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"The State of the Derivatives Market and Perspectives for CFTC Reauthorization"
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Good morning Chairman Roberts, Ranking Member Stabenow, and members of the Committee on Agriculture, Nutrition and Forestry. Thank you for the invitation to testify today. It is an honor to appear before you and this Committee.

Better Markets, Inc. ("Better Markets") is a non-profit, non-partisan, and independent organization founded in the wake of the 2008 financial crisis to promote the public interest in the financial markets, support financial reforms of Wall Street, and make the financial system work for all Americans again. Better Markets works with allies—including many in finance—to promote pro-market, pro-business, and pro-growth policies that help build a stronger, safer financial system, one that protects and promotes Americans' jobs, savings, retirements, and more.

To that end, Better Markets has filed approximately 250 comment letters with U.S. securities, banking, and derivatives regulators, many addressing the implementation of the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act").[1] We have also published numerous letters, reports, and white papers on public policy issues pertinent to U.S. financial markets and had hundreds of meetings with U.S. regulators and others. Much of our attention has focused on critical issues before this committee, including maintaining the integrity of U.S. agricultural and other commodities markets and properly and fully implementing financial reforms to the U.S. derivatives markets. Our website, www.bettermarkets.com, includes information on these public interest activities.

My name is Dennis Kelleher, and I am the President and CEO of Better Markets. Prior to that, I had the privilege to work with a number of you as a senior staffer in the U.S. Senate for three different Senators: as Deputy Staff Director and General Counsel for what is now known as the Health, Education, Labor & Pensions Committee; as Legislative Director and Leadership Advisor to the Secretary of the Democratic Caucus; and as Chief Counsel and Senior Leadership Advisor to the Chairman of the Democratic Policy Committee. Prior to the U.S. Senate, I was a litigation partner at Skadden, Arps, Slate, Meagher & Flom, where I specialized in securities and financial markets in the U.S. and Europe. Prior to obtaining degrees at Brandeis University and Harvard Law School, I enlisted in the U.S. Air Force while in high school and served four years active duty as a crash-rescue firefighter. I grew up in central Massachusetts.

Introduction

I want to explore two important themes in my testimony today.

First, the 2008 financial crash was the worst since the Great Crash of 1929 and caused longstanding damage to the U.S. economy and indeed, the worst dislocation of workers and economic fallout from financial sector excesses since the Great Depression. In the end, that crash will have cost the U.S. at least $20 trillion in lost gross domestic product as well as untold human suffering. It stands as a powerful and enduring reminder that effective regulation of the financial markets is essential to protect the American people and taxpayers from the risks and abuses that threaten the stability of our financial system, and

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[1] Public Law 111-203, 124 Stat. 1376 (2010).

ultimately the prosperity of our country and all hardworking Americans. It is a matter of historical fact that non-regulation and de-regulation across the financial markets significantly contributed to the 2008 financial crisis. And it is equally indisputable that the impact was catastrophic, destroying the financial lives of Americans all across the country, including throwing tens of millions of workers into long-term unemployment, thrusting millions of homes into foreclosure, driving tens of thousands of small businesses into bankruptcy, and creating incalculable economic misery in every state. Without adequate financial regulation and enforcement, we will inevitably face another financial and economic calamity that may even surpass the one that swept over the country just ten years ago. This need for regulation and enforcement is especially critical with respect to the complex and risk-laden over-the-counter ("OTC") derivatives markets, which played a key role in incubating, causing, intensifying, and spreading the 2008 financial crash and crisis.

Second, the Commodity Futures Trading Commission ("CFTC"), overseen by this committee, is an absolutely critical financial regulator with the foremost mission of ensuring that such a catastrophe is never inflicted on this country again. It is primarily responsible for overseeing a vast marketplace, comprised not only of the futures and options markets but also much larger and more complex swaps markets. It has the primary role in setting standards of conduct, promoting transparency, detecting illegal and abusive practices, taking enforcement action when necessary to punish and deter unlawful behavior in those markets, and ultimately, containing systemic risk. Without these safeguards for the derivatives markets—which only the CFTC can provide—our financial markets and our entire economy are at heightened risk of another financial crisis.

Notwithstanding these two critical points, the CFTC has not been reauthorized in more than a decade and continues to explain, on a bipartisan basis across party lines, that it cannot effectively do its job without significant additional funding. It is therefore imperative that Congress give the agency the resources—and, where appropriate, the additional authority—it needs to adequately protect the American people from risks and abuses in the markets it is statutorily responsible for policing.

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I. The enduring consequences of the 2008 financial crisis are a reminder of Congress' responsibility to ensure that federal regulators, including the CFTC, have sufficient funding and authority to promote transparency, competition, stability, and fairness in the U.S. derivatives markets.

The Dodd-Frank Act was signed into law nine years ago next month as a response to the near-complete collapse of the U.S. financial system. By virtually every measure, the 2008 events led to the worst financial crisis since the 1929 stock market crash and the ensuing Great Depression;[2] it almost caused a second Great Depression; it cost the U.S. more than $20 trillion in lost GDP;[3] it resulted in the U.S. government and ultimately, U.S. taxpayers spending, lending, committing, guaranteeing, pledging, assuming, and otherwise putting at risk at least $29 trillion in bailouts for the financial industry;[4] it produced prolonged imbalances in the U.S. economy and distorted U.S. fiscal and monetary policies; and it led to widespread distrust of U.S. financial institutions.

The ultimate consequence, however, was enormous economic and incalculable human harm to tens of millions of Americans, many of whom have suffered and are still suffering from un- and under-

[2] Former Chairman of the Board of Governors of the Federal Reserve System ("Federal Reserve"), Ben Bernanke, and others have noted that the 2008 crash was worse than the Great Depression in certain respects. See B. Bernanke, T. Geithner, and H. Paulson, Firefighting: The Financial Crisis and Its Lessons, 110, 200 (2019) ("The stress of the 2008 crisis was, in some ways—including the declines in stock prices and home prices, and the falls in output and employment—even worse than the early stages of the Great Depression . . .").

[3] See R. Barnichon, C. Matthes, A. Ziegenbein, Federal Reserve Bank of San Francisco, Economic Letter 2018-19, The Financial Crisis at 10: Will We Ever Recover?, available at https://www.frbsf.org/economic-research/files/el2018-19.pdf (finding "a large fraction of the gap between current GDP and its pre-crisis trend level is associated with the 2007–08 financial crisis" and concluding that "GDP is unlikely to revert to the level implied by its trend before the crisis"). For another study of the devastating effects of the 2008 financial crisis, see T. Atkinson, D. Luttrell, and H. Rosenblum, Federal Reserve Bank of Dallas, Staff Paper No. 20, How Bad Was It? The Costs and Consequences of the 2007-09 Financial Crisis (July 2013), available at https://www.dallasfed.org/~/media/documents/research/staff/staff1301.pdf. See also Better Markets, The Cost of the Crisis: $20 Trillion and Counting (July 2015), available at https://bettermarkets.com/sites/default/files/Better%20Markets%20-%20Cost%20of%20the%20Crisis_1.pdf.

[4] See J. Felkerson, A Detailed Look at the Fed's Crisis Response by Funding Facility and Recipient, Public Policy Brief, Levy Economics Institute of Bard College, No. 123 (2012), available at https://www.econstor.eu/bitstream/10419/121982/1/689983247.pdf (calculating "the total amount of loans and asset purchases made . . . from January 2007 to March 2012" and determining that the Federal Reserve's cumulative 2008 financial crisis interventions were "over $29 trillion"). For a discussion of this figure and the endless industry disagreements on the precise final number, see Better Markets, Wall Street's Six Biggest Bailed-Out Banks: Their RAP Sheets & Their Ongoing Crime Spree, Special Report (April 9, 2019), available at https://bettermarkets.com/sites/default/files/Better%20Markets%20-%20Wall%20Street%27s%20Six%20Biggest%20Bailed-Out%20Banks%20FINAL.pdf. As we emphasize in that report, the $29 trillion figure is based on a reasonable methodology for calculating the **cumulative** Federal Reserve and U.S. government interventions, but "the precise amount isn't as relevant as its magnitude and long-term impact: It was inconceivably high and will be costing the U.S. and its people for a generation or more." Id. at 33.

employment,[5] low wages,[6] excessive student loans,[7] damaged credit records,[8] foreclosures and lost equity in their homes,[9] and more.[10] The devastation caused by the 2008 financial crisis has required one of the

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[5] In the immediate aftermath of the 2008 financial crisis, the U6 total unemployment and underemployment rate published by the U.S. Bureau of Labor Statistics reached a peak of 17.1%, which was more than twice the highest measure in 2007. See U.S. Bureau of Labor Statistics, Total unemployed, plus all marginally attached workers plus total employed part time for economic reasons [U6RATE], retrieved from FRED, Federal Reserve Bank of St. Louis (March 15, 2019), available at https://fred.stlouisfed.org/series/U6RATE. Unemployment and underemployment rates increased dramatically during and after the 2008 financial crisis and remained high by historical standards well into 2010, when they began a decline. Id. However, the U6 rate did not return to 2007 levels for ten years, only in 2017, and even then, with substantial geographical variation. Id. The headline U1 unemployment rate followed a similar trend, reaching its peak in 2010 and declining to 2007 levels for the first time in 2017 (although those top line numbers did not capture the wage depression and ongoing massive under-employment suffered by tens of millions of Americans). See U.S. Bureau of Labor Statistics, Persons Unemployed 15 weeks or longer, as a percent of the civilian labor force [U1RATE], retrieved from FRED, Federal Reserve Bank of St. Louis (March 15, 2019), available at https://fred.stlouisfed.org/series/U1RATE. See attached Appendix A.

[6] Median household income dropped significantly in the aftermath of the 2008 financial crisis, reaching its low in 2012 before beginning a return to pre-crisis levels over the next five years. See U.S. Census Bureau: U.S. Department of Commerce, Economics and Statistics Administration, Household Income: 2017 (ACSBR/17-01), G. Guzman (Sept. 2018), available at https://www.census.gov/content/dam/Census/library/publications/2018/acs/acsbr17-01.pdf. Notably, it took almost a full decade after the 2008 financial crisis for U.S. households to again achieve 2007 median income levels, again with substantial geographic variation. Id. See also U.S. Census Bureau: U.S. Department of Commerce, Economics and Statistics Administration, Income and Poverty in the United States: 2017, Current Population Reports (P60-263), pg. 11, Figure 4, K. Fontenot, J. Semega, and M. Kollar (Sept. 2018) (noting that, in the aftermath of the 2008 financial crisis, the number of families in poverty reached its highest recorded level since 1959), available at https://www.census.gov/content/dam/Census/library/publications/2018/demo/p60- 263.pdf.

