Statement by
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Thank you, Chairman Van Hollen, Ranking Member Hagerty, and members of the Subcommittee. I appreciate the opportunity to testify before you today on the President's fiscal year 2025 budget request for the Commodity Futures Trading Commission (CFTC or Commission).

For over a century, derivatives markets have played a key role in the U.S. economy, promoting economic growth and contributing to financial stability and the predictability of prices that impact the daily lives of all Americans. This October, the CFTC will commemorate its 50th anniversary as an independent agency with exclusive jurisdiction over futures trading in all commodities. This milestone provides a natural inflection point as we consider how the past 50 years will impact the next.

Over the last nearly 15 years, I have witnessed the massive expansion of the CFTC's jurisdiction through Title VII of the Dodd-Frank Act, organic growth in our historic markets, the introduction of new products, including the digital commodity asset class, and the significant expansion of market participants, both institutional and retail as a result of technological disruption. To put a number on it, trading volumes in exchange-traded futures and options have more than doubled; and the swaps market is now over $350 trillion,[1] which is approximately half of the estimated $715 trillion global market. Given this exponential global growth, and working individually, through our operating divisions, and the Office of International Affairs (OIA), I have prioritized a collaborative working relationship with our domestic and international regulatory partners to ensure regulatory harmonization, market efficiency, and reducing unintended and negative consequences to U.S. derivatives markets.

As Chairman, I am focused on: identifying and addressing regulatory gaps and uncertainty; strengthening the agency organizationally so that we are an operationally effective, diverse, and

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[1] CFTC, Weekly Swaps Report, [Weekly Swaps Report | CFTC].

competitively attractive employer; better understanding and incorporating the digital asset ecosystem and artificial intelligence (AI) into our decision making; and addressing the need for guidance regarding emerging product and market structures such as voluntary carbon credit (VCC) derivative contracts and vertical integration.

Today, technology is driving change in the financial markets, and the CFTC must keep pace in order to fulfill its mission and Congressional mandate. Our work centers on customer protection and market resiliency, while supporting continued growth and innovation that will take the agency into the next 50 years.

To date, and thanks to my fellow Commissioners and the incredibly hardworking staff of the CFTC, the agency has stayed on course following an agenda I outlined in early 2023 to consider and vote on roughly 30 new regulatory and policy matters in addition to all proposed rules and orders from the prior year. I bucketed these actions into themes that address: risk management and resilience; customer protections; efficiency and innovation; reporting and data policy; duplicative regulatory requirements; and international comity. Fundamental to all of these themes is the need to update our ruleset to address the derivatives industry's current course, which is driven by technology and seeks to both leverage and, in some instances, move away from traditional and familiar models. The dominant disruptors of our current era raise important questions about conflicts of interest, the strength of capital, margin, and segregation requirements, the role and responsibilities of self-regulatory organizations, affiliate risk management and customer protections.

As the CFTC's Chairman, I have made very conscious and intentional decisions aimed at ensuring that we not only exemplify good stewardship of taxpayer dollars, but also provide genuine organizational support for our valued employees. My first priority as Chairman included directing an agency-wide strategic approach to human capital management focused on rebalancing and upskilling our workforce through succession planning and building a bench of future expertise that brings diversity of thought, experience, and background. It has been over four years since our people left the confines of their offices and we assumed an expansive telework posture. I believe that while we have been productive and achieved success in certain mission critical functions, we are keenly aware of the benefits of being together in person in the office. In fact, we have heard from some of our staff and supervisors their desire to return to the office. A resolution to the impasse in our negotiations will allow staff to plan their lives accordingly. The CFTC has always been a place that valued its peoples' needs to balance work and home life, and we will continue to do so as we negotiate the next steps.

In addition, I have led reforms in how the Commission collects, interprets and reports on market data. This data connects our infrastructure, security, surveillance, analytical, and enforcement needs and duties, and will significantly impact how we meet our mission in the tech-driven future.[2] The CFTC has, under my direction, moved to the cloud, achieved significant advancement in cybersecurity protections, reorganized, increased the visibility of, and added new leaders to, our Division of Data (DOD)—including our first Chief Data Scientist who will lead our AI training and implementation-- and launched a CFTC-wide technical training initiative. Our goal is the long game: building capabilities over time towards organizational maturity and technical achievement.

