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NOMINATION HEARING OF HEATH P. TARBERT, OF MARYLAND, TO BE CHAIRMAN AND A COMMISSIONER OF THE COMMODITY FUTURES TRADING COMMISSION

HEARING

BEFORE THE

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

UNITED STATES SENATE

ONE HUNDRED SIXTEENTH CONGRESS

FIRST SESSION

MARCH 13, 2019

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NOMINATION HEARING OF HEATH P. TARBERT, OF MARYLAND, TO BE CHAIRMAN AND A COMMISSIONER OF THE COMMODITY FUTURES TRADING COMMISSION

WEDNESDAY, MARCH 13, 2019

U.S. SENATE,
COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY,
Washington, DC.

The committee met, pursuant to notice, at 10 a.m., in room 328A, Russell Senate Office Building, Hon. Pat Roberts, Chairman of the Committee, presiding.

Present or submitting a statement: Senators Roberts, Ernst, Braun, Grassley, Thune, Fischer, Stabenow, Brown, Klobuchar, Gillibrand, Casey, and Smith.

STATEMENT OF HON. PAT ROBERTS, U.S. SENATOR FROM THE STATE OF KANSAS, CHAIRMAN, U.S. COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Chairman ROBERTS. I call this hearing of the Senate Agriculture, Nutrition, and Forestry Committee to order. Today we consider the nomination of Dr. Heath Tarbert to serve as Chairman and a Commissioner of the U.S. Commodity Futures Trading Commission.

It was a pleasure to meet with you, Doctor, earlier this week and I thank you for appearing before the Committee today. I recognize you have quite a few members of your family in the audience today, including your wife, two sons, mother-in-law, and brother. Welcome to the Ag Committee family. If you would stand we would like to recognize you please. Thank you very much for coming.

[Applause.]

Chairman ROBERTS. I like that bowtie. That is very fashionable.

Before delivering an opening statement I ask the letter of support for our nominee from 25 different agriculture groups be included in the record. Without objection, so ordered.

Chairman ROBERTS. In the letter, the groups voiced strong support and appreciation for Dr. Tarbert's experience in the financial sector, the effort he has demonstrated to understand their priority issues, and his commitment to visiting agricultural operations as a way to reinforce the importance of these markets to farmers, ranchers, growers, and agribusinesses.

[The letter can be found on page 30 in the appendix.]

As I have noted before, the CFTC is charged with fostering an open, transparent, competitive, and financially sound markets while working to prevent any systemic risk. Further the Commis-

sion is tasked with protecting market users and their funds, consumers and the public from fraud and manipulation and abusive practices related to derivatives and other products that are subject to the Commodity Exchange Act. The regulation and oversight provided by the CFTC allows end users—farmers, ranchers, commercial companies, municipalities, energy companies, pension funds, and others—to hedge commercial risk using the derivatives markets. These markets allow companies to generate jobs and produce goods and services for our entire economy.

While it was not the farmer or the rancher or rural cooperative or electric utility who contributed to the financial crisis of 2008, it is often these folks who shoulder the heaviest burden when regulators write and implement rules. Today this Committee will hear from a nominee who is no stranger to public service. His experience clearly shows he has an appreciation of what led to the financial crisis 10 years ago, and he understands how these markets are impacted by actions taken by Congress and the U.S. Federal regulators as well as our legislative and regulatory partners around the world.

As the current Assistant Secretary for International Markets at the Department of Treasury, this nominee has exactly the right experience at the right time to lead the CFTC, as the world awaits important decisions throughout Europe on how regulators will treat U.S. interests and other market participants operating across that continent.

Current CFTC Chairman Chris Giancarlo has done a great job advocating U.S. interests and the importance of equivalency, and there is no doubt this nominee is prepared to continue this legacy when confirmed.

Dr. Tarbert, our meeting earlier this week shed light on your policy positions regarding immediate, specific, high-profile issues such as Brexit, and you highlighted your views on issues important to agriculture end users, such as position limits.

Again, I thank you, Doctor, for being here today. I look forward to your testimony.

I now turn to my colleague, Ranking Member Stabenow for her opening remarks.

STATEMENT OF HON. DEBBIE STABENOW, U.S. SENATOR FROM THE STATE OF MICHIGAN

Senator STABENOW. Well, thank you, Mr. Chairman, and it is good to be with you this morning to consider the nomination to this very important position at the CFTC. Mr. Tarbert, congratulations. It was a pleasure to meet with you, and welcome to your family as well. I am sure they are very proud of you.

The CFTC plays a critical role in providing the certainty in our futures and swaps markets for Main Street businesses, consumers, and our farmers and ranchers, as we all know. Everyone in this room understands that agriculture is a risky business, maybe the riskiest business when we look at what is happening with the weather. That is why this Committee wrote and passed a strong bipartisan farm bill that gives our farmers 5 years of certainty in uncertain times and why strong oversight of the CFTC is so very important.

Before we begin discussing the future of the CFTC, I must comment on the President's budget. I was disappointed to see that the proposal would roll back many of the important investments we have made in the future of the agricultural economy. The budget includes a nearly 31 percent cut to the farm bill, on top of a 15 percent cut to the rest of the USDA. We must ensure that the USDA has the resources it needs to fully implement the bipartisan 2018 farm bill quickly, and I know that the Chairman agrees and that we are committed to making sure that happens. This is not the time to put a target on our farmers and our families.

I also strongly support providing the CFTC with the funding it needs to protect our financial markets, and we talked about that. It is very important you have the resources you need. The CFTC has been underfunded for many years, which puts our financial system at risk.

In addition to robust funding, the CFTC also needs strong leadership. Mr. Tarbert, you have a great deal of experience and expertise in financial markets. You also have first-hand experience in the development of the Dodd-Frank Act. I would like to hear more about how you would continue the significant progress that the CFTC has made over the past 9 years in implementing this historic law.

The CFTC must continue to prioritize strong customer protections and it must remain vigilant in bringing wrongdoers to justice through the enforcement program. The CFTC must bring certainty to its rule book by finalizing the Dodd-Frank rules that remain incomplete, like setting speculative position limits and establishing minimum capital requirements for swap dealers. The CFTC must continue to be forward-looking to address emerging risks, such as cybersecurity and automated trading.

A decade has passed since the Great Recession. We must never forget that over 8 million people lost their jobs and countless families and farmers and small businesses faced foreclosure and financial ruin. The CFTC needs leadership that is committed to moving forward, not backward, on the critical reforms enacted in 2010 to safeguard our markets and protect our customers.

Mr. Tarbert, I am also encouraged that you have shown a strong interest in addressing issues facing our agricultural economy, which is obviously so important to all of us on this Committee. I look forward to hearing more about your plans and your vision.

Thank you, Mr. Chairman. Also, welcome to the senior Senator from Texas. We are glad to have you with us today.

Chairman ROBERTS. Well, before I introduce my distinguished friend, and thank you, sir, for coming, from the great State of Texas, I want to echo the comments by the Ranking Member with regard to the administration's budget proposal, which got tossed through the transom back here in the back room. We looked at it for a little while and decided to throw it back.

I am not trying to impugn the motives and the efforts of the administration to try to get a hold of our deficit spending and the national debt and all of that, but we just passed a farm bill in a bipartisan fashion, and the No. 1 issue that we heard all around the country, for two years we traveled around the country, every re-

gion, every crop, every commodity, and the No. 1 concern was crop insurance.

The recommendations reflect past efforts from past administrations and for some reason they do not quite get it in terms of crop insurance. That particular, quote, "reform" is not a reform. It would gut the program and even places in Texas, Oklahoma, Kansas, Nebraska, all of the High Plains would be impacted. We are not doing that.

I now am most happy to introduce my good friend, a very distinguished Senator from the great State of Texas. He is known for his leadership qualities, passing legislation, and is a country-and-western aficionado, as I am. Senator Cornyn, thank you for coming. Please proceed.

STATEMENT OF HON. JOHN CORNYN, U.S. SENATOR FROM THE STATE OF TEXAS

Senator CORNYN. Well, thank you, Chairman Roberts and Ranking Member Stabenow. It is a pleasure to be with the Ag Committee today and it is my honor to introduce Dr. Heath Tarbert.

Looking at his resume it makes one wonder what we have done with our life. He has done so much and I am not going to go into great detail, although I will point out that not only does he have a JD, which is a Juris Doctor, he has an SJD, which is a Scientific Juris Doctor, which entitles him to be addressed as Doctor. Ordinary lawyers are not, even though they have a Juris Doctor. I know you wanted to know all about that. He also has a Doctor of Philosophy from Oxford, so he has earned that title, and, of course, he has now been nominated to serve as Commissioner of the Commodity Futures Trading Commission.

He brings with him a wealth of experience from the private and public sectors. Throughout his work in the private sector he amassed a vast understanding of the Dodd-Frank regulations and developed an expertise in banking and securities law as well as financial compliance law. His time in public service has been spent in all three branches of government and includes serving as Special Counsel to the Senate Banking Committee, Associate Counsel to President George W. Bush, and Law Clerk to Justice Clarence Thomas on the U.S. Supreme Court.

He currently serves as the Assistant Secretary for International Markets at the Treasury Department where he works to advance the U.S.'s interests in various international issues including financial regulation. He also serves—and this is where our lives intersected the most recently—he also serves as the Policy Chair of the Committee on Foreign Investment in the United States, a body which, as the Committee knows, that reviews foreign investments to protect our national security interests.

I will just note that Heath did yeoman's work on behalf of the Treasury Secretary, Secretary Mnuchin, as Secretary Mnuchin did, in helping us get through a very complex and not particularly a politically attractive topic but one which is essential to protecting our national security, and that is to upgrade our rules and regulations with regard to foreign investment in the United States.

If all of these impressive qualifications were not enough, he also happens to be an Eagle Scout. Notwithstanding his stellar creden-

tials, he has a well-earned reputation for being bipartisan, collaborative, and an honest broker, just what you would want.

As I said, I saw this first-hand as we worked together on the Foreign Investment Risk Review Modernization Act, or FIRRMA. We know that in complex matters sometimes it is difficult to strike the right balance, and Heath was instrumental in working with members in both the House and the Senate to do just exactly that, and I am confident he will do the same in his new capacity.

This bipartisan track record is something that I believe will serve him well should he be confirmed as the next Chair of the CFTC, especially since the Commission works with this Committee to strike a balance between market integrity and market access. As you know, the CFTC serves a critical purpose to foster transparent and competitive markets. Americans across the country depend on well-functioning markets to manage their businesses and mitigate risk, and this Committee knows these market participants well. They are our farmers, our ranchers, our utility companies, and manufacturers. The CFTC must also enhance stability and confidence in derivatives markets, ensuring end users and the public that they are protected from fraud.

So, in conclusion, let me just say I think Heath is an excellent choice to lead the CFTC. He has shown a dedication to work hard across the aisle and in tandem with multiple branches of government toward an end result that is in the best interest of the American people. So I believe the Committee will enjoy a productive relationship with him as you work to promote market access and market integrity.

So I thank you for the opportunity to come and say a few words on this outstanding nominee, Heath Tarbert, and I know he is eager to continue serving our country in this new role.

Thank you, Mr. Chairman.

Chairman ROBERTS. I thank the distinguished Senator from Texas and agree with virtually everything that you have said.

As is the tradition and custom of the Committee, before nominee witnesses provide testimony I need to administer the oath. Secretary Tarbert, if you would please stand and raise your right hand.

First, do you swear that the testimony you are about to present is the truth, the whole truth, and nothing but the truth, so help you God?

Mr. TARBERT. I do.

Chairman ROBERTS. And second, do you agree that if confirmed you will appear before any duly constituted committee of Congress if asked to appear?

Mr. TARBERT. I do.

Chairman ROBERTS. Thank you. Please proceed with your testimony, sir.

STATEMENT OF HEATH P. TARBERT, OF MARYLAND, NOMINATED TO BE CHAIRMAN AND A COMMISSIONER OF THE COMMODITY FUTURES TRADING COMMISSION

Mr. TARBERT. Chairman Roberts, Ranking Member Stabenow, and distinguished members of the Committee, I am honored and grateful to appear before you today as the nominee for CFTC chair.

I appreciate the kind words of Senator Cornyn and I would like to thank the Committee staff for their professionalism during this process.

While I have had the pleasure of working with some of you in the past I thought I would take a moment to introduce myself. I grew up in Baltimore, where my family emphasized hard work, education, and the importance of public service at every level of government. Both of my grandfathers fought in World War II, one with the Army in Europe, the other with the Navy in the Pacific. One of my uncles was a police officer, another a firefighter. My father went to night school to study accounting and eventually served as Comptroller of the Maryland Port Administration. In that role, he oversaw the flow of agricultural commodity exports and imports through Baltimore. Although my father passed away after a courageous battle with pancreatic cancer, his commitment to public service remains a guiding example for me.

Each of my adult guests today is or has been a public servant. My mother retired as a child support enforcement officer and my mother-in-law retired as a public school teacher in Ashwaubenon, Wisconsin. My brother, who is a proud Democrat, recently completed a term as Deputy Mayor of Baltimore, and his wife Bonnie has been an art teacher in the city's public schools. Finally, my wife Kate and I met clerking for the U.S. Court of Appeals in town, and let me tell you, I definitely married up. Kate went on to serve in the Justice Department and as a law clerk to Chief Justice John Roberts. She is currently a full-time mom to our two young sons, Ben and Nathaniel, also here today.

My family's commitment to public service has inspired me as well. Over the course of my career, I have had the privilege to serve in all three branches of the Federal Government. During that time, I have developed a deep and broad background in financial services regulation. Since 2017, I have served as Assistant Secretary of the Treasury, managing and leading 12 offices in the Department's International Division.

These experiences have reinforced the importance of working in a bipartisan way, which I know is in the tradition of this Committee. The same is true for the work of the CFTC. The CFTC and the markets it regulates are unique. They are connected to the real economy in ways that other financial markets simply are not. Commodity futures, options, and swaps affect the lives of everyday Americans. They moderate the prices we pay for literally everything, from our groceries to gasoline, from our heating bills and home mortgages.

Leading such a unique agency comes with special responsibilities. Our derivatives markets must remain open, transparent, competitive, and financially sound. At the same time they need to be free from fraud and manipulation. To truly be effective, the CFTC must understand how these markets impact sectors and households in the real economy.

In that regard, no sector is more important than agriculture. Our nation's farmers and ranchers depend on derivatives to hedge their risks while consumers benefit from stable prices. Also benefiting are grain elevators, mills, distributors, processors, and other producers. That has been the case for more than 100 years, and it is

part of the reason why America's ag industry is the envy of the world. Equipping our ag sector with the tools to hedge risk and receive fair prices was, and will always be, the very cornerstone of the Commodity Exchange Act. If our commodity derivatives markets are not working for the benefit of our farmers and ranchers then in my view they simply are not working. Ensuring the voices of agriculture are heard and their concerns addressed would be a top priority.

If confirmed, I would expect to make use of this Committee's expertise as well as knowledge gained from visits with stakeholders across the country.

In addition to recognizing the CFTC's historic mandate, it is important that we not lose sight of the future. Congress's enactment of the Dodd-Frank Act has led to significant improvements in the swaps markets, and Title VII implementation work must be completed. At the same time, we have got to acknowledge that our derivatives markets have now been transformed by digital technologies, technologies that come with risks as well as opportunities.

The CFTC has to strike the right balance between allowing innovations to flourish and protecting our markets and customers from harm. We have also got to remain vigilant in dealing with new threats like cyberattacks.

Our futures, options, and swaps markets serve as the global standard. On the whole, they are deep, open, liquid, transparent, and soundly regulated. If confirmed as CFTC chair, I will work hard every day to make sure they stay that way. Thank you.

[The prepared statement of Mr. Tarbert can be found on page 26 in the appendix.]

Chairman ROBERTS. Let me start some questions here for you, Doctor. Since being nominated now you have engaged with ag stakeholders to better understand their priorities. Will you continue to work with these stakeholders and prioritize their interests should you be confirmed?

Mr. TARBERT. Absolutely, Mr. Chairman.

Chairman ROBERTS. Senator Stabenow and I wrote to Chairman Giancarlo last year raising serious concerns about the EU's legislation to regulate our U.S. clearinghouses. I understand legislation is about to be finalized and that the EU continues to push for directly regulating financial markets within our borders. In our letter, we stated we would encourage the CFTC to take stock of the regulatory relief it has granted to foreign countries—pardon me, foreign entities, in light of the EU's proposed aggressive action.

Could you please tell me the status of the EU clearinghouse equivalence issue as you see it, as well as the status of the equivalence for trading venues and what more Congress can do, if anything, to ensure the CFTC remains the exclusive regulator of our U.S. derivatives markets?

Mr. TARBERT. Thank you, Mr. Chairman. We are watching that closely, not only the CFTC and other financial regulators but the Treasury Department as well. I believe what they call the Level 1 text will be finalized soon, and the Level 2 text, which is essentially regulations, will be worked on in the next few months.

I want to be very clear on this. I agree with you wholeheartedly that our clearinghouses and exchanges here in the United States

need to be exclusively supervised and regulated by U.S. regulators. Now that does not mean we cannot have a collaborative relationship with foreign regulators. They have information interests as we do. Their banks and other financial institutions use our platforms and ours use theirs. But again, I go to the very point that you raised that it is very important that the United States have the jurisdiction and sovereignty to regulate our own markets.

Chairman ROBERTS. At last year's joint CFTC-Kansas State Ag Commodities Conference the major issue of concern among our Kansas ag constituents was the non-convergence in the hard red winter wheat futures contract. Can you provide us your view on this issue and your understanding of what market participants have done to address this issue?

Mr. TARBERT. Well, as a general matter, convergence is absolutely critical. Having the derivatives markets converge with the cash markets is the reason why these instruments can be used to hedge. So if there is not convergence or problems in convergence the whole point of setting up these instruments in the Commodity Exchange Act is called into question.

With respect to hard red winter wheat, the Kansas City contract, my understanding is that some changes have been made, I believe going from fixed cost to variable cost. If confirmed I would look into that issue, and work with your office as well as other commissioners and the exchanges to ensure that the convergence is there.

