



**Written Submission of Benjamin Schiffrin, Director of Securities Policy, Better Markets
Before The U.S. House Committee on Agriculture
“CFTC Reauthorization: Stakeholder Perspectives”
Thursday, December 11, 2025, 10:00AM ET**

Good morning, Chairman Thompson, Ranking Member Craig and Members of the Committee. Thank you for the invitation to testify today. My name is Benjamin Schiffrin, and I am the Director of Securities Policy at Better Markets, Inc., a non-profit, non-partisan, and independent organization founded in the wake of the 2008 financial crisis to promote the public interest in the financial markets, support financial reforms of Wall Street, and make the financial system work for all Americans.

I. Introduction

This year, 2025, marks the 50th anniversary of the creation of the Commodity Futures Trading Commission (“CFTC”). Now is an important time for the Committee to consider how to build upon the long history of the agency and work towards reauthorization legislation, the last of which expired at the end of the fiscal year (“FY”) in 2013.¹ Today I will raise a number of issues related to the CFTC worthy of consideration in your legislative effort.

History of the CFTC

Recognizing the growing complexity, importance and volume of the commodity futures markets, Congress enacted the Commodity Futures Trading Commission Act in 1974, providing for the agency to be established the next year. This legislative effort grew out of a long history of policymakers responding to public demand for more oversight of the essential markets that help create prices for everyday essentials like cotton, rice, mill feeds, butter, eggs, potatoes and grains – and later, metals and energy products. Reflecting the necessity for a dedicated, independent regulator for these quickly expanding market areas, Congress shifted oversight out of the U.S. Department of Agriculture (“USDA”) and into an expert agency with exclusive jurisdiction over futures trading in a wide range of commodities.

¹ Congressional Research Service. “Commodity Futures Trading Commission: Proposed Reauthorization in the 114th Congress.” *CRS Report 44231*, August 3, 2016. Available at: <https://www.everycrsreport.com/reports/R44231.html>

Later, in the 1990s, markets continued to evolve and were met with increasing complexity and the onset of several market manipulation scandals.² Then, late in the decade, the use of financial derivatives grew both in size and complexity. These new financial products, allowing financial firms to make leveraged bets on the performance of financial assets like mortgages, were exempted from regulation under a 1993 interpretation of the Commodities Exchange Act (“CEA”) by the CFTC.³ Seeing this market explosion and fearing future financial instability, in 1998, the CFTC Chair Brooksley Born put out for comment a Concept Release for feedback that solicited the public’s views on amending the 1993 loophole and applying a regulatory framework to financial derivatives using existing authorities of the agency.⁴

Unfortunately, instead of responding to these emerging risks, Congress instead first passed a six-month moratorium on the CFTC exercising oversight of financial derivatives and then enacted the Commodity Futures Modernization Act of 2000 (“CFMA”). This legislation foreclosed the CFTC’s ability to regulate these “over-the-counter” derivatives by explicitly exempting them from oversight.⁵

New Authorities After the Global Financial Crisis

The regulatory gaps created by this forbearance ultimately culminated in the 2008 global financial crisis, when financial derivatives operating in the shadows amplified the risks associated with predatory, subprime mortgage lending and threatened global economic stability. Congress then responded by passing the Dodd-Frank Wall Street Reform Act of 2010 (“Wall Street Reform”), which provided the CFTC with the responsibility to oversee these previously opaque financial instruments.⁶ This included new mandates for trading transparency, trade reporting, business conduct standards, registration of swap dealers and major swap participants and central clearing.⁷

In short, the 50-year history of the CFTC demonstrates that the agency is both deeply rooted in, and skilled at, supporting producers in our agricultural markets, but also capable of responding to new and emerging issues in the financial marketplace – but only if given the appropriate authorities and resources by Congress. When Congress fails to provide the proper support for market oversight, novel products emerge and gaps develop, and even a willing and

² Dumas, Cantrell. “Origins of the CFTC: Protecting the Integrity of Commodity Markets.” *Better Markets*, April 21, 2025. Available at: https://bettermarkets.org/wp-content/uploads/2025/04/Fact_Sheet_Origins_of_CFTC-4.18.25.pdf

³ Commodity Futures Trading Commission. “Over-the-Counter Derivatives: Concept Release.” *Fed. Reg.* 26114, May 12, 1998. Available at: <https://www.cftc.gov/sites/default/files/opa/press98/opa980512.htm>

⁴ *Id*

⁵ For a discussion of the history that led to the passage of the CFMA, *see* Fischer, Amanda. “We’ve Seen this Movie Before.” *Better Markets*, September 25, 2025. Available at: <https://bettermarkets.org/wp-content/uploads/2025/09/Weve-Seen-This-Movie-Before-Crypto-Fact-Sheet-9.25.25.pdf>

⁶⁶ P.L. 111-203

⁷ *Id*, Title VII

able CFTC is unable to meet the moment. When this happens, it leads to disastrous consequences for investors, customers, producers and the wider economy.

II. A Critical Moment for the CFTC

A Volatile Moment for Producers and Consumers

Now is a critical moment for the core mission of the CFTC. Agricultural markets are facing significant strain due to a multitude of factors, including the imposition of tariffs, a trade war that makes the export market more difficult and Administration immigration policy, which has created labor disruptions in some parts of the industry.⁸ For example, according to the American Soybean Association, “growers find themselves in a precarious position as the 2025 harvest season wraps up... November futures prices were between 25 percent to 30 percent lower than at the same point in 2022.”⁹ The Association likewise reports that the affordability crisis facing so many Americans is also being felt by farmers, with “elevated prices for land, machinery, seeds, pesticides and fertilizers.”¹⁰ A September 2025 survey from the National Corn Growers Association (“NCGA”) reveals that 46 percent of U.S. farmers believe the nation is nearing a farm crisis and 65 percent are more concerned about finances than they were a year ago.¹¹ And while the cattle market is experiencing generally strong performance, the cattle futures market has experienced significant volatility, with record highs soon followed by markets hitting “limit down” thresholds – or fail safes designed to mitigate market panics – on news of the Administration potentially opening up Argentinian beef imports.¹²

These financial strains are starting to have a downstream impact. In the second quarter of 2025, the Federal Reserve Bank of Minneapolis reported that 93 farm operations filed for bankruptcy, up from 88 in the first quarter of 2025 and nearly double the 47 at the end of 2024.¹³ Separate data from *Bloomberg* found that when counting small farms and fisheries, bankruptcies

⁸ Schulz, Bailey. “American farmers warn this year feels especially dire. What happens next?” *USA Today*, September 15, 2025. Available at: <https://www.usatoday.com/story/money/2025/09/15/farmers-corn-soybean-economic-pressure-profits/86091737007/>

