Statement of J. Christopher Giancarlo

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

March 6, 2014

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

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

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

I was the black sheep in the family by choosing law over medicine. I practiced law for 16 years in New York and London where I advised many early stage technology companies in bringing their products and services into US markets. In 2000, I joined a client firm that produced cutting-edge software that brought transparency to the pricing of currency options. I was then introduced to the global markets for swaps and derivatives. I have served over a decade as a senior executive of one of the primary intermediaries in the world's wholesale financial markets, including financial and commodity swaps. I often describe the firm's business as operating exchanges for things that don't trade on exchanges. In 2005, the firm went public and is today listed on the New York Stock Exchange.

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

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

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

I had been a proponent of central counterparty clearing since before the financial crisis. In 2006, I was involved in an independent effort by non-Wall Street banks to develop a central clearing house for credit default swaps. During the drafting of the Wall Street Reform and Consumer Protection Act (Dodd-Frank), I publicly called for increased central counterparty clearing, regulation of trading platforms and increased regulatory and marketplace transparency.

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

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

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

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

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

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

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

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