersecurity. A draft report set to be released by the Office of Management and Budget in March underscores our commitment, and our success. The draft report grades Federal agencies in meeting cybersecurity performance goals, and I'm pleased to report that of all small agencies reporting, it ranks the CFTC among the top five, receiving a compliance score of over 90 percent.

We continue to do all we can to build and enhance our systems with our limited resources. For example, we are participating in the Department of Homeland Security's Continuous Diagnostic Mitigation Program, we have increased advanced malware defenses and we are implementing new data loss prevention technology this year.

Proposed Rule on Automated Trading. Let me turn to another area where we are responding to technological change. Last November, the Commission unanimously proposed rules to address the increased use of automated trading. Today, almost all trading in our markets is electronic, and approximately 70 percent of trading in the futures market is automated.

Automated trading has brought many benefits to market participants—such as more efficient execution, lower spreads and greater transparency. But its extensive use also raises important policy and supervisory questions and concerns.

Our proposed rule focuses on minimizing the potential for disruptions or other operational problems that can be caused by automated trading. These could occur from fat fingers, untested algorithms or in other ways. Our proposal builds upon the steps we and the exchanges have already taken on this front. It relies on a principles-based approach that codifies many industry best practices.

Our proposal requires pre-trade risk controls such as message throttles and maximum order size limits, and other measures such as “kill switches,” which facilitate emergency intervention in the case of malfunctioning algorithms. But it does not prescribe the parameters or limits of such controls, because we believe market participants are the ones who should determine those specifics. Our proposal sets general requirements pertaining to the design, testing and supervision of automated trading systems, but again it leaves the details of those to market participants.

We have proposed requirements at the exchange level as well as at the clearing member and trading firm levels. This, too, is a best practice suggested by many firms. We have proposed requiring proprietary traders who access the market directly and who are using automated trading to register with the CFTC. And we have included measures to limit the practice of self-trading.

We hope to finalize this rule in 2016 as well.

Continuing to Support Commercial End-Users

Let me turn now to some concerns of commercial end-users. Since I took office, I have made it my priority to do all we can to ensure commercial end-users can use these markets efficiently and effectively. I know Commissioners Bowen and Giancarlo share that view. Commercial end users did not cause the financial crisis, and were not the focus of Congressional reforms. So, as we take the necessary steps to create sensible regulation of these markets, we must make sure end users do not face undue burdens.

Over the past year, the Commission has taken many actions to address the needs and concerns of commercial end-users.

Simplifying record-keeping Requirements. In mid-December, we adopted significant changes to a rule that will reduce record-keeping obligations for commercial end-users. This final rule, unanimously approved by the Commission, amends record-keeping requirements set forth under Commission Regulation 1.35. This regulation, first implemented in 1948, requires various types of market participants to keep written and oral records of their commodity interest and related cash or forward transactions. It is very important to our efforts to ensure our markets are strong, transparent, and operate free of fraud and manipulation.

We revised the rule so that members of exchanges and swap execution facilities not registered with the Commission, such as end-users, do not have to keep pre-trade communications or text messages. Further, we have simplified the requirements for keeping records of final transactions. The amended rule also states that commodity trading advisors do not have to record oral communications regarding their transactions.

The rule strikes an appropriate balance between the costs of record-keeping and the benefits to market oversight. It reduces the burden on businesses, farmers and ranchers that depend on the derivatives markets, and will ensure that they are able to continue using these markets effectively and efficiently. Our final rule reflects the input we have received by many commercial businesses and other market participants.

Volumetric Optionality. In addition to our recent action with respect to trade options, the Commission also clarified when certain agreements that include volumetric optionality provisions are forward contracts, rather than swaps. These types of contracts are widely used by a variety of end-users, including electric and natural gas utilities. By clarifying how these agreements will be treated, the interpretation is intended to make sure commercial companies can continue to conduct their daily operations efficiently.

Relief for Small Banks and CDFIs. A few weeks ago, CFTC staff addressed the concerns of our community development financial institutions (“CDFI”) and small banks with under \$10 billion in assets. Staff’s action made clear that these entities may choose not to clear a swap subject to the CFTC’s clearing requirement, provided that they elect the end-user exception and comply with certain other conditions.

These actions complement a number of steps we took earlier to address end-user concerns.

Public Utility Companies. For example, the Commission amended its swap dealer rules so that local, publicly-owned utility companies can continue to effectively hedge their risks in the energy swaps market. These companies, which keep the lights on in many homes across the country, must access these markets efficiently in order to provide reliable, cost-effective service to their customers.

Customer Protection/Margin Collection. The Commission also unanimously adopted a change to the “residual interest” rule. This is an important aspect of our customer-protection related rules, designed to help prevent future insolvencies like the failure of MF Global—and to protect customers in the event it does happen. To address a concern of many in the agricultural community and many smaller customers regarding the posting of collateral for their trades, we removed a provision that would have automatically changed the deadline for futures commission merchants to post “residual interest,” which, in turn, can affect when customers must post collateral.

We also expect to have a roundtable soon on the issue of how this rule is working in practice. We’ll have more to say about that in the near future.

Reporting Requirements for Contracts in Illiquid Markets. Finally, CFTC staff also granted relief from the real-time reporting requirements for certain less liquid, long-dated swap contracts. Staff agreed to permit slightly delayed reporting so that the reporting requirements do not make it more difficult to hedge.

These are just some of the actions we have taken to make sure these markets work for commercial end-users. And during my tenure, I intend to continue to remain focused on their concerns.

Improving Data Reporting

The CFTC is also taking important steps to ensure that the swap data we receive is accurate, consistent and useful.

Reporting of swaps transaction data was a key goal of the reforms agreed to by the leaders of the G20 nations, and one of the most important components of the Dodd-Frank Act. We have come a long way since the fall of 2008, when a lack of reporting meant neither regulators nor market participants could assess the exposures or interconnectedness of major institutions. The reforms we have implemented have given better information to regulators and greater transparency to market participants.

But building an efficient system to collect and analyze data from this market is an enormous undertaking, and there is more work to do. Currently, for example, there is considerable variation in how different participants report the same fields to SDRs, and in how the SDRs themselves transmit information to the CFTC. When the rules were first written, we purposely didn’t prescribe exactly how each field should be reported—for a number of reasons. First, when the agency issued the reporting rules, we didn’t yet have any data to inform our views. And second, we expected the industry to develop standardized terms. That, unfortunately, did not happen.

So in December, CFTC staff requested public comment on technical specifications for the reporting of 120 priority data elements. We are seeking public input on this, which culminated months of work to identify priority areas where standardization or clarification is needed.

In addition, last year we proposed clarifying reporting obligations with respect to cleared swaps. This will ensure that as swaps are cleared, there is a simple, consistent process for reporting them. The proposal will help ensure that there are not multiple records of a swap that can lead to erroneous double counting, and that accurate valuations of swaps are provided on an ongoing basis. It will eliminate unnecessary reporting requirements, reduce reporting costs and improve data quality. And it will enhance the Commission's ability to trace swaps from execution through clearing.

We are also leading international efforts on data harmonization. And finally, we will continue to take enforcement actions to ensure that participants honor their reporting obligations.

De Minimis Threshold. Despite the need for more progress on data reporting, it's important to acknowledge how far we've already come. An important example of this is the preliminary report CFTC staff recently released on what is known as the "*de minimis* threshold" for swap dealing and major swap participants.

The *de minimis* limit was set by the CFTC and the Securities and Exchange Commission's joint rule defining swap dealers. If an entity engaged in swap dealing exceeds that threshold—which is currently \$8 billion in notional amount of swaps over the year—it must register as a swap dealer, in which case capital and margin requirements as well as disclosure, record-keeping and other requirements apply. The rule also provides that at the end of 2017, that level will fall to \$3 billion, unless the Commission takes action.

When our two agencies wrote the "*de minimis* exception" we did it with limited data.

But we now have a wealth of information that we can use to inform a discussion about what is the appropriate level at which to set the *de minimis* threshold. In November 2015, our staff issued a preliminary report that aims to start that conversation, by taking a fresh look at the issue. The staff's preliminary report does not make a recommendation as to what the level should be. It instead explores the issues, and invites public comment on the data, the methodology and the issues discussed.

The comment period on this study recently closed. We will now begin the process of carefully studying the feedback we've received, producing a final report, and making a decision on what, if any, action to take.

Priorities for the Months Ahead

The year ahead will also be marked by continued progress at the CFTC. Moving forward, an important part of our agenda will be to finalize the various proposals I have noted—in particular, cybersecurity and automated trading.

In addition, we will be taking action on a number of priorities that are important to this Committee.

Trade Options. Continuing with our effort to address end-user concerns, I plan to soon ask the Commission to adopt proposed rule changes related to trade options, which are a type of commodity options. This proposal would eliminate the obligations of commercial participants to report trade options to swap data repositories. It would include eliminating the requirement to file "form TO."

I strongly support finalizing this proposal. Trade options products are commonly used by commercial participants, and this relief will help them continue to do so efficiently. Many of the comments we received on the proposal were supportive, and several asked us to consider further eliminating some requirements on commercial participants. While I cannot speak for my fellow Commissioners, I am optimistic that we can be responsive to some of those requests, and hope this can be completed in the near future.

Related to trade options, we have also heard comments regarding peaking supply and capacity contracts. There has been some concern over the appropriate treatment of these products, which many end-users rely on to ensure they have the appropriate supply of commodities needed to run a business, manufacture a product, or generate electricity. I have asked CFTC staff to look at this. And while again, I cannot speak for my fellow Commissioners, I would support the Commission providing guidance or otherwise addressing this issue.

Continued Focus on Clearinghouse Resiliency. We will remain keenly focused on preventing excessive risk and promoting stability in the financial system. A primary focus here will be clearinghouse strength and resiliency generally. As you know, clearinghouses play a critical role in the global financial system—one which has only become more prominent since the enactment of Dodd-Frank. We have taken many actions already to address resiliency, but there is much more to do. There are considerable efforts going on domestically and internationally to look at a range of issues to make sure clearinghouses are strong and safe. This includes,

in particular, stress-testing standards for CCPs, and recovery and resolution planning.

We are also chairing the international working group that is looking at a variety of issues, including stress-testing, margin methodologies, and capital and recovery planning. It also includes an examination of interdependencies among global clearinghouses. It's very important to do this in a manner that supports the liquidity of these markets.

On the subject of clearinghouses, let me note that last week, the Commission announced the approval of the registration of Eurex Clearing as a clearinghouse. Eurex Clearing is one of the largest clearinghouses in Europe, and we are pleased they have registered with the CFTC. This is an important step forward to enhance global clearing and harmonization of derivatives rules.

In addition, we are continuing to work with the European Commission (EC) on the issue of "equivalence," so that European firms can continue to do business with our clearinghouses. I have always believed there is an ample basis for the European Commission to declare us equivalent.

It is important that a determination of equivalence happen soon, particularly because the European clearing mandate is scheduled to take effect in a few months, and it's vital that we avoid market disruption. I know my counterpart on the EC, Commissioner Jonathan Hill, shares that concern and wants to bring this to closure. So I'm hopeful they will act and a determination will be issued soon.

Cross-Border Margin Rule. Soon, I will ask the Commission to adopt the staff recommendation on the cross-border application of our new rules on margin for uncleared swaps. In June of last year, the Commission unanimously approved a proposal on this issue, an important component of our margin rule. It addresses risk that could be created outside our borders, but still could jeopardize our financial stability and our economy.

I believe our final rule will draw a reasonable line that makes clear when we should take offshore risk into account. As with our broader margin rule, our proposal also recognizes the importance of harmonizing rules with other jurisdictions.

Revised Capital Rule. In addition, the staff is working on updating our proposed rules related to capital requirements for swap dealers and major swap participants. As with the margin rules, we're working with our fellow regulators—in this case the Prudential Regulators as well as the SEC—to harmonize these standards as much as possible.

Improving SEF Trading. Further, we will continue to focus on improving swaps trading.

Over the past 2 years, we have implemented a new framework for trading on regulated platforms. This is bringing greater transparency, better price information and greater integrity to the process. In fact, a recent paper put out by the Bank of England confirms that the improvements in transparency caused by trading on SEFs has led to lower costs and increased liquidity.

I'm very pleased that just a couple of weeks ago, the Commission announced permanent registration status for 18 swap execution facilities (SEFs). Indeed, the volume of SEF trading is growing. But there is more to do to fine tune our rules to improve SEF trading. Our goal is not just to implement the trading mandate in the law and achieves the basic goals of transparency, fairness and integrity in trading—but strive to create conditions in which participants want to trade on SEFs.

Over the past several months, we have taken action to ensure more flexibility regarding acceptable modes of execution. We have improved SEF confirmation practices and confirmation data reporting. We have clarified SEF capital requirements. We provided relief related to executing block trades and correcting erroneous trades. And we've issued no-action relief to provide market participants additional time to adapt to procedures for executing package transactions.

This spring, I will ask the Commission to consider changes to our rules to enhance trading and participation. I expect this will include formalizing a number of the "no action" letters and guidance staff issued over the past 18 months through rule-making proposals.

We will also consider some additional changes, such as the "made available to trade"—or MAT—determination process. This identifies products that must be traded on SEFs. Some market participants have suggested that the Commission play a larger role in this process, and we are considering it.

Finally, we will be looking at ways to harmonize our rules further with those of other countries. In particular, we are working with the European Commission, European Securities and Markets Authority and the Financial Conduct Authority regarding differences between our rules and European rules.

Europe's rules are still evolving, and have not yet been implemented. But I am hopeful that as their rules take shape, and as we look for ways to fine tune ours, we can work together to ensure greater harmonization.

Position Limits. In addition, the Commission continues to work on finalizing important rules related to position limits.

I know there is great interest in these rules—and some concern. None of us currently on the Commission were in office when these rules were proposed, and therefore we are taking time to listen to end users and other market participants and consider the proposals very carefully. This is particularly the case regarding concerns about *bona fide* hedging. We understand the significance of these rules to the ability of commercial end-users to continue to use the markets efficiently for risk management and price discovery.

We recently proposed to modify the aggregation provisions of the rules. These changes are designed to streamline the process for waiving aggregation requirements when one entity does not control another's trading, even if they are under common ownership.

We are also considering the possibility of further modifications, which would have the exchanges play a greater role in granting exemptions for non-enumerated hedges. We have discussed this at our advisory committee meetings and we are continuing to study it. We're also continuing to gather information on deliverable supply estimates so that limits are set appropriately.

Working to Implement New Congressional Changes. In addition, we have begun working to implement recently-enacted Congressional changes related to indemnification and to "centralized treasury units" or CTUs. As you know, the law ensures that an end-user company that uses a CTU to streamline and manage all its derivatives activity would continue to be exempt from margin and clearing requirements that are designed for financial institutions. Congress also removed the requirement that other regulators seeking access to Swap Data Repositories (SDR) provide a written indemnification agreement to the SDR. And CFTC staff are working to incorporate these changes so as to facilitate data sharing. Moreover, we will continue to work with Congress on a CFTC reauthorization measure.

Enforcement

Finally, robust enforcement is vital to maintaining the integrity of our markets. It has been, and will remain, a priority.

Our enforcement division has continued to do an excellent job protecting customers, preventing fraud and manipulation—and holding entities accountable for misbehavior. In the past year, we have brought or resolved actions related to integrity of benchmarks. We're working to identify new and improper behavior—such as spoofing—and have brought cases against bad actors for their attempts to manipulate the markets. We've confronted scams that target retirees, Ponzi schemes that target investors, illegal precious metals transactions, and fought for consumers whose customer funds were misappropriated.

Over the past fiscal year, the CFTC's total monetary sanctions topped more than \$3.2 billion. That number is more than 12 times the CFTC's budget for Fiscal Year 2015. And over the past 5 years, the Commission collected fines and penalties of approximately four times its cumulative budgets. We will continue to focus on robust enforcement.

Resources

Finally, let me just say that with the many things on our agenda, our desire to be responsive to the concerns of lawmakers, end-users and other market participants, is seriously impaired by our current level of resources at the CFTC.

We are very grateful for the increases we have previously received. Our Fiscal Year 2015 budget provided us an increase of \$35 million over the previous year. This was essential to improving our ability to carry out our mission. We have used these resources judiciously to support a number of activities, including modernizing our information technology capabilities and bolstering our staff in critical areas.

But as you know, our responsibilities were greatly expanded after the crisis, and our markets have grown enormously in size, importance and technological complexity. Our budget is not commensurate with the scope of our responsibilities. As a result, it has become increasingly challenging to carry out our duties at our current funding level.

For example, without sufficient funding, the CFTC cannot modernize its information technology and data collection systems sufficiently to keep up with the markets, nor hire the personnel necessary meet its responsibilities in a timely manner. As a result, the Commission will be less proactive, less flexible, and less responsive than we need to be. It hurts our ability to fine-tune rules appropriately, and it im-

pacts our ability to perform our surveillance and enforcement duties in a thorough and efficient manner. This can have consequences for businesses, consumers and the broader economy.

Conclusion

Thank you again for inviting me today. Let me close by saying that I believe the United States has the best financial markets in the world. They are the strongest, most dynamic, most innovative, and most competitive—in large part because they have the integrity and transparency that attracts participants.

The CFTC is committed to working with you and doing all we can to further enhance those qualities. Thank you for your assistance in this work. I look forward to your questions.

The CHAIRMAN. All right, thank you, Chairman Massad. I appreciate that statement.

The chair would remind Members that they will be recognized for questioning in order of seniority for Members who were here at the start of the hearing. After that, Members will be recognized in order of arrival. And I appreciate the Members' understanding.

With that, I recognize myself for 5 minutes.

Again, Chairman, thank you for being here. This has been a bad year for agriculture. We have had a century-long drop in prices over the last 2 years, 55 percent reduction in farm income. Can you tell us what your staff at the CFTC is doing to help understand the full weight and the full cost of its regulations on the agriculture community? And this, I don't mean just the direct costs, but also reduced services, decreased liquidity, fewer FCMs, the full gamut, of our folks trying to access these tools for risk management in the face of the pretty daunting challenges that they are facing?

Mr. MASSAD. Certainly, Mr. Chairman. Well, these have been challenging times. We have seen a lot of volatility as well as a decline in prices. And obviously, we don't have an effect on prices, but to answer your question, we are certainly very cautious of making sure that the businesses that need these markets, and in particular, smaller businesses, and farmers and ranchers, can continue to use these markets effectively to hedge their routine risk. And that is why we have addressed many of what I have called these end-user concerns. We have taken steps to reduce record-keeping requirements. For example, we recently amended our Regulation 1.35 to reduce record-keeping requirements. We have focused on the residual interest rule and changed that, which went to when customers must post margin. So that is not too onerous. We have reduced reporting requirements, and we have a proposal on the table right now that concerns trade options, to make sure businesses can continue to use trade options.

You raised the question on clearing members. I am very concerned about the robustness of the clearing member industry. We want to make sure we still have a very robust clearing member industry that market participants can still access these markets. So I have spoken out about this and am happy to discuss some of those issues.

Let me also note that I noted that we have announced this agreement with Europe on transatlantic CCPs, and throughout this process I have been very focused on making sure that whatever agreement we reached did not raise costs unnecessarily in our markets. And that is where we landed. At the end of the day, for example, there won't be any change to customer margins, and, in fact,

we excluded agricultural contracts from even the changes that apply to what we call house margin.