⁹ Holland, Jacquie and Scott Gerlt, PhD. “The Rising Cost Squeeze: Soybean Farmers Face a Third Year of Losses.” *American Soybean Association*, December 3, 2025. Available at: <https://soygrowers.com/news-releases/the-rising-cost-squeeze-soybean-farmers-face-a-third-year-of-losses/>

¹⁰ *Id*

¹¹ Eckelkamp, Margy. “Farmers Alarmed: U.S. Nearing Agricultural Economic Crisis — Steps to Reverse Course.” *AgWeb.com*, September 18, 2025. Available at: <https://www.agweb.com/news/business/farmers-alarmed-u-s-nearing-agricultural-economic-crisis-steps-reverse-course>

¹² Rook, Michelle. “Did the Administration’s Plan to Lower Beef Prices Wreck the Bull Run in the Cattle Market?” *Drovers*, November 17, 2025. Available at: <https://www.drovers.com/news/industry/did-presidents-plan-lower-beef-prices-wreck-bull-run-cattle-prices>

¹³ Mahon, Joe. “Farm bankruptcies have increased in the Ninth District, keeping some farmers afloat.” *Federal Reserve Bank of Minneapolis*, September 25, 2025. Available at: <https://www.minneapolisfed.org/article/2025/farm-bankruptcies-have-increased-in-the-ninth-district-keeping-some-farmers-afloat>

were at a five-year high as of the summer of 2025, with producers citing “higher interest rates, Trump’s trade war and dramatically reduced demand from China.”¹⁴

Likewise, American consumers continue to feel the pinch in grocery stores, with prices continuing to rise with both tariffs and the Administration’s immigration policies at least in part driving the increases.¹⁵ Increases in prices in some grocery items have been particularly high and exceeded the general rate of inflation – including certain cuts of beef, (20 percent year-over-year rise), chicken breast and bacon (5 percent), iceberg lettuce (21 percent), bananas (9 percent), orange juice (12 percent) and coffee (41 percent).¹⁶

Producers and traders alike are further hamstrung by other recent policies. The government shutdown left producers without critical market data produced by the USDA and CFTC.¹⁷ This was in addition to pre-existing fragilities in USDA data, with DOGE-driven cuts shrinking the ranks of USDA staff by 15 percent and cutting off critical statistics useful to farmers and traders.¹⁸

The Role of the CFTC

Recognizing the strain caused by increasing grocery prices, just this week, President Trump signed an Executive Order to “stop price fixing, anti-competitive behavior, and foreign influence that drives up grocery prices and threatens the security of America’s food supply.”¹⁹ The Executive Order established a Food Supply Chain Task Force and called for the Department of Justice and the Federal Trade Commission to investigate price fixing and anti-competitive across the food sector.²⁰

¹⁴ Church, Steven and Ilena Peng. “Trade Wars, Rates Push U.S. Small Farm Bankruptcies to 5-Year High.” *Bloomberg*, July 23, 2025. Available at: <https://www.bloomberg.com/news/articles/2025-07-23/america-small-farmers-are-hurting-with-trump-policies-loan-woes?sref=mQvUqJZi>

¹⁵ Dale, Daniel. “Fact check: Grocery prices are up, not ‘way down’ as Trump claimed.” *CNN*, October 24, 2025. Available at : <https://www.cnn.com/2025/10/24/politics/fact-check-grocery-prices-trump>

¹⁶ Martichoux, Alix. “These 9 grocery staples have seen the biggest price spikes this year.” *The Hill*, November 19 2025. Available at: https://thehill.com/homenews/nexstar_media_wire/5613092-these-9-grocery-staples-have-seen-the-biggest-price-spikes-this-year/

¹⁷ Polansek, Tom, P.J. Huffstutter and Karl Plume. “Farmers, Traders ‘Flying Blind’ As U.S. Shutdown Blocks Key Crop Data.” *Reuters*, October 9, 2025. Available at: <https://www.reuters.com/world/china/farmers-traders-flying-blind-us-shutdown-blocks-key-crop-data-2025-10-09/>

¹⁸ Huffstutter, P.J. “Corn, debt and doubt: A record harvest rattles Trump’s farm economy.” *Reuters*, October 25, 2025. Available at : <https://www.reuters.com/investigations/corn-debt-doubt-record-harvest-rattles-trumps-farm-economy-2025-10-25/>

¹⁹ Executive Order. “Addressing Security Risks from Price Fixing and Anti-Competitive Behavior in the Food Supply Chain.” December 6, 2025. Available at: <https://www.whitehouse.gov/presidential-actions/2025/12/addressing-security-risks-from-price-fixing-and-anti-competitive-behavior-in-the-food-supply-chain/>

²⁰ *Id*

While the CFTC does not directly regulate commodity prices, the agency does have a crucial role in policing the integrity of derivatives markets in order to help producers like farmers, ranchers and manufacturers hedge risk and develop accurate prices for their products. The Commission is responsible for the essential functions of providing relevant information to the public, preventing and policing fraud in trading, and curbing financial speculation unrelated to natural supply and demand forces in the economy.

On this last point, Better Markets has long urged the CFTC to use its authority to surveil excessive speculation in commodity futures markets. Though the Commission enacted an updated “position limits” rule, effective in 2021, to ensure that commodity futures prices reflected true supply and demand, rather than excess speculation, many – including Better Markets and two CFTC Commissioners at the time – argued that the rule set limits too high or were too narrowly applied to effectively police markets.²¹ Since then, Better Markets has argued for the CFTC to publicly disclose the impact of the limits set in the 2021 rule, on a commodity-by-commodity basis, to determine whether the rule was functioning as intended.²²

The CFTC using its authority to ensure the sound functioning of core agricultural markets is not a partisan endeavor. During the first Trump Administration, in fact, the CFTC recognized this imperative during a time of volatile commodity prices and launched a special effort to combat market manipulation in agricultural markets.²³ During the onset of the COVID-19 pandemic, CFTC leadership under President Trump announced that it was their number one duty to “monitor closely and prioritize agricultural and energy markets.”²⁴ A renewed and reinvigorated focus on these issues would be welcomed in the current moment and consistent with the President’s recent Executive Order.