Chairman ROBERTS. I appreciate that. It is my hope, along with many agriculture end users, that the Commission will move on a final rule regarding position limits later this year. What do you view are important considerations for the Commission when establishing a position limit regime?

Mr. TARBERT. Thank you, Mr. Chairman. It is important that the positions limits rule is finalized. In terms of important factors that we would consider, I think first and foremost has to be that we must acknowledge that these are "speculative" position limits, as you mentioned before, and therefore people that are bona fide hedgers need to be able to use that exemption. So in other words, risk management tools that our ag sector have used all along should be taken into account.

Other issues would include, for example, ensuring that the underlying deliverable supply is taken into account—I know the Minneapolis Grain Exchange, for example, has had concerns there—and then other issues include making sure that there is the right parity between the position limits for the three major wheat contracts. So those would be all things that, if confirmed, I would want to take into account.

Chairman ROBERTS. In the interest of time I am going to submit, or ask unanimous consent to submit at this point in the record questions with regard to Dodd-Frank financial reform, blockchain, and the possibility of combining the SEC with the CFTC, which I should not even mention.

So given that, without objection, so ordered.

Senator STABENOW. Thank you very much, Mr. Chairman. Let me first start with enforcement, because it cannot be overstated how important it is that the CFTC have a strong enforcement program, and frankly, the market participants need to have confidence

that the markets are free of fraud and manipulation, and wrongdoers need to know that they are going to face real consequences when breaking the law.

So how do you believe the CFTC can further strengthen its enforcement program?

Mr. TARBERT. Thank you very much for that question. The CFTC right now, the Enforcement Division is the largest division by far of any, and if confirmed I would, of course, keep it that way and invest resources in enforcement.

I think in terms of priorities we would want to focus on protecting markets as well as protecting customers. There have been a lot of issues in the last few years about customer protections, using customer margin, which I think undermines confidence in the entire system.

I think also we want to make sure that we have focused on individual responsibility. It cannot be that individuals cause problems and then they move on to another firm and the firm gets fined but they continue to stay in the industry and cause more problems.

Senator STABENOW. Right.

Mr. TARBERT. Then, finally, I would say it is important that the CFTC work with other regulators as well as with the law enforcement community—the FBI, the Justice Department—where criminal charges are appropriate.

Senator STABENOW. I agree, and when you talk about individuals, though, how does that look to you in terms of enforcement against individuals? Do you think CFTC has the tools to do that right now?

Mr. TARBERT. I think they have some tools but it would be something that, if confirmed, I would want to sit down and really think about, talk to the professionals in the Enforcement Division and then maybe this Committee as well, if you have views.

Senator STABENOW. When we are doing the reauthorization of the CFTC, should we look more at that area to give you better tools? I would welcome your input on that, knowing that.

Mr. TARBERT. Yes, so if confirmed I would look into that issue and have that discussion with you.

Senator STABENOW. Cybersecurity threats.

Mr. TARBERT. Yes.

Senator STABENOW. Cybersecurity threats are growing every day. I have a deep concern just across the Federal Government as well as in the private sector that we are not focused on doing as much as we should be doing in protecting our financial system. We have to acknowledge that our markets are vulnerable right now.

Your current position at the Treasury Department has provided you with considerable perspective on the cybersecurity risks facing the financial system. Based on your current perspective at Treasury, what are the greatest cyber threats facing the financial system and what can we do to strengthen our defenses?

Mr. TARBERT. Without going into classified information what I would say is that the real concern that I have, and many others in our financial system, is where you take systemic risk, on the one hand, which we all know exists, and then you map that onto cyber risk, and where the confluence of the two, it seems to me that is the area where we want to protect the most.

Treasury has something called the Office of Critical Infrastructure Protection, which is led by a former general from U.S. Cyber Command and the NSA, which thinks specifically about our financial system and vulnerabilities there. So that would be something that to the extent the CFTC is not currently plugged into, if confirmed I would ensure that the CFTC has the relevant access to the information it needs.

Senator STABENOW. Does the CFTC need additional authority to be able to really do what needs to be done on cybersecurity?

Mr. TARBERT. It could very—well might. At this moment I have not taken an in-depth study. I am aware of some tools they have, particularly with respect to their current supervisory authority over clearinghouses and exchanges. There could be areas where the CFTC does not have the tools it needs to address cyber.

Senator STABENOW. Again, as we are looking at reauthorization I really would like to have your recommendations on this, and if we need to be doing more in terms of providing authorities I hope that you will weigh in very specifically to be able to help us.

Let me, finally ask, as it relates to the budget and funding, an issue that I raise all the time. If you are going to have the tools you need—you have to have the resources you need. It concerns me that the CFTC has not devoted enough resources also to finalizing the important Dodd-Frank rules, such as position limits, even though it has been 9 years now.

So to confirm, what will you do, as Chairman, to fully implement Dodd-Frank and what will you do to advocate for the resources that you need to get the job done at CFTC?

Mr. TARBERT. As I mentioned in my written testimony and oral testimony, it is important that we finalize the Dodd-Frank Act, particularly those rules that are pending, and as you say, ones that were started years ago.

Secondly, I totally agree with you that this agency needs the funding and the tools to get the job done. The American people are depending on it. So I will be an advocate for ensuring that it has the proper funding, and also look at areas where we can increase efficiencies as well.

Senator STABENOW. We need to get the Dodd-Frank rules finally done, and I hope you will commit, as Chairman, if confirmed, that you will be the one to get this done as soon as possible.

Mr. TARBERT. I will work on a number of them, and particularly position limits.

Senator STABENOW. We have been working on them for a long time.

Mr. TARBERT. I understand.

Senator STABENOW. So we need to complete it. So thank you, Mr. Chairman.

Chairman ROBERTS. Senator Braun.

Senator BRAUN. Thank you, Mr. Chairman. I enjoyed our quality time we had yesterday to get to know one another.

I remember vividly, in 2008, having a business where all my income was in the automotive arena and all my assets were commercial real estate. I remember the feeling in those few weeks when we were, you know, staring into the abyss. Hopefully we have learned a lot from that. I remember things like credit default

swaps, bundled mortgages, and I am a finance guy, all things that, you know, I did not know much about until, you know, it was upon us.

Is there anything in the commodities arena, within the institution that you are going to be a part of, that you would want to be wary of, or do you see anything on the horizon at all that, you know, would show signs that there are things that we need to look at more carefully, or do you think, like you said in your opening statement, you want to make sure things stay in good shape, like you think they are. Is there anything on the horizon out there? Because most of us did not see anything coming——

Mr. TARBERT. Right.

Senator BRAUN [continuing]. back in 2007 either.

Mr. TARBERT. Thank you very much, Senator—I think, as a whole, our financial system is stronger than it was before, but that said, I think the financial system is far more interconnected than it has been before, especially commodity markets. As we discussed yesterday, the commodities are global markets simply because commodities, by definition, are the same around the world. So I would be concerned about a potential risk, for example, coming from outside the United States that is potentially harmful to the U.S.

I also think we have to make sure that while we have implemented a number of good changes in the last 10 years that the seeds of the next crisis are not sown in the response to the last one. So while we are pushing more things through centralized clearing, for example, we need to make sure those clearinghouses really are safe and sound and have the risk management practices that they need. There is no reason to believe they do not but it is something that I would want to look at, if confirmed.

Senator BRAUN. One other question. Also being involved in farming, I view what the farm economy is going through now. As bad as it was back many years ago, I think balance sheets are a lot cleaner. I know a lot of farmers are in a situation where they do not see a light at the end of the tunnel.

Assuming the farm economy is going to kind of stay in this trough of low prices, does that bring any heightened concern in terms of, you know, how your organization would have to be vigilant should it persist?

Mr. TARBERT. Well, I think there are a number of things that are facing the American ag community now that go beyond the work of the CFTC, but at the very least I do not think the CFTC should increase those burdens on the ag community. Anything that the CFTC can do to help, whether it is making sure that contracts converge properly so they can use risk management tools and also making sure that some of the costs imposed by regulations are not borne directly by farmers and ranchers I think is important.

Senator BRAUN. Thank you. I yield the rest of my time.

Chairman ROBERTS. Senator Klobuchar.

Senator KLOBUCHAR. Thank you very much, Mr. Chairman, and welcome to you. Thank you. Congratulations on your nomination.

Yesterday the EPA released a proposed rule to allow for the sale of E15 year-round. That is something that we have been working on, Senator Smith and I, and Senator Stabenow, and many others on this Committee that believe we should have not just one kind

of fuel but many in this country, and that we should be investing in the farmers and the workers of the Midwest and not just the oil sheiks of the Mideast.

The rule also included several changes to the way the renewable identification numbers, or RINs, are traded and used to track compliance with the law. Based on your experience in other markets, Mr. Tarbert, do you believe that providing information on trading data in RINs markets in a timelier manner would increase transparency?

Mr. TARBERT. All things being equal, Senator, I would say yes.

Senator KLOBUCHAR. Okay. Then the RFS is also critically important and we have long urged the EPA to implement the law consistent with congressional intent. As you know, in March 2016, the CFTC entered into an MOU with the EPA related to the RINs market. This included the EPA sharing RIN data and other information so the CFTC could better advice about ways to minimize any potential fraud and abuse. How would you plan to fulfill the MOU agreement with the EPA, and would you commit to sharing any recommendations or collaborations with the EPA to the Committee?

Mr. TARBERT. Thank you, Senator. The answer to that last question would be, if confirmed, yes, I would be happy to discuss with the Committee the work that the CFTC is doing with the EPA. I think it is important that the EPA view the CFTC as a resource, specifically with a background in markets. So I think we would want to provide recommendations, if confirmed.

Senator KLOBUCHAR. Thank you, because we have had a big issue with some of the waivers in this area, that Senator Grassley and I—he is not here—took on in a big way, and there was a lot of information that was not transparent and it created a lot of problems with the previous administrator of the EPA.

So cybersecurity, I know Senator Stabenow asked you about this, but Senator Thune and I have a bill to allow people from the private sector to come in for 2 years and people from the government to go into the private sector to enhance their skills—that is a nice Minnesota euphemism—when it comes to cyber. You know, we are not like Russia and China where you can requisition people and make them be in a warehouse and do all kinds of bad stuff, and we want our government to be protected, cyber-wise, and to really up our game here.

Do you think these kinds of exchange programs could help, or maybe with academics as well, as we look at how we build our cybersecurity?

Mr. TARBERT. They could potentially help and I will commit to taking a look at your joint bill to analyze it and study it. I do know that the UK has had a long tradition of secondments, as they call it, where they do exactly as you have said. So it can be helpful to provide that cross-pollinization.

Senator KLOBUCHAR. Okay.

Mr. TARBERT. So I look forward to looking into that.

Senator KLOBUCHAR. Thank you. I have had a lot of conversations with the current Chair of the CFTC, Mr. Giancarlo, about the importance of including the needs of farmers, ranchers, and energy producers in the mission of the CFTC. You mentioned it in your

opening. If confirmed, how will you ensure that the actions of the CFTC take into account the concerns and perspectives of all Americans, including the farmers and ranchers directly affected by actions?

Mr. TARBERT. I think the first thing, Senator, is, if confirmed, it is important to listen to the ag community to really understand their concerns, and sometimes you cannot do that by sitting here in Washington. You actually have to go out there and meet with stakeholders in the places where they live and work. So that would be a big part, if confirmed, of what I would do in the first few months on the job.

Senator KLOBUCHAR. Very good. How will you ensure that the CFTC is accurately documenting and analyzing transaction data within cattle and other markets in order to determine what is irregular? That is because our cattle ranchers in Minnesota depend heavily on the price they receive, and in 2015 there was this big 15 percent drop in the cattle market. It raised questions about market manipulation. At that time the CFTC collaborated with the GAO to review market factors that may have affected the fluctuation. They did not find trading irregularities in this 2018 report, but it is something that is a big concern in the cattle market.

Mr. TARBERT. Yes, and I am well aware, Senator, of some of the issues with the cattle market. I have had the opportunity to sit down with people from the cattle industry and receive a briefing from the CFTC on the cattle contracts.

I think it is important that that study, while it concluded, at that time, that high-frequency trading and other things did not affect it or there was not necessarily market manipulation, much of the data was back from 2012.

Senator KLOBUCHAR. Yes.

Mr. TARBERT. So I would continue to monitor that market.

Senator KLOBUCHAR. Quickly, along the lines of new technology, you know, we see blockchain, Bitcoin, financial technology. How can the CFTC position itself to address the changes resulting from these new products and technologies coming on the market?

Mr. TARBERT. Thank you. As I mentioned in my testimony, the innovations provide opportunities but they also come with risks, and I think we need to be able to focus and balance on the two so we really assess what are the opportunities but also what are the risks to customers and markets.

Senator KLOBUCHAR. Okay. Very good. Thank you for getting at all those questions, and I can see that you have a well-behaved child behind you and that is also really good through the hearing.

Mr. TARBERT. Thank you.

Senator KLOBUCHAR. He did not even notice I mentioned him, so very good. He is so engrossed and focused. Thanks.

Mr. TARBERT. Thank you very much.

Chairman ROBERTS. We thank you, Madam President.

Senator KLOBUCHAR. Thank you very much, Mr. Chairman.

Chairman ROBERTS. The Committee was very proud to have four members of the Committee running for President, the most of any committee in the Senate. However, we now have three. The one that withdrew the day before, I said, "You know, you ought to really run." Then the next day he withdrew. I wonder if there was any

connection between the two. Senator Brown, would you like to comment on that?

Senator BROWN. I am counting on Kansas.

Chairman ROBERTS. I recognize you, sir.

Senator BROWN. I was never running for President. I was thinking about it.

Chairman ROBERTS. You were thinking about it.

Senator BROWN. So to withdraw you have to have—never mind. Yes, I understand.

Mr. Tarbert, thank you. I am going to ignore him. It is good to see you again. Thank you for being here.

Mr. TARBERT. Thank you.

Senator BROWN. Timely movement of qualified nominees is imperative. I am concerned about the delay in nominating Democrats and them moving to the Senate. My frustration, Mr. Chairman, is not with you about that, or with this Committee, but it is a problem that has worsened under Senator McConnell's leadership over the past 2 years and it must be addressed. I think that view is widely held, not just among Democrats but a number of Republicans too.

Let me get to your questions. The Trump shutdown essentially closed the CFTC for five weeks, putting much of the enforcement program and market oversight on hold. It begs the question, why should we continue to take those kinds of risks, understanding we have a President who may do this again, but why should we take these kinds of risks? What is the rationale for not making CFTC fully funded—self-funded, I am sorry, fully self-funded?

The Fed is self-funded, as you know. The OCC, Office of the Comptroller of the Currency is self-funded. The FDIC is self-funded. The Consumer Bureau is self-funded. Only CFTC and SEC are not. What is the rationale for that?

Mr. TARBERT. Well, I think it is an important issue worth discussing but I think what I would say, as an unelected official, is that it is a decision that really has to be made by elected officials who can consider all the aspects of the question, whether the impact on the taxpayer, the effects on congressional oversight. I would say it is an important question that I think only elected officials should decide.

Senator BROWN. Might you now be in a position, or if confirmed be in a position to advocate that on behalf of the day-to-day operations of CFTC, understanding that a number of your employees, if the President decides to shut the government down again, a number of your employees would be either furloughed or working without pay, and the disruption in the markets every bit as much?

Mr. TARBERT. What I would say, Senator, is that I totally agree that the agency needs the funding to continue doing its important work. If confirmed, I would provide whatever technical expertise this Committee or any other needed to be able to consider the question of various funding mechanisms.

Senator BROWN. I would hope that you would actually advocate doing that. I understand your answer.

Last year I told Chair Giancarlo that I was concerned about declines in CFTC enforcement cases and penalties. The trend since then has been positive but I have noticed leniency in some cases

where companies self-report. For example, last year the agency settled a fraud case against Deutsche Bank, against a Deutsch Bank trader, but did not penalize the bank in any way. In fact, CFTC Enforcement Division issued its first-ever declination letter closing the case, recommending no action against the bank because of its cooperation.

Do you think such leniency is appropriate, going forward?

Mr. TARBERT. I do not believe in leniency. I think self-reporting can be useful, assuming it is followed up with systematic self-correction and a record of that. So when I emphasize, I think, individuals should be held accountable that does not mean that organizations should not be held accountable.

Senator BROWN. In this bank, I mean, you surely put aside, for purposes of this discussion and the penalties or not for Deutsche, but this bank has clearly been one of having one of the worst reputations, whether it its dealings with the President or its dealings generally in its banking system, its European and American banking system, with its behavior. You know, this bank compliance system did not stop the fraud in the first place, as you know.

Let me talk about another issue. CFTC finalized last year the de minimus threshold that exempts swap dealers from registration if their activity is under $8 billion, as you know. I supported the original rule, and the original rule would have reduced the level to $3 billion. Although the final rule did not include broad exemptions that were in the proposal, Chair Giancarlo asked staff to look at other carve-outs that would weaken the purpose of the threshold. So they made it $8 billion and then they looked at carve-outs.

Will you commit to maintain the $8 billion threshold, not succumb to the temptation of a different number, and would you commit to not considering any of the changes that would weaken the registration requirements established under the Wall Street Reform Act?

Mr. TARBERT. Senator, my understanding was that was a unanimous decision by the Commission to keep the threshold at $8 billion and also not to have the exemption. So, if confirmed, I do not see that as an issue that I would try to go back in and reopen.

Senator BROWN. Okay. One last thing. If confirmed, it is imperative—I believe it is imperative that you follow the lead of those like Sheila Bair in work to halt the CFTC's harmful campaign to undermine critical financial safeguards which help protect against excessive risks. I am concerned about your working with the Fed and the FDIC and Treasury. This is an administration that every week, as the Ranking Member of the Banking Committee, I hear every week another example—and Senator Smith sits on that committee with me—I hear, almost every week, another example of weakening rules, as if there is this collective amnesia that nothing bad happened a decade ago because of Wall Street greed and Wall Street malfeasance and misfeasance. Thank you.

