

Hearing of the U.S. Senate Committee on Agriculture, Nutrition and Forestry

STATEMENT OF TIMOTHY MASSAD

MARCH 6, 2014

Chairwoman Stabenow, Ranking Member Cochran, and members of the Committee: it is a privilege to appear before you today as President Obama's nominee to be the next chairman of the Commodity Futures Trading Commission.

I would like to introduce the members of my family who are here with me today: my wife Charlotte, my children Emil and Jayne, my mother Dee and my brother Steve. I am deeply indebted to them for their love and support.

For decades, the CFTC has had the vital mission of preventing fraud and manipulation in our futures markets. These markets are critical to many farmers, ranchers and businesses. Today, the CFTC's role is even more important, because it has the responsibility to bring much-needed regulation to the markets for over-the-counter derivatives. I am honored to have the opportunity, if confirmed, to lead the CFTC in carrying out this essential mission.

I have spent the last five years helping our nation recover from the worst financial crisis since the Great Depression. Excessive risk related to derivatives, particularly at American International Group, was one of many factors that contributed to that crisis. Today, we have recovered every dollar of the taxpayer funds committed to prevent the collapse of AIG, as well as a profit. And indeed, today, we have recovered more on all the crisis investments than was disbursed. But it was awful and unfair that we had to take these actions in the first place. We

must never forget that the true cost of the financial crisis is not the fiscal cost of the programs. It is the millions of jobs lost, the homes foreclosed, the retirements postponed and the dreams deferred.

That is why it is so important to continue to implement strong financial reform. And that is a major reason why I embrace the opportunity to lead the CFTC at this time.

I would like to take a moment to tell you about my background before briefly discussing the issues facing the CFTC. I was born in Louisiana, and lived in Texas, Oklahoma and Connecticut as a child. My grandparents were immigrants from Lebanon who came to this country as teenagers, barely able to speak English and with nothing more than a suitcase. My parents grew up during the Great Depression. They worked hard to provide our family with more opportunities than they had, and I have been fortunate as a result.

I spent twenty five years in private law practice before coming to Washington to serve my country. During my career as a lawyer, I worked on all types of complex financial transactions, and I worked throughout the world, including in New York, London and Hong Kong.

I had substantial experience with derivatives as a lawyer. I helped to draft the original standardized agreements for swaps in the late 1980s. Throughout my career as a lawyer, I helped many businesses negotiate and execute transactions to hedge exposures in commodities and derivatives markets.

I saw from personal experience how important these markets are to businesses of all types, including those of farmers and ranchers. The United States of America has the best financial markets in the world—the most efficient, most innovative and best regulated. And if confirmed as the next chairman of the CFTC, I want to help make sure that the United States continues to lead the world.

If confirmed, I look forward to addressing the many important issues facing the CFTC.

First, I believe there is nothing more important than a robust enforcement program in order to protect the integrity of our financial markets. We must aggressively pursue wrongdoers—whatever their position or size—and we must deter and prevent unlawful practices. Strong enforcement is vital to maintaining the public’s confidence in our markets. Therefore, I will make it a top priority to fulfill the CFTC’s responsibility to enforce the laws protecting these markets vigorously.

Second, the CFTC has promulgated almost all of the new rules required by Congress. Now the Commission must make sure that the rules work, that participants comply with the requirements and that the markets operate transparently and effectively. This is true not just for the swaps markets where the new rules have received great attention, but for the futures markets as well. As we implement important reforms, we must make sure the markets continue to serve their essential functions of providing hedging and price discovery for end users. In this regard, I look forward to listening to the concerns of traditional end users such

as agricultural stakeholders, as well as participants in the markets newly subject to the CFTC's jurisdiction.

The Commission must also work closely with international regulators. The derivatives markets are global, and we must ultimately achieve strong international regulatory standards. The United States should be a strong leader in developing such standards, as it has been in regulating the securities markets since the 1930s.