[7] Total outstanding student loan debt, accumulated significantly due to diminished employment prospects in the aftermath of the 2008 financial crisis, reached an aggregate balance of $1.46 trillion in 2018; serious delinquencies on student loan debt remain well above pre-crisis levels. See Federal Reserve Bank of New York, Research and Statistics Group, Quarterly Report on Household Debt and Credit: 2018: Q4 (Released Feb. 2019), available at https://www.newyorkfed.org/medialibrary/interactives/householdcredit/data/pdf/hhdc_2018q4.pdf.

[8] Total delinquent balances on household debt, including severely derogatory balances, dramatically increased in the aftermath of the 2008 financial crisis, reaching a peak in 2009 and remaining well above 2006 levels to date. Id at 11.

[9] By 2011, Zillow data indicated that more than 30% of outstanding mortgages were in negative equity, meaning mortgage balances were higher than expected sales prices on the underlying homes. That figure remained above 15% well into 2015. See Appendix C. See also, e.g., Federal Housing Finance Agency, U.S. House Price Index Report—4Q 2018, National Statistics Appendix, Pgs. 7-12 (Feb. 2, 2019), available at https://www.fhfa.gov/AboutUs/Reports/ReportDocuments/2018Q4_HPI.pdf (measuring significant declines in the "FHFA House Price Index History for U.S." during and immediately after the 2008 financial crisis). See also J. Gallin, R. Malloy, E. Nielsen, P. Smith, and K. Sommer, Federal Reserve Board, Divisions of Research & Statistics and Monetary Affairs, Measuring Aggregate Housing Wealth: New Insights from an Automated Valuation Model (2018-064), Staff Working Papers in the Finance and Economics Discussion Series, 30-31, Fig. 3: Aggregate Own-Use Housing Wealth (Aug. 2018), available at https://www.federalreserve.gov/econres/feds/files/2018064pap.pdf (comparing the dramatic loss of housing wealth across three measures and noting that "the ACS measure fell by 14 percent from peak to trough, the Financial Accounts fell by 29 percent from peak to trough, and the AVM measure splits the difference between these two, falling by 21 percent from peak to trough").

[10] The 2008 financial crisis had immense personal and social consequences, potentially influencing suicide, divorce, child neglect, substance abuse, and other rates. These human tragedies are too often overlooked when considering the impacts of financial crises, and although they can be difficult to measure, they are very real. See, e.g., Child neglect linked to parental unemployment (Nov. 2017), available at http://www.ox.ac.uk/news/2017-11-02-child-neglect-linked-parental-unemployment (finding that the crisis-linked unemployment measurably increased rates of child neglect); see also, e.g., P. Agrawal, D. Waggle, D. Sandweiss, Suicides as a response to adverse market sentiment (1980-2016) (Nov. 2, 2017), available at https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0186913 (noting the increase in suicides as a result of the Great Recession of 2008 and finding a correlation between changes in gross domestic product as a result of such financial crises and certain stress-induced behavioral changes).

longest continuous expansions in U.S. economic history just for many families to begin an incremental recovery from these effects.[11] Many families still have not recovered. One recent Federal Reserve staff study concluded that the vast majority of American families remain economically worse off today by certain measures than they were in 2007; it also concluded that measures of wealth inequality had considerably worsened.[12] Of course, none of this measures the economic distress, insecurity, and anxiety felt across the country.

The 2008 financial crisis and resulting economic despair have proven yet again that (other than war) nothing devastates a country more than the economic ruin that follows financial crises.

In the midst of this anomalous period of economic expansion, it is worth pausing to consider the tendency for most people—including, of course, those in the financial industry and their many allies, lobbyists, and representatives—to forget even the very recent past and to yield to pressures from shareholders, management, and others to "get up and dance while the music is playing."[13] But this time is not different.[14] The music will stop, inevitably exposing undetected, misunderstood, or ignored imbalances and risks within the financial system. **The CFTC must be properly equipped by Congress—both in terms of resources and authority—to responsibly execute its primary responsibilities to anticipate and prepare for that inevitability and to limit the damage** that will be inflicted on those participating in and depending on the derivatives markets when it does. If Congress fails to meet this challenge responsibly, it will be the American public that inevitably bears the consequences.

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[11] See U.S. Bureau of Labor Statistics, Gross Domestic Product [GDP], retrieved from FRED, Federal Reserve Bank of St. Louis (March 15, 2019), available at https://fred.stlouisfed.org/series/GDP/. If gross domestic product remains positive throughout the next two months, the U.S. will have entered its longest continuous economic expansion without an intervening recession in modern U.S. history.

[12] L. Dettling, J. Hsu, and E. Llanes, A Wealthless Recovery? Asset Ownership and the Uneven Recovery from the Great Recession (Sept. 13, 2018), available at https://www.federalreserve.gov/econres/notes/feds-notes/asset-ownership-and-the-uneven-recovery-from-the-great-recession-20180913.htm (finding that data from the Federal Reserve Board's triennial Survey of Consumer Finances "suggests the wealth gaps uncovered . . . may persist despite the continued economic recovery, as those families [in the bottom 90% of the wealth distribution] will not experience wealth gains from the rise in housing and stock prices . . .").

[13] This is a reference to a statement made prior to the 2008 financial crisis by Chuck Prince, former Citigroup Chairman and Chief Executive. Prince famously stated as follows: "When the music stops, in terms of liquidity, things will be complicated. But as long as the music is playing, you've got to get up and dance. We're still dancing," M. Nakamoto, Citigroup chief stays bullish on buy-outs, Financial Times (July 9, 2007), available at https://www.ft.com/content/80e2987a-2e50-11dc-821c-0000779fd2ac. Recognizing the potential for things to get "complicated," Prince continued to permit the very trading activities that ultimately resulted in Citigroup receiving the single largest taxpayer-funded bank "bailout" package in the entire 2007-09 financial crisis period. For additional information, see Special Inspector General for the Troubled Asset Relief Program, Extraordinary Financial Assistance Provided to Citigroup, Inc. (SIGTARP 11-002) (Jan. 13, 2011), available at https://www.sigtarp.gov/Audit%20Reports/Extraordinary%20Financial%20Assistance%20Provided%20to%20Citigroup,%20Inc.pdf. For a more detailed explanation of Prince's quote, see Better Markets Comment Letter to the CFTC and other financial regulatory agencies Re: Proposed Revisions to Prohibitions and Restrictions on Proprietary Trading and Certain Interests in, and Relationships with, Hedge Funds and Private Equity Funds, 2-5 (October 17, 2018), available at https://bettermarkets.com/sites/default/files/Better%20Markets%20Comment%20Letter%20on%20New%20Volcker%20Rule%20Proposal.pdf.

[14] See C. Reinhart and K. Rogoff, This Time is Different: Eight Centuries of Financial Folly (2009) (cataloguing serial debt crises over eight centuries and discussing common narratives in each post-crisis generation that market stability will persist indefinitely). However, see J. Cassidy, The Reinhart and Rogoff Controversy: A Summing Up (April 26, 2013), available at https://www.newyorker.com/news/john-cassidy/the-reinhart-and-rogoff-controversy-a-summing-up (discussing a number of methodological issues and potential policy implications of maintaining high debt burdens relative to gross domestic product).

A. The U.S. derivatives markets exist to serve the productive economy and should and can serve critical hedging purposes. However, they must be properly supervised, transparent, fair, and competitive or they inevitably will facilitate excessive speculation and risk-taking.

The OTC derivatives markets historically have been controlled by a small group of Wall Street dealers, but those markets do not exist for them. Derivatives have become inextricably tied to the non-financial economy—the productive economy—through their potential to impact the pricing of a broad range of everyday commodities and the less understood, but real, risks incidental to global trade, debt-enabled business expansions, and credit issuances. In the standardized derivatives markets, like the futures markets, those commodities range from traditional agricultural commodities, like wheat that feeds our families, to the oil that heats our homes and fuels almost every aspect of daily life. In the swap markets, those commodities more commonly include deconstructed financial risks that—when properly used and regulated—can be designed to help companies manage borrowing costs and credit exposures; they can, in turn, encourage real economy lending that assists companies in expanding plants, investing in research and development, improving technology, scaling operations, and employing people.

However, this nexus of the derivatives markets to the real economy contains both promise and peril. If the derivatives markets are properly regulated and used for risk-reducing activities (and the market-making and limited speculative activities necessary to facilitate them), derivatives can serve these socially useful purposes**. But if they are not, derivatives can perversely increase the very risks they exist to reduce.** They can also transfer resources to financial institutions that would be better used to make investments in the real economy; in essence, siphoning resources away from more productive economic activities. The externalities, or negative effects, in such cases reach far beyond any immediate effects on financial institutions and markets. **The ultimate effects fall on farmers and factory workers seeking to feed their families, for example, which is why Congress has provided for transparency and other consumer and financial stability protections on contracts for the future delivery of agricultural commodities since at least the 1930s.**[15] Congress has long recognized that open, transparent, liquid, and fair derivatives markets are the most critical safeguard against financial downturns and other risks and abuses in the derivatives markets.

That Congressional judgment has proven sound over time, and the best evidence may be the performance of the transparent, regulated futures markets during the 2008 financial crisis. The futures markets remained for the most part orderly in the course of the most significant financial crisis in generations.[16] That is why Congress modeled OTC derivatives markets reforms, in part, on its statutory framework for the futures markets and why the Dodd-Frank Act was intended to fundamentally transform—

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[15] See 7 U.S.C. § 6(a). For a concise review of the regulation of agricultural commodities since the 1930s, see Commodity Futures Trading Commission, 75 Fed. Reg. 65586 (Oct. 26, 2010), available at https://www.govinfo.gov/content/pkg/FR-2010-10-26/pdf/2010-26951.pdf (discussing implementation of Public Law 74–675, 49 Stat. 1491 (1936), which, among other things, set forth the original list of enumerated commodities and changed the name of the "Grain Futures Act" to the "Commodity Exchange Act").

[16] For example, clearinghouses associated with most standardized derivatives trading venues "proved resilient during the [2008 financial] crisis, continuing to clear contracts even when bilateral markets dried up . . . Lehman had derivative portfolios at a number of [clearinghouses] across the world and, with one exception, these were auctioned, liquidated or transferred within weeks of the default without exhausting the collateral Lehman had provided . . . One example is the unwinding of Lehman's interest rate swaps portfolio cleared in London (66,390 trades, $9 trillion notional), which used up about a third of the margin held, so that neither the [clearinghouse] nor its members sustained any losses." U. Faruqui, W. Huang, E. Takats, Clearing risks in OTC derivatives markets: the CCP-bank nexus, BIS Quarterly Review, 73 (Dec. 2018), available at https://www.bis.org/publ/qtrpdf/r_qt1812h.pdf.

not codify—the OTC derivatives markets as they existed in 2008. The new Dodd-Frank regulatory framework was intended to address OTC derivatives market deficiencies that played such a significant role in transmitting risks and panic across the financial system in the lead-up to and during the 2008 crisis—especially the proliferation of complex, leveraged, and opaque positions between a concentrated set of dealers.[17]

B. The U.S. government's extraordinary efforts to prevent the global collapse of the financial system are too frequently omitted from Wall Street's self-interested narrative, which emphasizes (and almost always overstates) the supposed direct financial costs of financial reforms but not the immeasurable consumer, financial stability, and other benefits of avoiding another financial crisis.