The CHAIRMAN. I understand, Timothy, all of the things that you have done are great if I can get into the market, but if I no longer have access to the market because the overall regulatory burden on the FCMs, on all these other institutions, and the capital regimes, everything else that is happening, they have basically excluded me because they can't make money on my trades. How does that help me stay in, to access these markets, if this overall burden on the folks that I try to go to have pushed them to a point where they can't service my account?

Mr. MASSAD. Well, there are a number of factors influencing the clearing member industry. For example, if you look at the—people have talked about the decline in clearing members. That goes way back. That has been a 10 year trend. It predates Dodd-Frank. And it has to do with just the challenges of this business, particularly in a low interest rate environment. I don't think a particular—

The CHAIRMAN. But is there sensitivity to—I got that, but is there sensitivity to the impact that the regulatory schemes have on making that environment even more challenging?

Mr. MASSAD. Absolutely. And I have talked about this publicly, you raised the capital requirements issue. A key thing there for clearing members is the effect of the supplementary leverage ratio on clearing. And I have spoken out about this. This is, of course, a regulation of the bank regulators, but I do think it is not properly measuring the exposure of clearing members, and, therefore, it is having a potentially very adverse effect on clearing. And that is the reason we are hearing that clearing members are dropping customers. I have had meetings with clearing members. They say your customer protection regulations, for example, that came out after Dodd-Frank, those were a very good thing, we are all for those, what they are really focused on is the SLR.

The CHAIRMAN. Right. Can you real quickly, on the leasing issue, if you have any Antideficiency Act violations, will you report those on a timely basis?

Mr. MASSAD. Absolutely. Yes, we can.

The CHAIRMAN. And there may be some other Members who want to go into the overall impact that that has, but again, thank you for being here.

With that, I will recognize the Ranking Member for 5 minutes.

Mr. PETERSON. Thank you, Mr. Chairman.

Could you expand a little bit on the agreements you have with the Europeans on clearinghouses?

Mr. MASSAD. Certainly. Certainly. So this agreement will resolve the issues pertaining to whether Europe would recognize our CCPs, which is necessary for European firms to continue to do business on U.S. CCPs. And we went through a very detailed analysis comparing our regimes. I, of course, have spoken out a lot about this. I thought there was an ample basis for them to recognize us a long time ago. They wanted to use this as an opportunity to look at ways to harmonize our regimes a little bit. And so we have agreed on a few steps. And like any agreement, it is a good compromise. Each of us will take some actions. On the customer margin practices, in other words, the practices of our CCPs when it comes to

what they charge customers, those essentially won't change. We showed Europe—they were first concerned that their system might produce more margin. We showed that actually ours generally produces more customer margin to the CCP than theirs, and they are considering allowing their CCPs to move toward ours in that respect.

On the house side, in other words, the clearing members' proprietary accounts and positions, they have a slightly higher standard with respect to one key element of setting those margins than we do, and our CCPs that want recognition will need to show that they are collecting sufficient margin that is comparable to what they would under the European standard.

There are some other aspects to the deal. We have agreed to propose to the full Commission what we call a substituted compliance determination, which is simply recognizing that European firms can comply with our rules in many respects by showing that they comply with the comparable European requirements. This is a very good step forward. It is something we have done in other areas already. And as I said, we have exempted agricultural contracts from the conditions that our CCPs need to meet with respect to house margining practices, and that is because these contracts really don't involve international competition, they are very focused on the U.S. market, and that was important to us, again, because I wanted to make sure this deal did not result in higher costs, particularly for our smaller customers in these markets.

Mr. PETERSON. So the stuff I have been reading about, these clearinghouses not being able to clear in one country, all that stuff is going to go away?

Mr. MASSAD. Yes. We should be able to implement this on a timely basis. I think market participants can continue to clear with confidence. I have gotten assurances from the European Commission and from ESMA that they are prepared to implement this in a timely basis. And I know our CCPs have to do certain things to do that, but I know they are ready to do that also.

Mr. PETERSON. So this Office of Financial Research of the Treasury report, about the increased systemic risk caused by moving the swaps into central clearing, we understood that we were potentially moving this risk to the clearinghouse that if they screw something up, they could put the clearinghouse at risk, is that what they are talking about here?

Mr. MASSAD. Well, that is essentially what—

Mr. PETERSON. I mean there is not much—

Mr. MASSAD.—what they are talking about, but even the OFR would say—I know Richard Berner, the Director, would agree that the steps we took to move certain types of contracts on to central clearing were good steps, that made sense, because we can much better monitor and mitigate that risk. Having done that though, we simply have to engage in increased vigilance over these CCPs, make sure they are always strong and resilient, and that is what we have been doing. We have overhauled our regulations in this respect, we have strengthened transparency, we have strengthened customer protection, and we are working with other regulators around the world, not just domestically but around the world, on these issues of CCP resiliency.

Mr. PETERSON. So do they think that you haven't done enough there to——

Mr. MASSAD. No, they are just raising it because they agree it is an important issue, and they want to help and they have offered their help, and we appreciate that.

Mr. PETERSON. Okay. Thank you.

Thank you, Mr. Chairman.

The CHAIRMAN. The gentleman yields back.

Mr. Lucas, for 5 minutes.

Mr. LUCAS. Thank you, Mr. Chairman.

Chairman Massad, I am very pleased with both your statement this morning and your pronouncement about the equivalency, and the assurance you have given us now. That is a big step in the right direction. My understanding was if we had not been able to achieve this, potentially the 21st of February might have been a key date when we were cut off, in effect.

You expanded on the things that we have come to an agreement with. Are there still areas where perhaps there is a different perspective between us and our European colleagues?

Mr. MASSAD. No, I don't believe so, Congressman. Not on the question of this whole equivalence and recognition process. Truthfully, it took a lot longer than I thought it would or should. Frankly, I thought we would be able to announce this a lot sooner, but sometimes it just drags on, as you well know, but I am glad we got here. And again, market participants can continue to clear with confidence.

Mr. LUCAS. Changing topics briefly, Mr. Chairman. One of the advantages of the dynamic leadership of the Committee and the 114th Session of Congress is, in addition to two good Aggies leading the place, we both are CPAs, so we probably have a better focus on the financial details than maybe any Committee in recent times on the Agriculture Committee. Could you discuss with us for a moment this topic about leasing issues and your facilities in New York City, and the IG's comments and the cost and all that kind of thing? Could you expand for just a moment on that situation? And I realize that the leases were done prior to your tenure as Chairman, as I understand it.

Mr. MASSAD. Yes. Absolutely, Congressman. So the issue on accounting for leases is this—when the agency first entered into multiyear office leases, which goes way back to 1994, it accounted and obligated the current year payments, the first year payments, in its financials, and it obligated that amount, and it disclosed all the future payments, every single year, in a footnote to its financials. It continued to follow that practice for years. That practice was signed off on by various accounting firms, including KPMG, the most prominent accounting firm. The GAO started looking at some things last fall and said we have some questions. We promptly looked into their questions, we worked with them, and they concludes that, no, what you should have done when you enter a multiyear lease is you should obligate the entire amount, all those future year payments. If it is a 10 year lease, you take the sum of those 10 year payments, and you have to obligate that amount in the first year, and you have to account for that amount, not just in a footnote but on the financial statements itself. And once they

said that, we said okay, well, we will work to fix it. We notified our auditors as well as the Inspector General, who also had signed off on this practice, hadn't noticed any problem, and we came to Congress when GAO first raised this.

So that is where we are. As I say, we will work with GAO and OMB to address this. I want to fix it. It is important that we be fully in compliance.

But let me say, this was not an issue of the facts not being known. The facts about our leases and our lease payments were fully disclosed in the footnote. It is not an issue about having an internal system that didn't keep track. We knew what the lease costs were, we knew what the lease terms were, and all that was provided, again, to our outside auditors. It was, however, an incorrect practice with respect to both accounting and Federal appropriations law obligation practice.

Mr. LUCAS. Is it fair to say that there was some point in the report where it noted perhaps even the circumstance where there are a couple of rooms in the lease that management wasn't aware that were a part of the lease, those kind of things have been addressed?

Mr. MASSAD. Okay. That is a separate issue where the IG has looked at whether we have excess space. And let me say on that, when I first took office, within about 2 weeks I went to Kansas City and looked at our office space, and it was clear to me we did have excess space, and we immediately contacted the landlord and offered it back. We have a limitation. We cannot just sublease on our own to anybody. We can't do that. So we have to go to the landlord. So we did that in Kansas City, and we have done that in New York as well. Our overall lease occupancy is about 85 percent, but we are working to try to get the landlord to take back the office space. We do have some disagreements with the IG on the calculation. I think the IG felt there were certain rooms we could use that we didn't feel we could really use, but we are certainly working to the extent that if we can give back any space, we are happy to do it.

Mr. LUCAS. Just remember, Chairman Massad, my CPA friends are watching. Thank you, sir.

I yield back, Mr. Chairman.

The CHAIRMAN. The gentleman yields back.

Mr. Scott, for 5 minutes.

Mr. DAVID SCOTT of Georgia. Thank you. Chairman Massad, good to have you with us.

First of all, I want to share with you some concerns I have with the possibility of lowering the *de minimis* level. First of all, it could have some damaging consequences if we lower that. One, it would limit our banks' ability to provide good risk management solutions for bank customers. And the other thing that it would do is it would raise the cost of providing the hedges that are so important for risk management as well.

So my question to you is, in view of my concerns, you will not lower that level from \$8 billion?

Mr. MASSAD. So thank you for the question, Congressman.

Here is what we have done on that. I asked our staff to do a study of the effect of lowering that level. As you know, the way the rule was written back when the SEC and the CFTC drafted this

rule several years ago, was they set it at \$8 billion initially, and provided that it would automatically fall to \$3 billion at the end of 2017. I asked our staff to do a study of that now that we have some data, the agencies didn't really have any data when they first wrote the rule. We hadn't—no one had data on the swap market. Now we have some data. So we put out a preliminary study that looked at what the effects would be as best we could. We have gotten some comment on that study. A lot of good public comment. We are evaluating those comments. We are going to finalize the report, and then that will put the Commission in a place, it will have the facts and the analysis, where we can decide whether to take action and what action to take. So we are trying to do this all on a timetable that works, in light of the timetable of the regulation as it is written today.

Mr. DAVID SCOTT of Georgia. Well, I want to register my deep concern and urge you not to lower it—

Mr. MASSAD. Okay.

Mr. DAVID SCOTT of Georgia.—because, from my own calculations, it would have a devastating effect on our banks' ability to be able to help their customers hedge, and on their ability to be able to effect good risk management. That is the whole purpose of it.

Mr. MASSAD. Yes.

Mr. DAVID SCOTT of Georgia. And if the banks are having that, then we need to listen to their concerns. So I would be very pleased if you would keep me apprised. And I have some information as well that I could share with you where it would be a devastating impact.

Mr. MASSAD. Fine, Congressman.

Mr. DAVID SCOTT of Georgia. Thank you.

Mr. MASSAD. I would be happy to keep you apprised, and look forward to whatever information you want to give us.

Mr. DAVID SCOTT of Georgia. As you know, over in Financial Services, when we last talked—I serve on Financial Services too, I spoke to you about the deep concerns we had about the failure of the European Union to give us fair harmonization and equivalency. First, this didn't just start, it started last year in the spring, in the summer. It has been kicked down the road. We still didn't have equivalency. We set the date for December. Still didn't have it. And now you are coming to us and saying that you have it and you are satisfied. And I don't question that, but I am wondering why did they put the United States' clearinghouses and exchanges through this doubt that, in effect, really—when you raise doubt and you have a period of time where that doubt is registered in a very competitive rural market, my point is, was there any damage done because of their failure, in taking so long? So I am wondering as to why they did it in the first place when they knew we had the equivalency, they went ahead and they gave the equivalency and harmonization to Singapore and other areas that had our same rigid regimes. And then I want to know did it cause any damage to our competitiveness for our United States businesses in dealing with cross border.

Mr. MASSAD. I don't think it caused any damage to our competitiveness or the strength of our CCPs. It probably took a few years off of some of my staff who had to negotiate this over a long time

as I have said, it should have happened a lot sooner. I think there was always an ample basis for them finding us equivalent. But the difference was this *versus* how they looked at Singapore or Korea or India or the many other places where they have granted equivalence, they looked at this as an opportunity to say we really need to try to harmonize regulation of CCPs between the U.S. and Europe so that we don't have a situation where there is a possibility for arbitrage by businesses, movement and so forth. And that is an admirable objective.

Mr. DAVID SCOTT of Georgia. Right.

Mr. MASSAD. I think we all want to try to harmonize regulations. So they really wanted to use the process to do that.

Mr. DAVID SCOTT of Georgia. Okay.

Mr. MASSAD. And we have succeeded at that. We have reached an agreement, and we will go forward and get it done on time.

Mr. DAVID SCOTT of Georgia. All right. Very quickly, we just passed an omnibus bill, and I have been very, very hardworking to try to make sure you all had the proper funding that you needed. But in this omnibus bill you were flat funded. Tell us where you are with that. Do you have enough funds, moving forward, and how damaging was the flat funding?

Mr. MASSAD. Well, it is very challenging, it is very difficult. Our costs increase over time, so we must manage hiring, but this agency, to my mind, just does not have the budget commensurate with its responsibilities, given that those responsibilities were dramatically expanded, really dramatically expanded by the Dodd-Frank Act. We were given responsibility for this entire new market, the over-the-counter swaps market, and plus, as many of you know, the traditional markets we have overseen, the futures and options markets, have grown tremendously, not just in size, but in complexity, in the number of products. So that is our challenge. I would be happy to discuss it in more detail.

Mr. DAVID SCOTT of Georgia. All right, thank you. I—

The CHAIRMAN. The gentleman's time has expired.

Mr. DAVID SCOTT of Georgia. I apologize for going over time, and I appreciate your courtesy, sir.

The CHAIRMAN. The reason I allowed it is I thought you were just following up with the first question, not going into an entirely new line. So, David, I had to cut you off a little bit there.

Mr. DAVID SCOTT of Georgia. My apologies, sir.

The CHAIRMAN. Mr. King, for 5 minutes.

Mr. KING. Thank you, Mr. Chairman. Chairman Massad, I am just picking up where Mr. Lucas left off. I believe you said that it was an incorrect practice, the accounting on some of the leases that are the subject of the news and our dialogue here this morning. And since I am not one of the CPAs here, was it an incorrect accounting practicing that you were referring to?

Mr. MASSAD. Yes. It was both an incorrect practice in terms of the amount that should have been obligated under Federal law, as well as, therefore, an incorrect accounting.

Mr. KING. Okay.

Mr. MASSAD. That is how I understand. I am not an accountant either, but that is how I understand it both—incorrect as to Federal appropriations law and accounting.

Mr. KING. The Federal appropriations law, can you state—stipulate what law that might be?

Mr. MASSAD. The specific law, I am sorry—

Mr. KING. Antideficiency Act?

Mr. MASSAD. Well, certainly, the Antideficiency Act is involved, but there may be a separate law as to what amounts you obligate. But the issue was, as I say, the fact that when we entered a multiyear lease, the view was, just given the nature of our authority, we had the authority to enter into multiyear leases, and obviously, by entering into a multiyear lease you can get a better deal for the taxpayer. It is pretty hard if you have to enter into a 1 year lease for 600 people, you are not going to get a very good deal. But when we entered into a multiyear lease, we should have obligated the full amount, those full 10 years of payments.

Mr. KING. And regardless of the accounting practice involved there, I will just go back to the Antideficiency Act, which prohibits the obligation of funds that have not yet been appropriated.

Mr. MASSAD. Right.

Mr. KING. And that is what we are really talking about, isn't it?

Mr. MASSAD. Well, had we tried to obligate the full amount, yes, we would not have had the budget if we were going to both have an office and employees, as I understand it. We couldn't have had both.

Mr. KING. Right. And so I just wanted to get to that. And I don't know that I want to put you in this position, but I am trying to determine this, and that is that, how pervasive is this practice in the broader Federal Government? And I know that is not a question you can legitimately answer here this morning, but I am asking you this question this way so that I can continue on with that, and that is, I will just say, as I interpret what I have heard here today, however inadvertent it might have been, it is, at least temporarily, a violation of the Antideficiency Act, which you will correct working with the GAO and the OMB.

Is that a fair statement?

Mr. MASSAD. Yes. And I couldn't comment on how pervasive it is, Congressman.

Mr. KING. Right.

Mr. MASSAD. I don't know the answer to that.

Mr. KING. But you would concede that it appears that this is a violation of the Antideficiency Act?

Mr. MASSAD. Well, I will leave it to the lawyers on that, but my understanding is that it likely is.

Mr. KING. And that is mine. And I take it to this point for that purpose that we have a broader responsibility in government to go back to the Antideficiency Act and apply it in places beyond just in your operation, but in the entire government. And so I take the opportunity to make that point here in this hearing, and I am glad this hearing is taking place for that reason.

And so moving on from that topic, and I thank you for that response, I go back to Dodd-Frank, the—making sure that all the rules work and your customer protection requirements that came out after Dodd-Frank. You are relatively satisfied with what you have been able to put together in fine-tuning the rules?

Mr. MASSAD. Well, we are still working on it. There is still some fine-tuning we need to do. One of the things we are going to be taking up this spring is our rules on trading of swaps. There are a number of things that we would like to look at there that need to be changed. There are other issues too. With this whole structure, it is very challenging to implement a whole new regulatory framework for an industry that is already a global industry that hasn't been regulated.

Mr. KING. Let me pose this question another way. If Dodd-Frank had never been passed and signed into law, or if it were repealed in its entirety, what would you speculate would be the implications in your area of influence?

Mr. MASSAD. Well, Congressman, the steps we have taken through Dodd-Frank are excellent steps, and they reflect, obviously, the commitments of all the leaders of all the G20 nations to take the very same steps. We saw in the crisis how excessive risk could develop in this market, and it contributed to the intensity of the crisis.

Now, there are a lot of derivatives that we all know are used by commercial businesses to hedge routine risk that are very important, and we want to make sure they can continue to do that. But we needed to take steps to put in a framework for this market where we are clearing standardized swaps, because that helps monitor and mitigate the risk, where we are having oversight of the major players in this market, and requiring them to do things like have capital and margin and so forth. So all those steps are good. It is just, it will take time to get it exactly right.

Mr. KING. I thank you. And that summarizes just the international conformity as one of the things that you mentioned.

And, Mr. Chairman, I appreciate the hearing, and I yield back the balance of my time.

The CHAIRMAN. The gentleman's time——

Mr. KING. Thank you.

Mr. MASSAD. Thank you.

The CHAIRMAN.—has expired.

Ms. Plaskett, for 5 minutes.

Ms. PLASKETT. Yes, thank you, Mr. Chairman. Thank you so much for being here this morning.

Mr. MASSAD. Thank you.

Ms. PLASKETT. I wanted to just quickly ask you, and then move on to something else, a question about the leasing. When there was some discussion earlier about that, do you think that—I know that the SEC had the same problem several years ago, is this something that maybe if you had—GSA had taken over, or using GSA, would be more helpful to you so that you could move to them the administrative and the day-to-day operations?

