NOMINATION HEARING OF HEATH P. TARBERT, OF MARYLAND,

TO BE CHAIRMAN AND A COMMISSIONER OF

THE COMMODITY FUTURES TRADING COMMISSION

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WEDNESDAY, MARCH 13, 2019

United States Senate,
Committee on Agriculture, Nutrition, and Forestry,
Washington, D.C.

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

Present or submitting a statement: Senators Roberts, Ernst, Braun, Grassley, Thune, Fischer, Stabenow, Brown, Klobuchar, Gillibrand, Casey, and Smith.

OPENING STATEMENT OF CHAIRMAN ROBERTS

Chairman Roberts. I call this hearing of the Senate Agriculture, Nutrition, and Forestry Committee to order. Today we consider the nomination of Dr. Heath Tarbert to serve as Chairman and a Commissioner of the U.S. Commodity Futures Trading Commission.

It was as pleasure to meet with you, Doctor, earlier this week and I thank you for appearing before the Committee today. I recognize you have quite a few members of your family in the audience today, including your wife, two sons, mother-in-law, and brother. Welcome to the Ag Committee
family. If you would stand we would like to recognize you
please. Thank you very much for coming.

[Applause.]

Chairman Roberts. I like that bowtie. That is very

fashionable.

Before delivering an opening statement I ask the letter
of support for our nominee from 25 different agriculture
groups to be included in the record. Without objection, so

ordered.

[The letter follows:]

/ COMMITTEE INSERT
Chairman Roberts. In the letter, the groups voiced strong support and appreciation for Dr. Tarbert's experience in the financial sector, the effort he has demonstrated to understand their priority issues, and his commitment to visiting agricultural operations as a way to reinforce the importance of these markets to farmers, ranchers, growers, and agribusiness.

As I have noted before, the CFTC is charged with fostering an open, transparent, competitive, and financially sounds market while working to prevent any systemic risk. Further the Commission is tasked with protecting market users and their funds, consumers and the public from fraud, and manipulation and abusive practices related to derivatives and other products that are subject to the Commodity Exchange Act. The regulation and oversight provided by the CFTC end users, farmers, ranchers, commercial companies, municipalities, energy companies, pension funds, and others to hedge commercial risk using the derivatives markets, these markets allow companies to generate jobs and produce goods and services for our entire economy.

While it was not the farmer or the rancher or rural cooperative or electric utility who contributed to the financial crisis of 2008, it is often these folks who shoulder the heaviest burden when regulators write and
implement rules. Today this Committee will hear from a nominee who is no stranger to public service. His experience clearly shows he has an appreciation of what led to the financial crisis 10 years ago, and he understands how these markets are impacted by actions taken by Congress and the U.S. federal regulators as well as our legislative and regulatory partners around the world.

As the current Assistant Secretary for International Markets at the Department of Treasury, this nominee has exactly the right experience at the right time to lead the CFTC as the world awaits important decisions throughout Europe on how regulators will treat U.S. interests and other market participants operating across that continent.

Current CFTC Chairman Chris Giancarlo has done a great job advocating U.S. interests and the importance of equivalency, and there is no doubt this nominee is prepared to continue this legacy when confirmed.

Dr. Tarbert, our meeting earlier this week shed light on your policy positions regarding immediate, specific, high-profile issues such as Brexit, and you highlighted your views on issues important to agriculture end users such as position limits.

Again, I thank you, Doctor, for being here today. I look forward to your testimony.

I now turn to my colleague, Ranking Member Stabenow for
her opening remarks.

OPENING STATEMENT OF SENATOR STABENOW

Senator Stabenow. Well, thank you, Mr. Chairman, and it is good to be with you this morning to consider the nomination to this very important position at the CFTC. Mr. Tarbert, congratulations. It was a pleasure to meet with you, and welcome to your family as well. I am sure they are very proud of you.

The CFTC plays a critical role in providing the certainty in our futures and swaps markets for Main Street businesses, consumers, and our farmers and ranchers, as we all know. Everyone in this room understands that agriculture is a risky business, maybe the riskiest business when we look at what is happening with the weather. That is why this Committee wrote and passed a strong bipartisan farm bill that gives our farmers five years of certainty in uncertain times and why strong oversight of the CFTC is so very important.

But before we begin discussing the future of the CFTC I must comment on the President's budget. I was disappointed to see that the proposal would roll back many of the important investments we have made in the future of the agricultural economy. The budget includes a nearly 31 percent cut to the farm bill, on top of a 15 percent cut to the rest of the USDA. We must ensure that the USDA has the
resources it needs to fully implement the bipartisan 2018 farm bill quickly, and I know that the Chairman agrees and that we are committed to making sure that happens. This is not the time to put a target on our farmers and our families.

I also strongly support providing the CFTC with the funding it needs to protect our financial markets, and we talked about that. This is very important you have the resources you need. The CFTC has been underfunded for many years, which puts our financial system at risk.

In addition to robust funding, the CFTC also needs strong leadership. Mr. Tarbert, you have a great deal of experience and expertise in financial markets. You also have first-hand experience in the development of the Dodd-Frank Act. I would like to hear more about how you would continue the significant progress that the CFTC has made over the past nine years in implementing this historic law.

The CFTC must continue to prioritize strong customer protections and it must remain vigilant in bringing wrongdoers to justice through the enforcement program. The CFTC must bring certainty to its rule book by finalizing the Dodd-Frank rules that remain incomplete, like setting speculative position limits and establishing minimum capital requirements for swap dealers. And the CFTC must continue to be forward-looking to address emerging risks, such as
cybersecurity and automated trading.

A decade has passed since the Great Recession. We must never forget that over 8 million people lost their jobs and countless families and farmers and small businesses faced foreclosure and financial ruin. The CFTC needs leadership that is committed to moving forward, not backward, on the critical reforms enacted in 2010 to safeguard our markets and protect our customers.

Mr. Tarbert, I am also encouraged that you have shown a strong interest in addressing issues facing our agricultural economy, which is obviously so important to all of us on this Committee. I look forward to hearing more about your plans and your vision.

Thank you, Mr. Chairman. Also, welcome to the senior Senator from Texas. We are glad to have you with us today.

Chairman Roberts. Well, before I introduce my distinguished friend, and thank you, sir, for coming, from the great state of Texas, I want to echo the comments by the Chairman with regards to the administration's budget proposal, who got tossed through the transom back here in the back room. We looked at it for a little while and decided to throw it back.

I am not trying to impugn the motives and the efforts of the administration to try to get a hold of our deficit spending and the national debt and all of that, but we just
passed a farm bill in a bipartisan fashion, and the number
one issue that we heard all around the country, for two
years we traveled around the country, every region, every
crop, every commodity, and the number one concern was crop
insurance.

