

SPEECHES & TESTIMONY

Remarks of Commissioner Rostin Behnam at the BFI Summit “Fostering Open, Transparent, Competitive, And Financially Sound Markets” United Nations Plaza New York, NY

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Introduction

Good evening. The United Nations has played a special role in my life. I grew up close by, about 20 miles away in northern New Jersey. More importantly, my Aunt is the founder and president of the International Health Awareness Network (IHAN), which works in consultative status with the Department of Public Information of the United Nations. Consequently, from the first days of that ambitious project back in 1987, she was often in these buildings advocating her vision, and seeking support for the organization, which aspires to “educate, empower and provide health care to socioeconomically underserved women and children.” My family would come to see her here. And occasionally, I had the great fortune of participating at IHAN events, listening to the speeches, and hearing about the organization’s vision to fulfill its mission. Those moments are themselves transformational, and foundational in setting my agenda for facilitating change in the future.

Additionally, in 2008, my sister’s wedding reception was held in the Delegates Dining Room of the United Nations. A spectacular night for my family, and another reason why this building and institution is so special to me.

So, it is an honor to come here today for this summit. And, I want to acknowledge the partnership between blockchain and the United Nations Development Programme, the UN Refugee Agency, and the World Economic Forum. This partnership, announced in March, is a creative coalition to look at the applications of Blockchain from natural resource conservation to the protection of democratic systems. And, I agree with Fernandez de Cordova, who spoke earlier today, when he said the future is now and we must engage in a “multi-stakeholder approach.” Yes, we must.

The work of this summit could not be more vital. We are literally discussing a new world. Just as the founders of the United Nations spoke with optimism in 1948, so we may be hopeful about the future. Anything is possible. With your wisdom and guidance, we can transform this world into something wonderful. But in every transformation, there is the possibility that progress won’t march forward in the straight line we as optimists tend to envision. If we are not thoughtful, if we do not remain ever diligent to the movements within the transformation, we may unleash corruption, criminality, and division on a greater scale. Blockchain could become a source for repression and totalitarianism. The work before us is daunting and difficult. But, the rewards could be amazing and game changing. Our cooperation could heal the divisions that torment our world as we confront tragedy throughout our torn planet.

In the summer of 1960, then Secretary General Dag Hammarskjöld, often called the greatest statesman of the twentieth century, released a UN paper on economic development. He wrote that economic development was the common ground that united all nations, creating

what he called an “economic interdependence of the world community.” This interdependence was a partial result of the “accelerating rate of advancement in science and technology.”

This was before the cell phone, at the dawn of the computer age. The Secretary General was a visionary before his time, almost three generations ahead of his contemporaries, with the imagination to glimpse the future. He didn’t see developments like virtual currencies or blockchain technology. But he saw past air travel, refrigerators, and television. Now, we stand on the edge of that future, fifty-eight years later, with shadowy, incomplete fragments of the developments ahead. Tonight, we meet to confront the vast and powerful pull of technology as it accelerates us into our unwritten journey. Technology is creating a world where new possibilities emerge, possibilities that seem to traditionalists like science fiction. But fiction is rapidly becoming fact. Blockchain technology and other aspects of a new virtual world are remaking our economic, social, and political relations. The new virtual world offers tantalizing new possibilities and potentially powerful dangers.

CFTC

As a commissioner, I work on the frontlines of these developments at the Commodity Futures Trading Commission (CFTC). Our independent Federal agency, founded in 1975, and formerly a part of the United States Department of Agriculture, regulates derivatives, which include futures, options, and swaps. More simply, derivatives are financial products whose price is derived from the value of an underlying commodity, which can be anything from a bushel of wheat to a barrel of oil to even weather events. Derivatives are widely used by the most sophisticated companies, manufacturers, and banks. But, more importantly, and getting back to our market’s earliest roots, our world’s farmers and ranchers critically rely on the derivatives markets to discover prices for their harvest and manage price risk, which can make or break an entire growing season.

Although largely unknown, the CFTC’s markets serve a critical purpose that touches every American, impacting their gasoline, home energy and food prices, and even their retirement plans and savings. But, much like the topic of discussion today, the power and promise of the derivatives markets, can be easily overshadowed by the risk of fraud and manipulation. The derivatives markets played a key role in the financial crisis. I mentioned that the CFTC regulates swaps. Prior to 2010, swaps, a financial tool, most commonly used to manage risk, were unregulated, operating completely in the shadows, outside the purview of regulators around the globe.