²¹ Hall, Stephen. “Leadership on Position Limits for Physical Commodities.” *Letter to CFTC Chair Rostin Behnam*, November 10, 2021. Available at: <https://bettermarkets.org/wp-content/uploads/2022/07/Ltr-CFTC-Re-Position-Limits-11-10-2021.pdf>; see also dissents on the 2020 final position limits rule including those by Behnam, Rostin. “Statement of Dissent of Commissioner Rostin Behnam Regarding Position Limits for Derivatives.” *Commodity Futures Trading Commission*, October 15, 2020. Available at: <https://www.cftc.gov/PressRoom/SpeechesTestimony/behnamstatement101520c>; and Berkovitz, Dan. “Dissenting Statement of Commissioner Dan M. Berkovitz Regarding Final Rule on Position Limits for Derivatives.” *Commodity Futures Trading Commission*, October 15, 2020. Available at: <https://www.cftc.gov/PressRoom/SpeechesTestimony/berkovitzstatementb101520b>

²² Cantrell, Dumas. “How Wall Street Excessive Speculation Impacts Your Grocery Bill.” *The Public Interest by Better Markets*, May 15, 2025. Available at: <https://bettermarkets.substack.com/p/how-wall-street-excessive-speculation>

²³ Zuckerman, Jason and Matthew Stock. “Agricultural Price Manipulation and the CFTC Whistleblower Program.” *National Law Review*, May 27, 2020. Available at: <https://natlawreview.com/article/agricultural-price-manipulation-and-cftc-whistleblower-program>

²⁴ Tarbert, Heath. “Opening Statement of Chairman Heath P. Tarbert Regarding the CFTC’s Further Response to the Coronavirus Pandemic.” *Commodity Futures Trading Commission*, May 28, 2020. Available at: <https://www.cftc.gov/PressRoom/SpeechesTestimony/tarbertstatement052820>

III. Priorities, Leadership, Staffing and Budget of the CFTC

Misplaced Priorities

As described above, the core constituencies that the CFTC is meant to serve are facing a time of anxiety. Unfortunately, at the same time, CFTC leadership has strayed from serving the needs of agricultural and commercial producers and consumers in favor of spending nearly all of the agency’s time on crypto markets. From a sheer market size perspective, this focus represents a mismatched use of resources. While the *global* crypto market is estimated to be just over \$3.1 trillion,²⁵ the CFTC separately is responsible for overseeing \$380 trillion in notional U.S. swaps and futures contracts.²⁶

The best way to gauge an agency’s priorities is to examine how its leaders spend their time. Acting Chair Caroline Pham has not published her external schedule since December 2023.²⁷ This deviates from past practice under both Republican and Democratic Administrations and makes it difficult to state with precision how much time she’s spent on core agricultural and manufacturing constituencies versus the crypto industry. However, a look at the “Events” page on the CFTC website indicates that while Acting Chair, Pham has participated in 34 speaking events, 19 of which were exclusively devoted to the topic of crypto.²⁸ The 15 other events appear to have at least partially covered crypto, though it is difficult to tell given the limited information on the CFTC’s website.²⁹ Acting Chair Pham in the last 11 months has also engaged in speaking events in Seoul, South Korea; Riyadh, Saudi Arabia; London, United Kingdom (twice); Tokyo, Japan (twice); Netherlands; Qatar; and Frankfurt, Germany. Domestically, her schedule indicates travel to New York City, Chicago, Beverly Hills and Ft. Lauderdale, Boca Raton, and Naples, Florida.³⁰

While there is nothing wrong, *per se*, about an American financial regulator traveling domestically or abroad to share the CFTC’s perspective on market competitiveness and

²⁵ “Global Cryptocurrency Market Cap Charts.” *CoinGecko*, accessed December 6, 2025. Available at: <https://www.coingecko.com/en/charts>

²⁶ *see* page 33, Commodity Futures Trading Commission. “President’s Budget: FY2026.” Available at: https://www.cftc.gov/sites/default/files/CFTC_FY2026_Presidents_Budget.pdf

²⁷ Commodity Futures Trading Commission. “Commissioner Pham Public External Calendar.” Accessed December 6, 2025. Available at: <https://www.cftc.gov/About/Commissioners/CarolineDPham/PublicExternalCalendar>; this is contrasted with both previous CFTC leadership and Acting Chair Mark Uyeda of the Securities and Exchange Commission, who published his external calendar for the duration of his service as the acting leader of the Commission. See: “Chairman’s Calendar for Acting Chairman Mark T. Uyeda.” Securities and Exchange Commission, accessed December 6, 2025. Available at: <https://www.sec.gov/foia-services/frequently-requested-documents/sec-chair-calendar>

²⁸ This is based on an assessment of events on the CFTC’s events public webpage, available at: <https://www.cftc.gov/PressRoom/Events>

²⁹ *Id*

³⁰ *Id*, examining the location of the events attended by Acting Chair Pham on the CFTC’s public webpage.

oversight, the travel scheduled described above – in terms of both the topics represented and the places traveled – is a useful indicator of the Acting Chair’s priorities. Absent from this list of travel are locations where American farmers and ranchers live and work, which provides a notable lack of perspective to inform the CFTC’s priorities.

Bipartisan Leadership

The CFTC is also impaired by both the sheer lack of Commissioners serving at the agency and its absence of bipartisan leadership.

Notably, the CFTC has been led by one Commissioner, in an Acting Chair capacity, since September 2025. While a nominee for Chair of the Commission has been considered by the U.S. Senate Committee on Agriculture, he is not yet confirmed by the full Senate.³¹ Further, the current Acting Chair has announced her intention to leave the agency upon the permanent Chair’s confirmation,³² meaning the agency is likely to have one and only one Commissioner, at least in the near-term.

The CFTC was designed by Congress to be a five-member, bipartisan Commission. The need for a full Commission with genuine bipartisan representation consistent with tradition, history, practice, and precedent is heightened during a time when the White House and some in Congress are considering significantly expanding the jurisdictional reach of the agency. The agency should not move forward with future rulemaking or guidance efforts until the CFTC has both a confirmed Chair and robust bipartisan representation amongst Commissioners.