Third, the CFTC faces important technological and data challenges. The markets it regulates are, like all financial markets today, heavily dependent on technology. We must focus on the issues this creates and make sure the Commission has the up-to-date capabilities to do its job. In addition, the law requires the collection of vast amounts of data concerning the derivatives market. We must make sure this data is collected wisely and efficiently so that it can be used to monitor and mitigate excessive risk and bring much-needed transparency to these markets.

There are many other areas where the Commission has important responsibilities, such as final action on a position limits rule for physical commodities, margin requirements for uncleared swaps, and ensuring adequate protection of customer funds. If I am confirmed, I pledge to work tirelessly to lead the CFTC in fulfilling its responsibilities.

In conclusion, I consider public service the highest calling, and it would be an honor and a privilege to serve as the next chairman of the CFTC. If confirmed, I look forward to working closely with the Members of this Committee and your

colleagues as you conduct your important legislative and oversight role. Thank you for considering me for this important position and for the opportunity to appear before you today. I would be happy to answer any questions.

**Statement of J. Christopher Giancarlo**

**Before the United States Senate Committee on Agriculture, Nutrition and Forestry**

**March 6, 2014**

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Thank you Chairwoman Stabenow, Ranking Member Cochran and members of the Committee. I am honored to be here before you today as a nominee to serve as a Commissioner of the Commodity Futures Trading Commission (CFTC). I would like to thank Senate Minority Leader Mitch McConnell, for recommending me to the White House and President Barack Obama for nominating me. I thank both the majority and minority staffs for their assistance during the nomination process. I am also grateful to appear alongside my fellow nominees, Timothy Massad and Sharon Bowen.

With your permission, Madam Chairwoman, I would like to introduce members of my family who are here with me today from New Jersey. I am joined by my dear wife, Regina, and our three children, Emma, Luke and Henry. I am also pleased to introduce my mother, Mrs. Ella Jane Keegan, and my father, Dr. Hector Giancarlo. I thank our entire family for their support throughout this process.

I hail from a line of nurses and physicians and business entrepreneurs. They were children of simple emigrants who came to America to work hard and make a better life. They raised and educated their families and served their local communities. They volunteered, fought and died for our country in time of war. They would beam with pride were they alive to see one of their own here today.

I was the black sheep in the family by choosing law over medicine. I practiced law for 16 years in New York and London where I advised many early stage technology companies in bringing their products and services into US markets. In 2000, I joined a client firm that produced cutting-edge software that brought transparency to the pricing of currency options. I was then introduced to the global markets for swaps and

derivatives. I have served over a decade as a senior executive of one of the primary intermediaries in the world's wholesale financial markets, including financial and commodity swaps. I often describe the firm's business as operating exchanges for things that don't trade on exchanges. In 2005, the firm went public and is today listed on the New York Stock Exchange.

In September 2008, Lehman Brothers filed for Chapter 11 bankruptcy protection. Its failure was a consequence of the bursting of a "double bubble" of housing prices and consumer credit as lenders became concerned about a fall in property values and repayment of mortgages. A typical "run on the bank" ensued with rapidly falling asset values, preventing US and foreign lenders from meeting their cash obligations. This marked the beginning of a financial crisis that was devastating for far too many businesses and families.

Without question, counterparty exposures related to bilaterally executed over-the-counter (OTC) swaps helped amplify and spread the financial crisis. Many exposures were inadequately collateralized, causing swap users to record huge losses as counterparty defaults appeared likely. With little public information about bilateral exposures among swaps users, third-parties became less willing to provide credit to institutions that might face such losses. Fear for the stability of the US banking system forced the federal government to place emergency capital in the largest US banks and insurance companies at great expense to US taxpayers.

While US swaps markets continued to function during the financial crisis, trading liquidity dried up due to fears of counterparty failure. It became clear that financial market regulatory reform was needed. It was time for greater transparency in swaps risk exposure and market pricing. It was also time for US swaps intermediaries to be regulated, just as they were in non-US markets. And, most importantly, central counterparty clearing needed to replace bilateral clearing whenever possible to minimize potential risk.

