

Securities Regulation Daily Wrap Up, REGULATORY ACTIVITY—100 days at the helm—newcomer Dr. Heath Tarbert attempts to make his mark at the CFTC, (Oct. 31, 2019)

Securities Regulation Daily Wrap Up

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

Speaking to an industry audience at the FIA Expo in Chicago, the CFTC's 14th Chairman shared the highlights of his first few months leading the agency as well as his vision for the future.

In a TED Talk styled keynote address titled *The First 100 Days and Beyond*, CFTC Chairman Heath Tarbert led off the [35th Annual Futures and Options Expo](#) in Chicago by laying out the agency's renewed mission, vision, core values, as well as providing his road map for achieving five strategic goals for the Commission. Even though this was Tarbert's first keynote address to an FIA Expo audience where he shared his detailed thoughts about the CFTC's agenda and the regulatory landscape, the Chairman opted to break from the agency's prior practice and decided not to publish these remarks. Nonetheless, a video of the presentation is available [here](#), with the Chairman's comments beginning at 1:08:20.

The first 100 days. Dr. Tarbert was sworn in as the agency's 14th Chairman in mid-July 2019. He marked his 100th day as the CFTC chairman on September 22nd. Tarbert stated that he came to CFTC with an understanding of financial regulation, having served as an assistant secretary at the Treasury Department. However, he needed to take some time to better understand the industry and agency. Towards this end, Tarbert indicated that he held 26 meetings with almost all of the agency's approximate 700 employees. Also, during his first 30 days as chairman, Tarbert noted that he tried to make no key decisions, but rather spent his time listening to staff, learning what people were working on, and the issues that mattered most to them. The agency's renewed agenda and strategic objectives were a direct outgrowth of these early meetings with CFTC personnel.

The Chairman's first 100 days also included a controversy over the enforcement settlement with Kraft Food Group, Inc. which went awry. A district court initially called questioned the chairman's conduct, and called for him to come to Chicago to testify in a contempt proceeding in connection with the CFTC's purported breach of a court entered consent order. However, a Seventh Circuit panel later ruled he was not required to do so, nor could he be held in contempt himself.

Mission, vision and core values. Chairman Tarbert discussed the following foundational statements and principles, an outgrowth of his meetings with CFTC leadership and staff and which he noted they voted to approve:

- The CFTC's mission statement is "to promote the integrity, resilience, and vibrancy of the derivative markets through sound regulation";
- The agency's vision statement is "to be the global standard for sound regulation";
- and
- The CFTC's four core values include commitment, forward thinking, teamwork, and clarity.

Five strategic goals. Chairman Tarbert observed that the following five strategic goals for the CFTC emanate from the noted statements in connection with the agency's mission, vision and core values. These goals are:

1. **Strengthening the resilience and integrity of the derivative markets while fostering their vibrancy.** This will include stepping up CCP supervision, and building out the Division of Clearing

and Risk, increasing international cooperation, and improving regulations around margin and capital requirements;

2. **Regulating derivative markets to promote the interest of all Americans.** This includes a renewed focus on various types of market participants including agricultural, end users, smaller financial institutions, as well as enhancing customer protection and educational efforts;
3. **Encourage innovation and enhance the regulatory experience for the market participants both home and abroad.** This involves focusing further on principals based regulation, increasing coordination between the CFTC and SEC, eliminating red tape, reducing the number of no-action letters except in limited circumstance. With regard to digital assets, the Chairman specifically noted if the United States does not lead on this front, someone else will;
4. **Be tough on those who break the rules.** This will require being fair and consistent, increasing coordination with law enforcement and other regulatory agencies, as well as increasing surveillance effectiveness; and
5. **Focusing on unique mission and improve agency's operational effectiveness.** This involves promoting efficiencies throughout the organization, and containing costs, as well as attracting and retaining a diverse workforce.

Seventh Circuit provides relief but not vindication regarding Kraft's contempt claim. A persistent cloud hanging over Chairman Tarbert's first 100 days revolved around the Commission's settlement with Kraft Foods, its purported breach of a court ordered gag provision, and subsequent contempt charges which directly [implicated the Chairman's liability](#). While that cloud has dissipated with [the Seventh Circuit ruling](#) the chairman cannot be deemed culpable, it has not disappeared. Unless the matter is settled, the case will proceed for trial, and [the district court judge will determine](#) if the CFTC itself is in contempt of its earlier order.

In any event, with the trials and tribulations of the first 100 days behind him, Chairman Tarbert appears to be ready to move forward with a far reaching and aggressive agenda for the agency. Whether he will make his mark, time will tell.

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