

**NOMINATIONS OF
CHRISTOPHER JAMES BRUMMER AND
BRIAN D. QUINTENZ TO BE
COMMISSIONERS OF THE
COMMODITY FUTURES TRADING COMMISSION**

HEARING
BEFORE THE
**COMMITTEE ON AGRICULTURE,
NUTRITION, AND FORESTRY
UNITED STATES SENATE**

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**NOMINATIONS OF
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BRIAN D. QUINTENZ TO BE
COMMISSIONERS OF THE
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Thursday, September 15, 2016

UNITED STATES SENATE,
COMMITTEE ON AGRICULTURAL, NUTRITION, AND FORESTRY,
Washington, DC

The Committee met, pursuant to notice, at 10:00 a.m., in room 328A, Russell Senate Office Building, Hon. Pat Roberts, Chairman of the Committee, presiding.

Present: Senators Roberts, Boozman, Perdue, Tillis, Stabenow, Brown, Klobuchar, Bennet, Gillibrand, Donnelly and Casey.

**STATEMENT OF HON. PAT ROBERTS, U.S. SENATOR FROM THE
STATE OF KANSAS, CHAIRMAN, U.S. COMMITTEE ON AGRICULTURE,
NUTRITION, AND FORESTRY**

Chairman ROBERTS. I call this hearing of the Senate Agriculture, Nutrition, and Forestry Committee to order. I welcome my colleagues, and colleagues soon to come, as we consider the nominations of Dr. Christopher Brummer, and Mr. Brian Quintenz to serve as Commissioners of the Commodity Future Trading Commission.

The CFTC is charged with fostering open, transparent and competitive financially sound markets and to avoid systemic risk. Further, the Commission is tasked with protecting market users and their funds, consumers and the public, from fraud, manipulation and abusive practices related to derivatives and other products that are subject to the Commodity Exchange Act.

In order to fulfill its mission, the Commission is comprised of five Commissioners nominated by the president with the advice and consent of the Senate. Unfortunately, there are two commissioner vacancies at the CFTC, or perhaps fortunately, and that is what brings us here today.

As noted by the CFTC's own mission statement, farmers, ranchers, producers, and commercial companies are end users—that includes municipalities and pension funds and others who use markets to lock in a price or rate and focus on what they do best, that is, innovating and producing goods and services for the economy, most importantly, creating jobs.

It is essential that the CFTC have individuals in charge that truly take that mission statement to heart, as the innovation and

hard work of our farmers and ranchers seems to have been forgotten in recent years. As I have said before, it was not the farmer, the rancher, the producer or the commercial end user that caused the great financial crisis of 2008, yet they are paying the price. Many of us here raised concerns when Dodd-Frank was being considered and insisted that the legislation should not negatively impact those who had nothing to do with the causes of the 2008 crisis. It is important to note that this was a bipartisan concern.

Yet when Dodd-Frank became law, and the CFTC began writing new regulations, it was in fact our farmers, our ranchers, and our country grain elevator managers who felt the heavy hand of over-regulation. We hear of the concerns from constituents who describe in detail, the regulatory overreach stemming from the Dodd-Frank Act and its implementation.

In order to address these concerns, this Committee passed a bill in April titled "The Commodity End User Relief Act." The bill champions compromise and a responsible solution to providing regulatory certainty to end users while increasing customer protections. As the futures and derivative markets have grown to include a producer's input costs like fuel and fertilizer, so too has the producer risk management toolbox, and more options for managing risks are a good thing.

It is clear that Congress should not withhold needed regulatory relief from our farmers and ranchers and risk management service providers any longer, nor should the CFTC. The CFTC must look through the lens of regulatory practicality, not the lens of irrationality. I am pleased that Chairman Massad is recommending the automatic drop of swap dealer de minimis levels be pushed back one year. It is important that the Commission have more time to analyze the issue to better serve our farmers, ranchers and end users.

It is also important the CFTC discontinue its expansion of its jurisdiction where systemic risk is not present. It is imperative that all Commissioners understand the historic nature of the markets the CFTC regulates and truly understand risk mitigation as well as associated costs of regulations.

I thank both the nominees for being here today. I look forward to your testimonies, and I now turn to my colleague, Ranking Member Stabenow, for her opening remarks.

**STATEMENT OF HON. DEBBIE STABENOW, U.S. SENATOR
FROM THE STATE OF MICHIGAN**

Senator STABENOW. Well, thank you very much, Mr. Chairman. I too want to welcome and congratulate our two CFTC nominees, Chris Brummer and Brian Quintenz, and welcome their families and friends who are here today.

It is remarkable to think that more than eight years have passed since the start of the worst financial crisis to hit our country since the Great Depression. That is why your positions are so important, this responsibility is so important. Whenever I think about the work of the CFTC, I never forget that eight million hardworking Americans lost their jobs because of financial markets that got out of control. Small businesses closed, people were evicted from their homes, retirements were wiped out. Despite many signs of strength

and continued growth in our nation's resilient economy, we also know that millions of Americans across the country are still trying to get fully back on their feet from what happened at that time.

Although the Commodity Futures Trading Commission is rarely associated with helping to create or secure American jobs, the price of food in the marketplace, the supermarket, or the cost of gas at the pump, this Committee knows all too well the direct relationship between the CFTC's responsibilities and these fundamental elements of our economy that American families worry about every single day.

The CFTC is the front line regulator of derivatives, which as we know, includes futures, options, and since 2010, swaps. As we all know, derivatives, specifically the over-the-counter swaps market, played a significant role in the financial crisis. The swaps market was once in the shadows and a virtual financial playground. But today, this Committee and the CFTC can confidently say that as a result of Wall Street reform, a light is shining on the swaps market.

From strong capital and margin requirements to mandatory clearing, trade reporting, swap execution facilities, the derivative market is much more transparent and well-regulated in the public interest than it has ever been. There is, however, more to do. The CFTC must continue to build on the momentum of the past six years to ensure that the derivatives market remains strong, transparent, free from manipulation and fraud, and accessible to end users, and certainly the Chairman and I agree and have both joined together in supporting the accessibility and effectiveness for end users in this process.

Today the CFTC has much more responsibility than it has ever had. Unfortunately, though, it carries out those responsibilities with limited resources, which continues to be a concern of mine in terms of the ability to fully respond to markets and be effective through the CFTC. While I will continue to lead the fight for additional Commission resources, it is critical that the Commission use existing resources in the most effective manner possible.

The CFTC must also keep a sharp eye on all market participants, including clearing houses, exchanges, swap dealers, which now have significant new roles and responsibilities under Dodd-Frank, and new risks associated with automated trading and threats from cyberattacks are threats that could domino across the globe and knock families and small business down along the way.

Finally, the CFTC must continue to work to harmonize key financial reform rules across borders, carefully balancing the need for smart financial reform with the sensitive appreciation of how countries may approach regulations differently. The CFTC's most important responsibility is to fight for every American who has lost their job, their home, their pension after the financial crisis, also for every farmer, every manufacturer, rancher, business person who uses the markets and needs it to be effective.

I have enjoyed meeting with each of you and appreciate the responses, the conversations that we have had, and I look forward to your responses today. If confirmed, I fully expect both of you to work with this Committee in an open and responsive manner. Thank you, Mr. Chairman.

Chairman ROBERTS. I thank my distinguished colleague for her remarks. It is now time to hear from the nominees.

Dr. Chris Brummer is a professor of law and faculty director of the Institute of International Economic Law at the Georgetown University Law Center where he has taught since 2009. Chris received his bachelor's from Washington University in St. Louis, a juris doctorate from Columbia University Law School, and a Ph.D. from the University of Chicago. From 2004 to 2006, he was an associate of the law firm of Cravath Swaine & Moore, LLP. From 2006 to 2009, Chris was an assistant professor at Vanderbilt University Law School, and he served as an academic fellow in the Securities and Exchange Commission Office of International Affairs in 2008. In 2015, he completed a three-year term on the National Adjudicatory Council of Financial Industry Regulatory Authority. The acronym for that is FINRA.

Welcome, Chris.

Our next nominee, Mr. Brian Quintenz, is a founder and managing principal and chief investment officer of Saeculum Capital Management, LLC, in Washington, DC. Prior to forming Saeculum Capital Management in late 2013, Brian worked within the Global Institutional Consulting Group at Merrill Lynch as an outside consultant. From 2009 to 2012, he was the senior associate for Hill-Townsend Capital, a firm established during the 2000 crisis to focus solely on U.S. financial company equity opportunities.

Prior to working in the financial markets, from 2001 to 2007, Brian was a senior policy aide for Congresswoman Deborah Pryce, an outstanding member of the House from Ohio and a good friend. Brian graduated Magna Cum Laude from Duke University—it is not clear whether he is one of these Duke University's jumping up and down fans on the basketball court, so that will remain classified—who has a major in public policy studies and received an MBA from Georgetown.

I welcome you. I look forward to your testimonies. But before that, there are two questions I will ask you under oath. Please stand and raise your right hand.

Do you swear that the testimony you are about to present is the truth, the whole truth and nothing but the truth so help you God?

Mr. BRUMMER. I do.

Mr. QUINTENZ. I do.

Chairman ROBERTS. Secondly, do you agree that if confirmed, you will appear before any duly constituted committee of Congress if asked to appear?

Mr. QUINTENZ. I will.

Mr. BRUMMER. Yes.

Chairman ROBERTS. I thank you both. We recognize Dr. Brummer first.

TESTIMONY OF CHRISTOPHER JAMES BRUMMER, TO BE COMMISSIONER OF THE COMMODITY FUTURES TRADING COMMISSION

Mr. BRUMMER. Thank you so much, Chairman Roberts, Ranking Member Stabenow, and the members of the Committee. I am honored to be here before you today as a nominee to serve as a commissioner on the Commodity Futures Trading Commission. I would

also like to thank President Obama for nominating me and my amazing family, especially my wife, for supporting me.

The CFTC has an important, significant impact on the daily lives of Americans and it is critical that CFTC regulated markets work well, and I hope to contribute to this work. I come from a family of teachers and farmers. My grandparents had a small farm in the Shenandoah Valley of Western Virginia, and some of my earliest memories include spending summers on that farm, riding on the back of my grandfather's pickup truck as we took produce to the local market.

My mother, who grew up there, would become an elementary school teacher and move with my father to beautiful Northwest Arkansas, where I was raised. I grew up in a rural area just outside of Fayetteville, where my neighbors raised cattle and horses, and poultry producers were just a 10-minute walk down the road from my house. My upbringing taught me to respect different points of view and stressed basic values that have longed sustained the country: work hard, help your neighbor, think before you act, and do good.

These values have paid dividends throughout my life. I worked hard in school, learned a couple of foreign languages, and eventually ended up a lawyer, which opened doors for me to educational and professional experiences around the world. I invested a significant amount of time studying markets and financial regulation as a professor, and I opted, where I could, to do good, from advising regulators in the United States, Europe and Asia on how to ensure safe and efficient cross-border market supervision, to working on critical enforcement efforts intended to keep America's financial markets safe and secure.

The 2008 financial crisis had devastating consequences for the economy and like many Americans, it impacted those I cared about in many ways. It would also underscore for me important lessons about interdependence and the global economy. For much of 2008, I was a fellow at the Securities and Exchange Commission's Office of International Affairs, on loan from Vanderbilt Law School in Nashville where I was teaching. There I helped push forward America's regulatory interests and priorities in the world and saw firsthand the need for skilled communication and coordination with global actors.

My work since then has focused on cross-border oversight of derivatives and securities markets. I am a strong believer in promoting safe and economically vibrant financial markets through sensible and strong regulation at home and close coordination abroad. Smart international coordination helps level the playing field for U.S. firms competing abroad and to prevent arbitrage that can undermine our domestic policy priorities and market practices.

I have seen in my experience assisting law enforcement that, unfortunately, threats to market integrity are very real and must be addressed swiftly. Farmers, ranchers, and commercial end users must be able to trust that markets both function properly and allow market participants to hedge their commercial risks effectively. They also have to trust that the markets in which they participate are healthy, liquid and free of fraud and manipulation.

To accomplish this, government oversight should be prudent and efficient and rules should be carefully and faithfully enforced. The CFTC should not be afraid to embrace new technologies that promote efficient markets, but where innovations pose risks, whether to market integrity, cybersecurity or financial stability generally, end users and U.S. taxpayers must be protected.

Finally, I believe the CFTC's mission going forward is as much about faithfully concluding the agency's Dodd-Frank rulemaking as it is about looking forward to new threats and opportunities facing the derivatives markets and those who depend on them. I recognize that to do this job well requires listening and keeping an open door to people who rely on those markets, and I promise to do just that.

Again, I am honored to be here today, and I look forward to your questions.

[The prepared statement of Mr. Brummer can be found on page 26 in the appendix.]

Chairman ROBERTS. Thank you very much, Dr. Brummer, for an excellent statement, and for being on time. I make a note of that. Ranking Member will have to give him a star for that. Mr. Quintenz.

Mr. QUINTENZ. I will make a note of that too, Mr. Chairman.

TESTIMONY OF BRIAN D. QUINTENZ, NOMINEE TO BE COMMISSIONER OF THE COMMODITY FUTURES TRADING COMMISSION

Mr. QUINTENZ. Thank you, Chairman Roberts, Ranking Member Stabenow, and members of the Senate Agriculture Committee. It is an honor to be with you this morning. I would also like to thank Majority Leader McConnell for recommending me for this position and President Obama for my nomination. If confirmed, I would fill the seat vacated by Scott O'Malia, who set a high standard in his service as commissioner.

I am deeply grateful for the love and support of my parents, Kenneth and Susan Quintenz; my brother, Darren Quintenz; and my two children, Connor and Vivienne, all of whom are in attendance today. I am proud to have them here.

Mr. Chairman, I am a Midwesterner, a first generation Ohioan whose mother and father grew up in Wisconsin, the home of my extended family. While I am a resident of Washington, DC, I still consider myself a Midwesterner, and I believe firmly in the Midwest values of hard work, honesty, and community.

I come from a family of entrepreneurs and small business owners. My grandfather on my mother's side, after serving in World War II, returned home to Northwestern Wisconsin and bought a Ford car dealership. His wife, my maternal grandmother, was raised on a family dairy farm in Chetak, Wisconsin. My paternal grandmother owned and operated a restaurant on the east side of Milwaukee, putting her three sons through college. My father started his own business, my brother started his own business, and I am the founder of my own business, Saeculum Capital Management.

Saeculum is an investment firm currently registered with the CFTC as a commodity pool operator. As the sole proprietor of this firm, it is my responsibility to effectively and meticulously manage

risk as well as compliance. I am, therefore, very familiar with the CFTC's investor protection rules, disclosure requirements, and recordkeeping obligations. Additionally, as a registered Associated Person of this firm, I hold a Series 3 National Commodity Futures Exam license, a credential valuable in interpreting the impact of regulations on futures markets.

I began my career in finance in 2008, during the financial crisis, working directly under the CEO at an investment firm focused on the banking sector. I performed detailed valuations on financial institutions of all sizes and complexities. I became an expert at reading banks' balance sheets and income statements, understanding their accounting rules and financial disclosures, and forecasting their capital levels and quarterly earnings.

In this position, I depended on the accuracy and accessibility of publicly available information and became a firm believer in data and transparency. Transparency increases market efficiency and can provide an important check on risky behavior. The Commission's focus on data and transparency is encouraging, but more progress is needed. If confirmed, I will draw from my professional experience to advance that important work.

But my professional career did not begin in finance; it began in public policy. After graduating from Duke with a degree in public policy studies, I joined the office of Congresswoman Deborah Pryce, who represented Ohio's 15th District, an area that included my hometown of Columbus. Ultimately, I became her Senior Policy Advisor with an issue portfolio that included agriculture. In meeting agricultural constituents and personally visiting some of the over 1,000 family farmers in our Ohio district, I developed a strong appreciation for the work ethic and sophistication of America's farmers and ranchers, as well as for the pressures, costs, and risks that they face in their business. Should I be confirmed, I pledge to ensure the market concerns of the agricultural sector are recognized and continue developing a firsthand knowledge of the agricultural community.

The financial crisis scarred every sector of our economy, hurt individuals, families and communities, and exposed deep flaws in our markets. It deserved a legislative and a regulatory response. As that response is calibrated, regulations meant to address those flaws should not spill over to harm the normal activity of ordinary businesses. When costs are added without targeting risk, poor outcomes ensue. I will work to ensure that regulations and their burdens are tied to the risks being mitigated.

I would be honored to bring my public policy background, my expertise in finance, my knowledge of derivatives and their uses, my familiarity with risk management, as well as my respect for the agricultural community and end users of these markets, to the CFTC. This is a crucial time for our financial markets and for the people that depend on them. It would be a privilege to be of service in safeguarding and improving the country's marketplaces.

I will be very pleased to answer your questions.

[The prepared statement of Mr. Quintenz can be found on page 28 in the appendix.]

Chairman ROBERTS. Thank you, sir. We now turn to questioning of the witnesses, and I am going to ask this question, and we will ask Brian to start off.

Looking at the CFTC through the lens of an agricultural end user, do you think the CFTC has done an adequate job of balancing risk versus costs in rules they have issued as required by Dodd-Frank?

Mr. QUINTENZ. Thank you for the question, Mr. Chairman. I think it is crucial that the agency, in all aspects of their rulemakings, do a thorough job in understanding, estimating, and disclosing the costs associated with their rule writings and to ensure that, as they seek to apply those costs through the definitions they create that target entities and activities, that those definitions correspond to the risks being mitigated. Otherwise, I fear costs are applied broadly, burdens are borne inappropriately, and the Commission gets into the dangerous area of potentially regulating generic activity.

I guess I would point to, as an example, something we saw a number of years ago with the agency revising the Part 135 requirements that would require farmers and ranchers to keep very detailed records that were searchable and sortable, including text messages and instant messages, of any communication that could possibly lead to a transaction. I know this was a great burden on the farming and ranching community. I am pleased that the CFTC recognized the burden of that and worked to fix it, although, unfortunately, I think it took a number of years to happen. But I would point to that, as well as maybe some other things coming down the pike, where they need to focus on this.

Chairman ROBERTS. Dr. Brummer.

Mr. BRUMMER. It is absolutely critical that the CFTC both remember its roots and the importance of agricultural end users to the U.S. economy. If these derivatives markets do not function well, it jeopardizes the ability of end users to not only hedge their risk, but also to contribute productively to the U.S. economy.

You have my commitment that I will work to ensure that the rules that are in place work effectively for these end users, for the folks back home in my community and similar communities. It is important work, and frankly it has to be something to keep in mind in the ongoing rulemaking.

Chairman ROBERTS. So you have your cost benefit yard stick right in your pocket?

Mr. BRUMMER. Well, the CFTC statutorily is required to consider costs. It is critical that the work being done is data driven, that the Commission grounds its rule writing in facts. Part of the costs to be considered involve avoiding dead weight costs to society, while at the same time making sure that we keep in mind the greater costs at times, and certainly in the financial crisis, that we saw that can peril the U.S. economy. So the data-driven analysis has to be one where you kick the tires and you lift the hood, and also you keep in mind the stakes of getting it right and the stakes involved in getting it wrong.

Chairman ROBERTS. You both have touched on this, but I want to really emphasize that I have stated many times before that we need more options and lower costs for our on-the-ground folks who

are trying to hedge their agriculture or their commercial risks so they can get down to the business of what they do the best for America. As the CFTC is currently considering rules and regulations that could negatively affect our farmers, ranchers, and end users, can you please speak to how you would address those rules and regs as a commissioner, specifically the de minimis level and position limits.

We will start with you, Mr. Quintenz.

Mr. QUINTENZ. Thank you, Mr. Chairman. Yes, these are very important rulemakings that could affect a lot of activity that falls outside, I think, the risks that are being targeted. I think it is important in position limits to make sure that the end users maintain their ability to bona fide hedge their risks. The proposal, I think, contains a number of limitations of very tried and true hedging practices that would be subject to Commission approval and create an approval regime. In terms of the de minimis threshold, I fear that if we get that wrong, we end up driving providers of these swaps out of the market and consolidating risk.

Chairman ROBERTS. Dr. Brummer.

Mr. BRUMMER. Given the data that I have seen from the CFTC, I would have some concerns about the risk of transactions in the non-financial commodity swaps markets flying under the radar. I hear today, like you, that the Chairman has announced a year-long delay in order to get more data in order to not only do that, but also get their capital rules right. I certainly cannot disagree with the proposition that you want to get these rules in particular right.

But I think that any delay really should be a purposeful one. It is essential for regulators to understand cost. But if you have significant players in the market, the law mandates that there needs to be in place standards like business conduct, reporting, record keeping, and risk mitigation, in order to help assure a high quality transactional environment.

So if confirmed, I would certainly work to ensure that the time is used wisely.

Chairman ROBERTS. Dr. Brummer, let me ask you a question. In a 2000 "Georgetown Law Journal" article you wrote the following, quote, "Policymakers in agencies such as the SEC and Federal Reserve are not generally elected by the public and once appointed, are not often easily removed by even democratically-elected officials. Policymaking is to some degree unaccountable to the public, and therefore, some believe, illegitimate."

Now, considering this, why do you want to become such a policy-maker, and how will you ensure the legitimacy of your work at the CFTC? Pardon us for going into your background.

Mr. BRUMMER. Oh, no, no. It is an honor to have my scholarship certainly discussed by such an esteemed body. In that article and in other articles I also add that in order to get rulemaking right, you have to have on the one hand, technical expertise, people who are willing to get into the details and to make sure that very fact-specific and often complex market ecosystems work well. But it is essential that when doing this, that there is sound, strong congressional oversight.

I think that if I have the honor of being a commissioner, a certain modesty has to be involved in everything that you do, to know

that I am not or would not be an elected representative, and that ultimately I have to understand that although I have a responsibility to safeguard the public interest, that at the same time that work has to be done in a collaborative spirit with elected rule makers. It is the only way to get it right, to get all the information that you need about your constituents and others, and I think it ultimately enhances the quality of agency rulemaking.

Chairman ROBERTS. I appreciate that. I have two other questions, one involving the cost benefit balance and the consideration when voting on proposed final rules and regs, the other on CFTC in regards to the Dodd-Frank rule writing process. You have both touched on those in your answers.

I turn now to Senator Stabenow.

Senator STABENOW. Well, thank you, Mr. Chairman, and thank you again to both of you. I wanted to specifically ask you a little bit about cybersecurity, which obviously, when we look at every realm of our lives now, there is the whole question that is very serious. Last week the CFTC adopted amendments to its system safeguard rules in an effort to enhance and clarify existing cybersecurity requirements.

I am pleased that the Commission did that in a timely way, because it goes without saying that this threat of cyberattack is one of the biggest challenges we face both in the public and the private sector. However, looking closely at last week's amendments, I am curious whether each of you believes that a best practices approach is enough or whether we need to be looking at more specific cybersecurity regimes which closely integrate the public sector's work with the private sector. What is the best that we should be doing here as it relates to addressing cyber threats to our financial markets?

I will first, Mr. Quintenz, ask you and then Dr. Brummer.