I had been a proponent of central counterparty clearing since before the financial crisis. In 2006, I was involved in an independent effort by non-Wall Street banks to

develop a central clearing house for credit default swaps. During the drafting of the Wall Street Reform and Consumer Protection Act (Dodd-Frank), I publicly called for increased central counterparty clearing, regulation of trading platforms and increased regulatory and marketplace transparency.

Upon passage of Dodd-Frank in July 2010, I commended the work of the President and Congress to enhance the safety and soundness of the OTC derivatives markets. Since that time, I have been a consistent advocate for practical and effective implementation of the three pillars of Title VII of Dodd-Frank: enhanced swaps transparency, regulated swaps execution and central counterparty clearing. My support for these reforms is based not on academic theory or political ideology. It is based simply on practical experience.

But I am also a strong believer that vibrant, open and competitive markets are an essential element to a strong economy. Proper regulatory oversight can go hand-in-hand with open and competitive markets. But if excessive regulation artificially increases the cost of risk management, the overall economy will suffer. If confirmed, I will commit myself to ensuring the proper balance is met.

In the almost four years since the passage of Dodd-Frank, the CFTC has finalized over 80% of its rulemaking requirements, a higher percentage than its peer financial service regulators. I compliment the agency staff for their extraordinary work in implementing so much of Congress' mandate. Yet, I believe that regulatory effectiveness must be a higher priority than speed, especially when rules are likely to impact the risk hedging needs of America's growers and manufacturers. It is essential that we get the details right in implementing the core reforms of Title VII of Dodd-Frank. If confirmed, I look forward to bringing my practical business experience and legal judgment to bear in completing and fine tuning the CFTC's implementation of Dodd-Frank.

While my professional work over the past decade has been focused on financial swaps, I am very conscious of the CFTC's broad mission and that the US futures markets were initially created to hedge price exposure in agricultural commodities.



Those markets remain as integral as ever to the business of agriculture. It is essential that US futures and swaps markets continue to serve the needs of farmers, ranchers, feed yards, grain elevator operators, renewable fuel facilities, energy producers, refiners and wholesalers involved in the production, processing, transportation and utilization of the commodities that are the backbone of our economy. If confirmed, I will commit myself to attending to the needs and concerns of end-users utilizing swaps and futures to hedge their risks.

The goal of swaps market reform is to enhance the safety and soundness of hedging markets while maintaining broad and transparent liquidity. This allows producers, growers and manufacturers to reduce their balance sheet risk and further their ability to invest in America and American workers. For this to happen, the CFTC must fulfill its mission to implement the reforms of Dodd-Frank in a practical and workable manner while continuing to oversee and supervise these critical risk hedging marketplaces. If confirmed, I will work faithfully with my fellow Commissioners to further that essential mission.

On a final note, my nomination is to fill the seat vacated last year by Commissioner Jill Sommers, who served the CFTC and the American public with dedication and distinction. If confirmed, I will strive to serve as she did.

Thank you again for the honor of appearing before you. I will be pleased to answer your questions.

**Opening Statement of Sharon Y. Bowen**  
**Nominee to the U.S. Commodity Futures Trading Commission**  
**Before the United States Senate Committee on Agriculture,**  
**Nutrition and Forestry**  
**March 6, 2014**

Chairwoman Stabenow, Ranking Member Cochran, and other distinguished members of the Committee, I am honored to have been nominated by President Obama to serve as Commissioner of the Commodity Futures Trading Commission. I want to thank the Committee members and staff for meeting with me and making time for this nomination hearing, as well as Senator Gillibrand from my home state of New York.

I would like to take this opportunity to thank my family members who are here with me today, especially my incredibly supportive husband of twenty-seven years, Larry Morse. Although other members of my family could not be here, I want to thank them for their consistent love and support. Also for my family members who are no longer with us, I want to acknowledge the support and inspiration they instilled in me to do my best and be my best whenever I could. As the youngest of five children raised with modest means in the segregated, small town of St. Julien's Creek, Virginia, I understand the importance of being the voice of the under-represented and small business owners who have not had a seat at the table, as I do today.

