SPEECHES & TESTIMONY

Remarks of Acting Chairman J. Christopher Giancarlo before the 42nd Annual International Futures Industry Conference in Boca Raton, FL

"CFTC: A New Direction Forward"

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Introduction

Good morning, thank you for that kind introduction. I want to thank FIA and Walt Lukken for inviting me to speak this morning.

It is great to be here and it's an honor to be speaking. I've been coming to the FIA Annual Conference for over a dozen years. I don't know of any other event that better brings together high-level business issues and regulatory policy than this one. I tip my hat to FIA for maintaining such a high level of discussion and analysis.

As you know, I was sworn in as Acting Chairman of the Commodity Futures Trading Commission (CFTC) on January 20th, just a few hours after the inauguration of President Trump.

Watching the inaugural parade leave the Capitol for the White House on that drizzly afternoon, it occurred to me what an extraordinary privilege it was… to be a part of that peaceful transfer of power in the world's oldest constitutional republic.

I must thank my two predecessors, former Chairmen Tim Massad and Gary Gensler, for their leadership of the CFTC. They steered a regulator that had been tasked with overseeing the largest corner of the financial markets – over-the-counter swaps – and faced the tremendous implementation challenges brought on by the Dodd-Frank Act of 2010.

In the wake of the 2008 market meltdown and the legislative responses, no financial regulator's job was easy. But with the wholesale changes directed at the derivatives industry, their tasks were particularly challenging. I have great respect for both men - and those that led the agency before them – leaders like Walt Lukken, Sharon Brown-Hruska and Jim Newsome. They put in place a foundation that supports the fine work of the Commission today.

And speaking of current operations, a recent Bloomberg piece[1] said the agency is running "smoothly and efficiently with only two commissioners." That is indeed the case at the CFTC and what the American people expect from their government officials. I credit the professionalism and graciousness of Commissioner Bowen and her well-informed staff. It is a privilege to serve alongside them.

Looking Back and Looking Forward

It's now been a long time since the 2008 financial crisis. Much of the regulatory work in the past half dozen years has been to implement Congress' crisis response – the Dodd-Frank Act. Therefore the regulatory approach, both at the CFTC and across the federal government, was in a sense backward looking.

And yet, it has taken a long time – too long – for many American companies and citizens to emerge from the recession and hire, invest, and borrow again. So much policymaking, rulemaking, and thought have been directed at building a regulatory superstructure that ostensibly would prevent another 2008-style crisis that we've lost sight of the emerging challenges just ahead and what is the right regulatory response. [2]

There is no question that the US economy has not rebounded satisfactorily from the financial crisis.[3] Too many Americans have been left out of a tepid recovery that has mainly benefitted those in a few large cities on the East and West coasts.

In the past thirty months, I have had the good fortune as a Commissioner of travelling to a quite a few states – Kentucky, Indiana, Illinois, Iowa, Minnesota, Michigan, South Dakota, North Dakota, Missouri, Kansas, Texas, Louisiana, Florida and, of course, my home state of New Jersey. On these trips I have met with producers of cattle, pork, poultry, corn, soybean, dairy and various other Ag and energy products. I have also met with many workers at grain elevators, cooperatives, factories, exchanges and futures commission merchants (FCMs) who serve American producers.

I have come away from many of these meetings with the sense that everyday Americans believe that Washington politicians and bureaucrats have gotten in the way of their ability to earn a living. They want the burdens removed so that they can build their dreams again.

That is why November's election was so significant. Americans have voted for a change in the direction of the country, a change back toward economic growth and broad based prosperity.

And our industry has a role to play.

Role of Derivative Markets in Economic Growth

As you well know, derivative markets provide means by which the risks of variable production costs, such as the price of raw materials, energy, foreign currency and interest rates, can be transferred from those who cannot afford them to those that can. They play an essential role in pricing risk and transferring it in efficient ways. Derivatives enable banks to increase business lending and economic investment.[4] They serve the needs of society to help moderate price, supply and other commercial risks to free up capital for economic growth, job creation and prosperity.