The recommendations reflect past efforts from past
administrations and for some reason they do not quite get it
in terms of crop insurance. That particular, quote,
"reform" is not a reform. It would gut the program and even
places in Texas, Oklahoma, Kansas, Nebraska, all of the high
plains would be impacted. We are not doing that.

I now am most happy to introduce my good friend, a very
distinguished Senator from the great state of Texas. He is
known for his leadership qualities, passing legislation, and
is a country-and-western aficionado, as I am.

Senator Cornyn, thank you for coming. Please proceed.
Senator Cornyn. Well, thank you, Chairman Roberts and Ranking Member Stabenow. It is a pleasure to be with the Ag Committee today and it is my honor to introduce Dr. Heath Tarbert.

Looking at his resume it makes one wonder what we have done with our life. He has done so much and I am not going to go into great detail, although I will point out that not only does he have a JD, which is a Juris Doctor, he has an SJD, which is a Scientific Juris Doctor, which entitles him to be addressed as Doctor. Ordinary lawyers are not, even though they have a Juris Doctor. I know you wanted to know all about that. But he also has a Doctor of Philosophy from Oxford, so he has earned that title, and, of course, he has now been nominated to serve as Commissioner of the Commodity Futures Trading Commission.

He brings with him a wealth of experience from the private and public sectors. Throughout his work in the private sector he amassed a vast understanding of the Dodd-Frank regulations and developed an expertise in banking and securities law as well as financial compliance law. His time in public service has been spent in all three branches of government and includes serving as Special Counsel to the Senate Banking Committee, Associate Counsel to President
George W. Bush, and Law Clerk to Justice Clarence Thomas on the United States Supreme Court. He currently serves as the Assistant Secretary for International Markets at the Treasury Department where he works to advance the U.S.'s interests in various international issues including financial regulation. He also serves--and this is where our lives intersected the most recently--he also serves as the Policy Chair of the Committee on Foreign Investment in the United States, a body which, as the Committee knows, that reviews foreign investments to protect our national security interests.

And I will just note that Heath did yeoman's work on behalf of the Treasury Secretary, Secretary Mnuchin, as Secretary Mnuchin did, in helping us get through a very complex and not particularly a politically attractive topic but one which is essential to protecting our national security, and that is to upgrade our rules and regulations with regard to foreign investment in the United States. And if all of these impressive qualifications were not enough, he also happens to be an Eagle Scout. Notwithstanding his stellar credentials, he has a well-earned reputation for being bipartisan, collaborative, and an honest broker, just what you would want.

As I said, I saw this first-hand as we worked together on the Foreign Investment Risk Review Modernization Act, or
FIRMMA. We know that in complex matters sometimes it is difficult to strike the right balance, and Heath was instrumental in working with members in both the House and the Senate to do just exactly that, and I am confident he will do the same in his new capacity.

This bipartisan track record is something that I believe will serve him well should he be confirmed as the next Chair of the CFTC, especially since the Commission works with this Committee to strike a balance between market integrity and market access. As you know, the CFTC serves a critical purpose to foster transparent and competitive markets. Americans across the country depend on well-functioning markets to manage their businesses and mitigate risk, and this Committee knows these market participants well. They are our farmers, our ranchers, our utility companies, and manufacturers. But the CFTC must also enhance stability and confidence in derivatives markets, ensuring end users and the public that they are protected from fraud.

So, in conclusion, let me just say I think Heath is an excellent choice to lead the CFTC. He has shown a dedication to work hard across the aisle and in tandem with multiple branches of government toward an end result that is in the best interest of the American people. So I believe the Committee will enjoy a productive relationship with him.
as you work to promote market access and market integrity. So I thank you for the opportunity to come and say a few words on this outstanding nominee, Heath Tarbert, and I know he is eager to continue serving our country in this new role.

Thank you, Mr. Chairman.

Chairman Roberts. I thank the distinguished Senator from Texas and agree with virtually everything that you have said.

As is the tradition and custom of the Committee, before a nominee witnesses to provide testimony I need to administer the oath. Secretary Tarbert, if you would please stand and raise your right hand.

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

Mr. Tarbert. I do.

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

Mr. Tarbert. I do.

Chairman Roberts. Thank you. Please proceed with your testimony, sir.
Mr. Tarbert. Chairman Roberts, Ranking Member Stabenow, and distinguished members of the Committee, I am honored and grateful to appear before you today as the nominee for CFTC chair. I appreciate the kind words of Senator Cornyn and I would like to thank the Committee staff for their professionalism during this process.

While I have had the pleasure of working with some of you in the past I thought I would take a moment to introduce myself. I grew up in Baltimore, where my family emphasized hard work, education, and the importance of public service at every level of government. Both of my grandfathers fought in World War II, one with the Army in Europe, the other with the Navy in the Pacific. One of my uncles was a police officer, another a firefighter. My father went to night school to study accounting and eventually served as Comptroller of the Maryland Port Administration. In that role, he oversaw the flow of agricultural commodity exports and imports through Baltimore. Although my father passed away after a courageous battle with pancreatic cancer, his commitment to public service remains a guiding example for me.

Each of my adult guests today is or has been a public
My family's commitment to public service has inspired me as well. Over the course of my career, I have had the privilege to serve in all three branches of the Federal Government. During that time, I have developed a deep and broad background in financial services regulation. Since 2017, I have served as Assistant Secretary of the Treasury, managing and leading 12 offices in the Department's International Division.

These experiences have reinforced the importance of working in a bipartisan way, which I know is in the tradition of this Committee. The same is true for the work of the CFTC. The CFTC and the markets it regulates are unique. They are connected to the real economy in ways that other financial markets simply are not. Commodity futures,
options, and swaps affect the lives of everyday Americans. They moderate the prices we pay for literally everything, from our groceries to gasoline, from our heating bills and home mortgages. Leading such a unique agency comes with special responsibilities. Our derivatives markets must remain open, transparent, competitive, and financially sound. At the same time they need to be free from fraud and manipulation. And to truly be effective, the CFTC must understand how these markets impact sectors and households in the real economy.

In that regard, no sector is more important than agriculture. Our nation's farmers and ranchers depend on derivatives to hedge their risks while consumers benefit from stable prices. Also benefitting are grain elevators, mills, distributors, processors, and other producers. That has been the case for more than 100 years, and it is part of the reason why America's ag industry is the envy of the world. Equipping our ag sector with the tools to hedge risk and receive fair prices was, and will always be, the very cornerstone of the Commodity Exchange Act. If our commodity derivatives markets are not working for the benefits of our farmers and ranchers then in my view they simply are not working. Ensuring the voices of agriculture are heard and their concerns addressed would be a top priority.
If confirmed, I would expect to make use of this Committee's expertise as well as knowledge gained from visits with stakeholders across the country. In addition to recognizing the CFTC's historic mandate, it is important that we not lose sight of the future. Congress's enactment of the Dodd-Frank Act has led to significant improvements in the swaps markets, and Title VII implementation work must be completed. At the same time, we have got to acknowledge that our derivatives markets have now been transformed by digital technologies, technologies that come with risk as well as opportunities. CFTC has to strike the right balance between allowing innovations to flourish and protecting our markets and customers from harm. We have also got to remain vigilant in dealing with new threats like cyberattacks.