Additionally, I am proud to say that under my direction, the CFTC's new AI Task Force issued a request for comment (RFC) on the use of AI in CFTC-regulated markets.[3] The AI RFC is part of a greater vision to advance analytical capabilities through building talent, leveraging the cloud, and developing a forward-looking culture. We have a process in place for exploring AI use cases to help the agency better monitor, regulate, surveil, identify pockets of stress, and enforce compliance. We are currently reviewing the RFC comments to better understand what, if any, policy changes are needed. Further, the Office of Customer Education and Outreach (OCEO), the agency's education arm, issued a Customer Advisory in January warning the public about emerging AI-driven fraud and scams.[4] Consistent with mandates by the Administration and OMB guidance, I recently announced that our Chief Data Officer and DOD Director will serve as the

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[2] *See, e.g., See* Rostin Behnam, Chairman, CFTC, Keynote of Chairman Rostin Behnam at the 2023 U.S Treasury Market Conference (Nov. 16, 2023), Keynote of Chairman Rostin Behnam at the 2023 U.S. Treasury Market Conference | CFTC.

[3] *See* Press Release Number 8853-24, CFTC, CFTC Staff Releases Request for Comment on the Use of Artificial Intelligence in CFTC-Regulated Markets (Jan. 25, 2024), CFTC Staff Releases Request for Comment on the Use of Artificial Intelligence in CFTC-Regulated Markets | CFTC.

[4] *See* Press Release Number 8854-24, CFTC, CFTC Customer Advisory Cautions the Public to Beware of Artificial Intelligence Scams (Jan. 25, 2024), CFTC Customer Advisory Cautions the Public to Beware of Artificial Intelligence Scams | CFTC.

CFTC's first Chief Artificial Intelligence Officer responsible for promoting the agency's use of AI and guide us in managing AI risks.[5]

Said a bit differently, my goal is to modernize the CFTC to ensure our continued success well into the future. We are seeing changes in market structure and in the demographics of market participants. I believe that institutions, products, and processes that prove valuable enough to producers, consumers, investors, and the general public—however such value is determined—will inevitably find a way to integrate with established regulatory systems. It is our role to ensure market safety and integrity by enforcing existing standards under our governing statute and regulations, and by determining new approaches when warranted and consistent with the law.

The proposed budget before you today reflects the minimum resources needed for the CFTC to perform its role as the primary regulator of the U.S. futures, swaps, and options markets, and to properly enforce the law to protect markets and market participants. It provides the resources we absolutely need to ensure that the agency has the appropriate and necessary capabilities to keep up with technological innovation shaping our markets in 2024 and beyond. It optimizes resources to ensure the protection of the market data we receive and keeps the agency's systems and infrastructure shielded from emerging risks and cyber threats. It funds oversight and surveillance responsibilities generated by an increasing number of derivatives exchanges offering products that require consideration of new and emerging risks. Additionally, the budget ensures that our enforcement program continues its proactive approach in identifying and addressing misconduct within our ever expanding and transforming markets. This is especially critical in light of growing retail participation and the need for greater protections in the digital asset space. The planned prioritization in these areas will help the CFTC fulfill its mission in a rapidly changing marketplace.

The CFTC's Budget Request for Fiscal Year 2025

The Commission is requesting a total of $399 million and 725 FTE for FY 2025. The request for its operational budget was developed with the "Fiscal Responsibility Act of 2023" in mind. With the understanding that the budgetary challenges we are currently addressing will likely bleed into

[5] *See* Press Release Number 8903-24, CFTC, Chairman Behnam Designates Ted Kaouk as the CFTC's First Chief Artificial Intelligence Officer (May 1, 2024), Chairman Behnam Designates Ted Kaouk as the CFTC's First Chief Artificial Intelligence Officer | CFTC.

the coming year, and that some difficult decisions will be made, we have sought to focus on the most critical areas to reach this number that represents about a 2.9 percent decrease below the FY 2024 budget request, and just over a nine percent increase above the FY 2023 and 2024 enacted budget.