Yet today, America's derivatives markets are struggling, in some cases, under the weight of flawed and excessive regulation. Our markets today are more fragmented,[5] more concentrated,[6] less liquid[7] and less supportive of economic growth and renewal than in the past. The overly prescriptive regulation of American derivative markets is a part and parcel of the over-regulation of the US economy that thwarts revival of American prosperity.[8]

The American people have entrusted the Trump Administration to turn the tide of over-regulation.[9] Accordingly, financial market regulators, like the CFTC, must pursue their missions to foster open, transparent, competitive and financially sound markets in ways that best foster American economic growth and prosperity.[10] The time has come for our

financial markets – and the efforts of those who regulate them – to be put more fully back into service of American economic recovery.

New Agenda for the CFTC

I want to talk to you today about a new agenda for the CFTC. I believe that, consistent with the goals of the Trump Administration, the CFTC must reinterpret its regulatory mission through the following three-part agenda:

I. Fostering economic growth

II. Enhancing US financial markets

III. Right-sizing its regulatory footprint

I. Fostering economic growth:

1. Reduce Regulatory Burdens: Project KISS

On February 24, 2017, President Trump issued an executive order furthering his regulatory reform agenda to stimulate economic growth. To move forward, our first step is to reduce excessive regulatory burdens. The President's executive order directs federal agencies to designate a Regulatory Reform Officer and establish a Regulatory Reform Task Force.

Although not strictly bound by the executive order, I am today announcing the launch of **Project KISS**, which stands for "Keep It Simple Stupid". Project KISS will be an agency-wide review of CFTC rules, regulations and practices to make them simpler, less burdensome and less costly.

I have designated my chief of staff, Mike Gill, as our Regulatory Reform Officer. He will lead Project KISS and direct our task force inside the CFTC. Pursuant to the president's order, we will review all CFTC rules in our quest to reduce regulatory burdens and costs for participants in the markets we oversee.

In addition, the CFTC will soon issue a call for recommendations from the public to make our existing regulations simpler, less burdensome and less costly. We look forward to receiving sensible recommendations that we can look to implement.

Let me be very clear, this exercise is not about identifying existing rules for repeal or even rewrite. It is about taking our existing rules *as they are* and applying them in ways that are simpler, less burdensome and less of a drag on American economy.

2. Improve market intelligence: Become a Smarter Regulator

The second step in fostering economic growth is to regulate smarter. To do so, the CFTC must develop a more holistic understanding of the overall openness, transparency, competitiveness and soundness of the markets it oversees. To that end, the agency is making two immediate reforms.

The first is an organizational restructuring. Elements of the market surveillance branch, currently housed in the Division of Market Oversight (DMO), will move to the Division of Enforcement (DOE). This realignment will strengthen our mission to identify and prosecute violations of law and regulation, such as spoofing, manipulation and fraud. It will foster increased efficiencies through knowledge sharing and cross training under unified leadership; thus benefitting the Commission's surveillance mission and enforcement responsibilities.

Other elements will be reorganized within DMO as a new market intelligence branch, the function of which is to understand, analyze and communicate current and emerging derivatives market dynamics, developments and trends – such as the impact of new technologies and trading methodologies.

By separating the two units – surveillance within DOE and market intelligence within DMO – we will sharpen our surveillance capability while increasing our knowledge of evolving market structures and practices to inform sound policymaking at the Commission and promote efficient and sound markets. The overall goal is to make the CFTC more adept each of the two disciplines.

The second reform is the creation and appointment of a Chief Market Intelligence Officer (CMIO), reporting directly to the Chairman. The CMIO will engage with industry participants, other regulators and the new Market Intelligence Unit. The CMIO will help activate our agency's latent capability for market intelligence, giving us better insight into the needs of participants in the futures and swaps we oversee.

The CMIO will also be tasked with helping the public understand risk transfer markets and why they are so important to prosperity. Too many people, including investors, don't know what we do or why we do it – both from a marketplace and regulatory perspective. We will not be able to enact the policy reforms we need unless the public has a better understanding of why they are vital to economic growth.