Our futures, options, and swaps markets serve as the global standard. On the whole, they are deep, open, liquid, transparent, and soundly regulated. If confirmed as CFTC chair, I will work hard every day to make sure they stay that way.

Thank you.

[The prepared statement of Mr. Tarbert follows:]
Chairman Roberts. Let me start some questions here for you, Doctor. Since being nominated now you have engaged with ag stakeholders to better understand their priorities. Will you continue to work with these stakeholders and prioritize their interests should you be confirmed?

Mr. Tarbert. Absolutely, Mr. Chairman.

Chairman Roberts. Senator Stabenow and I wrote to Chairman Giancarlo last year raising serious concerns about the EU's legislation to regulate our U.S. clearing houses. I understand legislation is about to be finalized and that the EU continues to push for directly regulating financial markets within our borders. In our letter we stated we would encourage the CFTC to take stock of the regulatory relief it has granted to foreign countries--pardon me, foreign entities, in light of the EU's proposed aggressive action.

Could you please tell me the status of the EU clearinghouse equivalence issue as you see it, as well as the status of the equivalence for trading venues and what more Congress can do, if anything, to ensure the CFTC remains the exclusive regulator of our U.S. derivatives markets?

Mr. Tarbert. Thank you, Mr. Chairman. We are watching that closely, not only as the CFTC and other financial regulators but the Treasury Department as well. I believe
what they call the Level 1 text will be finalized soon, and
the Level 2 text, which is essentially regulations, will be
worked on in the next few months.

I want to be very clear on this. I agree with you
wholeheartedly that our clearinghouses and exchanges here in
the United States need to be exclusively supervised and
regulated by U.S. regulators. Now that does not mean we
cannot have a collaborative relationship with foreign
regulators. They have information interests as we do.

Their banks and other financial institutions use our
platforms and ours use theirs. But again, I go to the very
point that you raised that it is very important that the
United States have the jurisdiction and sovereignty to
regulate our own markets.

Chairman Roberts. At last year's joint CFTC-Kansas
State Ag Commodities Conference the major issue of concern
among our Kansas ag constituents was the non-convergence and
the hard red winter wheat futures contract. Can you provide
us your view on this issue and your understanding of what
market participants have done to address this issue?

Mr. Tarbert. Well, as a general matter, convergence is
absolutely critical. Having the derivatives markets
converge with the cash markets is the reason why these
instruments can be used to hedge. So if there is not
convergence or problems in convergence the whole point of
1 setting up these instruments in the Commodity Exchange Act
2 is called into question.
3 With respect to hard red winter wheat, the Kansas City
4 contract, my understanding is that some changes have been
5 made, I believe going from fixed cost to variable cost. But
6 if confirmed I would look into that issue, you know, more,
7 work with your office as well as other commissioners and the
8 exchanges to ensure that the convergence is there.
9 Chairman Roberts. I appreciate that. It is my hope,
10 along with many agriculture end users, that the Commission
11 will move on a final rule regarding position limits later
12 this year. What do you view are important considerations
13 for the Commission when establishing a position limit
14 regime?
15 Mr. Tarbert. Thank you, Mr. Chairman. It is important
16 that the Commission--that the positions limits rule is
17 finalized. In terms of important factors that we would
18 consider, I think first and foremost has to be that we must
19 acknowledge that these are speculative position limits, as
20 you mentioned before, and therefore people that are bona
21 fide hedgers need to be able to use that exemption. So in
22 other words, risk management tools that our ag sector have
23 used all along should be taken into account.
24 Other issues would include, for example, ensuring that
25 the underlying supply, deliverable supply is taken into
account—I know the Minneapolis Grain Exchange, for example, has had concerns there—and then other issues tend to be sort of making sure that there is the right parity between the position limits for the three major wheat contracts. So those would be all things that, if confirmed, I would want to take into account.

Chairman Roberts. In the interest of time I am going to submit, or ask unanimous consent to submit at this point in the record a question with regard to Dodd-Frank financial reform, blockchains, and the possibility of combining the SEC with the CFTC, which I should not even mention. So given that, without objection, so ordered.

[The questions follow:]
Senator Stabenow. Thank you very much, Mr. Chairman. Let me first start with enforcement, because it cannot be overstated how important it is that the CFTC have a strong enforcement program, and frankly, the market participants need to have confidence that the markets are free of fraud and manipulation, and wrongdoers need to know that they are going to face real consequences when breaking the law. So how do you believe the CFTC can further strengthen its enforcement program?

Mr. Tarbert. Thank you very much for that question. The CFTC right now, the Enforcement Division is the largest division by far of any, and if confirmed I would, of course, keep it that way and invest resources and enforcement. I think in terms of priorities we would want to focus on protecting markets as well as protecting customers. There have been a lot of issues in the last few years about customer protections, using customer margin, which I think undermines confidence in the entire system. I think also we want to make sure that we have focused on individual responsibility. It cannot be that individuals, you know, cause problems and then they move on to another firm and the firm gets fined but they continue to stay in the industry and cause more problems.

Senator Stabenow. Right.

Mr. Tarbert. And then, finally, I would say it is
important that the CFTC work with other regulators as well as with the law enforcement community--the FBI, the Justice Department--where criminal charges are appropriate.

Senator Stabenow. I agree, and when you talk about individuals, though, how does that look to you in terms of enforcement against individuals? Do you think CFTC has the tools to do that right now?

Mr. Tarbert. I think they have some tools but it would be something that, if confirmed, I would want to sit down and really think about, talk to the professionals in the Enforcement Division and then maybe this Committee as well, if you have views.

Senator Stabenow. When we are doing the reauthorization of the CFTC should we look more at that area to give you better tools? I would welcome your input on that, knowing that.

Mr. Tarbert. Yeah, so if confirmed I would look into that issue and have that discussion with you.


Mr. Tarbert. Yes.

Senator Stabenow. Growing every day. I have a deep concern just across the Federal Government as well as in the private sector that we are not focused in doing as much as we should be doing, and certainly in protecting our financial system. We have to allow that our markets are
vulnerable right now.

Your current position at the Treasury Department has provided you with considerable perspective on the cybersecurity risks facing the financial system. Based on your current perspective at Treasury, what are the greatest cyber threats facing the financial system and what can we do to strengthen our defenses?