Division of Enforcement (DOE)

The Commission requests $74 million and 163 FTE to protect the public and preserve market integrity by detecting, investigating, and prosecuting violations of the Commodity Exchange Act (CEA) and Commission regulations through the activities of its Division of Enforcement. This is an increase of $5.5 million over the FY 2024 enacted budget.

The Commission's exercise of its enforcement authorities to address misconduct that has a direct impact on CFTC jurisdictional markets, affects the larger economy, causes public harm, or interferes with market integrity is one facet of our approach to innovation and the evolution of financial markets. This increase will, among other things, support the development of innovative approaches utilizing cutting edge technologies and upskilling of Commission staff with the goal of identifying misconduct earlier and addressing bad actors expediently.

A review of the filings for FY 2024 demonstrates that while digital asset related cases are rightfully demanding significant attention,[6] DOE is ensuring that we take necessary action in all of our directly regulated markets and in the retail fraud space involving precious metals and forex (foreign exchange). We are also building even stronger networks and partnerships through cooperative enforcement efforts with other civil and criminal agencies domestically and internationally. Looking at the matters that have stood out this fiscal year, several in the agricultural, energy, and financial sectors exemplify our unwavering commitment to ensuring that registrants meet their regulatory obligations, that customers receive the protections they deserve, that our markets remain free from manipulation and fraud, and that misconduct in the digital asset space receives swift attention.

[6] *See, e.g.* Ian McGinley, CFTC, Remarks of Enforcement Director Ian McGinley at the City Bar White Collar Institute: "Trends in the CFTC's Recent Crypto Enforcement Actions" (May 23, 2024), Remarks of Enforcement Director Ian McGinley at the City Bar White Collar Institute: "Trends in the CFTC's Recent Crypto Enforcement Actions" | CFTC.

Nowhere have we been more active than in the digital asset space. In FY 2023, we brought 47 actions involving conduct related to digital commodities, representing more than 49 percent of all CFTC actions filed during that period. A staggering statistic given the fact that no federal agency retains any direct regulatory authority over the underlying (or cash) digital commodity asset market. We can only act on digital asset fraud or manipulation when we uncover or discover anomalies through regulated market surveillance and oversight, or through tips and complaints we can pursue. With many agency resources which are not considered in our budget appropriation being allocated to an unregulated market, I fear the current trajectory is unsustainable. Namely, we will continue to see rampant fraud and manipulation in the digital asset market that will hurt American customers, and possibly infect the traditional financial markets.

To date, FY 2024 is demonstrating a similar cadence. The lack of legislation addressing the regulatory gap over the digital commodity asset spot market has not hindered the public's enthusiasm for digital assets, and I continue to believe Congress must act, as the 2022 FSOC (Financial Stability Oversight Council) report highlighted[7], and as I have mentioned publicly on multiple occasions.[8] Until such time, the Commission will continue to use its expertise and the tools it has to protect our markets and the public.

Division of Market Oversight (DMO)

The Commission requests $36 million and 88 FTE for the Division of Market Oversight to continue its commitment to maintaining the integrity of the markets as it reviews new applications and monitors ongoing compliance with core principles and regulatory requirements.

DMO is expecting growth in 2024 and 2025 given the growing interest in offering novel, innovative, and increasingly complex products. Currently, there are seven exchange or DCM (designated contract market) applications in review. Each registration application requires both intra-divisional and inter-divisional teams of staff to review the application and the applicant's planned operations, and determine compliance with the CEA and Commission regulations. The

[7] Financial Stability Oversight Council, *Report on Digital Assets and Financial Stability Risks and Regulation* (Oct. 2022), Report on Digital Asset Financial Stability Risks and Regulation 2022 (treasury.gov).
[8] *See, e.g.,* Rostin Behnam, Chairman, CFTC, Keynote of Chairman Rostin Behnam at the ABA Business Law Section Derivatives & Futures Law Commission Winter Meeting (Jan. 26, 2024), Keynote of Chairman Rostin Behnam at the ABA Business Law Section Derivatives & Futures Law Committee Winter Meeting | CFTC.

