

January 23, 2019

The Honorable J. Christopher Giancarlo
Chairman
Commodity Futures Trading Commission
1155 21st St. NW, Washington DC 20581

cc: The Honorable Brian Quintenz, Rostin Behnam, Dawn DeBerry Stump, and Dan Berkovitz
Commissioners
Commodity Futures Trading Commission
1155 21st St. NW, Washington DC 20581

Dear Chairman Giancarlo:

I am writing to request information about the impact of the federal government shutdown on the Commodity Futures Trading Commission's (CFTC) ability to effectively regulate and oversee the nation's financial markets. President Trump's shutdown is now the longest in United States history, and while other financial regulators are funded outside of the traditional appropriations process, your agency has been operating under shutdown plans with significantly reduced operations for over one month. Given the important role that your agency plays in overseeing financial markets and protecting investors, consumers, and the public, it is important that I fully understand the difficulties facing the CFTC and the implications of a prolonged government shutdown.

The CFTC serves as one of the primary agencies responsible for regulating financial markets and enforcing laws that protect consumers, investors, and the general public. The agency regulates and polices the derivatives market and works to "lower the risk...to the economy and the public."¹ The CFTC ensures that "farmers, ranchers, producers, commercial companies, municipalities, pension funds, and others" are able to function in the futures and swaps markets.²

The CFTC has seen its tools stripped since the shutdown began. Approximately 11% of CFTC staff are working, leaving the agency with only 77 employees, and capable of addressing only "imminent risk to the safety of human life or the protection of property."³ Efforts to adopt rules

¹ CFTC, "Mission & Responsibilities," <https://www.cftc.gov/About/MissionResponsibilities/index.htm>.

² *Id.*

³ Norton Rose Fulbright, "Impact of partial US government shutdown on federal financial regulatory agencies," Lillian Cardona, January 5, 2019, <https://www.regulationtomorrow.com/us/impact-of-partial-us-government-shutdown-on-federal-financial-regulatory-agencies/>.

under the Dodd-Frank Act have stalled; ongoing work to regulate cryptocurrency has stopped;⁴ staff is not working to issue commodity markets reports; and most other activities have ceased.⁵ According to its own guidelines, the CFTC “expects that the vast majority of the agency’s operations will cease.”⁶

Recent reports also suggest that if the shutdown continues, first-quarter economic growth could come “close to or even below zero.”⁷ And some analysts believe the shutdown is “no longer just a political sideshow, it’s a real recession risk.”⁸ As the shutdown continues and the economy is destabilized, your agency’s role in regulating the securities markets, protecting investors, and safeguarding Americans’ savings will become even more important. In order to better understand the impact of the shutdown on the financial security of the American people, and to fully prepare for the risks of a further extended shutdown, I request answers to the following questions by February 2, 2019.

1. How has the current government shutdown affected your ability to oversee financial markets and protect investors? Please describe all operations that have ceased or decreased since December 22, 2018 as a result of the shutdown.
 - a. How many enforcement actions has the agency initiated, how many settlements has it reached, and how many judgments has it secured since December 22, 2018? How many similar actions, settlements, and judgments occurred during the same time period in 2017-18?
 - b. How many new applications for designated contract markets, swap execution facilities, swap data repositories, and foreign boards has the Division of Market Oversight reviewed since December 22, 2018? How many applications did you review during the same time period in 2017-18?
 - c. How many reports or research products has the Office of the Chief Economist provided to the Commission and Commission staff since December 22, 2018? How many were provided during the same time period in 2017-18?
 - d. How many new or amended rules has the CFTC initiated, begun notice and comment for, or finalized since December 22, 2018? How many of these actions did the agency take during the same time period in 2017-18?
 - e. How many industry filings has the CFTC reviewed since December 22, 2018? How many filings did you review during the same time period in 2017-18?
2. How would a continued lapse in appropriations impact your ability to effectively oversee financial markets?

⁴ Coindesk, “How the US Government Shutdown Is Halting Crypto Progress on Wall Street, Nikhilesh De and Zack Seward, January 14, 2019, <https://www.coindesk.com/how-the-us-government-shutdown-is-halting-crypto-progress-on-wall-street>.

⁵ *Id.*; U.S. Commodity Futures Trading Commission, “CFTC Plan for Lapse in Appropriations,” December 18, 2018, <https://www.cftc.gov/sites/default/files/2018-12/CFTCPlanLapseAppropriations121818.pdf/>.

⁶ U.S. Commodity Futures Trading Commission, “CFTC Plan for Lapse in Appropriations,” December 18, 2018, pp. 1, <https://www.cftc.gov/sites/default/files/2018-12/CFTCPlanLapseAppropriations121818.pdf/>.

⁷ Politico, “Recession warnings pile up as shutdown wraps up fourth week,” Ben White, January 17, 2019, <https://www.politico.com/story/2019/01/17/government-shutdown-recession-economy-1092089>.

⁸ *Id.*

- a. Is the CFTC at risk of having to shut down currently ongoing activities or send additional employees home?
 - b. Is the CFTC at risk of losing the ability to effectively monitor for emergencies, including those that include “risk to the human life or protection of property[?]”
3. How will you adapt in the event that the shutdown continues for additional weeks or months? Please list all options your agency has for continuing important operations in the event of a continued shutdown.
4. Is your agency prepared to deal with an economic downturn during or in the aftermath of the government shutdown? Please describe any preparations or guidelines for dealing with such an emergency during a government shutdown.

Sincerely,



Elizabeth Warren

United States Senator