Mr. MASSAD. Well, thank you for the question, Congresswoman. It is a very good question. And, obviously, there is a difference if an agency goes through GSA. In our case, when I took office—all I can speak of is really my experience since taking office, and when I took office we already had leases in place in all the offices. None of them actually are due to expire for another, I don't know, 5 years. So when I took office it was even longer than that. However, I did sit down—shortly after I took office, I sat down with the head

of the GSA because I recognized that we did have some excess space, and I wondered if they could help us with that. And we actually talked about whether it would even make sense for GSA to take over our leasing. And he pointed out, well, since you don't have anything coming up, you don't have any renewals——

Ms. PLASKETT. Yes.

Mr. MASSAD.—you would have to pay us—I would have to pay GSA seven percent really for not much benefit.

Ms. PLASKETT. Exactly.

It is only if they would be negotiating the contract to leases that you could see any benefit to that?

Mr. MASSAD. I think so, but we didn't explore it fully, but he was very helpful anyway in——

Ms. PLASKETT. Okay.

Mr. MASSAD. Yes.

Ms. PLASKETT. Thank you. And then my other question, moving to a completely different topic, would be in terms of market reform, and particularly in Asia. Where do you see them going in terms of market reform and the competitiveness that we have with the Asian market and commodities? And between Europe, our own market, and Asia, where do you find us and the others in that spectrum?

Mr. MASSAD. Yes. Excellent question, Congresswoman. And I have been very focused on what is going on in Asia. Last year I made a trip out there. I have tried to develop good relationships with the regulators throughout that part of the world, China, Japan, Hong Kong, Singapore in particular, Korea, and we are continuing to do that. They agreed to the G20 reform principles. They are implementing those. Clearing the—clearing requirements have taken effect in many jurisdictions. Japan is probably furthest along in terms of implementing some of the other reforms. The U.S. really was able to implement these reforms much faster than anywhere else in the world, so other jurisdictions are still coming along.

The markets in Asia are not quite as developed as ours. Certainly, maybe leaving out Japan, but when you look at China, it is a huge market for derivatives, particularly commodities, but it is not as developed in terms of being a market where businesses hedge risk. It is much—it is a much more retail-speculative market. But we have been trying to build relations there and work with them on harmonizing reforms.

So I guess the short answer is there is a lot of work to do here, but there is a willingness over there to work together, and I hope that we can do that so that they do implement similar reforms and we can harmonize.

Ms. PLASKETT. So the lack of harmonization, does that create a competitive edge for them or for us, or is it something that you don't see affecting——

Mr. MASSAD. I don't think it is today because, again, I don't think there is a serious issue there, and there are other differences in the markets. But, over time we do want to make sure that we achieve some basic regulatory harmonization on a lot of these key points. And there is a lot of good work going on to do that. The margin rule on uncleared swaps is a great example where there are international standards that a lot of countries participated in draft-

ing. And I worked very hard to make sure our rule was consistent with those so that we do further this process of international harmonization.

Ms. PLASKETT. I have run out of time, but at some point it would be great if the Chairman could have you explain why this margin you feel is so important in the uncleared swaps area.

Thank you.

The CHAIRMAN. The gentlelady yields back. Thank you.

Mr. Scott, for 5 minutes.

Mr. AUSTIN SCOTT of Georgia. Thank you. Thank you, Mr. Chairman.

Mr. Massad, good to see you again.

Mr. MASSAD. Good to see you.

Mr. AUSTIN SCOTT of Georgia. I want you to know I share the Chairman's opinion that until there is a reauthorization, that there should be no increase in funding for the agency. That would be for any agency, quite honestly, if it hasn't been reauthorized, I don't think we should increase funding, but certainly, holds for yours as well.

I can't help but wonder, as a small business owner who is licensed with a series 7, who somebody on someone's staff that worked for someone like you thought that I should document every lunch that I had with a client, I should document where we ate, what the address of that lunch was, and what I spent with that client at lunch. And I can't help but wonder what would happen if a government regulator came through the doors of my business and asked for the records of where I had lunch, how much my fine would be if I wasn't able to produce each and every document for them.

I heard what you said, but the fact of the matter is a legal liability was not properly documented, and your records are incomplete. And as a private business owner, I know what would happen to me if I hadn't done those same things. I trust you when you say it wasn't intentional, but what would happen to an entity regulated by your agency if that entity was not recording data in a timely fashion, or retaining complete document sets? What would the fine be? What would the penalty be?

Mr. MASSAD. Congressman, I guess I would say it this way. Our compliance efforts are directed, and I say this to the staff all the time, are directed toward bringing people into compliance. They are not directed at playing gotcha games. And the same is true for our—with respect to our enforcement. We are not focused on small businesses who don't document a lunch. I am not even aware that our requirements require that. We are focused on Ponzi schemes and precious metal scams and spoofing and people who are deliberately manipulating the markets.

Mr. AUSTIN SCOTT of Georgia. And I absolutely support you being in those things. In order for our markets to work, you have to have access and you have to have integrity. The problem is when you draft the rules and regulations in such a manner that it encompasses everybody out there, then it becomes a problem and it puts the smaller people out of business——

Mr. MASSAD. And I——

Mr. AUSTIN SCOTT of Georgia. Let me make one final statement on that if I could. With regard to Dodd-Frank, the idea that you would put my local community bank, where there is absolutely no systemic risk to the U.S. economy if that bank failed, under the same rules and regulations that you would put a multibillion dollar institution, is a perfect example of the flaw of the original legislation. And my fear is that if the agent—that the agencies are going to push forward and continue to put the little person under the same rules and regulations as the big person, and, therefore, putting the little guy out of business.

Mr. MASSAD. Well, Congressman, I share your concern. It is certainly not my desire, and we have taken a lot of steps to make sure we are not doing that. As I noted, recently we took an action to make sure that small banks and community development financial institutions who weren't specifically addressed in the statute could continue to engage in their very limited derivatives business the way they had been, and not be subject to a—

Mr. AUSTIN SCOTT of Georgia. And I recognize that most of them are not engaged actively, but as a whole, the rules and regulations that were drafted for the multibillion dollar institutions have come down on our local community bank, and it has caused problems, especially for our farmers and others like myself who go to the community bank because that is who we choose to go to and want to go to.

I have 30 seconds left. I would suggest to you that, with regard to the rules of automated trading, which is not something that—I will admit, I don't understand it completely, but I do believe that that is intellectual property that belongs to people, and I do believe that they have a right to privacy. If you have probable cause of wrongdoing, then I absolutely think that you should go get a warrant to get access to that intellectual property. But I can't see the government being trusted to safeguard and house peoples' intellectual property.

Mr. MASSAD. And, Congressman, we are not asking you to do that. We are not seeking that power. We are not asking them to give us what they call their source code. All we are asking is that they preserve it, that is all we are trying to do, so that if there is a problem and we do need to go get it, using the proper procedures, we can. There has been some misunderstanding about what our intention was, and we are certainly open to making sure that the final rule works that way.

If I can just take a minute more on the record-keeping. We did just revise a very important record-keeping rule in response to the concerns of a lot of commercial businesses that said they felt it was subject to an interpretation such that they did have to keep records that they didn't feel were necessary, and we changed it. That was called rule 1.35. And the same on the small banks, we have taken steps, such as the swap dealer rule doesn't require registration by them. They are exempted from a lot of other requirements. So I will—

Mr. AUSTIN SCOTT of Georgia. I appreciate it.

Mr. MASSAD.—continue to work with you on this.

Mr. AUSTIN SCOTT of Georgia. My time has expired. But there is a difference in the standard for private business owners—

Mr. MASSAD. Okay.

Mr. AUSTIN SCOTT of Georgia.—and the government. And the people who make the rules should abide by the rules.

The CHAIRMAN. The gentleman's time has expired.

Ms. ADAMS, for 5 minutes.

Ms. ADAMS. Thank you, Mr. Chairman. And thank you, Chairman Massad, for your testimony and for the work that you and the other Commissioners have done in developing and finalizing and implementing many important rulemaking guidance in the wake of Dodd-Frank, particularly as it relates to harmonizing rulemaking on central clearing.

Let me ask, with today's announcement, and it is sort of a follow up of an agreement on equivalence for clearinghouses with the European Union, can you give a breakdown of how this agreement may impact the Asian markets and their ability to follow suit in working with us on harmonizing rulemaking. Specifically, what impact today's rulemaking will have on the Asian markets to catch up.

Mr. MASSAD. That is an excellent question, Congresswoman. A lot of the people in Asia have been waiting for Europe and the U.S. to reach an agreement so that then they could see what that agreement is, and maybe then think about their own rules. And we have a separate process going on to look at just that. We have a separate process that involves not just the U.S. and Europe, but regulators from around the world looking at clearinghouse regulation issues, and whether we should try to make the standards more granular, whether we can meet to harmonize in certain areas, and the Asians are involved in that.

So the main effect of this is everybody will say finally, it is finally done. Now we know, and now let's move forward through the international work stream to look at some of these issues further, and to try to achieve further harmonization globally.

Ms. ADAMS. Thank you. There have been heightened levels of discussions around the issue of stress tests for clearinghouses. Do you think that stress tests for clearinghouses are necessary to mitigate the concern for the concentration of risk on a clearinghouse?

Mr. MASSAD. That is an excellent question. Yes, I think it is very important. And again, this international group that I referred to, that is one of the things they are looking at: can we develop some standards for stress tests of clearinghouses. Clearinghouses are different. They clear different products, they have different structures, so there is not a one-size-fits-all, but it is important to try to develop some standards. We are co-chairing this international effort to look at things like stress tests and margin methodologies, and recovery plans and capital or skin in the game. So there will be a report coming out by about the middle of the year on this.

Ms. ADAMS. Okay. One last question. One major area of concern identified in the 2015 OFR report is the risk of a contagion from a failing swap dealer or major swap participant. So how is the CFTC monitoring or working to relieve that risk or the concern for that contagion risk?

Mr. MASSAD. Well, that is where this rule on margin for uncleared swaps is so important. What we have done is we have said you have to clear on these central clearinghouses, or CCPs,

the standardized products, but then you have still have a lot of products that aren't going to be cleared, and shouldn't be cleared. We shouldn't be trying to move everything into the clearinghouses because that will just potentially put too much stress on the clearinghouses. So you are still going to have large institutions engaging in swaps bilaterally. And the margin rule says you have to hold some margin for that, collateral, in case the other guy defaults. We have a rule in place now. We made it consistent with what the bank regulators are doing in this area, because they have responsibility too for this issue. We made it consistent with what international regulators are doing. So that is why I refer to this as a very important sort of piece of the overall architecture here.

Ms. ADAMS. Thank you very much.

Mr. Chairman, I yield back.

The CHAIRMAN. The gentlelady yields back.

Mr. Crawford, 5 minutes.

Mr. CRAWFORD. Thank you, Mr. Chairman.

In your testimony you said one of the reasons swap data is disorganized is because the Commission "expected the industry to develop standardized terms. Unfortunately, that didn't happen." However, in the 2012 swap data reporting rule it states unequivocally the Commission has determined that the final rule will delegate the Chief Information Officer the authority to determine the format, data standards, and electronic transmission standards and procedures acceptable to the Commission. Other than the December technical standards release, what specific steps has the CIO undertaken to provide appropriate data standards to market participants?

Mr. MASSAD. Excellent question, Congressman. We have recently come out with some proposals suggesting some standardized ways of reporting. It covers about 120 fields. And prior to that time, we had a lot of meetings with industry to sort of develop these ideas. Let me just say that there was an article about what I said—quoted or had a headline that said I was blaming the industry. I am not blaming the industry. This is a challenging problem, and it is just something that is just going to take time and we have to work together. I want to work with industry to figure out what the best way is of doing this.

I wasn't around when the agency first drafted the rules. They didn't really have the data then, and they put out rules thinking that the industry might come up with standardized measures. The industry has done that in a lot of areas. I used to be a lawyer in private practice. I worked with a whole industry group that came up with a whole set of definitions originally in the swap area. But the issues today, they are things like if you have a swap that pertains to a physical commodity even, like corn or whatever, there are maybe ten different ways basic fields are getting reported. It is a simple problem on the one hand, but when you are talking about millions of swaps it becomes a very complicated problem.

Mr. CRAWFORD. Well—

Mr. MASSAD. That is what we are trying to standardize.

Mr. CRAWFORD. Got you. Let's talk about the data problem that you highlighted in your testimony. It has been known for years and it has been highlighted repeatedly before this Committee by mul-

tiple witnesses, including then-Commissioner Scott O'Malia. So providing regulators with a complete picture of the market was one of the most important goals of the G20, and it has been loudly trumpeted as one of Dodd-Frank's biggest safeguards against another financial catastrophe. Given the importance of data reporting, why hasn't this issue been a bigger priority at the Commission?

Mr. MASSAD. Congressman, excellent question. It has been a big priority. It is just all a question of resources and how quickly can you do all these things. All these things are big priorities. Fine-tuning the rules so that they don't burden commercial end-users is a big priority, making sure we are addressing cybersecurity is a big priority, all these things are, but, let me just say that while there are issues in getting the data to a better state, we are benefiting very, very significantly from this data already. The study on the *de minimis* rule is a great example of that.

Mr. CRAWFORD. Let me—

Mr. MASSAD. Yes.

Mr. CRAWFORD. Let me ask you this: probably more important than who is to blame for the swap data problem is what is the magnitude of the problem. So my question to you is if we had a financial crisis today, what could the CFTC tell us tomorrow morning about total counterparty exposure for major U.S. financial institutions?

Mr. MASSAD. We can tell you a lot. I receive reports on who are the largest participants in the swap market, what that exposure consists of in terms of whether it is cleared or uncleared, what asset class it is in. We are increasingly able to look at interconnectedness, so we are able to do a lot, but there is a lot more we should do. We are trying, for example, to build out our surveillance system which is very sophisticated when it comes to the futures market, because we built that out over time. We look at concentration risk, liquidity risk, credit risk, market risk, for all these participants. We are trying now to incorporate their swap activity into that, even if it is uncleared. So there is a lot we can tell you today, but there is still a lot of work we need to do.

Mr. CRAWFORD. You don't have any concerns that the global regulators don't have a full picture of the markets as the G20 intended?

Mr. MASSAD. Well, the words *full picture*, we are getting there. There are always ways you can improve the picture. It is a very, very—and the way I liken this to, it is like a big infrastructure project. It wasn't just write a rule, flip a switch, and suddenly you will know exactly what this market looks like. You have to build this out. And I remind our staff, we have to build it out over time so let's think about the milestones we are trying to achieve. We can't build the Rolls Royce tomorrow.

Mr. CRAWFORD. What is the timeline for building that out?

Mr. MASSAD. It is a gradual process. I am very focused on what can we accomplish this year. And, as I say, we have put out a specification on harmonizing 120 fields, we have put out rule changes on reporting of cleared swaps, we are working on right now, this very minute, we are chairing a data harmonization effort that brings together international regulators as well as industry partici-

pants. We have about—I spoke to them yesterday, it is a 3 day meeting where we are talking about a lot of these issues, and we are bringing—again, bringing together regulators and businesses from around the world to do this.

Mr. CRAWFORD. Thank you, Mr. Chairman.

The CHAIRMAN. The gentleman's time has expired.

Ms. Graham, for 5 minutes.

Ms. GRAHAM. Thank you, Mr. Chairman.

I represent north Florida, very rural, lot of agriculture, so I am so proud to sit on this Committee. I just finished a tour, the first annual north Florida farm tour of all 14 counties in my district, and talked with farmers and folks about the challenges they are facing, which are, unfortunately, quite a lot. And low commodity prices came up regularly. So within the markets that you regulate, can you give some counsel advice as to what steps farmers in my district and across the country can be taking to address and to deal with low commodity prices?

Thank you.

Mr. MASSAD. Well the derivatives markets, in my mind, really exists to help farmers, ranchers, commercial businesses to hedge price risk. Prices are going to be volatile. We don't control them. They are going to go up and they are going to go down. And we are experiencing that in a lot of commodity areas, obviously, not just agriculture. We are seeing, obviously, that in the whole energy complex with what has happened with oil. And so our job is to make sure these markets are accessible. The questions that were asked by the Chairman and others on clearing members and whether people have access to clearing members is critical. Our job is to make sure they can execute efficiently. Our job is to make sure that clearinghouses function well and don't pose risks. So those are the things we are trying to do to facilitate their ability to use these markets. But obviously, the price volatility and the declines, we are talking about global forces here that affect these things.

Ms. GRAHAM. Well, thank you. Is there nothing in addition that you could point to that I could help some of the farmers in my district with some guidance in the future as they deal with these low commodity prices?

Mr. MASSAD. Well, again, I can't influence prices. I don't influence prices. But I guess what I would say to them is, to the extent that they are trying to hedge their risk through the commodity derivatives markets, I am always happy to hear about their experience and whether they are facing challenges there, and whether there are things we can do to make it easier for them to hedge risk, if that is what they want to do. Some businesses don't want to do that. And I am not counseling people to do it or not do it, I am just saying if that is what they are choosing to do, and they are running into issues, we are always happy to hear about that.

Ms. GRAHAM. Okay, I really appreciate it. Thank you.

And I yield back my time, Mr. Chairman.

The CHAIRMAN. The gentlelady yields back.

Mr. Newhouse, 5 minutes.

Mr. NEWHOUSE. Thank you, Mr. Chairman. And thank you for being with us this morning, Chairman Massad.

My very first CODEL was to Chicago, and included the CFTC visit, and I appreciate the hospitality there.

I just wanted to ask a couple of questions. In December of last year, the CFTC finalized rules on margins for non-cleared cross-border swaps. And we appreciate that this rule provides a greater flexibility for swap participants than what the potential alternative rules could have, but it seems to conflict heavily with guidance that was issued back in 2013. In the areas where there is conflict between the rule and the guidance, how would you encourage market participants to respond, and what have you done, what steps have you taken to help clarify any confusion that this creates?

Mr. MASSAD. Sure. Thank you, Congressman, for the question. I believe you are referring to the cross-border application of the margin rule, of the rule on margin for uncleared swaps. We have not yet finalized that part of the rule. What we finalized in December was what we call the base rule. We are doing a separate rule-making on the cross-border application of it, and we do hope to take that part up for finalization very soon.

The issue there was that the guidance that you are referring to was general guidance put out with respect to cross-border issues across the board, not just margin but a lot of issues. When it came to the margin rule, we looked at being consistent with the guidance, but that would have made us inconsistent with what the bank regulators were doing. And so we have been thinking a lot about, well, how do we proceed here. The guidance stated very clearly that it was just general guidance, and the Commission, when it did particular rules, might do something different. And so we put out a proposal that said to everybody, please comment. We said, well, we could comply with the guidance. It would look like this if we did. We could be consistent with what the bank regulators are doing in this very same issue, because they have responsibilities too, and it would look like this. Or we could do something in between the two.

So we invited comment on that. Invited industry comments. We received a lot of comments. We are going through that now, and we will make a determination as to what to do. To me, that is the best way forward, to try to be as transparent as possible, to say, look, we could make it consistent with the guidance, we could make it consistent with these other rules that are coming down the pike, we could do something in between, or maybe there is another alternative. So that is what we are looking at.

Mr. NEWHOUSE. Yes. I appreciate that. As you know, the report accompanying the Consolidated Appropriations Act of 2016 directs the CFTC to issue a rule setting the swap dealer *de minimis* level at \$8 billion or higher, no later than 60 days after passage. Mr. Chairman, does the CFTC intend to comply with Congress' instructions?

Mr. MASSAD. Well, we certainly take those instructions seriously, and we are keeping them in mind. What we are doing is, I felt we needed to have a study of this rule to understand what the implications were because there wasn't really data available before. So that is why we have been doing the study and getting input. We have gotten input from people in Congress on this. And we are

looking at all that input, and we will come out with a final report and that will enable the Commission to then decide what to do.