Mr. TARBERT. Thank you, Senator. I will just say that Chairman Sheila Bair is a personal friend and mentor of mine, and my views and hers closely align on a number of issues.

Senator BROWN. Good. I like to hear that. Thank you.

Chairman ROBERTS. Senator Smith.

Senator SMITH. Thank you, Mr. Chair and Ranking Member Stabenow, and Dr. Tarbert, Secretary Tarbert, thank you for being here and welcome to your family, and thank you for your willingness to serve.

We had a great conversation the other day and I think that you heard—in that conversation you heard my deep concern about the struggles that we are seeing in the ag economy in Minnesota and across the country, and, you know, the foundation values around having fair prices and fair markets and managing the risk. So with that spirit, I just have a couple of questions to ask you.

You know, I am concerned about the concentration in the swaps market. We know that 70 percent or so of all reported swaps are sold by five big Wall Street firms, and that represents 80 percent of the total value traded. This high level of concentration shows that the largest dealers are sitting on considerable market power, and no matter how you slice and dice it, it is clear that these big banks are really dominating the market.

Commissioner Berkovitz recently warned, in a speech, and I am quoting here that "these high levels of concentration present potential systemic risks since the failure of one of these firms in a highly connected market," as you said, "could have significant impacts on all the other firms in the market."

So, Dr. Tarbert, could you—are you concerned about this level of concentration?

Mr. TARBERT. Thank you very much, Senator Smith. The issue of concentration is one that I think I would want to look into a little bit more to truly understand it, and it sounds like, as you are saying, there may be possibly a competition law dimension to all of this.

What I will say, with respect to the systemic risk part of your statement, is that it is critically important that initial and variation margin be imposed on all of these financial institutions, and that is critical to making sure that we do not have what we had 10 years ago——

Senator SMITH. Mm-hmm.

Mr. TARBERT [continuing]. where you had all of these interconnections between institutions and there was no margin held by anyone, so when one fell, another fell——

Senator SMITH. The domino.

Mr. TARBERT [continuing]. the daisy chain effect, exactly.

Senator SMITH. Exactly. So what can we do? That gets to my sort of followup here, which is what can we do to promote a competitive market as we look at this increasing concentration?

Mr. TARBERT. Well, I think the more that we can move swaps through centralized clearing and through swap execution facilities, and ultimately to be traded on exchanges, will make the market more open, more transparent, greater liquidity, and you will not have it dominated by a small group of dealers.

Senator SMITH. Mm-hmm. So the other thing I wanted to get your perspective on, you know, we mitigated many risks since the 2008 financial crisis, hopefully, but I am wondering if that is creating new risks that we should be aware of. You know, Dodd-Frank put in place important measures to move away from this unregulated trading between two parties and toward a centralized clear-

ing, which makes it easier to monitor risks. At the same time I wonder if that creates a new concern, which is that all of that counter-party risk that promoted the Congress to push for central clearing is now concentrated in one place, in the clearinghouses themselves.

I know most folks see this as a good thing, because we can understand it better and we know where the risks are, but could you talk a little bit about now that we have all those risks located in one place, what we are doing to better understand and manage the risk there.

Mr. TARBERT. I could not agree with you more, Senator, and that is essentially what the Dodd-Frank Act did, was that although it reduced risk it also concentrated risk. So we still have high levels of risk but they are in clearinghouses now.

I think it is critically important that the CFTC supervise clearinghouses to make sure they have got the requisite capital, liquidity, risk management tools they need, and that also they have resolution and recovery plans, particularly recovery plans. So if the largest clearing member fails, or the two largest clearing members fail, they have got a plan of action for that and they have got enough of a cushion to withstand that.

Senator SMITH. Mm-hmm. Yes. Do you think that the failure of a major clearinghouse could lead to the sort of daisy chain, ripple, domino effect that we were just talking about?

Mr. TARBERT. It possibly could, yes.

Senator SMITH. If a clearinghouse were to fail, do you think that the Federal Government has the authority—sufficient authority to fix—to resolve that, and where do you think that authority should go? Is it better in the CFTC or FDIC, or where do you think?

Mr. TARBERT. It is a great question, Senator, and it is one that is pretty complex. Right now it could potentially go into a bankruptcy proceeding, but if Title II of the Dodd-Frank Act was triggered it would be the FDIC that would actually oversee the resolution of a clearinghouse. I think you raise a good question as to whether that is the right regulator or whether another regulator, such as the CFTC or the SEC, depending on the type of clearinghouse, may be appropriate.

Senator SMITH. Last question. Dr. Tarbert, you have significant experience in financial regulatory areas, and as you and I discuss you are building your experience in agriculture. For farmers and ranchers in Minnesota, what happens at the CFTC affects them. So can you just comment on how you will work to build that agricultural experience, should you be confirmed?

Mr. TARBERT. Thank you. As I mentioned in my oral testimony and here, one of the things that I think would be really helpful is to actually go out——

Senator SMITH. Come to Minnesota.

Mr. TARBERT. Well, we——

Senator GILLIBRAND. And New York.

Mr. TARBERT [continuing]. and New York, absolutely. In fact, we have got a family vacation planned for Minnesota this summer so maybe we can tag on something.

Senator SMITH. Oh, good. We will get a plan.

Mr. TARBERT. But, yes, thank you, Senator.

Senator SMITH. Thank you, Mr. Chair.

Chairman ROBERTS. You may have to go to virtually every State that is represented here.

Well, Coop, you are up.

Senator THUNE. High Noon, Mr. Chairman. All right. Thanks for having this hearing and thank you, Dr. Tarbert, for your willingness to serve.

This is ground that has been plowed a little bit already, but I would like to just sort of reiterate, if I might, or have you reiterate your commitment with respect to this Memorandum of Understanding between EPA and CFTC dealing with RIN markets, and whether or not you intend to follow through on that and share any recommendations, you know, that process might come up with, with this Committee.

Mr. TARBERT. Yes, Senator. Thank you. If confirmed, I would commit to share—maybe not publicly share but to meet with the Committee and brief the Committee and its staff.

Senator THUNE. Okay. Yesterday there was an announcement by the EPA on the expansion of E15, allowing for year-round sales, and also a reform of the RINs Market. I guess the followup question to that last question would be, do you see the CFTC perhaps being able to have a role in sharing ideas about how to create greater transparency in the ethanol market, assuming, again, that the RINs reforms that have been in this—that are put forward in this proposed rule are designed—I at least hope they are designed to bring greater transparency. Could you offer some of your insights about that as well, and that process?

Mr. TARBERT. Yes. Thank you, Senator. I think it is important that the markets have a degree of transparency that makes them open, competitive, and does not lead to volatility and manipulation. So I think under the MOU with the EPA I would, if confirmed, assemble the right team, meet with the EPA, understand exactly what is going on with their transaction monitoring system now. I understand there are a number of fields that are filled, but, for example, price may not be one of them. So there are simple things like that that I think could add to the transparency and the data collection.

Senator THUNE. Yes. Good. There is a widely held view in farm country that the RIN market distorts and negatively impacts ethanol prices, and it is a very opaque market and there are a lot of questions and doubts about its transparency. So I think that anything that you and your organization and team can do to provide advice, insight, recommendations with respect to how to make that market more transparent I think would be greatly appreciated.

Let me ask you, we hear complaints, and especially from our livestock producers, that the Chicago Mercantile Exchange, or CME, is not performing as it should. In other words, that cattle producers often think that it negatively impacts cattle prices, or affects cattle prices. Do you have any thoughts about that?

Mr. TARBERT. I have had a briefing, both from members of the cattle industry as well as the CFTC. I think that there have been issues with cattle contracts in the past, and my understanding is that a great deal of work has been done. Perhaps more needs to be done, but certainly a great deal of work has been done, carcass

delivery requirements, there are a number of things that have been put in place to make sure that the convergence problem either goes away or certainly is not acute. It is something that I think is still of concern to the cattle industry, and if confirmed, I would certainly look into that and keep that discussion ongoing.

Senator THUNE. Thank you. With the oversight of the CME that you will have at CFTC, based on what you know now, are there any CME activities that concern you regarding transparency or price manipulation?

Mr. TARBERT. Based on what I know now, no.

Senator THUNE. All right. Well, I hope that as you get into the job and take a look at some of these issues, you know, obviously we hear from the front line, the people who are actually out there on the farm and the ranch on a daily basis. Having effective, transparent markets that allow them to effectively manage their risk is critically important. So we hope that, in your new role you will be able to focus on that, and if you have insights as you get into that role that you can share with us that would be greatly appreciated.

So thank you again for your service. Mr. Chairman, I yield back the balance of my time.

Chairman ROBERTS. I thank the distinguished Senator. Senator Gillibrand.

Senator GILLIBRAND. Thank you, Mr. Chairman. In 2016, then candidate Trump campaigned on the idea of separating commercial banking from riskier financial activities. Has President Trump or anyone in the White House, including his economic team and the National Economic Council, spoken to you or anyone at the CFTC about reinstating an updated version of Glass-Steagall or any action that would divide commercial banking from more riskier financial activity?

Mr. TARBERT. No, Senator Gillibrand. No one has spoken to me about that.

Senator GILLIBRAND. Have you examined how the CFTC may be employed through regulation and enforcement to separate derivatives dealing from commercial banking under a new Glass-Steagall rule?

Mr. TARBERT. I personally have not, nor have I been directed, in my current capacity in the International Division.

Senator GILLIBRAND. I would be grateful if you would consider it and give advice to our office, just so we know what your perspective on that issue is, because it is an issue that will be debated again and one that is important to New York.

Second, the increasing dominance of automated trading is one of the biggest transformations occurring in the financial markets today. Automation has made trading faster and, in some cases, cheaper, but it has also contributed to the disturbing number of significant market disruptions in markets ranging from equities to treasures to commodities. The CFTC has investigated and documented repeated flash crashes in CFTC-regulated markets.

The Commission proposed a rule, Reg AT, to create better oversight and protections around automated trading but progress on this rule appears to have stopped in recent years. Will you reopen Reg AT and do you believe we need to take steps for better oversight of automated trading?

Mr. TARBERT. Thank you, Senator. Yes, if confirmed, Reg AT would be something I would want to get back up and running in terms of the process of considering it. As I mentioned in my oral statement, we have got these new technologies. They come with opportunities and they also come with risk.

I also think what is important is that the CFTC continue its analytical studies. They have done some studies in the past but those are using old data, so I think it is something that we continually need to monitor. I think also the clearinghouses and the exchanges need to also put in relevant risk management dealing with automated algorithmic trading.

Senator GILLIBRAND. I am concerned, you know, the stock market and stock prices used to reflect the value of a company, and under this new environment I do not think flash trading does that, actually. I think it is not related to value. It is related to speed of trading. Do you have any thoughts on that?

Mr. TARBERT. That would be a concern, in that we are seeing lots of volatility. Many of the exchanges over the years, for 80 years, have actually had sort of circuit breakers and things that they have had in effect that have reduced the ability of huge price swings, and I think those would be the kinds of things we would want to look at, to make sure that prices are actually reflecting the underlying demand and not something else, and certainly not fraud and manipulation.

Senator GILLIBRAND. Right. The U.S. derivatives market is approximately worth $337 trillion. Currently the CFTC's budget is $268 million for Fiscal Year 2019, far below other prudential regulators with similar regulatory responsibilities. While previous budgetary requests asked for a 32 percent increase, do you not think that Congress should look at how other prudential regulators, like the SEC, use mandatory funding mechanisms to provide more reliable and standard funding sources for the CFTC? Also related, how would a capital infusion help CFTC better carry out its regulatory responsibilities, specifically for technology upgrades, live-time reporting, and retaining qualified staff?

Mr. TARBERT. Thank you. First of all, the CFTC absolutely has to have the resources needed to do its job. As to how it gets those resources, I mentioned before that I think it is a decision for elected officials, and that if you decide to go in one direction or another, just given the important issues at stake—congressional oversight, tax——

Senator GILLIBRAND. I do not think it is just our job. I think you have to make recommendations, because it is your job to do what the CFTC is required to do. So your input will be necessary for Congress to make those decisions.

Mr. TARBERT. If confirmed, we would provide the relevant technical expertise to be able for you to understand the relevant tradeoffs. Absolutely.

Senator GILLIBRAND. Correct. I am little concerned, now that you mention resources, that as we consider your nomination there are many, many posts in the financial regulatory ecosystem that are sitting empty, mainly with minority party nominees. With this process controlled by the Trump administration the CFTC has a full commission, but there are open seats in critical agencies such

as the SEC and the FDIC. You want to be the chairman of one of these regulators. You currently work at Treasury, where you are deeply involved with many actors and financial market participants.

Do you not agree that commissions like the CFTC and your counterparts operate best when they have representatives from both majority and minority, as contemplated by the statute that created them?

Mr. TARBERT. Yes, I do.

Senator GILLIBRAND. In your experience at Treasury and elsewhere, what problems have you seen from regulators with open seats?

Mr. TARBERT. Well, one issue—and the CFTC faced this a few years ago—was quorum. Because they only had three people none of the commissioners could actually talk with one another, so it was a very bizarre situation. They could not even take the same elevator up.

Senator GILLIBRAND. Thank you. Thank you, Mr. Chairman.

Chairman ROBERTS. Thank you, Senator. Senator Fischer.

Senator FISCHER. Thank you, Mr. Chairman. Mr. Tarbert, our farmers and ranchers rely on commodity markets to hedge or to ensure the price of their products for harvest, and as farm commodity prices decrease, which we are seeing, the ability to hedge is more critical than ever before. These hedges are often the difference between a profitable year and an unprofitable one for my neighbors in Nebraska. When markets become illiquid it is harder for them to hedge their crops. It may also raise the cost of these hedges.

Can you, broadly speaking, identify what you see as the biggest threats to this liquidity?

Mr. TARBERT. Yes. I think one of the big threats to liquidity that I have seen, or at least heard about from briefings, is convergence, that some of the contracts are not actually converging, and therefore farmers and ranchers in Nebraska and other States cannot actually use these contracts to hedge. When they do not converge there are fewer people using them, and then of course, there is less liquidity. Liquidity is critically important, for a variety of reasons.

Senator FISCHER. Can you tell me some?

Mr. TARBERT. Sure. First of all, liquidity is absolutely necessary for the futures markets. The forwards markets can go without liquidity but the futures markets need liquidity. We have seen examples over the years where contracts have actually been taken off exchanges because there has not been liquidity.

Obviously, bid ask spreads are affected by liquidity, so farmers and ranchers will pay more for illiquid contracts, all things being equal, than other ones. There is also the question of if you want to get out of a position or change because your dynamics have changed. If the contracts are illiquid it is much harder to do that.

Then finally, going to an issue that we talked about—I had talked about with Senator Smith, is clearinghouses. Illiquid contracts are actually much harder to clear and present more risk issues for clearinghouses.

Senator FISCHER. When I am back home in Nebraska and I speak to community bankers they are telling me the difficulty of offering commodity products for fear of running afoul of the Volcker

Rule. I believe that this rule was meant for Wall Street bankers, not for farmers and ranchers and community banks, and these farmers and bankers did not create the crisis and yet they are being punished, along with larger investment banks.

As you know, farming is a risky business and we should encourage and not punish efforts that people are trying to use tools so that they can manage that financial risk.

Last Wednesday it was announced that there could be further delays in improving this rule, so I ask for two commitments from you. First, can you promise to work with other agencies to ensure that any revised Volcker Rule ensures that end users, like farmers and ranchers, have access to these products?

Mr. TARBERT. Yes.

Senator FISCHER. And second, could you please ensure that this is released in a timely manner, so our farmers can have some certainty?

Mr. TARBERT. On that I would make every effort.

Senator FISCHER. Thank you.

As you know, I am supporting some bipartisan legislation that is authored by my good friend from Idaho, Mike Crapo. The goal of this bill is to provide targeted relief to community banks. I hope that you will have the opportunity to visit Nebraska, if you become Chairman—we would be happy to welcome you—and you will see that farmers rely on agricultural lending from our community banks. It is a bipartisan bill that we have before us and it included a provision exempting small banks from the Volcker Rule. Can you speak about your vision for implementing that bill?

Mr. TARBERT. Yes, I do not know the extent to which the CFTC would have implementing authority, but if confirmed I would certainly work with all of the relevant regulators because I agree. I cannot agree with you more.

I actually spent 7 years working on the Volcker Rule, advising clients all over the world, mainly larger financial institutions, and it is one of the most complex rules that is out there, literally 1,000 pages of regulations and explanations. While I think there are important policy reasons for why it is in place, with respect to large institutions, in my view it is not really appropriate for community banks, and there needs to either be tailoring or just simply exempting them altogether, where appropriate.

Senator FISCHER. Thank you. I believe it is a bipartisan goal here in Congress that we try to provide tools for family farms. Everyone realizes the benefits we have as States, individual States, and also as a country, when family farmers are able to manage their business, because it is a business. It is not a hobby. We feed the world. To do that we have to have tools that are available, but that also do not create additional burdens or add additional costs to farms in order to make a living.

So thank you very much.

Mr. TARBERT. Thank you.

Chairman ROBERTS. Thank you, Senator Fischer.

That will conclude our hearing today. I want to thank the nominee for taking time to address this Committee, and to answer the Committee's questions. It is clear, at least to the Chairman, and I think the Ranking Member shares my view, that you are more

than qualified to join the administration in the role as Chairman of the CFTC.

We learned a great deal today. Your testimony provides us significant information, a solid basis upon which to report you favorably out of Committee. Per our rules, we cannot do so today—I wish we could—but we will endeavor to do so in the very near future.

To that end I would request my fellow members that if they have any additional questions for the record they be submitted to the Committee Clerk by this Thursday, March 14th, by 5 p.m. We look forward to receiving your responses and to further considering your nomination.

Senator Stabenow and I have one more question. What did you feed Ben and Nathaniel for breakfast this morning?

[Laughter.]

Chairman ROBERTS. My eldest daughter has three young boys. They were all three born 10 yards offside. I doubt if they could sit there quietly, clad in bowties, well dressed and well behaved. To what do you attribute this? I am starting to get a little more optimistic about the next generation.