Mr. QUINTENZ. Thank you, Senator. That is a very important and a very difficult question. There is no more important issue, I believe, to regulators and to the marketplaces than cybersecurity. I view cyberspace as the battlefield of the 21st Century for those that wish not only to commit fraud and theft, but for those that wish to do our country harm and potentially create a panic that could lead to a breakdown in social services. This is something that I believe the Commission has taken very seriously. I was encouraged by the bipartisan and unanimous adoption of that rule.

Specifically, to your question, I think we need to allow for innovation in this space. We need to allow for the flexibility of firms that have very large budgets that can target cybersecurity, to spend those funds and spend that thought in a flexible way, while ensuring that they are meeting best practices, a high standard of best practices, to save our markets.

Senator STABENOW. Thank you. Dr. Brummer.

Mr. BRUMMER. Cybersecurity is critically important. It is critically important to our markets. It is critically important to the health and security of the U.S. economy. It is not only complex, but it is fast moving. Cyber threats can quite literally move in milliseconds, and it is critical that the agency, that the CFTC, remains ahead of the technological curve.

Certainly best practices are a start. You want to, I would imagine, make sure—and certainly I would want to make sure, if I had the honor of being confirmed, that best practices and benchmarks are indeed being met and that there is a high quality to those best practices. It is important, frankly, for CFTC Commissioners and staff to get out into the field and make sure that they have both the resources and the wherewithal in order to predict trends to cybersecurity. But is it of critical importance, and you would have my commitment that I would be paying this very, very close attention.

Senator STABENOW. Thank you. Let us talk about cross-border harmonization. I know, Dr. Brummer, you have done a lot of important work in that area, but recent decisions by some international regulators to delay the September 1 implementation of margin requirements for un-cleared swaps has raised many important policy questions regarding global harmonization of financial markets and relates to the risks of rewarding bad behavior by broadly delaying deadlines. This is a dilemma because we have moved ahead, others have not.

So given the global nature of the swaps market, what is your view of the U.S. role among international regulators, and how would each of you balance the need to move forward on financial reform while recognizing real challenges that individual regulators may face and the communities being regulated face in all of this? Dr. Brummer.

Mr. BRUMMER. International coordination is deceptively hard. It is difficult. You have countries with different traditions, different economies, different political and economic cycles, and getting everybody on the same page takes commitment and it takes work. Overall, I think it is hard, however, to lead if you do not lead by example. I think if you want to have an environment, a cross-border regulatory environment that is of high quality, then the United States should commit to the highest standards and find those who are like-minded.

There have been some delays. My sense is that by standing firm, the United States, and particularly the CFTC, has been able to encourage other countries to accelerate some of their own reforms in order to provide a more stable cross-border regulatory environment, but it certainly takes a lot of dedication, work and listening to other regulators and a firm understanding of what exactly they are doing in other parts of the world.

Senator STABENOW. Thank you. Mr. Quintenz.

Mr. QUINTENZ. Thank you, Senator. I would agree with my fellow nominee. I think this comes down ultimately to relationships and trust and keeping an open line of communication across our borders to make sure that these efforts are coordinated. I think someone does have to go first, but I do not believe that is the full analysis. I believe that the full analysis is: after you go first, how long will it be until all the jurisdictions move, what is the size of the regulatory arbitrage you are creating, and once other jurisdictions move, will there be regulatory arbitrage going forward?

I believe that requires a great level of coordination on which I would be thrilled to work should I have the honor of being confirmed.

Senator STABENOW. Thank you very much. One other question that I would like to ask each of you in that regards to the clearing house risk. The risk and leverage associated with unregulated swaps markets played, as we know, a significant role in a financial crisis. Recognizing this, Congress required essential clearing of certain standardized swaps. Since the transition, many concerns and questions have been raised regarding the new risk profile of clearing houses.

What actions do each of you believe the CFTC should take to ensure registered clearing houses manage risk appropriately so that the requirement for clearing does not become a vehicle for unmanageable systemic risk? Dr. Brummer.

Mr. BRUMMER. The reforms, the clearing reforms, are very important and constitute a core aspect of recent reforms, but there are risks certainly whenever you concentrate transactions within one entity, and as a result, the CFTC has to play a vigilant role in making sure that clearing houses operate well, that they function properly, and that the members are fulfilling their own obligations to the clearing house.

This involves close supervision of clearing houses. It involves an analysis of what contributions the members are making to the clearing house in order for it to function properly, what risk protocols are not only being implemented now, but on an ongoing basis, and making sure that there are inspections of those clearing houses to make sure that they are adequately capitalized and to make sure again, that U.S. taxpayers are never again on the hook for shortcomings in our own financial market infrastructure.

Senator STABENOW. Thank you. Mr. Quintenz.

Mr. QUINTENZ. Yes, thank you for the question. I think it is crucial to make sure that the clearing houses are keeping their obligations. I do not believe that, before rule writing in this area, there was any method to potentially resolve a clearing house failure. So I believe that is crucially important, that it be on the record and in the books, and that process be known to the markets so it does not create a panic.

However, I am also aware clearing houses need to protect themselves against their largest two customers and members failing, in which case there would probably be some significant other problems that we would be having to deal with. But I think it is crucial that we verify that they are keeping those obligations to prevent anything outside of that from happening.

Senator STABENOW. Thank you, Mr. Chairman.

Chairman ROBERTS. I thank my colleague. Senator Boozman.

Senator BOOZMAN. Thank you, Mr. Chairman, and Dr. Brummer, we are glad that your family saw the light and moved you from Virginia to Northwest Arkansas.

Mr. BRUMMER. Yes, sir.

Senator BOOZMAN. Certainly we are very, very proud of you. I would like to follow up on the Chairman's question about the relationship of the importance of the CFTC understanding the American farmer and understanding agriculture. If confirmed—and this is a question for both of you. If confirmed, how do you plan to engage with agricultural groups as well as with other end users?

What would be your method of getting out and ensuring that you have a good understanding?

Mr. QUINTENZ. Thank you, Senator. When I spent time on the Hill, one of my favorite things to do was to go back to our district and actually visit with people. I do not think you get a better sense of their businesses and their pressures and their costs than you do by actually going there and being on the ground with them.

I would, should I have the honor of being confirmed, commit to, on a very regular basis, meeting with the agricultural community and farmers and ranchers around the country to make sure that I am hearing their concerns. I would also very much like to keep an open line of communication to you and your colleagues to make sure I am hearing the concerns of your constituents.

Senator BOOZMAN. Dr. Brummer.

Mr. BRUMMER. Absolutely. It is an honor, a privilege to talk to our great farmers. I too can commit to getting out, talking to farmers and ranchers and other end users about their needs. I enjoy getting back home and talking to folks in my community and other similarly-situated communities and will continue to do so.

Senator BOOZMAN. Very good. In your testimonies, I think both of you noted the importance of ensuring that U.S. firms are operating on a level playing field as compared to our international competitors, and certainly, I completely agree with that point. But one area that has been a challenge is in harmonizing the rules, and again, our Ranking Member brought this up with the regulations with the rest of the world.

How would you approach the decisions like the CFTC's recent comparability determination regarding Japan? How would you ensure that U.S. firms are able to compete with their international counterparts without competitive advantage?

Mr. QUINTENZ. Thank you for the question, Senator. I think that this does come down to relationships. It does come down to keeping open lines of communication. I believe that in the example of Japan, "comparability" is an important word. The word is not "equality"; it is "comparability". I think that we need to be open to understanding other jurisdictions have their own authority and, if their goals are similar to ours and we feel that we are comfortable with the ring fencing they can do around that risk, I think that those determinations should be pretty easy.

But I think that it is crucial that we understand how our rules are either advantaging our markets or potentially disadvantaging our markets in a situation where there is disharmony in the regulatory process.

Mr. BRUMMER. I think that harmonization is important. Rules will never be 100 percent the same across jurisdictions, and it is important to make sure that regulators are on the same page, both from the standpoint of financial risk, but also to make sure that there is a level playing field for our companies operating abroad, and I think you have to leverage existing international organizations and forums, having sound relationships, and leading by example.

As I said, I think it is hard to lead if you do not lead by example, but also understand that there are different regulatory ecosystems and countries have different ways of getting things done.

Senator BOOZMAN. I really do not have a question about cybersecurity except just to comment in the sense I am on a Subcommittee that has jurisdiction over OPM and the IRS and Appropriations, and this is just a huge problem for our country, and we are seeing this with all the stuff that is coming out. But that is certainly something that I would really encourage both of you to really just make that a priority. It is just something that we have to attack as a nation. The Federal Government just does not do a very good job. So if you want to comment on that.

Mr. QUINTENZ. I just agree with you. It requires an immense amount of coordination and effort.

Senator BOOZMAN. Yeah.

Mr. BRUMMER. Absolutely, sir.

Senator BOOZMAN. Thank you. Thank you, Mr. Chairman. As noted, I have also stayed within my time line.

Chairman ROBERTS. Much appreciated. Senator Brown.

Senator BROWN. Thank you, Mr. Chairman. Mr. Quintenz, welcome fellow Ohioan. I see your family is there with you. I know it is a big day for you and for them, and congratulations. I had the honor of serving with your very distinguished former employer in the House, with Congresswoman Pryce. So thanks for joining us.

Let me start with you, and then I want to follow up with Dr. Brummer from what Mr. Boozman asked about and what Ranking Member Stabenow talked about too. The Advisory Committee, the CFTC Advisory Committee, as you know, these committees serve an important function, but earlier this year, the Energy and Environmental Markets Advisory Committee presented a one-sided report that was withdrawn.

How do you support balancing the membership of the Committee to make sure a variety of viewpoints are considered and represented? Because in that report we had some conversations and the Commission did not really seem all that interested in more balance. How do we get there on those kinds of advisory committee reports?

Mr. QUINTENZ. I think it is crucial that advisory committees are open and transparent. I think transparency is the bedrock of trust in governments and in markets. I believe in hearing all sides of an issue. As a former staffer and as an analyst in the markets, I know there are always two sides of a story. So I would encourage a robust conversation on any advisory committee would I have the honor of leading. I believe that the two advisory committees open are Global Markets and Technology. I am not sure exactly how robust those viewpoints would be, but I would agree with you that an open process is a good process.

Senator BROWN. Thank you. That is important. You want to comment on that, Dr. Brummer?

Mr. BRUMMER. I certainly know that—frankly, I do not have a monopoly on all good ideas in the world, and it is so important that you have folks from different vantage points who are directly informing our regulatory decision-making. It is the only way in which you can get the information. People talk about data-driven analysis. It is the only way in which you can get the information to make sure that you get decisions right.

So you would have my commitment, to the extent that I am both confirmed and have the power over any particular advisory committee to do so, to make sure that there is a broad set of personalities and interests that are involved in forming the decision-making.

Senator BROWN. Thank you. Let me follow up on the conversation again that Senator Boozman and Senator Stabenow had with you on the whole issue of international regulators. I stepped out of the Committee because I was speaking with Governor Dan Tarullo of the Federal Reserve, who does not have the title, but really is the supervisory—does the supervisory work for the Fed. What we were—the subject of the conversation in large part was what is happening with international regulators on capital standards, and partly the different speed at which—whether it is Basel III, whether it is the EU, whether it is individual countries—is they move on capital standards and on regulation, both the speed and the pressure they are under from their banking communities and their legislators.

There are always efforts of one country playing off against another, one set of companies playing off one country against another to try to weaken rules. That being said, understanding you need to coordinate with international regulators, we have seen, like I said, rulemaking not always moving at the same speed. Are there risks or unintended consequences of CFTC repeatedly delaying its implementation based in part either at the weaker rules or the delaying—the slower moving rules of another country?

Mr. BRUMMER. Again, where I am from, leadership is often—leadership by example—and it is important if you want to push certain high quality standards—that an agency shows that it is willing to abide by those standards. You have to, obviously, try to understand that other countries work differently. Literally how they make rules can be different.

But at the same time, the strategy should be to find other like-minded countries who have the same commitment, not only in the rules but in the supervision with same commitment to our rules that we have, and then to work collaboratively to create a large enough of a market and regulatory ecosystem that other countries are either inspired or required to opt into our standards and market and regulatory preferences. It is a critical aspect of our diplomacy, and getting it right means strong rules at home and leadership abroad.

Senator BROWN. One more point. I apologize for going over a bit, and thank you for that. For both of you, if you would, I know earlier you both discussed the importance of protecting markets from the threats of cyberattacks. In your opinion, is CFTC's funding keeping pace with this threat? Is it adequate? Do you want to start, and then Mr. Quintenz?

Mr. BRUMMER. You know, I come from a part of the country where people want to know that their tax dollars are being invested wisely, and I think that the CFTC—

Senator BROWN. That may, actually, be all parts of the country, but fair enough.

Mr. BRUMMER. I know. well, certainly—

Senator BROWN. Even in Bexley we think that.

Mr. BRUMMER. I think the CFTC's case is an exceptionally strong one, and cybersecurity is one aspect of that case. The responsibilities of the agency have expanded dramatically and the threats from cyber have expanded dramatically as well. So you need to have both the human capital, the technological capability, the surveillance mechanisms, and other tools in place to help, again, promote sound decision-making, regulatory certainty from market participants and end users, also protecting the U.S. economy from folks who may want to undermine that stability.

Senator BROWN. So is the funding adequate? Do you know this? Can you figure this out yet?

Mr. BRUMMER. Certainly I will have a better—the funding has certainly not kept up with the dramatic increase in the agency's responsibilities, and I have concerns, serious concerns about whether or not they are sufficient.

Senator BROWN. Mr. Quintenz.

Mr. QUINTENZ. Thank you, Senator. I think I would have to get there to be able to answer that question concretely. From the rule writings that have been issued, they have been focused on enforcing very high standards of best practices for the industry. There are companies that spend hundreds of millions of dollars on this for themselves. It would be hard to answer that question in terms of the resources until I get there, should I have the honor of being confirmed.

Senator BROWN. As long as you are obviously aware of the acute need and that we do not always keep up with things like that as well as we should. Also, thank you for the meetings you have each had with my staff so far and I look forward to sitting with each of you. Thank you.

Mr. QUINTENZ. Thank you.

Chairman ROBERTS. Senator Tillis.

Senator TILLIS. Thank you, Mr. Chairman. I thank you both for being here today, and thank you for being generous with your time meeting with me in the office. I enjoyed that discussion. I just have a couple of questions.

In the office, I appreciate some of the forward-looking discussions we had. I have a couple of questions here. One I may just submit for the record because it has to do with modernizing and becoming more focused on digital alternatives to the analog world that we live in today.

But I want to get to two specific policy questions. One of them is about the regulation of automated trading. Are you familiar with the rule the Commission is trying to implement to remove the subpoena requirement? In my opinion, I cannot find any evidence of where the subpoena requirement is broken, so I do not know why they are trying to fix it. But I would be kind of curious about your position on this issue and the position you would take if confirmed.

Mr. Quintenz, we will start with you.

Mr. QUINTENZ. Sure Senator, thank you. I believe that the source code, trading mechanisms and algorithms that firms develop do not just represent historical trading files. I believe that they are a result of an immense amount of time and energy and thought and research, and represent future as well as current business strategy.

Senator TILLIS. It is critical intellectual property.

Mr. QUINTENZ. I would agree with that, and I believe it deserves those protections. I do not see anything that is wrong or risky or inconvenient about maintaining the subpoena process as the appropriate legal and judicial standard to compel a firm to disclose its intellectual property. There are plenty of steps that the agency can take before it gets to that level to work with the firm.

Senator TILLIS. Thank you. Mr. Brummer.

Mr. BRUMMER. As a law professor—

Senator TILLIS. Dr. Brummer.

Mr. BRUMMER. No, no. I certainly understand the importance of due process. It is an essential part of the rule of law since, frankly, Roman times. The CFTC has rules, or must have rules in place to make sure that information is protected and that market participants can trust regulators.

Now, I am not entirely sure about how enforcement is practiced in the building, and I have heard that there are some surveillance concerns and as a result, you would want to talk to the folks charged with financial stability and the enforcement folks to make sure that they have the tools that they need in order to do their job well. But I give you my word that I will do my very best to make sure that whatever the CFTC comes out with, due process and the confidentiality of information will be assured. I think this does require close attention.

Senator TILLIS. In my opinion, again, if we could point to a litany of examples where something bad could have been averted as a result of bypassing the subpoena process, I would see the argument. In my personal opinion, it looks like a power grab that I am not particularly supportive of.

The other one that I had has to do with the implementation for the margin for un-cleared swaps. You know, we had several nations and economies that were going to be involved in that. Most, except for the United States and Japan, have delayed their implementation. The result is putting the U.S.—I will not speak for Japan—at a disadvantage in the period of time where some financial markets are not subject to the new rules that we are subject to.

So I am kind of curious about why you would think it is either wise or unwise for the United States to move forward when some of our top global competitors have decided to delay it. Quite honestly, if they start measuring the benefit of having this market advantage for some period of time, I cannot imagine why they would not think, well, maybe we need a little bit more time than the initial delay to get a market advantage.

So I would be curious, and this time, we will start with you, Dr. Brummer.

Mr. BRUMMER. I too believe that it is important that countries work in concert with one another to the extent possible on regulatory positions and you do not want to do anything to burden our market participants in a global environment—

Senator TILLIS. So would you—

Mr. BRUMMER. —needlessly.

Senator TILLIS. —in the interest of time then—

Mr. BRUMMER. Sure.

Senator TILLIS. —would you suggest that it would make sense then for us to key our implementation dates with our major global competitors?

Mr. BRUMMER. Here it is tough, because I would not want to, frankly, reward bad behavior. I think that if the United States wants to promote its rules, it has to do so by leading by example, and I think that it appears that the CFTC's—

Senator TILLIS. Yeah.

Mr. BRUMMER. —pace has accelerated parts—

Senator TILLIS. Although I would say—and I am only interrupting you because of the time.

Mr. BRUMMER. Sure. I am sorry.

Senator TILLIS. I would like to have your opinion. But it is almost like we are being penalized for good behavior. We are on time; some of the other key players are not. Our banking industry is suffering as we move forward with regulations that make us globally uncompetitive.

So to me it is something that we should take a look at. We should never move forward with regulations that knowingly will put us at a disadvantage, and we have to make these things get in synch, otherwise, it provides our competitors with a disincentive to move quickly even after the delay.

Mr. Quintenz, I will have you summarize.

Mr. QUINTENZ. Yes. Thank you, Senator. I could not agree with you more. I think regulatory arbitrage always hurts someone. To the extent that it is created by us moving first or someone else delaying their rules, we need to be aware of how that affects our markets, how that imposes costs, how that disadvantages our economy. So I would urge a teamwork approach to this, being on time but moving forward with it together.

Senator TILLIS. Thank you both. I look forward to supporting your confirmation.

Chairman ROBERTS. Senator Donnelly.

Senator DONNELLY. Thank you, Mr. Chairman, and thank you, Dr. Brummer, Mr. Quintenz. I come from a farm state, Indiana, and I think it is really important for the CFTC commissioner, as my colleague Senator Boozman was saying, to make your decisions based on more than just being in Washington, and to not just occasionally fly out, have an airport meeting and fly back, but to actually be out and see what happens in our chairman's farms in Kansas and mine in Indiana.

I think it is really important for you to spend the day there, to see what is going on, to see the effect of your decisions on how the balance sheet turns out for them, how that determines whether or not they are going to be able to cover their bills that year. I just want to follow up with Senator Boozman's comments that we would like a commitment that you will hit the road, that you will spend time out there, that you will talk to our farmers, not just at the airport lounge, but actually at their actual farms with a lot of the ag leaders in the community. Dr. Brummer.

Mr. BRUMMER. I could not agree with you more. You have my commitment. Some of the smartest things I ever heard came from my own grandfolks who were farmers. You learn not only about markets, you learn not only about what they do, but you learn a

little bit of common sense too, and it is important for folks to get out of Washington generally.

But you have my commitment that I will do my very best to keep in touch and to make sure that the rules work as well as possible for our farmers, ranchers.

Senator DONNELLY. Mr. Quintenz, the Indiana line is only about 90 miles away from Columbus.

Mr. QUINTENZ. I cannot wait. I cannot wait to come and visit my—my grandmother grew up on a dairy farm in Northern Wisconsin. She still lives very close to it. I remember her ridiculing me one time for bringing margarine home from the grocery store instead of butter, and that will never happen again.

Senator DONNELLY. She is a wise woman.

Mr. QUINTENZ. I would very much like to take you up on your invitation.

Senator DONNELLY. Following up on that, one of the things that affects our farmers and their livelihood are how the commodities are obviously treated once they are on the market, and I have consistently argued that position limits should be a tool in the CFTC's toolbox. That helps the Commission fulfill its mission to promote transparent, open markets and to protect the public from fraud and manipulation. If confirmed, I want to know if you are going to work to help finalize the strong positions limit rule in a timely manner. Dr. Brummer.

Mr. BRUMMER. Absolutely. You put it best. It is one of a number of tools that the Commission has historically relied on and will rely on to police market abuse and large systemic concerns of large positions, any one position. To get it right, you have to make sure that you do not end up excluding the folks who depend on them, a smart bona fide hedging rule.

At the same time, you cannot create loopholes for the sake of creating loopholes. You have to focus on making sure it is as cost efficient and value enhancing for the market and for the global and U.S. economics as possible.

Senator DONNELLY. Mr. Quintenz.

Mr. QUINTENZ. Yes, thank you, Senator. This issue has been out there for a long time. We have had four proposed rules. The one final rule was vacated by a federal court. We have had thousands of comment letters. It seems to me that the problems in finalizing something may not be a result of effort as opposed to perspective. I believe that the perspective needs to require the concerns of end users being met here, making sure that they can hedge in a bona fide way. Yes, I give a commitment to working on that.

Senator DONNELLY. Because it is important, obviously, that they be able to lay off risk and know that they are secure, but at the same time, we do not want to see these markets abused as well.

Mr. BRUMMER. Absolutely.

Senator DONNELLY. I would also like to talk to you a little bit about the funding for the CFTC. You know, we have great hopes. We have great challenges. It is critically important to our rural communities and actually to the entire economy of the United States. But it is like a car, if there is no gas, you cannot start the car and it will not go down the highway.

So one of the things we want to do is make sure that there is enough funding. I am interested in learning more about the possibility of creating some self-funding mechanisms for the Commission that provides you with the sufficient resources you need without restricting access for market participants.

I am not asking you for an answer today, but would each of you commit to getting back to me about that concept of some methods of self-funding so you are not reliant on us having our budget act together and other things that make it very difficult. Mr. Quintenz, I will have you answer first.

Mr. QUINTENZ. Yes, I would be thrilled to engage with you on that issue and respond to that issue.

Senator DONNELLY. Dr. Brummer.

Mr. BRUMMER. Absolutely. I would be delighted to.

Senator DONNELLY. Great. Well, look, I will tell you that we had some folks from the EPA out to Indiana in February in an unheated barn. It was about 10 degrees. Everybody had a good time, I think, except maybe some of the folks who were not from Indiana. So we will try to make it either a heated barn or during the summer, if that works better for you. Thank you very much.

Mr. QUINTENZ. Thank you.

Chairman ROBERTS. Thank you, Senator Donnelly. We have never had any EPA folks out to Dodge City. I am not sure they'd get back. That memo that you are going to get from the two nominees with regards to the possibility of user fees, my word, not yours. Send me the same information.

We have now Senator Gillibrand.

