

United States Senate
WASHINGTON, DC 20510

February 6, 2017

The Honorable J. Christopher Giancarlo, Acting Chairman
United States Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, D.C. 20581

Dear Acting Chairman Giancarlo:

We are in receipt of the U.S. Commodity Futures Trading Commission's Office of Inspector General (OIG) *Investigation into a Potential Information Technology Security Incident* issued on June 27, 2016, as well as follow-up letters and related *Memoranda*. This information was only recently released to the Committee. The documents describe CFTC personnel engaging in inappropriate network activity, abuses of network privileges in violation of CFTC policies, retaliatory acts against a CFTC contractor, and a pervasive lack of candor and integrity by senior CFTC personnel. It is important to note that a forensic review and analysis of CFTC systems did not find "that CFTC systems were compromised or sensitive information exfiltrated." Thus, it is our understanding that market information was, and remains, protected. While we are relieved that the improper activities of a few at the agency did not result in universal harm, we are extremely concerned.

The OIG report, incorporating the efforts of CFTC's Incident Response Team (IRT) and the United States Postal Service Office of Inspector General, paints a troubling picture of CFTC personnel violating agency policies, abusing administrative privileges, repelling industry "best practices" concerning information system security, and falling short of established standards and guidelines. The documents make clear senior personnel shirked protocols relating to CFTC's data systems and provided misleading statements – doing measurable damage to the basic principles of integrity. All such abuses culminated in retaliatory actions against a contractor, performing as a whistleblower, who was only trying to do the right thing by raising improper network activity to through the proper channels.

Whistleblowers perform an invaluable public service. Yet, they often face intimidation, retaliation, and prohibited personnel practices. Therefore it is essential that agency leadership, from the top down, promotes an open culture for employees to make disclosures and takes swift action against any employee who violates a whistleblower's rights. It is vital that employees at CFTC are reminded about their ability to make protected disclosures. We also ask that you remind all incoming employees and managers that retaliation against whistleblowers will not be tolerated.

The OIG investigative report and related findings show that the acts began over a year and half ago in 2015, prior to you being named Acting Chairman. Moreover, we appreciate given the

current administrative landscape, taking certain actions may be complicated. However, the improper acts of a few have cast a shadow across the agency, and the seriousness of the problems spilled across the pages of the report merit immediate attention. We are confident that you will devote considerable time and effort to drill down on the issues, and solve them. We stand ready to support your efforts, and those of the agency, to address the systemic breakdowns, and cure the problems.

Considering OIG's findings, the severity of the integrity breakdown by management personnel within CFTC's Office of Data & Technology, and the response of CFTC, we request a formal update on how CFTC is responding to OIG's investigative report. We are interested in gaining an understanding of how CFTC is addressing the security of its information networks; its treatment of all policies, procedures and protocols concerning information, data, and technology, including whether they are being amended and/or created to address the shortcomings; whether CFTC is administering tutorials and trainings to CFTC staff and its contractors to bolster agency integrity; and how CFTC is addressing the issue of whistleblower reprisal to ensure it does not occur in the future. Please produce the update by no later than February 20, 2017.

Thank you for your attention to this matter. We look forward to receiving an update soon. If you have any questions, please contact Andrew Rezendes of Chairman Roberts' Committee Staff at 202-224-2035 or Janet Drew with Chairman Grassley's staff at 202-224-5225.

With every best wish.

Sincerely,



Pat Roberts
Chairman
Senate Agriculture Committee



Charles E. Grassley
Chairman
Senate Judiciary Committee

cc: The Honorable Debbie Stabenow
Ranking Minority Member
Senate Agriculture Committee

The Honorable Dianne Feinstein
Ranking Minority Member
Senate Judiciary Committee

The Honorable A. Roy Lavik
Inspector General
Office of the Inspector General