Mr. TARBERT. Well, their mother and grandmothers, Mr. Chairman, have done an excellent job. Normally Saturday mornings is Pancake Day, but we decided to have it today, because of this auspicious occasion.

Chairman ROBERTS. That is the secret. All right. Does that work for your Democrat brother?

[Laughter.]

Chairman ROBERTS. Do you have to have additional syrup on the pancake?

All right. The Committee is adjourned.

[Whereupon, at 11:16 a.m., the Committee was adjourned.]

A P P E N D I X

MARCH 13, 2019

Statement of Heath P. Tarbert, of Maryland, to be Chairman and Commissioner of the Commodity Futures Trading Commission before the U.S. Senate Committee on Agriculture, Nutrition, and Forestry March 13, 2019

Chairman Roberts, Ranking Member Stabenow, and distinguished Members of the Committee, I am honored to appear before you as the nominee for Chairman of the Commodity Futures Trading Commission (CFTC). I am grateful to the President for nominating me, to all of you for holding this hearing, and to the Committee Staff for their professionalism throughout this process.

While growing up in Baltimore, my family emphasized hard work, education, and the importance of public service at every level of government. Both of my grandfathers fought in World War II: one with the Army in Europe, and one with the Navy in the Pacific. One of my uncles was a police officer; another a firefighter. My father went to night school to become an accountant and eventually served as Comptroller of the Maryland Port Administration. In that role, he oversaw the yearly flow of hundreds of thousands of metric tons of agricultural commodities through Baltimore, including exports of American soybeans, meat, poultry, animal feed, and bulk grains as well as imports of coffee and cocoa beans that were processed and refined for eventual re-export by U.S. companies. Although my father passed away after a courageous battle with pancreatic cancer, his commitment to public service remains a guiding example for me.

Each of my adult guests today is or has been a public servant. My mother retired as a child support enforcement officer and my mother-in-law retired as a public school teacher in Ashwaubenon, Wisconsin. My brother just completed a term as Deputy Mayor of Baltimore for Economic and Neighborhood Development and continues to serve the city as Deputy Chief of Strategic Alliances. Finally, my wife Kate and I met clerking for the U.S. Court of Appeals for the D.C. Circuit, after which she went on to serve in the Justice Department and as a law clerk to the Chief Justice of the United States. She is now a full-time mom to our two sons who also are here today—Ben, who is 7, and Nathaniel, who is 4. My family's commitment to public service also inspires me.

Over the course of my career, I have had the privilege of working in all three branches of the federal government. During that time, I have developed a broad and deep background in the financial services field and the federal agencies and international bodies that regulate it. During the last year and a half, I have served as Assistant Secretary of the Treasury for International Markets, a role in which I have managed and led 12 different offices within the Treasury Department's international division. I have represented the United States at the G-20, the Financial Stability Board, the World Bank, and other international bodies. I have negotiated several trade, regulatory, and other agreements aimed at leveling the global playing field for American workers and families. I also serve as the policy chair for the interagency Committee on Foreign Investment in the United States, where I oversee the review process for the hundreds of cases filed annually to ensure that acquisitions of U.S. businesses do not threaten our national security.

These experiences have highlighted for me the importance of working collaboratively across federal agencies, political party lines, and national boundaries to ensure our nation's overall economic health and to advance the best interests of the American people. In testifying before Congress last year on the importance of attracting foreign investment while maintaining our national security, I emphasized that these aims are "the exclusive concern of neither Republicans nor Democrats" and are "truly American aims that transcend party lines."

The same is true of the CFTC's mission. The uniqueness of the CFTC and the derivatives markets it regulates—along with their impact on the national economy—cannot be over-emphasized. Commodity futures, swaps, and options provide critical risk management and price discovery tools that can promote long-term stability and growth in the real economy. These financial instruments affect the lives of everyday Americans in ways often unseen, moderating the daily prices consumers pay for everything from groceries to gasoline and heating bills to home mortgages.

I recognize that leading an agency with such a unique role carries with it special obligations and responsibilities. Chief among those obligations is ensuring that our derivatives markets are open, transparent, competitive, and financially sound, while at the same time free from fraud and manipulation. Understanding the derivatives markets is of course necessary to fulfill this responsibility. But it is not sufficient. In order to be effective, the leadership and staff of the CFTC must also have a comprehensive understanding of the underlying cash commodity markets and the sectors of our economy that rely upon them on a daily basis.

In that regard, there is no sector more important than agriculture. Our nation's farmers and ranchers depend on derivatives markets to hedge their production and delivery costs, and have done so for more than 100 years. These markets ensure America's food makes it from our farms to our kitchen tables by enabling farmers and ranchers to receive fair value for their hard work while consumers benefit from stable prices. The grain elevators, mills, distributors, manufacturers, and other producers that make America's agricultural industry the envy of the world also rely upon and benefit from these markets daily. Equipping our agricultural sector with the tools to hedge risk and receive fair prices was—and always will be—the very cornerstone of the Commodity Exchange Act. Simply put, if the commodity derivatives markets are not working for the benefit of our farmers and ranchers, then they are not working. Ensuring these voices are heard at the CFTC and their concerns are addressed would be among my highest priorities. If confirmed, I will make use of this Committee's expertise as well as knowledge gained from visits with agricultural stakeholders across the country to achieve that priority.

In addition to recognizing the CFTC's historic mandate, it is important that we not lose sight of the future. Congress's enactment of Title VII of the Dodd-Frank Act has led to significant improvements in margining, execution, clearing, and reporting within the swaps markets. Work in implementing these reforms must continue. At the same time, we should acknowledge that our derivatives markets have recently been transformed by digital technologies that present opportunities as well as risks. The CFTC must remain committed to promulgating regulations that allow technological innovations to flourish, but also protect our markets and consumers from harm. We must likewise remain vigilant in thwarting new threats—such as cyberattacks—that represent more than a theoretical danger to our financial system. Finally, because our markets are global, coordination with our international counterparts to reduce systemic risk, avoid market fragmentation, protect customers, and promote basic international standards will be vital as we move forward.

Our futures, options, and swaps markets serve as the global standard. They are deep, open, liquid, transparent, and soundly regulated. If confirmed as CFTC Chairman, I will be fully committed to ensuring they remain that way.

DOCUMENTS SUBMITTED FOR THE RECORD

MARCH 13, 2019

June 3, 2019

The Honorable Mitch McConnell
Majority Leader
U.S. Senate
Washington, DC 20510

The Honorable Charles Schumer
Minority Leader
U.S. Senate
Washington, DC 20510

Dear Leader McConnell and Minority Leader Schumer:

On behalf of our nation's agricultural industry stakeholders, we offer our strong endorsement of Dr. Heath P. Tarbert to be the next Chairman of the Commodity Futures Trading Commission (CFTC).

Because our members rely on well-functioning agriculture and energy derivative markets – both exchange-traded futures and options, and over-the-counter products – to hedge the commercial risks inherent in agricultural production, processing, and marketing, we want to ensure the CFTC is led by a well-qualified Chairman. If confirmed, Dr. Tarbert would bring a deep background in financial regulation, along with experience holding important leadership posts in the private and public sector. He has earned a reputation as a leader known for his integrity, professionalism, fairness, expertise, and collaboration, important attributes for a strong leader at the CFTC.

In 2017, Dr. Tarbert was overwhelmingly confirmed by the U.S. Senate to serve as Assistant Secretary of the Treasury for International Markets. In this capacity, he has advanced U.S. interests in multilateral organizations on financial stability and regulatory issues, while promoting growth, negotiating trade agreements, and advocating for standards that level the playing field on behalf of the American people. Specifically, he has worked extensively with the European Commission and Parliament to include language in their recently proposed legislation to strengthen financial stability while advancing home regulatory deference so that U.S. end-users are not subject to conflicting regimes.

While Dr. Tarbert's background is primarily in the financial sector, he has demonstrated his commitment to learning the issues and challenges facing the agriculture sector and advocating on our behalf. In our meetings with him, it is clear to us that Dr. Tarbert has made the effort to learn about agricultural markets and our use of futures and other derivatives products. Dr. Tarbert has stated his intent, if confirmed, to begin his tenure by sponsoring the CFTC's Agricultural Advisory Committee, as well as having the CFTC continue to co-host its annual agricultural commodity futures conference. Finally, and most importantly, he has committed to getting outside the Washington "beltway" to visit farms, ranches, and agricultural processing and storage facilities to learn from our members firsthand.

In sum, we believe Dr. Tarbert, if confirmed, will strike the right balance in providing input into CFTC's oversight of the financial and commodity markets. This includes providing for reduced systemic risk, ensuring market integrity and regulatory consistency, while also considering the

important role these markets play in the ability of farmers, ranchers, and agribusinesses to hedge their risks efficiently and effectively. The recent unanimous vote of the Committee on Agriculture, Nutrition and Forestry to favorably report Dr. Tarbert's nomination is a strong bipartisan endorsement of his qualifications to serve as the next Chairman of the CFTC.

Thank you for considering our views. We appreciate your continued leadership in support of U.S. production agriculture and agribusiness.

Sincerely,

Amcot
American Cotton Shippers Association
American Farm Bureau Federation
American Feed Industry Association
American Soybean Association
American Sugar Alliance
Commodity Markets Council
Farm Credit Council
National Association of Wheat Growers
National Cattlemen's Beef Association
National Corn Growers Association
National Cotton Council
National Council of Farmer Cooperatives
National Grain and Feed Association
National Milk Producers Federation
National Pork Producers Council
National Sorghum Producers Association
North American Export Grain Association
North American Millers Association
Panhandle Peanut Growers Association
Plains Cotton Cooperative Association
Southwest Council of Agribusiness
USA Rice
U.S. Rice Producers Association
Western Peanut Growers Association

cc: U.S. Senators

U.S. SENATE COMMITTEE ON AGRICULTURE, NUTRITION & FORESTRY
Questions for Executive Nominees
115th Congress

1. Basic Biographical Information

Please provide the following information.

Position to Which You Have Been Nominated	
Name of Position	**Date of Nomination**
Chairman, Commodity Futures Trading Commission Commissioner, Commodity Futures Trading Commission	January 9, 2019 January 9, 2019

Current Legal Name			
First Name	**Middle Name**	**Last Name**	**Suffix**
Heath	Price	Tarbert	

Addresses					
Residential Address (do not include street address)			**Office Address** (include street address)		
[redacted]			**Street:** 1500 Pennsylvania Avenue, N.W.		
City: Washington	**State:** DC	**Zip:** 20008	**City:** Washington	**State:** DC	**Zip:** 20220

Other Names Used						
First Name	**Middle Name**	**Last Name**	**Suffix**	Check if Maiden Name	**Name Used From** (Month/Year) (Check box if estimate)	**Name Used To** (Month/Year) (Check box if estimate)
(Not applicable)					Est ☐	Est ☐

Birth Year and Place	
Year of Birth (Do not include month and day.)	**Place of Birth**
1976	Baltimore (Towson), Maryland

Marital Status					
Check All That Describe Your Current Situation:					
Never Married	**Married**	**Separated**	**Annulled**	**Divorced**	**Widowed**
☐	X	☐	☐	☐	☐

Spouse's Name (current spouse only)			
Spouse's First Name	**Spouse's Middle Name**	**Spouse's Last Name**	**Spouse's Suffix**
Kathryn	Elizabeth	Tarbert	

Spouse's Other Names Used (current spouse only)						
First Name	**Middle Name**	**Last Name**	**Suffix**	Check if Maiden Name	**Name Used From** (Month/Year) (Check box if estimate)	**Name Used To** (Month/Year) (Check box if estimate)
Kathryn	Elizabeth	Komp		X	08/1980	12/2007

Children's Names (if over 18)			
First Name	**Middle Name**	**Last Name**	**Suffix**
(None over 18)			

2. Education

List all post-secondary schools attended.

Name of School	**Type of School** (vocational/technical/trade school, college/university/military college, correspondence/distance/extension/online school)	**Date Began School** (month/year) (check box if estimate)	**Date Ended School** (month/year) (check box if estimate) (check "present" box if still in school)	**Degree**	**Date Awarded**
University of Oxford	University	09/2001	12/2005* *(in residence 9/2001-2/2003)	DPhil MSt	11/2005 11/2002
University of Pennsylvania	University	08/1998	12/2002* *(in residence 8/1998-5/2001)	SJD JD	12/2002 05/2001
Mount St. Mary's University	University (then college)	08/1994	05/1998	BS	05/1998

3. Employment

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

Type of Employment	Name of Your Employer/ Assigned Duty Station	Most Recent Position Title/Rank	Location (City and State only)	Date Employment Began (month/year) (check box if estimate)	Date Employment Ended (month/year) (check box if estimate) (check "present" box if still employed)
Other Federal employment	U.S. Department of the Treasury	Assistant Secretary of the Treasury	Washington, DC	10/2017	Present
Non-Government employment	Allen & Overy LLP	Partner	Washington, DC (also affiliated with the New York and London offices)	01/2014	10/2017
Non-Government employment	Weil, Gotshal & Manges LLP	Partner	Washington, DC (also affiliated with the New York office)	04/2010	12/2013
Other Federal employment	U.S. Senate Committee on Banking, Housing & Urban Affairs	Special Counsel	Washington, DC	08/2009	03/2010
Non-Government employment	Committee on Capital Markets Regulation	Vice President & Deputy Director	Cambridge, MA	02/2009	08/2009
Other Federal employment	The White House, Executive Office of the President	Associate Counsel to the President	Washington, DC	08/2008	01/2009

Other Federal employment	Supreme Court of the United States	Law Clerk	Washington, DC	07/2007	07/2008
Other Federal employment	Office of Legal Counsel, U.S. Department of Justice	Attorney-Adviser	Washington, DC	09/2006	07/2007
Other Federal employment	U.S. Court of Appeals for the D.C. Circuit	Law Clerk	Washington, DC	08/2005	08/2006
Non-Government employment	Sullivan & Cromwell LLP	Associate Attorney	Washington, DC	02/2003	08/2005
Non-Government employment	Sullivan & Cromwell LLP	Summer Associate	Washington, DC (worked one month in the London office)	06/2001 06/2000	09/2001 08/2000
Other Federal employment	U.S. Attorney's Office, District of Maryland	Law Clerk	Baltimore, MD	06/1998	08/1998
Non-Government employment	PDP Group, Inc.	Insurance Verifier/Lease Tracker	Hunt Valley, MD	05/1998	08/1998
Non-Government employment	Mount St. Mary's University	Resident Assistant	Emmitsburg, MD	08/1997 08/1996	05/1998 05/1997
Other Federal employment	Federal Bureau of Investigation	FBI Honors Intern	Washington, DC	06/1997	08/1997
Non-Government employment	PDP Group, Inc.	Accounting Intern	Hunt Valley, MD	05/1996	08/1996

Non-Government employment	YMCA of Greater Maryland	Member Services Representative	Towson, MD	05/1995	08/1995
Local Government employment	Baltimore County Public Library	Circulation Assistant	Towson, MD	08/1992	05/1995

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

Name of Government Entity	**Name of Position**	**Date Service Began** (month/year) (check box if estimate)	**Date Service Ended** (month/year) (check box if estimate) (check "present" box if still serving)
Asian Development Bank	Acting U.S. Executive Director	05/2018	06/2018
World Bank Group	Acting U.S. Executive Director	11/2017	04/2018
Inter American Development Bank	Acting U.S. Governor	03/2018	03/2018
Asian Development Bank	Acting U.S. Governor	03/2018	03/2018

4. Honors and Awards

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

Professional Honors & Awards

Band 3 Ranking, Financial Services Regulation (Nationwide), *Chambers USA* (2016)
"Washington, DC Super Lawyer," *Super Lawyers* (2016)
"Recommended Lawyer" for Financial Institutions Regulatory, *The Legal 500 USA* (2013, 2014, 2015, 2016)
"Leading Lawyer," *IFLR 1000: The Guide to the World's Leading Law Firms* (2012, 2013, 2014, 2015, 2016)
"Washington, DC Rising Star," *Super Lawyers* (2013, 2014, 2015)
"Up and Comer" for Financial Services Regulation (Nationwide), *Chambers USA* (2015)
"Leading Advisor," *Acquisition International* (2014)
"Rising Star" in Banking, *Law 360* (2013)
"Rising Star of Corporate Governance," Columbia University, Millstein Center for Global Markets and Corporate Ownership (2013)
Dean's Circle of Excellence Award, Mount St. Mary's University (2013)
Pro Bono Service Award, Weil, Gotshal & Manges LLP (2011, 2012, 2013)
Recognized in "Guide to World-Class Lawyers," *Lawdragon* (2012)
Burton Award for Legal Writing, The Burton Foundation (2011)
Distinguished Young Alumni Award, Mount St. Mary's University (2010)
M. Stanton Evans Alumni Award, Intercollegiate Studies Institute (2007)

Graduate Honors, Awards, & Scholarships

The Thouron Award for Postgraduate Study in the United Kingdom (2001-2002)
Oscar Bregman Graduation Prize for Excellence in Business Law, University of Pennsylvania (2001)
Order of the Coif, University of Pennsylvania (2001)
Humane Studies Fellowship, Institute for Humane Studies (2000-2001)
Mendes Hershman Student Writing Award, American Bar Association (2000)
University of Pennsylvania Law School Scholarship (1998-2000)
Italian American Civic Club of Maryland Scholarship (c. 1998-2000)
J.C. Stewart Memorial Trust Scholarship (c. 1998-2000)