Senator GILLIBRAND. Thank you, Mr. Chairman. I would like the memo too. I wanted to know specifically what budgetary challenges you think you are going to encounter. Because you have such a limited appropriations considering that the derivatives market is worth \$300 trillion and \$34 trillion worth of futures and options and \$270 trillion worth of swaps. I mean, that is a huge responsibility. You have 750 people, but your budget is \$250 million. So that is really much farther below other prudential regulators with the same regulatory responsibilities.

So I would really like you to be as far reaching in your analysis of budgetary concerns and funding streams and what you think your ideal budget would be, and specifically, if you think capital infusions are needed for live time reporting or retaining qualified staff, also whether any mandatory funding stream should or would be necessary, whether you suggest fees or other mechanisms. Because I do think you need a more reliable and standard funding source for the CFTC.

So I am very interested in your thoughts. If there is any you want to share now, you can, but otherwise, we can wait for your memo. Dr. Brummer.

Mr. BRUMMER. Certainly fulfilling this mandate is not easy. The responsibilities have expanded dramatically and I look forward to providing it.

Senator GILLIBRAND. Mr. Quintenz.

Mr. QUINTENZ. Thank you. That was a very detailed question, and I think it would be very difficult to answer that question without being at the agency and understanding exactly how they are

spending their money and their resources. I do know that the Technology Advisory Committee is currently un-sponsored, and should I have the honor of being confirmed and have the honor of sponsoring that advisory committee, it would give me a deep dive look into the technology needs of the agency to be able to assess resources.

Senator GILLIBRAND. I think it is really important, and it obviously is relevant to the questions that we have already had on cybersecurity. I just think there is enormous vulnerability there, and while our markets are resilient, the systemic risks and bad actors throughout the world create more risks for us. I think part of those concerns directly relate to your budgeting and your vast area of responsibility.

Recently the CFTC agreed that Japan's uncleaned swaps collateral would—excuse me—un-cleared swaps collateral was strong enough to suffice the CFTC margin requirements. A member of the Commission voiced concern that Japan's rule would quote, "introduce greater risk into the derivatives markets," specifically highlighting their concern that what would happen in the event of bankruptcy.

As the Commission continues to move toward regulatory consistency in the market, what do you see as additional risks with the non-U.S. counterparties, and specifically with risks arriving from un-cleared swaps?

Mr. BRUMMER. So clearing is an essential aspect of the CFTC's rulemaking because it allows a better opportunity to both standardize risk and to assess those risks. It is important when one looks and thinks about cross-border risk and the mandate of the agency and the agency resources and where risk may be coming in the future.

There are parts of the world that are not only behind, but may not necessarily have any incentives to opt into the global reforms that were articulated by large international bodies like the G-20, and I think this is a key question. It is an important question. The margin rules are, as well, critical components of financial security and safety, and it is important that we get the rest of the world—and they are coming along. I think that there has been an enormous amount of progress made, but there is still some way to go to make sure that this is done right.

Senator GILLIBRAND. Mr. Quintenz.

Mr. QUINTENZ. Thank you, Senator. I think this is a very important area. Un-cleared swaps can provide very essential risk-mitigating features for companies in terms of hedge accounting and their exposures. But I think it is crucial that we also make sure that large exposures do not come back to our markets and harm us from a jurisdiction that may not have as similar rules to ours as we would like.

So I think that is an important thing to consider, and I believe Chairman Massad had some responses to the concerns raised by the other commissioner.

Senator GILLIBRAND. Do you see any other regulatory inconsistencies in non-U.S. jurisdictions that CFTC should seek to address through partial or full substitute compliance?

Mr. QUINTENZ. I think that the swap execution facility rules, we need to keep working on those. There is potential evidence that it is fracturing a very important market and that it is shrinking liquidity to our participants, and if that is the case, I think we need to be open to revisiting that.

Senator GILLIBRAND. Okay. Since I have no more time, I am going to submit my specific cyber question for the record, so you guys can just answer it once you get in place. You will have more information to be able to answer it more fully given the answers already. Thank you.

Mr. BRUMMER. Thank you.

Senator GILLIBRAND. Thank you.

Chairman ROBERTS. I thank the distinguished Senator from New York for setting a wonderful example with regards to her time.

Senator KLOBUCHAR. Did you do that because I am up next?

Chairman ROBERTS. Precisely. Senator Klobuchar.

Senator KLOBUCHAR. All right. Thank you very much, Mr. Chairman. I would like to start by thanking you for holding this hearing on the important nominations of Dr. Brummer and Mr. Quintenz, to be Commissioners. Thank you so much for that.

I would like to focus some of my questions, given how people in my state have been harmed by speculation and by issues that have come before the Commodity Futures Trading Commission, and we also have a lot of businesses who hedge their risk legitimately. I always see a difference between some of the people that do it as part of their businesses and the effect that other types of speculation has had on our farming community.

Each of you has a strong background with the financial markets. Dr. Brummer, you have a strong academic background. Mr. Quintenz, you are a participant in the financial markets as a part of your business. Could you talk to me about how you would evaluate the differences and the similarities between regulations for the financial markets and then for agricultural end users.

Mr. BRUMMER. Frankly, one of the first observations is that farmers and ranchers did not cause the crisis, and I think that has to be acknowledged. At the same time, derivatives markets exist for a reason. It is for people to be able to hedge the risk in a way that is responsible and allows them to ultimately contribute to the U.S. economy. Certainly the origins and the roots are in the agricultural sector, but there are hardworking Americans, and commercial end users, who need the derivatives markets for similar things.

It is key at the same time just to make sure that when examining the different risks, the different kinds of positions, the size of the positions, the liquidity of the different kinds of markets in which they are operating, to take into account the public interest across the board and to make sure that U.S. taxpayers are safe. But this has to be done in a responsible, efficient way.

But again, understanding that is not just a question of the differences of the market participants, but also of the different contracts.

Senator KLOBUCHAR. So are you willing then to work with those who trade physical commodities to ensure that the exemptions to the position limit rule allow for normal practices of the businesses?

Mr. BRUMMER. Absolutely.

Senator KLOBUCHAR. Thank you. Mr. Quintenz.

Mr. QUINTENZ. Yes. Thank you, Senator. I think commodity markets need to work for the people that are exposed to commodity risk. Ultimately, markets need to work for the people that use them, and these markets are different than other markets in that regard. But with regard to your second question, yes, I am very concerned about making sure that any position limits rule allows for long-standing and tried and true hedging practices in the energy markets to make sure that people can, and firms can, hedge that risk the same way that they have been.

Senator KLOBUCHAR. Well, I know the CFTC has studied speculation extensively. Can you talk a little bit about how the trades that commercial end users enter into are different than the types that financial institutions have entered into and just your views on speculation? Mr. Brummer.

Mr. BRUMMER. Well, certainly speculators have a role in derivatives markets and they are supposed to be there to make sure that trades are completed where perhaps end users are not there and to be ready. They help to make the markets work. The CFTC's regulation, and particularly its statutory authority, involves excessive speculation, and to make sure that excessive speculation does not distort the price discovery operations of these markets.

Senator KLOBUCHAR. Do you think the rules that we have in place now are adequate to do that, to go after abusive or excessive speculation?

Mr. BRUMMER. I think we have made a strong start. I think it is important for the agency to continually reevaluate where it stands as it gets more information and data, particularly pertaining to your question on market abuse and market manipulation, because the markets themselves are always changing. You would have my commitment to do just that and to keep an eye open and talk to you and others about where the market stands on this.

Senator KLOBUCHAR. Mr. Quintenz, what steps do you believe the CFTC should take to reduce the risk of market manipulation from large market participants using one market to influence a price for similar contracts in another market?

Mr. QUINTENZ. Thank you, Senator. That is a very good and interesting question. I think they need to be focused on all aspects that could affect artificially the price in any market. I think that position size has long been recognized, in the investment community, as something that can impact prices and create large price moves. As such, there has been a very robust regulatory architecture that has developed over the last 70 years to identify, closely monitor, and in some cases, disallow large positions.

Position limits have been a part of the CFTC's enforcement for 80 years now, I believe, and large trader reporting requirements for almost 90 years. So that is well established.

Senator KLOBUCHAR. Thank you very much. I appreciate it. Forty-four seconds over, Mr. Chairman.

Chairman ROBERTS. That goes into your bank. That is certainly within the boundaries of the distinguished Senator. This is going to conclude our hearing this morning. I want to thank each of our witnesses very much for sharing your background and testimony.

As the Committee considers your nomination, it has been most valuable to hear your perspectives first hand.

I have a little admonition here to both of you, and for that matter, anybody else who is listening. There has been a lot of discussion about funding here today. I remember well when former Chairman Gensler came into my office to talk about funding. He was a little disturbed, alarmed, upset with regards to what the House of Representatives had done to his budget. We will not get into numbers, but it was significantly lower than what he requested. I informed him that some might be a little bit more understanding of his request, but what would he need all of that money for. He indicated it would be for several hundred more lawyers to implement Dodd-Frank.

I asked if there would be parking places available for the attorneys and informed him we lived in a brave new world, where I think at that particular time the debt was about what, \$17 trillion, \$16 trillion. It is now 20.

I would say that the best perspective is that of our farmers who are going through a very difficult time. They are facing terribly tough times right now and, quite frankly, they just have to do more with less. There is a lot of talk about that, a lot of press about that. It is hard. It really is hard, and it requires that you really prioritize. But they know they have to do it.

I remember sitting at the Pentagon with the commandant of the Marine Corps going over their mission in the Pacific, which is considerable, if anybody would ever use them. But having said that, I asked the commandant, how is he going to do this? He said, we are going to do what we always do, we are going to have to do more with less.

I think that is the situation that we face, unfortunately. We should all do the same, and so we are going to talk about things like user fees and additional funding. It is good that we do that, but now is not the time. It is not going to happen.

So with that wonderful news, to my fellow members, I would ask that any additional questions that they may have for the record, they be submitted to the Committee clerk by 5 p.m. Friday. I thank you both.

Mr. Quintenz, that young man that looks remarkably like you can now go to whatever experience he wants to go that will be a lot more interesting than it has been so far for him today.

The Committee stands adjourned.

[Whereupon, at 11:18 a.m., the Committee was adjourned.]

A P P E N D I X
SEPTEMBER 15, 2016

Confirmation Hearing
Senate Committee on Agriculture, Nutrition, and Forestry
Statement of Chris Brummer
September 15, 2016

Thank you Chairman Roberts, Ranking Member Stabenow and Members of the Committee. I am honored to be here before you today. I would like to thank President Obama for nominating me, and my family, especially my wife, for supporting me. The CFTC has a significant impact on the daily lives of Americans and it is critical that CFTC-regulated markets work well. I hope to contribute to this work.

I come from a family of teachers and farmers. My grandparents had a small farm in the Shenandoah Valley of western Virginia. Some of my earliest memories are of summers on that farm, riding in the back of my late grandfather's pickup truck as we took produce to the local market. My mother grew up there. She would become an elementary school teacher and move with my father to northwest Arkansas where I was raised. I grew up in a rural area outside of Fayetteville where my neighbors raised cattle and horses, and poultry producers were just a ten minute walk down the road.

This upbringing taught me to respect different points of view, and stressed basic values that have long sustained the country. Work hard. Help your neighbor. Think before you act. Do good. These values have paid dividends throughout my life. I worked hard in school, learned a couple of foreign languages, and ended up a lawyer, which opened doors for me to educational and professional experiences around the world. I invested significant time studying markets and financial regulation as a law professor, and I opted, where I could, to do good—from advising regulators in the US, Europe and Asia on how to ensure safe and efficient cross-border market supervision to working on critical enforcement efforts intended to keep America's financial markets safe and secure.

The 2008 financial crisis had devastating consequences for the economy and, like many Americans, it impacted those I cared about in many ways. It would also underscore for me important lessons about interdependence in the global economy.

For much of 2008, I was a fellow at the SEC's Office of International Affairs, on loan from Vanderbilt law school, where I was teaching. There, I helped push forward America's regulatory interests and priorities in the world. I experienced the degree to which effective policy responses at home depended on coordination with other countries. Many of the tools used to buttress failing markets, introduce greater transparency, or police markets depended on communication, skill and coordination with global actors.

Much of my work since 2008 has focused on understanding our ongoing efforts at home and abroad to improve cross border oversight of derivatives and securities markets. I am a strong believer in promoting safe and vibrant financial markets through sensible and strong regulation at home and close coordination abroad. International coordination

helps to both level the playing field for U.S. firms competing abroad and prevent arbitrage that can undermine domestic policy priorities and market practices.

I have seen in my experience assisting law enforcement that threats to market integrity are very real and must be addressed swiftly. Farmers, ranchers and commercial end users must be able to trust that markets both function properly and allow market participants to hedge their commercial risks effectively. These end users also have to trust that the markets in which they participate are healthy, liquid, and free of fraud and manipulation. To accomplish this, government oversight should be prudent and efficient, and rules should be carefully and faithfully enforced.

For our derivatives markets to truly thrive, regulators need to stay ahead of the technological curve. The CFTC should not be afraid to embrace new technologies and market strategies that promote transparency, liquidity and operational efficiency. But, where new technologies do pose risks, such as to cybersecurity or financial stability, both market participants and taxpayers must be protected.

Finally, I believe the CFTC's mission going forward is as much about dutifully concluding the agency's Dodd Frank Act rule writing as it is about looking forward to new threats and opportunities facing the derivatives markets. I recognize that to do this job well requires listening and keeping an open door to the people who rely on these markets, and I promise to do just that.

Again, I am honored to be here today and look forward to your questions.

Opening Statement of Brian D. Quintenz, Nominee to the Commodity Futures Trading Commission

Thank you, Chairman Roberts, Ranking Member Stabenow, and members of the Senate Agriculture Committee. It is an honor to be with you this morning. I would also like to thank Majority Leader McConnell for recommending me for this position and President Obama for my nomination. If confirmed, I would fill the seat vacated by Scott O'Malia, who set a high standard in his service as Commissioner.

I am deeply grateful for the love and support of my parents, Kenneth and Susan Quintenz, my brother, Darren Quintenz, and my two children, Connor and Vivienne, all of whom are in attendance today. I am proud to have them here.

Mr. Chairman, I am a Midwesterner—a first-generation Ohioan whose mother and father grew up in Wisconsin, the home of my extended family. While I'm a resident of Washington, D.C., I still consider myself a Midwesterner, and I believe firmly in the Midwest values of hard work, honesty, and community.

I come from a family of entrepreneurs and small business owners. My grandfather on my mother's side, after serving in World War II, returned home to northwestern Wisconsin and bought a Ford car dealership. His wife, my maternal grandmother, was raised on a family dairy farm in Chetek, Wisconsin. My paternal grandmother owned and operated a restaurant on the east side of Milwaukee, putting her three sons through college. My father started his own business, my brother started his own business, and I am the founder of my own business, Saeculum Capital Management.

Saeculum is an investment firm currently registered with the CFTC as a Commodity Pool Operator. As the sole proprietor of the firm, it is my responsibility to effectively and meticulously manage risk as well as compliance. I am, therefore, very familiar with the CFTC's investor protection rules, disclosure requirements, and recordkeeping obligations. Additionally, as a registered Associated Person of this firm, I hold a Series 3 National Commodity Futures Exam License, a credential valuable in analyzing and interpreting the impact of regulations on futures markets.

I began my career in finance in 2008, during the financial crisis. Working directly under the CEO at an investment firm focused on the banking sector, I performed detailed valuations on financial institutions of all sizes and complexities. I became an expert at reading banks' balance sheets and income statements, understanding their accounting rules and financial disclosures, and forecasting their capital levels and quarterly earnings.

In this position, I depended on the accuracy and accessibility of publicly available information and became a firm believer in data and transparency. Transparency increases market efficiency and can provide important checks on risky behavior. The Commission's focus on data and transparency is encouraging, but more progress is needed. If confirmed, I will draw from professional experience to advance that important work.

However, my professional career did not begin in finance, it began in public policy. After graduating from Duke University with a degree in Public Policy Studies, I joined the Office of Congresswoman Deborah Pryce, who represented Ohio's 15th District, an area that included my hometown of Columbus. Ultimately, I became her senior policy adviser with an issue portfolio that included agriculture.

In meeting agricultural constituents and personally visiting some of the over one thousand family farmers in our Ohio district, I developed a strong appreciation for the work ethic and sophistication of America's farmers and ranchers, as well as for the pressures, costs and risks they face. Should I be confirmed, I pledge to ensure the market concerns of the agricultural sector are recognized and to continue developing a firsthand knowledge of the agricultural community.

The financial crisis scarred every sector of our economy, hurt individuals, families, and communities, and exposed deep flaws in our markets. It deserved a legislative and a regulatory response. As that response is calibrated, regulations meant to address those flaws should not spill over to harm the normal activity of ordinary businesses. When costs are added without targeting risk, poor outcomes ensue. When standardized rules treat low-risk behavior and high-risk behavior equally, risk is encouraged instead of reduced. I will work to ensure that regulations and their burdens are tied to the risks being mitigated.

I would be honored to bring my public policy background, my expertise in finance, my knowledge of derivatives and their uses, my familiarity with risk management, and my respect for the agricultural community and end-users of these markets to the CFTC. This is a crucial time for our financial markets and for the people that depend on them. It would be a privilege to be of service in safeguarding and improving our country's marketplaces.

I would be pleased to answer your questions.

DOCUMENTS SUBMITTED FOR THE RECORD

SEPTEMBER 15, 2016

September 14, 2016

The Honorable Pat Roberts
Senate Committee on Agriculture, Nutrition, and Forestry
328-A Russell Senate Office Building
Washington, DC 20250

Dear Chairman Roberts:

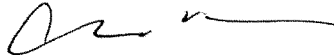
Pursuant to the requirements of the Ethics in Government Act of 1978, as amended, and 5 C.F.R. 2634.606(a), I am hereby updating certain information reported on my OGE 278 public financial disclosure report, signed on January 29, 2016, respecting outside earned income and honoraria received to date.

From January 2016 to date, I have received outside earned income of \$262,500 from Georgetown University, \$33,000 from the Atlantic Council, and \$37,500 from the Milken Institute. During that same period, I have not earned honoraria of any amount. I have no other covered income to report.

Additionally, the value of certain assets previously reported on my OGE 278 have increased. On page 3, Part 2, item #3, the value of the Vanderbilt University Defined Contribution: Vanguard Institutional Target Retirement 2025 Fund Institutional Shares (VRIVX) is now \$50-\$100,000. On page 3, Part 2, item #9, the value of the SEP IRA TIAA CREF TRLCX Large-Cap Retirement number is now \$15-50,000.

Thank you for your consideration of this correspondence.

Sincerely,



Christopher James Brummer

Cc: The Honorable Debbie Stabenow, Ranking Member
Ranking Member
United States Senate Committee on Agriculture, Nutrition, and Forestry

UNITED STATES OFFICE OF
GOVERNMENT ETHICS



The Honorable Pat Roberts
Chairman
Committee on Agriculture, Nutrition,
and Forestry
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

In accordance with the Ethics in Government Act of 1978, I enclose a copy of the financial disclosure report filed by Christopher J. Brummer, who has been nominated by President Obama for the position of Commissioner, Commodity Futures Trading Commission.

We have reviewed the report and have obtained advice from the agency concerning any possible conflict in light of its functions and the nominee's proposed duties. Also enclosed is an ethics agreement outlining the actions that the nominee will undertake to avoid conflicts of interest. Unless a date for compliance is indicated in the ethics agreement, the nominee must fully comply within three months of confirmation with any action specified in the ethics agreement.

Based thereon, we believe that this nominee is in compliance with applicable laws and regulations governing conflicts of interest.

Sincerely,

A handwritten signature in black ink, appearing to read "David J. Apol", is written over a light blue horizontal line.

David J. Apol
General Counsel

Enclosures

April 7, 2016

Jonathan L. Marcus
General Counsel and
Designated Agency Ethics Official
Office of the General Counsel
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, N. W.
Washington, D.C. 20581

Dear Mr. Marcus:

This letter describes the steps I will take to avoid any actual or apparent conflict of interest in the event that I am confirmed for the position of Commissioner for the Commodity Futures Trading Commission ("CFTC").

As required by 18 U.S.C. § 208(a), I will not participate personally and substantially in any particular matter in which I know that I have a financial interest directly and predictably affected by the matter, or in which I know that a person whose interests are imputed to me has a financial interest directly and predictably affected by the matter, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2). I understand that the interests of the following persons are imputed to me: any spouse or minor child of mine; any general partner of a partnership in which I am a limited or general partner; any organization in which I serve as officer, director, trustee, general partner or employee; and any person or organization with which I am negotiating or have an arrangement concerning prospective employment.

Upon confirmation, I will take an unpaid leave of absence from my position as a Law Professor at Georgetown University. I will not participate personally and substantially in any particular matter that to my knowledge has a direct and predictable effect on the financial interests of Georgetown University, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for either the exemption at 5 C.F.R. § 2640.203(b) or another regulatory exemption pursuant to 18 U.S.C. § 208(b)(2).

Upon confirmation, I will resign from my positions with the following entities: the Atlantic Council; and the Milken Institute. For a period of one year after my resignation from each of these entities, I will not participate personally and substantially in any particular matter involving specific parties in which I know that entity is a party or represents a party, unless I am first authorized to participate, pursuant to 5 C.F.R. § 2635.502(d).

Upon confirmation, I will resign from my position with NASDAQ. For a period of one year after my resignation, I will have a "covered relationship" under 5 C.F.R. § 2635.502 with NASDAQ. Pursuant to 5 C.F.R. § 2635.502(d), I will seek written authorization to participate in particular matters involving specific parties in which NASDAQ is a party or represents a party.

However, during my appointment to the position as a Commissioner for the CFTC, I will not participate personally and substantially in any particular matter involving specific parties in which I previously participated while in my position with NASDAQ. I resigned from my position with the University of Pennsylvania in November 2015. For a period of one year after my resignation, I will not participate personally and substantially in any particular matter involving specific parties in which I know the University of Pennsylvania is a party or represents a party, unless I am first authorized to participate, pursuant to 5 C.F.R. §2635.502(d).

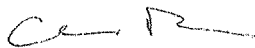
I resigned from my position with the Financial Industry Regulatory Authority (FINRA) in December 2015. FINRA is paying legal fees in connection with an ongoing litigation related to my former services to FINRA. I will not participate personally and substantially in any particular matter that to my knowledge has a direct and predictable effect on the ability or willingness of FINRA to provide this benefit to me, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1). Additionally, for a period of one year from the date of my resignation or for as long as FINRA is paying legal fees for me in connection with any pending legal matters, whichever is later, I will not participate personally and substantially in any particular matter involving specific parties in which I know FINRA is a party or represents a party, unless I am first authorized to participate, pursuant to 5 C.F.R. § 2635.502(d).

I receive royalties from Cambridge University Press for sales of my books: *Soft Law and the Global Financial System: Rule Making in the 21st Century*; and *Minilateralism: How Trade Alliances, Soft Law and Financial Engineering are Redefining Economic Statecraft*. I will not participate personally and substantially in any particular matter involving specific parties in which I know Cambridge University Press, is a party or represents a party, unless I am first authorized to participate, pursuant to 5 C.F.R. § 2635.502(d).