Budget

Though the CFTC’s mission is vital to every American, the agency’s budget demonstrates that it is small, poorly funded and likely overwhelmed by the remit of markets it is supposed to regulate and police. The agency has only been funded by Congress at its requested level twice since FY06 – once in FY21 and in FY23.³³ And as stated previously, the CFTC is responsible for overseeing \$380 trillion in U.S. notional swaps and futures contracts with just a \$365 million budget.³⁴ This does not even include potentially new areas of oversight such as crypto³⁵ and

³¹ Sittu, Hassan. “Trump’s CFTC Pick Clears Senate Hurdle — Caroline Pham’s Exit Imminent?” *Yahoo! Finance*, November 21, 2025. Available at: https://finance.yahoo.com/news/trump-cftc-pick-clears-senate-113944928.html?guccounter=1&guce_referrer=aHR0cHM6Ly93d3cuZ29vZ2xlLmNvbS8&guce_referrer_sig=AQAAAKCKx4w3bP5hXHYs7FYhAqAjapbHqXZkKcGETD9jUp60gCtKgFXNIMynunproyUfRLWv9ksjGkTyLntTNmFtVvCjfDcijMcrbl9Xw8pKwzqtT4GCQyaMaxwhF8yRO2jeOos-NpskU6VlPsMNWi8w-4XpG_KHJsZgtgpO4OdHn

³² *Id*

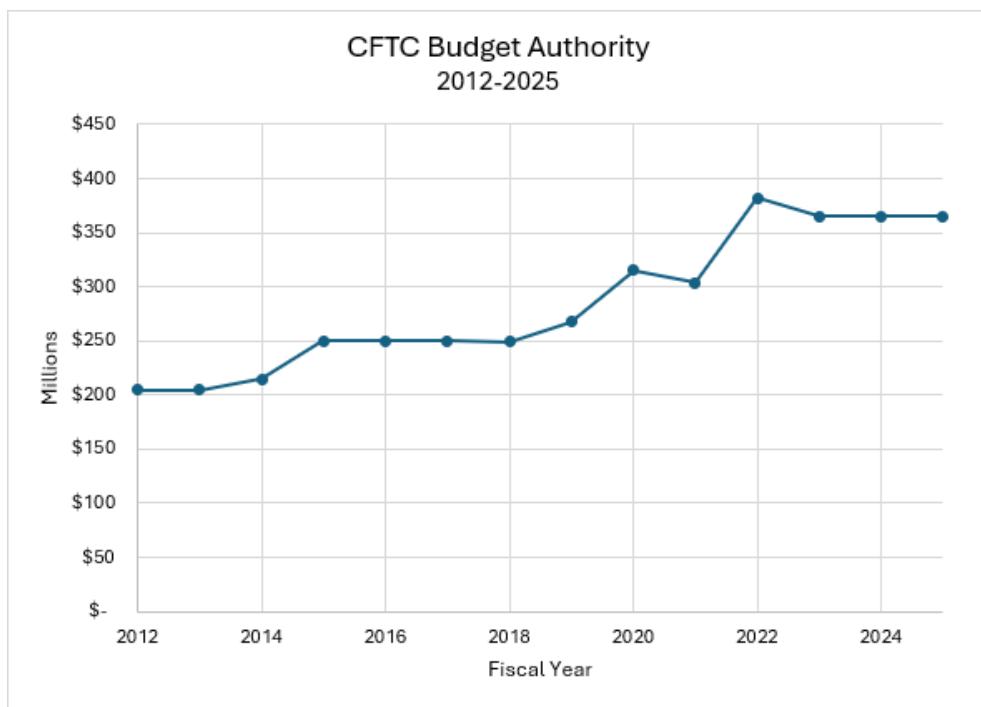
³³ U.S. Senate Committee on Agriculture. “Oversight of the Commodity Futures Trading Commission.” *Questions from Senator Dick Durbin to CFTC Chair Rostin Benham*, March 8, 2023. Available at: <https://www.agriculture.senate.gov/hearings/oversight-of-the-commodity-futures-trading-commission-03-08-2023>

³⁴ *Supra* note 26, page 4

³⁵ *Supra* note 25

prediction markets,³⁶ which will require not only the addition of new staff but also new data metrics and surveillance tools.

The 2008 global financial crisis likely cost Americans \$20 trillion in lost Gross Domestic Product output as well as lost wages due to unemployment and underemployment, foreclosures, homelessness, underwater mortgages, bankrupt businesses large and small, lost savings, deferred or denied retirements, and educations cut short.³⁷ Given that staggering economic and personal harm to American families, an investment in preventing the next crash by adequately funding the CFTC seems like a sensible downpayment. While CFTC funding has increased modestly over the years, it still pales in comparison to the vast markets the agency oversees. In terms of full-time equivalents (FTEs), 50 years ago in 1975 the CFTC had 502 employees.³⁸ The President's budget request in FY26 asked for only 650 FTEs³⁹ – a minimal increase given the passage of time, increasing complexity of markets, and expanded remit of the agency. Below is a table tracking CFTC appropriations over time, taken from Presidential budget requests.



³⁶ See one estimate of nearly \$28 billion in prediction market contract volume from January to October 2025. Crypto.com. “Prediction Markets: The Rise of Event-Driven Finance.” November 10, 2025. Available at: <https://crypto.com/us/research/prediction-markets-oct-2025>

³⁷ Better Markets. “Cost of the Crisis Report.” July 2015. Available at: https://bettermarkets.org/wp-content/uploads/2021/07/Better-Markets-Cost-of-the-Crisis_1.pdf

³⁸ See Commodity Futures Trading Commission. “Significant Dates in CFTC History.” Available at: [https://www.cftc.gov/sites/default/files/reports/strategicplan/2012/2012strategicplanapp0201.html#:~:text=Table_titl_e%20Significant%20Dates%20in%20CFTC%20History%20E2%80%94,1975%20\\$7%20%7C%20FY%201976%20\\$10%20%7C](https://www.cftc.gov/sites/default/files/reports/strategicplan/2012/2012strategicplanapp0201.html#:~:text=Table_titl_e%20Significant%20Dates%20in%20CFTC%20History%20E2%80%94,1975%20$7%20%7C%20FY%201976%20$10%20%7C)

³⁹ *Supra* note 26, page 3

Various legislative efforts related to crypto have proposed an increase in funding for the agency, but legislative text has not been specific about the exact increase in appropriations.⁴⁰ And while legislation allows for the collection of fees on market participants to fund the agency’s new crypto work, those provisions may sunset after only a few years. Policymakers must adequately fund the Commission with robust, fee-funded and new appropriations – in perpetuity – if they are shifting significant market oversight for a retail-heavy asset class to the agency. One previous estimate from the CFTC projected that this would cost approximately \$127 million annually.⁴¹ This additional funding must come in addition to halting the staffing cuts described in the next section.

Staff Cuts

At a time when producers are feeling keenly anxious about the health and longevity of their businesses, and American households continue to be squeezed by the prices of everyday staples, it is not the time for the agency to shed its staff or shift its focus to market areas that are relevant but tangential to their core mission.

Reporting from *Bloomberg* indicates that at least 15 percent of staff has been shed since the beginning of the Trump Administration.⁴² Current and former staff interviewed for the report indicate a “regulator in disarray” – a troubling sentiment given the increased staff responsibilities accruing to the agency through Administration actions related to crypto and prediction markets.⁴³

Further, the Acting Chair removed both the head of human resources and the chief financial officer of the agencies, with reporting asserting that individuals were investigating employee complaints regarding a hostile work environment created by Pham and disagreements about agency reimbursement for travel, respectively.⁴⁴ A spokesperson for the Acting Chair asserts that the dismissals were due to unrelated factors.⁴⁵ In any case, this staff attrition and turbulence surely does not serve the agency during this complex and busy time.