Undergraduate Honors, Awards, & Scholarships

Bishop Edward P. Allen Memorial Prize (highest scholastic average after four years), Mount St. Mary's University (1998)
Edward T. Hogan Memorial Prize for Pre-Law Studies, Mount St. Mary's University (1998)
Monsignor Bernard J. Bradley Memorial Prizes for Accounting and Business Administration, Mount St. Mary's University (1998)
Project 21 Poster & Essay Competition Scholarship (1998)
Mount St. Mary's Honors Scholarship (1994-1998)
National Dean's List (1994-1998)
Dean's List, Mount St. Mary's University (1994-1998)
Monsignor Tierney Memorial Prize (highest scholastic average after junior year), Mount St. Mary's University (1997)
Delta Mu Delta (National Honor Society for Business Administration) (1996-1998)
Delta Epsilon Sigma (National Catholic Honor Society) (1996-1998)
Phi Sigma Tau (International Honor Society for Philosophy) (1996-1998)
Honors Internship, Federal Bureau of Investigation, Washington, D.C. (Summer 1997)
1st Place, *The Myth of the Robber Barons* National Essay Contest, Young America's Foundation (1997)
Student Leadership Award, *Wall Street Journal* (1997)
Golden Knight Award, Knights of Columbus (1997)
Award of Excellence, The Maryland Association of CPAs (1997)

Healthcare Financial Management Association Scholarship (1997)
Mildred R. Marion Scholarship, Delta Mu Delta (1997)
Mid-Atlantic Association of College Housing Officers Award (1997)
Delta Epsilon Sigma Scholarship (c. 1997)
Maryland Association of CPAs Scholarship (c. 1996-1997)
National Honors Fellow, Intercollegiate Studies Institute (1996-1997)
William G. McGowan Scholarship (c. 1996-1997)
Edmund Ryan Memorial Prize (highest scholastic average after sophomore year), Mount St. Mary's University (1996)
Ducere Award, Office of Student Development, Mount St. Mary's University (1996)
Helen D. Snow Scholarship, Delta Mu Delta (1996)
Mount St. Mary's Catholic High School Scholarship (c. 1994-1996)
State of Maryland General Scholastic Grant (c. 1994-1996)
Chairman of the Year Award, Maryland Federation of College Republicans (1995)
Monsignor Hugh J. Phillips Prize (highest scholastic average after freshman year), Mount St. Mary's University (1995)

5. Memberships

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

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

Name of Organization	Dates of Your Membership (You may approximate.)	Position(s) Held
American Law Institute	2017-Present	Elected Member
American Bar Foundation	2016-Present	Life Fellow
Association of Certified Anti-Money Laundering Specialists	2015-Present	
Bloomberg BNA Banking Report	2015-2017	Board of Advisors
Review of Securities & Commodities Regulation	2015-2017	Board of Advisors
The Metropolitan Club of Washington, D.C.	2015-Present	
New York Society of Security Analysts	2014-2017	
American Institute of Certified Public Accountants	2013-2017	
The Atlantic Council	2013-2017	
Harvard Law School, Program on International Financial Systems	2013-2017	Senior Fellow

American Enterprise Institute, Young Enterprise Club	2012-2017	
The Bretton Woods Committee	2012-2017	
Exchequer Club of Washington, D.C.	2012-2017	
Review of Banking and Financial Services	2012-2017	Board of Advisors
Federal Bar Association, Banking Law Committee	2012-2015	Executive Council
American Bar Association, Banking Law Committee	2011-2017	Chairman (2014-2017) and Vice Chairman (2011-2014) of the Subcommittee on Systemically Important Financial Institutions
Banking Law Journal	2011-2017	Board of Editors
Salzburg Global Fellowship	2011-Present	Faculty Member & Fellow
Council on Foreign Relations	2011-2016	Term Member
Mount St. Mary's University, Pre-Law Advisory Board	2010-Present	
Sovereign Military Order of Malta	2010-Present	Knight of Magisterial Grace
The Heritage Foundation	2005-2017	
CFA Institute	2003-Present	
The Oxford Union	2001-Present	Life Member
Federalist Society for Law and Public Policy Studies	I998-Present	

Knights of Columbus	1995-Present	4th Degree Knight
National Eagle Scout Association	1991-Present	Life Member

6. Political Activity

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

Name of Office	Elected/Appointed/ Candidate Only	Year(s) Election Held or Appointment Made	Term of Service (if applicable)
*Two of my employment activities disclosed above were appointments by the President: Associate Counsel to the President (2008-09); and Assistant Secretary of the Treasury (2017-present).			

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

Name of Party/Election Committee	Office/Services Rendered	Responsibilities	Dates of Service
Donald J. Trump Presidential Transition Team	Volunteer	Member, Landing Team for the Federal Deposit Insurance Corporation, Landing Team for the Office of the Comptroller of the Currency	2016-2017
Jeb 2016, Inc.	Volunteer	Member, Financial Services Policy Team	2015-2016
Mitch McConnell for Senate	Volunteer	Field Attorney, Bullitt County, KY	2014

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

Name of Recipient	Amount	Year of Contribution
John D. Adams (R) (John Adams for Virginia)	$500	2017
Donald J. Trump (R) (Trump for America, Inc.)	$2500	2016
John D. Adams (R) (John Adams for Virginia)	$1000	2016
John E. Bush (R) (JEB 2016, Inc.)	$2700	2015
Elise M. Stefanik (R) (Elise for Congress)	$500	2014
Edward W. Gillespie (R) (Ed Gillespie for Senate)	$1000	2014
Thomas B. Cotton (R) (Cotton for Senate)	$1000	2014

7. Publications

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

Title	Publisher	Date(s) of Publication
"U.S.-New Zealand Shared Economic Priorities for the Pacific Rim"	Department of State, U.S. Embassy and Consulate, New Zealand (https://nz.usembassy.gov)	10/2018
"Perspectives on Reform of the CFIUS Review Process" (congressional testimony)	U.S. House of Representatives Committee on Energy and Commerce, Subcommittee on Digital Commerce and Consumer Protection	04/2018
"Evaluating CFIUS: Administration Perspectives" (congressional testimony)	U.S. House of Representatives Committee on Financial Services, Subcommittee on Monetary Policy and Trade	03/2018
"China, the United States, and Next Generation Connectivity" (written testimony only)	U.S.-China Economic and Security Review Commission	03/2018
"CFIUS Reform: Administration Perspectives on the Essential Elements" (congressional testimony)	U.S. Senate Committee on Banking, Housing, and Urban Affairs	01/2018
"Liquidity Coverage Ratio" (co-author)	*Bloomberg BNA Banking Practice Portfolio Series*	02/2017
"Cybersecurity for Banks: The Legal and Regulatory Framework" (co-author)	*Practical Law Journal*	06/2016
"The Perils and Promise of Correspondent Banking" (co-author)	*The Banking Law Journal*	02/2016

* In addition to the materials cited in this table, I have been listed as a contact person (among others) on various law firm publications from 2010-2017.

"Principled Accommodation: The Bush Administration's Approach to Congressional Oversight and Executive Privilege" (co-author)	*Journal of Law & Politics* (University of Virginia)	02/2016
"Volcker Rule Continues to Challenge the CLO Market" (co-author)	*Law 360*	10/2015
"CLOs and the Volcker Rule" (co-author)	*Review of Banking & Financial Services*	08/2015
"Confronting Systemic Risk: Enhanced Standards for Foreign Banks" (co-author)	*Business Law Today*	05/2015
"Global Banks Face Higher Capital Requirements in FSB 'TLAC' Proposal" (co-author)	*The Banking Law Journal*	04/2015
"Regulators Confront Weakening Lending Standards" (co-author)	*The Banking Law Journal*	10/2014
"Private Equity Funds and the Volcker Rule" (co-author)	*Review of Securities & Commodities Regulation*	07/2014
Foreword to *The Art of Bank M&A* by Alexandra R. Lajoux & Dennis J. Roberts	*The Art of M&A Series* (McGraw-Hill Education)	01/2014
"Recognizing the Institutional Benefits of Dodd-Frank Resolution Planning" (co-author)	*Banking & Financial Services Policy Report*	04/2013
"The Dodd-Frank Act – Two Years Later"	*Consumer Finance Law Quarterly Reporter*	12/2012
"Better Late Than Never? FSB Reports Regulatory Reform Is Advancing, But Slowly" (co-author)	*Consumer Finance Law Quarterly Reporter*	12/2012

"Resolve To Make It Better: Lessons Learned in the Resolution Planning Process" (co-author)	*The Risk Management Association Journal*	10/2012
"FSB Reports Regulatory Reform Is Advancing, But Slowly" (co-author)	The Harvard Law School Forum on Corporate Governance and Financial Regulation	07/2012
"Resolution Planning: Lessons Learned" (co-author)	*Bank Director*	07/2012
"'Living Wills' Present an Opportunity for Banks" (co-author)	*American Banker*	07/2012
"Bank Regulators Tackle Leveraged Lending"	*The Banking Law Journal*	06/2012
"A SIFI in Three Easy Steps? FSOC Approves Final Rule for Nonbank SIFI Designations" (co-author)	*The Banking Law Journal*	05/2012
"Navigating Dodd-Frank's Resolution Plan Requirement" (co-author)	*New York Law Journal*	12/2011
"Test Your Resolution: Living Wills in an Era of Regulatory Uncertainty" (co-author)	*The Banking Law Journal*	11/2011
"Dodd-Frank, One Year Later: A Primer on the Federal Rulemaking Process" (co-author)	*The Metropolitan Corporate Counsel*	08/2011
"Basel III: An Overview" (co-author)	*Banking & Financial Services Policy Report*	05/2011
"The Volcker Rule and the Future of Private Equity" (co-author)	*Review of Banking & Financial Services*	05/2011
"Dodd-Frank's Enforcement and Litigation Provisions" (co-author)	*In-House Litigator* (American Bar Association)	01/2011

"Bank M&A in the Wake of Dodd-Frank" (co-author)	*The Banking Law Journal*	11/2010
"Hedge Funds: Spotlight" (co-author)	*Bloomberg Brief*	11/2010
"Dodd-Frank & Securitization: The Basics You Need to Know" (co-author)	*ABS East Daily*	10/2010
"Bank Deaths Give Rise to "'Living Wills'"	*Wall Street Lawyer*	10/2010
"The Dodd-Frank Act and Credit Derivatives: A Market Transformed" (co-author)	*Bloomberg Law Reports: Commodities & Derivatives*	09/2010
"The Dodd-Frank Act: The UK Perspective" (co-author)	*Practical Law Journal*	09/2010
"The Vagaries of the Volcker Rule"	*International Financial Law Review*	09/2010
"The President Signs Landmark Financial Reform Bill"	*The Metropolitan Corporate Counsel*	08/2010
"The Global Financial Crisis: A Plan for Regulatory Reform" (contributor)	Committee on Capital Markets Regulation	05/2009
"Merger Breakup Fees: A Critical Challenge to Anglo-American Corporate Law"	*Law & Policy in International Business* (Georgetown University)	03/2003
"Rethinking Capital Adequacy: The Basel Accord and the New Framework"	*The Business Lawyer* (American Bar Association)	06/2001
"Are International Capital Adequacy Rules Adequate? The Basel Accord and Beyond"	*University of Pennsylvania Law Review*	08/2000

8. Lobbying

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

Answer: No. Nor have I ever taken on a lobbying representation or engaged in activities that would require me to register as a lobbyist.

March 7, 2019

The Honorable Pat Roberts
Chairman
Committee on Agriculture, Nutrition, and Forestry
United States Senate
Washington, DC 20510

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

Dear Chairman Roberts and Ranking Member Stabenow:

As requested by Committee staff I am providing answers to the following questions to clarify and update responses to my Core Questionnaire submitted on January 17, 2019:

Questionnaire #6(C): Itemize all individual political contributions of $200 or more that you have made in the past five years to any individual, campaign organization, political party, political action committee, or similar entity. Please list each individual contribution and not the total amount contributed to the person or entity during the year.

I gave one additional donation to Ed Gillespie in the amount of $250 in 2015.

Questionnaire #7: List the titles, publishers and dates of books, articles, reports or other published materials that you have written, including articles published on the Internet.

In addition to materials I have written, I am also including three pieces requested that were written by and published in the *Corporate Counsel Business Journal*.

- "BRT & BC: Financial Reform Concerns of Nonfinancial Companies" on August 30, 2010
- "Heath Tarbert on Dodd-Frank Compliance Issues" on October 4, 2011
- "Challenging Federal Agency Rulemakings" on December 19, 2011

Sincerely,



Heath P. Tarbert

UNITED STATES OFFICE OF
GOVERNMENT ETHICS

January 11, 2019

The Honorable Pat Roberts
Chairman
Committee on Agriculture, Nutrition,
and Forestry
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

In accordance with the Ethics in Government Act of 1978, I enclose a copy of the financial disclosure report filed by Heath Price Tarbert, who has been nominated by President Trump for the position of Chairman and Commissioner, Commodity Futures Trading Commission.

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

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

Sincerely,
DAVID APOL
Digitally signed by DAVID APOL
Date: 2019.01.11 10:50:26 -05'00'
David J. Apol
General Counsel

Enclosures

January 10, 2019

Daniel J. Davis
General Counsel and
Designated Agency Ethics Official
Office of the General Counsel
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, N.W.
Washington, D.C. 20581

Dear Mr. Davis:

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

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

I will divest my interests in the Vaneck Vectors Gold Miners ETF (GDX), SPDR Gold Trust Gold Shares (GLD), and iShares Gold Trust (IAU), within 90 days of my confirmation. Until I have completed these divestitures, I will not participate personally and substantially in any particular matter that to my knowledge has a direct and predictable effect on these assets and their underlying holdings, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2).

I understand that I may be eligible to request a Certificate of Divestiture for qualifying assets and that a Certificate of Divestiture is effective only if obtained prior to divestiture. Regardless of whether I receive a Certificate of Divestiture, I will ensure that all divestitures discussed in this agreement occur within the agreed upon timeframes and that all proceeds are invested in non-conflicting assets.

A.P.T.

As required by 7 U.S.C. § 2(a)(8), I understand that, when I am appointed a Commissioner of the CFTC, I will be prohibited during my term from engaging in employment with any entity subject to regulation by the CFTC, and I will also be prohibited from participating, directly or indirectly, in any registered entity operations or transactions of a character subject to regulation by the CFTC. Further, I understand that, if I am confirmed as Commissioner of the CFTC, I must comply with the requirements of 7 U.S.C. § 13(c) and (d), 5 C.F.R. § 5101.102, 17 C.F.R. § 140.735-2, and 17 C.F.R. § 140.735-2a.

If I have a managed account or otherwise use the services of an investment professional during my appointment, I will ensure that the account manager or investment professional obtains my prior approval on a case-by-case basis for the purchase of any assets other than cash, cash equivalents, investment funds that qualify for the exemption at 5 C.F.R. § 2640.201(a), obligations of the United States, or municipal bonds.

I will meet in person with you during the first week of my service in the position of Commissioner in order to complete the initial ethics briefing required under 5 C.F.R. § 2638.305. Within 90 days of my confirmation, I will document my compliance with this ethics agreement by notifying you in writing when I have completed the steps described in this ethics agreement.

I understand that as an appointee I must continue to abide by the Ethics Pledge (Exec. Order No. 13770) that I previously signed and that I will be bound by the requirements and restrictions therein in addition to the commitments I have made in this ethics agreement.

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

Sincerely,

Heath Price Tarbert

Executive Branch Personnel
Public Financial Disclosure Report (OGE Form 278e)

Filer's Information

Tarbert, Heath Price

Chairman/Commissioner, Commodity Futures Trading Commission

Other Federal Government Positions Held During the Preceding 12 Months:

Acting U.S. Executive Director, Asian Development Bank (5/2018 - 6/2018)

Acting U.S. Executive Director, World Bank Group (11/2017 - 4/2018)

Acting U.S. Governor, Inter-American Development Bank (3/2018 - 3/2018)

Acting U.S. Governor, Asian Development Bank (3/2018 - 3/2018)

Assistant Secretary for International Markets, U.S. Department of the Treasury (10/2017 - Present)

Names of Congressional Committees Considering Nomination:

- **Committee on Agriculture, Nutrition, and Forestry**

Electronic Signature - I certify that the statements I have made in this form are true, complete and correct to the best of my knowledge.

/s/ Tarbert, Heath Price [electronically signed on 10/05/2018 by Tarbert, Heath Price in Integrity.gov]

Agency Ethics Official's Opinion - On the basis of information contained in this report, I conclude that the filer is in compliance with applicable laws and regulations (subject to any comments below).