As President Trump frequently said on the campaign trail, our government must get smarter. We must attract and retain competent, creative, insightful individuals to lead and staff our agencies. That same attitude should apply to the aspirations of the agencies themselves. The CFTC must get smarter by focusing on current and emerging market structure and dynamics and not just on participant behavior. We must track, gather, and analyze data and information on how our derivatives markets are changing in the new digital 21st Century.

3. Embracing FinTech: Create CFTC Innovation Initiative

The third step in fostering economic growth is to embrace technological change.

We live in a time of fundamental transformation of global trading markets from analog to digital, from human to algorithmic trading and from stand-alone centers to seamless trading webs.[11] Meanwhile, market regulation by the CFTC has not kept pace. In too many ways, it remains an analog regulator of an increasingly digital marketplace, curtailing its effectiveness in overseeing the safety and soundness of markets.[12]

But it doesn't have to be this way, especially in an industry that is synonymous with innovation. The CFTC must be a leader in adopting the "do no harm" approach to financial technology similar to the US approach to the early Internet.[13] We must cultivate a regulatory culture of forward thinking. We must open wider our CFTC agency doors and regulatory minds to benefit from FinTech innovation. We must welcome the support of knowledgeable and experienced market professionals inside and outside of the federal government to help make the CFTC a 21st century regulator for today's rapidly changing markets.

In January, I instructed my staff to do a review of FinTech innovation issues including those arising from a range of new digital technologies. The review is focused on three issues:

- How should the CFTC leverage FinTech innovation to make it a more effective regulator?
- How can FinTech innovation help identify CFTC rules and regulations that need to be updated for relevance in 21st Century digital markets?
- What is the right role of the CFTC in promoting US FinTech innovation in CFTC regulated markets?

This FinTech review will be completed soon and you will hear more about it in the next few months.

II. Enhance US Financial Markets:

4. Trading Liquidity: Calibrate Bank Capital Charges for Economic Growth

Let me now turn to what we must do to revitalize American futures and derivatives markets, starting with an issue of particular concern.

As you know, last October the British Pound suddenly crashed six percent against the US dollar in volatile trading. The abrupt "flash crash" of the world's fourth-most-traded currency was exacerbated by a lack of market liquidity.14 In fact, there have been at least *twelve* major flash crashes since the passage of the Dodd-Frank Act15 and at least several dozen minor ones.16 The growing incidence of these events shakes confidence in world financial markets. They are alarm bells warning about heightened market liquidity risk in the global financial system.17

As the "super-regulator" body created by Dodd-Frank to address such systemic issues, the Financial Stability Oversight Council should be highly concerned that there is sufficient trading liquidity in the marketplace to support systemic resiliency and economic growth. And yet, FSOC has failed in its duty to measure the cumulative effect of dozens of new federal and overseas regulations18 on trading liquidity in US financial markets.

Since the passage of Dodd-Frank and progression of Basel III, banks have been prompted to significantly increase their regulatory capital and leverage ratios by raising more equity in relation to their total assets. These measures prioritize bank capital reserves over investment capital, balance sheet surplus over market-making and bank solvency over economic growth and opportunity. The result is a market in which traditional dealers can support little risk, a situation that, in itself, nurtures another type of system-wide risk: liquidity risk – a first order concern for market regulators like the CFTC.

As a voting member of FSOC, the CFTC must use its authority and influence to address the question of whether the amount of capital that bank regulators have caused financial institutions to ***take out*** of trading markets is at all calibrated to the amount of capital needed to be ***kept in*** global markets to support increased commercial lending and the overall health and durability of US financial markets. The time has come to recalibrate bank capital requirements to better balance systemic risk concerns with healthy economic growth and American prosperity.

5. Fix Flawed Swaps Rules: Reduced Hedging = Reduced Lending

The next step in encouraging healthy markets is fixing the CFTC flawed swaps trading rules.