⁴⁰ See H.R. 3633, the Digital Asset Market Clarity Act and the Senate-introduced legislation released by Senators Boozman and Booker on November 10, 2025. Available at: <https://www.agriculture.senate.gov/newsroom/rep/press/release/boozman-booker-release-bipartisan-market-structure-discussion-draft>

⁴¹ *Supra* note 33

⁴² Beyoud, Lydia, Nicola M. White and Liam Vaughn. “Staff Cuts and Turmoil Hit the CFTC While the Crypto It Oversees Booms.” *Bloomberg*, August 21, 2025. Available at: <https://www.bloomberg.com/news/features/2025-08-21/as-crypto-duties-loom-cftc-is-hit-by-staff-cuts-and-turmoil>

⁴³ *Id*

⁴⁴ Beyoud, Lydia. “CFTC Acting Chair Pham Removes the HR Head Investigating Her.” *Bloomberg*, February 6, 2025. Available at: <https://www.bloomberg.com/news/articles/2025-02-06/cftc-acting-chair-pham-removes-the-hr-head-investigating-her?sref=mQvUqJZj>

⁴⁵ See statement attributable to a CFTC spokesperson in response to *Bloomberg* reporting, “CFTC Statement on False Allegations Targeting Acting Chairman.” Commodity Futures Trading Commission, February 6, 2025. Available at: <https://www.cftc.gov/PressRoom/PressReleases/9048-25>

IV. Enforcement

A combination of data, anecdotal reports and policy changes announced at the CFTC make clear that the law enforcement mission of the agency has been subordinated to concerns about creating a more solicitous relationship with market participants. A look at both data and reporting indicates that the judgement of the enforcement staff has been largely silenced, cases are not being brought, whistleblowers are not being rewarded for raising relevant noncompliance information and policy changes are seeking to tilt the law enforcement process in favor of the industry.

To wit, the CFTC has not released its annual report for enforcement results for FY25. This deviates from past practice. For example, in FY24, the agency's annual report was released on December 4, 2024⁴⁶ in FY2023 on November 7, 2023⁴⁷ and in FY2022 on October 22, 2022.⁴⁸ The lack of a comprehensive report on the Commission's latest enforcement activity makes it difficult to evaluate the efficacy of the enforcement program compared to other years.

However, a look at the CFTC's enforcement action repository on its website offers some telling data about the slowdown in law enforcement at the agency. An analysis of releases contained on the website cites only four actions brought since the onset of the new Administration.⁴⁹ Two of those actions involve approved settlements, and two involve the CFTC filing charges in a District Court; one of the latter instances is for an alleged recidivist accused of violating a past CFTC enforcement order brought during the previous Administration.⁵⁰ The contrast between previous enforcement activity is sharp: FY24 saw the CFTC bring 58 new enforcement actions,⁵¹ FY23 saw 47 new enforcement actions⁵² and FY22 saw 82 new

⁴⁶ Commodity Futures Trading Commission. "CFTC Releases FY 2024 Enforcement Results." *CFTC Release Number 9011-24*, December 4, 2024. Available at: <https://www.cftc.gov/PressRoom/PressReleases/9011-24>

⁴⁷ Commodity Futures Trading Commission. "CFTC Releases FY 2023 Enforcement Results." *CFTC Release Number 8822-23*, November 7, 2023. Available at: <https://www.cftc.gov/PressRoom/PressReleases/8822-23>

⁴⁸ Commodity Futures Trading Commission. "CFTC Releases FY 2022 Enforcement Results." *CFTC Release Number 8613-22*, October 20, 2022. Available at: <https://www.cftc.gov/PressRoom/PressReleases/8613-22>

⁴⁹ Commodity Futures Trading Commission. "Enforcement Actions." Accessed December 6, 2025. Available at: <https://www.cftc.gov/LawRegulation/EnforcementActions/index.htm>

⁵⁰ *Id*, searching individual enforcement action releases on the CFTC's public webpage.

⁵¹ *Supra* note 46. Note that this testimony compares 2025 from the period of President Trump's inauguration through December 6, 2025. In contrast, data for 2024, 2023 and 2022 covers the fiscal year.

⁵² *Supra* note 47

enforcement actions.⁵³ The CFTC appears to also have only compensated one whistleblower for bringing forward material information related to an enforcement matter during 2025.⁵⁴

The numbers don't lie and they are also supported by the agency's changed priorities as evidenced in other areas. The CFTC requested a 30 percent reduction in enforcement staff in its latest fiscal year budget request when compared to the budget of FY24.⁵⁵ The budget request and lackluster enforcement statistics also contradict the stated priorities of the Acting Chair. Announcing an "enforcement sprint," Pham noted that the agency would move to quickly settle compliance-related violations for CFTC-regulated firms to both clear a backlog of enforcement actions and to position Department of Enforcement staff "to refocus on fighting fraud and helping victims."⁵⁶ And while the sprint was completed – with substantially lower fines against firms for self-reporting⁵⁷ – the agency has not used the commensurate freeing of staff resources to investigation or charge market participants that are defrauding everyday Americans or otherwise undermining market integrity.

The statistics are also supported by anecdotal evidence. Reporting from August from *Bloomberg*, informed by reporters speaking to two dozen current and former CFTC insiders and industry players, indicates that "enforcement [has] slowed to a crawl."⁵⁸ According to one attorney interviewed for the story, they report that their work has been totally impeded. "I can't obtain bank records, I can't get evidence. I can't do anything," the staff person says.⁵⁹

Statistics and anecdotal reporting are also supported by numerous changes to the CFTC's rules of practice that favor market participants over robust law enforcement. On December 1, 2025, for example, Acting Chair Pham announced changes to the CFTC's process for informing firms that they may be subject to an enforcement action, giving firms more than double the time to respond to CFTC allegations, requiring CFTC staff to inform firms of potentially unfavorable facts or legal precedent in the agency's own claims against the firm, and limiting the length of

⁵³ *Supra* note 48.

⁵⁴ Commodity Futures Trading Commission. "CFTC Whistleblower Award Determination No. 25-WB-07." May 29, 2025. Available at: <https://www.whistleblower.gov/sites/whistleblower/files/2025-05/No.25-WB-07.pdf>; note that redactions to the whistleblower award, to protect the privacy of the individual, make it impossible to determine the case in which the award is related.