Mr. Tarbert. Without going into classified information what I would say is that the real concern that I have, and many others in our financial system, is where you take systemic risk, on the one hand, which we all know exists, and then you map that onto cyber risk, and where the confluence of the two, it seems to me that is the area where we want to protect the most.

Treasury has something called the Office of Critical Infrastructure Protection, which is led by a former general from U.S. Cyber Command and the NSA, which goes around and thinks specifically about our financial system and vulnerabilities there. And so that would be something that to the extent the CFTC is not currently plugged into, if confirmed I would ensure that the CFTC has the relevant access to the information it needs.

Senator Stabenow. Does the CFTC need additional authority to be able to really do what needs to be done on cybersecurity?
Mr. Tarbert. It could very--it might. At this moment I have not taken an in-depth study. I am aware of some tools they have, particularly with respect to their current supervisory authority over clearinghouses and exchanges. But there could be areas where the CFTC does not have the tools it needs to address cyber.

Senator Stabenow. Again, as we are looking at reauthorization I really would like to have your recommendations on this, and if we need to be doing more in terms of authorities I hope that you will weigh in very specifically to be able to help us.

Let me, finally, just ask, as it relates to the budget and funding, this is something that I raise all the time. If you are going to have the tools you need you have to have the resources you need. And it concerns me that the CFTC has not devoted enough resources also to finalizing the important Dodd-Frank rules, such as position limits, even though it has been nine years now.

So to confirm, what will you do, as Chairman, to fully implement Dodd-Frank and what will you do to advocate for the resources that you need to get the job done at CFTC?

Mr. Tarbert. So as I mentioned in my written testimony and oral testimony, it is important that we finalize the Dodd-Frank Act, particularly those rules that are pending, and as you say, ones that were started years ago.
Secondly, as far as I totally agree with you that this agency needs the funding and the tools to get the job done. The American people are depending on it. So I will be an advocate for ensuring that it has the proper funding, and also look at areas where we can increase efficiencies as well.

Senator Stabenow. Well we need to get the Dodd-Frank rules finally done, and I hope you will commit, as Chairman, if confirmed, that you will be the one to get this done as soon as possible.

Mr. Tarbert. I will work on a number of them, and particularly position limits.

Senator Stabenow. We have been working on them for a long time.

Mr. Tarbert. I understand.

Senator Stabenow. So we need to complete it. So thank you, Mr. Chairman.

Senator Braun. Thank you, Mr. Chairman. I enjoyed our quality time we had yesterday to get to know one another. I remember vividly, 2008, having a business where all my income was in the automotive arena and all my assets were commercial real estate. And I remember the feeling in those few weeks when we were, you know, staring into the abyss. Hopefully we have learned a lot from that. I remember
things like credit default swaps, bundled mortgages, and I am a finance guy, all things that, you know, I did not know much about until, you know, it was upon us.

Is there anything in the commodities arena, within the institution that you are going to be a part of, that you would want to be wary of, or do you see anything on the horizon at all that, you know, would show signs that there are things that we need to look at more carefully, or do you think, like you said in your opening statement, you want to make sure things stay in good shape, like you think they are. Is there anything on the horizon out there? Because most of us did not see anything coming--

Mr. Tarbert. Right.

Senator Braun. --back in 2007 either.

Mr. Tarbert. I think--thank you very much, Senator--I think, as a whole, our financial system is stronger than it was before, but that said, I think the financial system is far more interconnected than it has been before, especially commodity markets. As we discussed yesterday, the commodities are global markets simply because commodities, as a definition, are the same around the world. And so I would be concerned about a potential risk, for example, coming from outside the United States that is potentially harmful to the U.S.

I also think we have to make sure that while we have
implemented a number of good changes in the last 10 years that the seeds of the next crisis are not sown in the response to the last one. So while we are pushing more things through centralized clearing, for example, we need to make sure those clearinghouses really are safe and sound and have the risk management practices that they need. There is no reason to believe they do not but it is something that I would want to look at, if confirmed.

Senator Braun. One other question. Also being involved in farming, I view what the farm economy is going through now. As bad as it was back many years ago, I think balance sheets are a lot cleaner. But I know a lot of farmers are in a situation where they do not see a light at the end of the tunnel.

Assuming the farm economy is going to kind of stay in this trough of low prices, does that bring any heightened concern in terms of, you know, how your organization would have to be vigilant should it persist?

Mr. Tarbert. Well, I think there are certain things—there are a number of things that are facing the ag—American ag community now that go beyond the work of the CFTC, but at the very least I do not think the CFTC should increase those burdens on the ag community. Anything that the CFTC can do to help, whether it is making sure that contracts converge properly so they can use risk management
tools and also making sure that some of the costs imposed by
regulations are not borne directly by farmers and ranchers I
think is important.

Senator Braun. Thank you. I yield the rest of my
time.

Chairman Roberts. Senator Klobuchar.

Senator Klobuchar. Thank you very much, Mr. Chairman,
and welcome to you. Thank you. Congratulations on your
nomination.

Yesterday the EPA released a proposed rule to allow for
the sale of E15 year-round. That is something that we have
been working on, Senator Smith and I, and Senator Stabenow,
and many others on this Committee that believe we should
have not just one kind of fuel but many in this country, and
that we should be investing in the farmers and the workers
of the Midwest and not just the oil sheiks of the Mideast.
The rule also included several changes to the way the
renewable identification numbers, or RINs, are traded and
used to track compliance with the law. Based on your
experience in other markets, Mr. Tarbert, do you believe
that providing information on trading data in RINs markets
in a timelier manner would increase transparency?

Mr. Tarbert. All things being equal, Senator, I would
say yes.

Senator Klobuchar. Okay. And then the RFS is also
critically important and we have long urged the EPA to implement the law consistent with congressional intent. As you know, in March 2016, the CFTC entered into an MOU with the EPA related to the RINs market. This included the EPA sharing RIN data and other information so the CFTC could better advice about ways to minimize any potential fraud and abuse. How would you plan to fulfill the MOU agreement with the EPA, and would you commit to sharing any recommendations or collaborations with the EPA to the Committee?

Mr. Tarbert. Thank you, Senator. So the answer to that last question would be, if confirmed, yeah, I would be happy to discuss with the Committee, you know, the work that the CFTC is doing with the EPA. I think it is important that the EPA view the CFTC as a resource, specifically with a background in markets. So I think we would want to provide, if confirmed.

Senator Klobuchar. And thank you, because we have had a big issue with some of the waivers in this area, that Senator Grassley and I--he is not here--took on in a big way, and there was a lot of information that was not transparent and it created a lot of problems with the previous administrator of the EPA.

So cybersecurity, I know Senator Stabenow asked you about this, but Senator Thune and I have a bill to allow people from the private sector to come in for two years and
people from the government to go into the private sector to
enhance their skills—that is a nice Minnesota euphemism—
when it comes to cyber. You know, we are not like Russia
and China where you can requisition people and make them be
in a warehouse and do all kinds of bad stuff, and we want
our government to be protected, cyber-wise, and to really up
our game here.