Two years ago, I published a white paper19 that analyzed flaws in the CFTC's implementation of its swaps trading regulatory framework under Title VII. It explained the fundamental mismatch between the CFTC's swaps trading framework and the distinct liquidity, trading and market structure characteristics of the global swaps market. It argued that the CFTC's current approach is highly over-engineered, disproportionately modeled on US futures markets and biased against both human discretion and technological innovation. It also warned that the approach would jeopardize US job creation and stifle commercial risk transfer.

As predicted, the CFTC's flawed swaps trading implementation has caused numerous harms, foremost of which is driving global market participants away from transacting with entities subject to CFTC swaps regulation. It has fragmented global markets into a series of distinct liquidity pools that are less resilient to market shocks and less supportive of global economic growth. It has unnecessarily impeded banks' financial risk hedging activities essential for ready extension of credit to the private sector.

The CFTC must move forward with a better regulatory framework for swaps trading.20 It must allow market participants to choose the manner of trade execution best suited to their swaps trading and liquidity needs and not have it chosen for them by the federal government. Our regulatory framework must help to attract, rather than repel, global capital to US trading markets. It must better align regulatory oversight with inherent swaps market dynamics. Most importantly, it must facilitate risk transfer in support of increased commercial lending and American economic revival.

6. Effective International Engagement: Operate with Cross-Border Comity, not Uniformity

That leads to the next opportunity to spur US growth and job creation: working more effectively with our international regulatory counterparts.

As you all know, the US played a leading role in formulating the reforms to the global swaps markets adopted at the 2009 G-20 Leaders' Summit in Pittsburgh.21 Congress adopted most of these reforms in Title VII of the Dodd-Frank Act, and the CFTC has been in the forefront, both domestically and internationally, in implementing the swaps reforms.22

Standing here today, I am not aware of any significant proposal in the current Congress23 or from the Administration to repeal Title VII outright. Thus, I expect that the CFTC will continue to serve as the lead overseer of US implementation of the swaps market reforms set out in Pittsburgh.

The CFTC should continue to work positively with its overseas regulatory counterparts, as it did in reaching a hard-negotiated, but very constructive CCP equivalence decision by the European Commission.[1][1] And the CFTC expects this decision to endure, illustrating commitment by the European Commission and the CFTC to find common ground on equivalence and substituted compliance on all major parts our derivatives regulatory regimes.

Similarly, the CFTC should continue participation in international standard setting bodies, as it did a few weeks ago at the IOSCO Board meeting, in the manner in which the CFTC worked with its counterparts in Europe and Asia on a common approach to ease the implementation of variation margin on uncleared swaps between dealers and their buy-side customers.25

At the same time, the CFTC must fully embrace the Trump Administration's executive order to advance American interests in international financial regulatory negotiations and meetings.26 This means the CFTC should be an active participant in international bodies, like IOSCO, in which it pursues policies that are most appropriate for American markets.

By seeking to work more effectively with our regulatory counterparts while looking out for American interests, we are dedicated to making American markets highly effective places to trade. They should be neither the least nor the most prescriptively regulated – but the BEST regulated, balancing market oversight, health and vitality.27 Not by separating ourselves from our foreign counterparts will we achieve this goal, but by removing the barriers that stand in the way of global market participants choosing the best markets for their needs. Thus, our approach to regulation should never be based on a crude measure of the *quantity* of regulation, but the *quality* of regulation and oversight.

Undoubtedly, other national regulators approach their international engagement in a similar fashion. This approach is a realistic and is most likely to lead to prosperity-enhancing policy breakthroughs across markets here and abroad.

As our regulatory counterparts continue to implement swaps reforms in their markets, it is critical that we make sure our rules do not conflict and fragment the global marketplace. That is why the CFTC should operate on the basis of comity, not uniformity, with overseas regulators. The CFTC should move to a flexible, outcomes-based approach for cross-border equivalence and substituted compliance. 28

In all of its international engagements with fellow financial regulators and related regulatory bodies, the CFTC should act in a forthright and candid manner, displaying leadership when appropriate and respect and due consideration at all times. The CFTC aims to be considered a trusted and worthy counterparty by its overseas regulatory associates.