In considering the importance of the OTC derivatives markets reforms, we must recall the facts and events that necessitated reforms to the U.S. derivatives markets in the first instance. In 2008, faced with the prospect of widespread suffering among American families across the U.S. economy, the U.S. government was all but extorted to spend, lend, guarantee, pledge, assume, or otherwise use or put at risk multiple trillions of U.S. taxpayer dollars to protect Wall Street from the devastation instigated largely by its own practices.[18]

It is virtually certain that every major Wall Street financial institution and a number of systemically important and interconnected financial vehicles (e.g., money market funds exposed to Wall Street's short-term debt[19]) would have collapsed but for the bailouts and other actions taken by the U.S. government on behalf of the American taxpayers. Years after the 2008 financial crisis, when Freedom of Information Act requests were litigated, appealed, and finally ordered granted,[20] it was revealed that JPMorgan, Bank of America, Citibank, Wells Fargo, Goldman Sachs, and Morgan Stanley alone were borrowing hundreds of

[17] Board of Governors of the Federal Reserve System, Financial Stability Report, 7 (November 2018), available at https://www.federalreserve.gov/publications/files/financial-stability-report-201811.pdf (noting that "[r]eforms to derivatives markets have rendered them less opaque and have reduced credit exposures between derivatives counterparties"). The Government Accountability Office's ("GAO") concise explanation of the role of derivatives in the 2008 financial crisis is also worth considering: ". . . FSOC noted that OTC derivatives generally were a factor in the propagation of risks during the recent crisis because of their complexity and opacity, which contributed to excessive risk taking, a lack of clarity about the ultimate distribution of risks, and a loss in market confidence. In contrast to other OTC derivatives, credit default swaps exacerbated the 2007-2009 crisis, particularly because of AIG's large holdings of such swaps, which were not well understood by regulators or other market participants. Furthermore, the concentration of most OTC derivatives trading among a small number of dealers created the risk that the failure of one of these dealers could expose counterparties to sudden losses and destabilize financial markets. See Government Accountability Office, Report to Congressional Requesters: Financial Regulatory Reform, Financial Crisis Losses and Potential Impacts of the Dodd-Frank Act (Jan. 2013), available at https://www.gao.gov/assets/660/651322.pdf.

[18] See fn. 4 supra, noting the cumulative $29 trillion cost of Federal Reserve assistance alone.

[19] The U.S. Department of the Treasury ("U.S. Treasury") and the Federal Reserve provided unusual U.S. government assistance to slow an apparent run on money market funds in the immediate aftermath of the Lehman Brothers failure. See National Commission on the Causes of the Financial and Economic Crisis in the United States ("FCIC"), Financial Crisis Inquiry Report, "Dealers Weren't Even Picking Up Their Phones" (January 2011), available at https://www.govinfo.gov/content/pkg/GPO-FCIC/pdf/GPO-FCIC.pdf ("Over the next two years [after Lehman Brothers' failure and default on commercial paper], money market funds—36 based in the United States, 26 in Europe—would receive such [parent company] assistance to keep their funds from breaking the buck."). See also Id. (noting that by Friday, September 19, 2008, the U.S. Treasury "would guarantee the $1 net asset value of eligible money market funds . . . [a]nd the Fed would provide loans to banks to purchase high-quality-asset-backed commercial paper from money market funds"). The FCIC-cited two programs loaned banks $150 billion to support money markets long before a TARP-type bailout was discussed with Congress, much less authorized.

[20] Bloomberg L.P. v. Bd. of Governors of the Fed. Reserve Sys., 649 F. Supp. 2d 262, 265 (S.D.N.Y. 2009), aff'd, 601 F.3d 143 (2d Cir. 2010); however, see also Fox News Network, LLC v. Bd. of Governors of the Fed. Reserve Sys., 639 F. Supp. 2d 384, 388 (S.D.N.Y. 2009), vacated, 601 F.3d 158 (2d Cir. 2010).

billions to avoid bankruptcy through then-***secret*** Federal Reserve revolving facilities **in addition to** the well-publicized hundreds of billions of dollars in direct and indirect financial support through the TARP and other programs.[21]

In fact, the Federal Reserve's commitments to facilities across the finance sector totaled a staggering $7.77 trillion by March 2009 (not including the swap lines the Fed funded[22]), and the U.S.'s biggest banks borrowed a combined total of $1.2 trillion on a single day in December 2008.[23] **These facilities were kept, in material part, secret, even from Congress, during the 2008 financial crisis and for years thereafter.**[24]

Wall Street's largest institutions simply would not exist in the form that they do today – if they existed at all – but for the U.S. government and the American taxpayers assuming truly **extraordinary risks** to prevent a near-complete collapse of the U.S. financial system and economy.

The extent of financial assistance undertaken to support bailouts, buyouts, and other transactions involving the nation's leading financial institutions revealed both the depth of the 2008 financial crisis and the magnitude of the risks and liabilities forced upon U.S. taxpayers. Consider the turbulent month of September 2008 alone. Early that month, the U.S. government placed Fannie Mae and Freddie Mac into a conservatorship and committed to provide them as much as $200 billion in additional capital. Later that month, and within days of Lehman Brothers' bankruptcy, the U.S. government effectively nationalized American International Group ("AIG") and Citigroup through various bailout measures totaling hundreds

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[21] See B. Ivry, B. Keoun, and P. Kuntz, Secret Fed Loans Gave Banks $13 Billion Undisclosed to Congress (Nov. 27, 2011), available at https://www.bloomberg.com/news/articles/2011-11-28/secret-fed-loans-undisclosed-to-congress-gave-banks-13-billion-in-income. See also Office of the Inspector General for the Troubled Asset Relief Program, Advancing Economic Stability Through Transparency, Coordinated Oversight, and Robust Enforcement, Quarterly Report to Congress (April 21, 2009). For a discussion of the recipients of these funds, see also Better Markets, Wall Street's Six Biggest Bailed-Out Banks: Their RAP Sheets & Their Ongoing Crime Spree, Special Report (April 9, 2019), available at https://bettermarkets.com/sites/default/files/Better%20Markets%20-%20Wall%20Street%27s%20Six%20Biggest%20Bailed-Out%20Banks%20FINAL.pdf.

[22] See Better Markets, Notice of Request for Comments—Determination of Foreign Exchange Swaps and Futures (Nov. 29, 2010), available at https://bettermarkets.com/sites/default/files/TREAS-%20CL-%20Determination%20of%20Foreign%20Exchange%20Swaps%20and%20Futures-%2020101129.pdf; see also Better Markets, New Information on the Proposed Exemption of Foreign Exchange Swaps and Futures: Fed Data Show Collapse of Foreign Exchange Markets During the Financial Crisis (Feb. 25, 2011), available at https://bettermarkets.com/sites/default/files/documents/Treas-%20Comment%20Letter%20%28followup%29-%20Forex%20Swaps%202-25-11_0.pdf; see also Better Markets, Re: Meeting Follow-Up on the Exemption for Foreign Exchange Swaps and Futures (March 23, 2011), available at https://bettermarkets.com/sites/default/files/documents/Treas-%20CL-%20meeting%20followup-%20FX%20exemption%203-23-11.pdf.

[23] This figure is a ***committed*** amount that does not reflect the outstanding credit balances at any given time. However, the availability of credit facilities in an amount that approaches 50% of U.S. gross domestic product demonstrates the depth of the 2008 financial crisis. Federal Reserve Chairman, Ben Bernanke, has challenged the use of aggregate credit figures as misleading due to the revolving nature of the Federal Reserve's facilities, but even he has acknowledged that peak lending in emergency facilities totaled at least $1.5 trillion—a very large figure in its own right. See B. Ivry, B. Keoun, and P. Kuntz, Secret Fed Loans Gave Banks $13 Billion Undisclosed to Congress (Nov. 27, 2011).

[24] It has been claimed that the secrecy was necessary by certain U.S. government officials because publishing recipients of Federal Reserve facilities would discourage use of the credit lines and suggest to the public and market that the financial institutions borrowing these tens of billions of dollars were distressed, which might thereby induce the panic and runs and precipitate the very result the programs were created to prevent. Even though the Dodd-Frank Act mandated that certain of this concealed information be publicly disclosed, the request for release of certain, but not all, information on these emergency facilities was adjudicated in 2010 and made public by Bloomberg and others only in late 2011, more than three years after the onset of the 2008 financial crisis.

of billions of dollars.[25] Those measures, of course, were direct and indirect bailouts to Wall Street banks that had insufficiently managed and in many cases, did not even recognize growing credit exposures to these counterparties, among others, during the reckless but profitable years leading up to the crisis.

To prevent their imminent bankruptcies,[26] the largely unregulated investment banks of Goldman Sachs and Morgan Stanley were allowed to convert virtually overnight into bank holding companies (under dubious legal authority), thereby concretely signaling to the markets that the Fed would not let them fail and permitting access to the full panoply of federal safety-net programs that were supposed to have been limited to only regulated banks (including lending that was supposed to be only upon good collateral and otherwise unavailable).[27] Bank of America acquired Merrill Lynch, and Wells Fargo acquired Wachovia, in each case to prevent the failure of a massive investment bank and the fourth large bank holding company from exacerbating market panic. The nation's largest savings and loan institution, Washington Mutual, failed and was ultimately sold to JPMorgan at a price reflecting the desperate state of the markets. That was JPMorgan's second hurried acquisition in 2008;[28] it had already purchased Bear Stearns to prevent a panic earlier that year, which JPMorgan agreed to only after the Federal Reserve agreed to insure tens of billions of Bear Stearns' most toxic assets (this included $30 billion in Federal Reserve financial support separate and apart from $29 billion in mortgage-related Maiden Lane LLC asset purchases funded at primary credit[29] by the Federal Reserve Bank of New York[30]).

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[25] Although limited by the information it was able to gather at the time, the FCIC report has a lengthy description and analysis of the 2008 financial crisis and the series of U.S. government, taxpayer-backed actions taken to contain the fallout from Wall Street's own recklessness. See National Commission on the Causes of the Financial and Economic Crisis in the United States ("FCIC"), Financial Crisis Inquiry Report, XVIII-XXIII, "Dealers Weren't Even Picking Up Their Phones" (January 2011), available at https://www.govinfo.gov/content/pkg/GPO-FCIC/pdf/GPO-FCIC.pdf; see also D. Cho, N. Irwin, and P. Whoriskey, U.S. Forces Nine Major Banks to Accept Partial Nationalization, the Washington Post (Oct. 14, 2008), available at http://www.washingtonpost.com/wp-dyn/content/article/2008/10/13/AR2008101300184.html?noredirect=on. However, as we noted earlier, certain actions taken by the Federal Reserve were not public at the time that the report was published and in some cases, may continue to be secret. In addition, because of partisan gridlock, limited ability to use subpoena power, and other reasons, the FCIC was unable to obtain certain other material information related to these events.

