

Public Statements & Remarks

Statement of Commissioner Dan M. Berkovitz: Intent to Depart

September 09, 2021

I plan to depart the CFTC on October 15, 2021. To every thing there is a season, and now is a time for me to turn to other challenges.

For the last twenty years I have had the privilege of working with and for the Commodity Futures Trading Commission (CFTC), as well as the U.S. Congress and the private sector, to strengthen the integrity of our financial markets. Legislation enacted in 2008 to “close the Enron loophole” and the subsequent passage of the comprehensive Dodd-Frank Wall Street Reform and Consumer Protection Act eliminated legislative gaps that permitted excessive market speculation and contributed to the 2008 financial crisis. Since 2010, the CFTC has worked tirelessly to issue rules to implement the Dodd-Frank Act, vigorously enforce the requirements of the Commodity Exchange Act, and harmonize our regulations with those of other federal agencies and our international counterparts. As a result of these efforts, the U.S. swaps market today—with mandatory clearing and transparent trading of standardized swaps, registered and regulated swap dealing, margin requirements for uncleared swaps, and comprehensive swap data reporting—is more resilient, more transparent, more liquid, less susceptible to manipulation, and more cost-effective for end users. Our derivative markets are stronger than ever and as a result, our economy is stronger too.

It is tempting to measure one’s accomplishments by the number of policies implemented, rulemakings voted for, enforcement actions approved, or written statements issued. But as I look back over my years of service at the CFTC, many of my most valued accomplishments are the intangibles—the personal relationships established, careers supported, and friendships fostered.

It has been a great honor to serve alongside such a talented and dedicated staff. Although the Commissioners may get most of the visibility, the staff does most of the work. Virtually every day over the past three years I have relied upon CFTC staff for expertise and guidance. As the CFTC gained responsibility over the swaps market, and new products like cryptocurrencies have emerged, the staff has worked diligently to expand its expertise and capabilities. Today, the CFTC is both a national and a global leader in financial market regulation. This well-deserved reputation is largely due to our talented staff.

I would like to express my appreciation to the Commissioners with whom I have served for their support and consideration throughout my tenure: Acting Chairman Russ Behnam, Commissioner Dawn Stump, Chairman Heath Tarbert, Chairman Chris Giancarlo, and Commissioner Brian Quintenz. Ever since its founding, the Commission has been a collegial body. Nevertheless, entrusted with public office at this time of polarization in our country, I have felt a heightened responsibility to show that people from different political parties with different backgrounds and different views can come together in our government to work for the common good. Sometimes we have acted in unison, sometimes we have compromised, and sometimes we have disagreed. We may have passionately believed in and expressed our views, but we never disagreed disagreeably. Our markets are stronger as a result of our collaboration, our collegiality, and our diversity. For Russ, Dawn, and Chris, serving together on the Commission has strengthened our friendships. For Heath and Brian, I value the new friendships that we formed.

The Commission's accomplishments in strengthening our financial markets would not be possible without the strong direction, oversight, and support of the Congress, particularly the CFTC's authorizing Committees, the Senate and House Agriculture Committees. It has been an honor to work with the Members and staff of the House and Senate Agriculture Committees to ensure that our financial markets work for American businesses and consumers and are not susceptible to systemic risks or fraud and manipulation. I would like to thank Senate Agriculture Committee Chairwoman Debbie Stabenow, Ranking Member John Boozman, and prior Chairman Pat Roberts; House Agriculture Committee Chairman David Scott, Ranking Member Glenn "GT" Thompson, prior Chairman Collin Peterson, and prior Ranking Member Mike Conaway for the leadership they have provided to the Commission and our commodity markets.

I always will appreciate the support of Senate Majority Leader Schumer for my nomination.

I have been fortunate to have worked daily with three of the agency's best professional staff and attorneys—Erik Remmler, Lucy Hynes, and Sebastian Pujol. Erik, Lucy, and Sebastian have counseled me on every matter I have dealt with over the past three years. Erik helped manage my office and his expertise on swaps has been a great asset to me and the Commission. Erik was instrumental in finalizing and clarifying numerous swap dealer and swap market regulations in the wake of the Dodd-Frank Act. Lucy has advised me on enforcement matters, energy and environmental issues, and digital assets. Lucy also provided key support to the agency in defense of my right as Commissioner to publicly speak on Commission matters without constraint, a right vindicated by the U.S. Court of Appeals in *In re CFTC*, 941 F.3d 869 (7th Cir. 2019). Sebastian has advised on all market regulatory and oversight issues, as well as digital assets. Sebastian's deep knowledge of the commodity markets was invaluable during the Commission's revision of its position limits rule, our adoption of new rules for automated and algorithmic trading, and our review of the extraordinary collapse in the price of WTI crude oil futures contracts on April 20, 2020. Erik, Lucy, and Sebastian share credit for any successes that anyone may attribute to me as Commissioner.

I'd also like to thank Abigail Knauff for her extraordinary dedication and support as Secretary of the Energy and Environmental Markets Advisory Committee (EEMAC). The smooth functioning of the EEMAC is in large part due to Abigail's tireless work.

I owe a large debt of gratitude to my Executive Assistant, Latonia Williams, for keeping me and my office all together and functioning as a team during the COVID pandemic.

I have tremendously benefitted, both as Commissioner and personally, from meeting with the diverse groups of CFTC employees represented in the CFTC affinity groups. I am proud to have promoted the agency's dialogue on how to improve its diversity, equity, and inclusion practices and championed a more diverse, equitable, and inclusive workplace.

The CFTC relies heavily on information and comments provided by market participants and the public to conduct its oversight and fashion effective and efficient regulations. I have learned much about our markets and how the CFTC can better accomplish its regulatory mission from engaging with these stakeholders. I am particularly grateful to the members of the EEMAC for their voluntary service and contributions to the Commission's oversight and understanding of the energy and environmental markets. The EEMAC meetings that I have had the privilege of sponsoring have provided a wealth of information and insight into these markets.

I'd also like to recognize the press and media for providing informed and objective coverage of the CFTC's activities, which is no small feat for a complex, technical, and controversial subject matter. A free press is a cornerstone of our democracy and helps keep those who hold governmental power accountable to the American people—the ultimate source of that power.

Finally, I would like to thank the late Senator Carl Levin for his support and encouragement for me to devote my career to improving our financial markets. As a member of his staff on the Senate Permanent Subcommittee on Investigations, Senator Levin taught me the value of meticulous preparation in pursuit of a vision. Senator Levin also taught me the value of tenacity in pursuit of that vision, but also that maintaining one's integrity and achieving long-term successes are more important than winning short-term victories. And he showed me the value and intrinsic rewards of a life dedicated to public service.

I am most fortunate to have had the opportunity to work with so many extraordinary people to strengthen our financial markets. Serving the public in my role as a CFTC Commissioner has been, and will always remain, a great honor.

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