



U.S. COMMODITY FUTURES TRADING COMMISSION
ENSURING THE INTEGRITY OF THE FUTURES & OPTIONS MARKETS

SPEECHES & TESTIMONY

Opening Statement of Chairman Gary Gensler: Open Meeting to Consider Customer Protection Reforms

October 30, 2013

Good morning. This meeting will come to order. This is a public meeting of the Commodity Futures Trading Commission (CFTC). I'd like to welcome members of the public, market participants and members of the media, as well as those listening to the meeting on the phone or watching the webcast.

I would like to thank Commissioners Chilton, O'Malia and Wetjen for their contributions to the rule-writing process and the CFTC's hardworking and dedicated staff.

This is a public meeting that is partially related to the Dodd-Frank Wall Street Reform and Consumer Protection Act related because it relates to swaps funds. This meeting is about customer funds and customer protections.

Segregation of customer fund is the core foundation of the commodity futures and swaps markets. Segregation must be maintained at all times. That means every moment of every day.

Market events, though, of these last two years highlighted that the Commission must do everything within our authorities and resources to strengthen oversight programs and protection of customer funds.

And today's reforms are the sixth set of rules to be finalized by this Commission, if we move forward to finalize them, during a two-year process to ensure that customers have confidence that their funds are segregated and protected. These reforms benefit from the Commission's thorough review of existing customer protection rules – looking for any gaps in those rules and the oversight of these markets.

They benefit from significant public input, including staff roundtables and the Technology Advisory Committee, Agricultural Advisory Committee meetings, and numerous reports submitted by market participants.

They also benefit from input through a coordinated effort of the CFTC with other regulators; the self-regulatory organizations (SROs), such as the CME and the National Futures Association (NFA); as well as Congressional reports and input on these matters.

I will be supporting today's rules, in summary, for at least for six reasons. They are quite comprehensive, but here are six points I want to highlight:

- First, FCMs, clearing members, have to significantly enhance their supervision of and accounting for customer funds. They will have to put in place additional policies and procedures for these new protections.
- Second, significant enhancements around outside accounting and auditing – regarding the actual accountants or certified public accountants that audit futures commission merchants (FCMs), and also regarding the SROs and how they audit the FCMs.
- Third, significant customer fund protections with regard to how funds are moved around. Basically, when a firm moves money within a firm, how can they move that money around? Some of these reforms were adopted by SROs last year, such as requiring senior management signoff, and the pre-approval of moving those monies. There are also significant new protections coming from changes in the required acknowledgment letters from the banks and custodians.
- Fourth, reforms related to investing in international futures accounts. Our Part 30 regime really had not kept pace with protections for domestic futures accounts. With these reforms and the reforms that the NFA had put in place last year, investing in foreign futures accounts will be significantly aligned with the domestic protections. They won't be identical, but they will be significantly aligned with the protections for domestic futures accounts.

- Fifth, there's significant new transparency. Transparency to the regulators – we will be able to see electronically custodial accounts and cash accounts on a daily basis. There is transparency to the public, as well, with the twice-a-month statements of the details of their funds in the investment accounts. These reforms also have been put in place by the SROs, but it is important that we do this at the federal level as well, and put it in our rules.
- Sixth, the final rules include provisions on capital and residual interest of the FCMs themselves. This was quite possibly the most debated feature of these reforms, but I think they are important. In response to commenters on this provision, we are phasing in compliance to smooth implementation. As the staff will present, this section calls for significant new studies and roundtables and provides for a five-year phase in on these matters.

It is important that we look very closely at the law and ensure that one customer's funds or property are not used in some way to secure or guarantee other people's accounts.

Prior to this final rule set, the Commission had already made important improvements to protections for customers. In a longer statement for the record I go through those. But this is really a remarkable achievement, and I want to thank my fellow Commissioners

I also wanted to address three other matters.

This morning, unanimously as a Commission, we actually finalized two other rule sets. Since they were noticed for this meeting, I just wanted to inform the public about them. The first is one of the five other matters that we did to help customers and protect their funds. It relates to the choice that customers will have to segregate their collateral and funds -- the initial margin standing behind swaps that are not cleared. Congress gave the clear right to counterparties of swap dealers that they can choose to have those funds segregated. I'm pleased to report that we unanimously moved that this morning. It's a key tenet of customer protection.

Another rule that we moved on was from the Division of Market Oversight, the Office of the Chief Economist and all of our surveillance teams across the agency. It is called ownership and control reporting. This has been on our docket for four-plus years. We had an advanced notice of proposed rulemaking, and then a proposal. We re-proposed it after some staff roundtables.

I'm glad to say we again reached conclusion, and I want to thank Commissioner O'Malia for his doggedness on this. We will finally have in our rulebook that it is required to file these various forms electronically -- no longer by mail and fax. I also want to thank staff.

Many of the things in this document that we are considering today also relate to filing things electronically, which is the right place to be in the 21st century.

The ownership and control reporting will give us a greater window into those parties that actually own accounts and control those accounts -- not only for positions, but also, in the world of high frequency trading, for accounts that have high volume on a particular day, but might end the day flat or without a position.

For the first time, we'll have this enhanced ability to oversee markets.

I also wanted to give a public thanks to my friend, my colleague and a wonderful head of the Division of Enforcement, David Meister. Today is, in fact, his last day of service at the CFTC.

David, you have brought tremendous energy, wisdom, talent, and, yes, expertise from the Southern District of New York. I think you've shown how to be a tough but fair prosecutor, and you've led a remarkable team, often strapped with not enough resources. I wish you well in your next professional adventures.

Note: this transcript was edited for clarity.

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