Mr. NEWHOUSE. Do you anticipate an interim final rule?

Mr. MASSAD. We haven't made a decision on that. I want to talk to my fellow Commissioners and see what their thoughts are on what action, if any, we should take.

Mr. NEWHOUSE. Yes. I appreciate that. Again, welcome. Thank you for being here.

Mr. MASSAD. Thank you.

Mr. NEWHOUSE. I yield back, Mr. Chairman.

The CHAIRMAN. The gentleman yields back.

Mr. Kelly, 5 minutes.

Mr. KELLY. Thank you, Mr. Chairman. And thank you, Chairman, for being here.

Going back and following up with Representative Scott's question, despite receiving \$35 million increase in your Fiscal Year 2015 appropriation, relative to 2014, you repeatedly asked for increased funding for the agency. Your Fiscal Year 2016 appropriation was kept at the same level as 2015. While we all would like to have more resources or more funds at our disposal, that is often not possible, especially in the world that we live in, and we must tighten our belts instead, shifting resources to meet the most pressing need, prioritizing, determining what needs the most funds. Could you please tell me what steps the CFTC has undertaken to tighten its belt, looking to see where funds may not be put to their best use and reallocating those funds to the priorities that you choose as the Chairman?

Mr. MASSAD. Absolutely, Congressman. And I agree with you that we do have to prioritize. One of the key things we have done is we have worked with the National Futures Association, the NFA, which is our main self-regulatory organization, to see what further activities they could engage in that aren't necessarily the core things that we need to focus our resources on. And so, for example, we have asked them to take on greater responsibility with respect to examinations of swap dealers, and the permanent registration process for swap dealers. And there are other areas where we are asking them to step up and do more.

We are trying to prioritize our own issues and it is very hard because so many of these things I would like to be acting on concurrently, whether it is the data issues or the end-user concerns. But we are having to do that. We have had to delay doing certain improvements to our IT systems, which I would rather not delay, but we have had to postpone some of those.

We are always focused on trying to prioritize and make the best use of the resources we have, but I do believe that given the scope of this agency's responsibilities, that it is critical to increase that budget.

Mr. KELLY. And on another line, as you are aware in the current form, regulation automated training, reg AT, will permit the CFTC and the DOJ access without a subpoena to highly proprietary source codes by market participants. Many market participants have expressed concern with the CFTC's ability to safeguard this highly valuable and sensitive information. How does or how will the CFTC guarantee that any outside contractors would safeguard

these irreplaceable trade secrets, and how would the agency know if any proprietary source code was, in fact, stolen?

Mr. MASSAD. Excellent question, Congressman. So what we are talking about is what we call the source code for how an algorithmic trading strategy would work. And if you have a situation in the market where an algorithm runs amok, and we have seen those, whether it was Knight Trading or some other things, you need to be able to go back in and reconstruct what happened, and the only way you can reconstruct what happened is if that source code has been preserved, meaning even if they change the algorithm, they kept what it used to say. That is what we are after. We are just asking them to keep it, to preserve it. We are not asking them to give it to us. And we very much recognize the confidentiality concerns. We get all sorts of confidential information from market participants, and keeping it confidential is one of our utmost obligations.

And with respect to source code, we are happy to work with industry participants on this to make sure there are procedures in place that are sufficient to safeguard that confidentiality. That is the last thing I want to see happen. The strength of our markets rests on their integrity and their transparency, and part of that is making sure that we preserve the confidentiality of any kind of information that we need to get access to in our compliance and enforcement capacities.

Mr. KELLY. Thank you, Chairman, for being here today. And, Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The gentleman yields back.

Mr. Allen, 5 minutes.

Mr. ALLEN. Yes, sir. And thank you, Chairman Conaway—excuse me. Thank you, Mr. Chairman. And again, I firmly believe that all agencies and programs in the Federal Government need to be authorized and then appropriated, not the other way around.

As you know, House Republicans have made many efforts to reauthorize the CFTC with some significant and much-needed reforms. I want to encourage, as you probably already heard here today, our Senate colleagues to act on this legislation. And I agree with Chairman Conaway, we need to finish our work authorizing agencies and programs before we spend more taxpayer dollars.

Obviously, as in all of our districts, the commodity price situation is of great concern. We have decreasing acreage being used, for example, for cotton, which is under the WTO rule, and now in the farm bill there is no protection. And so is there any link to that as far as the world market price for cotton? I mean the reduction—I mean it looks like that—well, obviously, we have some issues with China on cotton, but if there is this glut in the supply chain, and because we now have a situation where our folks are just taking a big hit. As the Chairman said, the farm economy is down 55 percent, and it is going to hit us particularly hard in Georgia, agriculture is our number one industry. So is there any connection with that as far as some of our counterparts taking advantage of us because we are considered a developed nation, and they are considered undeveloped nations, according to the lawsuit. So what is your thinking on that?

Mr. MASSAD. Well, I would hope not, Congressman. I guess in terms of what our jurisdiction is, it is to make sure that, say, a futures contract pertaining to cotton isn't susceptible to manipulation. It is not up to us to police trade agreements, as you know. But the concerns you have raised bear on the contract design, and how is that contract designed in terms of what are the production points or the delivery points that are taken into account in calculating a futures price, and is that working well. And that is something that the clearing agencies review from time to time as market participants raise concerns about contract design, and we get involved as well. I know also one of the clearinghouses is trying to introduce a new world cotton contract.

So I am happy to work with your staff if there are particular concerns on that contract design, we are happy to look into those.

Mr. ALLEN. Okay, great. Well, certainly, we are just going to continue to reduce the numbers of acres that we plant cotton. And folks can just eat so many peanuts. And, of course, the farmers were fairly smart to go to peanuts and corn, and some other things, but we still want to be a player in cotton, so we are going to have to figure that out.

Also, and I am not sure if you have been asked to do this, but as far as a list of your current service contracts, could your Commission provide that to—

Mr. MASSAD. I am sorry, our current what contracts?

Mr. ALLEN. The current service contracts that your agency enters into as far as third party vendors. Could you get us a list of those service contracts?

Mr. MASSAD. Sure, I would be happy to check on that, Congressman.

[The information referred to is located on p. 39.]

Mr. ALLEN. And then also as far as those service contracts, has your staff examined to ensure that all obligations are appropriately accounted for under the recording statutes?

Mr. MASSAD. Certainly. Yes, we do.

Mr. ALLEN. Okay.

Mr. MASSAD. We take that very seriously. We take our obligations to comply very seriously.

Mr. ALLEN. Okay. All right, good. Well, Mr. Chairman, I yield back my time. And thank you very much for your testimony.

The CHAIRMAN. The gentleman yields back.

Mr. Davis, 5 minutes.

Mr. DAVIS. Thank you, Mr. Chairman. And, Mr. Chairman, thanks for being here.

Sometimes I need a translator too to understand my colleagues from Georgia also. So, Rick, great questions.

Mr. ALLEN. Thank you.

Mr. DAVIS. I wanted to bring up an issue that was brought to my attention. Representatives of the futures trading industry recently took the extreme step of filing an *amicus* brief in Federal court. The brief asserts that they do not understand the CFTC's position on attempted manipulation, and they believe the position on attempted manipulation, if accepted by the court, will cause major problems in the markets. They claim that the CFTC is attempting to recast 3 decades of subtle law, and that the CFTC, if successful,

it would upset settled trading expectations and practices. Are you aware of this brief?

Mr. MASSAD. I am aware of it, sir.

Mr. DAVIS. Are you concerned about the potential negative impact on legitimate trading when you change settled law through enforcement actions?

Mr. MASSAD. Well, Congressman, I would prefer not to get into the specifics of a particular case.

Mr. DAVIS. Well, this is more about changing settled law.

Mr. MASSAD. Yes.

Mr. DAVIS. That is what I am asking—

Mr. MASSAD. Yes.

Mr. DAVIS.—about, not—

Mr. MASSAD. Yes. I—

Mr. DAVIS.—a specific case.

Mr. MASSAD. Yes. I don't think—we are not trying to change settled law. I think our view of the law is—I can state it pretty basically. You can't toy with prices. Prices should be set by supply and demand.

Mr. DAVIS. But would you—

Mr. MASSAD. You—

Mr. DAVIS. Would you—go ahead.

Mr. MASSAD. Sorry. Please.

Mr. DAVIS. Would you agree on the importance that market participants have a clear understanding of what constitutes that attempted manipulation in the futures markets?

Mr. MASSAD. Yes, I would, and I would agree that the way we do that in this country is Congress passes a law and the courts interpret it, and that is what is going on here. But, I don't think we are trying to rewrite a lot of history here, a lot of court cases. I think it is before the court—or these things go before the courts and they will get resolved that way. But I can tell you that as far as the agency's own position, it has not changed.

Mr. DAVIS. Okay. Well, I just want to make sure we have learned some hard lessons about the importance of markets and their impact on our economy, and shouldn't Congress or at least, collaborative, thoughtful agency rulemaking, with proper notice to the marketplace, have a role in something like this that could cause, as they stated in their letter, widespread problems for our markets.

So thank you for your responses. Before I run out of time, I want to say I am glad to see you have an agreement with Europe on the equivalence, because it is very vital for our U.S. markets. The process for getting to this point seems a little flawed. From my perspective, it seems like Europe tried everything they could to make this a competitive instead of a regulatory issue. And, in fact, this seems like it almost became a trade issue with Europe trying to keep the U.S. out of its markets.

What can be done to prevent European regulators from acting this way in future negotiations?

Mr. MASSAD. Well, I guess I would say it this way, Congressman—

Mr. DAVIS. And I know you dealt with this issue earlier, but I wasn't here. I apologize.

Mr. MASSAD. Both Commissioner Hill and I inherited a situation. We were both committed to trying to resolve it in good faith and as quickly as we could. The fact that we now have resolved it provides a good basis for future cooperation. We should be focused on, as you put it, the regulatory objective. We have a lot of other work streams going on that are seeking to do that, that Europe and the U.S. and other regulators are involved in. And so our challenge is now let's take this forward, let's focus on those work streams, and let's try not to let these things get derailed.

Mr. DAVIS. Well, Mr. Chairman, thank you for your time. And in the days of multiple hearings, I will see you later.

Mr. MASSAD. Okay, thank you.

Mr. DAVIS. I yield back.

The CHAIRMAN. The gentleman yields back.

Mr. DesJarlais, for 5 minutes.

Mr. DESJARLAIS. Thank you, Mr. Chairman.

Mr. Chairman, a recent article in *Bloomberg* noted that oil markets had reached a new record for the highest number of open positions in WT oil contracts, with speculations opening almost ½ million contracts through February 2.

Given this unprecedented level of speculative activity in the oil markets, how many dollars per barrel do you think it is adding to the current price of oil?

Mr. MASSAD. Congressman, I don't speculate on prices, or I don't comment on prices. I guess what I would say is that we have seen a lot of volatility obviously in the oil market and the energy complex overall. It is obviously the product of a lot of very, very big forces of supply and demand. But our job is to engage in surveillance to make sure there aren't people violating the law, engaging in improper behavior, trying to manipulate prices, and we will do that to the best that we can with the resources that we have.

Mr. DESJARLAIS. Thank you. Would you consider, or would you classify this as excessive speculation?

Mr. MASSAD. No, not at this time. To my knowledge, we are again witnessing an oil market which has been affected by some very large forces of supply and demand. The shale revolution has caused tremendous change in production, and particularly production in this country. We have seen changes from abroad in both what OPEC is doing and in Iran. So there are lot of very big factors affecting the oil market and affecting prices here.

Mr. DESJARLAIS. Okay, Mr. Chairman, if a record number of open contracts doesn't constitute excessive speculation, then what exactly is excessive speculation?

Mr. MASSAD. Well, Congress didn't define it in the law. It is up to us to do our best, and our task in that regard is to come up with a positions limits rule, as Congress has directed us to, that is supposed to be designed to prevent excessive speculation. And that is what we are trying to do. In our surveillance efforts, we are focused on whether people are manipulating or attempting to manipulate price. So that is what we will continue to do there.

Mr. DESJARLAIS. Okay, you may have answered this somewhat, but let me try again. How do we know exactly what activity the Commission is trying to prevent with this proposed position limits rule, which has no definition or test for *excessive speculation*?

Mr. MASSAD. Congressman, we are trying to carry out the directive that Congress gave us, which was to implement position limits, to limit excessive speculation, while at the same time allowing for *bona fide* hedging. We have had position limits in agricultural commodities for many, many years, and most people would say they have worked well. And Congress made the decision to expand that, and that is what we are trying to do. We are going about that by looking at a number of things and listening to market participants of all types as to how we should design this rule. We are working with the exchanges on how we should design this rule. They, of course, have had position limits in place for a number of other commodities, even when it wasn't a Federal limit, for years and years also. And when I talk to most participants, they agree that we should have position limits. The questions go to exactly where they should be set, and making sure that they allow for *bona fide* hedging. And those are the things we are focused on.

Mr. DESJARLAIS. All right, thank you for your answers.

I yield back.

The CHAIRMAN. Before the gentleman yields back, if he would yield to—

Mr. DESJARLAIS. I will yield the balance of my time, Mr. Chairman.

The CHAIRMAN. Mr. Chairman, that law you cite, Dodd-Frank, uses the phrase *as appropriate with respect to position limits*. We did not, in fact, demand that you do that. Wouldn't it be better to let the markets themselves set those limits as opposed to the Commission trying to make that happen, because we didn't tell you that you had to do it?

Mr. MASSAD. Well, Congressman, I guess it has been our interpretation that we are supposed to do a rule here. As to exactly what the limits are, is the question we are working on and working to try to get right. And we will continue to do that. I have said many times over it is more important to get this right and we should take the time we need to get it right.

The CHAIRMAN. Okay. I appreciate that.

Mr. Thompson, 5 minutes.

Mr. THOMPSON. Thank you, Mr. Chairman. Chairman, welcome. Thanks for being here.

Chairman, I have a couple of questions. I have read that in response to increases in capital requirements under the Basel III supplementary leverage ratio, large derivative dealers in the United States and Europe are exploring spinning off their cleared swaps desks. Do you have concerns with that possibility, and what would be the effect on the swaps market and the cost of hedging risk?

Mr. MASSAD. That is an excellent question, Congressman, and we are watching that. There have been some articles on that recently. We don't have enough information yet to fully evaluate it, but it is something we are certainly going to keep our eyes on and talk to market participants about.

The issue though, you have noted properly the underlying issue here, or at least one of them, which we are also looking at and I have spoken about publicly, which is the effect of capital requirements on, for example, the clearing member community. And we

talked about that a little bit earlier, but I am concerned about whether we are properly balancing the objectives of strong capital requirements, which I support, but also promoting central clearing. And I have been concerned that the way some of these regulations were written could create a disincentive to clear, which would not be consistent with the objective of promoting central clearing.

Mr. THOMPSON. Yes. Thank you. Just to follow up on that. I know that, in response to a question by former Chairman Lucas regarding the SOR, you said that I am very concerned, as you said now, that the SOR would have a significant negative impact on the clearing, and you went on to say that you spoke recently with Comptroller Curry and Chairman Gruenberg at the FDIC, and as well as the Fed, about this issue, and that you all agree that our staffs would get together and discuss it further. Did Comptroller Curry and Chairman Gruenberg, Chair Yellen, or any of their staff ever take the time to sit down with you or your staff to discuss the issue further, and if so, how did that go?

Mr. MASSAD. Yes. We have discussed it. They have a different view right now. They are—well, I don't want to speak for them individually. I will just say that there are different views here. There is still discussion going on. They have the objective of making sure there are strong capital requirements, and they believe the leverage ratio should not be, as they put it, risk-based, and, therefore, shouldn't take into account, for example, the margin posted at the clearinghouse. I am concerned that we really should be thinking about that margin. I mean there is \$250 billion of margin held at our primary clearinghouses for all these cleared trades. That is a lot of margin to ignore. I know there is an international work going on looking at this.

So we will continue to engage, but there are differences of opinion.

Mr. THOMPSON. Now, I have seen recently where the Basel Committee is considering reviewing its position on the issue. What does that mean for the U.S. SOR rules, and if the Basel Committee fixes this issue, will the issue be settled there, or will our U.S. regulators have to act?

Mr. MASSAD. That is a good question. My understanding, and I am not a member of the Basel Committee and I don't know exactly what they are going to do, I have heard rumors, is they could do something but our regulators would still have to act. Obviously, they have the jurisdiction here. It is helpful to have this kind of discussion about it. I will continue to be available and to raise it. We are continuing to talk to clearing members about it. It is helpful if the clearing member industry comes up with more data to show what effects they think it is having. Thank you.

Mr. THOMPSON. Well, thank you, Chairman.

And, Mr. Chairman, I yield back.

The CHAIRMAN. The gentleman yields back.

Mr. Chairman, thank you for being here today. I have a couple of other questions. Your job, and a lot of other regulators, all these things that have been done under the guise of Dodd-Frank and a lot of money spent in that regard. Stepping back from it and trying to see does it actually work and are we going to be able to give a heads-up in terms of some sort of monster systemic risk that would

replicate the damage done in 2008. A lot of press reporting about the stresses on European banks, and you talked earlier about interconnectedness and being able to do the things that you are supposed to do. I mean I got the enforcement part on a one-on-one basis, that is really important to maintain the integrity that is going on, but overall FSOC efforts and everything that is in place. Could you walk us through your role at FSOC? Do you prepare written reports and other data to put into that scheme, whatever it is, not that those would be public, obviously, because of the sensitivity of it, but I am just trying to see, we have a lot invested in this whole effort collectively, the folks on the compliance side as well as your team and the taxpayers. Are we in a position to give the world a heads-up if a coming wreck is imminent, based on everything we have done?

Mr. MASSAD. Well, excellent question, Mr. Chairman. I think we are in a much better position today. That is not to say we will predict everything. Right? It is always challenging because if there is another problem, it may come from a direction that we haven't anticipated. But, bringing all the regulators together through FSOC is an enormously important action that we have taken, because it does allow all of us to share ideas and information and perspectives, and at least minimize the risk that, because of the various functional groupings of regulators of even silos, that we kind of miss something that falls between jurisdictions. So think it helps enormously in that respect.

The CHAIRMAN. So your contribution to that, would it be written, do you just go there and talk, or does your team actually put together reports that feed into the system, and if so, how often does that happen?

Mr. MASSAD. It varies, Mr. Chairman. We do some of both. Yesterday we were making a presentation with others on clearing-house issues to some of the other staff. My staff made a presentation, when we had the October 15 volatility in the treasury markets, because we had data on the futures market, which doesn't really exist on the cash treasuries market, we were able to put together a presentation for the full FSOC for the principles when we made that presentation. We are going to make a presentation on our Regulation AT. So sometimes we do formal presentations, sometimes we comment on other presentations that are made, sometimes it is just a discussion. We comment on drafts of reports. So it is all of those things.

The CHAIRMAN. All right. Well, given the nature of that and the sensitivity of the data, would you agree to a confidential briefing for the Ranking Member and I, our Members, to get a better sense of what that looks like?

Mr. MASSAD. Certainly.

The CHAIRMAN. Okay. A couple of this and thats. Office of the Chief Economist is relatively small now *versus* what it might have been in the past. And the role that you see the Chief Economist playing in the overall surveillance and trying to look and get these kind of forward-looking heads-ups that it is a part of that job, how do you see that office going?