Regarding blockchain and financial technology more generally, we have been out front on this issue, and outspoken, for the last couple of years. We have been providing oversight in our markets, especially to make blockchain and other technologies more transparent and to ensure that the markets are free from fraud and manipulation. It isn’t easy. Some people call this new technology “the Wild West.” I guess my agency is the equivalent of Wyatt Earp in Tombstone. We have engaged in notable enforcement actions, both in the United States, working with the Securities and Exchange Commission (SEC), the Department of Homeland Security, the Department of Justice and the Department of Treasury, among others. And we are providing public information to educate our citizens, thereby deterring fraud, misinformation, misrepresentation, manipulation, or other criminality.

More about all of this in a few minutes.

The debate on virtual assets is just beginning. None of us know where it will end. But it has

forced us to rethink. We have learned that virtual assets respect no borders. Regulation is often behind the curve, unable to keep up with daily developments. At least the developments we know about. As a result, some countries have outlawed virtual currencies. Others have new, strict laws to control them. Many countries simply don't know what to do. Their policy is bewilderment. Or avoidance. And, some countries think virtual currencies are only a problem for developed countries like Switzerland, or Germany, or Singapore, or the United States.

But virtual currencies may – will – become part of the economic practices of any country, anywhere. Let me repeat that: these currencies are not going away and they will proliferate to every economy and every part of the planet. Some places, small economies, may become dependent on virtual assets for survival. And, these currencies will be outside traditional monetary intermediaries, like government, banks, investors, ministries, or international organizations.

We are witnessing a technological revolution. Perhaps we are witnessing a modern miracle.

Corruption

That may be good. Or bad. One of the often discussed problems in developing countries is corruption. I know it is a perennial problem, undermining the work of the United States and virtually all international organizations. It may be the single greatest impediment to social justice, equality, hunger, peaceful resolution of conflict, and a host of other problems. My agency deals with corruption in our markets on a daily basis—as soon as a new product becomes available to the retail public, fraudsters come up with new ways to take advantage of those just seeking to invest their hard-earned dollars.

Now, with the advent of virtual assets, technology may provide a solution. And, the single greatest weapon against corruption may be the cell phone. There are 6.8 billion cell phones in the world, almost one for every person on the planet. Technology could simply bypass corruption. Here is our chance to put money directly into the hands of those who need it, without bribery, rake-offs, graft, and shakedowns. Virtual currencies could transform the economic and social landscape. It could mean a massive, and equitable, shift of wealth. Technology could be transformational, without a military take-over, civil war, or political or religious creed.

However, economic elites know all this. They will not be idle. This is what I mean by a powerful danger. If the kleptocracy controls technology and the means of distribution, then they simply accumulate more wealth at the expense of their citizens, draining wealth in cryptocurrencies rather than dollars or euros. Virtual assets may be a stranglehold. In other words, technology can be a weapon against the work of the United Nations and others trying to alleviate poverty or violence. Virtual assets become a means of deeper control of wealth and a means of exploitation.

Of course, social media gives us an example of a virtual battlefield. Censorship accompanies social media in many countries. Or simply consider the size of Google or Facebook, larger than many countries, and wealthier. And more influential, with massive data collection. Then increase all that exponentially. That is the sort of situation that must give us pause. But, events are happening so fast that there isn't time for reflection or wonder. We are simply trying to understand that which at the time of Dag Hammarskjöld was impossible to imagine.

Poverty

... poverty.

I know some have argued that virtual assets could be a way to spread the wealth and end poverty. They have argued blockchain could be the means for ending poverty...that such a possibility should drive the virtual debate.

The so-called “unbanked” could now be on the virtual grid. And, those without computers, some four billion people, could gain an important connection through cell phones. And, the discussion has extended to micro-lending, micro-transactions, greater transparency, and greater financial inclusion. I used a word a moment ago that should echo throughout this hall: transformative. The old limits and parameters may crumble, with the dawn of new technology.