I understand that as an appointee I am required to sign the Ethics Pledge (Exec Order No. 13490) and that I will be bound by the requirements and restrictions therein in addition to the commitments I have made in this agreement.

Finally, I have been advised that this ethics agreement will be posted publicly, consistent with 5 U.S.C. § 552, on the website of the U.S. Office of Government Ethics with ethics agreements of other Presidential nominees who file public financial disclosure reports.

Sincerely,



Christopher James Brummer

Executive Branch Personnel

Public Financial Disclosure Report (OGE Form 278e)

Filer's Information

Brummer, Chris

Commissioner, Commodity Futures Trading Commission

Other Federal Government Positions Held During the Preceding 12 Months:
None

Names of Congressional Committees Considering Nomination:

- Committee on Agriculture, Nutrition, and Forestry

Electronic Signature - I certify that the statements I have made in this form are true, complete and correct to the best of my knowledge.

/s/ Brummer, Chris [electronically signed on 01/29/2016 by Brummer, Chris in Integrity.gov]

Agency Ethics Official's Opinion - On the basis of information contained in this report, I conclude that the filer is in compliance with applicable laws and regulations (subject to any comments below).

/s/ Dolan, John, Certifying Official [electronically signed on 04/08/2016 by Dolan, John in Integrity.gov]

Other review conducted by

U.S. Office of Government Ethics Certification

/s/ Apol, David, Certifying Official [electronically signed on 04/08/2016 by Apol, David in Integrity.gov]

1. Filer's Positions Held Outside United States Government

#	ORGANIZATION NAME	CITY, STATE	ORGANIZATION TYPE	POSITION HELD	FROM	TO
1	Georgetown University Law Center	Washington, District of Columbia	University/College	Law Professor	8/2009	Present
2	University of Pennsylvania Law School	Philadelphia, Pennsylvania	University/College	Visiting Professor	8/2015	11/2015
3	Financial Industry Regulatory Authority (FINRA)	Washington, District of Columbia	Non-governmental organization that regulates member brokerage firms and exchange markets.	Panelist, National Adjudicatory Council (Disciplinary Matters)	1/2013	12/2015
4	NASDAQ	Washington, District of Columbia	Stock Exchange	Delisting Panelist (Disciplinary Matters)	1/2010	Present
5	Milken Institute, Center for Financial Markets	Washington, District of Columbia	Non-Profit	Senior Fellow	3/2014	Present
6	Atlantic Counsel	Washington, District of Columbia	Non-Profit	Senior Fellow	9/2015	Present

2. Filer's Employment Assets and Income

#	DESCRIPTION	EIF	VALUE	INCOME TYPE	INCOME AMOUNT
1	Georgetown University Defined Contribution: TIAA-CREF Lifecycle 2035 Fund - Institutional Class TCIX	Yes	\$100,001 - \$250,000		\$1,001 - \$2,500

#	DESCRIPTION	EIF	VALUE	INCOME TYPE	INCOME AMOUNT
2	Georgetown University Defined Contribution: TIAA-CREF Lifecycle 2040 Fund - Institutional Class TCOIX	Yes	\$50,001 - \$100,000		None (or less than \$201)
3	Vanderbilt University Defined Contribution: Vanguard Institutional Target Retirement 2025 Fund Institutional Shares VRVX	Yes	\$1,001 - \$15,000		None (or less than \$201)
4	SEP IRA: TIAA-CREF S&P 500 Index Fund - Retirement Class TRSPX	Yes	\$50,001 - \$100,000		None (or less than \$201)
5	SEP IRA: TIAA-CREF Global Equities R1 QCGLRX	Yes	\$1,001 - \$15,000		None (or less than \$201)
6	SEP IRA: TIAA-CREF Large-Cap Growth Index Fund - Retirement Class TRRX	Yes	\$1,001 - \$15,000		\$1,001 - \$2,500
7	SEP IRA: TIAA-CREF Emerging Markets Equity Index Fund - Retirement Class TEQSX	Yes	\$1,001 - \$15,000		None (or less than \$201)
8	SEP IRA: TIAA-CREF Mid-Cap Growth Fund - Retirement Class TRGMX	Yes	\$1,001 - \$15,000		None (or less than \$201)
9	SEP IRA: TIAA-CREF Large-Cap- Retirement Fund TRLCX	Yes	\$1,001 - \$15,000		None (or less than \$201)
10	Georgetown University	N/A		Salary	\$351,250
11	University of Pennsylvania	N/A		Salary	\$2,360
12	Milken Institute	N/A		Stipend	\$50,000
13	Atlantic Council	N/A		Stipend	\$99,999
14	Financial Industry Regulatory Authority (FINRA)	N/A		Fees	\$35,000
15	Centra Technology, Inc. - 12/1/15			Honorarium	\$2,000

3. Filer's Employment Agreements and Arrangements

#	EMPLOYER OR PARTY	CITY, STATE	STATUS AND TERMS	DATE
1	Georgetown University Defined Contribution Plan	Washington, District of Columbia	I will continue to participate in this defined contribution plan, neither I nor the university will make contributions during my leave of absence.	8/2009
2	Georgetown University	Washington, District of Columbia	I will take an unpaid leave of absence for two years from my law school faculty position during my term as a CFIC Commissioner. My leave of absence may be extended for additional two years and thereafter extended with permission from the President of Georgetown University.	2/2016
3	Vanderbilt University	Nashville, Tennessee	I participate in this defined contribution plan. No further contributions have been made since my resignation.	8/2006
4	Financial Industry Regulatory Authority (FINRA)	Washington, District of Columbia	FINRA is paying legal fees in connection with an ongoing litigation related to my former services to FINRA.	1/2015

4. Filer's Sources of Compensation Exceeding \$5,000 in a Year

#	SOURCE NAME	CITY, STATE	BRIEF DESCRIPTION OF DUTIES
1	Georgetown Univ. Law School	Washington, District of Columbia	Law Professor
2	Milken Institute, Center for Financial Markets	Washington, District of Columbia	Senior Fellow
3	Atlantic Counsel	Washington, District of Columbia	Senior Fellow
4	Financial Regulatory Authority (FINRA)	Washington, District of Columbia	Panelist, National Adjudicatory Counsel (Disciplinary Matters)

5. Spouse's Employment Assets and Income

#	DESCRIPTION	EIF	VALUE	INCOME TYPE	INCOME AMOUNT
1	Allen & Overy 401(k): Fidelity Adv.Freedom Retirement 2045 A FFFZX (former employer)	Yes	\$15,001 - \$50,000		None (or less than \$201)

6. Other Assets and Income

#	DESCRIPTION	EIF	VALUE	INCOME TYPE	INCOME AMOUNT
1	First Tennessee Bank Account (Cash)	N/A	\$100,001 - \$250,000	Interest	None (or less than \$201)
2	Sun Trust Bank Account (Cash)	N/A	\$1,001 - \$15,000	Interest	None (or less than \$201)
3	Residential Rental Property #1, Washington, D.C.	N/A	\$250,001 - \$500,000	Rent or Royalties	\$15,001 - \$50,000
4	Residential Rental Property #2, Washington, D.C.	N/A	\$250,001 - \$500,000	Rent or Royalties	\$15,001 - \$50,000
5	Suntrust Bank Account (Cash)	N/A	\$1,001 - \$15,000	Interest	None (or less than \$201)
6	How Trade Alliances, Soft Law and Financial Engineering are Redefining Economic Statecraft (Cambridge University Press, 2014)(value not readily ascertainable)	N/A		Rent or Royalties	None (or less than \$201)
7	Soft Law and the Global Financial System: Rule Making in the 21st Century (Cambridge University Press, 2012)(value not readily ascertainable)	N/A		Rent or Royalties	None (or less than \$201)

7. Transactions

(N/A) - Not required for this type of report

8. Liabilities

#	CREDITOR NAME	TYPE	AMOUNT	YEAR INCURRED	RATE	TERM
1	ACS Education Services, Utica, New York	Student Loan	\$15,001 - \$50,000	2001	1.625	30 years
2	U.S. Bank, Minneapolis, MN	Mortgage (investment/rental property)	\$250,001 - \$500,000	2014	3.75	30 years
3	Wells Fargo Bank, San Francisco, California	Mortgage (investment/rental property)	\$250,001 - \$500,000	2013	4.625	30 years
4	PennyMac USA, Moorpark, California	Mortgage on Personal Residence	\$250,001 - \$500,000	2011	2.87	15 years

9. Gifts and Travel Reimbursements

(N/A) - Not required for this type of report

Endnotes

U.S. SENATE COMMITTEE ON AGRICULTURE, NUTRITION & FORESTRY
Questions for Executive Nominees
114th Congress

1. Basic Biographical Information

Please provide the following information.

<i>Position to Which You Have Been Nominated</i>	
<u>Name of Position</u>	<u>Date of Nomination</u>
Commissioner, CFTC	

<i>Current Legal Name</i>			
<u>First Name</u>	<u>Middle Name</u>	<u>Last Name</u>	<u>Suffix</u>
Christopher	James	Brummer	

<i>Addresses</i>					
<u>Residential Address</u> (do not include street address)			<u>Office Address</u> (include street address)		
			Street: 600 New Jersey Ave.		
City: Washington	State: DC	Zip: 20012	City: Washington	State: DC	Zip: 20012

<i>Other Names Used</i>						
<u>First Name</u>	<u>Middle Name</u>	<u>Last Name</u>	<u>Suffix</u>	<u>Check if Maiden Name</u>	<u>Name Used From</u> (Month/Year) (Check box if estimate)	<u>Name Used To</u> (Month/Year) (Check box if estimate)
					Est ☐	Est ☐
					Est ☐	Est ☐

<i>Birth Year and Place</i>	
Year of Birth (Do not include month and day.)	Place of Birth
1975	Louisville, KY

<i>Marital Status</i>					
Check All That Describe Your Current Situation:					
Never Married ☐	Married ☒	Separated ☐	Annulled ☐	Divorced ☐	Widowed ☐

<i>Spouse's Name (current spouse only)</i>			
Spouse's First Name	Spouse's Middle Name	Spouse's Last Name	Spouse's Suffix
Rachel		Loko	

<i>Spouse's Other Names Used (current spouse only)</i>						
First Name	Middle Name	Last Name	Suffix	Check if Maiden Name	Name Used From (Month/Year) (Check box if estimate)	Name Used To (Month/Year) (Check box if estimate)
					Est ☐	Est ☐
					Est ☐	Est ☐

<i>Children's Names (if over 18)</i>			
First Name	Middle Name	Last Name	Suffix

2. Education

List all post-secondary schools attended.

<u>Name of School</u>	<u>Type of School</u> (vocational/technical/trade school, college/university/military college, correspondence/distance/extension/online school)	<u>Date Began School</u> (month/year) (check box if estimate)	<u>Date Ended School</u> (month/year) (check box if estimate) (check "present" box if still in school)	<u>Degree</u>	<u>Date Awarded</u>
Columbia Law School	University	08/2001 ☐ Est	Present 05/2004 ☐ Est	J.D.	2004
University of Chicago	University	08/1998 ☐ Est	Present 05/1992001 ☐ Est	Ph.D.	2001
Princeton	University	08/1997 ☐ Est	Present 05/1998 ☐ Est	N/A	
Washington University in St. Louis	University	08/1993 ☐ Est	Present 05/1997 ☐ Est	A.B.	1997
University of Tuebingen	University	08/1995	05/1996	None (exchange student)	

3. Employment

(A) List all of your employment activities, including unemployment and self-employment. If the employment activity was military duty, list separate employment activity periods to show each change of military duty station. Do not list employment before your 18th birthday unless to provide a minimum of two years of employment history.

Type of Employment (Active Military Duty Station, National Guard/Reserve, USPHS Commissioned Corps, Other Federal employment, State Government (Non-Federal Employment), Self-employment, Unemployment, Federal Contractor, Non-Government Employment (excluding self-employment), Other	Name of Your Employer/Assigned Duty Station	Most Recent Position Title/Rank	Location (City and State only)	Date Employment Began (month/year) (check box if estimate)	Date Employment Ended (month/year) (check box if estimate) (check "present" box if still employed)
Non-Government Employment	Georgetown Law	Professor, Director, Institute of International Economic Law	Washington, DC	Est 07/2009 ☐	Est Present ☐
Non-Government Employment	Penn Law	Visiting Professor	Philadelphia, PA	Est 08/2015 ☐	Est 11/2015 ☐
Non-Government Employment	Atlantic Council	Senior Fellow	Washington DC	12/2012	Present
Non-Government Employment	Milken Institute	Senior Fellow	Washington DC	03/2011	Present
Non-Government Employment	Vanderbilt Law	Assistant Professor	Nashville, TN	Est 05/2006 ☐	Est 07/2009 ☐
Non-Government Employment	FINRA	Panelist, National Adjudicatory Council (Disciplinary Matters)	Washington, DC	01/2013	12/2015
Non-Government Employment	NASDAQ	Delisting Panelist (Disciplinary Matters)	Washington, DC	Est 2010 ☐	Est Present ☐
Non-Government Employment	Cravath Swaine & Moore LLP	Associate	New York, NY	Est 09/2004 ☐	Est 04/2006 ☐

Non-Government Employment	Cravath Swaine & Moore LLP	Legal Intern	New York, NY	Est 04/2004 ☐	Est 05/2004 ☐
Non-Government Employment	Cravath Swaine & Moore LLP	Summer Associate	New York, NY	Est 05/2003 ☐	Est 08/2003 ☐
Non-Government Employment	Bryan Cave LLP	Summer Associate	Kansas City, MO	Est 06/2002 ☐	Est 08/2002 ☐
Government Employment	Central Intelligence Agency	Graduate Fellow (internship)	Washington, DC	Est 05/1999	Est 08/2000

(B) List any advisory, consultative, honorary or other part-time service or positions with federal, state, or local governments, not listed elsewhere.

<u>Name of Government Entity</u>	<u>Name of Position</u>	<u>Date Service Began</u> (month/year) (check box if estimate)	<u>Date Service Ended</u> (month/year) (check box if estimate) (check "present" box if still serving)
		Est ☐	Est ☐ Present ☐

4. Honors and Awards

List all scholarships, fellowships, honorary degrees, civilian service citations, military medals, academic or professional honors, honorary society memberships and any other special recognition for outstanding service or achievement.

- Valedictorian, Fayetteville High School, Fayetteville, Arkansas
- *A.B., summa cum laude*, Washington University St. Louis
- Andrew W. Mellon Fellowship in the Humanities
- Jacob K. Javits Fellowship
- Hamilton Fellowship,¹ Columbia Law School
- Harlan Fiske Stone (2004) Scholar² and James Kent Scholar (2003),³ Columbia Law School
- Columbia Law Review, Columbia Law School

¹ The Alexander Hamilton Fellowship is the leading scholarship based on academic merit awarded to incoming students at Columbia Law School.

² A student is named a Stone Scholar if during an academic year the student has an academic average significantly better than 3.4.

³ Kent Scholar is generally awarded each year to the top 1 - 3 percent of the class.

Unless relevant to your nomination, you do NOT need to include memberships in charitable organizations available to the public as a result of a tax deductible donation of \$1,000 or less, Parent-Teacher Associations or other organizations connected to schools attended by your children, athletic clubs or teams, automobile support organizations (such as AAA), discounts clubs (such as Groupon or Sam's Club), or affinity memberships/consumer clubs (such as frequent flyer memberships).

[illegible]

6. Political Activity

(A) Have you ever been a candidate for or been elected or appointed to a political office?
No

<u>Name of Office</u>	<u>Elected/Appointed/ Candidate Only</u>	<u>Year(s) Election Held or Appointment Made</u>	<u>Term of Service (if applicable)</u>

(B) List any offices held in or services rendered to a political party or election committee during the last ten years that you have not listed elsewhere.

[illegible]

(C) Itemize all individual political contributions of \$200 or more that you have made in the past five years to any individual, campaign organization, political party, political action committee, or similar entity. Please list each individual contribution and not the total amount contributed to the person or entity during the year.

[illegible]

7. Publications

List the titles, publishers and dates of books, articles, reports or other published materials that you have written, including articles published on the Internet.

Title	Publisher	Date(s) of Publication
Soft Law and the Global Financial System: Rule Making in the 21 st Century, 2 nd edition	Cambridge University Press	2015
Disruptive Technology and Securities Regulation	Fordham Law Review	2015
Institutional Design: the International Architecture in <i>The Oxford Handbook on Financial Regulation</i>	Oxford University Press	2015
<i>Renminbi Ascending: How China's Currency Impacts Global Markets, Foreign Policy and Transatlantic Financial Regulation</i>	Atlantic Council	2015
Key Theoretical Parameters of the Soft Law Debate: A Basic Overview in <i>The Changing Landscape of Global Financial Governance</i>	Brill	2015
Testimony of Chris Brummer, J.D., Ph.D. before the European Parliament Committee on Economic and Monetary Affairs	European Parliament	2014
<i>Systemically Important Banks (SIBs) in the Post-Crisis Era: The Global Response, and Responses Around the Globe for 135 Countries</i> (with James R. Barth, Tong Li, and Daniel E. Nolle), in <i>The Oxford Handbook of Banking, Revised Edition</i>	Oxford University Press	2014
<i>The New Politics of Transatlantic Credit Rating Agency Regulation, in The Fate of Transnational Financial Regulation</i> (with Rachel Loko),	Routledge	2014
<i>The Challenge of Releasing the Redback</i> <i>The Case for the TTIP</i>	International Financial Law Review	2014

<i>Head to Head: Does today's world need a global financial regulator</i>		
Minilateralism	Cambridge University Press	2014
FinTech: Building a 21st-Century Regulator's Toolkit	Milken Institute	2014
21st century FinTech market and policy developments	Milken Institute	2014
<i>Getting to Yes on Transatlantic Financial Regulation</i>	Project Syndicate	2014
Danger of Divergence: Transatlantic Financial Reform & the G20 Agenda	Atlantic Council	2013
<i>Domestic Bank Regulation in a Global Environment — A Comparative Dialogue (Published Panel Discussion with Lissa Broome, Michael Helfer, Cyrus Amir-Mokri, Robert Hockett & Nick O'Neill)</i>	North Carolina Banking Institute Journal (University of North Carolina)	2013
Bank Leverage Now in EU's Hands Want to Save Dodd-Frank? Consider TTIP London Is Better Off Reformed (LIBOR) Who Wins if Greece Exits? Why Europe's "Technocrati" Can't Do It All	Huffington Post	2013
The JOBS Act isn't All Crowdfunding	Forbes	2013
Crowdfunding: Maximizing the Promise and Minimizing the Peril, A Roundtable Discussion at Georgetown University Law Center	Milken Institute	2012
<i>Charter of the Financial Stability Board, Introductory Note, International Legal Materials</i>	American Society of International Law	2012

<i>Networks (In)Action?</i>	World Bank Legal Review	2011
<i>How International Financial Law Works (and How it Doesn't)</i>	Georgetown Law Journal	2011
<i>Territoriality as a Regulatory Technique: Notes From the Financial Crisis</i>	University of Cincinnati Law Review	2010
<i>Origins of the Financial Crisis and International/National Responses: An Overview</i>	American Society of International Law	2010
<i>Why Soft Law Governs Finance—And Not Trade, 13 Journal of International Economic Law</i>	Journal of International Economic Law	2010
<i>Post-American Securities Regulation</i>	California Law Review	2010
<i>Stock Exchanges and the New Markets for Securities Law</i>	University of Chicago Law Review	2008
<i>Corporate Law Preemption in an Age of Global Capital Markets,</i>	Southern California Law Review (USC)	2008
<i>Regional Integration and Incomplete Club Goods: A Trade Perspective</i>	Chicago Journal of International Law	2008
<i>The Ties that Bind? Regionalism, Commercial Treaties and the Future of Global Economic Integration</i>	Vanderbilt Law Review	2007
<i>Examining the Institutional Design of International Investment Law" in Karl P. Sauvant, ed., Appeals Mechanism in International Investment Disputes</i>	Oxford University Press	2008
<i>Sharpening the Sword: Class Certification, Appellate Review, and the Role of the Fiduciary Judge in Class Action Lawsuits</i>	Columbia Law Review	2004
<i>Blood and Iron in the Sand: Colonialism, Politics and Culture in German Southwest Africa</i>	Unpublished	2001

8. Lobbying

In the past ten years, have you registered as a lobbyist? If so, please indicate the state, federal, or local bodies with which you have registered (e.g., House, Senate, California Secretary of State). No

September 14, 2016

Honorable Pat Roberts
Chairman,
Committee on Agriculture, Nutrition and Forestry
United States Senate
Washington, D.C. 20510

Dear Chairman Roberts:

On March 21, 2016, a copy of my OGE Form 278, Executive Branch Personnel Public Financial Disclosure Report, required in connection with my nomination to serve as Commissioner of the Commodity Futures Trading Commission, was submitted to the U.S. Office of Government Ethics. That report contained all required financial information for calendar year 2015 and for calendar year 2016 through March 21, 2016.

The Ethics in Government Act of 1978, as amended, also requires that I update certain of the information reported on the OGE 278 respecting outside earned income and honoraria to date which occurs not more than five days before the date of the hearing to be held by your committee to consider my nomination.

Accordingly, please be advised that I have earned an aggregate of \$14,895 in outside earned income since submitting my OGE 278 through September 14, 2016. During that period, I have not earned honoraria of any amount. I have no other covered income to report.

I am aware that the CFTC's Ethics Program and its ethics officials are available to provide me with ethics guidance and assistance to help me identify, avoid, and resolve any and all potential or actual conflicts of interest or appearance issues. If confirmed, I commit to affirmatively seek ethics guidance and assistance so that I can take appropriate steps to identify, avoid, and resolve any and all potential or actual conflicts of interest or appearance issues as a Commissioner of the CFTC that may arise as a result of my prior marriage.

I trust this letter satisfies the additional applicable reporting requirements contained in the Ethics in Government Act.

Yours sincerely,

A handwritten signature in black ink, appearing to read "B. Quintenz", with a stylized flourish at the end.

Brian D. Quintenz

UNITED STATES OFFICE OF
GOVERNMENT ETHICS



The Honorable Pat Roberts
Chairman
Committee on Agriculture, Nutrition,
and Forestry
United States Senate
Washington, DC 20510

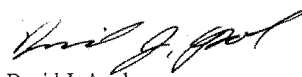
Dear Mr. Chairman:

In accordance with the Ethics in Government Act of 1978, I enclose a copy of the financial disclosure report filed by Brian D. Quintenz, who has been nominated by President Obama for the position of Commissioner, Commodity Futures Trading Commission.

We have reviewed the report and have obtained advice from the agency concerning any possible conflict in light of its functions and the nominee's proposed duties. Also enclosed is an ethics agreement outlining the actions that the nominee will undertake to avoid conflicts of interest. Unless a date for compliance is indicated in the ethics agreement, the nominee must fully comply within three months of confirmation with any action specified in the ethics agreement.

Based thereon, we believe that this nominee is in compliance with applicable laws and regulations governing conflicts of interest.

Sincerely,

A handwritten signature in black ink, appearing to read "David J. Apol", is written over a horizontal line.