⁵⁵ *Supra* note 26, page 5

⁵⁶ Commodity Futures Trading Commission. "Acting Chairman Pham Announces Successful Completion of Enforcement Sprint." *CFTC Release Number 9114-25*, October 4, 2025. Available at: <https://www.cftc.gov/PressRoom/PressReleases/9114-25>

⁵⁷ Katten. "Reaching the Finish Line: The CFTC Concludes Its Enforcement Sprint by Offering Lower Fines for Self-Reporting and Cooperation." *Client Advisory*, September 22, 2025. Available at: <https://katten.com/reaching-the-finish-line-the-cftc-concludes-its-enforcement-sprint-by-offering-lower-fines-for-self-reporting-and-cooperation>

⁵⁸ *Supra* note 42

⁵⁹ *Id*

the submission that CFTC staff can provide to firms when describing a potential enforcement action.⁶⁰

Additionally, in response to the President’s Executive Order on “Fighting Overcriminalization in Federal Regulations,”⁶¹ the CFTC narrowed and made more favorable to market participants the circumstances in which investigative information would be passed along to criminal law enforcement authorities.⁶² Specifically, the policy requires enforcement staff to consider a host of mitigating reasons why a criminal referral should not be made in an effort to reserve criminal sanctions for cases involving difficult to prove *willful* wrongdoing (with the CFTC needing to impute the specialized expertise and knowledge of the law by the alleged perpetrator) and public harm.⁶³

V. Prediction Markets

While the CFTC sheds staff and narrows its enforcement mission, it is also – through forbearance and inaction – taking on significant new responsibilities it is ill-equipped to handle with prediction markets. Better Markets has been sounding the alarm on prediction market platforms increasingly trying to thwart state and tribal law and the greater public interest to assert that their “event contracts” are not in fact gambling, but are somehow swaps that facilitate price discovery and hedging.⁶⁴ This has accelerated in recent months and threatens everything from the CFTC having the bandwidth to police traditional markets, retail traders being exposed to fraud and manipulation, and the usurpation of state and tribal law.

History of Prediction Markets & the CFTC

This started first with the platform KalshiEx, LLC (“Kalshi”) in 2023 endeavoring to launch “event contracts” on political elections – namely, a contract on which U.S. political party

⁶⁰ Commodity Futures Trading Commission. “Acting Chairman Pham Announces Reforms to Wells Process, Amends Rules of Practice and Rules Relating to Investigations.” *CFTC Release Number 9144-25*, December 1, 2025. Available at: <https://www.cftc.gov/PressRoom/PressReleases/9144-25>

⁶¹ Executive Order 14294. “Fighting Overcriminalization in Federal Regulations.” 90 Fed. Reg. 20363, May 29, 2025. Available at: <https://www.federalregister.gov/documents/2025/05/14/2025-08681/fighting-overcriminalization-in-federal-regulations>. Notably, the Executive Order explicitly exempts immigration matters.

⁶² Commodity Futures Trading Commission. “CFTC Issues Advisory on Referrals for Potential Criminal Enforcement.” *CFTC Release Number 9094-25*, July 9, 2025. Available at: <https://www.cftc.gov/PressRoom/PressReleases/9094-25>

⁶³ *Id*

⁶⁴ Better Markets. “Frequently Asked Questions: Kalshi’s Attempt to get the CFTC to Unleash Gambling on U.S. Elections via Prediction Markets.” March 21, 2024. Available at: https://bettermarkets.org/wp-content/uploads/2024/03/FactSheet_Kalshi-FAQ-3.21.24.pdf

would control either chamber of Congress in the coming year.⁶⁵ Allowable wagers extended to \$100 million.⁶⁶

Recognizing the harm in this attempted self-certification, the CFTC in 2023 extending into 2024, sought to reject Kalshi's bid and to amend a 2010 rule implementing a provision of the CEA to further clarify the scope of contracts the Commission would not permit. The CEA, as further clarified by rule, provides that the Commission has the authority to determine whether an event contract listed on a Designated Contract Market ("DCM") or swap exchange facility is "contrary to the public interest" if such contracts involve: (1) unlawful activity under federal or state law; (2) terrorism; (3) assassination; (4) war; (5) gaming; or (6) other similar activity determined by the CFTC, by rule or regulation, to be contrary to the public interest.⁶⁷ In its order rejecting Kalshi's self-certification, the CFTC noted that the contracts violated the statutory construction of the CEA, and posed potential threats to election integrity, investors, and the CFTC's ability to fulfill its core mission.⁶⁸

Kalshi sought to litigate the issue in the U.S. District Court for the District of Columbia.⁶⁹ The court in that case sided with Kalshi narrowly on the question of election-related event contracts, and the CFTC later in 2024 appealed to the U.S. Court of Appeals for the D.C. Circuit.⁷⁰ In May of 2025, the new leadership at the CFTC elected to voluntarily surrender its appeal, thereby allowing election betting on CFTC-regulated DCMs to move forward.⁷¹

Gamification & the Explosion of Sports Betting

The CFTC's reversal of position on the Kalshi litigation was a predicate to a total abdication on enforcing limits on allowable event contracts under the CEA. As a result, the

⁶⁵ Harty, Declan. "Political bettors hit the jackpot as court clears election markets for comeback." *Politico*, October 2, 2024. Available at: <https://www.politico.com/news/2024/10/02/election-betting-markets-00182165>

⁶⁶ *Id*

⁶⁷ Section 5c(c)(5)(C) of the CEA and CFTC Regulation 40.11

⁶⁸ Hall, Stephen. "To Protect Democracy, Investors, and Commodity Markets, D.C. Circuit Should Uphold CFTC's Decision to Prohibit Gambling on Elections." *Better Markets*, January 9, 2025. Available at: <https://bettermarkets.org/analysis/to-protect-democracy-investors-and-commodity-markets-d-c-circuit-should-uphold-cftcs-decision-to-prohibit-gambling-on-elections/>

⁶⁹ Matthews, Laura. "Predictions market Kalshi sues CFTC for blocking election contracts." *Reuters*, November 1, 2025. Available at: <https://www.reuters.com/world/us/predictions-market-kalshi-sues-cftc-blocking-election-contracts-2023-11-01/>

⁷⁰ For a description of the timeline of *KalshiEx v. CFTC*, see Hall, Stephen. "By Dismissing Its Appeal in the Kalshi Case, the CFTC Turns Its Back on Election Integrity, Investor Protection, and Effective Oversight of the Commodities Markets." *Better Markets*, May 5, 2025. Available at: <https://bettermarkets.org/newsroom/by-dismissing-its-appeal-in-the-kalshi-case-the-cftc-turns-its-back-on-election-integrity-investor-protection-and-effective-oversight-of-the-commodities-markets/>