[26] See Better Markets, Goldman Sachs Failed 10 Years Ago Today (September 20, 2018), available at https://bettermarkets.com/newsroom/goldman-sachs-failed-10-years-ago-today.

[27] Richard S. Fuld, Chief Executive Officer of Lehman Brothers, would later lament the fact that Lehman had not been allowed to convert into a bank holding company on similar terms. Id at 341. He maintained that "Lehman would have been saved if it had been granted bank holding company status—as were Goldman Sachs and Morgan Stanley the week after Lehman's bankruptcy." Id. See also L. Ball, The Fed and Lehman Brothers: Setting the Record Straight on a Financial Disaster (2018).

[28] JPMorgan's CEO Jamie Dimon has shamelessly complained frequently about the costs of these acquisitions and claimed that they were done only for selfless patriotic reasons. However, the facts show that both acquisitions were fabulously successful and profitable for JPMorgan, which had been seeking to purchase Washington Mutual and a prime brokerage business long before these once-in-a-lifetime bargain opportunities presented themselves. See Better Markets, Fact Sheet on the Jamie Dimon/JPMorgan Chase Settlement with the Department of Justice (Oct. 23, 2013), available at https://bettermarkets.com/newsroom/fact-sheet-jamie-dimonjp-morgan-chase-settlement-department-justice; see also P. Eavis, Despite Cries of Unfair Treatment, JPMorgan Is No Victim, The New York Times, Dealb%k (Sept. 30, 2013), available at https://dealbook.nytimes.com/2013/09/30/despite-cries-of-unfair-treatment-jpmorgan-is-no-victim/.

[29] Primary Credit is one of the Federal Reserve's discount window lending programs for depository institutions. Primary credit is supposed to be extended by Federal Reserve banks to depository institutions in **generally sound financial condition**. Credit is typically provided on a very short-term basis, as a backup source of funding, at a rate of interest that is above the level of short-term market interest rates.

[30] For more detailed information on these transactions, see Board of Governors of the Federal Reserve System, Bear Stearns, JPMorgan Chase, and Maiden Lane LLC, available at https://www.federalreserve.gov/regreform/reform-bearstearns.htm; see also G. Morgenson, Secrets of the Bailout, Now Told (Dec. 3, 2011), available at https://www.nytimes.com/2011/12/04/business/secrets-of-the-bailout-now-revealed.html (stating that documents received in

Each transaction in this extraordinary series of events was engineered or facilitated by various forms of explicit and implicit U.S. government financial assistance, with minimal expected, if not non-existent, risk-adjusted returns for the U.S. taxpayers at the time. No private lender in the world would have provided financial assistance on the terms offered by the U.S. government and on behalf of U.S. taxpayers at that time—or, frankly, any terms at all; indeed, many Wall Street banks were declined any substantial private financial assistance.[31] Moreover, the U.S. government and U.S. taxpayers were all but coerced into implementing further measures to prevent Wall Street losses and continuing fire-sales from spreading adverse effects to other interconnected financial institutions and sectors, including the $3.8 trillion money market fund industry.[32]

Thus, although much attention is focused on the $700 billion TARP bailout because it was a high profile, hotly contested, and endlessly covered, public legislative action with dramatic stock market consequences, it must be remembered that there were many more concealed, less noticed, and more costly emergency measures undertaken during 2008 financial crisis. Some of those, as I mentioned, were made public only years later, and some of those may remain secret to this day. In addition, the U.S. government and U.S. taxpayers directly and indirectly assisted foreign financial institutions, governments, and authorities, in effect insuring bank depositors in Germany, Switzerland, and the United Kingdom as well.[33]

Of course, a revisionist history of the 2008 financial crisis has been assiduously crafted and pitched to policymakers, the media, and academics on behalf of Wall Street's largest financial institutions and its many allies, lobbyists, and trade groups. Not only was TARP profitable, they misleadingly say, but many of the recipients of extraordinary assistance did not even need the financial support. Those claims are patently false and beyond the scope of my remarks today to comprehensively refute. However, one particularly revealing Federal Reserve Bank of New York ("FRBNY") internal email reminds us otherwise;

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connection with the Freedom of Information Act revealed that "the Fed provided Bear Stearns with $30 billion to see it through its 2008 shotgun marriage with JPMorgan" and noting that "[t]his was in addition to the $29.5 billion in assets purchased by the Fed from Bear to assist in the buyout by JPMorgan").

31 See, e.g., N. Friedman, Warrant Buffet Recounts His Role During 2008 Financial Crisis: The Berkshire Hathaway Chairman and CEO Explains Why He Turned Down AIG and Lehman in 2008, Wall Street Journal (Sept. 7, 2018), available at https://www.wsj.com/articles/warren-buffett-recounts-his-role-in-2008-financial-crisis-1536314400.

32 This, too, was a result of poor judgment and risk management practices. For example, one of the largest money market funds continued to lend to Lehman Brothers long after there were public signs of significant financial distress. See National Commission on the Causes of the Financial and Economic Crisis in the United States ("FCIC"), Financial Crisis Inquiry Report,, 482 (January 2011) ("[T]he [oldest] money market mutual fund, apparently assuming that Lehman would be rescued, decided not to sell the heavily discounted Lehman commercial paper it held; instead, with devastating results for the money market fund industry, it waited to be bailed out on the assumption that Lehman would be saved.").

33 See, e.g., Appendix D attached, Total Maiden Lane II & III Lane Payouts to AIG Counterparties. See also Better Markets, Letter to the Honorable Randal K. Quarles, Re: Implementation of S. 2155: the Economic Growth, Regulatory Relief and Consumer Protection Act (Sept. 24, 2018), available at https://bettermarkets.com/sites/default/files/Ltr%20to%20Fed%20VC%20Quarles%20re%20Implementation%202155%209-24-18%20FINAL.pdf ("Fifth, a particularly dangerous suggestion is that implementing the Act should include automatically include a number of foreign banks operating in the US, many of which received very significant bailouts during the financial crisis. In fact, nine of the top twenty largest users of the Fed's emergency lending facilities during the crisis were foreign banks. For example, Deutsche Bank's U.S. subsidiary Taunus, was bailed out with 354 billion American dollars, which saved a bank that otherwise would have failed and required the emergency assistance of German taxpayers. Put differently, the U.S. government substituted US taxpayers for German taxpayers to bail out a German bank and prevent it from failing: because Deutsche Bank itself was in such financial distress and on the verge of failure, it simply did not have the ability to bail out its US operations and, therefore, the German government would have had to first bail out Deutsche Bank so that it could bail out its US subsidiary."). See also fn. 22 supra concerning Federal Reserve actions relating to the foreign exchange markets. For a comprehensive global review of the 2008 financial crisis and the extraordinary efforts of the U.S. and other governments, see A. Tooze, Crashed: How a Decade of Financial Crises Changed the World (2018).

Goldman Sachs—one of the largest U.S. investment banks—admitted that it would have been "toast" without a swift bailout of Morgan Stanley, in which case the FRBNY would have "definitely need[ed] to resolve both entities in one way or another" over the September weekend after Lehman had filed for bankruptcy.[34]

Remarkably but undeniably, Goldman Sachs' false or, at best misleading, statements to reassure investors, its imminent failure, or the secrecy surrounding the extent of financial support for Wall Street in general are not the most scandalous element of the 2008 financial crisis. **The true scandal is that every money-center derivatives dealer was "toast," leaving the U.S. government little choice but to intervene to prevent devastation from spreading even further to American families.** Permitting a financial meltdown was, and remains, unthinkable. In other words, the scandal is that the largest Wall Street banks——today collectively controlling 88.3% of OTC derivatives dealing[35]—have managed to create a "heads we win, tails you lose" proposition for U.S. taxpayers, and it cannot be surprising that they seek to strike the same deal again.

Congress and the U.S. taxpayers must reject that proposition. They must reject, too, the Faustian bargain from Wall Street that seeks to trade the safety and soundness of the U.S. financial system for purportedly increased financial activities (e.g., more lending, or greater "liquidity"). The benefits of such activities, even if realized to some extent, are certain to pale in comparison to the costs of undermining the safety and soundness of the U.S. financial system. Even the brief and incomplete recounting of the unprecedented actions, programs, and interventions I just described—representing trillions of dollars and immense U.S. taxpayer risks—were not sufficient to **promptly** stop the markets from spiraling downward. Indeed, as late as February 2009, economic and financial conditions remained in such a dangerous downward spiral that U.S. financial regulators took the extraordinary and unprecedented action of issuing a joint statement to collectively put the full faith and credit of the U.S. and all of its citizens behind the "financial system," "banks," and "systemically significant financial institutions;" nowhere in that statement was the commitment limited to the U.S. or U.S. institutions or banks.[36] In essence, the U.S. government was having U.S. taxpayers insure the global financial system.

Thus, although a combination of dozens of U.S. government actions ultimately prevented the global financial system from entirely collapsing, even today no one really knows which policy, program, intervention, action, or expenditure—or what combination or sequence of those measures—actually arrested the downward spiral definitely. The trial and error process of finding that out in the course of the next financial crisis is sure to come at a very substantial cost.

We collectively can learn from our mistakes and mitigate the risks of another crisis by focusing on the following key objectives:

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[34] See Better Markets, Goldman Sachs Failed 10 Years Ago Today (September 20, 2018), available at https://bettermarkets.com/newsroom/goldman-sachs-failed-10-years-ago-today.

[35] See U.S. Office of the Comptroller of the Currency, Quarterly Report on Bank Trading and Derivatives Activities, First Quarter 2019 (June 2019), available at https://www.occ.gov/topics/capital-markets/financial-markets/derivatives/pub-derivatives-quarterly-qtr1-2019.pdf ("A small group of large financial institutions continues to dominate trading and derivatives activity in the U.S. commercial banking system. During the first quarter of 2019, four large commercial banks represented 88.3 percent of the total banking industry notional amounts and 86.2 percent of industry net current credit exposure").

[36] See Joint Statement by the U.S. Department of the Treasury, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, and the Board of Governors of the Federal Reserve System (Feb. 23, 2009), available at https://www.federalreserve.gov/newsevents/pressreleases/bcreg20090223a.htm; see also Better Markets, The World Changed With An Historic Announcement by the U.S. Government on February 23, 2009 (Feb. 27, 2013), available at https://bettermarkets.com/blog/world-changed-historic-announcement-us-government-february-23-2009.

- Ensuring that the safety and soundness of the U.S. financial system is not jeopardized through a series of Wall Street-backed regulatory "tweaks" that are, in actuality, designed to increase the profitability of a very concentrated set of Wall Street interests; and

- Providing the CFTC and other regulators with the authority, resources, and support to effectively execute on their critical duties and responsibilities to oversee the U.S. financial markets in the public interest.