Mr. MASSAD. It is extremely important. In fact, in our budget, percentage-wise in terms of staff, that is the highest increase. I am trying to increase that office by 50 percent.

The CHAIRMAN. All right.

Mr. MASSAD. And that is not the only economist we have though. We also have economists in other divisions. But it is extremely important to expand our economists.

The CHAIRMAN. The lease issue that we have talked about, the excess space, I know that you wouldn't necessarily get benefit to your budget if you were able to sublease that or to try to minimize the impact. What are the restrictions for being able to do that, and can you see a public relations plus on your side in that those resources would come back to the taxpayer, in effect, if you did that by being able to minimize the impact that excess office space is having? What are the technical restrictions for allowing you to take a businesslike approach? I mean if you were in business for yourself, you would have done something, rather than paying—

Mr. MASSAD. Absolutely.

The CHAIRMAN.—out millions of dollars.

Mr. MASSAD. Mr. Chairman, I would be happy to sublease it and turn the money over to the U.S. Treasury if I could do that. The restriction as I understand it is this, we can only sublease under the law if it is to someone who is, and I am not going to get the phrase right, I will ask our lawyers so I get the exact phrase, but they have to be furthering our regulatory mission—

The CHAIRMAN. Okay. So this—

Mr. MASSAD.—and objectives.

The CHAIRMAN. This is something that you would be willing to work with us on if we can figure out how to address that—

Mr. MASSAD. Certainly.

The CHAIRMAN.—because this can't be the only agency that has excess space, if those are—

Mr. MASSAD. Mr. Chairman, to give you an example, we collected \$2.8 billion in enforcement fines. All that goes back to the Treasury. So, we are not—

The CHAIRMAN. Well, that—there is a—I got that, but I—you know what I am saying? You are asking for more resources and yet you have this albatross hanging around your neck of excess office space. It is easy for others to say, well, you are not using it. Anyway, let's work together to try to figure out how we can loosen that up so that you can, in fact, get a better arrangement for the taxpayers.

Ms. Kuster, did you have questions?

Ms. KUSTER. Just a very quick one—

The CHAIRMAN. All right, you are recognized—

Ms. KUSTER.—if I could have 1 minute?

The CHAIRMAN.—for 5 minutes.

Ms. KUSTER. Thank you very much. And I apologize for the delay. I have been in another committee. But welcome—

Mr. MASSAD. Thank you.

Ms. KUSTER.—to the Agriculture Committee.

I understand that there was an announcement this morning about the EU and the CFTC reaching an agreement on equivalence, which is great news. My question is, how can we ensure that

these efforts will not inhibit our ability to safeguard the markets? So in other words, it is great news that we have reached an agreement, is that going to be sufficient and do you have any concerns, going forward, about safeguarding markets?

Mr. MASSAD. Yes, Congresswoman. Thank you for the question. It is very, very consistent with those efforts. In fact, it helps, it furthers those efforts. One of the things that was very important to me in this agreement was making sure we recognize that these very large clearinghouses that operate cross-border, that we need to work together with regulators in other parts of the world on the oversight, on the supervision. We shouldn't just be saying, well, if it is on your soil, you take care of it and we don't have to worry. And so that is why we want to continue to get information about what is going on at a European clearinghouse. Now, we have a very excellent relationship with the Bank of England and with ESMA and with the German regulators, and we will continue to work with them. But in this day and age, having regulators cooperate in the oversight of these very, very large clearinghouses is a very high priority.

Ms. KUSTER. Great, thank you. And hopefully you will report back, and I am—

Mr. MASSAD. Yes.

Ms. KUSTER.—sure Mr. Conaway will be all over it. Thank you very much. Thank you.

The CHAIRMAN. Mr. Chairman, again, thank you for being here today. I want to get it on the record one more time how responsive your team was with respect to the leases issue and our inquiries, and thank you for that. From time to time, there are agencies out there that aren't quite as forthcoming, and particularly on the issue of where you are trying to clean up somebody else's mess. But I appreciate that.

With the economies in the world going bad, our own economy only grew $\frac{7}{10}$ of a percent last year. We have ag income down 55 percent in over 2 years. The worst drop since 1919, 1920, 1921 timeframe. There are stresses in the mix, and I am hoping that this overall effort we have had, some of it agreed with, some of it we didn't agree with, will pay some dividends in terms of trying to let FSOC do its job and trying to see what might be in front of us, and try to rein some of those things that are actually causing it, as opposed to just the overall impact that economies have on growing and shrinking. So again, thank you, Chairman, for being here.

Under the rules of the Committee, the record of today's hearing will remain open for 10 calendar days to receive additional material and supplementary written responses from the witness to any question posed by a Member.

This hearing of the Committee on Agriculture is adjourned.

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

[Material submitted for inclusion in the record follows:]

SUPPLEMENTARY MATERIAL SUBMITTED BY HON. TIMOTHY G. MASSAD, CHAIRMAN, COMMODITY FUTURES TRADING COMMISSION

Mr. ALLEN. . . .

Also, and I am not sure if you have been asked to do this, but as far as a list of your current service contracts, could your Commission provide that to—

Mr. MASSAD. I am sorry, our current what contracts?

Mr. ALLEN. The current service contracts that your agency enters into as far as third party vendors. Could you get us a list of those service contracts?

Mr. MASSAD. Sure, I would be happy to check on that, Congressman.

CFTC Service Contracts as of March 2, 2016

Contractor	Purpose	Amount	Obligated to Date Effective Date	Expiration Date (if all options exercised)	Contract Type
Lockheed Martin Management Systems	eLaw Support	\$4,264,702.13	3/4/2013	3/31/2016	Labor
Verizon	Combined Services—telecomm services	\$4,745,868.87	9/30/2009	9/30/2017	Telephone Service
PhaseOne Consulting Group	IT Security Support—20 Critical Controls	\$2,425,358.18	6/29/2015	6/28/2020	Labor
PhaseOne Consulting Group	Enterprise Architecture Support	\$275,129.00	6/29/2015	6/28/2018	Labor
Coastal International Security Inc.	Security guard services	\$397,794.00	8/1/2015	1/31/2017	Labor
Kearney & Company	Fiscal Manual and Financial Controls	\$2,396,689.15	9/29/2014	3/28/2017	Labor
Washington Metropolitan Area Transit (WMATA)	SmartBenefits Program	\$1,564,176.80	9/6/2011	9/5/2016	Services
Verizon	Managed Trusted Internet Protocol Services (MTIPS)	\$2,413,889.65	9/30/2011	9/30/2017	Telephone Service
Employee Services, Inc.	Employee Assistance Program	\$105,643.50	11/6/2012	11/5/2016	Labor
FPMI Solutions Inc.	Personnel security program support	\$504,692.87	11/29/2011	11/28/2016	Labor
Merlin International	Hosting and License for Monster (HR Hiring Solution)	\$992,353.92	6/15/2012	6/14/2017	Software/Hosting
Northrop Grumman	Enterprise service Bus/BizTalk/Service Oriented Architecture support	\$2,378,927.51	9/24/2012	9/23/2017	Labor
Northrop Grumman	Data analytics support	\$3,295,282.44	11/23/2012	11/22/2017	Labor
Northrop Grumman	SAS platform support	\$1,867,396.31	3/4/2013	3/3/2018	Labor
Northrop Grumman	Portal development and maintenance support	\$3,743,656.89	3/11/2013	3/10/2018	Labor
Northrop Grumman	Data Standards Support	\$3,216,220.76	3/25/2013	3/24/2018	Labor
Northrop Grumman	Ongoing Development, Maintenance and Support for Data Engineering and Processing (DEAP)	\$2,608,508.98	6/1/2015	5/31/2019	Labor
Northrop Grumman	Market data operations support	\$420,396.30	9/15/2015	9/14/2020	Labor
Northrop Grumman	Swaps data harmonization support	\$962,552.69	9/14/2015	9/13/2020	Labor
IBM	IT systems operations and maintenance	\$8,769,981.68	9/26/2012	9/26/2017	Labor
MAR Inc.	Sharepoint maintenance and support	\$3,661,675.46	9/24/2012	9/23/2017	Labor
MAR Inc.	Surveillance systems support	\$4,103,810.80	9/25/2012	9/24/2017	Labor
Deloitte Consulting	Enterprise solutions development support	\$1,132,010.00	6/12/2013	6/11/2018	Labor
The DesignPond	Full service design support for CFTC's AFR, Summary and President's Budget	\$361,088.28	9/25/2012	3/31/2017	Labor
FM Talent	Full service design support for CFTC's Annual Performance Report	\$216,700.38	9/25/2012	6/30/2017	Labor
Teedlaw Solutions	Business management support	\$945,569.13	7/9/2012	7/8/2017	Labor
Unisys	Relativity software maintenance	\$120,000.00	10/19/2015	10/18/2016	Software Maintenance
Deloitte Consulting	EMC onsite support	\$952,743.23	9/13/2012	9/12/2017	Labor
	Maintenance of Business Information Systems	\$1,103,097.06	9/27/2012	9/26/2017	Labor

CFTC Service Contracts as of March 2, 2016—Continued

Contractor	Purpose	Amount	Obligated to Date Effective Date	Expiration Date (if all options exercised)	Contract Type
Genscape	Access to Genscape databases	\$500,000.00	9/24/2012	9/23/2016	Subscription Service
SEC	Market watch room/back-up site	\$25,898.00	9/1/2015	9/30/2016	Services
Iron Mountain	Offsite paper records storage	\$161,707.97	6/1/2013	5/31/2018	Services
Market Group Ltd.	Data subscription service	\$198,000.00	9/5/2013	10/9/2017	Subscription Service
FPMI Solutions Inc.	Human Resources operations and administrative support	\$728,158.88	1/22/2013	1/21/2018	Labor
FPMI Solutions Inc.	Training coordination	\$135,744.00	9/1/2014	8/31/2019	Labor
FPMI Solutions Inc.	Competency Study	\$389,952.00	9/17/2014	9/16/2016	Labor
FPMI Solutions Inc.	Payroll and benefit support	\$170,649.60	9/28/2014	9/27/2019	Labor
FPMI Solutions Inc.	eLearning Specialist	\$123,705.60	9/12/2014	9/11/2018	Labor
Northrop Grumman	Enterprise systems architecture support	\$1,417,985.13	3/25/2013	3/24/2018	Labor
SoftChoice	Annual software maintenance for K2 product	\$233,813.40	3/25/2013	3/24/2018	Software Maintenance
PJ Mechanical	HVAC maintenance (NY)	\$11,286.00	6/27/2013	6/26/2016	Services
Aquilent	Recurring support and maintenance of <i>CFTC.gov</i>	\$1,928,000.00	6/1/2013	5/31/2018	Labor
Aquilent	<i>CFTC.gov</i> site content analysis and design	\$316,214.18	6/22/2015	4/1/2016	Labor
Metrostar	CFTCNet maintenance and support	\$907,096.41	5/29/2013	5/31/2016	Labor
LexisNexis	CFTC Whistleblower Program and OCE Websites	\$293,275.90	4/20/2015	10/19/2016	Labor
T-Mobile	Computer assisted legal research and retrieval services	\$818,553.00	11/1/2013	10/31/2018	Subscription Service
AT&T	CFTC-Wide wireless services and related equipment—initial task order	\$409,550.78	11/19/2013	11/18/2018	Wireless Telecom Service
Verizon	WiFi installation and service at CFTC HQ	\$612,371.36	11/27/2013	11/26/2018	Wireless Telecom Service
Nexidia	WiFi installation and service at CFTC HQ	\$72,490.40	9/9/2014	9/8/2018	WiFi Service
CCH	CFTC-Wide wireless services and related equipment—initial task order	\$1,062,974.77	11/26/2013	11/25/2018	Wireless Telecom Service
GMG Management Consulting	Access to CCH publications and data	\$84,729.02	3/26/2014	3/25/2019	Software Maintenance
Spartan Business and Technology	Travel information center services	\$203,725.53	9/1/2014	8/31/2019	Subscription Service
	Document management, project management and analytical support for CFTC Financial documents	\$392,768.04	5/1/2014	4/30/2019	Labor
		\$1,273,389.68	9/1/2014	8/31/2019	Labor
Pricing Law Institute	Legal education services relevant to financial markets	\$86,900.00	1/16/2014	1/15/2019	Services
Corporate Executive Board	CEB Corporate Leadership Council	\$91,960.00	6/26/2014	6/25/2017	Membership
BarnAllen Technologies	Electronic imaging services	\$70,000.00	9/29/2014	9/28/2017	Services
Aquilent	Web-hosting of external portal	\$356,724.70	9/26/2014	9/25/2019	Services
Aquilent	<i>CFTC.gov</i> cloud hosting	\$80,000.00	3/11/2015	3/10/2020	Services
Anser	COOP support services	\$544,748.80	9/26/2014	3/25/2018	Labor
Porter Novelli	Jury trial consultation services	\$1,400,000.00	9/24/2014	9/23/2019	Labor
MAIC	Integrated marketing support	\$4,799,450.29	9/18/2014	3/17/2016	Labor
Northrop Grumman	Acquisition Support Services	\$248,198.40	9/26/2014	9/25/2019	Labor
Northrop Grumman	Analysis of Swap Dealer Risk	\$1,069,198.80	9/30/2014	9/29/2019	Labor
Zebra Economics	Analystical support	\$1,110,685.68	9/29/2014	9/28/2019	Labor
CMRA	Expert Witness	\$80,000.00	9/22/2014	9/21/2017	Labor
IBM	Expert witness	\$73,000.00	9/29/2014	9/28/2019	Labor
Advanced AV	Analytical support	\$438,182.40	9/29/2014	9/28/2019	Labor
Entrust Inc.	Audio visual maintenance	\$389,880.00	10/1/2014	9/28/2019	Equip. Maintenance
Entrust Inc.	Entrust identity guard	\$13,277.08	10/1/2014	9/28/2019	Software Maintenance
First Federal	Entrust certificate management services	\$8,264.07	11/8/2014	11/7/2017	Software Maintenance
West Publishing Corporation	Records storage	\$9,512.48	12/1/2014	11/30/2019	Services
Berkeley Research Group	Investigative Research Tool	\$57,985.28	4/27/2015	4/26/2020	Software
	Expert witness	\$740,000.00	12/31/2014	9/30/2016	Labor

Shaw, Brunsford & Roth	Outside legal counsel for labor issues	\$50,000.00	2/6/2015	2/5/2020	Labor
Recovery Point Systems	Data center	\$1,224,614.00	9/1/2015	8/31/2025	Services
Advent Technologies	Asset license renewal	\$66,000.00	6/21/2015	6/20/2017	Software Maintenance
ThunderCat	VCE Maintenance	\$12,992.97	3/1/2015	2/29/2017	Equip. Maintenance
ThunderCat	EMC Maintenance	\$1,233,018.38	3/26/2015	3/25/2017	Equip. Maintenance
Southwest Distribution	Newspaper delivery	\$22,191.05	4/1/2015	3/31/2016	Services
Eny's	Expert witness	\$140,000.00	4/22/2015	10/21/2017	Labor
Advanced Computer Concepts	Software license on Symantec NetBackup	\$59,135.14	9/1/2015	8/31/2016	Software Maintenance
The Network Inc.	Hotline program	\$24,900.00	3/30/2015	3/29/2016	Services
Trivantis	Hosting of CourseMill	\$24,600.00	6/5/2015	6/4/2016	Subscription Service
Smiths Detection Inc.	Maintenance of x-ray unit	\$4,125.80	4/20/2015	4/19/2016	Equip. Maintenance
Bates White	Maintenance of SABRE handheld devices	\$9,075.00	4/22/2015	4/1/2016	Equip. Maintenance
Corporate Executive Board	Expert witness	\$55,400.00	8/30/2015	7/31/2017	Labor
PATCOeh Oxygen	CER Government Finance Leadership Council	\$75,118.00	4/30/2015	4/26/2016	Membership
August Schell Enterprise	Forensic license renewal	\$3,447.00	8/4/2015	4/21/2018	Software Maintenance
Murray, Martin M.	Symantec Protection Enterprise Edition 4.0 Licenses	\$35,255.00	5/13/2015	5/12/2016	Software Maintenance
Boardwalk	Expert economist	\$92,050.40	5/28/2015	5/27/2016	Labor
Portfolio Media	BoardwalkTech BCP Enterprise Edition license renewal	\$9,000.00	5/11/2015	5/10/2016	Software Maintenance
Advance Trading Inc.	Subscription to Law360	\$16,320.00	5/1/2015	5/10/2016	Subscription Service
Lockheed Martin	Subscription Services	\$12,000.00	9/30/2015	4/30/2016	Subscription Service
U.S. Coast Guard	Management Systems Financial intake review and analysis	\$270,000.00	8/7/2015	8/6/2020	Labor
Dynamic Systems	Administrative Law Judge services	\$35,861.79	9/23/2015	6/21/2016	Labor
Srsidmix	Oracle Financial maintenance renewal	\$7,175.18	7/1/2015	9/22/2016	Software Maintenance
ADI Strategies	Software maintenance for library cataloging	\$497,373.00	7/10/2015	6/30/2016	Software Maintenance
Analysis Group, Inc.	Expert witness	\$543,201.60	8/30/2015	9/11/2017	Labor
ADI Strategies	Business Information System support	\$8,100.00	6/25/2015	8/29/2020	Labor
Litsavant LTD	LitSavant Conformity Engine license	\$18,277.00	8/1/2015	7/31/2016	Equip. Maintenance
Financial Times	Financial Times	\$24,700.74	9/28/2015	7/31/2016	Subscription Service
Dave Redden New Life Retirement Benefit Counseling Service	Retirement training and counseling services			9/27/2016	Services
Inovitech LLC	IS-A Task license	\$170,000.00	7/27/2015	7/26/2016	Software Maintenance
Institutional Investor	Subscription to <i>Global Capital</i>	\$16,740.00	9/1/2015	8/31/2016	Subscription Service
MRF Consulting	Human Resources support services (classification, audits)	\$325,000.00	9/25/2015	9/24/2020	Labor
CQ-Roll Call Inc.	Subscription Services	\$20,580.00	6/1/2015	5/31/2016	Subscription Service
Gartner Inc.	Gartner CIO Essential and Research and Advisory Services	\$72,690.00	7/1/2015	6/30/2016	Services
Platts	Renew subscription to access Platts/McGraw Hill data and publications	\$139,653.00	7/24/2015	7/23/2016	Subscription Service
Teel Technologies	Annual license for Cellebrite UFED Ultimate	\$3,098.99	7/19/2015	7/18/2016	Software Maintenance
Hendrik Bessemlinder	Expert witness	\$109,500.00	7/15/2015	1/14/2018	Labor
ABM Janitorial Services—Mid-Atlantic, Inc.	D.C. carpet cleaning	\$9,600.00	7/15/2015	7/14/2016	Services
Northrop Grumman	Swap Risk Analysis for Chief Economist	\$23,184.36	9/29/2015	9/28/2020	Labor
U.S. Postal Service, Office of Inspector General	Investigative, technical and forensics services	\$27,000.00	7/20/2015	7/19/2016	Labor
Blue Tech Inc.	StealthWatch Maintenance	\$56,642.41	9/1/2015	8/31/2016	Software Maintenance
Carahsoft	Vmware maintenance	\$165,839.79	9/20/2015	9/19/2018	Software Maintenance
Emergent	Google appliance	\$47,937.00	8/5/2015	8/4/2017	Equip. Maintenance
Wolters Kluwer Financial Services	TeamMate license renewal	\$69,495.00	8/1/2015	7/31/2016	Software Maintenance
Lyme Computer	Resource Scheduler license renewal	\$16,927.67	9/1/2015	8/31/2016	Software Maintenance
LexisNexis	Renew subscription to LexisNexis Knowledge Mosaic Database	\$9,900.00	7/28/2015	7/27/2020	Subscription Service
LexisNexis	Renew subscription to LexisNexis Federal Agency Content Database	\$1,932.00	7/28/2015	7/27/2020	Subscription Service
Dow Jones & Company	<i>eFinancial News</i> subscription	\$37,500.00	8/18/2015	8/17/2016	Subscription Service
Inclusio Media	Renew subscription to <i>Risk.net</i>	\$55,481.00	9/17/2015	9/16/2016	Subscription Service
Clarius Financial Technology	Clarus SEFView and ClarusSDRView	\$21,600.00	8/1/2015	7/31/2016	Subscription Service
SWN Communications	Emergency notification services	\$27,533.83	8/15/2015	8/14/2016	Software License
PAP Labat-Anderson Inc.	Capstone E-mail Records Management Planning Support	\$212,971.00	9/29/2015	9/28/2016	Labor