Do you think these kinds of exchange programs could
help, or maybe with academics as well, as we look at how we
build our cybersecurity?

Mr. Tarbert. They could potentially help and I will
commit to taking a look at your joint bill to analyze it and
study it. I do know that the UK has had a long tradition of
secondments, as they call it, where they do exactly as you
have said. So it can be helpful to provide that cross-
pollinization.

Senator Klobuchar. Okay.

Mr. Tarbert. So I look forward to looking into that.

Senator Klobuchar. Thank you. I have had a lot of
conversations with the current Chair of the CFTC, Mr.
Giancarlo, about the importance of including the needs of
farmers, ranchers, and energy producers in the mission of
the CFTC. You mentioned it in your opening. If confirmed,
how will you ensure that the actions of the CFTC take into
account the concerns and perspectives of all Americans,
including the farmers and ranchers directly affected by actions?

Mr. Tarbert. I think the first thing, Senator, is, if confirmed, it is important to listen to the ag community to really understand their concerns, and sometimes you cannot do that by sitting here in Washington. You actually have to go out there and meet with stakeholders in the places where they live and work. So that would be a big part, if confirmed, of what I would do in the first few months on the job.

Senator Klobuchar. Very good. How will you ensure that the CFTC is accurately documenting and analyzing transaction data within cattle and other markets in order to determine what is irregular? That is because our cattle ranchers in Minnesota depend heavily on the price they receive, and in 2015 there was this big 15 percent drop in the cattle market. It raised questions about market manipulation. And at that time the CFTC collaborated with the GAO to review market factors that may have affected the fluctuation. They did not find trading irregularities in this 2018 report, but it is something that is a big concern in the cattle market.

Mr. Tarbert. Yeah, and I am well aware, Senator, of some of the issues with the cattle market. I have had the opportunity to sit down with people from the cattle industry
and receive a briefing, actually, from the CFTC on the cattle contracts.

I think it is important that that study, while it concluded, at that time, that high-frequency trading and other things did not affect it or there was not necessarily market manipulation, much of the data was back from 2012.

Senator Klobuchar. Yeah.

Mr. Tarbert. So I would continue to monitor that market.

Senator Klobuchar. And quickly, along the lines of new technology, you know, we see blockchain, Bitcoin, financial technology. How can the CFTC position itself to address the changes resulting from these new products and technologies coming on the market?

Mr. Tarbert. Thank you. As I mentioned in my testimony, the innovations provide opportunities but they also come with risk, and I think we need to be able to focus and balance on the two so we really assess, you know, what are the opportunities but also what are the risks to customers and markets.

Senator Klobuchar. Okay. Very good. Thank you for getting at all those questions, and I can see that you have a well-behaved child behind you and that is also really good through the hearing.

Mr. Tarbert. Thank you.
Senator Klobuchar. He did not even notice I mentioned him, so very good. He is so engrossed and focused. Thanks.

Mr. Tarbert. Thank you very much.

Chairman Roberts. We thank you, Madam President.

Senator Klobuchar. Thank you very much, Mr. Chairman.

Chairman Roberts. The Committee was very proud to have four members of the Committee running for President, the most of any committee in the Senate. However, we now have three. The one that withdrew the day before, I said, "You know, you ought to really run." And then the next day he withdrew. I wonder if there was any connection between the two.

Senator Brown, would you like to comment on that?

Senator Brown. I am counting on Kansas.

Chairman Roberts. I recognize you, sir.

Senator Brown. I was never running for President. I was thinking about it.

Chairman Roberts. You were thinking about it.

Senator Brown. So to withdraw you have to have--never mind. Yeah, I understand.

Mr. Tarbert, thank you. I am going to ignore him. It is good to see you again. Thank you for being here.

Mr. Tarbert. Thank you.

Senator Brown. Timely movement of qualified nominees is imperative. I am concerned about the delay in nominating
Democrats and them moving to the Senate. My frustration, Mr. Chairman, is not with you about that, or with this Committee, but it is a problem that has worsened under Senator McConnell's leadership over the past two years and it must be addressed. And I think that view is widely held, not just among Democrats but a number of Republicans too.

Let me get to your questions. The Trump shutdown essentially closed the CFTC for five weeks, putting much of the enforcement program and market oversight on hold. It begs the question, why should we continue to take those kinds of risks, understanding we have a President who may do this again, but why should we take these kinds of risks?

What is the rationale for not making CFTC fully funded—self-funded, I am sorry, fully self-funded?

The Fed is self-funded, as you know. The OCC, Office of the Comptroller of the Currency is self-funded. The FDIC is self-funded. The Consumer Bureau is self-funded. Only CFTC and SEC are not. What is the rationale for that?

Mr. Tarbert. Well, I think it is an important issue worth discussing but I think what I would say, as an unelected official, is that it is a decision that really has to be made by elected officials who can consider all the aspects of the question, whether the impact on the taxpayer, the effects on congressional oversight. But I would say it is an important question that I think only elected officials
should decide.

Senator Brown. Might you now be in a position, or if confirmed be in a position to advocate that on behalf of the day-to-day operations of CFTC, understanding that a number of your employees, if the President decides to shut the government down again, a number of your employees would be either furloughed or working without pay, and the disruption in the markets every bit as much?

Mr. Tarbert. I mean, what I would say, Senator, is that I totally agree that the agency needs the funding to continue doing its important work. If confirmed, I would provide whatever technical expertise this Committee or any other needed to be able to consider the question of various funding mechanisms.

Senator Brown. I would hope that you would actually advocate doing that. I understand your answer.

Last year I told Chair Giancarlo that I was concerned about declines in CFTC enforcement cases and penalties. The trend since then has been positive but I have noticed leniency in some cases where companies self-report. For example, last year the agency settled a fraud case against Deutsche Bank, against a Deutsch Bank trader, but did not penalize the bank in any way. In fact, CFTC Enforcement Division issued its first-ever declination letter closing the case, recommending no action against the bank because of
Do you think such leniency is appropriate, going forward?

Mr. Tarbert. I do not believe in leniency. I think self-reporting can be useful, assuming it is followed up with systematic self-correction and a record of that. And so when I emphasize, I think, individuals should be held accountable that does not mean that organizations should not be held accountable.

Senator Brown. In this bank, I mean, you surely put aside, for purposes of this discussion and the penalties or not for Deutsche, but this bank has clearly been one of having one of the worst reputations, whether it its dealings with the President or its dealings generally in its banking system, its European and American banking system, with its behavior. You know, this bank compliance system did not stop the fraud in the first place, as you know.