David J. Apol
General Counsel

Enclosures

March 21, 2016

Jonathan L. Marcus
General Counsel and
Designated Agency Ethics Official
Office of the General Counsel
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, N.W.
Washington, D.C. 20581

Dear Mr. Marcus:

This letter describes the steps I will take to avoid any actual or apparent conflict of interest in the event that I am confirmed for the position of Commissioner for the Commodity Futures Trading Commission (CFTC).

As required by 18 U.S.C. § 208(a), I will not participate personally and substantially in any particular matter in which I know that I have a financial interest directly and predictably affected by the matter, or in which I know that a person whose interests are imputed to me has a financial interest directly and predictably affected by the matter, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2). I understand that the interests of the following persons are imputed to me: any spouse or minor child of mine; any general partner of a partnership in which I am a limited or general partner; any organization in which I serve as officer, director, trustee, general partner or employee; and any person or organization with which I am negotiating or have an arrangement concerning prospective employment.

I am the founder, Managing Member, and Managing Principal of Saeculum Capital Management ("SCM"), LLC, a limited liability company. SCM is a Commodity Pool Operator ("CPO"). I serve as the Associated Person of SCM with regard to its status as a CPO. As the sole owner and only registered/licensed employee of SCM, I hold a 100% controlling interest in SCM. SCM is subject to regulation by the CFTC and is also a member and registrant of the National Futures Association ("NFA"). SCM is also the sole general partner of Saeculum Capital Partners, LP ("SCP"). SCP is organized as a limited partnership which serves as a pooled investment vehicle for a commodity pool. Although I am not a limited partner of SCP, I serve as the Managing Member of the general partner, SCM. SCP is a commodity pool and is subject to regulation by the CFTC.

As required by 7 U.S.C. § 2(a)(8), I understand that, when I am appointed a Commissioner of the CFTC, I will be prohibited from employment with any entity subject to regulation by the CFTC, and I will also be prohibited from participating, directly or indirectly, in any registered entity operations or transactions of a character subject to regulation by the CFTC. Further, as required by 7 U.S.C. § 13(e), 5 C.F.R. § 5101.102, 17 C.F.R. § 140.735-2, and 17 C.F.R. § 140.735-a, I understand that, when I am appointed a Commissioner of the CFTC, I will be prohibited from engaging in certain transactions and holding certain prohibited interests.

Therefore, if I am confirmed as Commissioner, I will not be appointed to the position, until I have either (1) fully transferred any and all of my interests in SCM and SCP as set forth below, or (2) completed the necessary steps set forth below to dissolve SCP and to place SCM either in an inactive status or wind it down.

If I transfer all of my interests in SCM and SCP, I will transfer 100% of my ownership of SCM, including its CPO responsibilities, to another eligible entity or entities who will be fully substituted for my current interests, and I will complete the following steps before I am appointed to the position of Commissioner:

1. I will resign as the Managing Member and Managing Principal of SCM;
2. I will receive a payout of any fees for services I provided to SCM or its clients prior to my confirmation or I will forfeit the fees;
3. I will receive a payout of any carried interest I have in SCP or I will forfeit it; and
4. I will withdraw my registration as an Associated Person from the NFA.

If I do not transfer all of my interests in SCM and SCP, I will take the following necessary steps to dissolve SCP and to place SCM either in an inactive status or wind it down before I am appointed to the position of Commissioner:

1. I will liquidate, return, or transfer all funds received from each client of SCM and each investor in SCP, other than fees retained for services provided prior to my confirmation;
2. I will receive a payout of any carried interest I have in SCP or I will forfeit it;
3. I will withdraw the registration of SCM as a CPO with the NFA;
4. I will withdraw my registration as an Associated Person from the NFA;
5. I will take any additional steps required to dissolve SCP; and
6. I will wind down SCM or place it in an inactive status for the duration of my appointment.

Until all of these actions are completed, I understand and acknowledge that I will not be appointed Commissioner. I will confirm in writing prior to my appointment as a Commissioner that I have either (1) fully transferred any and all of my interests in SCM and SCP as set forth above, or (2) completed the necessary steps set forth above to dissolve SCP and to place SCM either in an inactive status or wind it down. For a period of one year after completing the last of these steps, I will not participate personally in any particular matter involving specific parties in which I know a former client of SCM, investor in SCP, or any entity or entities to whom I have transferred my interests in SCM or SCP, is a party or represents a party, unless I am first authorized to participate pursuant to 5 C.F.R. § 2635.502(d). During my appointment as Commissioner, I will not provide any services to SCM, except to the extent that I may need to comply with any requirements involving legal filings, taxes, fees, or similar matters related to maintaining SCM in an inactive status or winding it down.

On December 15, 2015, I dissolved SCM's Registered Investment Advisor ("RIA") business by deregistering the firm in Washington, D.C. and the State of Virginia. As a result of SCM's deregistration in both Washington, D.C. and the State of Virginia, SCM is no longer registered as an Investment Advisor Firm with the Financial Industry Regulatory Authority ("FINRA").

I previously served as the Investment Advisor Representative ("IAR") of SCM with regard to its status as a RIA and on December 15, 2015, I withdrew my personal registration as an IAR of SCM from Washington, D.C. and the State of Virginia. On December 15, 2015, I also withdrew my personal registration as an IAR of SCM from the SEC. I will not participate personally and substantially in any particular matter involving specific parties in which I know a former client of mine, is a party or represents a party, for a period of one year after I last provided service to that client, unless I am first authorized to participate, pursuant to 5 C.F.R. § 2635.502(d).

I will retain my position as a trustee of two trusts for my dependent children. I will not receive any fees for the services that I provide as a trustee during my appointment as Commissioner. I will not participate personally and substantially in any particular matter that to my knowledge has a direct and predictable effect on the financial interests of either of these trusts, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2).

Upon confirmation, I will also resign from my position with Foundation for the Preservation of Historic Georgetown. For a period of one year after my resignation, I will not participate personally and substantially in any particular matter involving specific parties in which I know that the Foundation for the Preservation of Historic Georgetown, is a party or represents a party, unless I am first authorized to participate, pursuant to 5 C.F.R. § 2635.502(d).

Upon confirmation, I will resign from my position with the MBA Alumni Advisory Council of Georgetown University's McDonough School of Business.

Finally, I understand that as an appointee I am required to sign the Ethics Pledge (Exec Order No. 13490) and that I will be bound by the requirements and restrictions therein in addition to the commitments I have made in this agreement. I have been advised that this ethics agreement will be posted publicly, consistent with 5 U.S.C. § 552, on the website of the U.S. Office of Government Ethics with ethics agreements of other Presidential nominees who file financial reports.

Sincerely,



Brian D. Quintenz

Executive Branch Personnel Public Financial Disclosure Report

Reporting Individual's Name Last Name First Name and Middle Initial D.		Reporting Status (Check Appropriate Box) ☒ Incumbent ☐ New Entrant ☐ Candidate		Termination Date (If Applicable) Date (Month, Day, Year)	
Position for Which Filing Title of Position Commissioner		Department or Agency (If Applicable) Commodity Futures Trading Commission		Termination Date (If Applicable) Date (Month, Day, Year)	
Location of Present Office (or forwarding address) Address (Number, Street, City, State, and ZIP Code) 2807 Q Street, NW Washington, DC 20007		Telephone No. (Include Area Code) 202-329-4805		Termination Date (If Applicable) Date (Month, Day, Year)	
Positions Held with the Federal Government during the 12 Months (If Not Same as Above) None		Title of Position(s) and Date(s) Held None		Termination Date (If Applicable) Date (Month, Day, Year)	
Presidential Nominees Subject to Senate Confirmation		Name of Congressional Committee Considering Nomination Committee on Agriculture, Nutrition and Forestry		Do You Intend to Create a Qualified Diversified Trust? ☐ Yes ☒ No	
Certification I CERTIFY that the statements I have made on this form and all attached schedules are true and correct to the best of my knowledge.		Signature of Reporting Individual 		Date (Month, Day, Year) March 21, 2016	
Other Review (If desired by agency)		Signature of Other Reviewer 		Date (Month, Day, Year) March 21, 2016	
Agency Ethics Official's Opinion On the basis of information furnished in this report, I conclude that the filer is in compliance with applicable laws and regulations (subject to any comments in the last column).		Signature of Designated Agency Ethics Official/Reviewing Official 		Date (Month, Day, Year) March 21, 2016	
Office of Government Ethics Use Only		Signature 		Date (Month, Day, Year) 3/21/16	
Comments of Reviewing Officials (If additional space is required, use the reverse side of this sheet)					
(Check box if filing extension granted & indicate number of days _____) ☐					
(Check box if comments are continued on the reverse side) ☐					

Reporting Individual's Name Quinlertz, Brian D.		SCHEDULE A										Page Number 2 of 8									
Assets and Income		BLOCK B										BLOCK C									
Valuation of Assets at close of reporting period		BLOCK B										BLOCK C									
Income: Type and amount. If "None (or less than \$201)" is checked, no other entry is needed in Block C for that item.		BLOCK B										BLOCK C									
BLOCK A		BLOCK B										BLOCK C									
For you, your spouse, and dependent children, report each asset held for investment or the reportable portion of each asset held for investment that has a value exceeding \$1,000 at the close of the reporting period, or which generated more than \$200 of income during the reporting period, together with such income. For yourself, also report the source and actual amount of earned income exceeding \$200 (other than income from a partnership or S corporation) that you or your spouse reported the source but not the amount of earned income of more than \$1,000 (except report the actual amount of any honoraria over \$200 of your spouse). None ☐		BLOCK B										BLOCK C									
Examples Central Airlines Common Doe Investment, Boston, State Kempstone Equity Fund IRA: Heartland 500 Index Fund		BLOCK B										BLOCK C									
1 U.S. bank account #1 (cash)		BLOCK B										BLOCK C									
2 Saeculum Capital Management, LLC -Inv. Mgmt. Firm CPO- See Note 1		BLOCK B										BLOCK C									
3 IRA - Schwab Govt Money Fund (SWGXX)		BLOCK B										BLOCK C									
4 IRA - Schwab Dividend Equity ETF (SCHD)		BLOCK B										BLOCK C									
5 IRA - Vanguard Dividend Appreciation ETF (VIG)		BLOCK B										BLOCK C									
6 IRA - iShares Core High Dividend ETF (HDV)		BLOCK B										BLOCK C									
* This category applies only if the asset/income is solely that of the filer's spouse or dependent children. If the asset/income is either that of the filer or jointly held by the filer with the spouse or dependent children, mark the other higher categories of value, as appropriate.		BLOCK B										BLOCK C									

Page Number

893

* This category applies only if the asset/income is solely that of the filer's spouse or dependent children. If the asset/income is either that of the filer or jointly held by the filer with the spouse or dependent children, mark the other higher categories of value, as appropriate.

SCHEDULE A continued
(Use only if needed)

Page Number 4 of 4

[illegible]

* This category applies only if the asset/income is solely that of the filer's spouse or dependent children. If the asset/income is either that of the filer or jointly held by the filer with the spouse or dependent children, mark the other higher categories of value, as appropriate.

Do not complete Schedule B if you are a new entrant, nominee, or Vice Presidential or Presidential Candidate

Reporting Individual's Name Clinton, Brian Q.		SCHEDULE B												Page Number 5 of 8	
Part I: Transactions Report any purchase, sale, or exchange by you, your spouse, or dependent child involving the reporting period of any real property, securities, commodity futures, and other securities when the amount of the transaction exceeded \$1,000. Include transactions that resulted in a loss. certificate of divestiture from OGE.															
Do not report a transaction involving property used solely as your personal residence, or a transaction solely between you, your spouse, or dependent child. Check the "Certificate of divestiture" block to indicate sales made pursuant to a certificate of divestiture from OGE.		None ☐													
Transaction Type (a)		Date (b) (Day, Jr.)		Amount of Transaction (c)											
Purchase		Date		Amount of Transaction (c)											
Exchange		Date		Amount of Transaction (c)											
Sale		Date		Amount of Transaction (c)											
Divestiture		Date		Amount of Transaction (c)											
Example: Central Airlines Common		2/1/99		Amount of Transaction (c)											
1				Amount of Transaction (c)											
2				Amount of Transaction (c)											
3				Amount of Transaction (c)											
4				Amount of Transaction (c)											
5				Amount of Transaction (c)											

*This category applies only if the underlying asset is solely that of the filer's spouse or dependent children. If the underlying asset is either held by the filer or jointly held by the filer with the spouse or dependent children, use the other higher categories of value, as appropriate.

Source (Name and Address)		Brief Description		Value
Examples: Melinda of Rock Collection, NY, NY Frank Jones, San Francisco, CA		Airline ticket, hotel room & meals incident to national conference 6/15/99 (personal activity unrelated to duty) Leather briefcase (personal friend)		\$500 \$185
1				
2				
3				
4				
5				

For you, your spouse and dependent children, report the source, a brief description, and the value of: (1) gifts (such as tangible items, transportation, lodging, food, or entertainment) received from one source totaling more than \$350 and (2) travel-related cash reimbursements received from one source totaling more than \$350. For conflicts analysis, it is helpful to indicate a basis for receipt, such as personal friend, agency approval under 5 U.S.C. § 4111 or other statutory authority, etc. For travel-related gifts and reimbursements, include travel itinerary, dates, and the nature of expenses provided. Exclude anything given to you by the U.S. Government, given to your agency in connection with official travel, received from relatives, received by your spouse or dependent child totally independent of their relationship to you, or provided as personal hospitality at the filer's residence. Also, for purposes of aggregating gifts to determine the total value of a source, exclude items worth \$140 or less. See instructions for other exclusions.

None ☐

SCHEDULE C		Page Number 7 of 8																																								
Reporting Individual's Name Quintenz, Brian D.																																										
Part I: Liabilities Report liabilities over \$10,000 owed to any one creditor at any time during the reporting period by you, your spouse, or dependent children. Check the highest amount owed during the reporting period. Exclude accounts: None ☒																																										
Creditor (Name and Address)	Type of Liability	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 10%;">Date Incurred</th> <th style="width: 10%;">Interest Rate</th> <th style="width: 10%;">Term if Applicable</th> <th style="width: 10%;">Category of Amount or Value (x)</th> </tr> <tr> <th>1991</th> <th>8%</th> <th>25 yrs.</th> <th></th> </tr> <tr> <th>1999</th> <th>10%</th> <th>on demand</th> <th></th> </tr> </thead> <tbody> <tr> <td>Examples</td> <td></td> <td></td> <td></td> </tr> <tr> <td>1 First National Bank, Washington, DC</td> <td></td> <td></td> <td></td> </tr> <tr> <td>2 John Jones, Washington, DC</td> <td></td> <td></td> <td></td> </tr> <tr> <td>3</td> <td></td> <td></td> <td></td> </tr> <tr> <td>4</td> <td></td> <td></td> <td></td> </tr> <tr> <td>5</td> <td></td> <td></td> <td></td> </tr> <tr> <td>6</td> <td></td> <td></td> <td></td> </tr> </tbody> </table>	Date Incurred	Interest Rate	Term if Applicable	Category of Amount or Value (x)	1991	8%	25 yrs.		1999	10%	on demand		Examples				1 First National Bank, Washington, DC				2 John Jones, Washington, DC				3				4				5				6			
Date Incurred	Interest Rate	Term if Applicable	Category of Amount or Value (x)																																							
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5																																										
6																																										
a mortgage on your personal residence unless it is rented out; loans secured by automobiles, household furniture or appliances; and liabilities owed to certain relatives listed in instructions. See instructions for revolving charge accounts.																																										
*This category applies only if the liability is solely that of the filer's spouse or dependent children. If the liability is that of the filer or a joint liability of the filer with the spouse or dependent children, mark the other higher categories, as appropriate.																																										
Part II: Agreements or Arrangements Report your agreements or arrangements for: (1) continuing participation in an employee benefit plan (e.g. pension, 401k, deferred compensation); (2) continuation of payment by a former employer (including severance payments); (3) leaves of absence; and (4) future employment. See instructions regarding the reporting of negotiations for any of these arrangements or benefits. None ☒																																										
Example	Status and Terms of any Agreement or Arrangement	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 10%;">Parties</th> <th style="width: 10%;">Date</th> </tr> </thead> <tbody> <tr> <td>Example: Partnership agreement, will create lump sum payment of capital account & partnership share calculated on seven percent interest 1/1/00.</td> <td></td> </tr> <tr> <td>1 Doe Jones & Smith, Hometown, State</td> <td>7/85</td> </tr> <tr> <td>2</td> <td></td> </tr> <tr> <td>3</td> <td></td> </tr> <tr> <td>4</td> <td></td> </tr> <tr> <td>5</td> <td></td> </tr> <tr> <td>6</td> <td></td> </tr> </tbody> </table>	Parties	Date	Example: Partnership agreement, will create lump sum payment of capital account & partnership share calculated on seven percent interest 1/1/00.		1 Doe Jones & Smith, Hometown, State	7/85	2		3		4		5		6																									
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Reporting individual's Name Quintenz, Brian D.	SCHEDULE D	Page Number 8 of 8
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Part I: Positions Held Outside U.S. Government

Report any positions held during the applicable reporting period, whether compensated or not. Positions include but are not limited to those of an officer, director, trustee, general partner, proprietor, representative, employee, or consultant of any corporation, firm, partnership, or other business enterprise or any non-profit organization or educational institution. Exclude positions with religious, social, fraternal, or political entities and those solely of an honorary nature.

None ☐

Organization (Name and Address)		Type of Organization	Position Held	From (Mo./Yr.)	To (Mo./Yr.)
Examples	Not Assn. of Rock Collectors, NY, NY Dee Jones & Smith, Hometown, State	Non-profit/education Law firm	President Partner	6/93 7/85	Present 1/00
1	Saeculum Capital Management, LLC Washington, DC	Commodity Pool Operator, CFTC/NFA	Founder, Managing Member and Associated Partner	10/2013	Present
2	Saeculum Capital Management, LLC Washington, DC	Registered investment Advisor, DC and VA	Founder, Managing Principal, and Investment Advisor Representative	11/2013	12/2015
3	Saeculum Capital Partners, LP Washington, DC	Commodity Pool	Managing Member of the General Partner (SCM LLC)	10/2013	Present
4	DC Trust 1, Keybank Custodian Washington, DC	Trust	Sole Trustee	08/2007	Present
5	DC Trust 2, Keybank Custodian Washington, DC	Trust	Sole Trustee	08/2009	Present
6	Foundation for the Preservation of Historic Georgetown	non-profit foundation	Trustee	10/2015	Present

Part II: Compensation in Excess of \$5,000 Paid by One Source

Report sources of more than \$5,000 compensation received by you or your business affiliation for services provided directly by you during any one year of the reporting period. This includes the names of clients and customers of any corporation, firm, partnership, or other business enterprise, or any other non-profit organization when you directly provided the services generating a fee or payment of more than \$5,000. You need not report the U.S. Government as a source.

None ☐

Source (Name and Address)		Brief Description of Duties
Examples	Doe Jones & Smith, Hometown, State Hoxco University (client of Doe Jones & Smith), Hometown, State	Legal services Legal services in connection with university construction
1	Saeculum Capital Management, LLC	Investment services
2	Saeculum Capital Partners, LP (client of Saeculum Capital Management, LLC)	General Partner of Commodity Pool, investment management
3		
4		
5		
6		

Quintenz OGE 278, Note 1 – Schedule A, pg. 2, line 2:

Saeculum Capital Management, LLC ("SCM"), a Washington D.C. limited liability company, is a Commodity Pool Operator ("CPO"). On December 15, 2015, I dissolved SCM's Registered Investment Advisor ("RIA") business by deregistering the firm in Washington, D.C. and the State of Virginia. As a result of SCM's deregistration in both Washington, D.C. and the State of Virginia, SCM is no longer registered as an Investment Advisor Firm with the Financial Industry Regulatory Authority ("FINRA"). I previously served as the Investment Advisor Representative ("IAR") of SCM with regard to its status as a RIA and on December 15, 2015, I withdrew my personal registration as an IAR of SCM from Washington, D.C. and the State of Virginia. On December 15, 2015, I also withdrew my personal registration as an IAR of SCM from the SEC.

I serve as the Associated Person of SCM with regard to its status as a CPO. As the sole owner and only registered/licensed employee of SCM, I hold a 100% controlling interest in SCM. SCM is subject to regulation by the CFTC and is also a member and registrant of the National Futures Association ("NFA"). SCM is also the sole general partner of Saeculum Capital Partners, LP ("SCP"). SCP is organized as a limited partnership which serves as a pooled investment vehicle for a commodity pool. Although I am not a limited partner of SCP, I serve as the Managing Member of the general partner's interests in SCP. SCP is a commodity pool and is subject to regulation by the CFTC.

Under SCP's Limited Partnership Agreement, SCM is primarily responsible for the management of SCP. As the Managing Member of SCM, I manage SCP's commodity pool. SCP was organized as a Delaware limited partnership to operate as a private investment partnership. SCP's investment objective is to pool the investment capital of investors for the purpose of capitalizing on high-probability, medium-to-long-term momentum opportunities across various futures markets - primarily global equity index futures - uncovered by the Partnership's proprietary systematic approach.

Schedule A pg.2, Line 2 reflects the financial value I derive from SCM in the following ways: the firm's estimated value as a going concern listed in Block B, capital gains noted in Block C in the form of carried interest that SCM earned over the reporting period as the General Partner of SCP, and fees noted in Block C that SCM earned over the reporting period from managing client funds in the RIA and commodity pool. The Total Assets under Management (AUM) for SCM on which it earned management fees was between \$500,000 and \$5 million as of the end of the reporting period. The investments held by SCM included E-mini S&P futures, options on E-mini S&P futures, and cash held with Interactive Brokers Group, Inc.

U.S. SENATE COMMITTEE ON AGRICULTURE, NUTRITION & FORESTRY
Questions for Executive Nominees
114th Congress

1. Basic Biographical Information

Please provide the following information.

<i>Position to Which You Have Been Nominated</i>	
<u>Name of Position</u>	<u>Date of Nomination</u>
<u>Commissioner, Commodity Futures Trading Commission</u>	<u>March 3, 2016</u>

<i>Current Legal Name</i>			
<u>First Name</u>	<u>Middle Name</u>	<u>Last Name</u>	<u>Suffix</u>
Brian	David	Quintenz	

<i>Addresses</i>					
<u>Residential Address</u> (do not include street address)			<u>Office Address</u> (include street address)		
			Street: 2907 Q Street, NW		
City: Washington	State: DC	Zip: 20007	City: Washington	State: DC	Zip: 20007

<i>Other Names Used</i>						
<u>First Name</u>	<u>Middle Name</u>	<u>Last Name</u>	<u>Suffix</u>	<u>Check if Maiden Name</u>	<u>Name Used From</u> (Month/Year) (Check box if estimate)	<u>Name Used To</u> (Month/Year) (Check box if estimate)
					Est ☐	Est ☐
					Est ☐	Est ☐

<i>Birth Year and Place</i>	
Year of Birth (Do not include month and day.)	Place of Birth
1977	Milwaukee, WI

<i>Marital Status</i>					
Check All That Describe Your Current Situation:					
Never Married ☐	Married ☐	Separated ☐	Annulled ☐	Divorced ☒	Widowed ☐

<i>Spouse's Name (current spouse only)</i>			
<u>Spouse's First Name</u>	<u>Spouse's Middle Name</u>	<u>Spouse's Last Name</u>	<u>Spouse's Suffix</u>

<i>Spouse's Other Names Used (current spouse only)</i>						
<u>First Name</u>	<u>Middle Name</u>	<u>Last Name</u>	<u>Suffix</u>	<u>Check if Maiden Name</u>	<u>Name Used From</u> (Month/Year) (Check box if estimate)	<u>Name Used To</u> (Month/Year) (Check box if estimate)
					Est ☐	Est ☐
					Est ☐	Est ☐

<i>Children's Names (if over 18)</i>			
<u>First Name</u>	<u>Middle Name</u>	<u>Last Name</u>	<u>Suffix</u>

2. Education

List all post-secondary schools attended.

