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January 24, 2019

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

Dear Chairman Giancarlo:

I write today to raise concerns and obtain information about the impact of the government shutdown on the ability of the U.S. Commodity Futures Trading Commission (CFTC) to do its job. The CFTC's mission is to promote and ensure competitive, transparent, and safe derivatives markets to protect the public and other end users, including farmers, from abusive practices related to swaps and futures. The unregulated swaps market was in part a cause of the 2008 financial crisis. After this crisis, Congress worked to enhance the authorities of the CFTC to protect against any such future financial market crises. Derivatives markets are an important part of our economy and help businesses, including farmers, manage risk. These markets allow business owners, including farmers, to run their businesses, creating jobs and producing food and other important products.

As you know, the lapse of funding for the CFTC is now on day 33 -- the longest shutdown on record. Under the CFTC's plan for a lapse in appropriations, the CFTC will "severely curtail its operations. . . and expects that the vast majority of the agency's operations will cease." According to this plan, only 61 of the CFTC's 673 employees funded through appropriations have been identified as excepted from the shutdown. Sixteen employees in a whistleblower office will also continue to work since they are funded through a separate source. Additionally, the plan states that stop work notices will be issued to contractors for contracts that are not necessary to protect life or property unless the contract is already funded, will not impose new obligations on the government, and will not require oversight by CFTC employees.

While the CFTC is shut down, the markets it regulates are still open. I am deeply concerned that the government shutdown will leave our financial markets susceptible to undue risks. Shutting down the CFTC's robust oversight of our futures and swaps markets endangers the U.S. economy and puts American jobs at risk.

Over the years, the CFTC has built a strong enforcement program to root out financial wrongdoing, which is essential to protecting the American public. During the government shutdown, how many active enforcement cases and investigations are stalled? Recognizing that taking prompt action is key to limiting the losses faced by victims of financial fraud and other crimes, how much has the shutdown reduced the CFTC's ability to respond to new tips or complaints, and investigate those

tips or complaints? How much has the shutdown limited the CFTC's ability to assist state and local law enforcement agencies in their own criminal investigations and prosecutions?

The CFTC also has modernized its data collection and surveillance capabilities to better identify market abuses and systemic risks. The recent volatility of the market reminded us of the importance of these functions. However, the government shutdown raises significant concerns about the CFTC's oversight of exchanges and clearinghouses, as well as swap dealers and others. Any gaps in CFTC oversight may create undue risks. The CFTC plan for a lapse of appropriations indicates that only a handful of individuals are still working at the agency on these important functions. Please describe, in detail, the CFTC's capabilities to carry out each of these critical oversight functions during the shutdown. What concerns do you have about the CFTC's ability during the shutdown to carry out its data collection and surveillance capabilities with respect to exchanges and clearinghouses?

Modern financial markets are global in nature and require strong international coordination. To what extent is the CFTC hindered in its ability to work with financial regulators in other countries during the government shutdown? How has the shutdown impacted the CFTC's ability to continue its work on important cross-border issues, such as clearinghouse oversight and the potential financial market consequences of the ongoing Brexit negotiations in Europe?

One of the important functions of the CFTC is to accept applications from industry to become registered entities, process certifications and requests filed from registered entities regarding approval of new products and rules, and other requests for action from registered entities. I am concerned that the shutdown has hindered industry from moving forward. How many requests from registered entities (or persons seeking to become registered entities) are on hold or being delayed because of the shutdown?

Cybersecurity is always a major concern to integrity and soundness of financial markets. How has the shutdown decreased the CFTC's ability to work to deter against cybersecurity threats?

Finally, the CFTC's employees -- dedicated public servants who have committed their careers to furthering the CFTC's mission to police our financial markets -- are not being paid, hindering them in paying their bills and providing for their families. They deserve better than this.

As you know, I have long been concerned that the CFTC is significantly underfunded and have repeatedly called for increases in its budget given the CFTC's critical role in the swaps and futures markets. This shutdown will make an already bad situation much worse. We cannot afford the risk this shutdown places on our swaps and futures markets. I have and will continue to ask the President to end this shutdown.

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Thank you for your prompt responses to these questions and for your consideration of this letter.

Sincerely,



Debbie Stabenow  
Ranking Member

cc: The Honorable Brian Quintenz  
cc: The Honorable Rostin Behnam  
cc: The Honorable Dawn DeBerry Stump  
cc: The Honorable Dan Berkovitz