Division will need to train and dedicate additional staff to registrations as the number and variability of applicants continues to grow.

In FY 2025, the Commission's system safeguards examinations—an essential component of the examination program for DCMs, SEFs (swap execution facilities), and SDRs (swap data repositories)—will remain crucial to economic stability. Effective cybersecurity practices and system safeguards of regulated entities requires increased direct surveillance and vigilance for the scope of examinations conducted each year.

With respect to rule and product filings, in FY 2023, the Commission continued to receive a diverse array of product filings from exchanges seeking to meet market participants' varying needs, including many innovative products. The number of filings and the diversity of product offerings require additional resources to ensure Division staff can complete their reviews, and stay abreast of market developments and the technological advancements underlying these new products and attendant rules. For example, since 2021, there has been a significant uptick in the number of event contracts listed for trading by CFTC-registered exchanges. From 2006 through 2020, DCMs listed for trading an average of approximately five event contracts a year. In 2021, this number increased to 131, and the number of newly-listed event contracts per year has remained at a similar level in subsequent years.

With respect to rulemakings, in FY 2024 the Division continues to plan and undertake rulemakings to amend Commission rules, as appropriate, to address changes in the constantly evolving derivatives markets. The Division expects efforts in proposing, adopting, and implementing rules to ensure the Commission's regulatory framework keeps pace with recent market innovations, to continue in FY 2025.

Division of Clearing and Risk (DCR)

Market events and the volatility in the global financial markets linked to geopolitical issues, continued pandemic recovery and reformation, weather and climate-related risk, and monetary and fiscal policy consistently raise challenges related to liquidity and margin requirements. These factors also fuel active debate on the need for additional tools and resources to manage risks, including collateral management. Given the importance of clearing to the financial system, and the role of U.S.-regulated central counterparties (CCPs) as among the strongest in the world, the Commission requests $35.6 million and 86 FTE for the Division of Clearing and Risk. These funds are necessary to maintain current capabilities and expand examination and surveillance of activities that will impact clearing markets, credit, liquidity, and modeling risks, enhance cyber and operational resilience, and support the safety and soundness of derivatives clearing organizations (DCOs).

Currently, the CFTC has ten registered DCOs in the United States, including two DCOs that have been designated as systemically important by FSOC. In addition, the Commission regulates five registered DCOs located outside the United States, including some that have a direct impact on U.S. markets, given the volume of swaps and futures cleared for U.S. entities. DCO examinations, which are time and staff resource intensive, help the Commission identify issues that may affect a DCO's ability to identify, manage, and monitor its risks. DCOs represent single critical points of managing risk in the global financial system where the failure or disruption to the functioning of these DCOs could create or increase the risk of liquidity or credit problems spreading among other financial institutions.

There are four DCOs outside the United States exempted from registration by the Commission that are permitted to clear proprietary swap transactions for U.S. entities. Although the CFTC relies principally on foreign authorities for oversight, it does engage in limited monitoring and surveillance of these exempt DCOs. The Commission maintains an active, data-driven quantitative risk surveillance function. It expects to continue investing additional resources in human capital, data, and technology to improve its current analytical capabilities and keep up with growth in both the scale and complexity of risk transmission in the derivatives markets - both cleared and uncleared.

Market Participants Division (MPD)

The Commission requests $28.5 million and 69 FTE for the Market Participants Division to maintain effective oversight of registered market participants using current delegated authorities and improved cooperative oversight policies. The CFTC oversees the registration and compliance of thousands of derivatives market participants, including swap dealers (SDs), major swap participants (MSPs), Futures Commissioners Merchants (FCMs), retail foreign exchange dealers (RFEDs), introducing brokers (IBs), commodity trading advisors (CTAs), commodity pool operators (CPOs), floor brokers, and floor traders. MPD also oversees the self-regulatory organizations (SROs), including the Chicago Mercantile Exchange (CME) and the National

Futures Association (NFA), by assessing whether the SROs' compliance programs over member firms meet established regulatory standards.