Agriculture

Agriculture is another place where blockchain can change the world. Prior to joining the CFTC in September, 2017, I served as Senior Counsel to U.S. Senator Debbie Stabenow, Ranking Member of the Senate Committee on Agriculture, Nutrition, & Forestry. The Committee’s work is expansive, touching nearly all elements of the agriculture value chain, from the farm to the grocery store. For decades, the Committee has been committed to finding solutions to global hunger and food safety. Through blockchain technology, finding solutions to these challenges may become significantly more attainable. Food could arrive on grocery shelves faster, using an intricate system of measures meant to trace location from the farm to the table, with the additional bonus of providing abundantly more information about the product source. Recently, the Los Angeles Times Business Section (May 27) argued that the e coli outbreak in romaine lettuce in the United States that led to illness and fatalities could have been prevented by applying advances in blockchain; both in terms of eliminating the tainted lettuce and preventing another outbreak. The argument went further: that we could eliminate food waste and even improve distribution through networks domestically and internationally. These are possibilities we cannot ignore. I believe that farmers and consumers will greatly benefit from improvements in agriculture through Blockchain.

Health Care

There are also implications for health care. Blockchain could become an important way to improve health status and to reduce costs. Health care is often fragmented and disparate. Patients lose their records and control of the privacy of those records. There is important information about their health over time, such as DNA information, test results recorded in medical records, and other vital information. Blockchain could allow patients to create smart records that gather and harmonize information, leading to better continuity of care and even new models of care. Blockchain could also address medical fraud and waste. And, as a result, help contain the rising cost of health care.

I mentioned my Aunt earlier. She would be astounded at the potential. Perhaps it is my opportunity to return the favor she has been providing for so many years.

United Nations

And, what is the role of the United Nations? Should the institution become an international regulator? Should it become the equivalent of a virtual bank? What enforcement mechanisms should be used? These are questions that have followed the work of the United Nations since its inception, but become magnified in a virtual world on a virtual plane.

Are any institutions **READY** to step into a virtual future.

CFTC and LabCFTC

Well, at the CFTC, we have tried. There are several steps underway. For example, I urge the members of this summit to follow an international dialogue under the name “LabCFTC”. LabCFTC is the focal point of the CFTC’s efforts to facilitate market-enhancing innovation and fair competition for the benefit of the American public. It also helps to ensure that we can keep pace with changes in our markets, and proactively identify emerging regulatory opportunities, challenges, and risks. We have situated LabCFTC within the CFTC’s Office of the General Counsel. It allows LabCFTC to leverage the expertise of the CFTC’s legal team to manage the interface between technological innovation, regulatory modernization, and existing rules and regulations.

LabCFTC has hosted innovators across the nation, ranging from startups to established financial institutions to leading technology companies. These outreach efforts are designed to make the CFTC more accessible and to serve as a platform for informing the Commission’s understanding of emerging technologies. The information gathered in these meetings also provides important insights to CFTC staff on market innovations that may influence policy development. In fact, through its engagement with—and study of—innovative technologies, LabCFTC was recently able to recommend new virtual currency surveillance tools to our Enforcement division. Our Enforcement team has been able to avail itself of this new technology, and is now able to enhance certain surveillance and enforcement activities. This important development helps underscore the value of LabCFTC, and its effort to ensure that we are prepared to be a 21st century digital regulator.

In addition to LabCFTC’s efforts undertaken domestically, the Commission has been proactive in working with international regulators on financial technology (or FinTech) applications to harmonize approaches and to share best practices. A few months ago, the CFTC and the UK’s Financial Conduct Authority (FCA) signed an arrangement that commits the regulators to collaborating and supporting innovative firms through each other’s FinTech initiatives – LabCFTC and FCA Innovate. This is the first FinTech innovation arrangement for the CFTC with a non-US counterpart. We believe that by collaborating with the best-in-class FCA FinTech team, the CFTC can contribute to the growing awareness of the critical role of regulators in 21st century digital markets.

Regulation of Bitcoin

Another example is regulation. In 2018, two exchanges self-certified several new contracts for futures products for virtual currencies. They will not be the only ones. There are those looking for capital formation and risk transfer. They include machine learning and artificial intelligence, algorithm-based trading, data analytics, “smart” contracts valuing themselves and calculating payments in real-time, and distributed ledger technologies, which over time may come to challenge traditional market infrastructure. They are transforming the world around us, and it is no surprise that these technologies are having an equally transformative impact on US capital and derivatives markets.

Supporters of virtual currencies see a technological solution to the age-old “double spend” problem – that has always driven the need for a trusted, central authority to ensure that an entity is capable of, and does, engage in a valid transaction. Traditionally, there has been a need for a trusted intermediary – for example a bank or other financial institution – to serve as a gatekeeper for transactions and many economic activities. Virtual currencies seek to replace the need for a central authority or intermediary with a decentralized, rules-based and

replace the need for a central authority or intermediary with a decentralized, rules-based and open consensus mechanism. Others, however, argue that this is all hype or technological alchemy and that the current interest in virtual currencies is overblown and resembles wishful thinking, a fever, even a mania. They have declared the 2017 heightened valuation of Bitcoin to be a bubble similar to the famous “Tulip Bubble” of the seventeenth century. They say that virtual currencies perform no socially useful function and, worse, can be used to evade laws or support illicit activity. Indeed, history has demonstrated to us time-and-again that bad actors will try to invoke the concept of innovation in order to perpetrate age-old fraudulent schemes on the public.