I discuss these key objectives in the remainder of my remarks, although much more could be said with respect to the specific public policy issues confronting U.S. financial regulators, including the CFTC, at this time.

C. The Dodd-Frank Act has transformed the U.S. derivatives markets, protected the safety and soundness of the U.S. financial system, and set the stage for one of the longest continuous expansions of the U.S. economy in modern history. It was necessitated, however, by deregulatory zeal in the decade prior to the 2008 financial crisis.

Prior to these events, the U.S. did not experience economic crises on any scale approaching the Great Depression or the Great Recession for almost seven decades. One reason is that the post-Great Depression era was marked by substantial regulation of the financial sector. By 2000, however, newly empowered bank holding companies and financial holding companies were not just de-regulated but permitted to remain entirely **unregulated** in critical respects**.**

The consequences are now well known: the relative financial stability that remained for 70 years disappeared in just 7. It is not a coincidence that crisis followed shortly after the removal of important constraints on financial activities, most notably the repeal of the Glass-Steagall Act[37] through the Gramm-Leach-Bliley Act of 1999[38] and the misleadingly labeled Commodity Futures Modernization Act ("CFMA").[39] Although the 2008 financial crisis probably was not caused by a single provision in either law, a combination of regulatory gaps, supervisory deficiencies, inadequate risk management, grossly distorted incentives, deferential standards created by both laws, and decades of regulatory forbearance, neglect, and negligence if not dereliction contributed greatly. The CFMA's almost complete de-regulation of OTC derivatives, in particular, facilitated an OTC derivatives market structure that created, hid and exacerbated stresses, enabled the opaque over-issuance of securities with questionable credit quality, and served as a primary mechanism for the transmission of risks throughout the financial system.[40]

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[37] See Better Markets, Fact Sheet: Repealing Glass-Steagall Contributed to the 2008 Financial Crash; Properly Reinstating It Can Be An Important Protection to Prevent Future Crashes and Taxpayer Bailouts (May 4, 2017), available at https://bettermarkets.com/sites/default/files/Fact%20Sheet%20Glass-Steagall%205-3-17%20FINAL.pdf.

[38] See Gramm-Leach-Bliley Act, Pub. L. No. 106-102, § 101, 113 Stat. 1338, 1341 (1999) (repealing §§ 20 and 32 of the Banking Act of 1933, 12 U.S.C. §§ 377, 78 (1994)).

[39] See Commodity Futures Modernization Act of 2000, Pub. L. No. 106-554, 114 Stat. 2763 (codified as amended in scattered sections of 7, 11, 12, and 15 U.S.C.). Professor Michael Greenberger provided a useful summary of the role of OTC derivatives in the 2008 financial crisis in 2010 testimony before the Financial Crisis Inquiry Commission. See M. Greenberger, The Role of Derivatives in the Financial Crisis, Testimony of Michael Greenberger, Law School Professor, University of Maryland School of Law, Financial Crisis Inquiry Commission Hearing, (June 30, 2010), available at https://fcic-static.law.stanford.edu/cdn_media/fcic-testimony/2010-0630-Greenberger.pdf.

[40] For more information on the role of the OTC derivatives in exacerbating the 2008 financial crisis, see National Commission on the Causes of the Financial and Economic Crisis in the United States, Financial Crisis Inquiry Report (January 2011). The FCIC concluded, unequivocally, that "over-the-counter derivatives contributed significantly to th[e] [2008 financial] crisis." Id. at xxiv.

The contributions of the pre-2008 de-regulatory zeal in the U.S. have been widely agreed and acknowledged even by the most vocal proponents of the laissez-faire model of financial regulation, including Former Federal Reserve Chairman Alan Greenspan.[41] **However, part of the reason for that de-regulatory zeal—which enabled Wall Street to engage in the activities that caused the 2008 financial collapse—was Wall Street's use of its economic power to gain political, academic, media, and other influence as part of a multi-decade effort to tear and water down the reasonable laws and restrictions that had served America well for decades.**

This reaches beyond the well-known relaxation of restrictions in the Glass-Steagall Act. As the U.S. Senate's Pecora investigations discovered, a host of new securities, derivatives, and banking laws were necessary to protect against Wall Street excesses, including conflicts of interest, reckless and fraudulent practices, and structural incentives that contributed to the Great Depression.[42] Yet, with all of those new laws and truly unprecedented and transformative regulation of the U.S. capital and derivatives markets at that time:

- The United States prospered;
- The U.S. facilitated the largest, broad-based increase in the middle class in the history of the world; and
- Wall Street, the U.S. financial industry, U.S. non-financial businesses, and the U.S. economy thrived.

Indeed, in this time period, U.S. capital markets propelled the U.S. to global leadership on financial reform issues and made them what some have characterized as the envy of the world.

In short, the Dodd-Frank Act was intended to **re-regulate** a previously highly regulated industry that had served the country and itself well for many decades. That re-regulation was designed to close regulatory gaps and strengthen existing requirements for the benefit of investors, the public, and the U.S. economy as a whole. Members of this committee, from both political parties, who voted for it were right to support financial reform. It was not a panacea for all that ails the financial markets and it was not perfect, to be sure. But it was a critical part of a solution to address the most salient problems contributing to the 2008 financial crisis.

None of that prevented the financial industry from making self-serving claims that the "end would be near" without a relaxation of reasonable constraints. However, the value of the Dodd-Frank Act and a comprehensive regulatory framework for derivatives and other financial activities can no longer be legitimately denied. Benefits include sparing the U.S. economy devastating consequences that another financial collapse would bring in the form of economic and monetary losses and human suffering. Such benefits are enormous, totaling tens of trillions of dollars, measured not just in terms of the 2008 financial crisis as a benchmark but also avoidance of future financial crises that have the potential to be even worse

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[41] The former Federal Reserve Chairman acknowledged that he was "partially" wrong in his views on the self-regulating potential of the U.S. financial markets and noted that "[t]he whole intellectual edifice [of the modern risk management paradigm] . . . collapsed in the summer [of 2008]." See E. Andrews, Greenspan Concedes Error on Regulation (Oct. 23, 2008), available at https://www.nytimes.com/2008/10/24/business/economy/24panel.html.

[42] See Stock Exchange Practices: Report of the Committee on Banking and Currency Pursuant to S. Res. 84 and S. Res. 56 and S. Res. 97,. Report No. 1455 (June 16, 1934), available at https://www.senate.gov/artandhistory/history/common/investigations/pdf/Pecora_FinalReport.pdf.

if financial reforms are sabotaged or not fully implemented. **Effective implementation of the Dodd-Frank Act means re-regulation of the financial industry to shift costs back *to* Wall Street banks and other financial interests *from* the American public, where the costs were shifted when the financial industry was de-regulated in the first place.**

That will necessarily result in the financial industry re-assuming costs that were imposed on the U.S. economy as a whole before passage of the Dodd-Frank Act. The transformative reforms to the derivatives market, for example, would be impossible to implement without imposing significant costs on market participants required to do things that they proved unable or unwilling to do on their own:

(1) hiring sufficient and appropriately expert staff to ensure proper risk management and implementation of trading policies, procedures, and controls;

(2) upgrading and maintaining technology systems to enable appropriate risk monitoring and mitigation of operational and other risks; and

(3) altering internal practices in compliance with the new regulatory framework.

These transformative reforms require financial institutions to allocate people, capital, and technology resources to the transformation process. As a consequence, derivatives reforms may have resulted in modestly reduced profits in some lines of business, but in the process, they have limited abusive or highly risky conduct (e.g., manipulation of interest rate benchmarks or London Whale-type speculative trades) and significantly reduced systemic risk. If that is the case, the U.S. financial system is better for it. The Dodd-Frank Act necessarily must prohibit fraudulent transactions and those based upon conflicts of interest; curtail other damaging behaviors, including excessive speculation; force the reallocation of funds to new uses, such as capital and margin; and increase transparency and competition through pre- and post-trade reporting, reducing likely profit margins in efficient, competitive markets.

Given the more than $20 trillion price tag of the last financial crisis, the enormous benefits of Wall Street re-regulation in mitigating the effects of any future financial crises, and the shifting of externalized costs back to the institutions from taxpayers, it is beyond reasonable dispute that the benefits of reform far exceed the costs and lost profits that industry will have to absorb as the price for protecting the American people, taxpayers, Treasury, and economy. Since the emergence of financial markets regulation, the financial services industry has always argued that new regulatory requirements will have a devastating impact on liquidity, lending, and other intermediation activities and impose unbearable compliance costs. Yet, Wall Street has always absorbed the cost of those new regulations and consistently remained one of the most profitable sectors in the US. economy.

A century ago, when securities regulation first emerged at the state level, Wall Street railed against it as an “unwarranted” and “revolutionary” attack upon legitimate business. However, in the years following this early appearance of financial regulation, banks and their profits grew handsomely. Subsequently, when the federal securities laws were adopted in the midst of the Great Depression, Wall Street staunchly opposed them, claiming that they would slow economic recovery by impeding the capital formation process and discouraging the issuance of new securities—virtually identical arguments that industry is making today. However, in the years after the enactment of the federal securities laws, the nation’s securities markets flourished. The same pattern has been repeated with each new effort to strengthen financial regulation, including deposit insurance, the Glass-Steagall Act, mutual fund and money market reforms, the national market initiatives of the mid-1970s, and the derivatives market reforms in Title VII of the Dodd-Frank Act.

Of course, Wall Street's contentions are not only unsupported by the facts—but are contradicted by the facts. The financial industry itself is enjoying record-setting revenues, profits, and bonuses, as they easily absorb the costs of compliance with the Dodd-Frank Act. Viewed more broadly, regulated, transparent markets with less fraud and reckless conduct have restored confidence in U.S. financial markets and institutions, which, in turn, has improved economic growth. Moreover, industry's claims that financial reform will reduce market liquidity, capital formation, and credit availability, and thereby hamper economic growth and job creation, simply disregards a key and overriding fact: the financial crisis did more damage to those supposed concerns than any regulation possibly could. In September 2008, there was no market liquidity, capital formation, or credit availability and, for years thereafter economic stagnation prevailed. That is due to the Wall Street-created financial collapse and economic crisis. The financial reform and Wall Street re-regulation law seeks to prevent that from happening again and derivatives regulation is key to accomplishing that important goal.

II. The CFTC is the only police force on the derivatives beat, and it needs substantially more funding to protect the American people properly.

Surely, the starting point for any derivatives markets policy discussion should at least be that the CFTC and the Commodity Exchange Act's statutory framework should *exist*. Yet, the CFTC was last authorized more than a decade ago in the Food, Conservation, and Energy Act of 2008,[43] which extended the agency's authorization through fiscal year 2013. It has operated under lapsed authorization since that time, even though it is meant by statute to be reauthorized by Congress every five years. While this past neglect of a critical financial regulatory agency is regrettable, I commend the chairman and this committee for now prioritizing the CFTC's reauthorization.