<u>Name of School</u>	<u>Type of School</u> (vocational/technical/trade school, college/university/military college, correspondence/distance/extension/online school)	<u>Date Began School</u> (month/year) (check box if estimate)	<u>Date Ended School</u> (month/year) (check box if estimate) (check "present" box if still in school)	<u>Degree</u>	<u>Date Awarded</u>
Duke University	College	08/1995 Est ☐	05/1999 Est ☐ Present ☐	Bachel ors of Arts	05/1999
Georgetown University McDonough School of Business	University	08/2007 Est ☐	05/2009 Est ☐ Present ☐	MBA	05/2009
		Est ☐	Est ☐ Present ☐		
		Est ☐	Est ☐ Present ☐		

3. Employment

(A) List all of your employment activities, including unemployment and self-employment. If the employment activity was military duty, list separate employment activity periods to show each change of military duty station. Do not list employment before your 18th birthday unless to provide a minimum of two years of employment history.

Type of Employment (Active Military Duty Station, National Guard/Reserve, USPS Commissioned Corps, Other Federal employment, State Government (Non-Federal Employment), Self-employment, Unemployment, Federal Contractor, Non-Government Employment (excluding self-employment), Other	Name of Your Employer/Assigned Duty Station	Most Recent Position Title/Rank	Location (City and State only)	Date Employment Began (month/year) (check box if estimate)	Date Employment Ended (month/year) (check box if estimate) (check "present" box if still employed)
Self-Employment	Saeculum Capital Management LLC	Managing Principal	Washington, DC	11/2013 Est ☐	present Est ☐
Non-government employment	Rose International for Bank of America Merrill Lynch	Consultant	Bethesda, MD	06/2013 Est ☐	11/2013 Est ☐
Unemployed				06/2012 Est ☐	06/2013 Est ☐
Non-Government Employment	Hill-Townsend Capital LLC	Senior Investment Associate	Chevy Chase, MD	05/2009 Est ☐	06/2012 Est ☐
Student	Georgetown University McDonough School of Business	MBA Candidate	Washington, DC	08/2007 Est ☐	05/2009 Est ☐
Unemployed				06/2007	07/2007
Other Federal Employment	Congresswoman Deborah Pryce (OH-15)	Senior Legislative Aide	Washington, DC	03/2001	06/2007
Unemployment				01/2001	03/2001
Non-Government Employment	Kasich 2000	Director of Travel and Assistant to the Treasurer	Washington, DC and Columbus, OH	06/1999	01/2001

(B) List any advisory, consultative, honorary or other part-time service or positions with federal, state, or local governments, not listed elsewhere.

<u>Name of Government Entity</u>	<u>Name of Position</u>	<u>Date Service Began</u> (month/year) (check box if estimate)	<u>Date Service Ended</u> (month/year) (check box if estimate) (check "present" box if still serving)
		Est ☐	Est Present ☐ ☐
		Est ☐	Est Present ☐ ☐
		Est ☐	Est Present ☐ ☐

4. Honors and Awards

List all scholarships, fellowships, honorary degrees, civilian service citations, military medals, academic or professional honors, honorary society memberships and any other special recognition for outstanding service or achievement.

Georgetown McDonough School of Business Merit Based Scholarship
Beta Gamma Sigma Honors Society
Duke University Magna Cum Laude
Duke University Dean's List and Dean's List with Distinction, multiple semesters
Duke University Highest Distinction in Public Policy Studies

5. Memberships

List all memberships that you have held in professional, social, business, fraternal, scholarly, civic, or charitable organizations in the last 10 years.

Unless relevant to your nomination, you do NOT need to include memberships in charitable organizations available to the public as a result of a tax deductible donation of \$1,000 or less, Parent-Teacher Associations or other organizations connected to schools attended by your children, athletic clubs or teams, automobile support organizations (such as AAA), discounts clubs (such as Groupon or Sam's Club), or affinity memberships/consumer clubs (such as frequent flyer memberships).

<u>Name of Organization</u>	<u>Dates of Your Membership</u> (You may approximate.)	<u>Position(s) Held</u>
Chartered Financial Analyst Society of Washington DC	June 2008 – present	Guest Member

Only Make Believe	2014 – present	Ambassador
Georgetown University McDonough School of Business MBA Alumni Advisory Committee	2014 – present	Executive Committee Member and Full Committee Member
The Golf Club	2006 – present	National Member
The Metropolitan Club of Washington D.C.	2015-present	Resident Member
National Futures Association	2013-present	Member
Financial Industry Regulatory Authority (FINRA)	2013-present	Member

6. Political Activity

(A) Have you ever been a candidate for or been elected or appointed to a political office?

<u>Name of Office</u>	<u>Elected/Appointed/ Candidate Only</u>	<u>Year(s) Election Held or Appointment Made</u>	<u>Term of Service (if applicable)</u>
N/A			

(B) List any offices held in or services rendered to a political party or election committee during the last ten years that you have not listed elsewhere.

<u>Name of Party/Election Committee</u>	<u>Office/Services Rendered</u>	<u>Responsibilities</u>	<u>Dates of Service</u>

(C) Itemize all individual political contributions of \$200 or more that you have made in the past five years to any individual, campaign organization, political party, political action committee, or similar entity. Please list each individual contribution and not the total amount contributed to the person or entity during the year.

<u>Name of Recipient</u>	<u>Amount</u>	<u>Year of Contribution</u>
Mitt Romney for President	\$500	2012
John Kasich for America	\$250	2016

7. Publications

List the titles, publishers and dates of books, articles, reports or other published materials that you have written, including articles published on the Internet.

<u>Title</u>	<u>Publisher</u>	<u>Date(s) of Publication</u>
None		

8. Lobbying

In the past ten years, have you registered as a lobbyist? If so, please indicate the state, federal, or local bodies with which you have registered (e.g., House, Senate, California Secretary of State).

No

QUESTIONS AND ANSWERS

SEPTEMBER 15, 2016

Senate Committee on Agriculture, Nutrition & Forestry
CFTC Nominations Hearing
September 15, 2016
Questions for the record
Dr. Christopher James Brummer

Chairman Pat Roberts

- 1) Your prior writings indicate you believe that there are design flaws in cross-border financial regulation, and that reforms may address the flaws. Please explain.

One of the major challenges to cross-border financial regulation is that rule writing and implementation are not always synched between regulators. Instead, broad goals are articulated, with an expectation that they are implemented at times years later, with no obvious mechanism for regulators to stay coordinated. As a result, political and economic cycles can overtake decision-making, leading at times to a lack of coordination as to how rules are ultimately implemented.

- 2) You have written that technological innovation runs circles around the ability of regulators to respond and adapt. Please outline any proposed solution(s).

Regulators should develop and sustain a deep understanding of the major technological innovations affecting their markets. This means continually engaging Fintech firms and entrepreneurs outside of Washington, D.C., to understand the trajectory of innovation and how it will impact trading and market ecosystems. Agencies should also recruit more individuals with the technical skills and competencies to survey the market and employ big data strategies to add efficiency and accuracy to market oversight.

- 3) The CFTC is currently considering a final rule regulating automated trading. Many parties strongly object to being required to routinely produce their "source code" as part of their books and records requirement under Part 1.31. Those parties have confidence in the CFTC's use of subpoena power that would allow for and facilitate the collection of such information with the requisite legal foundation. What is your position on this rule and the likely effect on the trading community?

Due process is an essential aspect of the rule of law and must be respected. While I believe it is essential that the CFTC have the information it needs to guard market integrity, it must also have rules in place that both protect due process and make sure information provided to governmental authorities is protected and remains confidential.

I am sensitive to the concerns about protecting intellectual property. If confirmed, I would engage directly with enforcement and surveillance staff, as well as trading firms, on this issue. Ultimately, my position would rest on an analysis of how similar and dissimilar source code is to other kinds of technical information subject to books and records requirements; how onerous subpoenas are (or are not) in practice to get at the CFTC as compared to other agencies; the degree to which subpoenas facilitate monitoring systemic risk; what alternative tools are available at the CFTC to get information or to ensure due process; what administrative and technological tools are in place to prevent information from being compromised at the agency; which CFTC staff would have access to the information; and what consequences the decision could have for other participants in derivatives markets.

Senator Debbie Stabenow

- 1) The CFTC's mission is to "foster open, transparent, competitive, and financially sound markets, to avoid systemic risk, and to protect the market users and their funds, consumers, and the public from fraud, manipulation, and abusive practices related to derivatives and other products that are subject to the Commodity Exchange Act." *If confirmed, what priorities and actions will you take to fulfill the CFTC's mission?*

My top priorities for the CFTC would be finishing the Dodd Frank rule-making, and ensuring that the agency is both internationally oriented and staying ahead of the technological curve. Also, I want to make sure end users can continue to use the markets to hedge their commercial risks and contribute productively to the American economy. This includes securing more harmonious implementation of the G20 agenda of financial reform, keeping abreast of and responsive to new developments in derivatives markets in Asia that will increasingly impact U.S. market participants, and responding to the increasing electronification of markets and the critical challenge of cybersecurity

More immediately, I would look into concerns related to cattle markets and find out exactly how and what the CFTC can do to enhance or restore credibility and faith in them. I believe that derivatives markets that lose the faith of end users, ultimately fail. The CFTC should act swiftly to restore this faith where it can and make sure these markets function well.

- 2) Through an administrative rule-making, the CFTC is currently seeking to establish a regulatory framework overseeing automated trading, including oversight of individuals and market participants that utilize the technology in the marketplace. There is a strong tension regarding the balance between preserving the intellectual property rights of automated traders and trading firms, specifically source code and algorithms that drive the automated trading strategy, versus the importance of appropriate regulatory transparency within the technology, which may include access to source code and algorithms. For obvious reasons, appropriate regulatory transparency can be used as a critical tool in enforcement actions seeking to stop market manipulation, and prevent future market disruptions like the 2010 and 2015 flash crashes. *If confirmed, what factors will you consider when determining the balance between regulatory access to information and data, possibly including source code and algorithms within the automated trading context, versus protecting the intellectual property of individuals and firms participating in the marketplace?*

Enforcement is critical to market integrity, as is the ability of regulators to have a window into what is actually happening in markets. This information helps protect markets and prevent financial instability. That being said, due process is fundamental to the rule of law and I think it is essential that the CFTC has rules and processes in place that protect confidential information. Source code is extremely valuable information for firms specializing in automated trading and the agency should consider that as it moves forward. The factors I would consider when approaching regulations on automated trading include exploring: how similar and dissimilar source code is to other kinds of technical information subject to books and records requirement; how onerous subpoenas are (or are not) in practice to get at the CFTC (and comparing subpoena practice at the CFTC to other agencies); whether/how subpoenas would promote the agency's ability to monitor of systemic risk; what alternative tools are available at the CFTC to ensure due process; what administrative and technological tools are in place to prevent information from being compromised at the agency; which CFTC staff would have access to the information; and what consequences the decision could have for other financial regulatory players in derivatives markets.

- 3) Risk and leverage associated with bilateral, over-the-counter swaps played a significant role in the financial crisis. Recognizing this, Congress mandated, among other things, central clearing of certain standardized swaps under Section 723 of the Dodd-Frank Act. Since 2010, the transition to mandatory clearing has been long and challenging; however, a majority of standardized swaps are now being cleared through registered derivatives clearing organizations (DCOs). Since this transition, there have been many discussions by policy makers, regulators, and market participants regarding the new risk profile of DCOs. Ultimately, the question has become, with the new mandate, have clearinghouses, and the market "plumbing" services they now provide, become too systemically risky. Another question that has arisen deals with which parties are responsible for ensuring that clearinghouses are properly capitalized in case of a market disruption.

What role do you believe a clearinghouse plays vis a vis its clearing members in terms of responsibility for appropriate capital contributions as a measure to alleviate market stress during a bankruptcy, dissolution scenario, or capital shortfall?

One of the most important roles of a clearinghouse is to make sure it has adequate financial resources, which requires setting and enforcing high standards for margin and capital-contributions. The CFTC sets clear guidelines as to what these contributions should be, but ultimately it is for clearinghouses to ensure that members provide the high quality capital that regulation requires. Clearinghouses must therefore not only stipulate clear requirements, but also make sure that they monitor members dutifully and ensure that they are in a position to access these financial resources in the event of a crisis.

- 4) The CFTC is currently considering the long delayed position limits rule. One consideration being debated by the Commission deals with the appropriate venue to implement and enforce certain position limits: at the CFTC, or at registered Designated Contract Markets.

Considering resource challenges, data accessibility, and potential conflict of interest concerns, how and where do you think implementation and enforcement of certain position limits is best applied against market participants?

I believe that DCMs play an important role in market supervision. They have expertise, resources, day-to-day interactions with market participants, and contract design responsibilities that make them critical partners in regulation, and they can play a frontline role in implementing and enforcing rules such as position limits.

However, I believe the ultimate responsibility for determining position limits should lie with the CFTC. The CFTC's mission is to protect the public and is statutorily required under the Commodity Exchange Act and the Dodd Frank Act to implement position limits in a range of physical and financial commodities. Consequently, I believe that the CFTC should have the final say on both implementing and enforcing the final rule.

- 5) Following the recent issuance of the CFTC's, Swap Dealer de Minimis Exception Final Staff Report, CFTC Chairman Massad indicated on September 15, 2016, that he would recommend to the Commission a one year delay of the Swap Dealer De Minimis threshold, citing the need to collect additional data before changing the threshold level, automatically or by further rulemaking.

If confirmed, what factors would you consider to determine what final threshold level is appropriate to ensure non-bank market participants that process, transport, or trade physical energy and agricultural products, critical to American families, are properly regulated and overseen by the Commission so as to protect against market disruptions?

This should be a data driven exercise, and the CFTC's preliminary and final reports suggest to me that there may be a number of significant entities in nonfinancial commodities markets that engage in swaps dealing without registering. But because the data for nonfinancial commodities used in these reports have notable limitations, the agency should wisely use the next year to get a clearer picture of the market.

The factors I would take into consideration on this issue include: 1) the important statutory requirement under the Dodd Frank Act that entities active as dealers in swaps markets be subject to enhanced standards—like business conduct, reporting, recordkeeping and risk mitigation—in order to help assure a high quality/high integrity transactional environment; 2) the extent to which the data show discrepancies between financial and energy/nonfinancial commodities in registration; 3) the quality of the data (including the robustness of methodological assumptions especially in the nonfinancial commodities markets); 4) risks of market manipulation or abusive practices in the absence of greater levels of registration; and, 5) the likelihood of and implications for market concentration of dealers under both thresholds.

- 6) Recent volatility in the market for U.S. Treasury securities, futures, and other related instruments has raised many questions about liquidity, and more specifically whether new market and prudential regulations are having an adverse impact on the price and availability of hedging, financing, and investment instruments for end users.

Do you believe the implementation impact of Dodd-Frank regulations is correlated to these unusual market liquidity events? Do you believe a pause in additional rulemaking is justified to address potential market liquidity concerns?

There are in my view many factors that potentially impact liquidity including changes in market infrastructure due to technology, U.S. monetary policy, and macroeconomic developments in physical and financial commodities. Regulatory costs, too, can impact liquidity. In my opinion, however, this is not in and of itself a reason to pause rulemaking, especially rulemaking mandated by Congress. Instead, awareness of regulation's potential impact on liquidity is a reason for to be mindful and vigilant of the burden caused by regulations relative to their benefits, and to truly strive for the most cost-efficient regulation possible in order to avoid unduly burdening end users and creating deadweight costs to society.

- 7) PwC recently released a study on global financial market liquidity and recommended that the regulatory landscape should be reviewed for consistency across regions to avoid regulatory and market fragmentation. *Do you believe that prudential and market regulators should examine existing financial rules, like capital and margin, for divergence, to ensure financial stability and harmonization so that farmers, ranchers, and businesses can continue to effectively manage risk? What amount of divergence would justify recalibration of financial rules across different regions?*

Regulators should be aware of the differences in capital and margin requirements in the United States and other countries. It is hard to imagine formulating sustainable and thoughtful cross-border policy and cooperation in the absence of it. That said, full harmonization will likely never be possible due to differences in how markets are structured and the relationship of market entities to their home governments and states. Instead, we should rely on an outcomes-based approach that recognizes jurisdictions and regulatory partners with high-quality oversight to create a playing field that is as safe and level as possible. We should especially continue to monitor the impact of global regulation on end users, and redouble efforts to sensibly and safely reduce any attendant complexity that could undermine or frustrate their ability to hedge their risks effectively.

Senator David Perdue

- 1) As jurisdictions around the world make progress towards implementing their own derivatives reforms like Dodd-Frank, coordination with regulators around the world has never been more important for the CFTC and the markets it oversees. Can you share your views regarding how the CFTC can better coordinate with its counterparts around the world to ensure there is a robust global swaps market through which US companies can hedge their risk?

Global coordination is key to regulating swaps markets. It enables companies to hedge their risk effectively and efficiently, and helps prevent arbitrage that can undermine the safety and soundness of derivatives markets. Ensuring to the maximum extent possible that US regulatory authorities are on the same page when engaging foreign regulators on overlapping issues is a good start. In that way, they can present coherent reforms on the international stage. Relationship building with major standard setting bodies with similarly strong commitments to safe and sound markets is also necessary. Ideally, high standard jurisdictions could leverage international bodies like the G20, FSB, IOSCO, CPMI and others to provide a stage for presenting sensible proposals for efficient and safe markets instead of litigating them amongst one another. Less established jurisdictions should not be permitted to cherry pick or ignore rules in ways that disadvantage US companies and introduce new risks to global financial stability. Finally, the CFTC should continue to work with its counterparts, especially in jurisdictions with high-quality regulation, to keep the agency's staff and leadership abreast of potential developments or challenges in implementation timelines before they rise to the level of undermining global cooperation.

- 2) Transparency in the derivatives markets is a hallmark of the reform efforts, and reporting rules are now in place in many jurisdictions around the world. Market participants have been urging regulators, including the CFTC, for some time for greater standardization and consistency in reporting requirements. What do you think the CFTC can do to improve consistency and usability in data reported by market participants?

Derivatives regulation should be data-driven, and where data is incomplete, or lacks standardization to the point regulators are unable to collate or connect data, the ability of regulators to understand markets and do their jobs efficiently and effectively is limited. Perhaps the most important work to be done involves harmonizing data-fields and reporting obligations globally. In Europe, both sides to a derivative transaction are required to report derivatives trades, and my understanding is that U.S. regulators and market participants have seen revealing discrepancies in the reporting of the same trades. Data fields must be standardized when reporting, otherwise it is difficult to aggregate data, especially across jurisdictions where parties may report their trades differently. The CFTC's ability (and that of other regulators) to collate that data is, as a result, significantly compromised. Work streams at the CPMI and IOSCO should continue to focus on this particular cross border challenge, and the CFTC should leverage OFR's presence at IOSCO to push for greater standardization.

Senator Ben Sasse

- 1) If you are appointed, what are your cybersecurity priorities?

If appointed, cybersecurity would be one of my top priorities. Given the importance of clearing since 2008, clearinghouses would be a natural initial focus. Because of their increasing centrality in the derivatives marketplace, clearinghouses pose especially attractive targets for both financial and terrorism-fueled cyberattacks. And if successful, an attack could upend U.S. (and global) financial stability.

To meet this challenge, the CFTC should aggressively coordinate with law enforcement and national security agencies to monitor emerging risks and provide situational awareness for firms operating under its jurisdiction of cyber-risks, especially those emanating from abroad. The CFTC should also ensure that there are ample tools with which to coordinate responses between clearinghouse members and between clearinghouses and DCMs. As a Commissioner, I would advocate formal agency work streams designed to minimize recovery times for critical derivatives infrastructures in the event of a cyberattack, and to periodically assess clearinghouses' compliance with cybersecurity best practices.

- 2) In your opinion, does anything need to be done to improve the use of cost-benefit analysis at the CFTC? If so, will you commit to advocating for taking these steps?

It is critical that the CFTC be aware of the costs and benefits of its rulemaking, and indeed the agency is required to do so under law. This is for good reason. Unduly burdensome rules can upend markets, sap liquidity and create deadweight costs to society. Moreover, they can make markets less attractive for the end users who depend on them. At the same time, inaction can be costly as well. The financial crisis illustrated the devastating impact of unsupervised derivatives markets and the cost to not only our nation's farmers, but other American taxpayers as well.

Rule writing should be data driven, and grounded in facts. And as a Commissioner, if confirmed, I would do my utmost make sure that the culture of my staff and the CFTC's employees conformed both to the law and practical necessity of making sure rules work in a way that is as smart, efficient and information-driven as possible.

- 3) In your opinion, would the CFTC benefit from putting in place regulatory planning and review similar to the requirements specified by OIRA for executive agencies in past and current executive orders?

OIRA's guidance provides an important resource for the agency as it writes its rules. I believe that it is critical that the CFTC's rules be and remain relevant and speak to the realities of the markets the agency oversees. Prudent oversight should ensure that regulatory approaches are sustainable and fulfill the policy intentions of critical Congressional mandates even as markets evolve, that guidelines keep pace with changes in markets and market infrastructure, and that rules remain as efficient as possible in light of these changes. I would support thoughtful measures designed to help ensure that rules and regulatory approaches accommodate new data and keep up with the needs of the end users that rely on them.

- 4) The CFTC's mission is "to foster open, transparent, competitive, and financially sound markets, to avoid systemic risk, and to protect the market users and their funds, consumers, and the public from fraud, manipulation, and abusive practices related to derivatives and other products that are subject to the Commodity Exchange Act."
- In considering the application of this mission to the CFTC's rulemaking, what factors do you think should dictate the CFTC's rulemaking schedule?
 - Do you think the CFTC's rulemaking schedule reflects the right balance? If not, how would you change it?

The CFTC's rulemaking schedule should not unnecessarily delay finishing its Dodd-Frank mandate or shy away from addressing emerging issues, but the agency should take the time to get any rules right, and make sure that the sequencing is logical from a regulatory and compliance perspective. I believe that derivatives markets that lose the faith of end users, especially those tied to physical commodities, ultimately fail. Consequently, one of my immediate priorities includes examining the concerns expressed by farmers and ranchers and finding out exactly how and what the CFTC can do to restore credibility to markets like the cattle markets. The CFTC should act swiftly to restore faith where it can and make sure these markets function well.

From a broader vantage point, I believe that as the CFTC concludes its Dodd Frank rule-making, it should ensure that the agency is internationally oriented to enable competitive hedging for companies that need to do so, and stay ahead of the technological curve. This agenda includes securing more harmonious implementation of the G20 agenda of financial reform, keeping abreast of and responsive to new developments in derivatives markets in Asia that will increasingly impact U.S. market participants, and responding to the increasing electrification of markets and the critical challenge of cybersecurity.

