

[Securities Regulation Daily Wrap Up, TOP STORY—Behnam elected Acting CFTC Chairman, Tarbert remains on the Commission, \(Jan. 22, 2021\)](#)

Securities Regulation Daily Wrap Up

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By [Brad Rosen, J.D.](#)

With the transfer of power to the Biden Administration, Rostin Behnam succeeds Heath Tarbert in the agency's top spot, though the former chairman will continue to serve as a commissioner for some period of time.

On the Biden Administration's first full day in office, the members of the CFTC elected Commissioner Rostin Behnam as Acting Chairman effective immediately. Behnam, who was the longest serving commissioner affiliated with the Democratic party, began his term on September 6, 2017. It expires on June 19, 2021. Despite a change of power in Washington D.C., the Republican commissioners will continue to maintain a 3-2 edge at the CFTC until such time a third democrat is nominated and confirmed by the Senate, be that a permanent chairman or another commissioner.

Notably though and according to reputable sources, President Joe Biden is expected to nominate Chris Brummer, a law professor at Georgetown University, as the CFTC's permanent chair. As of press time, the Biden Administration has not made any official announcement on this score.

An advocate for the public interest. In accepting [his new position](#), Behnam stated, "I want to express gratitude to President Biden for the opportunity to serve in this capacity", noting "The work of the CFTC is critical to supporting the stability and growth of the American economy through strong oversight and regulation of derivatives markets. As a commissioner, I have focused on ensuring our rules prioritize customer protections, examining potential systemic market risk, and gaining a better understanding of what regulators can do to address climate-related financial market risk."

While known for his collegiality and his ability to work with those on the other side of the political aisle, Behnam has also been fierce advocate for the public interest and has issued strident dissents opposing a number of final rules that were approved by his Republican counterparts. These include:

- [Revisions to the Volcker Rule](#);
- [Position Limits for Derivatives](#);
- [Electronic Trading Risk Principles](#);
- [Cross-Border Application of the Registration Thresholds to Swap Dealers and Major Swap Participants](#);
- and,
- [Capital Requirements of Swap Dealers and Major Swap Participants](#).

Acting Chairman Behnam has also been recognized as a leading voice addressing climate-related financial market risk. He was also a driving force behind the CFTC's Market Risk Advisory Committee's recent landmark report [Managing Climate Risk in the U.S. Financial System](#). Katten's Chair of Financial Markets and Regulation, [Gary DeWaal](#), observed, "As the senior Democrat at the CFTC and given the leadership role he has played as head of the MRAC and sponsor of its recent climate change-related report, it is a deserving honor for Russ to be named Acting Chairman.

Tarbert steps down but stays on. In a [separate statement](#), Heath Tarbert announced that he was immediately stepping down as the agency's Chairman, citing the importance of clearing the way for President Biden's selection of a permanent chair. Tarbert observed, "The peaceful transfer of power is a hallmark of the American system of self-government. I am proud of our efforts to uphold that tradition here at the CFTC." Commissioner Tarbert's statement closely tracked and is linked to his prior statement (and video) which catalogued the

accomplishments achieved during his chairmanship. Tarbert will continue his service as a commissioner. His term expires on April 13, 2024, though it has been reported he intends to leave the CFTC before that time.

Moves for other top agency staffers. In other recently announced staff changes at the Commission, Rob Schwartz [has stepped up](#) to be Acting General Counsel with the recent departure of Dan Davis. Schwartz previously served as the CFTC's Deputy General Counsel for Litigation, Enforcement, and Adjudication. Meanwhile, Office of Legislative and Intergovernmental Affairs Director Summer Mersinger [will join](#) Commissioner Stump's Office as Chief of Staff. OLIA Deputy Director Ann Wright will assume the role of Acting Director following Ms. Mersinger's transition into her new role. Additional staff changes are anticipated as the Biden Administration implements further changes at the agency.

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