The CFTC and other financial regulators are the cops on the beat, so-to-speak, establishing rules of the road; surveilling the markets to detect misconduct, abusive practices, and other violations of law; and taking enforcement action where appropriate to punish and deter violations of the law. To tackle the complex regulatory challenges that lie ahead and to serve as an effective deterrent to Wall Street's too frequent high-risk and abusive practices, however, the CFTC must be given sufficient ***resources*** and ***authority*** to carry out its responsibilities. If the CFTC and other financial regulators are not fully funded, they cannot hire and retain the expert personnel necessary to understand the markets that they oversee and they will increasingly struggle to obtain the technological tools necessary to consider, implement, and enforce data-driven laws in the future.

The CFTC's reauthorization, full funding, and authority to implement fees as necessary (like many other federal regulatory agencies) are essential to protecting investors and U.S. capital and derivatives markets. In addition, the CFTC must have the authority to police markets as they evolve in real time (e.g., it must have authority to oversee non-securities digital-asset intermediaries, some of whom have been involved in fraud and other forms of misconduct in recent years). Depriving the CFTC of the resources and authority it needs will increase the likelihood, imminence, and severity of another financial crisis.

Reauthorization of the CFTC is a first step. But the agency also must be empowered to protect the public interest by properly doing at least that which it is authorized to do. Consider the enormous responsibilities that the CFTC has been given in terms of the size and complexity of the markets it must oversee; the number of firms and individuals subject to its jurisdiction; the rapidly evolving—and potentially dangerous—products that are emerging; and the regulatory challenges that remain to be addressed, some of which are legacy issues representing unfinished business in implementing the Dodd-Frank Act.

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[43] Congress enacted the CFTC Reauthorization Act of 2008 in the Food, Conservation, and Energy Act of 2008, P.L. 110-246, 122 Stat. 1651 (May 22, 2008) ("Farm Bill").

Vast Markets, in Both Futures and Swaps

The CFTC is already responsible for ensuring the transparency and integrity of the futures markets that are so critical to this Committee, the agricultural markets it oversees, and the broader U.S. economy. Since the passage of the Dodd-Frank Act, its responsibilities for regulating those critical markets have been coupled with new responsibilities to oversee OTC derivatives markets that are approximately twenty times larger, and as I have explained, more dangerous. The CFTC needs a budget commensurate with the duty of responsibly policing both of **these markets, with a combined total of more than $300 trillion in notional value.**

Tens of Thousands of Market Participants and Rapidly Evolving Financial Products

Within the exchange-traded and OTC derivatives markets, the CFTC must monitor literally thousands of market participants, a task that has resulted in the CFTC delegating too many responsibilities to the National Futures Association. Consider the following recent number of CFTC registrants and registered entities:

CFTC Registrants and Registered Entities

Entity	Acronym	FY 2018 Actual
Trading Entities		
Designated Contract Market	**DCM**	15
Foreign Board of Trade[25]	**FBOT**	18
Swap Execution Facility	**SEF**	23
Clearing Entities		
Derivatives Clearing Organization[26]	**DCO**	16
Exempt Derivatives Clearing Organization	**Exempt DCO**	4
Systemically Important DCO	**SIDCO**	2
Data Repositories		
Swap Data Repository[27]	**SDR**	4
Registrants[28]—Intermediaries		
Futures Commission Merchant[29]	**FCM**	62
Major Swap Participant	**MSP**	0
Retail Foreign Exchange Dealer	**RFED**	2
Swap Dealer		101
Registrants—Managed Funds		
Commodity Pool Operator	**CPO**	1,567
Commodity Trading Advisor	**CTA**	2,127
Other Registrants		
Associated Person	**AP**	49,811
Introducing Broker	**IB**	1,188
Floor Broker	**FB**	2,935
Floor Trader	**FT**	533

Source: FY 2020 President's Budget, CFTC[44]

[44] See Commodity Futures Trading Commission, Fiscal Year 2020 President's Budget, Appendix 5—The Commission and the Industry It Regulates, 50 (March 2019), available at https://www.cftc.gov/sites/default/files/2019-03/cftcbudget2020.pdf.

Moreover, bitcoin and other emerging digital technologies, like Facebook's recently announced global Libra coin,[45] present a host of consumer protection, technology, cybersecurity, and even national security issues that must be considered by expert staff and technologists. This simply cannot be done on the cheap or outsourced to the industry itself.

In addition to overseeing the markets, the CFTC must resolve a number of critically important regulatory challenges, some of which represent unfinished business in implementing the Dodd-Frank Act due the previous resource shortfalls and constraints. For example, the CFTC must do each of the following as commanded by Congress:

- Finally adopt a strong position limits rule that effectively addresses the problem of excessive speculation in commodities markets, a practice that can intensify volatility and cause price distortions that harm businesses and ultimately American consumers;[46]

- Strengthen cross-border rules to better protect the American financial system from destabilizing risks originating in foreign firms and markets, while preventing a regulatory race to the bottom;[47]

- Provide an appropriate regulatory framework for the oversight, monitoring, and accountability of high-speed, algorithmic trading firms that carry the potential to destabilize the derivatives and related markets.[48]

In addition, the CFTC's most fundamental task should be defending and building on the progress made to increase financial stability, consumer protection, competition, and transparency in the U.S. derivatives markets across all rule areas.[49] Instead, in recent years, the CFTC's new initiatives have, at

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[45] See L. Laurent, Facebook's Libra Wanders into the Bitcoin Bear Trap: Putting aside all of the cryptocurrency risks, there are already lots of ways to transfer cash digitally. Does Libra offer anything new?, Bloomberg (June 18, 2019), available at https://ww.bloomberg.com/opinion/articles/2019-06-18/facebook-libra-cryptocurrency-tries-to-avoid-bitcoin-bear-traps.

[46] See, e.g., Better Markets, Position Limits for Derivatives (CFTC RIN: 3038-4D99) (Feb. 28, 2017), available at https://bettermarkets.com/sites/default/files/CFTC-%20CL-%20Position%20Limits%20for%20Derivatives-%2020170228.pdf.

[47] Better Markets has written extensively on cross-border issues in the derivatives markets, filing more than a dozen comment letters with the CFTC and SEC on relevant topics. For a catalogue of those letters and related materials, see Better Markets, The CFTC's Regulation of Wall Street's High Risk Global Derivatives Bets Must Protect U.S. Taxpayers, available at https://bettermarkets.com/blog/cftcs-regulation-wall-streets-high-risk-global-derivatives-bets-must-protect-us-taxpayers. Better Markets also published a useful summary of cross-border issues that is now dated but remains relevant to current public policy issues: Better Markets, Cross-Border Derivatives Regulation: Better Markets' Summary Presentation (June 21, 2013), available at https://bettermarkets.com/sites/default/files/CFTC%20Cross-border-%206-21-13.pdf.

[48] See Better Markets, Regulation Automated Trading RIN 3038-AD52 (May 1, 2017), available at https://bettermarkets.com/sites/default/files/CFTC-%20CL-%20Regulation%20Automated%20Trading-%2020170501.pdf.

[49] This means avoiding pretextual regulatory measures that retreat from the statutorily required reforms to the derivatives markets in the Commodity Exchange Act and the prohibitions and restrictions on proprietary trading in the Bank Holding Company Act. See, e.g., Better Markets, Public Comment on Swap Execution Facilities and Trade Execution Requirement (RIN 3038AE25); Public Comment on Request for Comment on Post-Trade Name Give-Up on Swap Execution Facilities (RIN 3038-AE79) (March 15, 2019), available at https://bettermarkets.com/sites/default/files/Better%20Markets%20Comment%20Letter%20on%20Swap%20Execution%20Facilities%20and%20Trade%20Execution%20Requirement_0.pdf. See also Better Markets, De Minimis Exception to the Swap Dealer Definition, 83 Fed. Reg. 27444 (June 12, 2018); RIN 3038-AE68 (Aug. 13, 2018), available at https://bettermarkets.com/sites/default/files/Better%20Markets%20Comment%20Letter%20to%20CFTC%20on%20De%20Minimis%20Exception.pdf; See also Better Markets, Proposed Revisions to Prohibitions and Restrictions on Proprietary Trading and Certain Interests in, and Relationships with, Hedge Funds and Private Equity Funds (Oct. 17, 2018), available at

times, used benign-sounding code words for attempts at weakening rules to reduce the costs and burdens on the financial industry, without sufficient regard for the essential role that the rules play in protecting the public interest.[50]

Notwithstanding these and many other responsibilities with the potential to affect global financial markets and economies, the CFTC has been consistently deprived of adequate funding. In the decade leading up to passage of the Dodd-Frank Act, the CFTC faced a steadily increasing strain on its budget. From 2000 to 2009, the futures markets themselves expanded dramatically, with the number of actively traded futures and options contracts increasing six-fold by some measures, and the dollar volume of trading in futures and options increasing four-fold. **Yet, the CFTC's resources failed to keep pace with even those derivatives market activities; the number of CFTC staff—quite absurdly—actually contracted between 2002 and 2009:**

CFTC Total Number of Employees, 2002-2009

Year	Number of Employees
2002	567
2003	556
2004	517
2005	487
2006	493
2007	437
2008	449
2009	498

Source: Better Markets Analysis

CFTC staff has increased since that time, but remains nowhere near the level necessary to ensure adequate execution of the CFTC's responsibilities, as now explained by both Democratic and Republican Chairs of the commission. Indeed, in recent years, the CFTC's budget has not only remained flat but was actually **reduced in 2018**:

CFTC Appropriated Budget, 2015-2019

Year	Appropriated Amount
2015	$ 250,000,000.00
2016	$ 250,000,000.00
2017	$ 250,000,000.00
2018	$ 249,000,000.00
2019	$ 268,000,000.00

https://bettermarkets.com/sites/default/files/Better%20Markets%20Comment%20Letter%20on%20New%20Volcker%20Rule%20Proposal.pdf.

[50] See Better Markets, Request for Information on Project KISS (Keep it Simple Stupid), RIN 3038-AE55) (Sept. 29, 2017), available at https://bettermarkets.com/sites/default/files/CFTC-%20CL-%20Project%20KISS%209-29-17.pdf.

Source: Better Markets Analysis

The CFTC is now facing an extraordinary challenge. In addition to its current oversight duties, the agency must now regulate a swaps marketplace that is twenty times the size of the futures and options market—representing a domestic notional value of over $300 trillion. This new responsibility has already put the agency under enormous strain as it has struggled to implement complex rules under Title VII of the Dodd-Frank Act and monitor compliance and risk throughout the markets, including its 102 global swap dealers, with complex global operations, and other new swaps market infrastructure firms and market participants, ranging from swap execution facilities to swap data repositories. Accordingly, the CFTC must have resources to do the following:

- Secure the additional policy experts, attorneys, and economists necessary to initiate or complete the rulemakings that are necessary to establish and maintain the essential guardrails in the futures and swaps markets;

- Retain technical experts that can properly review swaps trading practices and product offerings under the provisions of Dodd-Frank and make recommendations concerning trade execution and clearing mandates;

- Examine each category of market participants with sufficient thoroughness, expertise, and frequency to ensure that they remain in compliance with the Commodity Exchange Act and that investors and market participants are protected;

- Collect, sort, and analyze new data on swap transactions for risk monitoring and enforcement purposes, including data provided through more 100 individual data streams; and

- Investigate and take enforcement action against market participants that violate the law.