/s/ Davis, Daniel J, Certifying Official [electronically signed on 01/10/2019 by Davis, Daniel J in Integrity.gov]

Other review conducted by

U.S. Office of Government Ethics Certification
/s/ Apol, David, Certifying Official [electronically signed on 01/11/2019 by Apol, David in Integrity.gov]

1. Filer's Positions Held Outside United States Government

#	ORGANIZATION NAME	CITY, STATE	ORGANIZATION TYPE	POSITION HELD	FROM	TO
1	Allen & Overy LLP	Washington, District of Columbia	Law Firm	Partner	1/2014	10/2017
2	Harvard Law School	Cambridge, Massachusetts	University/College	Senior Fellow	2/2014	10/2017
3	Review of Banking & Financial Services	New York, New York	Journal	Board of Advisors	1/2015	10/2017
4	Review of Securities & Commodities Regulation	New York, New York	Journal	Board of Advisors	1/2011	10/2017
5	Bloomberg BNA Banking Report	Arlington, Virginia	Journal	Board of Advisors	1/2015	10/2017
6	The Banking Law Journal	Miller Place, New York	Journal	Board of Editors	1/2011	10/2017

2. Filer's Employment Assets & Income and Retirement Accounts

#	DESCRIPTION		EIF	VALUE	INCOME TYPE	INCOME AMOUNT
1	Allen & Overy LLP (law firm) compensation	See Endnote	N/A		partnership share	$1,363,449
2	Allen & Overy LLP 401(k) Plan					
2.1	Fidelity 500 Index Pr (FUSVX)		Yes	None (or less than $1,001)		$1,001 - $2,500
2.2	Fidelity US Bond Index Pr (FSITX)		Yes	None (or less than $1,001)		$201 - $1,000

#	DESCRIPTION		EIF	VALUE	INCOME TYPE	INCOME AMOUNT
2.3	MFS Intl Value R6 (MINJX)		Yes	None (or less than $1,001)		$1,001 - $2,500
2.4	AF Trgt Date 2040 R4		Yes	None (or less than $1,001)		$1,001 - $2,500
3	Weil, Gotshal & Manges, LLP Partners' Target Pension Plan (underlying assets not ascertainable)		No	$50,001 - $100,000		None (or less than $201)
4	Weil, Gotshal & Manges LLP, capital account receivable	See Endnote	N/A	None (or less than $1,001)	Interest	$201 - $1,000
5	New York Life Insurance Company, variable life, underlying assets below reporting threshold		No	$1,001 - $15,000		None (or less than $201)

3. Filer's Employment Agreements and Arrangements

#	EMPLOYER OR PARTY	CITY, STATE	STATUS AND TERMS	DATE
1	Weil, Gotshal & Manges, LLP	Washington, District of Columbia	I will continue to participate in the Weil, Gotshal & Manges, LLP Partners' Target Pension Plan.	1/2012
2	Weil, Gotshal & Manges, LLP	Washington, District of Columbia	Pursuant to an agreement with my former employer, Weil, Gotshal & Manges, LLP, I will continue to participate in an insurance policy offered to Weil employees. I have agreed not to access the cash value of the policy until I am 65. Weil controls the choice of the underlying investments in this insurance policy, but makes no contributions to the premium payments for the policy.	1/2012

4. Filer's Sources of Compensation Exceeding $5,000 in a Year

#	SOURCE NAME	CITY, STATE	BRIEF DESCRIPTION OF DUTIES
1	Allen & Overy LLP	Washington, District of Columbia	providing legal services
2	Skandinaviska Enskilda Banken AB	Stockholm, Outside U.S.	providing legal services
3	Danske Bank A/S	Copenhagen, Outside U.S.	providing legal services
4	CLSA Capital Partners Ltd.	Hong Kong, Outside U.S.	providing legal services
5	CFA Institute	Charlottesville, Virginia	providing legal services
6	J.P. Morgan Chase & Co.	New York, New York	providing legal services
7	The Bank of New York Mellon Corp.	New York, New York	providing legal services
8	The Bank of Tokyo-Mitsubishi UFJ Ltd.	Tokyo, Outside U.S.	providing legal services
9	The Goldman Sachs Group Inc.	New York, New York	providing legal services
10	Bank of America Corporation	Charlotte, North Carolina	providing legal services
11	Citigroup Inc.	New York, New York	providing legal services
12	Nomura Holdings Inc.	Toyko, Outside U.S.	providing legal services
13	Morgan Stanley & Co.	New York, New York	providing legal services
14	Central Bank of Jordan	Amman, Outside U.S.	providing legal services

#	SOURCE NAME	CITY, STATE	BRIEF DESCRIPTION OF DUTIES
15	Novo Banco S.A.	Lisbon, Outside U.S.	providing legal services
16	Federal National Mortgage Association (Fannie Mae)	Washington, District of Columbia	providing legal services
17	First Republic Bank	San Francisco, California	providing legal services
18	Bureau of National Affairs, Inc. (Bloomberg BNA)	Arlington, Virginia	authoring legal treatises/commentaries
19	Annaly Capital Management, Inc.	New York, New York	providing legal services
20	Worldpay Group plc	London, Outside U.S.	providing legal services
21	Bilateral Risk Management Services LLC	New York, New York	providing legal services
22	General Motors Company	Detroit, Michigan	providing legal services
23	Hua Nan Commercial Bank, Ltd.	Taipei, Outside U.S.	providing legal services
24	Bank Handlowy w Warszawie S.A.	Warsaw, Outside U.S.	providing legal services
25	Criteria CaixaHolding, S.A.U.	Palma de Mallorca, Outside U.S.	providing legal services

5. Spouse's Employment Assets & Income and Retirement Accounts

#	DESCRIPTION	EIF	VALUE	INCOME TYPE	INCOME AMOUNT
1	O'Melveny & Myers 401(k) Roth (no current holdings) See Endnote				
1.1	Fidelity Freedom 2050 Fund (FFFHX)	Yes	None (or less than $1,001)		$201 - $1,000

6. Other Assets and Income

#	DESCRIPTION	EIF	VALUE	INCOME TYPE	INCOME AMOUNT
1	U.S. bank account #1 (cash)	N/A	$15,001 - $50,000		None (or less than $201)
2	U.S. bank account #2 (cash)	N/A	$100,001 - $250,000	Interest	$1,001 - $2,500
3	U.S. bank account #3 (cash)	N/A	$1,001 - $15,000		None (or less than $201)
4	529 Account #1 (DC College Savings Plan: Age 0-5 Fund)	Yes	$15,001 - $50,000		None (or less than $201)
5	529 Account #2 (DC College Savings Plan: Age 0-5 Fund)	Yes	$15,001 - $50,000		None (or less than $201)
6	529 Account #3 (DC College Savings Plan: Age 0-5 Fund)	Yes	$15,001 - $50,000		None (or less than $201)
7	529 Account #4 (DC College Savings Plan: Age 0-5 Fund)	Yes	$15,001 - $50,000		None (or less than $201)
8	U.S. Brokerage Account				
8.1	U.S. bank account #4	N/A	$50,001 - $100,000	Interest	$201 - $1,000
8.2	Dodge & Cox Stock Fund (DODGX)	Yes	$250,001 - $500,000		$15,001 - $50,000

#	DESCRIPTION	EIF	VALUE	INCOME TYPE	INCOME AMOUNT
8.3	Aberdeen Asia Pacific Income Fund, Inc. (FAX)	Yes	$15,001 - $50,000		$5,001 - $15,000
8.4	Federated Short Intermediate Duration Mun Instl Cl (FSHIX)	Yes	$100,001 - $250,000		$2,501 - $5,000
8.5	Vaneck Vectors Gold Miners ETF (GDX)	Yes	$1,001 - $15,000		None (or less than $201)
8.6	SPDR Gold Trust Gold Shares (GLD)	Yes	$15,001 - $50,000		None (or less than $201)
8.7	Columbia Dividend Income CL Z (GSFTX)	Yes	$100,001 - $250,000		$5,001 - $15,000
8.8	iShares Core High Dividend ETF (HDV)	Yes	$100,001 - $250,000		$5,001 - $15,000
8.9	WisdomTree Trust Europe Hedged Equity ETF (HEDJ)	Yes	$100,001 - $250,000		$2,501 - $5,000
8.10	Oakmark Intl Investor Cl (OAKIX)	Yes	$250,001 - $500,000		$5,001 - $15,000
8.11	Templeton Global Bond Advisor Cl (TGBAX)	Yes	$50,001 - $100,000		$2,501 - $5,000
8.12	TCW Total Return Cl I (TGLMX)	Yes	None (or less than $1,001)		$2,501 - $5,000
8.13	Vanguard Dividend Appreciation ETF (VIG)	Yes	$250,001 - $500,000		$5,001 - $15,000
8.14	Vanguard Growth ETF (VUG)	Yes	$250,001 - $500,000		$5,001 - $15,000
8.15	Vanguard FTSE Emerging Markets ETF (VWO)	Yes	$100,001 - $250,000		$5,001 - $15,000
8.16	Nationwide Loomis Short Term Bond Instl Service Cl (NWJVX)	Yes	None (or less than $1,001)		$201 - $1,000

#	DESCRIPTION	EIF	VALUE	INCOME TYPE	INCOME AMOUNT
8.17	DoubleLine Total Return Bond Cl I (DBLTX)	Yes	$100,001 - $250,000		$2,501 - $5,000
9	Roth IRA #1				
9.1	U.S. bank account #5	N/A	$50,001 - $100,000	Interest	$201 - $1,000
9.2	Aberdeen Asia Pacific Income Fund(FAX)	Yes	$1,001 - $15,000		$1,001 - $2,500
9.3	Columbia Dividend Income CL Z (GSFTX)	Yes	$1,001 - $15,000		$201 - $1,000
9.4	iShares Gold Trust (IAU)	Yes	$1,001 - $15,000		None (or less than $201)
9.5	iShares MSCI Emerging Markets ETF (EEM)	Yes	$15,001 - $50,000		$201 - $1,000
9.6	iShares S&P 100 ETF (OEF)	Yes	$15,001 - $50,000		$1,001 - $2,500
9.7	Nationwide Loomis Short Term Bond Instl Service Cl (NWJVX)	Yes	$1,001 - $15,000		None (or less than $201)
9.8	Oakmark Intl Investor Cl (OAKIX)	Yes	$50,001 - $100,000		$201 - $1,000
9.9	Oakmark Investor Cl (OAKMX)	Yes	$50,001 - $100,000		$201 - $1,000
9.10	TCW Total Return Cl I (TGLMX)	Yes	$1,001 - $15,000		$201 - $1,000
9.11	Templeton Global Bond Advisor Cl (TGBAX)	Yes	$1,001 - $15,000		$201 - $1,000
9.12	Vanguard Dividend Appreciation ETF (VIG)	Yes	$15,001 - $50,000		$201 - $1,000
9.13	Vanguard Growth ETF (VUG)	Yes	$50,001 - $100,000		$201 - $1,000
9.14	WisdomTree Trust Europe Hedged Equity ETF (HEDJ)	Yes	$15,001 - $50,000		$201 - $1,000

#	DESCRIPTION	EIF	VALUE	INCOME TYPE	INCOME AMOUNT
10	Roth IRA #2				
10.1	U.S. bank account #5	N/A	$1,001 - $15,000	Interest	None (or less than $201)
10.2	iShares MSCI Emerging Markets ETF (EEM)	Yes	$1,001 - $15,000		$201 - $1,000
10.3	iShares S&P 100 ETF (OEF)	Yes	$15,001 - $50,000		$1,001 - $2,500
10.4	iShares Currency Hedged MSCI Eurozone ETF (HEZU)	Yes	$1,001 - $15,000		$201 - $1,000
10.5	Loomis Sayles Bond Instl Cl (LSBDX)	Yes	$1,001 - $15,000		None (or less than $201)
10.6	Oakmark Intl Investor Cl (OAKIX)	Yes	$15,001 - $50,000		$201 - $1,000
10.7	Oakmark Investor Cl (OAKMX)	Yes	$15,001 - $50,000		$1,001 - $2,500
10.8	TCW Total Return Cl I (TGLMX)	Yes	$1,001 - $15,000		$201 - $1,000
10.9	iShares Gold Trust (IAU)	Yes	$1,001 - $15,000		None (or less than $201)
10.10	Aberdeen Asia Pacific Income Fund (FAX)	Yes	$1,001 - $15,000		$201 - $1,000
10.11	Templeton Global Bond Advisor Cl (TGBAX)	Yes	$1,001 - $15,000		None (or less than $201)
10.12	Vanguard Dividend Appreciation ETF (VIG)	Yes	$1,001 - $15,000		None (or less than $201)
10.13	Vanguard Growth ETF (VUG)	Yes	$1,001 - $15,000		None (or less than $201)

7. Transactions

(N/A) - Not required for this type of report

8. Liabilities

#	CREDITOR NAME		TYPE	AMOUNT	YEAR INCURRED	RATE	TERM
1	Citibank Europe plc, UK Branch	See Endnote	Loan to finance Allen & Overy partnership interest	$250,001 - $500,000	2014	1.75	5 years
2	SunTrust Mortgage, Inc	See Endnote	Mortgage on Personal Residence	$250,001 - $500,000	2011	3.99	30 years

9. Gifts and Travel Reimbursements

(N/A) - Not required for this type of report

Endnotes

PART	#	ENDNOTE
2.	1	This amount was reported on my 2017 IRS 1040 tax return as income from Allen & Overy LLP. The amount comprises $1,085,169 guaranteed payments/partnership income as reported on the IRS Schedule K-1 during the calendar year 2017 in addition to $278,280 in additional income in connection with my retirement from the partnership on October 9, 2017.
2.	4	The remainder of my capital account balance ($5,894) was returned to me on October 14, 2017.
5.	1	My spouse rolled these assets into another retirement account in February 2017.

PART	#	ENDNOTE
8.	1	This loan was retired in full shortly after my withdrawal from the partnership of Allen & Overy LLP on October 9, 2017.
8.	2	This mortgage was retired in full during the calendar year, and a certificate of satisfaction was issued on August 11, 2017.

Summary of Contents

1. Filer's Positions Held Outside United States Government

Part 1 discloses positions that the filer held at any time during the reporting period (excluding positions with the United States Government). Positions are reportable even if the filer did not receive compensation.

This section does not include the following: (1) positions with religious, social, fraternal, or political organizations; (2) positions solely of an honorary nature; (3) positions held as part of the filer's official duties with the United States Government; (4) mere membership in an organization; and (5) passive investment interests as a limited partner or non-managing member of a limited liability company.

2. Filer's Employment Assets & Income and Retirement Accounts

Part 2 discloses the following:

- Sources of earned and other non-investment income of the filer totaling more than $200 during the reporting period (e.g., salary, fees, partnership share, honoraria, scholarships, and prizes)
- Assets related to the filer's business, employment, or other income-generating activities that (1) ended the reporting period with a value greater than $1,000 or (2) produced more than $200 in income during the reporting period (e.g., equity in business or partnership, stock options, retirement plans/accounts and their underlying holdings as appropriate, deferred compensation, and intellectual property, such as book deals and patents)

This section does not include assets or income from United States Government employment or assets that were acquired separately from the filer's business, employment, or other income-generating activities (e.g., assets purchased through a brokerage account). Note: The type of income is not required if the amount of income is $0 - $200 or if the asset qualifies as an excepted investment fund (EIF).

3. Filer's Employment Agreements and Arrangements

Part 3 discloses agreements or arrangements that the filer had during the reporting period with an employer or former employer (except the United States Government), such as the following:

- Future employment
- Leave of absence
- Continuing payments from an employer, including severance and payments not yet received for previous work (excluding ordinary salary from a current employer)
- Continuing participation in an employee welfare, retirement, or other benefit plan, such as pensions or a deferred compensation plan
- Retention or disposition of employer-awarded equity, sharing in profits or carried interests (e.g., vested and unvested stock options, restricted stock, future share of a company's profits, etc.)

4. Filer's Sources of Compensation Exceeding $5,000 in a Year

Part 4 discloses sources (except the United States Government) that paid more than $5,000 in a calendar year for the filer's services during any year of the reporting period.

The filer discloses payments both from employers and from any clients to whom the filer personally provided services. The filer discloses a source even if the source made its payment to the filer's employer and not to the filer. The filer does not disclose a client's payment to the filer's employer if the filer did not provide the services for which the client is paying.

5. Spouse's Employment Assets & Income and Retirement Accounts

Part 5 discloses the following:

- Sources of earned income (excluding honoraria) for the filer's spouse totaling more than $1,000 during the reporting period (e.g., salary, consulting fees, and partnership share)
- Sources of honoraria for the filer's spouse greater than $200 during the reporting period
- Assets related to the filer's spouse's employment, business activities, other income-generating activities that (1) ended the reporting period with a value greater than $1,000 or (2) produced more than $200 in income during the reporting period (e.g., equity in business or partnership, stock options, retirement plans/accounts and their underlying holdings as appropriate, deferred compensation, and intellectual property, such as book deals and patents)

This section does not include assets or income from United States Government employment or assets that were acquired separately from the filer's spouse's business, employment, or other income-generating activities (e.g., assets purchased through a brokerage account). Note: The type of income is not required if the amount of income is $0 - $200 or if the asset qualifies as an excepted investment fund (EIF). Amounts of income are not required for a spouse's earned income (excluding honoraria).

6. Other Assets and Income

Part 6 discloses each asset, not already reported, that (1) ended the reporting period with a value greater than $1,000 or (2) produced more than $200 in investment income during the reporting period. For purposes of the value and income thresholds, the filer aggregates the filer's interests with those of the filer's spouse and dependent children.

This section does not include the following types of assets: (1) a personal residence (unless it was rented out during the reporting period); (2) income or retirement benefits associated with United States Government employment (e.g., Thrift Savings Plan); and (3) cash accounts (e.g., checking, savings, money market accounts) at a single financial institution with a value of $5,000 or less (unless more than $200 of income was produced). Additional exceptions apply. Note: The type of income is not required if the amount of income is $0 - $200 or if the asset qualifies as an excepted investment fund (EIF).

7. Transactions

Part 7 discloses purchases, sales, or exchanges of real property or securities in excess of $1,000 made on behalf of the filer, the filer's spouse or dependent child during reporting period.

This section does not include transactions that concern the following: (1) a personal residence, unless rented out; (2) cash accounts (e.g., checking, savings, CDs, money market accounts) and money market mutual funds; (3) Treasury bills, bonds, and notes; and (4) holdings within a federal Thrift Savings Plan account. Additional exceptions apply.

8. Liabilities

Part 8 discloses liabilities over $10,000 that the filer, the filer's spouse or dependent child owed at any time during the reporting period.

This section does not include the following types of liabilities: (1) mortgages on a personal residence, unless rented out (limitations apply for PAS filers); (2) loans secured by a personal motor vehicle, household furniture, or appliances, unless the loan exceeds the item's purchase price; and (3) revolving charge accounts, such as credit card balances, if the outstanding liability did not exceed $10,000 at the end of the reporting period. Additional exceptions apply.

9. Gifts and Travel Reimbursements

This section discloses:

- Gifts totaling more than $390 that the filer, the filer's spouse, and dependent children received from any one source during the reporting period.
- Travel reimbursements totaling more than $390 that the filer, the filer's spouse, and dependent children received from any one source during the reporting period.

For purposes of this section, the filer need not aggregate any gift or travel reimbursement with a value of $156 or less. Regardless of the value, this section does not include the following items: (1) anything received from relatives; (2) anything received from the United States Government or from the District of Columbia, state, or local governments; (3) bequests and other forms of inheritance; (4) gifts and travel reimbursements given to the filer's agency in connection with the filer's official travel; (5) gifts of hospitality (food, lodging, entertainment) at the donor's residence or personal premises; and (6) anything received by the filer's spouse or dependent children totally independent of their relationship to the filer. Additional exceptions apply.