CFTC Service Contracts as of March 2, 2016—Continued

Contractor	Purpose	Amount	Obligated to Date Effective Date	Expiration Date (if all options exercised)	Contract Type
Department of Transportation—ESC	Security operational services	\$88,333.00	8/5/2015	8/4/2016	Services
Deloitte Consulting	Pay and performance management reform	\$222,561.00	9/30/2015	9/29/2016	Labor
PCMG	Devercraft software license renewal	\$30,939.29	3/6/2015	3/5/2016	Software Maintenance
Analysis Group, Inc.	Expert Witness	\$398,410.00	8/7/2015	7/31/2017	Labor
Love and Long LLP	Attorney support services	\$300,000.00	9/23/2015	9/22/2020	Labor
Aon Consulting	Retirement subject matter expert	\$92,277.22	9/30/2015	9/29/2016	Labor
Workforce Resources	Facilities, logistics and administrative support services	\$2,407,161.28	9/4/2015	9/3/2017	Labor
Neopost USA Inc.	Maintenance for mail inserter machine	\$1,561.51	8/24/2015	8/23/2016	Services
Ebsco	Subscription Services	\$165,000.00	8/12/2015	8/11/2016	Subscription Service
A&T Systems	MaasS60 License Renewal	\$45,475.00	8/31/2015	8/30/2017	Software—Maintenance
Actionable Intelligence Technologies, Inc.	Comprehensive Financial Investigation Software (CFIS)	\$61,053.32	8/20/2015	8/19/2020	Software—Maintenance
OPM	Leadership for a Democratic Society Program	\$39,750.00	8/20/2015	8/19/2016	Training
American Systems	Administration of Leadership860 and Profiler Assessment	\$19,000.00	9/3/2015	9/2/2016	Services
Catapult Technology	PBX Upgrade and annual maintenance	\$1,531,317.07	9/30/2015	9/29/2019	Equip./Soft. Maintenance
OPM	Core infrastructure operations and maintenance and support services	\$2,704,696.20	9/1/2015	8/31/2025	Labor
STG Inc.	Configuration Management and IT Security Support	\$315,000.00	9/29/2015	8/31/2016	Software—Maintenance
Teel Technologies	PC—3000 Annual Maintenance	\$17,678.00	9/29/2015	9/28/2020	Software—Maintenance
Grant Thornton	DLP Software Solution	\$205,173.52	9/23/2015	9/22/2016	Labor
The Brattle Group	Expert Witness	\$50,000.00	9/23/2015	9/30/2016	Labor
Berkeley Research Group	Expert Witness	\$325,000.00	9/14/2015	9/23/2016	Labor
Blue Tech Inc.	Altova MissionKit Annual Maintenance	\$7,074.28	8/26/2015	8/25/2016	Software—Maintenance
Ricoh USA	Comprehensive maintenance for CFTC's multifunction printers	\$119,380.00	9/1/2015	8/31/2016	Equip. Maintenance
Design Mechanical	HVAC maintenance for KC office	\$2,284.00	9/1/2015	8/31/2016	Equip. Maintenance
Sunumetrix	Audit strategic planning model	\$74,925.00	9/29/2015	9/28/2020	Labor
XI Discovery	Social discovery software and maintenance	\$7,497.00	9/23/2015	9/22/2020	Software Maintenance
Vound Colorado	Intella Pro License	\$7,000.00	9/21/2015	9/20/2016	Software
AMTIS	Executive Coaching Services	\$273,896.35	9/28/2015	9/27/2020	Services
Captiol News	Politico Pro News Access	\$24,975.00	9/30/2015	9/29/2016	Subscription Service
CNN Interactive Group	SmartCheck Advertising Support/Placement	\$100,000.00	9/17/2015	5/16/2016	Advertising
Interceptive	Interactive SmartCheck Advertising Support/Placement	\$149,000.00	9/17/2015	5/16/2016	Advertising
Forbes	SmartCheck Advertising Support/Placement	\$125,000.00	9/17/2015	5/31/2016	Advertising
Investing Media	SmartCheck Advertising Support/Placement	\$100,000.00	9/25/2015	5/31/2016	Advertising
Specific Media	SmartCheck Advertising Support/Placement	\$149,000.00	9/29/2015	5/31/2016	Advertising
AOL Advertising	SmartCheck Advertising Support/Placement	\$149,000.00	9/30/2015	5/31/2016	Advertising
USDA-NPC	Implement and annual maintenance of EmpowHR System	\$352,789.00	9/21/2015	9/20/2016	Software
Interactive Data	Data Service	\$32,800.00	9/28/2015	9/25/2016	Subscription Service
Riplinger Washington Editors	SmartCheck Advertising Support/Placement	\$80,000.00	9/28/2015	5/31/2016	Advertising
Gungum	SmartCheck Advertising Support/Placement	\$149,000.00	9/24/2015	5/31/2016	Advertising
Atlantic Monthly Group	SmartCheck Advertising Support/Placement	\$149,000.00	9/30/2015	5/16/2016	Advertising
Investopedia	SmartCheck Advertising Support/Placement	\$149,000.00	9/29/2015	5/31/2016	Advertising
Dow Jones & Company	SmartCheck Advertising Support/Placement	\$75,000.00	9/28/2015	3/14/2016	Advertising
Regulatory Compliance Association	Online training services	\$24,900.00	9/30/2015	9/29/2016	Subscription Service
BMC	Upgrade Footprints Software	\$68,512.00	9/30/2015	4/8/2016	Software
Empresa Noronha	Expert Witness	\$87,928.00	9/29/2015	5/31/2016	Labor
Government [Publishing] Office	[Publishing] in the <i>Federal Register</i>	\$186,250.00	10/1/2015	9/30/2016	[Publishing]

Government [Publishing] Office	CFTC Participation in the GPO spa 960 program	\$23,254.34	10/1/2015	9/30/2016	[Publishing]
Avarex & Associates	Quantum Stellar tape library annual maintenance	\$72,474.52	10/1/2015	10/13/2016	Software Maintenance
BSP V D.C. Portfolio Reit LLC	Electricity services for Chicago Regional Office	\$30,000.00	10/1/2015	9/30/2016	Utilities
National Business Center	Misc. services for the D.C. office	\$30,000.00	10/1/2015	9/30/2016	Services
OPM	Interagency Agreement for DTE and Alcohol testing	\$700.00	10/1/2015	9/30/2016	Services
Dunux	Background investigations for FTE staff and contractors	\$84,693.00	10/1/2015	9/30/2016	Services
Tishman Spayer Properties	Contract services for Chicago Regional Office	\$3,000.00	10/1/2015	9/30/2016	Services
United Parcel Service	Misc. services for the Chicago Regional Office	\$12,334.50	10/1/2015	9/30/2016	Services
Tishman Spayer Properties	Priority mail delivery services for all office locations	\$45,000.00	10/1/2015	9/30/2016	Services
ABM Janitorial Services—Mid-Atlantic, Inc.	Janitorial services for Chicago Regional Office	\$23,000.00	10/1/2015	9/30/2016	Services
Remco Business Systems	Janitorial services for D.C. Regional Office	\$17,683.00	11/1/2015	10/31/2016	Services
Linden Resources	Maintenance of electronic filing system	\$1,690.00	10/25/2015	10/24/2016	Equip. Maintenance
General Services Administration	Business cards for the CFTC Employees	\$5,133.00	10/29/2015	10/28/2016	Services
Laz Parking	MOU for removal of agency excess furniture and equip.	\$9,500.00	10/1/2015	9/30/2016	Services
Neopost USA Inc.	Parking pucks for authorized staff	\$25,704.00	11/1/2015	10/31/2016	Services
4900 Main LLC	Postage meter rental and maintenance fees for all office locations	\$5,799.00	10/1/2015	9/30/2016	Services
Iron Mountain	Misc. services for the Kansas City Regional Office	\$5,000.00	11/1/2015	10/31/2016	Services
American Building Maintenance	Shredding services for all office locations	\$4,676.00	10/1/2015	10/31/2016	Services
Brown Brothers Harriman & Co.	Janitorial services for New York Office	\$22,858.44	11/1/2015	10/31/2016	Services
W.E. Bowers	Misc. building services for New York Regional Office	\$5,000.00	11/1/2015	10/31/2016	Services
Air Comfort	HVAC Maintenance for the D.C. office	\$4,193.00	2/1/2016	11/30/2016	Equip. Maintenance
FAA	PIV Maintenance	\$86,014.33	10/19/2015	9/30/2016	Equip. Maintenance
Unicom Government	Warranty extensions for Dell equipment	\$11,568.91	10/19/2015	9/30/2016	Equip. Maintenance
SHI International	Maintenance renewal for the NightWatchman Enterprise	\$4,296.00	10/19/2015	9/30/2016	Software Maintenance
Department of Transportation—ESC	Accounting services for FY16	\$343,569.00	10/1/2015	9/30/2016	Services
Department of Transportation—ESC	Hosting services for the Business Information System	\$228,861.61	10/1/2015	9/30/2016	Services
Department of Treasury	Treasury Executive Institute—executive development training	\$55,199.14	10/1/2015	9/30/2016	Training
GMC TEK	Annual MatLab license renewal	\$31,993.28	10/1/2015	9/30/2016	Software Maintenance
Alliance Micro Inc.	UPS Maintenance for D.C. office	\$10,044.00	10/20/2015	10/19/2016	Equip. Maintenance
Comcast	Cable television service for HQ	\$23,990.40	10/1/2015	9/30/2016	Services
FCN, Inc.	Annual Cisco Maintenance	\$123,036.54	10/1/2015	9/30/2016	Equip. Maintenance
HHS—Federal Occupational Health	Basic Occupational Health Services	\$18,990.00	10/1/2015	9/30/2016	Services
Lockheed Martin	Management Systems Automated Litigation Support Services	\$1,550,000.00	11/1/2015	4/30/2016	Labor
FCN, Inc.	LexisNexis LAW	\$202,000.00	10/1/2015	9/30/2016	Software Maintenance
Interactive Data	FutureSource workstations subscription	\$207,756.00	10/1/2015	9/30/2016	Software Maintenance
Intelligence Community	Staff IT Services and maintenance for IntelDirect computer equipment and printers	\$35,612.00	10/1/2015	9/30/2016	Equip./Soft. Maintenance
FCN, Inc.	LexisNexis Concordance	\$42,350.00	10/1/2015	9/30/2018	License
LRP Publications	CyberFeds subscription renewal	\$24,768.00	11/1/2015	10/30/2016	Subscription Service
West Publishing Corporation	Computer assisted legal research and retrieval services (Westlaw)	\$178,067.58	11/1/2015	10/31/2016	Subscription Service
OPM	USAjobs.gov portal usage and support	\$4,214.00	10/1/2015	9/30/2017	Software Maintenance
General Services Administration	HSDN/OneNet Maintenance	\$15,527.00	10/1/2015	9/30/2016	Equip./Soft. Maintenance
NARA	Records storage for CFTC	\$6,000.00	10/1/2015	9/30/2016	Services
Library Of Congress	Fedlink IA	\$3,550.60	11/1/2015	9/30/2016	Services
Carahsoft	Data Domain Tech Refresh	\$1,499,731.14	12/29/2015	12/28/2018	Equip./Soft. Maintenance
West Publishing Corporation	Renewal of West subscriptions for FY16	\$30,199.28	10/1/2015	9/30/2016	Subscription Service
Blue Tech Inc.	BES License Upgrade	\$16,347.00	12/3/2015	12/2/2016	Software Maintenance
Fincad America	Software license renewal for Fincad	\$7,060.00	12/3/2015	1/5/2017	Software Maintenance
General Services Administration	SmartCheck publication and documentation support	\$7,000.00	12/15/2015	9/30/2016	Publication support
IOSCO	2016 annual IOSCO contribution	\$50,923.35	1/1/2016	12/31/2016	Membership
RedHawk IT	Cisco Iron Port Web Security Appliance Software renewal	\$21,590.00	12/30/2015	12/29/2018	Software Maintenance
Department of Justice	Paralegal Support	\$296,125.00	1/1/2016	5/31/2016	Labor
CORT Business Services	Rental furniture for New York	\$3,823.44	10/23/2015	10/22/2016	Services
Reed Elsevier (DRA LexisNexis)	Library—Legislative History Database Maintenance	\$59,276.00	1/1/2016	12/31/2021	Subscription Service

CFTC Service Contracts as of March 2, 2016—Continued

Contractor	Purpose	Amount	Obligated to Date Effective Date	Expiration Date (if all options exercised)	Contract Type
Duff & Phelps (Feltman)	Expert Witness	\$30,000.00	1/28/2016	1/27/2017	Labor
Berkeley Research Group	Expert Witness	\$10,000.00	2/16/2016	2/15/2017	Labor
PACER Service Center	Public Access Service to Obtain Case and Docket Information	\$18,000.00	1/1/2016	12/31/2016	Subscription Service
NYSE	Access to NY Stock Exchange and American Stock Exchange data	\$2,400.00	9/1/2015	8/31/2016	Subscription Service
Blue Tech Inc.	ClearSwift MimeSweeper Licenses	\$7,967.00	12/19/2015	12/18/2016	Software Maintenance
Hendrik Bessembinder	Expert Witness	\$150,000.00	1/8/2016	1/7/2017	Labor
DataFacts	Tri-merge credit bureau reports for suitability checks	\$6,000.00	1/22/2016	1/21/2017	Services
USDA-NFC	Payroll and personnel processing	\$94,782.00	10/1/2015	9/30/2016	Services
Verizon	Wireless Expense Management Solution	\$27,732.60	2/1/2016	1/31/2020	Subscription Service
BNA	Online information services	\$67,583.15	2/1/2016	1/31/2019	Services
OPM	eOPF	\$13,511.89	10/1/2015	9/30/2016	Subscription Service
BNA	Subscription Services	\$67,583.15	2/1/2016	1/31/2019	Subscription Service
Thomson Reuters	Subscription Services	\$114,792.40	2/1/2016	1/31/2019	Subscription Service

SUBMITTED QUESTIONS

Response from Hon. Timothy G. Massad, Chairman, Commodity Futures Trading Commission

Questions Submitted by Hon. K. Michael Conaway, a Representative in Congress from Texas

Contracting

Question 1. Are any contracts awarded through any process other than a full and open competition?

In the event that the Committee does award contracts in a manner other than a full and open competition, could you please provide the Committee with a list of those contracts; the financial details of each contract, including price, duration, service provided, and other relevant information; the number of contractors employed under the contracts, if any; and any written justifications associated with them.

Answer. The Commodity Futures Trading Commission (“CFTC” or “the Commission”) awards contracts using full and open competition. In the limited instances where less than full and open competition is sought (*i.e.*, sole source or limited competition), the Commission acts according to the requirements of the Federal Acquisition Regulation (“FAR”) (48 CFR 1). The FAR allows certain contracts to be awarded without full and open competition, such as micro-purchases, which are procurements valued at \$3,500 or less, as defined in FAR 2.101, as well as contracts with values not exceeding \$4 million awarded under the 8(a) program, which falls under the auspices of the Small Business Administration’s Business Development Program, authorized by FAR 19.8.

Although the CFTC uses competitive procedures to award the majority of its contracts with values exceeding the micro-purchase threshold, there are circumstances where that is not in the Commission’s best interests. For instance, there have been occasions where a procurement has not yet been completed, but the incumbent contract was expiring. Because of this, the Commission awarded a short-term sole source contract or extension to the incumbent contract to bridge the gap to avoid any lapse in service that could have adverse effects on CFTC’s ability to execute its mission.

Per the Committee’s request, attached to this response is a spreadsheet that contains a list of CFTC’s current contracts awarded using less than full and open competition. The ultimate completion dates and total values provided assume that CFTC exercises all available option years in each contract. Additionally, the spreadsheet includes a ledger explaining the authorities allowing for CFTC to use less than full and open competition in awarding its contracts.