These challenges for the CFTC require this Committee not only to reauthorize the Commission but to fight for significant increases in its funding during the appropriations process.

The CFTC must be provided with significantly greater funding so that it can acquire the human resources and information technologies that are indispensable to effective oversight of our increasingly complex and data-driven derivatives markets. This is especially important now that the CFTC has primary responsibility for ensuring that OTC derivatives do not—again—become financial weapons of mass destruction.[51]

Of course, resources are limited, and priorities have to be made, but we are not just talking about funding an agency that should be mindlessly stacked up against other agencies. We are talking about protecting the American people and the country from another costly, resource-draining financial catastrophe and possible second Great Depression. The CFTC budget (and that of other financial regulators) must be thought of in the context of the tens of trillions of dollars used in bailout and rescue programs plus the lost GDP and all the human suffering that befell the country just ten years ago—all of which could well be required again in the future.

[51] See Berkshire Hathaway Inc., 2002 Annual Report, 15 (2003), available at http://www.berkshirehathaway.com/2002ar/2002ar.pdf ("We try to be alert to any sort of megacatastrophe risk, and that posture may make us unduly apprehensive about the burgeoning quantities of long-term derivatives contracts and the massive amount of uncollateralized receivables that are growing alongside. In our view, however, derivatives are financial weapons of mass destruction, carrying dangers that, while now latent, are potentially lethal.").

Consider that more than 40 banks received more taxpayer money from ***the TARP program alone*** in 2008-2009 than the CFTC's entire 2019 appropriation of $268 million:

No.	Bank	Total Disbursed
1	Bank of America	$47,199,976,359
2	Citigroup	$45,742,683,973
3	JPMorgan Chase	$28,109,044,102
4	Wells Fargo	$28,195,112,080
5	Goldman Sachs	$10,000,000,000
6	Morgan Stanley	$10,000,000,000
7	PNC Financial Services	$7,657,552,234
8	U.S. Bancorp	$6,780,316,729
9	SunTrust	$7,657,552,234
10	Capital One Financial Corp	$3,555,199,000
11	Regions Financial Corp	$3,500,000,000
12	Fifth Third Bancorp	$3,408,001,000
13	BB&T	$3,133,640,000
14	Bank of New York Mellon	$3,000,000,000
15	Keycorp	$2,500,000,000
16	CIT Group	$2,764,106,842
17	Comerica Incorporated	$2,250,000,000
18	State Street	$2,000,000,000
19	Marshall & Ilsley	$1,715,000,000
20	Northern Trust	$1,576,000,000
21	Zions Bancorp	$1,400,000,000
22	Huntington Bancshares	$1,398,071,000
23	Synovus Financial Corp	$967,870,000
24	Popular, Inc.	$935,000,000
25	First Horizon National	$866,540,000
26	M&T Bank Corporation	$600,000,000
27	Associated Banc-Corp	$525,000,000
28	First BanCorp	$424,174,000
29	City National	$400,000,000
30	Webster Financial	$400,000,000
31	Fulton Financial Corp	$376,500,000
32	TCF Financial	$361,172,000
33	South Financial Group	$347,000,000
34	Wilmington Trust Corporation	$330,000,000
35	East West Bancorp, Inc.	$306,546,000
36	Sterling Financial Group	$303,000,000
37	Citizens Republic Bancorp	$300,000,000
38	Susquehanna Bancshares	$300,000,000
39	Valley National	$300,000,000
40	Whitney Holding Corp	$300,000,000
41	UCBH Holdings	$298,737,000
42	First Banks, Inc.	$295,400,000

Source: ProPublica[52]

Viewed this way, the CFTC budget is like an insurance policy, not only to reduce the likelihood of a future crash, but also to reduce the likelihood that you and your colleagues will have to once again vote to send such gigantic amounts of taxpayer money to failed banks, including all of the major derivatives dealers.

Transaction or User Fees

[52] For a useful breakdown of TARP recipients, see ProPublica, Bailout Recipients: Bailout Tracker, Tracking Every Dollar and Every Recipient (Feb. 25, 2019), available at https://projects.propublica.org/bailout/list. The figures and bailout recipients identified in the ProPublica tracker do not account for the many other Federal Reserve facilities and U.S. government programs and actions that must be considered part of the Wall Street "bailout" associated with the 2008 financial crisis.

Unless the CFTC and the other financial regulators have sufficient resources to regulate and oversee the swaps market effectively, our markets will remain far too vulnerable to the risky and abusive behaviors that spawned the last crisis and threaten a new one. One mechanism for funding the CFTC without drawing from the Treasury at all would be to establish transaction or user fees on trades executed in the futures, options, and swaps markets. This deficit neutral, self-funding approach has already been adopted for the benefit of other financial regulators and indeed has become the norm for those agencies. For example, transaction and other fees imposed on issuers and traders in the equity markets have long served as the funding mechanism for the SEC. Given the number of markets that the CFTC oversees, the volume of trading in those markets, and the high notional value of those contracts, an extremely modest user fee could produce ample revenue, capable of sustaining CFTC operations at significantly higher levels over the current appropriation.

In fact, several years ago, Better Markets provided an analysis showing that the CFTC's FY 2014 budget request of $315 million could have been fully met, without any taxpayer funds, by imposing a fee of as little as $1 per million dollars of notional value on each swap contract, and just 28¢ per million dollars of notional value on each futures and options contract transacted in the United States (for each party to the swap). That represents a 0.0001% transaction fee, a hundredth of a basis point, on swaps, and a fraction of that amount for futures and options.[53]

Contrary to the alarmist and unfounded claims of some industry advocates, such a small CFTC funding fee would not harm market liquidity. For instance, as our 2013 analysis showed, the average interest rate swap transaction had a notional size of approximately $58 million, and the private execution cost for such a swap was typically around $1,000.[54] Under those circumstances, the incremental CFTC funding fee would have been $58; and a farmer with 500 acres of corn crop could have hedged his entire yield (approximately 75,000 bushels) on the CME with 15 corn futures contracts.[55] The CME execution fees on this order would have exceeded $10, yet the incremental CFTC funding fee would have been just 10¢. Such small fee increments would have had no noticeable impact on liquidity or trading decisions. The decision to hedge or not can make a difference of tens if not hundreds of thousands of dollars to an individual farmer or business. It is inconceivable that true end-users or their customer-facilitating brokers would be driven away from the market by a modest fee in this general range. The case for CFTC self-funding through transaction fees has only gotten stronger over the last several years, as trading volume has steadily increased.

In fact, academic literature supports the notion that de minimis financial transaction fees have a negligible or zero impact on liquidity. For instance, recent research from the University of Massachusetts found that developed financial markets tend to tolerate transaction fees of up to 50 basis points with little or no impact on liquidity.[56] The CFTC funding fee proposed here would be a miniscule fraction of that amount.

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[53] See Questions for the Record, Hearing on Reauthorization of the Commodity Futures Trading Commission, Sen. Comm. on Agriculture, Nutrition & Forestry (July 17, 2013).

[54] Id. at 1.

[55] Id. at 1-2.

[56] Robert Pollin & James Heintz, Transaction Costs, Trading Elasticities and the Revenue Potential of Financial Transaction Taxes for the United States, Political Econ. Research Inst., Univ. of Mass. (Dec. 2011), available at http://www.peri.umass.edu/fileadmin/pdf/research_brief/PERI_FTT_Research_Brief.pdf.

It bears emphasis that the CFTC is the only financial regulator that does not impose fees to fund itself. And, if imposed, the general level of transaction fee necessary to adequately fund the CFTC would be, by far, the smallest fee among the financial regulators. For example, the SEC has recently established user fees of $20.70 per million dollars in most securities transactions, and even assesses fees on each round turn transaction in security futures, to raise well over $1 billion annually in revenues.[57] These fees have not impaired liquidity.

In short, an extremely small user fee established for futures, options, and swaps trades could easily raise the level of funding that the CFTC desperately needs to fulfill its wide-ranging responsibilities, all without harming liquidity or otherwise disrupting or burdening the markets or market participants.

III. Conclusion

As is so often the case, the facts speak eloquently for themselves:

- Financial reform was necessitated by the largest financial and economic collapse since the Great Depression of the 1930s, and it was enacted to prevent a second Great Depression.

- The benefits of avoiding another financial crisis are enormous, totaling tens of trillions of dollars, measured not just in terms of the current crisis but also in light of a potentially worse financial disaster that may befall our country if reform is not fully implemented.

- Effective financial reform that protects the American people required a re-regulation of the financial industry through the Dodd-Frank Act, which was intended to properly shift costs back to the financial industry from the American public, on whom they were foisted when the industry was de-regulated prior to the 2008 financial crisis.

- The financial industry has always complained about the alleged costs and disruptions associated with financial regulation, but history proves that these self-serving claims are without merit and, in fact, disproved by their own financial performance since the passage and enactment of the Dodd-Frank Act.

- Derivatives played a key role in precipitating and transmitting the financial crisis and collapse; derivatives regulation is an essential part of comprehensive financial reform and protecting the American taxpayer from again having to bail out the financial industry.

- The CFTC is the only police force on the derivatives beat and it needs a clean reauthorization, new authorities, and substantially more funding to protect the American people; right now, the CFTC is at risk of failing due to gross underfunding.

I thank you, Mr. Chairman, Ranking Member Stabenow, and other members of the committee for the opportunity to appear before the committee on this critical issue.

I look forward to addressing any questions you may have on the U.S. derivatives markets and CFTC reauthorization.

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[57] See Securities and Exchange Commission, Fee Rate Advisory #2 for Fiscal Year 2019, Release 2019-30 (March 12, 2019), available at https://www.sec.gov/news/press-release/2019-30.