II. Right-size Regulatory Footprint:

The last portion of this three part agenda centers on what the CFTC must do to place its own house in order and right-size its regulatory footprint.

7. Normalize CFTC operations: Get Back to Regular Order

For the past six years, the CFTC has operated at a breakneck pace driven by Dodd-Frank's mandate for swift rule implementation. That mandate was the justification for a considerable amount of expediency in rule adoption and agency process.

The era of Dodd-Frank implementation at the CFTC is now drawing to a close. It is time for the agency to resume normalized operations and practices. That means a return to greater care and precision in rule drafting, more thorough econometric analysis, less contracted time frames for public comment and a reduced docket of new rules and regulations to be absorbed by market participants. It also means that the CFTC will embrace President Trump's directive that each federal agency minimize the costs borne by their regulation.29

Getting back to regular order at the CFTC will also allow us to attend to some longer range goals that have had too little attention. On is to leverage diversity to help us do a better job as a regulator working across a diverse global economy. Last month we implemented targeted outreach to minority institutions such as Historically Black Colleges and Universities in order to identify potential student candidates for our internship program. This outreach effort represents a unique private sector approach to ensuring diversity in our student programs. It is long overdue.

8. **Eschew empire building: Focus on Core CFTC Missions**

Normalizing operations at the CFTC also means resetting its focus on its core mission: fostering open, transparent, competitive and financially sound markets for the trading of derivatives. That means streamlining the fine work of our divisions of Market Oversight, Swap Dealer and Intermediary Oversight and Clearing and Risk in performing the oversight that only they can perform over markets, intermediaries and market participants.

Yet, it also means those divisions must work cooperatively with parallel federal market regulators, like the Securities and Exchange Commission. And, where appropriate, they should look to delegate responsibility to the National Futures Association, the exchanges and the other self-regulatory organizations (SROs) in matters where SROs are able to act effectively.

A similar balance is appropriate for the CFTC's Division of Enforcement (DOE), which is staffed by experienced and decorated former prosecutors and, I can proudly say, is one of the premier civil law enforcement arms of the federal government. Yet, DOE also must look to benefit from cooperation and, where appropriate, deference to civil and criminal capabilities of other federal and state regulators and enforcement agencies.

But, as I mention the CFTC's Division of Enforcement, let me take this moment to warn those who may seek to cheat or manipulate our markets: you will face aggressive and assertive enforcement action by the CFTC under the Trump Administration. There will be no pause, let up or reduction in our duty to enforce the law and punish wrongdoing in our derivatives markets. The American people are counting on us.

9. Adopt best business practices: Run a Tighter Ship

The last step in right-sizing the CFTC is to be realistic about our agency budget and Congressional appropriations. We must run a tighter ship operationally.

A few weeks ago, I launched a comprehensive budget and spending review as a first step prior to engaging with the White House and Congressional appropriators over future agency funding. Before we can ask the people's representatives for more of our citizen's hard-earned dollars, we must first know where we're spending every nickel and dime and how we might manage to save a few.

I bring to the task experience as a former senior executive of a publicly-traded company. In business, everything we did – every expenditure and every investment --had to contribute to shareholder value. The P&L was our scorecard and it didn't lie. You were either adding value to the enterprise or you were looking for another line of work.

In government it is not so simple – there are no quarterly earnings statements. And, the shareholders only get to vote every four years, not every day through the purchase and sale of company shares.

Nevertheless, I intend to utilize managerial skill and business experience to bring best operational practices from the private sector to the CFTC. Our budget review has already identified several areas in which the agency can run more efficiently. We are looking for more.

Our message is a willingness to do more with what we have. The tighter we run the ship, the greater will be the trust placed in the CFTC by our Congressional overseers and US taxpayers, who are our ultimate shareholders.