ATTACHMENT

Current Contracts of the Commodity Futures Trading Commission that were Awarded on a Sole Source or Limited Competition Basis—As of March 10, 2016

PHID (Contract Number)	Contractor	Effective Date	Ultimate Completion Date (if all option years are exercised)	Product or Service Description	Authority for Less Than Full and Open Competition (see Legend for descriptions)	Total Potential Value (if all option years are exercised)
CFODT15C00138	Alliance Technology Group, LLC	07/14/2015	09/30/2016	Maintenance of Muiare Business Continuity System	FAR 13.106–1(b)(1)	\$9,375.00
CFHRB15C00239	Amis, Inc.	09/28/2015	09/27/2016	Executive Coaching Services	FAR 6.302–5—8(a) Pro-gram	\$1,425,387.62
CFENF14C00209	Analysis Group, Inc.	04/09/2015	05/14/2016	Expert Witness	FAR 6.302–3	\$456,432.00
CFENF15C00157	Analysis Group, Inc.	07/10/2015	09/11/2017	Expert Witness	FAR 6.302–3	\$497,373.00
CFENF15C00199	Analysis Group, Inc.	08/07/2015	07/31/2017	Support— Professional: Expert Witness	FAR 6.302–3	\$398,410.00
CFHRB15D00096	Aon Consulting, Inc.	04/13/2015	04/12/2016	SME in support of the procurement of a dental plan	FAR 8.405–6(a)(1)(i)(B)	\$36,748.00
CFODT16D00041	Aspen Systems Corporation-Lockheed	10/22/2015	04/21/2016	Automated litigation support services	FAR 8.405–6(a)(1)(i)(B)	\$500,000.00
CFENF15C00134	Bates White, LLC	08/20/2015	07/31/2017	Expert Witness	FAR 6.302–3	\$720,400.00
CFLIB16C00081	BBNA	02/01/2016	01/31/2019	BBNA online services	FAR 16.505(b)(2)(i)(B)	\$210,638.54
CFENF15C00104	Berkeley Research Group LLC	02/10/2016	09/29/2016	Expert Witness	FAR 6.302–3	\$459,400.00
CFENF15C00081	Berkeley Research Group LLC	12/31/2014	09/30/2016	Expert Witness	FAR 6.302–3	\$740,000.00
CFENF15C00225	Berkeley Research Group LLC	09/24/2015	09/23/2017	Expert Witness	FAR 6.302–3	\$565,030.00
CFENF16C00069	Berkeley Research Group LLC	02/16/2016	02/15/2017	Expert Witness	FAR 13.106–1(b)(1)	\$96,998.00
CFENF15C00176	Bessembinder, Hendrik	07/15/2015	01/14/2018	Expert Witness	FAR 6.302–3	\$278,125.00
CFENF16C00073	Bessembinder, Hendrik	01/08/2016	01/07/2017	Expert Witness	FAR 13.106–1(b)(1)	\$150,000.00
CFIT12C00058	Bloomberg Finance L.P.	07/01/2015	06/30/2020	Access to Bloomberg Terminals	FAR 6.302–1	\$1,660,982.90
CFODT15C00143	Boardwalk Tech	05/11/2015	05/10/2016	Software Maintenance	FAR 13.106–1(b)(1)	\$9,000.00
CFCON15C00241	Cable News Network, Inc.	09/17/2015	05/16/2016	Online Advertising	FAR 13.106–1(b)(1)	\$100,000.00
CFENF14C00222	Capital Market Risk Associates, Inc.	09/29/2014	09/28/2016	Expert Witness	FAR 6.302–3	\$734,760.00
CFODT15C00240	Capitol News Company, LLC	09/30/2015	09/29/2016	<i>Politico</i> Pro News Access	FAR 13.106–1(b)(1)	\$24,975.00
CFLIB14D00211	CCH Incorporated	09/01/2014	08/31/2019	Subscription service to Commodity Futures Laws Reports and Federal Litigation Library	FAR 8.405–6(a)(1)(i)(B)	\$465,595.59
CFODT16C00038	Concast of the District, LLC	10/01/2015	09/30/2016	Cable television services	FAR 13.106–1(b)(1)	\$23,990.40
CFEMP16D00066	Cort Business Services Corporation	10/23/2015	10/22/2016	Furniture rental—NY Regional Office	FAR 8.405–6(a)(1)(i)(B)	\$3,823.44
CFLIB15C00169	CQ-Roll Call, Inc.	06/01/2015	05/31/2016	Subscription Service	FAR 13.106–1(b)(1)	\$20,580.00
CFLIB15C00192	Dow Jones & Company, Inc.	08/18/2015	08/17/2016	<i>eFinancial News</i> subscription	FAR 13.106–1(b)(1)	\$37,500.00
CFLIB15C00250	Dow Jones & Company, Inc.	09/24/2015	09/23/2016	Subscription to <i>Wall Street Journal</i> Digital Group Access	FAR 13.106–1(b)(1)	\$11,865.00
CFENF14C00174	Decisionquest	9/24/2014	9/23/2019	Jury trial consultation services	FAR 6.302–3	\$7,000,000.00
CFENF16C00068	Duff & Phelps, LLC	01/28/2016	01/27/2017	Expert Witness	FAR 13.106–1(b)(1)	\$60,000.00
CFENF15C00262	Empresa Noronha LLC	01/15/2016	05/31/2016	Expert Witness	FAR 13.106–1(b)(1)	\$97,928.00
CFENF15C00117	ENSYS Energy & Systems Inc.	04/22/2015	10/21/2017	Expert Witness	FAR 6.302–3	\$215,601.00
CFODT15C00142	Entrust, Inc.	06/24/2015	06/23/2019	Entrust Identity Guard Federation Module WIN 10.2 license and maintenance	FAR 13.106–1(b)(1)	\$22,002.80
CFODT15D00043	Entrust, Inc.	10/15/2015	10/14/2018	Identity Guard CAL for soft tokens	FAR 8.405–6(a)(1)(i)(B)	\$19,915.62
CFODT15C00064	Entrust, Inc.	11/18/2014	11/17/2017	Entrust certificate management services	FAR 13.106–1(b)(1)	\$12,710.09
CFOD12C00156	FM Talent Source LLC	07/09/2012	07/08/2017	Business management support for CFTC's Office of the Executive Director	FAR 6.302–5—8(a) Pro-gram	\$1,432,097.13
CFCON15C00245	Forbes Media, LLC	09/17/2015	05/31/2016	Online Advertising	FAR 13.106–1(b)(1)	\$125,000.00
CFLIB12C00215	Genscape, Inc.	09/24/2015	09/23/2017	Access to Genscape databases	FAR 6.302–1	\$200,000.00

CFFMB14C00121	GMG Management Consulting Inc.	05/01/2014	04/30/2019	Travel information center services	FAR 6.302-5-8(a) Pro-gram	\$960,771.20
CFENF14C00100	Grant Thornton LLP	04/01/2015	05/31/2017	Expert Witness	FAR 6.302-3	\$1,829,321.00
CFENF16C00089	Herndesott, Terrence	02/28/2016	02/28/2017	Expert Witness	FAR 13.106-1(b)(1)	\$55,600.00
CFODT15C00106	Imtech Corporation	06/21/2015	06/20/2018	As-a-task license renewal	FAR 6.302-1	\$207,124.56
CFODT15C00166	Imtech LLC	07/27/2015	07/26/2018	IS-A Task license	FAR 6.302-1	\$250,000.00
CFLIB15C00167	Institutional Investor, Inc.	09/02/2015	09/01/2016	Subscription to Global Capital	FAR 13.106-1(b)(1)	\$16,740.00
CFCON15C000246	Investing Media Solutions LLC	09/17/2015	05/31/2016	Online Advertising	FAR 13.106-1(b)(1)	\$100,000.00
CFENF16C00079	Ionach	03/03/2016	03/02/2017	Expert Witness	FAR 13.106-1(b)(1)	\$25,000.00
CFEMP16C00021	Laz Parking Ltd., LLC	11/01/2015	10/31/2016	Parking Space	FAR 13.106-1(b)(1)	\$25,704.00
CFEMP16C00019	Linden Resources, Inc.	10/29/2015	10/28/2016	Business cards for the CFTC Employees	FAR 13.106-1(b)(1)	\$8,133.00
CFODT15C00162	Litsavant Ltd.	06/25/2015	06/24/2018	LitSavant Conformity Engine license	FAR 13.106-1(b)(1)	\$24,300.00
CFCON15C00249	Microsoft Online, Inc.	09/17/2015	05/31/2016	Online Advertising	FAR 13.106-1(b)(1)	\$149,000.00
CFLIB14C00173	MLEX U.S. Inc.	09/04/2015	09/04/2016	Newspapers and Periodicals	FAR 13.106-1(b)(1)	\$13,000.00
CFDMO15C00141	Murray, Martin G.	05/28/2015	05/27/2016	Expert Witness	FAR 13.106-1(b)(1)	\$92,050.40
CFEMP16C00022	Neopost USA Inc.	10/01/2015	09/30/2016	Postage meter rental and maintenance fees for all office locations	FAR 13.106-1(b)(1)	\$5,799.00
CFLIB16C00070	Pacer Service Center	01/01/2016	12/31/2016	Public Access Service to Obtain Case and Docket Information	FAR 13.106-1(b)(1)	\$18,000.00
CFLIB15C00172	Platts, McGraw Hill Financial	07/24/2015	07/23/2016	Renew subscription to access Platts/McGraw Hill data and publications	FAR 13.106-1(b)(1)	\$139,653.00
CFCON-14-DO-0186	Porter Novelli Public Services	09/18/2014	03/17/2016	OCO integrated marketing support	FAR 8.405-6(a)(1)(b)(B)	\$4,799,450.29
CFODT15C00144	Portfolio Media, Inc.	05/11/2015	05/10/2016	Subscription to Law360	FAR 13.106-1(b)(1)	\$16,320.00
CFODT15C00137	Public Agency Training Council, Inc.	04/22/2015	04/21/2018	Oxygen Forensic Dangle	FAR 13.106-1(b)(1)	\$10,341.00
CFLIB14D00050	Reed Elsevier, Inc.	11/01/2013	10/31/2018	Computer assisted legal research and retrieval services—LexisNexis	FAR 8.405-6(a)(1)(b)(B)	\$1,855,788.00
CFLIB15D00190	Reed Elsevier, Inc.	07/28/2015	07/27/2016	License to access Knowledge Mosaic LexisNexis Securities Dashboard	FAR 8.405-6(a)(1)(b)(B)	\$9,900.00
CFODT15D00171	Reed Elsevier, Inc.	08/01/2015	07/31/2020	Annual maintenance of CaseMap Suite	FAR 8.405-6(a)(1)(b)(B)	\$272,954.00
CFLIB16C00067	Reed Elsevier, Inc.	01/01/2016	12/31/2020	Library—Legislative History Database Maintenance	FAR 6.302-1	\$212,736.00
CFODT15C00156	Sirsi Corporation	07/01/2015	06/30/2016	Software maintenance for library cataloging	FAR 13.106-1(b)(1)	\$7,175.18
CFEMP15C00127	Smiths Detection, Inc.	04/02/2015	04/01/2016	Maintenance of SABRE handheld devices	FAR 13.106-1(b)(1)	\$9,075.00
CFEMP15D00126	Smiths Detection, Inc.	04/20/2015	04/19/2016	Maintenance of x-ray unit	FAR 8.405-6(a)(1)(b)(B)	\$4,125.80
CFFMB14C00141	Spartan Business & Technology Services, Inc.	09/01/2014	08/31/2019	Document management, project management and analytical support for CFTC Financial documents	FAR 6.302-5-8(a) Pro-gram	\$4,000,000.00
CFODT15C00151	Sterling Computers Corporation	07/01/2015	06/30/2017	Online computer-based security awareness training	FAR 13.106-1(b)(1)	\$14,025.00
CFODT15D00195	SWN Communications Incorporated	08/15/2015	08/14/2016	SWN Communications Service Agreement	FAR 8.405-6(a)(1)(b)(B)	\$27,533.83
CFLIB16C00094	Thomson-Reuters	02/10/2016	01/31/2019	Subscription Service	FAR 6.302-1	\$368,443.00
CFODT14C00122	Trivantis Corporation	06/05/2015	06/04/2016	Hosting of CourseMill	FAR 13.106-1(b)(1)	\$24,900.00
CFCON15C00248	Tubemogul, Inc.	09/17/2015	05/16/2016	Online Advertising	FAR 13.106-1(b)(1)	\$149,000.00
CFEMP16D00011	United Parcel Service Incorporated (OH) (2075)	10/01/2015	09/30/2016	Express and ground domestic delivery service	FAR 8.405-6(a)(1)(b)(C)	\$45,000.00
CFOT11D00248	Verizon	09/30/2011	09/29/2017	MTIPS Services	FAR 8.405-6(a)(1)(b)(C)	\$3,061,675.33
CFCON15C00247	Viant Technology Inc.	09/25/2015	05/16/2016	Online Advertising	FAR 13.106-1(b)(1)	\$149,000.00
CFOM11C00199	Washington Metropolitan Area Transit Authority	09/06/2011	09/05/2016	SmartBenefits Program	FAR 6.302-1	\$5,000,000.00
CFLIB16C00055	West Publishing Corporation	10/01/2015	09/30/2016	West subscription service	FAR 8.405-6(a)(1)(b)(B)	\$30,199.28
CFLIB16D00048	West Publishing Corporation	11/01/2015	10/31/2016	Computer assisted legal research and retrieval services—WestLaw	FAR 16.505(b)(2)(b)(B)	\$3,751,558.68
CFODT15C00185	Wolters Kluwer Financial Services, Inc.	08/01/2015	07/31/2016	TeamMate license renewal	FAR 13.106-1(b)(1)	\$69,495.00
CFEMP15C00202	Workforce Resources, Inc.	09/04/2015	09/03/2017	Facilities, logistics and administrative support services	FAR 6.302-5-8(a) Pro-gram	\$4,000,000.00

ATTACHMENT—CONTINUED

Current Contracts of the Commodity Futures Trading Commission that were Awarded on a Sole Source or Limited Competition Basis—As of March 10, 2016

PIID (Contract Number)	Contractor	Effective Date	Ultimate Completion Date (if all option years are exercised)	Product or Service Description	Authority for Less Than Full and Open Competition (see Legend for descriptions)	Total Potential Value (if all option years are exercised)
CFENF14C00219	Zebra Economics, Inc.	09/21/2016	09/21/2016	Expert Witness	FAR 13.106-1(b)(1)	\$105,000.00
Legend of Authorities						
Brief Description of the Authority to Use Less Than Full and Open Competition						
FAR 6.302-1	FAR 6.302-1, "Only one responsible source and no other supplies or services will satisfy agency requirements", allows agencies to award a contract on a sole source basis when the contractor is considered to be uniquely qualified to perform the work. (Note, the competition requirements of FAR Part 6 apply to open market procurements exceeding the simplified acquisition threshold of \$150,000. Per FAR 13.000, open market acquisitions that do not exceed the simplified acquisition threshold are conducted pursuant to the requirements of FAR Part 13.)					
FAR 6.302-3	FAR 6.302-3, "Industrial mobilization; engineering, developmental, or research capability; or expert services", allows agencies to award contracts using less than full and open procedures when the agency is acquiring services of "an expert to use, in any litigation or dispute (including any reasonably foreseeable litigation or dispute) involving the government in any trial, hearing, or proceeding before any court, administrative tribunal, or agency, whether or not the expert is expected to testify." This is due to the unique nature of such services and the fact that their disclosure may compromise pending litigation or other legal action. These contracts are frequently used by the CFTC for expert witness services and other litigation support.					
FAR 6.302-5	FAR 6.302-5, "Authorized or required by statute", permits agencies to award contracts on a sole source basis when a statute allows or requires it. CFTC awards some contracts under the Small Business Development umbrella of SBA's 8(a) Program. Competition is not required by the FAR for 8(a) Program contracts with values that do not exceed \$4 million [see FAR 19.805-1(a)(2)]. FAR 6.302-5(b)(4) expressly states that sole source contracts under the 8(a) Program may be awarded without providing for full and open competition.					
FAR 13.106-1(b)(1)	FAR 13.106-1(b)(1)(i) allows Contracting Officers to solicit from one source if the Contracting Officer determines that the circumstances of the contract action deem only one source reasonably available (i.e., urgency, exclusive licensing agreements, brand-name or industrial mobilization). This authority applies to contract actions with values that do not exceed the simplified acquisition threshold (i.e., \$150,000). CFTC uses this authority in situations where only one source is the only viable option to fulfill CFTC's requirements (e.g., providing cable television service or renewing software licenses).					
FAR 8.405-6(a)(1)(i)(B) & (C)	CFTC uses the GSA Federal Supply Schedule ("FSS") contracts often to fulfill its needs. FAR Subpart 8.4 specifies the requirements for obtaining competition for orders placed under the GSA FSS program. However, FAR 8.4 does allow agencies to limit competition under certain circumstances. The two authorities most commonly used by CFTC are FAR 8.405-6(a)(1)(i)(B) (only one source is capable of providing the supplies or services required at the level of quality required because the supplies or services are unique or highly specialized) and FAR 8.405-6(a)(1)(i)(C) (the new work is a logical follow-on to an original competed FSS order).					
FAR 16.505(b)(2)(i)(B)	In addition to the GSA FSS contracts, CFTC also places orders against other Government-wide Acquisition Contracts ("GWAC") such as the Library of Congress's FEDLINK GWAC. FAR 16.505(b)(2)(i)(B) permits agencies to place orders under a GWAC without providing fair opportunity for all contract holders to compete, in certain circumstances. Specifically, FAR 16.505(b)(2)(i)(B) allows agencies to award on a sole source basis when it has determined that "only one awardee is capable of providing the supplies or services required at the level of quality required because the supplies or services ordered are unique or highly specialized."					

Question 2. Mr. Chairman, what percentage of the agency's staff are contractors (i.e., not full time employees (FTE))?

Do any of these contractors perform tasks associated with market oversight and surveillance, compliance, risk assessment, or enforcement?

Does the Commission have specific rules governing what tasks are permissible or not permissible to be contracted out? If so, what are they?

Answer. Based on the Congressional Spend Plan submitted in January 2016, the Commission estimates it will have 714 civilian full time equivalents (FTE) and 292 contractor resources during FY 2016. It is estimated that contractors will be 30% of total agency labor resources during the fiscal year.

The Commission complies with the Office of Procurement Policy definitions established in Policy Letter 11-01 titled *Performance of Inherently Governmental and Critical Functions*, as well as Federal Acquisition Regulation (FAR) Subpart 7.5, when hiring contractors to perform functions at the Commission. All functions that require performance by a Federal civilian are fulfilled by full-time Federal civilian employees employed by the Commission. The definition of an inherently governmental function is provided below for reference:

"'Inherently governmental function,' as defined in section 5 of the Federal Activities Inventory Reform Act, Public Law 105-270, means a function that is so intimately related to the public interest as to require performance by Federal Government employees.

(a) The term includes functions that require either the exercise of discretion in applying Federal Government authority or the making of value judgments in making decisions for the Federal Government, including judgments relating to monetary transactions and entitlements. An inherently governmental function involves, among other things, the interpretation and execution of the laws of the United States so as—

(1) to bind the United States to take or not to take some action by contract, policy, regulation, authorization, order, or otherwise;

(2) to determine, protect, and advance United States economic, political, territorial, property, or other interests by military or diplomatic action, civil or criminal judicial proceedings, contract management, or otherwise;

(3) to significantly affect the life, liberty, or property of private persons;

(4) to commission, appoint, direct, or control officers or employees of the United States; or

(5) to exert ultimate control over the acquisition, use, or disposition of the property, real or personal, tangible or intangible, of the United States, including the collection, control, or disbursement of appropriations and other Federal funds.

(b) The term does not normally include—

(1) gathering information for or providing advice, opinions, recommendations, or ideas to Federal Government officials; or

(2) any function that is primarily ministerial and internal in nature (such as building security, mail operations, operation of cafeterias, housekeeping, facilities operations and maintenance, warehouse operations, motor vehicle fleet management operations, or other routine electrical or mechanical services)."

Personnel Issues

Question 3. A recent ViewPoint survey of CFTC employees revealed that its employee satisfaction index (46%) is well below the average for small agencies (62%). In the "Best Places to Work" rankings, the CFTC ranked 25th out of 28 in the small agencies category. It also bottomed out in rankings for Effective Leadership and Strategic Management, where it had the lowest rating among the financial service agencies.

Could you please explain what steps you're implementing to improve the leadership and management skills of the Commission's employees with managerial roles?

Some of the most negatively rated issues involved the ability of senior leadership to generate "high levels of motivation and commitment in the workforce." What steps is the Commission taking to address that problem?

Answer. Immediately following the issuance of the 2014 Employee ViewPoint Survey results, I began working with division directors to address concerns raised by the survey.

As part of this effort, each division director developed an action plan to address issues that were brought to light by the survey. For example, efforts were made to:

- Promote communication across all CFTC divisions and offices;
- Continue to assess and improve workflow and project management processes to encourage greater interaction and teamwork;
- Increase dialogue between CFTC headquarters and regional offices; and
- Create opportunities for staff to participate in detail assignments.

In addition, we worked to increase agency wide communication and transparency to ensure that all employees felt connected to the mission of the agency. This effort included increased use of CFTCNet (agency intranet) to communicate agency-wide issues and goals, conducting agency-wide town halls, as well as site visits by the Chairman to the regional offices, and meetings with the Chairman and individual divisions or other groupings of employees. It also included formalizing procedures for employees to make suggestions on agency practices and management, and increasing recognition of employees for good performance.