My commitment to public service runs deep, and is not only evidenced by my role as the Acting Chair of the Board of Directors for the Securities Investor Protection Corporation (SIPC), but also by my personal contributions and leadership on behalf of my community. In order to serve your community, you must understand your community's strengths and challenges. I have been involved in numerous pro bono, educational, diversity and civic efforts that address critical issues related to the ethics and sustainability of the legal profession, as well the needs of the residents and families of New York City. I currently serve as a member of the Emeritus Board of New York Lawyers for the Public Interest, the Boards of New York City Economic Development Corporation, Northwestern University Law School, and, until recently, the New York City-based nonprofit, Public Education Needs Civil Involvement in Learning (PENCIL), through which my colleagues and I have partnered with middle schools in Harlem and the Bronx for over a decade.

I have served in several professional leadership positions, including co-chair of the Diversity Committee and co-chair of the Diversity Hiring

Subcommittee at my law firm, Latham & Watkins, LLP. I am also co-founder and head of Latham's Women Enriching Business (WEB) Task Force, whose mission is to create broader networks and productive business development relations for women. I personally implemented a number of diversity initiatives at Latham, including a Diversity Weekend event which resulted in higher applications and offer acceptances by diverse candidates and the Latham Diversity Scholars Program. I want to thank my partners and colleagues at Latham, especially my assistant, Audrey Leff, and staff who have been staunch supporters and friends during my twenty-five years at the firm.

My interest in finance started early. After receiving a degree in Economics from the University of Virginia, I attended business and law schools at Northwestern University, before moving to New York to begin my career in law. I have over three decades of experience as a securities lawyer focused on financial markets and regulations. I maintain a deep understanding of regulatory requirements and disclosure obligations, and I understand the importance of, and risks associated with, derivatives. A fair and efficient financial market not only helps investors, but also has a positive impact on farmers, ranchers, manufacturers, and ultimately, consumers and job creation.

As the Acting Chair of SIPC, I have significant experience with the issues and procedures of dealing with failed broker-dealers and futures commission merchants in the financial and derivatives markets. Early in my career, I worked on swaps and asset securitizations. I have advised companies and financial institutions in the purchase and sale of assets and distressed securities in the bankruptcy context. So I understand what happens when our markets don't function as expected. These experiences make me uniquely positioned to effectively help guide the CFTC as it finalizes regulatory rule writing of Dodd-Frank.

The next phase of the CFTC's mandate requires effective implementation of these rules, with the participation and coordination of regulatory bodies both inside and outside of the US. I believe my strong analytical skills and reputation for building and leading teams with diverse perspectives across the globe would bring a unique contribution to the CFTC. I firmly believe that the CFTC should cooperate and work in harmony with foreign regulators. At the same time, we must move forward in implementing the rules and mandate of Dodd-Frank. I know that Congress, in directing the CFTC to establish an expanded regime for financial oversight, recognized that excessive risk-taking in the swaps market contributed to the devastation that afflicted our economy in the wake of the financial crisis.

If confirmed, I would bring to my role as Commissioner an understanding of the securities and futures markets laws and regulations, the importance of both markets to the economy, and the terrible cost to the public when those markets fail. In many instances the regulatory framework of one cannot be readily applied to the other. Capital formation in the securities market is different from the management of risk and price volatility in the futures markets. Each has its own nuances that impact consumers and end-users. I recognize that our physical commodity markets need to be protected from excessive speculation and manipulation. And we must acknowledge that esoteric and other creative financial products don't always benefit consumers.

It would be an honor for me to bring my experience in finance and securities to my role as Commissioner of the CFTC, should I be confirmed. I have a record of bringing teams together to find solutions, and believe that my substantive experience and ability to bring my own voice to the table would be of value to a historically independent government agency like the CFTC. My door is always open and I am ready and willing to learn and bring the best of my experience to my role. I believe I have the knowledge and the integrity to foster open, competitive, and financially sound markets, and look forward to working with you in making our financial system stronger, and one that benefits everyone fairly.

Thank you for your time and consideration. I am happy to answer any questions.