

December 14, 2016

The Honorable Timothy Massad, Chairman  
United States Commodity Futures Trading Commission  
Three Lafayette Centre  
1155 21<sup>st</sup> Street, NW  
Washington, D.C. 20581

Dear Chairman Massad:

I wrote to you almost a year ago, on February 3, 2016, notifying you of the Senate Agriculture Committee's inquiry into the issues raised in KPMG's January 2016 audit of the Commodity Futures Trading Commission (CFTC). Shortly after my initial correspondence, the Government Accountability Office (GAO) Office of General Counsel issued a legal opinion finding CFTC's accounting practices violated the recording statute within the Anti-Deficiency Act (ADA). The opinion contains a GAO directive to CFTC to perform a self-analysis of its practices and determine if it had violated the ADA. If, CFTC finds such a determination, CFTC is to report the violations in accordance with the law. However, to date, this committee has received neither a report nor an update from CFTC concerning its analysis of the ADA violation.

As part of our oversight, the committee has been in communication with CFTC's Office of the Inspector General (OIG), who requested the report, and KPMG to ascertain the depth and breadth of CFTC's accounting problems. In addition, upon my request, the CFTC produced relevant documents for review. The documents contain numerous legal memorandums on a variety of matters, including CFTC's leasing authority and related accounting issues. I understand that neither CFTC's OIG, nor its auditing firms identified the errant accounting practices. I also understand the issue is complicated, and its complexity is not lost on me. However, accountability lies with CFTC. As I noted in my prior correspondence, the agency should have been well aware of the issue as late as 2011, when the SEC was faced with a similar problem. The fact that CFTC's auditors did not discover the issue is not a justification CFTC can use to deflect responsibility. There is ample evidence that CFTC had prior opportunities to evaluate their accounting methods, seek outside assistance to understand their statutory obligations, and bring their practices into conformity with the applicable rules and regulations, including ADA – years ago.

As a result of CFTC's silence on the issue, I request a formal status update on CFTC's analysis of their accounting practices. Specifically, I am interested in CFTC's interactions with GAO and the Office of Management and Budget on this issue, and how CFTC will remedy the errant accounting practices. Further, I would like an explanation of how the ADA violations will affect CFTC's future operations. Thus, at your earliest convenience please designate the appropriate staff to provide the Committee a briefing on these issues.

Thank you for your attention to this matter. I look forward to receiving an update soon. If you have any questions, please contact Andrew Rezendes of the Committee Staff at 202-224-2035.

With every best wish.

Sincerely,

A handwritten signature in blue ink that reads "Pat Roberts". The signature is written in a cursive style and is positioned above a horizontal line.

Pat Roberts  
Chairman

cc: The Honorable Debbie Stabenow, Ranking Minority Member