Notably, these agenda items, even individually, encompass most if not all of the multi-faceted policy responsibilities of the agency. Ensuring efficient markets for end users means ensuring transparency, faith in the functioning of the markets, and enabling end users to hedge their commercial risks where it is safe, secure and most practicable.

- 5) If confirmed as a Commissioner, how would you determine whether the Commission should issue a no-action or exceptive letter to an individual or entity as opposed to engaging in rulemaking to address an issue? How would you determine whether the Commission should solve a problem through rulemaking or through enforcement actions?

No-action letters are helpful when unique facts and circumstances warrant targeted exemptive relief, or when the agency needs to respond quickly to market changes. Also, they are useful when there is limited data, and where novel market issues arise. However, they are not a replacement for well-written rules and do not always provide enough regulatory certainty many market participants may want or need in order to do business. I would hope the agency uses no-action letters sparingly to respond to market participants in a timely, and targeted manner, but not as a replacement for rule-writing. No-action relief can provide an opportunity for the agency and market participants to gather data about the activity in question which I hope would lead to rule-writing or rule changes.

- 6) How do you think the independent nature of the CFTC fits with the Constitutional principle of separation of powers? How is the CFTC directly or indirectly accountable to voters?

The CFTC is accountable to voters largely through Congressional oversight and having term-appointed Commissioners subject to the Senate confirmation process. Also, its rules are subject to judicial review. I think that the value provided by regulators is that they provide the technical expertise necessary to implement and realize Congressional directives that help protect market integrity under the authority delegated to them. Yet while the CFTC's agency status allows it to oversee the markets with some degree of independence, there is an appropriate modesty to be embraced and remembered when executing its mission. I strongly believe that the ideal relationship is one where Congress exercises thoughtful oversight over these independent agencies, and agencies work collaboratively with members of Congress and their staff to get solutions that work technically and reflect the values of the American people.

Senator Charles Grassley

- 1) Iowa Cattlemen continue to be frustrated with volatility in the cattle futures markets. Some have applied blame to high frequency trading (HFT) and a practice known as “spoofing.” Section 747 of the Dodd Frank Act amended the Commodity Exchange Act and outlawed the practice commonly known as spoofing. Yet high-speed computers using algorithms for trading are still prompting massive bids and subsequently canceling them in mere milliseconds today. How would you confront HFT and accusations of spoofing at the CFTC?

In my view, derivatives markets that lose the confidence of end users won’t survive for long, especially where they are tied to physical commodities like cattle. Concern about the integrity of markets is something the CFTC absolutely has to take seriously, both as a matter of the agency’s statutory mandate and as a matter of policy, especially given deep concerns about whether or not markets are reflecting supply and demand fundamentals.

While I am not currently as privileged to information about cattle futures as a sitting commissioner, I look forward to finding out more if I have the honor of being confirmed. One of the first steps I would take would be to convene by phone and in person meetings with ranchers and other cattle market participants to discuss their concerns and their views regarding the drivers behind the market volatility. Next, I would consult with the CFTC’s surveillance staff, relevant exchanges, and other government entities like the USDA about potential disruptive practices in these markets, and what role HFT is potentially playing in the volatility. After examining the data, I would consult with the CFTC’s enforcement and surveillance divisions about whether the evidence is sufficient to support an enforcement action against spoofing or any other misconduct. Spoofing is, as noted above, explicitly prohibited, for good reason, and the CFTC’s oversight in this space must be robust.

Senator John Thune

The Chicago Mercantile Exchange (CME) recently announced that it was moving forward with its proposal to modify the Worthing, South Dakota, delivery point October live cattle futures price by lowering it \$1.50. I understand this is an attempt by CME to converge live and futures prices and to reduce volatility. Do you agree that this will be effective in doing so? Are there other areas of the United States, other delivery points/months that should have adjustments made?

Although I am aware of the CME's decision last month, as a nominee I have not had the opportunity to discuss the changes extensively with them. But in my view, it deserves close, ongoing attention and care. Derivatives markets that lose the confidence of end users won't survive for long, especially where they are tied to physical commodities.

That said, if confirmed, I would make it a priority to ensure that the CME's efforts to restore confidence in the cattle futures markets are effective, sensible and fair. I understand that there are regional variations to markets, which may deserve consideration. I also believe that the CME and CFTC should be in the business of maintaining safe, efficient, and functioning derivatives markets, and not picking winners and losers. I would thus talk to ranchers throughout the country, especially in the Worthing region, the CME, and agricultural economists about the impact of the discount. Ultimately, producers should trust that the risk management protocols, approaches and tools employed by the CME (and CFTC) are effective.

Senator Patrick Leahy

- 1) Congress, in response to a number of reports and studies implicating excessive speculation as the cause for volatility and price increases in the commodity futures markets, required the CFTC, as a part of the Dodd-Frank Wall Street Reform and Consumer Protection Act, to address the risk of excessive speculation in commodity markets.

While the memories appear to be short for some regulators and members of Congress who have already forgotten the major crisis of the recent past, I feel just as strongly today, as I did in 2009 as a Dodd-Frank conferee. Position limits are a critical tool for promoting market integrity and preventing financial speculators from abusing exemptions and manipulating the market. We saw that abuse in the years leading up to the financial crisis when speculators artificially drove up electricity prices on the West Coast in 2000; propane prices in 2004; and natural gas prices in 2006. Unfortunately, this rule is now six years delayed and our energy and agricultural companies that use these markets every day to hedge commercial risk, have been left exposed to the actions of these speculators. *Do you support meaningful position limits in the energy and the other 28 physical commodity markets to protect bona fide hedgers, consumers, and investors?*

I do. Position limits are one of a number of vital tools the Commission has historically relied on, and will continue to rely on, to police market abuse and systemic concerns tied to the concentration of risk in any large speculative position. To get it right, a smart and sensible bona fide hedging rule informed by real market practices is needed to prevent excluding those for whom the derivatives markets were created. At the same time, the CFTC should avoid the temptation of creating needless loopholes, and focus instead on enhancing its value proposition—making sure it's as cost efficient as possible while achieving Congressional goals and targeting excessive speculation.

- 2) I have heard concerns from Vermont and New England energy companies that as it writes a final rule on position limits, the CFTC is considering deferring its authority to establish position limits and hedge exemptions to the commodity exchanges. There is understandable apprehension that the exchanges, being profit driven, would have a reason to impose higher limits and broad exemptions. Have you reviewed this matter and can you please share with the Committee what your position is on it?

I believe that DCMs play an important role in market supervision. They have expertise, resources, day-to-day interactions with market participants, and contract design responsibilities that make them critical partners in regulation, and play a helpful role in implementing and enforcing rules such as position limits.

However, I believe the ultimate responsibility for implementing position limits should lie with the CFTC. The CFTC's mission is to protect the public and is statutorily required under the Commodity Exchange Act and the Dodd Frank Act to implement position limits in a range of physical and financial commodities to prevent undue burdens on commerce. Consequently, as a matter of law and policy, I believe that the CFTC should have the final say on both implementing and enforcing the final rules.

Senator Sherrod Brown

- 1) According to the CFTC, over the last nine years, the clearing of swaps has increased from 15% of the market to 75% of the market. This makes clearinghouses increasingly important to protect the market, end-users, and consumers. Risk remains, however, if clearinghouses are not properly managed.

Please describe how central clearing can be further improved and describe the key risks for clearinghouses that you would address right now.

Clearing is an important risk management tool, and was a cornerstone of Title VII of the Dodd-Frank Act. But this increased reliance on clearing creates a new concern about clearinghouse safety. One of the important roles of a clearinghouse is to make sure it has adequate financial resources, which requires setting and enforcing high standards for margin and capital-contributions. The CFTC must ensure that clearinghouses are sufficiently capitalized and have in place clear and robust rules and supervision as to what contributions members provide, collateralization for transactions, protocols for default, and cross-border risk management systems. Additionally, if confirmed, I would make cybersecurity a top priority and work to ensure that the CFTC aggressively coordinate with law enforcement and national security agencies to monitor emerging risks and provide situational awareness for firms operating under its jurisdiction of cyber-risks, especially those emanating abroad. Additionally, I would advocate formal agency work streams designed to minimize recovery times for critical derivatives infrastructures in the event of a cyberattack, and to periodically assess clearinghouses' compliance with cybersecurity best practices.

- 2) How could the CFTC benefit from self-funding like the prudential regulators?

The CFTC's responsibilities grew immensely in the wake of the financial crisis. Prior to the financial crisis of 2008, the agency had been responsible for regulating a roughly \$30 trillion futures market, and Congress ultimately added oversight of the estimated \$400 trillion swaps markets. Fulfilling Congress's mandate isn't easy work—the supervision, rule-writing, exams, and coordination with market participants and foreign authorities requires expertise, energy and a commitment to getting it right—and US taxpayers all over the country paid a heavy price when these markets have not been properly supervised.

For these reasons, I would certainly support exploring a mechanism for self-funding. And if Congress moved in that direction, you would have my commitment that I would do everything in my power to assure that any additional resources would be spent wisely and prudently.

Senator Heidi Heitkamp

- 1) We had a hearing in this committee regarding the state of our livestock industry, and I held a forum in western North Dakota with our ranchers to discuss what is happening with volatility in cattle futures. We've heard from our ranchers the difficulty they're having with hedging and price discovery based on futures as the volatility in the contract—either because of high frequency trading or lack of market transparency—has become out of control and divorced from market fundamentals. And as you know, CME and NCBA are actively working to study and hopefully remedy the issue. *What role do you see the CFTC playing in ensuring these contracts work properly and high frequency trading doesn't cause unnecessary volatility? Do you think CFTC should be studying the issue in addition to CME and industry?*

Concern about the integrity of markets is something the CFTC absolutely has to look into and take seriously, especially given deep concerns about whether or not markets are reflecting their supply and demand fundamentals. In my view, derivatives markets that lose the confidence of end users won't survive for long, especially where they are tied to physical commodities like cattle. These markets are highly complex, and I welcome CME and industry efforts to help investigate and address the problem. This challenge also goes to the heart of the CFTC's mission, and I believe the agency should lead a coordinated effort to assess and respond to the problem, and study the challenges facing the cattle futures markets, including the impact of high frequency trading. If confirmed, I would immediately engage market participants, CFTC surveillance staff and the agency's Division of Enforcement in support of these efforts.

- 2) In May 2015, EPA and CFTC entered into a Memorandum of Understanding regarding data sharing as it relates to RIN markets. In recent months, refiner claims of hardship due to RIN prices have re-entered the public discourse. RIN markets are an alternative approach to compliance under the Renewable Fuel Standard, giving refiners a choice to make investments and blend more renewable fuel, which is the purpose of the RFS, or, to avoid blending more renewable fuel and purchase RINs instead. The only entities involved in this marketplace are refiners who are buying and selling RINs to each other. Even refiners who appear to produce enough ethanol to meet their own compliance obligation under the RFS continue to buy RINs in the marketplace. I am concerned that without oversight, the RIN marketplace may be attracting speculative behavior. *What is your view of the MOU and whether/how it will facilitate CFTC's oversight of this marketplace? If confirmed, what actions would you take to ensure that CFTC is conducting appropriate oversight over the RFS RIN marketplace?*

The CFTC has a responsibility to deter fraud and manipulation in all of the markets it oversees, including the RIN futures markets. Where there are questions as to the credibility of those markets, the CFTC has an obligation to act. While I do not have all of the information concerning the MOU that the CFTC's staff and leadership possess, establishing information- and expertise-sharing are essential for inter-agency oversight of this market. Through the MOU, the CFTC has an opportunity with work with the EPA, the lead agency overseeing the RIN cash market, to address any fraud and market manipulation and to assist the EPA in overseeing these markets. With concern once again rising that speculation is potentially undermining these markets, upon confirmation, I would consult with surveillance personnel about the market, and explore with other Commissioners whether, in light of the data, the CFTC should take any actions or recommendation any action to the EPA. In conducting my analysis I would seek input from market participants in the RIN market, the EPA, and members of Congress.

Senate Committee on Agriculture, Nutrition & Forestry
 CFTC Nominations Hearing
 September 15, 2016
 Questions for the record
 Mr. Brian D. Quintenz

Chairman Pat Roberts

- 1) In your written testimony, you speak about low-risk behavior and high-risk behavior as being treated equally by standardized rules. How will you use your prior experience to differentiate different types of risk, and evaluate how it should be treated?

Standardized rules threaten less risky activity by imposing uniform costs and capital charges that reduce or eliminate economic incentives to provide those services. I believe there are examples within the CFTC's jurisdiction as well as at the prudential regulator level that should be revisited for this reason. The CFTC's proposed swap dealer capital rule, for instance, would require a gross notional value capital charge on commodity swaps, irrespective of net exposure. If firms are forced to hold a large amount of capital on their commodity swaps books regardless of their actual exposure, they may seek more risk to provide an acceptable return or withdraw from that market completely. At the prudential level, the leverage ratio proposal would penalize margin held for clients by ignoring its purpose and attributes: a segregated asset of customers that cannot be leveraged by an FCM to fund its operations with severe quality restrictions. As firms allocate capital charges to their business and product lines, that standardized penalty for carrying margin could minimize the number of firms willing to engage in the futures markets generally. I believe regulators must work to distinguish different levels and components of risk in rules so as not to penalize or disadvantage less risky activities that could ultimately impact end-users.

I have significant experience in this area and believe it will serve me well at the Commission. From constructing and analyzing different derivatives' valuations, I have a basis from which to assess their distinct risks. My practical knowledge of various derivatives trading strategies offers useful insight into understanding end-user hedging techniques. Having calculated numerous firm-level value and earnings estimates, I can recognize when accepted rules of discounted cash flow and net present value analysis are abridged in cost/benefit calculations. I have studied, modeled, and valued some of the most complex financial institutions in the world and am familiar with bank balance sheets, income statements, accounting intricacies, credit quality disclosures, and write-down practices—experience potentially helpful in detecting unforeseen systemic threats.

From experience, I am keenly aware that the detection and assessment of risk depends on sound and timely data. Unfortunately, swaps data reporting standards still need work. Currently, different repositories use different formats for hundreds of required fields. If confirmed, I would be a strong advocate for the timely advancement of data collection and standardization.

- 2) The CFTC is currently considering a final rule regulating automated trading. Many parties strongly object to being required to routinely produce their "source code" as part of their

books and records requirement under Part 1.31. Those parties have confidence in the CFTC's use of subpoena power that would allow for and facilitate the collection of such information with the requisite legal foundation. What is your position on this rule and the likely effect on the trading community?

I believe investment firms' algorithmic trading approaches constitute more than historic trading files. "Source code" is typically the culmination of massive time, research, and capital allotments. By its very nature, "source code" comprises a firm's individuated current and future business strategy, and it should be regarded as intellectual property and trade-secreted material.

Currently, the CFTC can request access to a firm's source code in a variety of ways without producing a subpoena. As noted during the CFTC's Staff Roundtable on Reg AT in June, firms have a history of complying with those requests.¹ To my knowledge, the Commission is able to respond quickly to subpoena requests related to investigations, making any associated burden in these instances unclear. The agency's current Reg AT proposal has not convinced me that the forced disclosure of intellectual property and trade secrets deserves anything less than robust due process associated with the subpoena standard.

¹ See Transcript of Regulation Automated Trading Staff Roundtable at page 250, available at <http://www.cftc.gov/idc/groups/public/@newsroom/documents/file/transcript061016.pdf>

Senator Debbie Stabenow

- 1) The CFTC's mission is to "foster open, transparent, competitive, and financially sound markets, to avoid systemic risk, and to protect the market users and their funds, consumers, and the public from fraud, manipulation, and abusive practices related to derivatives and other products that are subject to the Commodity Exchange Act."

If confirmed, what priorities and actions will you take to fulfill the CFTC's mission?

If confirmed, I have three main priorities: to calibrate regulations to mitigate specific risks, to transform the agency into a 21st Century regulator, and to ensure our markets, businesses, and end-users are not disadvantaged by differences between international regulatory regimes.

It is critical that agency regulations target risk. Rule definitions should be written to apply requirements to the risks they are designed to mitigate. The concerns of end-users must be addressed - rules aimed at systemic risk should not burden generic activity.

To meet the demands and threats of the modern economy, the agency must keep pace with how the markets are evolving and stay abreast of technological changes. Important legal concepts that have underpinned oversight and enforcement standards for decades may no longer be relevant in today's marketplaces. Additionally, data that is current, accurate, and comprehensive will play a crucial role in maintaining market integrity, risk mitigation, and systemic threat detection. Lastly, harmonizing domestic derivative rules with international regulations is vital to protect our markets, participants, businesses, and end-users from disadvantage or harm. Regulatory arbitrage creates winners and losers. It is critical our markets are both strong and efficient.

- 2) Through an administrative rulemaking, the CFTC is currently seeking to establish a regulatory framework overseeing automated trading, including oversight of individuals and market participants that utilize the technology in the marketplace. There is a strong tension regarding the balance between preserving the intellectual property rights of automated traders and trading firms, specifically source code and algorithms that drive the automated trading strategy, versus the importance of appropriate regulatory transparency within the technology, which may include access to source code and algorithms. For obvious reasons, appropriate regulatory transparency can be used as a critical tool in enforcement actions seeking to stop market manipulation, and prevent future market disruptions like the 2010 and 2015 flash crashes.

If confirmed, what factors will you consider when determining the balance between regulatory access to information and data, possibly including source code and algorithms within the automated trading context, versus protecting the intellectual property of individuals and firms participating in the marketplace?

While it is important that the CFTC have the information it needs to fulfill its mission, I believe this can be accomplished while also protecting critical intellectual property. The CFTC currently has a variety of means by which it can request access to (and an explanation of) any firm's algorithmic

or automated trading strategies. Those methods allow for certain precautions and protections against disclosing highly sensitive and valuable intellectual property. During the CFTC's June staff roundtable on Regulation AT, one panelist recalled exactly such a scenario - hosting CFTC personnel to collectively examine and understand his firm's proprietary technology and algorithmic strategies.²

- 3) Risk and leverage associated with bilateral, over-the-counter swaps played a significant role in the financial crisis. Recognizing this, Congress mandated, among other things, central clearing of certain standardized swaps under Section 723 of the Dodd-Frank Act. Since 2010, the transition to mandatory clearing has been long and challenging; however, a majority of standardized swaps are now being cleared through registered derivatives clearing organizations (DCOs). Since this transition, there have been many discussions by policy makers, regulators, and market participants regarding the new risk profile of DCOs. Ultimately, the question has become, with the new mandate, have clearinghouses, and the market "plumbing" services they now provide, become too systemically risky. Another question that has arisen deals with which parties are responsible for ensuring that clearinghouses are properly capitalized in case of a market disruption.

What role do you believe a clearinghouse plays vis a vis its clearing members in terms of responsibility for appropriate capital contributions as a measure to alleviate market stress during a bankruptcy, dissolution scenario, or capital shortfall?

Designated Clearing Organizations (DCOs) play a vital role in enhancing systemic transparency and in the mutualization of risk. Recently, the Commission unanimously finalized a rule aimed at ensuring DCOs meet strong safety and soundness thresholds. Presently, DCOs need to be capitalized well enough to withstand a default by its two largest clearing members. I believe this is a high standard. The Commission must now focus on compliance with these rules to ensure DCOs are meeting their systemic safety obligations.

- 4) The CFTC is currently considering the long delayed position limits rule. One consideration being debated by the Commission deals with the appropriate venue to implement and enforce certain position limits: at the CFTC, or at registered Designated Contract Markets.

Considering resource challenges, data accessibility, and potential conflict of interest concerns, how and where do you think implementation and enforcement of certain position limits is best applied against market participants?

The CFTC should continue working closely with Designated Contract Markets (DCMs) in crafting and enforcing any position limits regime. While the agency ultimately must ensure the DCMs are meeting their obligations, I believe the DCMs have an economic self-interest in providing credible marketplaces for their customers. A market without credibility is a market without trust, and therefore likely without the bona fide activity and customers needed for the DCM to succeed. In addition to economic incentives, there are also statutory requirements - DCMs have a legal

² Ibid.

obligation to maintain orderly markets, and the Commission has consistently relied on each DCM's expertise for important surveillance and enforcement functions. Self-regulation has a long history in these markets — "corners" in commodity contracts were originally banned by the Chicago Board of Trade in 1868, more than 50 years before the first federal regulatory body appeared.³

Regarding the position limits proposal specifically, there seems to be a discrepancy between what some DCMs view as notable position sizes in various non-spot months and what the Commission has proposed in its most recent position limits rule. Additionally, many of the markets in question possess unique features and discrepant participation characteristics.⁴ Analysis of market data strongly suggests any standardized position limit methodology across markets could be too blunt of an approach.

If confirmed, I would work to ensure any position limit regime meets the needs of each specific market's end-user community.

- 5) Following the recent issuance of the CFTC's, Swap Dealer De Minimis Exception Final Staff Report, CFTC Chairman Massad indicated on September 15, 2016, that he would recommend to the Commission a one year delay of the Swap Dealer De Minimis threshold, citing the need to collect additional data before changing the threshold level, automatically or by further rulemaking. *If confirmed, what factors would you consider to determine what final threshold level is appropriate to ensure non-bank market participants that process, transport, or trade physical energy and agricultural products, critical to American families, are properly regulated and overseen by the Commission so as to protect against market disruptions?*

I agree with Chairman Massad's recommendation to prevent the Swap Dealer *de minimis* threshold's scheduled reduction in December 2017. Otherwise, business activity in these critical markets could have been impacted or altered less than five months from now. Given the still-uncertain costs and limited data associated with swap dealer registration, this delay makes sense.

The profitability characteristics of swap arrangements leads me to believe generally that a lower threshold would not result in significantly more registrants but rather in a reduced level of swap activity. This outcome could leave end-users and businesses with few to no counterparties and also further concentrate risk in the largest swap dealers. I do not believe this outcome would advance the stated policy goals of systemic risk reduction, counterparty protection, and enhanced market integrity.

More robust data is also necessary to predict the registration requirements' effect on potentially small amounts of activity. The Commission's recent *de minimis* data study exposed flaws in the accuracy of existing data, such as the inability to differentiate swaps used for hedging purposes.

³ See http://www.cftc.gov/About/HistoryoftheCFTC/history_precftc

⁴ See transcript of CFTC Energy and Environmental Markets Advisory Committee meeting, February 26, 2016 at page 66, at: <http://www.cftc.gov/idc/groups/public/@aboutcftc/documents/file/emaactranscript022615.pdf>; and presentation by Erik Haas, pages 7 & 8, at: http://www.cftc.gov/idc/groups/public/@aboutcftc/documents/file/eemac022615_icemarkets1.pdf

The Commission should use this delay to improve its data and seriously consider whether notional value is the appropriate measurement by which to impose potentially large, uniform, and risk-based costs. I believe notional value is not an accurate measure of risk--it does not account for netting, counterparty risk, the underlying's volatility and credit quality, or the instrument's tenor. We should understand how these deficiencies' affect on policy outcomes might be amplified as any threshold based upon notional value is reduced.

If the Commission and prudential regulators plan to impose risk-based costs for swap dealer registration, I believe the agency should be open to new threshold measures that better capture the dynamics of each market and product. The CFTC need not accept the binary choice between a \$3 billion or \$8 billion threshold originally finalized without the benefit of substantial data.

