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June 8, 2012

The Honorable Gary Gensler
Chairman
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st St NW
Washington, D.C. 20581

Dear Mr. Chairman:

I would like to continue our dialogue on the fiscal year 2013 budget request for the Commodity Futures Trading Commission (CFTC). We clearly share the goals of protecting the integrity and transparency of the commodity-based futures and swaps markets. However, I am concerned about the statistics and measurements that underlie such an excessive funding increase, \$103 million, or 50 percent above fiscal year 2012. Additionally, I am concerned about the lack of attention to information technology (IT) needs represented in this request compared to staffing increases. As you know, CFTC funding has increased 85 percent, and staffing 53 percent, since the financial crisis of 2008. The Commission has received funding increases in fiscal years 2011 and 2012 when most agencies have been cut over this time period. This reflects the great importance we both place on the Commission's responsibilities.

At the March 22 appropriations hearing, and on numerous other occasions, you have argued that the CFTC needs significantly more funding because the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank) gave the agency oversight of the swaps market, which you described as "eight times the size" of the CFTC's traditional jurisdiction, the futures market. This statement is based on the Bank for International Settlements' (BIS) \$700 trillion estimate of the global swap market's "notional value"; however, notional value is a measure of the abstract, paper value of financial instruments. The BIS explicitly states that the gross values estimate "provide(s) a more accurate measure of the scale of financial risk" than notional value because it "measure(s) the cost of replacing all existing contracts". The U.S. Office of the Comptroller of the Currency agrees that notional value "is generally not an amount at risk". As you know, the focus of Dodd-Frank was reducing systemic risk. The gross value of the swaps market is approximately \$20 trillion, a \$680 trillion difference or 35 times smaller than the amounts cited in your justification— which is quite illuminating given the 50 percent funding increase you are seeking. This in no way minimizes the size of the swaps market, but it helps to set the record straight. Moreover, the CFTC has never looked to the dollar size of the market as a foundation for its budget request. One would hope that one hundred \$50,000 deals by an entity

would receive more scrutiny than a single \$5 million deal. Lastly, I would point out that while Dodd-Frank has been law for nearly two years, CFTC still has not defined what a swap is.

Moreover, the CFTC does not historically base its budget request on the dollar size of the market. The CFTC is a principles-based regulator, and a more accurate measurement to gauge resource needs are the number of transactions and participants under its oversight. The daily volume of the futures market, the CFTC's traditional jurisdiction, is 15 million trades or 3,000 times the daily volume of the swaps market- not "eight times the size" as being claimed. Further undercutting the agency's budget request, the number of registered entities the CFTC regulates has only grown by a marginal 5 percent over the past decade and under Dodd-Frank that number will only increase by an additional .03 percent. Whether these regulated "players" are salespersons that peddle a Ponzi scheme or a large company like MF Global that lost over a billion dollars in customer funds, it is innocent farmers, ranchers, and producers who pay the price for a lack of misplaced resources.

I agree with the President that "the CFTC is in need of critical IT upgrades to modernize its tools". This is the most effective, modern way for CFTC to fulfill its mission of protecting Americans from abusive Wall Street practices while preserving precious taxpayer resources. Over the past two years, I have set aside \$92 million dollars for the highest priority IT needs. Nonetheless, CFTC has marginalized IT in order to hire more personnel. It is unacceptable that CFTC still receives and enters over 5,000 paper forms by hand each quarter. The marketplace today trades almost 80 percent electronically compared to 10 percent electronically in the early 1990s. Yet your budget requests over a 33 percent increase in staff. It's time to bring CFTC into the 21st century and use technology more effectively to accomplish the mission.

As we move through the fiscal year 2013 appropriations process, I hope all parties involved will use accurate and relevant statistics in order to facilitate an open debate that will result in a funding level that balances the true needs of the CFTC with the needs of taxpaying Americans. As a steward of lean and effective government, I will continue work with you closely on behalf of the American taxpayer.

Sincerely,



Jack Kingston
Chairman
Subcommittee on Agriculture, Rural Development,
Food and Drug Administration, and Related
Agencies