Let me talk about another issue. CFTC finalized last year the de minimus threshold that exempts swap dealers from registration if their activity is under $8 billion, as you know. I supported the original rule, and the original rule would have reduced the level to $3 billion. Although the final rule did not include broad exemptions that were in the proposal, Chair Giancarlo asked staff to look at other carve-outs that would weaken the purpose of the threshold.
So they made it $8 billion and then they looked at carve-outs.

Will you commit to maintain the $8 billion threshold, not succumb to the temptation of a different number, and would you commit to not considering any of the changes that would weaken the registration requirements established under the Wall Street Reform Act?

Mr. Tarbert. Senator, my understanding was that was a unanimous decision by the Commission to double the threshold at $8 billion and also not to have the exemption. So, if confirmed, I do not see that as an issue that I would try to go back in and reopen.

Senator Brown. Okay. One last thing. If confirmed, it is imperative—I believe it is imperative that you follow the lead of those like Sheila Bair in work to halt the CFTC's harmful campaign to undermine critical financial safeguards which help protect against excessive risks. I am concerned about your working with the Fed and the FDIC and Treasury. This is an administration that every week, as the Ranking Member of the Banking Committee, I hear every week another example—and Senator Smith sits on that committee with me—I hear, almost every week, another example of weakening rules, as if there is this collective amnesia that nothing bad happened a decade ago because of Wall Street greed and Wall Street malfeasance and misfeasance. Thank
Mr. Tarbert. Thank you, Senator. I will just say that Chairman Sheila Bair is a personal friend and mentor of mine, and my views and hers closely align on a number of issues.

Senator Brown. Good. I like to hear that. Thank you.

Chairman Roberts. Senator Smith.

Senator Smith. Thank you, Mr. Chair and Ranking Member Stabenow, and Dr. Tarbert, Secretary Tarbert, thank you for being here and welcome to your family, and thank you for your willingness to serve.

We had a great conversation the other day and I think that you heard—in that conversation you heard my deep concern about the struggles that we are seeing in the ag economy in Minnesota and across the country, and, you know, the foundation values around having fair prices and fair markets and managing the risk. And so with that spirit I just have a couple of questions to ask you.

You know, I am concerned about the concentration in the swaps market. We know that 70 percent or so of all reported swaps are sold by five big Wall Street firms, and that represents 80 percent of the total value traded. And this high level of concentration shows that the largest dealers are sitting on considerable market power, and no matter how you slice and dice it, it is clear that these big banks are
really dominating the market.

Commissioner Berkovitz recently warned, in a speech, and I am quoting here that "these high levels of concentration present potential systemic risks since the failure of one of these firms in a highly connected market," as you said, "could have significant impacts on all the other firms in the market."

So, Dr. Tarbert, could you--are you concerned about this level of concentration?

Mr. Tarbert. Thank you very much, Senator Smith. The issue of concentration is one that I think I would want to look into a little bit more to truly understand it, and it sounds like, as you are saying, there may be possibly a competition law--dimension to all of this.

What I will say, with respect to the systemic risk part of your statement, is that it is critically important that initial and variation margin be imposed on all of these financial institutions, and that is critical to making sure that we do not have what we had 10 years ago--

Senator Smith. Mm-hmm.

Mr. Tarbert. --where you had all of these interconnections between institutions and there was no margin held by anyone, so when one fell, another fell--

Senator Smith. The domino.

Mr. Tarbert. --the daisy chain effect, exactly.
Senator Smith. Exactly. So what can we do? That gets to my sort of follow-up here, which is what can we do to promote a competitive market as we look at this increasing concentration?

Mr. Tarbert. Well, I think the more that we can move swaps through centralized clearing and through, you know, swap execution facilities, and ultimately to be traded on exchanges, will make the market more open, more transparent, greater liquidity, and you will not have it dominated by a small group of dealers.

Senator Smith. Mm-hmm. So the other thing I wanted to get your perspective on, you know, we mitigated many risks since the 2008 financial crisis, hopefully, but I am wondering if that is creating new risks that we should be aware of. You know, Dodd-Frank put in place important measures to move away from this unregulated trading between two parties and towards a centralized clearing, which makes it easier to monitor risks. But at the same time I wonder if that creates a new concern, which is that all of that counter-party risk that promoted the Congress to push for central clearing is now concentrated in one place, in the clearinghouses themselves.

And I know most folks see this as a good thing, because we can understand it better and we know where the risks are, but could you talk a little bit about now that we have all
those risks located in one place, what we are doing to
better understand and manage the risk there.

Mr. Tarbert. I could not agree with you more, Senator,
and that is essentially what the Dodd-Frank Act did, was
that although it reduced risk it also concentrated risk.
And so we still have high levels of risk but they are in
clearinghouses now.

I think it is critically important that the CFTC
supervise clearinghouses to make sure they have got the
requisite capital, liquidity, risk management tools they
need, and that also they have resolution and recovery plans,
particularly recovery plans. So if the largest clearing
member fails, or the two largest clearing members fail, they
have got a plan of action for that and they have got enough
of a cushion to withstand that.

Senator Smith. Mm-hmm. Yeah. Do you think that the
failure of a major clearinghouse could lead to the sort of
daisy chain, ripple, domino effect that we were just talking
about?

Mr. Tarbert. It possibly could, yes.

Senator Smith. And if a clearinghouse were to fail, do
you think that the Federal Government has the authority--
sufficient authority to fix--to resolve that, and where do
you think that authority should go? Is it better in the
CFTC or FDIC, or where do you think?
Mr. Tarbert. It is a great question, Senator, and it is one that is pretty complex. Right now, under Title II of the Dodd-Frank, right now it could potentially go into a bankruptcy proceeding, but if Title II of the Dodd-Frank Act was triggered it would be the FDIC that would actually oversee the resolution of a clearinghouse. And I think you raise a good question as to whether that is the right regulator or whether another regulator, such as the CFTC or the SEC, depending on the type of clearinghouse, may be appropriate.

Senator Smith. Last question. Dr. Tarbert, you have significant experience in financial regulatory areas, and as you and I discuss you are building your experience in agriculture. And for farmers and ranchers in Minnesota, what happens at the CFTC affects them. And so can you just comment on how you will work to build that agricultural experience, should you be confirmed?

Mr. Tarbert. Thank you. As I mentioned in my oral testimony and here, one of the things that I think would be really helpful is to actually go out--


Mr. Tarbert. Well, we--

Senator Gillibrand. And New York.

Mr. Tarbert. --and New York, absolutely. And, in fact, we have got a family vacation planned for Minnesota
this summer so maybe we can tag on something. I am not sure.

Senator Smith. Oh, good. We will get a plan.

Mr. Tarbert. But, yes, thank you, Senator.

Senator Smith. Thank you, Mr. Chair.

Chairman Roberts. You may have to go to virtually every state that is represented here.