Many Americans have done more with what they have these past eight years. So can regulators.

Conclusion

So, in conclusion, let us again be reminded of the essential role of America's derivatives markets: to help moderate price, supply and other commercial risks - shifting risk to those who can best bear it from those who cannot. Our markets help free up capital for business lending and investment that are necessary for economic growth, job creation and prosperity.

Vibrant derivatives markets are the answer to US and global economic woes, not diminished trading and risk transfer. We must foster safe, sound and vibrant markets for investment and risk management if we are ever to escape prolonged economic stagnation.

The time has come to reduce regulatory barriers to economic growth. The American people have elected President Trump to turn the tide of over-regulation. Financial market regulators, like the CFTC, must pursue their missions to foster open, transparent, competitive and financially sound markets in ways that best foster American prosperity.

In that spirit, the CFTC must interpret its regulatory mission by pursuing a three-part agenda: first, contributing to American economic growth by reducing regulatory burdens, improving market intelligence and embracing FinTech innovation; second, enhancing US financial markets by addressing trading liquidity risk, fixing the CFTC's flawed swaps rules and engaging effectively with overseas regulators; and third, rationalizing our regulatory footprint by getting back to regular order, focusing on our core mission and running a tighter ship.

In drawing to a close, I reflect on the fact that we Americans are and have always been an aspirational people. Whether our families arrived in this country seven generations ago, seven years ago or seven weeks ago -- and in whatever circumstances they may have come -- they came with dreams and aspirations for a better life.

Today, whatever our political point of view, we Americans still seek a brighter and more prosperous future for our families and ourselves.

In January, we witnessed a new beginning for our country and a renewed promise for broad-based economic growth. This is a time to redouble our efforts to rebuild American prosperity:

- To reduce regulatory burdens and flawed rules;
- To enhance the health and vitality of trading markets;
- To foster innovation and greater market intelligence; and
- To lift the prospects of everyone for greater health and harmony.

I intend to do my part, as I may be called upon to serve, to oversee vibrant and durable markets for investment and risk transfer in this new, digital 21st century.

I ask for your help, your prayers and your support for the task ahead.

1 Richard Hill, *CFTC Keeps Doing Business With Only Two Commissioners*, Bloomberg BNA (Mar. 7, 2017), https://www.bna.com/cftc-keeps-doing-n57982084832/.

2 Commissioner J. Christopher Giancarlo, U.S. Commodity Futures Trading Comm'n, Lecture at Harvard Law School: Fidelity Guest Lecture Series on International Finance (Dec. 1, 2015), *available at* http://www.cftc.gov/PressRoom/SpeechesTestimony/opagiancarlo-11) [hereinafter Giancarlo Harvard Lecture].

3 The US economy has not rebounded to pre-crisis strength or expanded anywhere near the buoyant pace that followed the deepest contractions of the 20th century: the depression of 1920-1921, the Great Depression, and the recession of 1981-1982. Those recoveries – led by presidents from the Democratic and Republican parties alike – were far more robust than the underwhelming business cycle we've had since 2009.

4 The Milken Institute found the following economic benefits to the US economy from derivatives: "[b]anks' use of derivatives, by permitting greater extension of credit to the private sector, increased U.S. quarterly real GDP by about $2.7 billion each quarter from Q1 2003 to Q3 2012; [d]erivatives use by non-financial firms increased US quarterly real GDP by about $1 billion during the same period by improving the firms' ability to undertake capital investments; [c]ombined, derivatives expanded US real GDP by about $3.7 billion each quarter; the total increase in US economic activity was 1.1 percent ($149.5 billion) between 2003 and 2012; [b]y the end of 2012, use of derivatives boosted U.S. employment by 530,400 (0.6 percent) and industrial production 2.1 percent." *See* Apanard Prabha et al., Deriving the Economic Impact of Derivatives, Milken Institute, at 1 (Mar. 2014), *available at* http://assets1b.milkeninstitute.org/assets/Publication/ResearchReport/PDF/Derivatives-Report.pdf.