In 2015, the CFTC determined that virtual currencies, such as Bitcoin, met the definition of “commodity” under the Commodity Exchange Act or “CEA,” our governing statute. Nevertheless, the CFTC does NOT have regulatory jurisdiction under the CEA over markets or platforms conducting cash or “spot” transactions in virtual currencies or other commodities or over participants on such platforms. More specifically, the CFTC does not have authority to conduct regulatory oversight over spot virtual currency platforms or other cash commodities, including imposing registration requirements, surveillance and monitoring, transaction reporting, compliance with personnel conduct standards, customer education, capital adequacy, trading system safeguards, cyber security examinations or other requirements. In fact, current law does not provide any U.S. Federal regulator with such regulatory oversight authority over spot virtual currency platforms operating in the United States or abroad. However, the CFTC does have enforcement jurisdiction to investigate fraud and manipulation in underlying virtual currency spot markets and, as appropriate, conduct civil enforcement actions where fraud or manipulation is found.

In contrast to the spot markets, the CFTC does have both regulatory and enforcement jurisdiction under the CEA over derivatives on virtual currencies traded in the United States. This means that for derivatives on virtual currencies traded in U.S. markets, the CFTC conducts comprehensive regulatory oversight, including imposing registration requirements and compliance with a full range of requirements for trade practice and market surveillance, reporting and monitoring and standards for conduct, capital requirements and platform and system safeguards.

The CFTC has been straightforward in asserting its area of statutory jurisdiction concerning virtual currencies derivatives. As early as 2014, former CFTC Chairman Timothy Massad discussed virtual currencies and potential CFTC oversight under the CEA. And as noted above, in 2015, the CFTC found virtual currencies to be a commodity. In that year, the agency took enforcement action to prohibit wash trading and prearranged trades on a virtual currency derivatives platform. In 2016, the CFTC took action against a Bitcoin futures exchange operating in the U.S. that failed to register with the agency. Last year, the CFTC issued proposed guidance on what is a derivative market and what is a spot market in the virtual currency context. The agency also issued warnings about valuations and volatility in spot virtual currency markets and launched an unprecedented consumer education effort.

Under the CEA and Commission regulations and related guidance, exchanges have the responsibility to ensure that their Bitcoin futures products and their cash-settlement process are not readily susceptible to manipulation and the entity has sufficient capital to protect itself. The CFTC has the authority to ensure compliance. In addition, the CFTC has legal authority over virtual currency derivatives in support of anti-fraud and manipulation including enforcement authority in the underlying markets.

Enforcement is another aspect of our response. In the past several weeks the CFTC has

filed a series of civil enforcement actions against perpetrators of fraud and market abuse involving virtual currency. These actions and others to follow confirm that the CFTC, working closely with the SEC and other fellow financial enforcement agencies, will aggressively prosecute those who engage in fraud and manipulation of US markets for virtual currency.

We need to think about how to make this work internationally!

I wanted to add a comment about education. This is an important aspect of our work. We have a duty to educate the public, making them aware of the volatility, the temptations, the potential for fraud, and consequences of trading in virtual assets. This education should be undertaken on a large, perhaps unprecedented scale.

Conclusion

I started by mentioning the late Secretary General, Dag Hammarskjöld. At a dinner in 1957, he said that “the work for peace is basically a work for the most elementary of human rights: the right of everyone to security and freedom from fear.”

Blockchain is more than technology: it is an advance that reaches out into every aspect of life. We could use Blockchain to address the most basic, the most primal problems on our planet: corruption, income distribution, poverty, food, and health care. And, the fear billions of people experience everyday as they try to survive.

As a young child, I would come to this building in search of solutions to the problems of the world. Now, today, we may have found one of those solutions – bigger, bolder, more comprehensive, and more effective than anything imagined before. And, as a regulator, I am pleased to be part of your discussion.

We have discussed the most basic problems through the prism of a rising technology. I join with you in our search – our struggle – to find solutions that find the human face of this technology.

Thank you.