⁷¹ *Id*

Commission, along with market participants, have unleashed a wave of new wagering opportunities – with little connection to risk mitigation, hedging or price discovery – over the last year.⁷²

In the above-described court case against the CFTC related to political event contracts, Kalshi – in an attempt to explain how election gambling was fundamentally different from sports wagers – conceded that event contracts related to sporting events fell under the “gaming” category expressly prohibited under the CEA.⁷³ In fact, the company in its court filing argued that such contracts had no economic value and were not appropriate to list on a DCM.⁷⁴ And yet, upon the change in Administration in early 2025, Kalshi moved forward with a contract allowing users to bet on the outcome of Super Bowl LIX in 2025 (Kansas City Chiefs v. Philadelphia Eagles).⁷⁵

The only thing that changed between Kalshi’s arguments to the court in 2024 and Super Bowl LIX was the CFTC’s newfound unwillingness to enforce the law. Since the CFTC’s capitulation, there has been an explosion in sports-related wagers listed on CFTC-regulated DCMs. For example, on Kalshi, users can wager on everything from the NFL, to the NHL, NBA, a host of college sports, a range of domestic and international soccer games, tennis, golf, chess and e-sports. One analysis found that more than three-quarters of Kalshi’s trading volume now comes from sports, with millions of trades exceeding over a billion dollars volume over just a nearly three-month period.⁷⁶ In addition to binary contracts on the winners or losers of various sports matches, Kalshi subsequently launched NFL same-game parlays, allowing users to bet not

⁷² See for example an explosion in DCMs offering wagering opportunities on event contracts, including Kalshi, ForecastEx, Robinhood, Crypto.com, Underdog, PrizePicks, Polymarket and Fanatics approved as DCMs and many others with forthcoming plans including FanDuel, DraftKings, Coinbase, Aristotle, RSBIX, Truth Predict, Hollywood.com, MyPrize, Kraken, Gemini, ProphetX, eToro, Cboe, Clearing Co and Metavesco. This accounting is only a rough estimate and taken from a prediction market analyst X.com post. @MickBransfield, December 3, 2025. Available at: <https://x.com/mickbransfield/status/1996392174947295542?s=46>

⁷³ Dumas, Cantrell. “Stop the Spread: Why the CFTC Must Shut the Door on Gambling in Derivatives Markets.” *Better Markets*, May 8, 2025. Available at: <https://bettermarkets.org/wp-content/uploads/2025/05/Better-Markets-Event-Contracts-Fact-Sheet-5.8.25.pdf>; specifically, Better Markets notes that Kalshi in the D.C. District Court litigation “conceded that ‘contracts on sporting events such as the Super Bowl, the Kentucky Derby, and Masters Golf Tournament’ [consistent with the congressional record at the time] were precisely the types of contracts Congress empowered the Commission to block. It admitted that the ‘gaming’ category ‘reaches contracts contingent on games,’ including ‘whether a certain team will win the Super Bowl,’ and stated that the law was designed to ‘check on attempts to launder...sports gambling through the derivatives markets.’ Kalshi even went so far as to state that such contracts ‘are probably not the type of contracts we want . . . listed on an exchange because they don’t have any real economic value to them.’”

⁷⁴ *Id*

⁷⁵ *Id*

⁷⁶ O’Boyle, Daniel. “Kalshi More Reliant On Sports Than DraftKings Or FanDuel, Data Shows.” *InGame*, October 31, 2025. Available at: <https://www.ingame.com/kalshi-sports-data-trading-volume/>

only on the winners of games, but combine bets on touchdown scorers, moneylines (or spreads) and the point total for the individual games.⁷⁷

Contrary to the Law & Public Interest

Beyond sports, prediction market platforms have exploded in the last year, offering betting opportunities on all manner of events of dubious fidelity to the true purpose of derivatives markets overseen by the CFTC: risk management, capital formation, and price discovery.

For example, a user can now bet on topics such as:⁷⁸

- Will President Trump release the Epstein files?
- Will President Trump “punish” SpaceX?
- Will the United Nations’ IPC classify Gaza as experiencing famine this year?
- Will Representative Marjorie Taylor Greene say the words “traitor,” “Israel,” or “corrupt/corruption” on CBS 60 Minutes?

This list of wagering opportunities raises numerous concerns.

First, it is contrary to both Congress’s intent with the CEA and state and tribal law to allow this gambling-like activity to proliferate while claiming that the activity is within the purview of the CFTC. This is a problem that was foreseen by policymakers. When the Wall Street Reform Act amended the CEA in 2010, lawmakers were clear that absent legal limits, sports bettering and other gambling-style activity could evade state and tribal law by claiming jurisdiction under the CEA.⁷⁹ Indeed, it was not the intent of Congress for the CFTC to take on this responsibility. Moreover, in many states, betting on elections and even sports is not legal (or is only legal for professional sports and not collegiate sports).⁸⁰ In other states where such betting is legal, state gaming commissions routinely enforce safeguards such as age restrictions, identity

⁷⁷ Gouker, Dustin. “Kalshi Rolls Out Same-Game Parlays For Monday Night Football Games.” *Event Horizon*, September 30, 2025. Available at: <https://nexteventhorizon.substack.com/p/kalshi-rolls-out-same-game-parlays>

⁷⁸ Examples taken from <https://kalshi.com/>

⁷⁹ U.S. Senate Committee on Agriculture Chaira Blanche Lincoln in a colloquy noted, “The Commission needs the power to, and should, prevent derivatives contracts that are contrary to the public interest because they exist predominantly to enable gambling through supposed ‘event contracts.’ It would be quite easy to construct an ‘event contract’ around sporting events such as the Super Bowl, the Kentucky Derby, and Masters Golf Tournament. These types of contracts would not serve any real commercial purpose. Rather, they would be solely used for gambling.” 156 Cong. Rec. S5907 (daily ed. July 15, 2010). Available at: <https://www.congress.gov/111/crec/2010/07/15/CREC-2010-07-15-senate.pdf>

⁸⁰ See the CFTC’s Order originally denying Kalshi’s self-certification of election event contracts; “CFTC Disapproves KalshiEX LLC’s Congressional Control Contracts.” September 22, 2023, <https://www.cftc.gov/PressRoom/PressReleases/8780-23>; see also National Conference of State Legislatures. “Sports Betting on the Rise as States Let Gamblers Wager Online.” Available at: <https://www.ncsl.org/events/details/sports-betting-on-the-rise-as-states-let-gamblers-wager-online>

verification, wagering limits, self-exclusion programs, and addiction treatment resources.⁸¹ States also impose special taxes on gambling activity. Many tribes have likewise argued that prediction market platforms interfere with tribes' rights to conduct and regulate gambling activity on sovereign land.⁸²