- 6) Recent volatility in the market for U.S. Treasury securities, futures, and other related instruments has raised many questions about liquidity, and more specifically whether new market and prudential regulations are having an adverse impact on the price and availability of hedging, financing, and investment instruments for end users.

Do you believe the implementation impact of Dodd-Frank regulations is correlated to these unusual market liquidity events? Do you believe a pause in additional rulemaking is justified to address potential market liquidity concerns?

Some have argued that the Dodd-Frank Act has affected and reduced traditional players' participation in these important markets, particularly through the implementation of the Volker rule and the imposition of numerous new regulatory capital, leverage, and liquidity ratios. In addition, others note the dynamics of current monetary policy have displaced traditional activity in the debt markets. The combined effect of those major changes to liquidity should be reviewed and understood carefully. In the present environment, a small interest rate shock could produce stressed market conditions that may undermine recovering, but still fragile, market confidence.

The CFTC's rule writing needs to be examined closely to understand whether it bears responsibility for market dislocations. There is evidence that the agency's Swap Execution Facility (SEF) rules, which took effect in October 2014, have bifurcated the Euro Interest Rate Swap market and also reduced the liquidity available to U.S. dealers.⁵ This is worth reviewing.

It would be beneficial if U.S. regulators more routinely requested, received, and analyzed data and evidence related to the totality of the burdens and benefits of the evolving regulatory landscape. Through this process, regulators could judge the effect and scope of their regulations and, it is hoped, re-calibrate duplicative or poorly crafted rules that may disadvantage our markets, participants, or system. If confirmed, I would work with my fellow Commissioners to promote such an approach and make it a regular piece of the regulatory process.

⁵ See ISDA Research Note - Cross Border Fragmentation of Global Interest Rate Derivatives: Second Half 2015 Update," available at <http://www2.isda.org/search?headerSearch=1&keyword=cross+border+fragmentation>

- 7) PwC recently released a study on global financial market liquidity and recommended that the regulatory landscape should be reviewed for consistency across regions to avoid regulatory and market fragmentation.

Do you believe that prudential and market regulators should examine existing financial rules, like capital and margin, for divergence, to ensure financial stability and harmonization so that farmers, ranchers, and businesses can continue to effectively manage risk? What amount of divergence would justify recalibration of financial rules across different regions?

I believe regulators should continuously examine financial-, derivative-, and commodity- market regulations to prevent international regulatory arbitrage from compromising our markets' risk management utility, price discovery functions, and liquidity advantages. If confirmed, I would call for an immediate reassessment of any regulation clearly disadvantaging our markets, commercial participants, and agricultural end-users.

Senator David Perdue

- 1) As jurisdictions around the world make progress towards implementing their own derivatives reforms like Dodd-Frank, coordination with regulators around the world has never been more important for the CFTC and the markets it oversees. Can you share your views regarding how the CFTC can better coordinate with its counterparts around the world to ensure there is a robust global swaps market through which US companies can hedge their risk?

Ultimately, international regulatory coordination depends upon positive relationships underpinned by trust, respect, and open communication. If confirmed, I would seek to promote such relationships and build bridges between jurisdictions that promote smart market regulation and reduce regulatory arbitrage opportunities. This process includes making comparability determinations for foreign jurisdictions' regulatory structures in a way that both respects their sovereignty but also protects our markets, as well as coordinating regulatory implementation timing and reviewing our own regulations for adverse market impacts or disadvantaging outcomes.

- 2) Transparency in the derivatives markets is a hallmark of the reform efforts, and reporting rules are now in place in many jurisdictions around the world. Market participants have been urging regulators, including the CFTC, for some time for greater standardization and consistency in reporting requirements. What do you think the CFTC can do to improve consistency and usability in data reported by market participants?

As a prior investment analyst whose valuations and recommendations relied on the accuracy, accessibility, and scope of publicly available information, I am a firm believer in data and transparency.

In 2011, the Commission's Technology Advisory Committee (TAC), under the direction of its then-sponsor, former Commissioner Scott O'Malia, created a Subcommittee on Data Standardization. That subcommittee has not met since presenting a report to the TAC on March 29, 2012.⁶ If confirmed and honored with sponsoring the TAC, I would reconstitute this subcommittee to promote data standardization as a priority and encourage the Commission to provide leadership on this issue.

⁶ See http://www.cftc.gov/About/CFTCCommittees/TechnologyAdvisory/tac_meetings

Senator Ben Sasse

- 1) If you are appointed, what are your cyber security priorities?

Cyber security is the most important concern in safeguarding our markets. Cyberspace has become a battlefield in the war against those who wish to do our country harm, and our financial markets are at the top of their target list.

Because successful financial markets depend on confidence, panics are enormously destructive. With that precise end in mind, enemies of our state could focus attacks on our country through financial system cyber warfare.

I applaud the Commission for its thoughtful, principles-based, bipartisan rule that requires a strong commitment to cyber security from every market player while also allowing for flexibility and innovation in their individual approaches. The Commission must now ensure compliance with that rule. A high degree of coordination throughout the entire government regulatory spectrum is necessary to prevent duplicative regulations and cross-agency regulatory confusion from impairing cyber security efforts.

- 2) In your opinion, does anything need to be done to improve the use of cost-benefit analysis at the CFTC? If so, will you commit to advocating for taking these steps?

It is imperative that the Commission thoroughly understands, evaluates, and discloses the costs and benefits associated with its rule writing. In delegating responsibilities through entity or activity definitions, the agency must craft categorizations corresponding to the risks being mitigated.

I believe the Commission may have, in the past, estimated a rule's cost based on a narrow interpretation of the rule's application when, in reality, the definitions capture far more market participants than expected. A recent and prominent example would be proposed Regulation AT. In the proposed rule, the agency estimated registering a total of 420 new "AT Persons," a designation which would trigger the numerous reporting, record keeping, and trading risk controls aimed at High Frequency Trading (HFT) firms. However, the definition of an AT Person is written so broadly that it would include any individual or firm using very common, web-based trading platform risk management tools, like a trailing stop, or strategies with limited automated functionality common in the agricultural end user space like an "iceberg" or an "auto-spreader".⁷ Once classified as an AT Person, that individual or firm becomes subject to the same requirements as the most sophisticated and well-funded HFT firms. Because of this definition's broad applicability, the number of new registrants is likely to be considerably more than the Commission's estimate.

The public deserves the most detailed, accurate accounting possible of costs and benefits associated with its rules. Also, if new information or data questions the accuracy of prior

⁷ See Comment letter to Proposed Regulation Automated Trading from Todd Kemp, National Grain and Feed Association, dated March 16, 2016

assumptions or conclusions, I believe the CFTC should reevaluate its estimates and provide a more accurate representation of its regulations' impacts.

- 3) In your opinion, would the CFTC benefit from putting in place regulatory planning and review similar to the requirements specified by OIRA for executive agencies in past and current executive orders?

The Office of Information and Regulatory Affairs conducts cost/benefit analysis oversight of administrative agencies' rulemakings under the authority of Executive Order 12866. That Executive Order states that in developing regulations, agencies "shall assess both the costs and the benefits of the intended regulation and, recognizing that some costs and benefits are difficult to quantify, propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs." OIRA provides guidance for agencies performing such an analysis, which is mandatory for economically significant rules (generally rules that have an annual effect on the economy of \$100 million or more).

As an independent agency, the CFTC is not required to seek OIRA's advice or use its guidance. Additionally, the Commodity Exchange Act requires that the agency only "consider" costs and benefits in its rule making. While the agency entered into a Memorandum of Understanding with OIRA in 2012 that would provide the CFTC with resources and assistance in cost benefit analysis should the CFTC request it, I believe the agency should do more.⁸

If confirmed, I will meticulously examine the assumptions, calculations, and estimations presented in the agency's proposed and final rulemakings. I would further suggest that any reauthorization of the Commodity Exchange Act include direct guidance for cost and benefit reviews in line with the standards at all other Executive agencies.

- 4) The CFTC's mission is "to foster open, transparent, competitive, and financially sound markets, to avoid systemic risk, and to protect the market users and their funds, consumers, and the public from fraud, manipulation, and abusive practices related to derivatives and other products that are subject to the Commodity Exchange Act."
 - a. In considering the application of this mission to the CFTC's rulemaking, what factors do you think should dictate the CFTC's rulemaking schedule?
 - b. Do you think the CFTC's rulemaking schedule reflects the right balance? If not, how would you change it?

To successfully fulfill its mission, the Commission should ensure its rules are reviewed on a regular basis, especially if information or data suggest a rule is negatively affecting our markets', firms', or end-users' competitiveness.

⁸ https://www.whitehouse.gov/sites/default/files/omb/inforeg/regpol/oira_cftc_mou_2012.pdf

The agency must work to quickly restore trust in markets where it has been lost. To that end, and as a more immediate matter, the Commission should focus on cattle market integrity and do what it can to substantiate or dismiss the specific concerns being raised.

To meet the demands and threats of the modern economy, the agency must update its regulatory playbook. Important legal concepts that have underpinned oversight and enforcement standards for decades may no longer be relevant in today's marketplaces. Additionally, data that is current, accurate, and comprehensive will play a crucial role in maintaining market integrity, risk mitigation, and systemic threat detection. Therefore, data collection efforts should be a priority.

- 5) If confirmed as a Commissioner, how would you determine whether the Commission should issue a no-action or exemptive letter to an individual or entity as opposed to engaging in rulemaking to address an issue? How would you determine whether the Commission should solve a problem through rulemaking or through enforcement actions?

Historically, no-action letters have been important tools used to narrowly tailor exemptions in unique situations. However, no-action letters should neither replace Commission rulemaking nor serve as sweeping remedies for poorly conceived regulations. Since Dodd Frank rulemaking began, the agency has issued a significant number of no-action, exemptive, and interpretive letters,⁹ including some so broadly applicable they affect global market behavior.

No-action letters are not subject to the same due process standards associated with Commission rule writing. They are not voted on by the Commission, are not open for public comment, and can be effective indefinitely or changed arbitrarily. If confirmed, I would seek to ensure no-action letters are used within the narrow boundaries originally intended and not as a substitute for rule writing or to circumvent public input.

- 6) How do you think the independent nature of the CFTC fits with the Constitutional principle of separation of powers? How is the CFTC directly or indirectly accountable to voters?

The CFTC is separated from Presidential power in a number of ways. The agency is governed by a commission rather than a single Presidential appointee, its Commissioners' terms are staggered and outlast a Presidential term, and Commissioners, once confirmed and appointed, cannot be removed by the President. In terms of accountability, there are important Congressional checks on the Commission's authority. The agency's budget is subject to the Congressional budgetary and appropriations process, Commissioners are required to appear before Congressional oversight committees, and the agency's rulemakings are subject to the Commodity Exchange Act as well as the Administrative Procedures Act.

⁹ See <http://www.cftc.gov/LawRegulation/CFTCStaffLetters/No-ActionLetters/index.htm>;
<http://www.cftc.gov/LawRegulation/CFTCStaffLetters/ExemptiveLetters/index.htm>
<http://www.cftc.gov/LawRegulation/CFTCStaffLetters/InterpretativeLetters/index.htm>

Senator Charles Grassley

- 1) Iowa Cattlemen continue to be frustrated with volatility in the cattle futures markets. Some have applied blame to high frequency trading (HFT) and a practice known as “spoofing.”

Section 747 of the Dodd Frank Act amended the Commodity Exchange Act and outlawed the practice commonly known as spoofing. Yet high-speed computers using algorithms for trading are still prompting massive bids and subsequently canceling them in mere milliseconds today.

How would you confront HFT and accusations of spoofing at the CFTC?

Markets need to work for the people and entities that use them. It is obvious that cattlemen have lost trust in the cattle futures market. Markets that trade locked-limit do not allow for price discovery or risk mitigation. When a contract is trading locked-limit, end users cannot determine prices for their goods, establish new hedges, or remove existing hedges. In 2015, the Live Cattle contract traded locked-limit a total of 45 days, indicative of a problem with the market. Contract design, supply/demand imbalances, and participant activity should all be examined closely. At this point, no probable cause should be ruled out.

To re-established trust, the CFTC must focus on cattle market integrity and do what it can to substantiate or dismiss the specific concerns being raised. Allegations of abusive High Frequency Trading practices, like spoofing, demand swift and thorough investigation. The dynamics of the cash market, the forces of supply and demand, and the impact of economic substitutes entering the markets should also be analyzed. If confirmed, I will make it an immediate priority to ensure these questions are being fully examined and answered to bring confidence back to the cattle markets.

Senator John Thune

- 1) The Chicago Mercantile Exchange (CME) recently announced that it was moving forward with its proposal to modify the Worthing, South Dakota, delivery point October live cattle futures price by lowering it \$1.50. I understand this is an attempt by CME to converge live and futures prices and to reduce volatility. Do you agree that this will be effective in doing so? Are there other areas of the United States, other delivery points/months that should have adjustments made?

In 2015, the Live Cattle contract traded locked-limit 45 days - a fact that indicates a severe problem with the market. Contract design, supply/demand imbalances, and participant activity should all be examined closely.

To improve contract design, in February of 2016, the CME Group issued a request for feedback on a \$1.50/cwt discount at the Worthing, SD delivery location. In August, CME self-certified changes to the Live Cattle futures contract to implement the Worthing discount effective August 21, 2016 for the October 2017 contract month. It is my understanding the Commission intends to monitor how this discount affects cash market fundamentals and futures market volatility. If confirmed, I pledge to analyze this market closely and watch for negative consequences associated with this change.

Senator Patrick Leahy

- 1) Congress, in response to a number of reports and studies implicating excessive speculation as the cause for volatility and price increases in the commodity futures markets, required the CFTC, as a part of the Dodd-Frank Wall Street Reform and Consumer Protection Act, to address the risk of excessive speculation in commodity markets.

While the memories appear to be short for some regulators and members of Congress who have already forgotten the major crisis of the recent past, I feel just as strongly today, as I did in 2009 as a Dodd-Frank conferee. Position limits are a critical tool for promoting market integrity and preventing financial speculators from abusing exemptions and manipulating the market. We saw that abuse in the years leading up to the financial crisis when speculators artificially drove up electricity prices on the West Coast in 2000; propane prices in 2004; and natural gas prices in 2006. Unfortunately, this rule is now six years delayed and our energy and agricultural companies that use these markets every day to hedge commercial risk, have been left exposed to the actions of these speculators.

Do you support meaningful position limits in the energy and the other 28 physical commodity markets to protect bona fide hedgers, consumers, and investors?

It is well accepted in investment management that the larger a position is compared to a market's liquidity, the more that position will affect the movement of prices. When combined with the commodity markets' unique focus on a finite supply of deliverable goods, position size is certainly a potential tool of any intended manipulator.

As such, a significant regulatory architecture has developed over the last 90 years to identify, closely monitor, and in some instances disallow extraordinarily large positions in certain markets. That architecture includes large trader reporting requirements (which were first established in 1926), the special call powers of the CFTC to gather detailed information on a position holder's intent, spot month position limits in agricultural commodities, and accountability levels in all active contract months which are examined by the exchanges.

In terms of how to add spot month position limits in other commodities as well as single and all-month combined limits, I believe first and foremost that any re-proposed or final rule address the end-users' concerns that their traditional risk management practices will continue to obtain bona fide hedging treatment.¹⁰

¹⁰ See Working Group of Commercial Energy Firms Petition for Commission Order Granting Exemptive Relief for Certain Bona Fide Hedging Transactions; Comment Letter from Colin Bryce, Morgan Stanley, February 10, 2014 discussing the arbitrary and restrictive quantitative test for cross commodity hedging; and Comment Letter from Diana Klemme, National Grain and Feed Association, February 10, 2014, discussing unfixed price, anticipatory merchandising, and unfilled storage capacity hedging practices.

I believe we also need to take seriously the end-user concerns that any standardized position limit regime approach will harm liquidity in their contracts.¹¹ Liquidity is the lifeblood of markets and, if impaired, could be detrimental to end-users risk management and price discovery needs.

If confirmed, I would work to ensure any final position limit rule addresses the critical needs of the end-user community, and takes into account the concerns of consumers and investors.

- 2) I have heard concerns from Vermont and New England energy companies that as it writes a final rule on position limits, the CFTC is considering deferring its authority to establish position limits and hedge exemptions to the commodity exchanges. There is understandable apprehension that the exchanges, being profit driven, would have a reason to impose higher limits and broad exemptions. Have you reviewed this matter and can you please share with the Committee what your position is on it?

The CFTC should continue working closely with Designed Contract Markets (DCMs) in crafting and enforcing any position limits regime. While the agency ultimately must ensure the DCMs are meeting their obligations, I believe the DCMs have an economic self-interest in providing credible marketplaces for their customers. A market without credibility is a market without trust, and therefore likely without the bona fide activity and customers needed for the DCM to succeed. In addition to economic incentives, there are also statutory requirements - DCMs have a legal obligation to maintain orderly markets, and the Commission has consistently relied on each DCM's expertise for important surveillance and enforcement functions. Self regulation has a long history in these markets — "corners" in commodity contracts were originally banned by the Chicago Board of Trade in 1868, more than 50 years before the first federal regulatory body appeared.

Regarding the position limits proposal specifically, there seems to be a discrepancy between what some DCMs view as notable position sizes in various non-spot months and what the Commission has proposed in its most recent position limits rule. Additionally, many of the markets in question possess unique features and discrepant participation characteristics.¹² Data strongly suggests any standardized position limit methodology across markets could be too blunt of an approach.

If confirmed, I would work to ensure any position limit regime meets the needs of each specific market's end-user community.

¹¹ See Comment letter from Jim Mulhern, National Milk Producers Federation, February 10, 2014.

¹² See transcript of CFTC Energy and Environmental Markets Advisory Committee meeting, February 26, 2016 at page 66, at: <http://www.cftc.gov/idc/groups/public/@aboutcftc/documents/file/emactranscript022615.pdf>; and presentation by Erik Haas, pages 7 & 8, at: http://www.cftc.gov/idc/groups/public/@aboutcftc/documents/file/eemac022615_icemarkets1.pdf

Senator Sherrod Brown

- 1) According to the CFTC, over the last nine years, the clearing of swaps has increased from 15% of the market to 75% of the market. This makes clearinghouses increasingly important to protect the market, end-users, and consumers. Risk remains, however, if clearinghouses are not properly managed. Please describe how central clearing can be further improved and describe the key risks for clearinghouses that you would address right now.

Designated Clearing Organizations (DCOs) play a vital role in enhancing systemic transparency and in the mutualization of risk. Recently, the Commission unanimously finalized a rule aimed at ensuring DCOs meet strong safety and soundness thresholds. Presently, DCOs need to be capitalized well enough to withstand a default by its two largest clearing members. I believe this is a high standard. The Commission must now focus on compliance with these rules to ensure DCOs are meeting their systemic safety obligations.

- 2) How could the CFTC benefit from self-funding like the prudential regulators?

Funding proposals involving user-fees, targeted taxes, or transaction charges that would be automatically directed to the agency, or removing the CFTC from the Congressional budgeting and appropriations process, needs to be carefully considered, and the source of any funds needs to be clearly understood.

While the transition to a privately funded system is a policy decision upon which Congress must debate and decide, I have some reservations about shifting more of the cost of regulatory oversight to a narrow part of the private sector which actively uses these markets.

Self-Regulatory Organizations (SRO) like the NFA and the major exchanges each spend a considerable amount of money executing their SRO responsibilities. In fact, if the budget of the NFA was combined with the major exchanges' SRO expenses, the total would equal nearly 60% of the CFTC's entire budget.¹³ This means that, when viewed as one large funding pie, SROs provide 40% of the total amount of money spent on regulatory oversight activities. All of those funds come from private sources through membership dues, transaction charges, or company cost line-items. Further, these funding amounts have been growing. The NFA's budget has doubled since 2011, from \$42 million to over \$91 million this year,¹⁴ as the CFTC delegated increased responsibilities for registering, monitoring, and examining Swap Dealers and Swap Execution Facilities, as well as for reviewing and approving Swap Dealers' internal margin models.

The benefits of commodity markets accrue to a wide segment of society, more than just the small group of market participants who actively use them. As such, I believe there is a case for public taxpayer dollars to continue funding the agency's share of oversight costs and for preserving that funding inside the robust federal budgeting and appropriations process.

¹³ See <https://www.nfa.futures.org/news/member-newsletter-2016/052416.HTML>; See Testimony of Terrance A. Duffy, Executive Chairman and President, CME Group Inc, before the Senate Committee on Agriculture, Nutrition, and Forestry, Hearing on CFTC Reauthorization, May 15, 2015; Nominee's professional knowledge.

¹⁴ See <https://www.nfa.futures.org/news/member-newsletter-2010/newsletterSummer2010.HTML> and <https://www.nfa.futures.org/news/member-newsletter-2016/052416.HTML>

Senator Heidi Heitkamp

- 1) We had a hearing in this committee regarding the state of our livestock industry, and I held a forum in western North Dakota with our ranchers to discuss what is happening with volatility in cattle futures. We've heard from our ranchers the difficulty they're having with hedging and price discovery based on futures as the volatility in the contract—either because of high frequency trading or lack of market transparency—has become out of control and divorced from market fundamentals. And as you know, CME and NCBA are actively working to study and hopefully remedy the issue. *What role do you see the CFTC playing in ensuring these contracts work properly and high frequency trading doesn't cause unnecessary volatility? Do you think CFTC should be studying the issue in addition to CME and industry?*

Markets need to work for the people and entities that use them. It is obvious that cattlemen have lost trust in the cattle futures market. Markets that trade locked-limit do not allow for price discovery or risk mitigation. When a contract is trading locked-limit, end users cannot determine prices for their goods, establish new hedges, or remove existing hedges. In 2015, the Live Cattle contract traded locked-limit a total of 45 days, indicative of a problem with the market. Contract design, supply/demand imbalances, and/or participant activity should all be examined closely. At this point, no probable cause should be ruled out.

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- 2) In May 2015, EPA and CFTC entered into a Memorandum of Understanding regarding data sharing as it relates to RIN markets. In recent months, refiner claims of hardship due to RIN prices have re-entered the public discourse. RIN markets are an alternative approach to compliance under the Renewable Fuel Standard, giving refiners a choice to make investments and blend more renewable fuel, which is the purpose of the RFS, or, to avoid blending more renewable fuel and purchase RINs instead. The only entities involved in this marketplace are refiners who are buying and selling RINs to each other. Even refiners who appear to produce enough ethanol to meet their own compliance obligation under the RFS continue to buy RINs in the marketplace. I am concerned that without oversight, the RIN marketplace may be attracting speculative behavior.

What is your view of the MOU and whether/how it will facilitate CFTC's oversight of this marketplace? If confirmed, what actions would you take to ensure that CFTC is conducting appropriate oversight over the RFS RIN marketplace?

The RIN market is a very important market to a significant segment of the agricultural and energy community. I believe that it is important for the CFTC to provide any government agency with monitoring and enforcement assistance in their regulatory jurisdictions. If confirmed, I will seek to ensure the CFTC is meeting its obligations under the Memorandum of Understanding signed in May 2016 and will provide any professional assistance requested to evaluate this market.