Well, Coop, you are up.

Senator Thune. High Noon, Mr. Chairman. All right.

Thanks for having this hearing and thank you, Dr. Tarbert, for your willingness to serve.

This is ground that has been plowed a little bit already, but I would like to just sort of reiterate, if I might, or have you reiterate your commitment with respect to this Memorandum of Understanding between EPA and CFTC dealing with RIN markets, and whether or not you intend to follow through on that and share any recommendations, you know, that process might come up with, with this Committee.

Mr. Tarbert. Yes, Senator. Thank you. If confirmed, I would commit to share—maybe not publicly share but to meet with the Committee and brief the Committee and its staff.

Senator Thune. Okay. And yesterday there was an announcement by the EPA on the expansion of E15, allowing for year-round sales, and also a reform of the RINs Market.
And I guess the follow-up question to that last question would be, do you see the CFTC perhaps being able to have a role in sharing ideas about how to create greater transparency in the ethanol market, assuming, again, that the RINs reforms that have been in this--that are put forward in this proposed rule are designed--I at least hope they are designed to bring greater transparency. But could you offer some of your insights about that as well, and that process?

Mr. Tarbert. Yes. Thank you, Senator. I think it is important that the markets have a degree of transparency that makes them open, competitive, and does not lead to volatility and manipulation. So I think under the MOU with the EPA I would, if confirmed, assemble the right team, meet with the EPA, understand exactly what is going on with their transaction monitoring system now. I understand there are a number of fields that are filled, but, for example, price may not be one of them. So there are simple things like that that I think could add to the transparency and the data collection.

Senator Thune. Yeah. Good. There is a widely held view in farm country that the RIN market distorts and negatively impacts ethanol prices, and it is a very opaque market and there are a lot of questions and doubts about its transparency. And so I think that anything that you and
your organization and team can do to provide advice, insight, recommendations with respect to how to make that market more transparent I think would be greatly appreciated.

Let me ask you, we hear complaints, and especially from our livestock producers, that the Chicago Mercantile Exchange, or CME, is not performing as it should. In other words, that cattle producers often think that it negatively impacts cattle prices, or affects cattle prices. Do you have any thoughts about that?

Mr. Tarbert. I have had a briefing, both from members of the cattle industry as well as the CFTC. I think that there have been issues with cattle contracts in the past, and my understanding is that a great deal of work has been done. Perhaps more needs to be done, but certainly a great deal of work has been done, carcass delivery requirements, there are a number of things that have been put in place to make sure that the convergence problem either goes away or certainly is not acute. But it is something that I think is still of concern to the cattle industry, and if confirmed, I would certainly look into that and keep that discussion ongoing.

Senator Thune. Thank you. And with the oversight of the CME that you will have at CFTC, based on what you know now, are there any CME activities that concern you regarding
transparency or price manipulation?

Mr. Tarbert. Based on what I know now, no.

Senator Thune. All right. Well, I hope that as you get into the job and take a look at some of these issues, you know, obviously we hear from the front line, the people who are actually out there on the farm and the ranch on a daily basis. But having effective, transparent markets that allow them to effectively manage their risk is critically important. So we hope that, in your new role you will be able to focus on that, and if you have insights as you get into that role that you can share with us that would be greatly appreciated.

So thank you again for your service. Mr. Chairman, I yield back the balance of my time.

Chairman Roberts. I thank the distinguished Senator.

Senator Gillibrand. Thank you, Mr. Chairman. In 2016, then candidate Trump campaigned on the idea of separating commercial banking from riskier financial activities. Has President Trump or anyone in the White House, including his economic team and the National Economic Council, spoken to you or anyone at the CFTC about reinstating an updated version of Glass-Steagall or any action that would divide commercial banking from more riskier financial activity?

Mr. Tarbert. No, Senator Gillibrand. No one has
spoke to me about that.

Senator Gillibrand. Have you examined how the CFTC may be employed through regulation and enforcement to separate derivatives dealing from commercial banking under a new Glass-Steagall rule?

Mr. Tarbert. I personally have not, no, nor have I been directed, in my current capacity in the International Division.

Senator Gillibrand. I would be grateful if you would consider it and give advice to our office, just so we know what your perspective on that issue is, because it is an issue that will be debated again and one that is important to New York.

Second, the increasing dominance of automated trading is one of the biggest transformations occurring in the financial markets today. Automation has made trading faster and, in some cases, cheaper, but it has also contributed to the disturbing number of significant market disruptions in markets ranging from equities to treasures to commodities. The CFTC has investigated and documented repeated flash crashes in CFTC-regulated markets.

The Commission proposed a rule, Reg AT, to create better oversight and protections around automated trading but progress on this rule appears to have stopped in recent years. Will you reopen Reg AT and do you believe we need to
Mr. Tarbert. Thank you, Senator. Yes, if confirmed, Reg AT would be something I would want to get sort of back up and running in terms of the process of considering it. As I mentioned in my oral statement, we have got these new technologies. They come with opportunities and they also come with risk.

I also think what is important is that the CFTC continue its analytical studies. They have done some studies in the past but those are using old data, so I think it is something that we continually need to monitor. I think also the clearinghouses and the exchanges need to also put in relevant risk management dealing with automated algorithmic trading.

Senator Gillibrand. And I am concerned, you know, the stock market and stock prices used to reflect the value of a company, and under this new environment I do not think flash trading does that, actually. I think it is not related to value. It is related to speed of trading. Do you have any thoughts on that?

Mr. Tarbert. That would be a concern, in that we are seeing lots of volatility. Many of the exchanges over the years, for 80 years, have actually had sort of circuit breakers and things that they have had in effect that have reduced the ability of huge price swings, and I think those
would be the kinds of things we would want to look at, to make sure that prices are actually reflecting the underlying demand and not something else, and certainly not fraud and manipulation.

Senator Gillibrand. Right. The U.S. derivatives market is approximately worth $337 trillion. Currently the CFTC's budget is $268 million for fiscal year 2019, far below other prudential regulators with similar regulatory responsibilities. While previous budgetary requests asked for a 32 percent increase, do you not think that Congress should look at how other prudential regulators, like the SEC, use mandatory funding mechanisms to provide more reliable and standard funding sources for the CFTC? And also related, how would a capital infusion help CFTC better carry out its regulatory responsibilities, specifically for technology upgrades, live-time reporting, and retaining qualified staff?

Mr. Tarbert. Thank you. So, first of all, the CFTC absolutely has to have the resources needed to do its job. As to how it gets those resources, I mentioned before that I think it is a decision for elected officials, and that if you decide to go in one direction or another, just given the important issues at stake—Congressional oversight, tax-- Senator Gillibrand. I do not think it is just our job. I think you have to make recommendations, because it is your
job to do what the CFTC is required to do. So your input
will be necessary for Congress to make those decisions.