Regulated market participants are a cornerstone of the Commission's regulatory framework. To date, 62 registered FCMs hold more than $474 billion in customer funds, and 106 registered SDs collectively transact hundreds of trillions in notional value swap contracts annually, serving as a vital source of liquidity for financial institutions and commercial end users seeking to hedge their risk. As such, the CFTC directs its registration and compliance resources to provide critical policy and regulatory guidance to registered market participants, both directly and in coordination with the SROs. In addition, the Commission oversees the National Futures Association (NFA) in its role implementing delegated authorities to register and oversee compliance by registered market participants. The Commission ensures that registration rules, standards, and reporting requirements continue to be responsive to the needs of the evolving marketplace.

Division of Data

The Division of Data develops and implements the CFTC's enterprise data strategy, providing the specialized technical, analytical, and related services necessary for the Commission to standardize, acquire, process, examine, govern and exploit mission critical market and industry data. As the agency's designated authority on data issues, DOD provides CFTC regulatory and enforcement staff with the data and analytical capabilities needed to perform mission work, develops and oversees data sharing and protection agreements with external entities, and enables policymakers to make data-driven decisions for overseeing the U.S. derivative markets. In accordance with this mission, the responsibilities of DOD include establishing the Commission's data strategy, data standards, data architecture and governance, and building/maintaining the agency's core data infrastructure. The Commission requests $42.1 million and 41 FTE to continue leveraging cloud and other new technology to enhance and transform its ability to collect, analyze and draw informed conclusions from market data to both conduct and support effective enforcement actions, oversee rapidly evolving markets, and formulate sound regulatory policy.

Whistleblower Incentives and Protection

A key to the effectiveness of our enforcement division is the CFTC's whistleblower program. The Dodd-Frank Act established the Customer Protection Fund[9] that supports our Whistleblower Program[10] and the OCEO. As of FY 2023, the Whistleblower program has issued 41 orders granting awards totaling almost $350 million since its inception in FY 2010.[11] In fiscal year 2024, the program has, thus far, awarded $18 million to whistleblowers. The total sanctions ordered in all whistleblower-related enforcement actions has surpassed the $3 billion milestone.

As this Committee knows, the overwhelming success of the Whistleblower Program has unintentionally led to the potential for disruptions in these two vital offices due to their funding mechanisms. In addition to the importance of a long-term fix to avoid depletions greater than the total balance of the fund, I believe Congress should amend the statutory provisions to clarify the permitted uses of the Customer Protection Fund by the OCEO.[12] This change would allow the Commission to implement a host of new investor protection programs and provide information aimed at ensuring American families have the knowledge and tools to not only protect themselves from fraud and manipulation, but to more fully engage with the Commission and the markets we oversee.

Conclusion

I know I speak for all the Commissioners when I thank CFTC staff for their commitment to the agency and its mission. My team and I are working closely with staff and their union representatives in order to find a suitable work posture, post-pandemic, that honors the importance of being present and together in the office with appropriate flexibility, and ensures our accountability as good stewards of taxpayer money. The agency's long-term health and success depend on it.

As we move through 2024, I am proud of the CFTC's undeniable record of using regulation, innovation, and collaboration to ensure our markets function well, and of providing risk

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[9] CEA § 23(g), 7 U.S.C 26(g).

[10] COMMODITY FUTURES TRADING COMMISSION WHISTLEBLOWER PROGRAM, CFTC's Whistleblower Program | Whistleblower.gov.

[11] *See* CFTC, *FY 2023 Whistleblower Program & Customer Education Initiatives 2023 Annual Report* (Oct. 2023), FY 2023 Whistleblower Customer Education Report to Congress.pdf.

[12] *See* CEA section 23(g)(2); 7 USC 26(g)(2).

management and transparency for all stakeholders, including, most notably, America's commercial end-users who rely on derivatives markets to manage risk. More than ever, in these uncertain times both domestically and internationally, we need thorough and thoughtful regulation to ensure confidence and accountability in the derivatives markets. To continue delivering results to the derivatives markets and American public, we need consistency and certainty so that we can allocate resources towards critical and multi-year investments.

Thank you again for the opportunity to appear before you today. I look forward to your questions.