5 *See* Giancarlo Harvard Lecture, *supra* note 2.

6 *Id.*

7 J. Christopher Giancarlo, *Vibrant, Highly Liquid Markets are the Path to Prosperity*, RealClearMarkets (May 4, 2016), http://www.realclearmarkets.com/articles/2016/05/04/vibrant_highly_liquid_markets_are_the_path_to_prosperity_102151.html.

8 Federal regulation has become a major drag on the US economy. Regulations cost the US more than 12 percent of GDP, or $2 trillion annually. *See* W. Mark Crain & Nicole V. Crain, Nat'l Ass'n of Mfrs., The Cost of Federal Regulation to the US Economy, Manufacturing and Small Business, at 1 (Sept. 10, 2014), *available at* http://www.nam.org/Data-and-Reports/Cost-of-Federal-Regulations/Federal-Regulation-Full-Study.pdf.

9 As President Trump said, "businesses can spend more time and money finding and responding to customers and expanding markets, and have more money and more opportunities to hire employees." President Donald J. Trump, Press Conference, CNNTranscripts (Aired Jan. 30, 2017, 9:30 AM EST), *available at* http://edition.cnn.com/TRANSCRIPTS/1701/30/cnr.02.html.

10 The President's executive orders set core principles for financial regulation, require elimination of two regulations for every new one issued and establish regulatory reform task forces within each agency. *See* Presidential Executive Order on Enforcing the Regulatory Reform Agenda (Feb. 24, 2017), *available at* https://www.whitehouse.gov/the-press-office/2017/02/24/presidential-executive-order-enforcing-regulatory-reform-agenda; Presidential Executive Order on Core Principles for Regulating the United States Financial System (Feb. 3, 2017), *available at* https://www.whitehouse.gov/the-press-office/2017/02/03/presidential-executive-order-core-principles-regulating-united-states; Presidential Executive Order on Reducing Regulation and Controlling Regulatory Costs (Jan. 30, 2017), *available at* https://www.whitehouse.gov/the-press-office/2017/01/30/presidential-executive-order-reducing-regulation-and-controlling.

11 This transformation is being driven by a range of breakthrough, exponential digital technologies, including: automated, algorithmic trading that now constitutes up to 70 percent of regulated futures markets; "big data" capability enabling more sophisticated data analysis and interpretation; artificial intelligence guiding highly dynamic trade execution; "smart" contracts valuing themselves and calculating payments in real-time; distributed ledger technology that challenges orthodoxies that are foundational to today's financial market infrastructure; and the power and flexibility of cloud computing amplifying the transformational impacts of these other technologies.

. *See* Commissioner J. Christopher Giancarlo, Keynote Address of CFTC Commissioner J. Christopher Giancarlo Before SEFCON VII: Making Market Reform Work for America (Jan. 18, 2017) *available at* http://www.cftc.gov/PressRoom/SpeechesTestimony/opagiancarlo-19.

12 Commissioner J. Christopher Giancarlo, U.S. Commodity Futures Trading Comm'n, Address to the American Enterprise Institute: 21st Century Markets Need 21st Century Regulation (Sept. 21, 2016), *available at* http://www.cftc.gov/PressRoom/SpeechesTestimony/opagiancarlo-17.

13 Keynote Address of Commissioner J. Christopher Giancarlo before the Markit Group, 2016 Annual Customer Conference, May 10, 2016, http://www.cftc.gov/PressRoom/SpeechesTestimony/opagiancarlo-15.

14 Lananh Nguyen & Andrea Wong, *Liquidity Illusion Burns Traders Blindsided by Pound's Crash*, Bloomberg (Oct. 9, 2016), http://www.bloomberg.com/news/articles/2016-10-09/illusion-of-liquidity-burns-traders-blindsided-by-pound-s-crash.

15 *Id.*; *see also* Max Colchester & Alistair MacDonald, *A Short History of Sudden Market Moves*, Wall St. J. (Oct. 7, 2016), http://www.wsj.com/articles/a-short-history-of-sudden-currency-moves-1475837735.