Mr. Tarbert. If confirmed, we would provide the
relevant technical expertise to be able for you to
understand the relevant tradeoffs. Absolutely.

Senator Gillibrand. Correct. I am little concerned,
now that you mention resources, that as we consider your
nomination there are many, many posts in the financial
regulatory ecosystem that are sitting empty, mainly with
minority party nominees. And with this process controlled
by the Trump administration the CFTC has a full commission
but there are open seats in critical agencies such as the
SEC and the FDIC. You want to be the chairman of one of
these regulators. You currently work at Treasury, where you
are deeply involved with many actors and financial market
participants.

Do you not agree that commissions like the CFTC and
your counterparts operate best when they have
representatives from both majority and minority, as
contemplated by the statute that created them?

Mr. Tarbert. Yes, I do.

Senator Gillibrand. In your experience at Treasury and
elsewhere, what problems have you seen from regulators with
open seats?

Mr. Tarbert. Well, one issue--and the CFTC faced this
a few years ago—was quorum. And because they only had three people none of the commissioners could actually talk with one another, so it was a very bizarre situation. They could not even take the same elevator up.

Senator Gillibrand. Thank you. Thank you, Mr. Chairman.

Chairman Roberts. Thank you, Senator. Senator Fischer.

Senator Fischer. Thank you, Mr. Chairman. Mr. Tarbert, our farmers and ranchers rely on commodity markets to hedge or to ensure the price of their products for harvest, and as farm commodity prices decrease, which we are seeing, the ability to hedge is more critical than ever before. These hedges are often the difference between a profitable year and an unprofitable one for my neighbors in Nebraska. When markets become illiquid it is harder for them to hedge their crops. It may also raise the cost of these hedges.

Can you, broadly speaking, identify what you see as the biggest threats to this liquidity?

Mr. Tarbert. Yes. I think one of the big threats to liquidity that I have seen, or at least heard about from briefings, is convergence, that some of the contracts are not actually converging, and therefore farmers and ranchers in Nebraska and other states cannot actually use these
contracts to hedge. And when they do not converge there are fewer people using them, and then of course, there is less liquidity. And liquidity is critically important, for a variety of reasons.

Senator Fischer. Can you tell me some?

Mr. Tarbert. Sure. So first of all, liquidity is absolutely necessary for the futures markets. The forwards markets can go without liquidity but the futures markets need liquidity. And we have seen examples over the years where contracts have actually been taken off exchanges because there has not been liquidity.

Obviously, bid ask spreads are affected by liquidity, so farmers and ranchers will pay more for illiquid contracts, all things being equal, than other ones. There is also the question of if you want to get out of a position or change because your dynamics have changed. If the contracts are illiquid it is much harder to do that.

And then finally, going to an issue that we talked about—-I had talked about with Senator Smith, is clearinghouses. Illiquid contracts are actually much harder to clear and present more risk issues for clearinghouses.

Senator Fischer. When I am back home in Nebraska and I speak to community bankers they are telling me the difficulty of offering commodity products for fear of running afoul of the Volcker Rule. And I believe that this
rule was meant for Wall Street bankers, not for farmers and ranchers and community banks, and these farmers and bankers did not create the crisis and yet they are being punished, along with larger investment banks.

As you know, farming is a risky business and we should encourage and not punish efforts that people are trying to use tools so that they can manage that financial risk.

Last Wednesday it was announced that there could be further delays in improving this rule, so I ask for two commitments from you. First, can you promise to work with other agencies to ensure that any revised Volcker Rule ensures that end users, like farmers and ranchers, have access to these products?

Mr. Tarbert. Yes.

Senator Fischer. And secondly, could you please ensure that this is released in a timely manner, so our farmers can have some certainty?

Mr. Tarbert. On that I would make every effort.

Senator Fischer. Thank you.

As you know, I am supporting some bipartisan legislation that is authored by my good friend from Idaho, Mike Crapo. The goal of this bill is to provide targeted relief to community banks. And I hope that you will have the opportunity to visit Nebraska, if you become Chairman--we would be happy to welcome you--and you will see that
farmers rely on agricultural lending from our community banks. It is a bipartisan bill that we have before us and it included a provision exempting small banks from the Volcker Rule. Can you speak about your vision for implementing that bill?

Mr. Tarbert. Yes, and I think—I do not know the extent to which the CFTC would have implementing authority, but if confirmed I would certainly work with all of the relevant regulators because I agree—I cannot agree with you more. I actually spent seven years working on the Volcker Rule, advising clients all over the world, mainly larger financial institutions, and it is one of the most complex rules that is out there, literally 1,000 pages of regulations and explanations. And while I think there are important policy reasons for why it is in place, with respect to large institutions, in my view it is not really appropriate for community banks, and there needs to either be tailoring or just simply exempting them altogether, where appropriate.

Senator Fischer. Thank you. I believe it is a bipartisan goal here in Congress that we try to provide tools for family farms. Everyone realizes the benefits we have as states, individual states, and also as a country, when family farmers are able to manage their business,
because it is a business. It is not a hobby. We feed the
world. And to do that we have to have tools that are
available but that also do not create additional burdens or
add additional costs to farms in order to make a living.

So thank you very much.

Mr. Tarbert. Thank you.

Chairman Roberts. Thank you, Senator Fischer.

That will conclude our hearing today. I want to thank
the nominee for taking time to address this Committee, to
answer the Committee's questions. It is clear, at least to
the Chairman, and I think the Ranking Member shares my view,
that you are more than qualified to join the administration
in the role as Chairman of the CFTC.

We learned a great deal today. Your testimony provides
us significant information, solid basis upon which to report
you favorably out of Committee, per our rules. We cannot do
so today--I wish we could--but we will endeavor to do so in
the very near future.

To that end I would request my fellow members that if
they have any additional questions for the record they be
submitted to the Committee Clerk by this Thursday, March
14th, by 5:00 p.m. We look forward to receiving your
responses and to further considering your nomination.

Senator Stabenow and I have one more question. What
did you feed Ben and Nathaniel for breakfast, as of this
Chairman Roberts. My eldest daughter has three young boys. They were all three born 10 yards outside. And I doubt if they could sit there quietly, clad in bowties, well dressed and well behaved. To what do you attribute this? I am starting to get a little more optimistic about the next generation.

Mr. Tarbert. Well, their mother and grandmothers, Mr. Chairman, have done an excellent job. Normally Saturday mornings is Pancake Day, but we decided to have it today, because of this auspicious occasion.

Chairman Roberts. That is the secret. All right. Does that work for your Democrat brother?

[Laughter.]

Chairman Roberts. Do you have to have additional syrup on the pancake?

[Laughter.]

All right. The Committee is adjourned.

[Whereupon, at 11:16 a.m., the Committee was adjourned.]