Sincerely,

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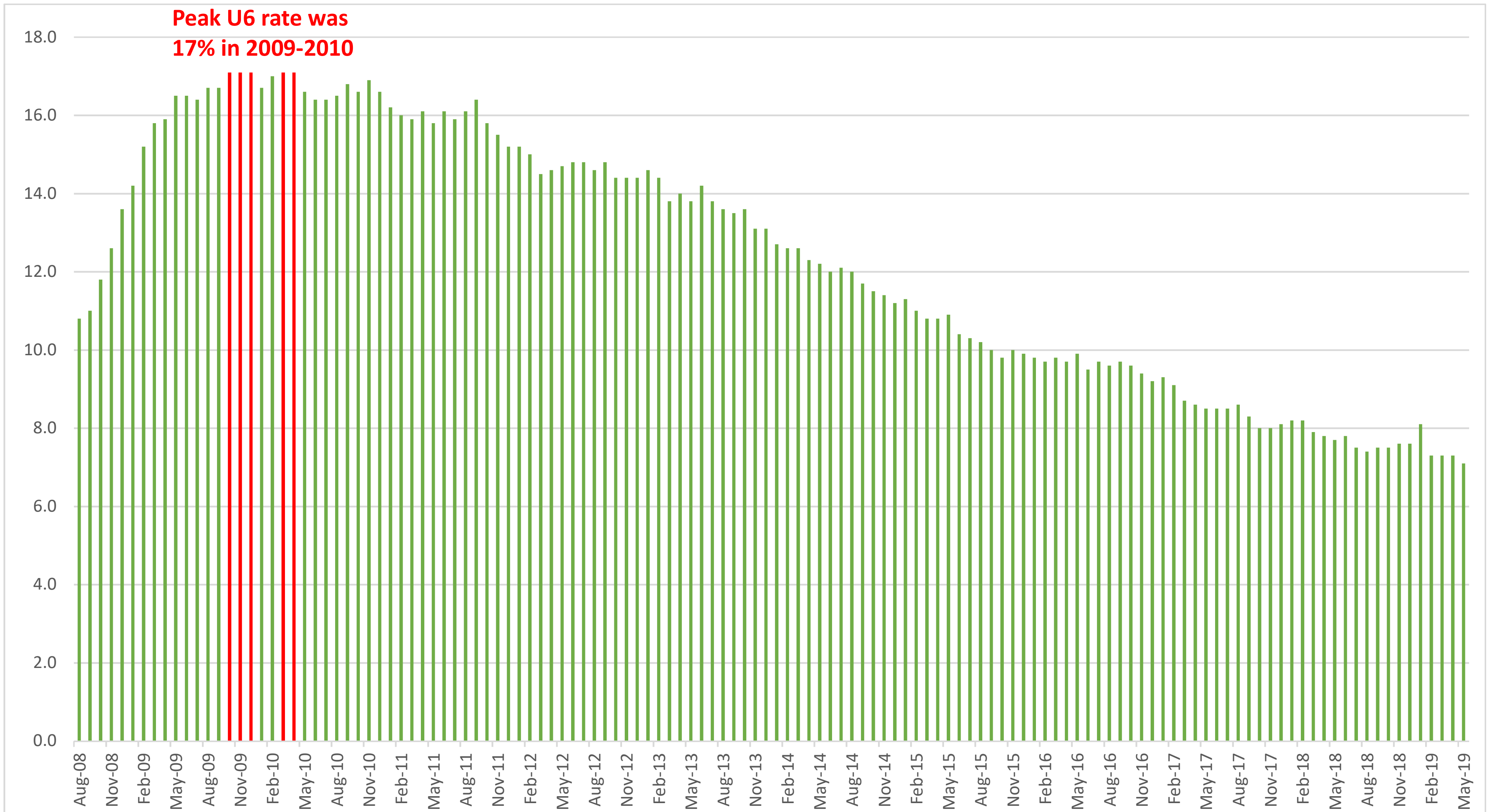
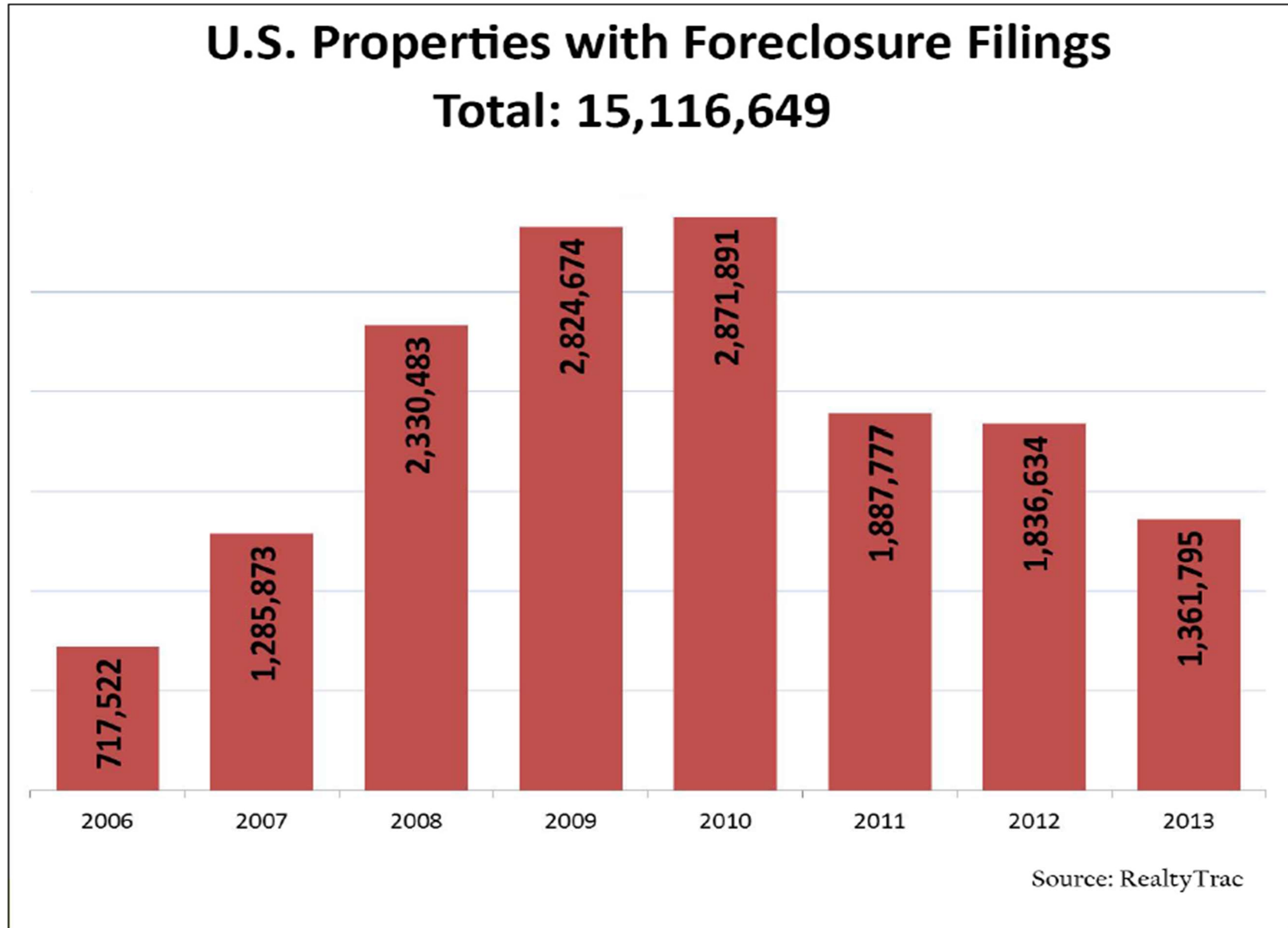
Appendix A

Total Un- and Under-Employed
(At One Month Peak: Almost 27 Million Americans)



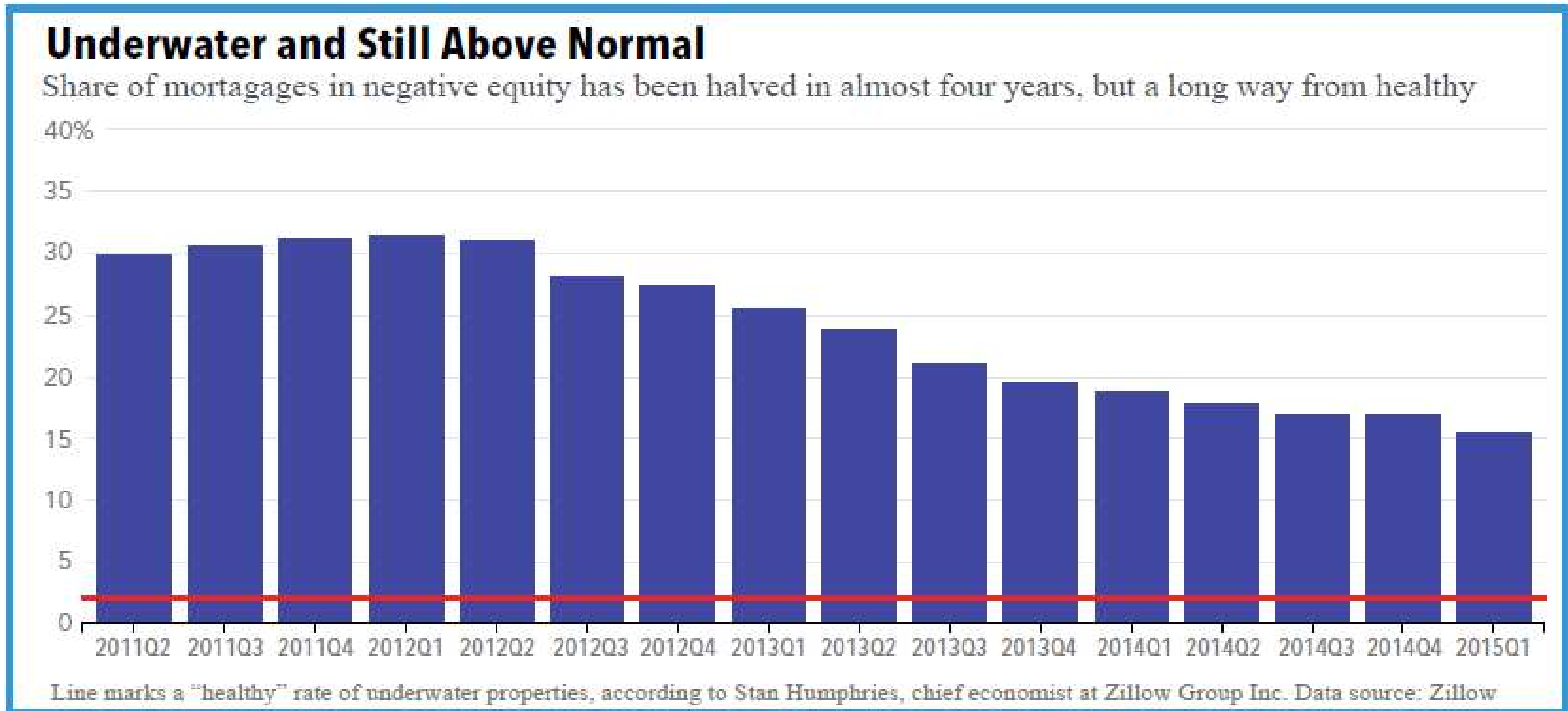
Source: FRED

Appendix B



Appendix C

Underwater Homes: Mortgages More Than Homes Could Sell For



Appendix D

Total Maiden Lane II & III Payouts to AIG Counterparties

($ Billions)