Moving forward, we are building off of these initiatives to provide additional opportunities for in-house training, more interaction across Divisions, and between headquarters and regional offices.

The survey results for 2015 showed improvement in many categories. We saw increases in 61 of the 71 categories. We saw a decline in six categories and *status quo* in four of the categories. I feel strongly that we can improve our EVS scores, and am committed to prioritizing work on these and other initiatives to accomplish that.

For example, in FY 2016, we are continuing to implement the following programs to improve leadership and management skills:

Executive Coaching and 360 Assessment Program

In FY 2015, 27% of supervisors participated in a 360 degree leadership assessment, created and executed against an executive development plan, and received up to 8 hours of executive coaching. In FY 2016, 34% of supervisors have participated in a 360 degree leadership assessment, are in the process of designing an executive development plan, and will have the opportunity to receive up to 8 hours of executive coaching.

Treasury Executive Institute

The Commission has partnered with the Treasury Executive Institute (TEI) to provide leadership development training opportunities to all CT-14s and above. TEI provides training opportunities covering a range of leadership development topics such as: leading teams, providing feedback, setting vision, and other executive competencies.

Occupational Assessment Survey

The CFTC is also currently conducting an occupational assessment of the executive and senior leadership occupations to capture knowledge, skills, and abilities that are required for successful occupational performance. When completed, the occupational profiles will support a broad range of human capital programs and activities including: recruitment and staffing, training and development, individual development planning, and succession planning.

Question 4. How have negotiations with the National Treasury Employees Union progressed and what has the Commission promised regarding the pay and benefits of CFTC employees?

Answer. Collective bargaining with the National Treasury Employees Union (Union) is in progress. The Union has submitted a preliminary proposal to address bargaining ground rules, and the Commission is preparing a response. The parties have yet to exchange proposals or reach any agreements concerning pay and benefits at this time.

De Minimis

Question 5. The negative consequences to market participants and liquidity resulting from a *de minimis* threshold that is set too low are not theoretical. We observed these negative consequences when the CFTC set a *de minimis* threshold of \$25 million for swap dealing activity with public power companies. How has the CFTC learned from this experience?

Answer. The Commission's actions in connection with the *de minimis* threshold demonstrate a deliberative approach that carefully considers liquidity and other market conditions, as well as the policy benefits of regulating swap dealers. For example, the CFTC received comments from market participants after the *de minimis* exception rule was first proposed regarding the impacts of a \$25 million threshold

on public power companies. In response to those comments, CFTC staff studied the issue and held a round table to gather further information. The Commission ultimately amended the swap dealer *de minimis* rule on September 23, 2014 to raise the threshold for entities dealing swaps to public power companies to the \$8 billion level applicable to swap dealers generally. Furthermore, the CFTC is currently studying the *de minimis* exception rule and issued the *Swap Dealer De Minimis Exception Preliminary Report* on November 18, 2015. The report discusses the policy goals that are achieved from a *de minimis* exception to registration. CFTC staff has reviewed the public comments on that report and are preparing a final report for consideration by the Commission.

Position Limits

Question 6. Mr. Chairman, I appreciate that the Commission is committed to hearing from the market participants it regulates through the use of its various advisory committees. In one of the recent meetings of the Energy and Environmental Markets Advisory Committee, market participants discussed how the proposed rule on position limits will reduce market liquidity.

How is the Commission working to ensure that its next position limits proposal won't negatively impact market liquidity, in the way your EEMAC panelists have outlined that it would?

Answer. EEMAC panelists noted that there was a substantial drop in trading liquidity (and market depth), prior to the implementation of the position limits proposal. They also expressed concern that the position limits proposal would harm liquidity further, including "out the curve." Panelists have suggested, among other things, broadening the enumerated hedges specified in the proposed rule, empowering the exchanges to recognize non-enumerated *bona fide* hedging positions for purposes of Federal position limits, and updating deliverable supply estimates.

The Commission staff is examining all of these suggestions. As the Commission works to finalize its rules on position limits, I am committed to listening to market participants and working to arrive at a rule that sensibly fulfills the statutory mandate to address the risk of excessive speculation while insuring that commercial participants can continue to use these markets efficiently to hedge risk.

Regulatory Coordination

Question 7. One example of a failure of regulatory coordination is found in the differing definitions of U.S. Person used by financial regulators. The CFTC will soon have two definitions, neither of which is identical to definitions used by the SEC or the Prudential Regulators. Why haven't regulators coordinated their efforts to develop a single understanding of who is subject to their jurisdiction through FSOC?

What is the value to the CFTC as a regulator to have different rules for who must comply with U.S. swaps rules and U.S. security-based swap rules?

Can you explain how a financial entity might engage in trading activities that make it both a U.S. Person under the CFTC's definition, but a non-U.S. Person under the SEC's definition of a U.S. Person?

Do you think that having two different definitions of a U.S. Person increases compliance burdens for such a market participant?

Answer. Under the Dodd-Frank Act, responsibility for regulating the OTC swaps market was bifurcated between the CFTC and the SEC, with the CFTC given responsibility for all of the market other than a small piece represented by security-based swaps. In addition, in certain areas such as margin, rule-making authority was further divided between these two agencies, as well as the Federal banking regulators. Given the global nature of the swaps market, I agree that coordination among national, as well as international regulators is critical. As Chairman, I have made it a top priority.

Prior to my joining the Commission, guidance was issued in the summer of 2013 on the cross-border application of its rules, which included a U.S. person definition. The guidance stated that the Commission will periodically review its cross-border policy in light of future developments.

Recently, the Commission issued a final rule on margin for uncleared swaps, which was developed after close consultation with U.S. banking regulators, as we are required to do by law. The SEC was not ready to develop a margin rule during this time; however, we engaged in dialogue with them in order to try to harmonize our rules as much as possible. The final rule is practically identical to the margin rules adopted by the banking regulators.

In addition, the Commission has issued a proposed rule concerning the cross-border application of the margin rule. With respect to the cross-border issues, we faced a choice as to whether to take a transactional-level approach consistent with the guidance, an entity-level approach, or a hybrid of the two approaches that was con-

sistent with what was then being proposed by the Federal banking regulators. We invited and received comments on the advanced notice of proposed rule-making and received comments that were quite varied. We then proposed the hybrid approach with a few modifications and worked with the Federal banking regulators to finalize the rule, with the result that they revised their cross-border approach to make it largely consistent with ours.

The specific definition of U.S. person in the proposal is very similar to that in the 2013 guidance. We did, however, make a few minor changes in response to suggestions of market participants, all of which have generally been welcomed by the market. The current rule-making pertains only to margin, but I intend to look at the cross-border implications of other rules through the notice and comment rule-making processes.

The Commission will continue to collaborate with other regulators, including the SEC, as we at the CFTC develop our swaps regulations to ensure that our broader cross-border approach promotes greater global harmonization, consistent with Dodd-Frank's goals of achieving greater transparency and better risk mitigation in the swaps market. In so doing, however, it is important to keep in mind the unique circumstances in which the swaps market evolved. The Commission was tasked with regulating a market that grew to a global scale without any meaningful regulation. Developing a regulatory framework to fit that market requires us to adapt and respond to rapid and continual changes in the market. Moreover, while the Dodd-Frank Act established key reform goals applicable to several Federal regulatory agencies, there will inevitably be differences in the specific rules we adopt given each agency's unique statutory mandate, regulatory history, and underlying regulatory framework—and the differences in the markets and market participants each oversees. The CFTC has made great progress in harmonization to date, and we will continue to work towards narrowing differences in our regulatory approaches.

Question 8. This past summer, the Commission proposed a rule covering the cross-border application of margin requirements for uncleared swaps (Proposed Rule). You've stated recently that you hope to finalize that rule this spring. The Proposed Rule provides a strikingly different definition of "U.S. Person" than the one appearing in the Commission's Final Guidance regarding cross-border swaps.

When the Commission finalizes the rule, will its definition of U.S. Person supersede the Final Guidance's definition of a U.S. Person for all cross-border activity?

If not, will the Commission be updating its Final Guidance to reflect the new definition or does the Commission intend to maintain two separate and distinct definitions of U.S. Person indefinitely?

Answer. The CFTC has proposed a modified U.S. person definition that applies solely to the cross-border application of its margin requirements. The proposed definition is substantially similar to the definition used by the SEC in the context of cross-border regulation of security-based swaps and is generally consistent with the U.S. person interpretation set forth in the cross-border guidance, with a few refinements that more closely align it with the SEC definition. Moving forward, I have asked the staff to review the U.S. person definition in the guidance and advise on whether we should seek to develop a U.S. person definition that would apply to all of the Commission's swap regulations adopted under the Dodd-Frank Act.

Question 9. The Governor of the Reserve Bank of India recently sent a letter to the U.S. Ambassador to India, protesting the heavy-handedness of the CFTC's international regulatory reach in requiring an Indian clearinghouse to be subject to the CFTC's regulatory jurisdiction because it was clearing trades for U.S. firms. Are you aware of this letter? Have you engaged in discussions with Indian officials to prevent U.S. firms from having to exit the Indian market?

Answer. Yes, I am aware of the letter from Governor Raghuram Rajan of the Reserve Bank of India ("RBI") to the U.S. Ambassador to India. I have received a substantially identical letter. I responded to Governor Rajan by letter, dated February 4, 2016, acknowledging receipt of Governor Rajan's letter and expressing my desire to work with him and his staff in addressing the concerns raised in his letter.

The Commodity Exchange Act requires any derivatives clearing organization ("DCO") that clears trades for U.S. firms to be registered with the CFTC, but also grants the Commission exemptive authority if the Commission determines that the DCO "is subject to comparable, comprehensive supervision and regulation." To date, the CFTC has granted registration exemptions to clearinghouses in five different jurisdictions (such clearinghouses are known as "Exempt DCOs"). In order to receive a registration exemption, each Exempt DCO must demonstrate compliance with a basic set of conditions. In addition, its regulator has to enter into a cooperative arrangement with the CFTC.

The Clearing Corporation of India Ltd. (“CCIL”), which is regulated by RBI, is applying to become an Exempt DCO. CCIL has indicated it can meet most of the conditions, but has been advised by RBI that it cannot meet certain conditions. I respect the concerns expressed by Governor Rajan and want to make every effort to work with the parties involved to address those concerns. To this end, the Commission’s Director of International Affairs traveled to Mumbai to meet with RBI and CCIL staff on February 9, 2016 for the express purpose of discussing the CCIL matter. Since that meeting, CFTC staff has been discussing the matter with RBI staff by email and telephone. Furthermore, given the potential impact of the matter on certain U.S. firms, the Commission’s Director of International Affairs also met with representatives of such U.S. firms while in Mumbai.

Cybersecurity

Question 10. How is the CFTC coordinating with other U.S. financial regulators on cybersecurity? What efforts are being taken by regulators to develop common approaches to cybersecurity oversight? How is the CFTC building on the NIST Cybersecurity Framework approach as it develops its cyber rules?

Answer.

A. Coordination of Oversight

The Commission recognizes cybersecurity as one of the greatest challenges facing the financial sector today, and places a high priority on its cybersecurity oversight of derivatives markets, clearing organizations, swap data repositories, and firms.

The Commission coordinates on cybersecurity with other U.S. financial regulators on a regular and ongoing basis through its membership on the Financial and Banking Information Infrastructure Committee (FBIIC). FBIIC is the standing inter-agency committee through which financial sector regulators cooperate and coordinate concerning cybersecurity and critical infrastructure protection. Led by the Department of the Treasury as the Sector Specific Agency for the financial sector, FBIIC includes the CFTC, the Securities Exchange Commission, the Federal Reserve, the Office of the Comptroller of the Currency (OCC), the Federal Deposit Insurance Corporation (FDIC), and 12 other Federal financial regulators and national associations of state financial regulators. Originally created under the President’s Working Group (PWG), FBIIC also assists the Financial Stability Oversight Council concerning critical infrastructure protection issues.

The Commission participates in and benefits from FBIIC’s effective partnerships on cybersecurity issues with Federal law enforcement agencies and the intelligence community, and with the private sector through its private sector counterpart, the Financial Services Sector Coordinating Council, which includes major markets, clearing organizations, and firms across the U.S. financial sector.

The Commission has also helped to plan and participates actively in the FBIIC’s Hamilton Program series of public and private-sector tabletop cybersecurity exercises which has been underway since late 2014 and will continue through 2016 and 2017. These exercises bring together Federal financial regulators, law enforcement and intelligence agencies, and systemically important financial sector firms, in order to improve the sector’s cybersecurity resilience and the communication and coordination needed to respond to today’s cybersecurity threat.

B. Development of Common Approaches to Oversight

The Commodity Exchange Act (CEA) requires derivatives markets, clearing organizations, and swap data repositories to have system safeguards-related programs of risk analysis and oversight with respect to cybersecurity, and requires them to maintain automated systems that are reliable and secure. These rules require such cybersecurity risk analysis and oversight programs to incorporate and follow generally accepted standards and best practices regarding cybersecurity.

The Commission’s regular System Safeguards Examinations of registrant cybersecurity draw on and apply best practice sources provided and used by other financial regulators. This includes the National Institute for Standards and Technology (NIST) Cybersecurity Framework, the IT examination standards used by the Federal Financial Institutions Examination Council—which includes the Federal Reserve, FDIC, OCC, the National Credit Union Administration, the Consumer Finance Protection Board, and state-level banking supervisors—and the Financial Industry Regulatory Authority’s *2015 Report on Cybersecurity Practices*, as well as others.

The Commission is also participating actively in ongoing discussions among Federal financial regulators and major financial sector trade associations including the Securities Industry and Financial Markets Association, the Futures Industry Association, the Financial Services Roundtable/BITS, and the American Bankers Association.

ciation, about ways to foster increased coordination and possible use of common terminology and approaches with respect to cybersecurity oversight.

C. Building on the NIST Cybersecurity Framework in developing rules

The Commission issued new proposed rules regarding cybersecurity testing last December, and is currently reviewing comments and working to prepare final rules we hope to issue this summer. The proposed rules rely significantly on the NIST Cybersecurity Framework as an important guide to best practices for cybersecurity.

Questions Submitted by Hon. Austin Scott, a Representative in Congress from Georgia

Question 1. Chairman Massad, you testified that you would not seek access to an AT Person's algorithmic source code without a warrant and that you are simply seeking to ensure that they preserve it so that the Commission can "go get it using the proper procedures." Please clarify for the Committee, what procedures were you contemplating? What specific safeguards are you considering with respect to Commission's access to algorithmic source codes?

Answer. The U.S. Commodity Futures Trading Commission (Commission) recently approved proposed rules that mark a comprehensive regulatory response to the evolution of automated trading on U.S. designated contract markets (DCMs). The proposed rules, known collectively as Regulation Automated Trading or Regulation AT, represent a series of risk controls, transparency measures, and other safeguards to enhance the U.S. regulatory regime for automated trading. The notice of proposal is open for a 90 day public comment period. The Commission is paying close attention to participants' comments regarding Regulation AT's proposed requirements related to algorithmic source code, including its incorporation of Regulation 1.31's inspection provisions.

In response to questions about the Regulation AT proposed rule, I have tried to clarify questions that have come forward regarding the source code in testimony and public speeches. Specifically, the rule asks companies simply to preserve their source code so that if there is a problem and the Commission does need to get it, we can do that using the proper procedures. I am committed to a final rule that respects and protects confidentiality while at the same time ensuring that source code is preserved and is available to us when we need to reconstruct market events.

As the comment period for Regulation AT draws to a close, the Commission will actively consider all comments received regarding access to algorithmic source code. The Commission looks forward to addressing comments raised by market participants, while also ensuring that it has access to all information necessary for effective regulatory oversight and the protection of markets and market participants.

Question 2. In contrast with your statement, Reg AT requires that "Each AT Person shall keep such source code repository, and make it available for inspection, in accordance with Section 1.31." As you know, Section 1.31 requires that "books and records shall be open to inspection by any representative of the Commission, or the United States Department of Justice" and that, "[s]uch production shall be made . . . to a Commission representative upon the representative's request."

Does Section 1.31 require a Commission's representative to obtain a warrant before requesting documents from a market participant? If not, is Section 1.31 the appropriate record-keeping standard for this data and the standard that you contemplated in your response to me?

Answer. Commission Regulation 1.31 is a general record-keeping rule applicable to a wide range of Commission registrants. As the comment period for Regulation AT draws to a close, the Commission and its staff will actively consider all comments received regarding access to algorithmic source code. The Commission looks forward to addressing comments raised by market participants, while also ensuring that it has access to all information necessary for effective regulatory oversight and the protection of markets and market participants. In particular, I am committed to a final rule that respects and protects confidentiality while at the same time ensuring that source code is preserved and is available to us when we need to reconstruct market events.

Question Submitted by Hon. Vicky Hartzler, a Representative in Congress from Missouri

Question. On January 15th, Chairman Austin Scott and I sent a letter to the Commission raising concerns about the CFTC's final rule on Ownership Control and Reporting (OCR). Thank you for your timely response on February 9th. In our letter we referenced the June 26, 2015 FIA petition on the OCR Rule. Could you please provide us with an update on the progress of your response to that petition?

Additionally, as we mentioned in our letter, the OCR rule is placing heavy burdens on smaller, more agriculturally focused FCMs and their clients, which is causing many firms to consider eliminating this portion of their business. It appears that certain rulemakings, including the OCR rule, are pushing the industry toward greater consolidation. Is it your intention that FCMs continue to consolidate so that they can better bear the increased regulatory burdens from the OCR rule?

Answer. The Commission's OCR rules represent an important effort to automate data reporting and enhance the Commission's market surveillance capabilities. These rules seek to automate and strengthen important market surveillance functions to better protect markets and market participants from fraud and abuse. DMO staff has held extensive discussions with market participants regarding the OCR rules and their implementation. In addition, DMO staff is currently considering the issuance of no-action relief to further address industry concerns and applicable compliance deadlines.

The decline in the number of FCMs has been going on for over a decade and is due to many factors, which I would be happy to discuss with you. Our staff has examined this issue and the Commissioners have discussed this issue at some of our advisory committee meetings. On many occasions I have expressed my view that having a robust clearing member industry is critical to making sure that all participants have access to the derivatives markets and to the health and resiliency of clearinghouses.

Question Submitted by Hon. Dan Newhouse, a Representative in Congress from Washington

Question Chairman Massad, I would like to get your perspective on allegations by U.S. aluminum producers that Chinese aluminum manufacturers are culpable of dumping, and responsible for suppressed prices of aluminum here in the United States.

The Administration is considering instituting antidumping duties to assist aluminum producers here in the United States. While I appreciate the attempt to assist domestic producers, I worry about the effect duties may have on aluminum prices and availability here in the U.S., and the impact it will have on aluminum users and consumers, especially given that currently, domestic demand vastly outweighs domestic production. Can you comment on the status of this effort to impose tariffs, and does the Commission's economic division have an alternative point of view on this issue? Also, can you comment on what you perceive the impact of tariffs would have on prices and availability of supply for domestic aluminum users?

Answer. The Commodity Future Trading Commission's Office of the Chief Economist provides economic analysis on the Commission's underlying regulations, as well economic support and advice on policy issues facing the Commission. Price discovery is an important function of these markets and our surveillance of the markets considers broader economic factors influencing price. However, the agency, and its economic division, does not predict or forecast prices based on factors such as the specifics of trade negotiations or tariff levels, nor do we have jurisdiction with respect to such matters.