Privacy Act Statement

Title I of the Ethics in Government Act of 1978, as amended (the Act), 5 U.S.C. app. § 101 et seq., as amended by the Stop Trading on Congressional Knowledge Act of 2012 (Pub. L. 112-105) (STOCK Act), and 5 C.F.R. Part 2634 of the U. S. Office of Government Ethics regulations require the reporting of this information. The primary use of the information on this report is for review by Government officials to determine compliance with applicable Federal laws and regulations. This report may also be disclosed upon request to any requesting person in accordance with sections 105 and 402(b)(1) of the Act or as otherwise authorized by law. You may inspect applications for public access of your own form upon request. Additional disclosures of the information on this report may be made: (1) to any requesting person, subject to the limitation contained in section 208(d)(1) of title 18, any determination granting an exemption pursuant to sections 208(b)(1) and 208(b)(3) of title 18; (2) to a Federal, State, or local law enforcement agency if the disclosing agency becomes aware of violations or potential violations of law or regulation; (3) to another Federal agency, court or party in a court or Federal administrative proceeding when the Government is a party or in order to comply with a judge-issued subpoena; (4) to a source when necessary to obtain information relevant to a conflict of interest investigation or determination; (5) to the National Archives and Records Administration or the General Services Administration in records management inspections; (6) to the Office of Management and Budget during legislative coordination on private relief legislation; (7) to the Department of Justice or in certain legal proceedings when the disclosing agency, an employee of the disclosing agency, or the United States is a party to litigation or has an interest in the litigation and the use of such records is deemed relevant and necessary to the litigation; (8) to reviewing officials in a new office, department or agency when an employee transfers or is detailed from one covered position to another; (9) to a Member of Congress or a congressional office in response to an inquiry made on behalf of an individual who is the subject of the record; (10) to contractors and other non-Government employees working on a contract, service or assignment for the Federal Government when necessary to accomplish a function related to an OGE Government-wide system of records; and (11) on the OGE Website and to any person, department or agency, any written ethics agreement filed with OGE by an individual nominated by the President to a position requiring Senate confirmation. See also the OGE/GOVT-1 executive branch-wide Privacy Act system of records.

Public Burden Information

This collection of information is estimated to take an average of three hours per response, including time for reviewing the instructions, gathering the data needed, and completing the form. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Program Counsel, U.S. Office of Government Ethics (OGE), Suite 500, 1201 New York Avenue, NW., Washington, DC 20005-3917.

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March 8, 2019

The Honorable Pat Roberts
Chairman
Senate Committee on Agriculture, Nutrition, and Forestry
328A Russell Senate Office Building
Washington, DC 20510

Dear Chairman Roberts:

Pursuant to the requirements of the Ethics in Government Act of 1978, as amended, and 5 C.F.R. § 2634.606(a), I am hereby updating the information pertaining to outside earned income and honoraria received as reported in my Public Financial Disclosure Report (OGE Form 278e), signed on October 5, 2018.

Accordingly, please be advised that from October 5, 2018, to date, I have not received outside earned income or honoraria of any amount. I have no other covered income to report.

Thank you for your consideration of this correspondence.

Sincerely,

Heath Price Tarbert

cc: The Honorable Debbie Stabenow, Ranking Member

QUESTIONS AND ANSWERS

MARCH 13, 2019

Senate Committee on Agriculture, Nutrition, & Forestry

Nomination Hearing of Heath Tarbert
March 13, 2019
Questions for the Record
Secretary Heath Tarbert

Chairman Pat Roberts

1) A basic goal of Dodd-Frank financial reform was improving transparency into the swaps market. A full picture of the swaps market will require transparency into the derivatives swaps market, regulated by the CFTC, and the securities based swaps market, regulated by the SEC. This Administration has a goal of harmonizing the rules of the two agencies, many of which are similar but often do not quite match up. Such a dynamic creates added complexity and difficulty for the markets that our farmers and ranchers depend upon to hedge their risks. This is particularly important for market participants that are dual-registrants at both agencies. Can you commit to this Committee that, as CFTC Chairman, you will continue this important harmonization work between the CFTC and the SEC? And, will you commit to keeping us posted on your progress?

   A: Yes. I pledge both to continue this important work and to update the Committee on CFTC-SEC harmonization efforts.

2) While "blockchain" is often discussed in its context as the technology underlying Bitcoin, the potential benefits are substantial for multiple industries—agriculture, to financial services, to healthcare, and so on. As this technology and its transformative potential continues to emerge, what role, if any, should regulators play, particularly, in the realm of virtual currency?

   A: It is incumbent upon regulators—including the CFTC—to recognize the transformative potential of financial technologies, such as blockchain and crypto assets. The agency must be vigilant in understanding potential benefits, as well as any prospective risks of new technologies. If confirmed, I would maintain LabCFTC—a platform established to inform the CFTC's understanding of new technologies—and its work program. I would also continue to educate myself on current and emerging developments in financial technologies.

3) Now and again, there are abstract discussions about the practicality of combining the SEC and CFTC – providing one agency with regulatory jurisdiction over both securities and derivative markets. What is your view of this proposal?

   A: I disagree with it. The SEC and CFTC regulate different markets with different participants. The SEC's mandate centers on capital formation, while the CFTC's mission focuses on risk mitigation markets, with a specific focus on America's agricultural end-users. I agree with the Treasury Department that scrambling these two very distinct missions into one combined agency "is unlikely to materially

enhance the efficiency in which [the agencies'] core activities are carried out." *A Financial System That Creates Economic Opportunities (Capital Markets)*, U.S. Dep't of the Treasury, at 177 (Oct. 2017). Furthermore, I have concerns that traditional participants of the derivatives markets, such as farmers, ranchers, producers, and end-users, would not receive the same attention under a single agency.

4) Market participants and exchanges have relied upon a definition of bona fide hedging that allows commercial end-users to engage in anticipatory merchandizing hedging. Is this something that you would support?

A: Yes.

5) Many commercial end-users use inter-affiliate swaps to provide efficiency in the market by having only one face to the market. What are your thoughts on exempting commercial end-users from an inter-affiliate swaps margin requirement?

A: The Commodity Exchange Act covers margin requirements for non-bank swap dealers. Prudential regulators set the margin rules for depository institution swap dealers. The prudential regulators require the collection of initial margin from entities that are swap dealers or financial end-users. In other words, they do not treat affiliated parties that are swap dealers or financial end-users differently than other covered counterparties.

The CFTC, by contrast, has limited initial margin requirements for inter-affiliate transactions, preserving the right to impose such requirements only to prevent rule evasion via foreign affiliates and when certain conditions related to centralized group risk management are not satisfied. The preamble to the CFTC rule explains that the final rule revisions were based on cost and international competitiveness considerations, as highlighted by commenters, as well as to avoid interfering with existing centralized group risk management programs. See *Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants*, 81 Fed. Reg. 636 (Jan. 6, 2016).

As I said at my confirmation hearing, I understand the important role derivatives play for our nation's farmers and ranchers to hedge their production and delivery costs. If confirmed, I would look forward to working with Congress to ensure that the Commodity Exchange Act and regulations promulgated thereunder work to allow our agricultural sector participants to hedge their risks and receive fair prices in a cost-effective manner.

6) There are swap market participants that argue that the breadth of the CFTC's proposed rule on swap execution facilities (SEFs) and the trade execution requirement would reduce existing benefits of the current swaps trading framework by altering price discovery and competitive execution on SEFs. They have suggested that these proposed changes would impose significant costs on market participants. Can you provide your views? And, if confirmed as Chairman, would you be open to considering more targeted reforms to improve

the CFTC's swaps trading framework, rather than what some are suggesting would be a costly, comprehensive overhaul?

A: If confirmed as CFTC Chairman, I am committed to studying the SEF proposal in detail to determine whether and to what extent further reforms are necessary. Moreover, I would work to ensure that the Commission has fully assessed the costs and benefits of any prospective regulatory changes in a manner consistent with Section 15(a) of the Commodity Exchange Act. This would likely entail consideration of whether more targeted reforms to improve the CFTC's swaps trading framework would be possible.

Senator Debbie Stabenow

1) I look forward to having a close working relationship with you, if you are confirmed. If confirmed, do you agree without reservation to:

   a) Reply promptly – with any requested information – to any request from me?

      A: Yes.

   b) Reply promptly – with any requested information – to any request from other members of this Committee and other Senators?

      A: Yes.

   c) Respond to my requests for data and technical assistance in informing or drafting legislation, or implementation of the law?

      A: Yes.

   d) Notify me or my staff in advance of making public any major changes CFTC decides to make or major decisions CFTC makes during your tenure?

      A: Yes.

   e) Provide to this Committee any reports provided by CFTC to the Senate Appropriations Committee or the Financial Services and General Government Subcommittee?

      A: Yes.

2) Do you believe that it is important that the CFTC operates in a bipartisan manner? Please explain. If confirmed, how will you work with your fellow Commissioners to reach bipartisan consensus on issues?

   A: Yes. I believe that legislation, rules, and regulations benefit from different viewpoints and a bipartisan consensus where possible. I recently worked across party lines in the U.S. Senate and House of Representatives to ensure the Foreign Investment Risk Review Modernization Act of 2018 passed on an overwhelmingly bipartisan basis and incorporated the views of a diverse group of stakeholders. If confirmed as CFTC Chairman, I pledge to listen and fully understand the viewpoints of all my fellow Commissioners and will make every effort to reach consensus on the issues before us.

3) The CFTC currently has five advisory committees that exist to give input and make recommendations to the Commission on issues within the CFTC's jurisdiction. The advisory committees play an important role in providing stakeholders with a channel for

communication to the CFTC. As a Commissioner (and Chairman), if confirmed, you would presumably sponsor one of the advisory committees.

a) What would be your priorities in leading an advisory committee?

A: If confirmed as CFTC Chairman, I would be honored to sponsor the Agricultural Advisory Committee (AAC) at the outset of my tenure and have the opportunity to enhance my knowledge of the agricultural sector. I would work with the members of the AAC to identify emerging issues and host regular AAC meetings to discuss those issues.

b) Will you commit to ensuring that membership on any advisory committee that you sponsor will include a diverse representation of stakeholders, including end-users and consumer groups?

A: Yes.

c) How will you work to build consensus among the members of your advisory committee?

A: I will actively engage with all members of the AAC in a public forum in order to build consensus on every issue where possible. When there is not consensus, I will make it a priority for all viewpoints to be heard, considered, and well documented.

d) How will you ensure that any recommendations of the advisory committee are reflective of all members?

A: I will ensure that recommendations are crafted in an open and transparent manner, leaving no viewpoint unrecognized.

e) How will you ensure transparency in your advisory committee?

A: I will hold public meetings to ensure transparency.

f) Will you commit to providing my staff with regular updates on the activities of your advisory committee?

A: Yes.

4) The Dodd-Frank Act gave the CFTC tremendous new regulatory responsibilities over the derivatives markets, but the CFTC's funding has not kept pace. The CFTC has the authority to submit to Congress a budget request independently of the President's Budget Request. In 2017, after analyzing the funding needs of the agency, Chairman Giancarlo exercised that independent authority and requested a larger budget for the CFTC than had been included in the President's Budget.

If confirmed, will you commit to thoroughly analyzing the funding needs of the CFTC each

year and, if the CFTC's funding needs ever differ from the President's Budget, submit an independent budget request to Congress?

A: Yes.

5) You stated in an interview published in the Corporate Counsel Business Journal on October 4, 2011, that you were "disappointed" in Dodd-Frank and "continue to be concerned about many of the proposed implementing rules," and that "it could be a decade before we really know whether the legislation will do more good than harm."

A: I believed then and still believe now that the Dodd-Frank Act would have been a better piece of legislation had it been crafted and supported on a broad, bipartisan basis similar to the 2018 Farm Bill and the CFIUS modernization legislation that I worked across the aisle to pass last year. While I was disappointed at the lack of a broad, bipartisan outcome, I made clear in the same interview that "I think a number of the Act's reforms - particularly those aimed at reducing systemic risk in the financial system - are good for the country on balance." Title VII was chief among those reforms.

a) Were you disappointed with anything contained in Title 7 of Dodd-Frank? Do you believe any provisions of Title 7 should be rolled back?

A: No to both questions. Well before the Dodd-Frank Act was enacted, I advocated for the centralized clearing of derivatives, for initial and variation margin requirements for swaps that could not be cleared, and for greater transparency within the derivatives markets more generally.

b) It has been almost 9 years since the passage of Dodd-Frank. Do you believe Dodd-Frank has done more good than harm? Please explain.

A: Yes. The Dodd-Frank Act has few self-executing provisions. Nine years ago, no one could in fact say whether the statute would do more harm than good, because there were 390 mandatory rulemakings that were required to implement the law. Overall, I believe the regulators have performed well, but there is more work to be done.

I also believe there have been legitimate concerns over the years about the unintended consequences of this legislation. Most important, the community banks and savings associations on Main Street did not cause the financial crisis. Yet a number of regulations under the Dodd-Frank Act imposed similar burdens on these institutions as on the Wall Street banks that took billions of taxpayer funds. We must end the "too-big-to-fail" problem on Wall Street without causing a "too-small-to-succeed" problem for Main Street. Congress recently passed legislation to amend the Dodd-Frank Act to address this legitimate concern.

6) You stated in an interview published in the Corporate Counsel Business Journal on October 4, 2011, that a "major area of concern" in the Dodd-Frank Act was the whistleblower incentives and implementing guidelines. You also stated that you were "disappointed" that the SEC did not require whistleblowers to report "internally" to get a whistleblower award.

   a) Why did you believe whistleblowers should be required to report internally in order to get a whistleblower award and do you still hold that belief? Are you supportive of whistleblowers, and will you commit to protecting whistleblowers who identify problems with CFTC-related issues, if confirmed?

      A: I am certainly supportive of whistleblowers, and commit to protecting whistleblowers who identify problems with CFTC-related issues. Consistent with this view, I support the CFTC's recent amendments to the whistleblower rules prohibiting employers from retaliating against whistleblowers and from taking steps to impede would-be whistleblowers from communicating with the CFTC about possible misconduct. *See* 17 C.F.R. §§ 165.19-20 (2017).

      In addition, I believe the issue I raised in the 2011 interview is an important one for policymakers to consider. Throughout the various Titles of the Dodd-Frank Act, one sees an emphasis on the importance of robust, independent compliance departments within financial firms. For example, Sections 725, 728, and 731 require each derivatives clearing organization, swap data repository, swap dealer, and major swap participant to designate an individual to serve as its chief compliance officer and imposes on her or him a number of attendant obligations. It is critical that whistleblower programs are designed in a way that do not inadvertently weaken internal compliance functions, which Congress intended to be the first line of defense.

      I therefore think it is important to provide incentives to whistleblowers to report both internally (whenever appropriate) as well as to the CFTC. I note that the CFTC's regulations incorporate this incentive by using as a factor in determining a reward "[t]he timeliness of the whistleblower's initial report to the Commission or *to an internal compliance or reporting system of business organizations* committing, or impacted by, the violations . . . ." 17 C.F.R. § 165.9(b)(2)(ii) (emphasis added). Moreover, the private sector must also provide ample incentives for their employees to report potential violations and other questionable behavior to internal compliance professionals.

   b) What role do you think whistleblowers should play in helping to ensure that activities in the CFTC's jurisdiction comply with the law? Do you believe that whistleblowers should report internally before coming to the CFTC with allegations of wrongdoing?

      A: Whistleblowers have played, and will continue to play, an important part in the CFTC's enforcement program. As stated above, I think it is important to ensure that the CFTC's whistleblower program and the agency's regulations relating to robust and independent compliance functions within regulated entities are mutually

reinforcing. There are situations—for example, when the C-Suite itself is implicated or where a compliance department has intentionally failed to remedy a violation—where internal reporting would be unproductive.

If confirmed, I would be committed to ensuring that whistleblowers have every incentive to come to the CFTC to report violations. At the same time, I would work to ensure that chief compliance officers develop sound internal processes where employees feel comfortable reporting risky behavior before that behavior rises to the level of violations of the Commodity Exchange Act that harm our markets and customers.

7) Chairman Giancarlo released a white paper last year on cross-border swaps rules. Futures and swaps markets are global in nature, and we need strong cross-border rules. However, we also must ensure that when we harmonize our rules with other countries, we do not weaken the protections established by Dodd-Frank. You have a strong international background. We need strong, thoughtful analysis that does not lower the bar for making cross-border comparability determinations.

   a) Will you commit to conducting a strong, thoughtful analysis on cross-border comparability issues?

      A: Yes.

   b) When you consider cross-border issues, will you commit to not weakening Dodd-Frank protections?

      A: Yes.

8) In recent years, the CFTC has increased its focus on financial technology (FinTech). How can the CFTC best promote innovation in our financial markets while also promoting strong customer protections and market integrity?

   A: The predicate to effective policymaking, whether that be in facilitating innovation or ensuring market integrity and customer protection, is a sound understanding of the underlying technology. I am supportive of the Commission's launch of LabCFTC in 2017, and view it as an important stakeholder in helping to enhance the agency's understanding of emerging technologies and FinTech.

   I believe it will be important to continue to build onto the LabCFTC model so that the CFTC truly understands the opportunities that new technologies present as well as novel challenges or risks that may emerge. If confirmed, I would look forward to engaging in efforts to see how the CFTC can continue to advance its leadership in this space.

9) You have recently published an article, *Principled Accommodation: The Bush Administration's Approach to Congressional Oversight and Executive Privilege*, Journal of

Law and Politics (2016). In the article, you state that an assertion of executive privilege is difficult to override, noting that a congressional committee must demonstrate that the information it is trying to obtain is important to fulfilling the committee's responsibilities. You then stated that "it should not be surprising that many congressional subpoenas fail to satisfy this standard. For seldom, if ever does Congress need specific deliberative materials, records, and other internal executive branch communications to evaluate and formulate legislative proposals."

a) Explain what you meant in the sentence quoted above. Do you stand by this statement?