16 Chairman Timothy Massad, U.S. Commodity Futures Trading Comm'n, Remarks Before the Conference on the Evolving Structure of the U.S. Treasury Market (Oct. 21, 2015), *available at* http://www.cftc.gov/PressRoom/SpeechesTestimony/opamassad-30.

17 Michael S. Piwowar & J. Christopher Giancarlo, *Banking Regulators Heighten Financial Market Risk*, Reuters (July 12, 2015, 6:59 PM EST), http://www.reuters.com/article/2015/07/12/column-seccftc-idUSL1N0ZP29520150712.

18 They include the Volcker Rule's ban on trading, disparate capital retention and leverage reduction requirements under the Basel III accords, margin payments on uncleared swaps, flawed derivatives trading rules and enhanced central clearinghouse recovery procedures.

19 *See generally* Commissioner J. Christopher Giancarlo, Pro-Reform Reconsideration of the CFTC Swaps Trading Rules: Return to Dodd-Frank (Jan. 29, 2015), *available at* http://www.cftc.gov/idc/groups/public/@newsroom/documents/file/sefwhitepaper012915.pdf [hereinafter Giancarlo White Paper].

20 *Id.*; *see also* Commissioner J. Christopher Giancarlo, U.S. Commodity Futures Trading Comm'n, *Reconsidering the Dodd-Frank Swaps Trading Regulatory Framework*, *in* Reframing Financial Regulation: Enhancing Stability and Protecting Consumers (Hester Peirce & Benjamin Klutsey eds., 2016) (publishing a condensed version of the White Paper).

2016) (publishing a condensed version of the White Paper).

21 Those reforms included moving some bilateral swaps into central counterparty clearing, reporting swaps trades to data warehouses, trading swaps on licensed platforms, increasing swap dealer capitalization and standardizing margin on uncleared swaps.

22 While maintaining that Congress got much right in Title VII of the Dodd-Frank Act, I have been critical of some of the CFTC's implementation of swaps market reform *See e.g.*, Giancarlo White Paper, *supra* note 18.

23 Neither the Commodity End-User Relief Act nor the Financial Choice Act contains provisions to repeal Title VII of the Dodd-Frank Act.

[1] Press Release, European Comm'n, European Commission Adopts Equivalence Decision for CCPs in USA (Mar. 15, 2016), http://europa.eu/rapid/press-release_IP-16-807_en.htm.

25 Int'l Org. of Sec. Comm'ns, *The Board of the International Organization of Securities Commissions' Statement on Variation Margin Implementation* (Feb. 23, 2017), http://www.iosco.org/library/pubdocs/pdf/IOSCOPD556.pdf.

26 Presidential Executive Order on Core Principles for Regulating the United States Financial System (Feb. 3, 2017), *available at* https://www.whitehouse.gov/the-press-office/2017/02/03/presidential-executive-order-core-principles-regulating-united-states.

27 As President Trump said of his vision for regulation, "There will be no country that's going to be faster, better, more fair, and at the same time protecting the people of the country." Ian Schwartz, *Trump: Cut Regulations 75% For Businesses, Build Plants Fast And Cut Taxes For Middle Class*, RealClearPolitics (Jan. 23, 2017), http://www.realclearpolitics.com/video/2017/01/23/trump_cut_regulations_75_for_businesses_build_plants_fast_and_cut_taxes_for_middle_class.html.

28 *See* Commissioner J. Christopher Giancarlo, Keynote Address of CFTC Commissioner J. Christopher Giancarlo before SEFCON VII: "Making Market Reform Work for America" (Jan. 18, 2017) *available at* http://www.cftc.gov/PressRoom/SpeechesTestimony/opagiancarlo-19.

29 Presidential Executive Order on Reducing Regulation and Controlling Regulatory Costs (Jan. 30, 2017), *available at* https://www.whitehouse.gov/the-press-office/2017/01/30/presidential-executive-order-reducing-regulation-and-controlling.

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