

TESTIMONY
OF
ROBERT A. SCHWARTZ
Partner
Morgan, Lewis & Bockius
BEFORE THE
HOUSE COMMITTEE ON AGRICULTURE
CFTC Reauthorization: Stakeholder Perspectives
December 11, 2025

Good morning, Chairman Thompson, Ranking Member Craig, and Members of the Committee. I am Rob Schwartz, a Partner in the Futures & Derivatives Practice at Morgan, Lewis & Bockius. More importantly for today's purposes, however, I served at the Commodity Futures Trading Commission (CFTC) for thirteen years, including as its General Counsel under Chairman Rostin Behnam, and as Acting General Counsel under Chairmen Christopher Giancarlo and Heath Tarbert. During the time I spent at the agency, I had the privilege of being involved in most major issues to come before the Commission, from Dodd-Frank implementation and the MF Global bankruptcy to event contracts and the agency's first forays into digital assets. And as a longtime staff member, I also know how the CFTC functions internally. I hope that I can assist you today on either front—on the substance of the Commodity Exchange Act (CEA) and the CFTC's regulations, or on the agency's inner workings. Thank you for the opportunity to appear before you to support your work on CFTC Reauthorization.

The views I share are my own and do not represent those of Morgan Lewis, my colleagues, our clients, or any other person or organization.

The CFTC is a special agency, and I want to highlight three aspects of that.

First, the CFTC is a deliberative and bipartisan body in the truest sense. One of the many priceless sets of experiences I had at the agency was to sit many times behind closed doors with generations of Commissioners while they debated and deliberated

on important questions before the agency.¹ Democrats and Republicans of good faith would debate, sharpen their own thinking, compromise, and sometimes even convince one another to change their minds.

I believe that if the American people had visibility into that, they would be pleased to know what Washington is capable of. This is a highly technical field, and partisanship should not, and typically does not, dictate how the CFTC executes its mission. And from the perspective of a former staff member, I can tell you that the people who work at the CFTC overwhelmingly do not care if the agency is led by Democrats or Republicans. They look for leadership, expertise, and skilled problem solving, and they approach their work in the same dedicated way no matter what. I was personally fortunate to serve under high-quality leaders from both parties.

Second, I want to highlight the depth and breadth of knowledge that the Commission at full strength possesses. Congress designed it that way. The CEA directs the President to nominate individuals with “demonstrated knowledge in futures trading or its regulation, or the production, merchandising, processing or distribution of one or more of the commodities or other goods and articles, services, rights, and interests covered by” the statute and “seek to ensure that the demonstrated knowledge of the Commissioners is balanced” in those areas.²

That is a tall order. As you know, the CEA contains a sweeping definition of “commodity” that includes anything that underlies a futures contract.³ As a result, it covers assets ranging from the first seven agricultural commodities that Congress listed in the statute, to oil and gas; raw materials; precious metals; interest rates; credit indices; and exchange rates. Ten years ago, crypto joined the list.⁴

But despite the difficulty of achieving balance in those areas, during my tenure, Presidents of both parties achieved the goal. The Commissions under which I served included experts on agriculture, energy, financial products, international business, digital assets, and a great deal more. That matters, because there may be no other

¹ All such deliberations met the requirements to close a meeting under the Government in the Sunshine Act. *See* 5 U.S.C. § 552b.

² 7 U.S.C. § 2(a)(2).

³ *Id.* § 1a(9).

⁴ CFTC Rel. No. 7231-15, *CFTC Orders Bitcoin Options Trading Platform Operator and its CEO to Cease Illegally Offering Bitcoin Options and to Cease Operating a Facility for Trading or Processing of Swaps without Registering* (Sept. 17, 2015).

agency that touches so many areas of the economy. As former Chairman Tarbert put it, the CFTC is “the most important regulator most Americans have never heard of.”⁵

That is all before I get to the agency’s staff. CFTC economists, technical experts, lawyers, and others come from rural and urban backgrounds; have degrees that run the gamut from government and law to mathematics and hard sciences; include experts in digital assets; and in many cases have served in the military. Collectively, they bring a level and diversity of skill, expertise, and discipline worthy of the agency’s mandate. As General Counsel, I relied on them heavily, and now as a member of the private bar, my clients are glad they are there.

Third, and I believe as a result of points one and two, the agency is extremely effective. The Commodity Exchange Act and the people who administer it have ensured that this country’s derivatives markets have continued to function smoothly through good times and bad. I mentioned the collapse of MF Global, where \$1.6 billion in customer assets went temporarily missing but eventually were repaid;⁶ there was also the massive disruption to our economy from COVID-19, including when the price of oil dipped below zero;⁷ Russia’s invasion of Ukraine; and the fraud at FTX, where the CFTC-regulated subsidiary was untouched and continued to function as normal, and the Division of Enforcement held the wrongdoers to account.⁸ Americans can feel confident that the most important little agency they probably have never heard of is on the job.

* * *

I will conclude by saying that as impressive as it is, the CFTC can only be as strong as, not only its members and its staff, but the Commodity Exchange Act itself. With the benefit of the CEA, the United States has become the gold standard for derivatives regulation worldwide. But old statutes are like old friends—you should visit them from time to time. It is critical that Congress periodically inspect the machinery to ensure that it is equal to the task today and adaptable to the challenges waiting over the horizon. As we sit here, there probably are lurking in labs and

⁵ *Statement of Chairman Heath P. Tarbert Before the December 10, 2019 Open Meeting* (December 10, 2019), <https://www.cftc.gov/PressRoom/SpeechesTestimony/tarbertstatement121019>.

⁶ Congressional Research Service, *The MF Global Bankruptcy, Missing Customer Funds, and Proposals for Reform*, at 2 (Aug. 1, 2013).

⁷ Congressional Research Service, *Crude Oil Futures Prices Turn Negative*, at 1 (Apr. 22, 2020).

⁸ CFTC Rel. No. 8638-22, *CFTC Charges Sam Bankman-Fried, FTX Trading and Alameda with Fraud and Material Misrepresentations* (Dec. 13, 2022).

laptops around the world the seeds of new products and technologies that we cannot imagine, but that the Commission someday will contend with. Reauthorization is a part of making sure the agency is always equipped to carry out the mission.

I thank the Committee for its work and for the opportunity to assist in any way that I can.