A: The article describes how Congress has an important oversight role under Article I of the Constitution that gives it the right to request information from the Executive Branch, which in turn has a constitutionally recognized right under Article II to preserve the confidentiality of certain deliberative processes. The central doctrinal theme of the article is that the Constitution requires both branches to seek mutual "accommodation" before resorting to measures that would impede further discourse and create gridlock—such as Congress's use of its subpoena and contempt powers and the President's formal assertion of executive privilege. I co-authored this article with the Honorable Fred Fielding, who served as a senior White House lawyer to three former U.S. Presidents.

The sentence quoted above refers to the standard set forth by the U.S. Court of Appeals for the D.C. Circuit regarding when the judiciary will override an assertion of executive privilege. The court stated that a congressional committee must show that the specific information it seeks is "demonstrably critical to the responsible fulfillment of [the committee's] functions." *Select Comm. on Presidential Campaign Activities v. Nixon*, 498 F.2d 725, 731 (D.C. Cir. 1974). The court went on to suggest that because "legislative judgments normally depend more on the predicted consequences of proposed legislative actions and their political acceptability, than on precise reconstruction of past events," congressional subpoenas for transcripts or details of specific conversations involving the President may fail to meet the "demonstrably critical" standard. *Id.* at 732. I believe the article accurately summarizes the court's consideration of this issue.

b) What types of executive branch information do you think congressional committees have authority to obtain? What types of executive branch information do you think congressional committees do not have authority to obtain?

A: Congressional committees generally have the authority to obtain most, if not all, types of Executive Branch information consistent with law. If confirmed as CFTC Chairman, I would look forward to working closely with this Committee and any others within Congress to ensure congressional informational needs relating to the CFTC are satisfied.

c) When do you think it is appropriate to claim executive privilege?

A: Only the President may assert a claim of executive privilege. As noted above, I believe the Constitution requires both the President and Congress to work through a process of mutual accommodation. Should that process fail, then an assertion of executive privilege may be considered by the President, who is normally advised by the Attorney General on whether such an assertion would be legally permissible under Article II and consistent with judicial decisions interpreting the scope and applicability of executive privilege.

10) During your nomination hearing, you committed to finalizing the long-overdue position limits rule, without further delay. This rule is an important part of Wall Street reform, and I thank you for this commitment.

a) Chairman Giancarlo recently announced that he plans to re-propose the position limits rule, prior to the end of his tenure as Chairman. If confirmed, would you move forward with finalizing a rule that was proposed prior to your joining the CFTC, or would you expect to re-propose the rule after having an opportunity to consider the matter?

A: If confirmed, I commit to finalizing a position limits rule. It is important, however, that I understand the proposal, consider the views from the public comment period, as well as those from my fellow Commissioners, before moving forward on a rule that was proposed prior to my appointment as CFTC Chairman.

b) Will you commit to providing Senate Agriculture, Nutrition, and Forestry Committee staff with quarterly briefings on the status of adopting a final rule until the position limits rule is adopted?

A: Yes.

c) Will you commit to having the CFTC implement its own speculative limits and not simply outsourcing limits solely to exchanges and other self-regulatory organizations?

A: As stated above, if confirmed, I will work to understand the proposal and consider the views from the public comment period, as well as those from my fellow Commissioners, before finalizing a rule. Furthermore, I will consult with the experts at the CFTC to gain a comprehensive understanding of the process and procedures of agency-imposed limits and whether there are any relevant policy reasons for or against having exchanges and other self-regulatory organizations play a role in assisting the CFTC in its administration of the rule. I commit to understanding this in more detail before proceeding with any final rule.

11) What role would you like to see unions play at CFTC, and what style or arrangements involving labor and management do you intend to foster? What actions in your past executive experiences demonstrate your style and approach in the area of labor-management relations? What steps would you take to achieve the kind of labor-management relationships you want?

A: It is my understanding that in October 2014, CFTC employees voted to organize under the National Treasury Employees Union (NTEU) and, in the same year, the Federal Labor Relations Authority certified the NTEU as the exclusive bargaining representative for CFTC employees. If confirmed, I would strive to continue a strong working relationship with the union to negotiate agreements that advance the interests of both the bargaining unit and the agency.

The NTEU is active within the Treasury Department, and I respect the work they do. I have always valued the talented and committed employees who work at Treasury and recognize many could attain higher-paying roles in the private sector. I am proud of the work we have accomplished together. If confirmed, I would look forward to working closely with the equally talented staff at the CFTC, some of whom I have already had the privilege of interacting with during my time at Treasury.

12) You stated during your hearing testimony that you do not believe in leniency when it comes to wrongdoers who violate the law. What steps will you take to ensure transparency in settlements of enforcement actions, including in instances where consideration has been given to an individual wrongdoer who cooperated with the CFTC in an enforcement investigation or action?

A: If confirmed, I would work to ensure that all enforcement actions are made public to the greatest extent possible under current law. The CFTC routinely issues Commission Orders, which explain the underlying facts, law, and reasoning, and the CFTC issues press releases accompanying these Orders in enforcement cases to ensure the public is aware of them. I am committed to continuing this practice if confirmed as CFTC Chairman.

13) The CFTC has important enforcement authority that should be carried out impartially. Both Republican and Democratic administrations have had written policies limiting White House contacts with agencies that have investigatory and enforcement responsibilities.

a) Do you agree that it is important to keep political influence out of CFTC decisions regarding investigations and enforcement, such as whether to launch an investigation, continue it, go forward with an enforcement action, or close the matter?

A: Yes.

b) Will you commit to restricting communications between the CFTC and White House staff, and between the CFTC and other political officials, regarding specific investigations and enforcement matters? What do believe are appropriate limits to such communications?

A: Yes. The CFTC has long demonstrated its commitment to pursuing its enforcement mission guided by the particular facts and tbe law of each case, and not by any improper factors outside the facts and law. If confirmed as CFTC Chairman, I would reaffirm that commitment, and would ensure enforcement

decisions are driven only by the particular facts and applicable law in each case. Consistent with that commitment, I would view any attempted interference with the CFTC's enforcement program on political grounds as improper. I have confidence that CFTC staff, including career civil servants within the CFTC's Division of Enforcement, will not be swayed by any improper outside influences—whether of a political nature or otherwise—but rather will be guided by the facts and law in each case.

14) What is your general position towards the role of the CFTC relative to self-regulatory organizations? Do you agree that the CFTC should have a more rules-based, hands-on approach to regulation and oversight?

A: Self-regulatory organizations (SROs) play an important role in ensuring market safety and integrity. I view SROs and their work as complementary to CFTC rules and oversight, which are vital to market integrity. CFTC rules and oversight play the central and primary role in most instances, but SROs can assist the CFTC in overseeing the derivatives markets, and that should be viewed as an added benefit.

15) In 2017, Chairman Giancarlo launched Project KISS (Keep It Simple, Stupid) as a means of further updating the CFTC's rules. If confirmed, would you continue the Project KISS initiative? Do you believe that any CFTC rules are ripe for reconsideration, and if so, what rules should be revised?

A: I think it is appropriate for the Commission to evaluate the effectiveness of its rules and regulations that impact everyday Americans. I commend Chairman Giancarlo for his establishment of Project KISS. If confirmed as CFTC Chairman, I will consult with the relevant experts at the CFTC to gain a comprehensive understanding of which, if any, rules might benefit from modifications. I would also assess whether additional work pursuant to the Project KISS initiative should continue.

16) Over a year ago, three CFTC-registered exchanges announced the launch of bitcoin-based derivatives contracts. Although the CFTC announced that additional safeguards would be employed, concerns continue to be raised that these contracts may be susceptible to manipulation, due to the lack of federal oversight of the underlying cash markets.

Do you believe that additional steps should be taken by the CFTC or Congress with respect to these products, in order to ensure that the contracts are not susceptible to manipulation and that strong customer protections are in place? If so, what additional steps should be considered?

A: The construction of futures contracts plays a large role in mitigating risks of manipulation. For example, a contract may settle to a price that is derived across different spot platforms at different times in order to reduce the risk that an actor could manipulate the settlement price. Furthermore, spot platforms themselves

may further incorporate and deploy surveillance technologies that can detect patterns of manipulation in the underlying cash markets.

That said, I believe a broader policy discussion on the topic is warranted. Such a discussion might consider the current oversight role of federal regulators as well as the States and the potential for any gaps that Congress might address through legislation.

17) On March 13, 2019, the European Union (E.U.) announced a political agreement between E.U. co-legislators on cross-border derivatives regulation, also known as the EMIR 2.2 legislation. Concurrent with the announcement, CFTC Chairman Giancarlo issued a separate statement acknowledging concerns with the legislation and noting that much of the implementation may not occur "until 2021 or beyond." Chairman Giancarlo's statement further relayed the understanding that the E.U. authorities will work with the CFTC to address the concerns raised by the U.S.

This is a critical matter. If confirmed, will you commit to working with me and my staff on these issues, including by providing regular briefings to my staff on the CFTC's progress in resolving these issues with the E.U., and if necessary, any steps that Congress should take?

A: Yes.

Senator Joni Ernst

1) Chairman Giancarlo has described the CFTC's current approach to cross border swaps regulation as "over-expansive, unduly complex, and operationally impractical". Robust and highly-liquid global derivatives markets are critical to ensuring that U.S. end users – including farmers and manufacturers in Iowa – are able to efficiently hedge the risks associated with their global businesses. In turn, this allows them to offer their products to consumers at more affordable, stable prices.

   Do you intend to review the cross border framework and explore changes that may be necessary to ensure that U.S. registered swap dealers and market participants are not put at a competitive disadvantage when they engage in derivatives activities outside the United States?

   A: Yes. I think it is important to have a level playing field for U.S. firms.

Senator Kirsten Gillibrand

1) The Dodd-Frank Act required commodity position limits to protect markets for critical commodities like oil and food from excessive speculation and market manipulation. Yet almost ten years after the passage of the Act, the Commission has not finalized commodity position limits.

   Will you prioritize completion of strong commodity position limits that provide effective protection against excessive speculation and market manipulation?

   A: Yes.

2) Derivatives were at the heart of the 2008 financial crisis. The failure of AIG due to its derivatives exposures led to the largest taxpayer bailout in US history. Beyond AIG, derivatives exposures that were poorly margined and risk managed made a major contribution to systemic risk during 2007-08, Lehman Brothers was a major derivatives dealer with over a million open positions when it went bankrupt.

   With the passage of the Dodd-Frank Act, which greatly expanded CFTC oversight of financial derivatives, the CFTC became one of the largest and most significant derivatives regulators in the world.

   a) Do you believe the CFTC's current funding is aligned with the significance of its mission as a derivatives regulator and the importance of this mission in preventing another financial crisis? What level of funding would you advocate for?

      A: If confirmed, one of my first priorities would be to be briefed by the budget professionals at the CFTC, as well as each Division Director, to ensure that I fully understand the CFTC's budgetary needs. I would then make an informed decision on the level of funding needed for the agency. I fully agree that the Dodd-Frank Act significantly expanded the jurisdiction and responsibilities of the CFTC. Simply put, it is not the same agency that it was 15 years ago. I am committed to submitting a budget request to Congress for the resources necessary for the CFTC to carry out its critical mission.

   b) What if any areas in CFTC rules do you think raise key issues for systemic risk and preventing another financial crisis? For example, given the significance of international derivatives markets spanning national borders both today and in the 2008 crisis, do you think the regulation of cross-border derivatives is adequate? What about risk protections such as margin, capital, and clearing, are these strong enough?

      A: As I mentioned during my hearing, I believe that many of the world's largest clearinghouses are systemically important. If confirmed as CFTC Chairman, I would aim to ensure those clearinghouses supervised by the CFTC remain safe and sound. This would entail ensuring that the members of a given clearinghouse provide sufficient contributions to the default fund, and that procedures are in place to port the customer positions of an insolvent clearing member to one or more

solvent clearing members. In addition, the clearinghouse itself should have robust financial and operational risk management systems as well as recovery (and potentially resolution) plans in place.

On the international front, it is important that all major financial centers represented at the Financial Stability Board implement the basic reforms agreed to by the G20 Leaders in Pittsburgh in 2009. Those reforms included incentives and requirements for the clearing of OTC derivatives, margin and capital requirements for uncleared derivatives, and the reporting of trades to repositories. While many jurisdictions have implemented reforms similar to Title VII of the Dodd-Frank Act, other jurisdictions are further behind. This creates both systemic risk concerns as well as an unfair playing field for U.S. firms.

As you point out, an important question is whether the current risk protections such as margin, capital, and clearing are strong enough and appropriately calibrated for the risks arising from market participants and transactions. There is little question that we are in a better place than we were 10 years ago. If confirmed as CFTC Chairman, I would be committed to gaining a more comprehensive understanding of any remaining issues that may need to be addressed.

Senator Tina Smith

1) One unique feature of the swaps market is the phenomenon of "post-trade name give up." Most swaps these days, however, are arranged anonymously and then cleared through a central clearinghouse. In this process, the two parties have no credit exposure to each other.

   a. Who, if anyone, benefits from name disclosure?

   A: There is currently a pending request for comment by the CFTC to consider whether this practice is still relevant in light of the changes brought by Title VII. See *Post-Trade Name Give-Up on Swap Execution Facilities*, 83 Fed. Reg. 61571 (Nov. 30, 2018). Originally, OTC derivative contracts were traded on a bilateral basis, which meant the two counterparties were exposed to one another for purposes of credit risk. In that situation, it was very important that each counterparty know the identity of the other so they could monitor their respective exposures.

   As you note, however, central clearing now eliminates bilateral credit risks—a key policy rationale underlying the name-give up practice. The CFTC has cited arguments from some contending that retaining the name-give practice could enable market participants to identify potentially abusive pricing or trading practices. See *Post-Trade Name Give-Up on Swap Execution Facilities*, 83 Fed. Reg. 61571 at 61572. If confirmed as CFTC Chairman, I would evaluate these arguments on their merits as well as consider the disadvantages of retaining the practice.

   b. Are you concerned that this practice could be harmful to some customers?

   A: It is an issue that warrants careful study. The CFTC has acknowledged concerns that the practice could potentially deter buy-side participants from using SEFs where those participants' sensitive trading strategies and positions could be revealed to dealers who could use the information to the detriment of buy-side participants. See *Post-Trade Name Give-Up on Swap Execution Facilities*, 83 Fed. Reg. 61571 at 61572.

   c. What is the effect on competition and market functioning?

   A: As noted above, I believe it is an issue that warrants careful study.

   d. Do you think this practice warrants CFTC action, and if so, what should the CFTC do? If not, why not?

   A: If confirmed as CFTC Chairman, I would study the issue carefully—including considering any comments received by the CFTC—in order to determine whether the practice warrants CFTC action. In addition, I would be pleased to hear your perspective (or that of your staff) at the appropriate time.

2) The CFTC is one of five federal regulators who were charged with crafting regulations to implement the Volcker Rule to prohibit banks from engaging in proprietary trading, and a rule was finalized in 2013.

   a. Do you support a prohibition on proprietary trading?

   A: Yes.

   b. What do you think about the recent proposal to revise it and roll back several key aspects of the rule?

   A: I do not yet have a view on the pending proposal, but if confirmed as CFTC Chairman, I would study it carefully and take into account all perspectives before making any final decisions. In that regard, I would be pleased to hear your perspective (or that of your staff) at the appropriate time.

3) Despite the assurances of three previous CFTC chairs, a speculative position limits rule remains unfinished. As a result, consumers – and farmers – remain exposed to excessive speculation in the oil and gas markets.

   a. Will you promptly finalize a position limits rule?

   A: Yes.

   b. Will you commit to finalizing a position limits rule – which is more than five years overdue – before you start taking up other rules for which a rewrite is not required by statute?

   A: I am committed to finalizing the position limits rule in a timely fashion—and thus to make it a top priority. However, if a market emergency occurs or another immediate rule is needed in order to promote market integrity, safety and soundness, or customer protections, it would be my duty as Chairman to ensure the CFTC acts in accordance with our mandate and statutory responsibilities.

4) As CFTC Chairman, you would be a voting member of FSOC, which has recently proposed new rules to that would limit FSOC's use of entity-based SIFI designations for non-banks.

   a. What do you think about that proposal?

   A: I think entity-based SIFI designations for non-banks should remain a back-stop option for addressing systemic risk. This is particularly true for non-bank institutions whose risk profiles evolve to mirror those posed by large interconnected bank holding companies or financial market utilities—entities that are currently subject to heightened prudential standards and supervision. However, for most non-banks—which have neither deposit insurance nor discount window access—the source of systemic risk (if any) is likely found in specific activities in which they

engage. Hence, targeting those activities with regulatory measures may be a better means of addressing any underlying systemic risk across the financial system.

b. Are there any non-bank entities that give you concern today?

A: No. That said, I currently do not have access to confidential supervisory information from regulators in my capacity as an Assistant Secretary of the Treasury. As I mentioned during my hearing, I do believe that many of the world's largest clearinghouses are systemically important. If confirmed as CFTC Chairman, I would aim to ensure those clearinghouses supervised by the CFTC remain safe and sound.

c. With respect to an activities-based approach, what activities do you think should be examined further to determine whether they should be designated as presenting a systemic risk?

A: I would want to look at certain aspects of non-bank credit intermediation where there may be inherent maturity mismatches or other structural vulnerabilities that could constrain market liquidity in times of stress. This is particularly the case where the markets resemble the OTC derivatives markets before the crisis, *i.e.*, bilateral (or trilateral) exposures with little transparency or reporting. In that regard, I would like to learn more about activities within the repo markets.

5) In 2017, Congress received two different budget requests: one from the Trump Administration seeking $250 million for the Commission, and one from the CFTC itself seeking $281.5 million.

a. What will you do to fight for full funding for the CFTC?

A: If confirmed, one of my first priorities would be to be briefed by the budget professionals at the CFTC, as well as each Division Director, to ensure that I fully understand the CFTC's budgetary needs. I would then make an informed decision on the level of funding needed for the agency. I am committed to submitting a budget request to Congress for the resources necessary for the CFTC to carry out its critical mission.

b. If you disagree with the Office of Management and Budget on funding for the agency, will you submit your own budget request as Chairman Giancarlo did?

A: Yes.

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