Second, even if policymakers sought to have this activity overseen at the federal level, the CFTC's budget for FY25 funded 127 full-time equivalents for the Division of Enforcement,⁸³ though more departures amongst the staff have occurred since then. It is unfathomable that this level of staffing could adequately police the market for fraud and manipulation at the scale and size necessary to prevent malfeasance in prediction markets. In just the last few months, we have seen an NBA sports betting scandal,⁸⁴ a financial industry executive propose to a New York City mayoral candidate that he abandon his bid for office and monetize it through prediction markets,⁸⁵ aberrant prediction market trading ahead of the Nobel Peace Prize announcement;⁸⁶ and a crypto CEO using his company's earnings announcement to "troll" bettors in prediction markets.⁸⁷ Each one of these examples could hypothetically consume one or more enforcement attorneys for a considerable amount of time.

Finally, is such gamified wagering on every aspect of humanity in the public interest? The co-founder of Kalshi recently noted that the "long-term" vision of the company "is to financialize everything and create a tradeable asset out of any difference of opinion."⁸⁸ Another prediction markets enthusiast recently offered that the potential economic displacement faced by truck drivers "at risk of being automated into obsolescence" can be solved by merely hedging

⁸¹ *Supra* note 73

⁸² O'Boyle, Daniel. "Tribes Aim To Join Kalshi-Maryland Lawsuit With Amicus Brief." *InGame*, June 24, 2025. Available at: <https://www.ingame.com/tribes-join-kalshi-maryland-lawsuit/>

⁸³ *Supra* note 26, page 8

⁸⁴ Vardon, Joe and Mike Vorkunov. "The NBA players, coaches and gamblers at the center of a federal betting investigation." *The New York Times*, November 25, 2025. Available at: <https://www.nytimes.com/athletic/6788069/2025/11/25/nba-players-coaches-gamblers-betting-investigation/>

⁸⁵ Levine, Matt. "Bill Ackman Has a Trade for Eric Adams." *Bloomberg*, September 8, 2025. Available at: <https://www.bloomberg.com/opinion/newsletters/2025-09-08/bill-ackman-has-a-trade-for-eric-adams>

⁸⁶ Kochkodin, Brandon. "Did The Nobel Peace Prize Expose Insider Trading On Prediction Market Polymarket?" *Forbes*, October 10, 2025. Available at: <https://www.forbes.com/sites/brandonkochkodin/2025/10/10/did-the-nobel-peace-prize-expose-insider-trading-on-prediction-market-polymarket/>

⁸⁷ Griffiths, Brent D. "Coinbase CEO was having 'a little fun' when he trolled prediction markets by rattling off 5 words on an earnings call." *Business Insider*, December 3, 2025. Available at: <https://www.businessinsider.com/coinbase-ceo-earnings-call-words-prediction-markets-bets-2025-12>

⁸⁸ Dellinger, AJ. "Kalshi CEO Says He Wants to Monetize 'Any Difference in Opinion.'" *Gizmodo*, December 4, 2025. Available at: <https://gizmodo.com/kalshi-ceo-says-he-wants-to-monetize-any-difference-in-opinion-2000695320>

their risk on prediction markets.⁸⁹ Such a vision of the future is bleak, and is already yielding harmful results for the public. Gambling addiction is on the rise, with more and more, and younger and younger, individuals seeking out treatment.⁹⁰ Prediction markets are also blurring the lines between real investing and wild speculation, with growing nihilism about the ability to work hard and get ahead in the American economy, combined with a gamified user interface, driving increasingly casino-like activity.⁹¹ And troublingly, the growth of opportunities for constant wagering may be, according to analysts at Bank of America, even impairing younger Americans' creditworthiness for real wealth creation via loans to fund education or homeownership.⁹²

Stopping the Spread

In the face of forbearance from the CFTC, many states, tribes and consumers are taking action via litigation, seeking to stop the proliferation of various forms of event contracts. By one count, litigation or cease-and-desist proceedings related to the legality of sports-based event contracts are pending in some shape or form in Nevada, New Jersey, Maryland, Ohio, New York, Connecticut, Massachusetts, California, Wisconsin, Illinois, Kentucky, South Carolina, Georgia, Montana, and Arizona.⁹³ In other states like Tennessee, more attention is being paid in local media to how prediction markets are disrupting the local gaming industry and may have downstream impacts on school funding.⁹⁴

Moving forward, the proliferation of state, tribal and consumer lawsuits will create a patchwork of legal decisions and tremendous market uncertainty. Instead of waiting for litigation to play out, the CFTC should instead reassert its authority under the CEA. Lawmakers should likewise conduct oversight of the Commission to ask difficult questions about why they are

⁸⁹ X.com post by @TenreiroDaniel, December 4, 2025. Available at: <https://x.com/tenreirodaniel/status/1996634259973722181?s=12>

⁹⁰ See Schiffrin, Ben. "The U.S. already has a gambling epidemic – 24 hour stock trading would only make it worse." *Fortune*, December 13, 2024. Available at: <https://bettermarkets.org/newsroom/op-ed-in-fortune-the-u-s-already-has-a-gambling-epidemic-24-hour-stock-trading-would-only-make-it-worse/>

⁹¹ Stewart, Emily. "Everything's Casino." *Business Insider*, November 6, 2025. Available at: <https://www.businessinsider.com/kalshi-polymarket-fanduel-draftkings-sports-betting-gambling-2025-11>;

⁹² Tsekova, Denitsa. "Gambling, Prediction Markets Create New Credit Risks, BofA Warns." *Bloomberg*, November 25, 2025. Available at: <https://www.bloomberg.com/news/articles/2025-11-25/bank-of-america-warns-of-mounting-credit-risks-as-gambling-booms?srnd=homepage-americas&sref=mQvUqJZj>; citing the "behavioral risk" associated with the accessibility of prediction market betting and warning that borrower creditworthiness is deteriorating due to increasing expenditures and debt in these markets.

⁹³ X.com post by @MickBransfield, December 3, 2025. Available at: <https://x.com/MickBransfield/status/1996383073949331472>

⁹⁴ Rayner, Ruby. "Predictions market could threaten Tennessee gambling, which has provided some school funding." *Chattanooga Times Free Press*, November 28, 2025. Available at: <https://www.timesfreepress.com/news/2025/nov/28/predictions-market-could-threaten-tennessee/>

letting self-certification of these contracts proliferate, and push for answers on how the CFTC is squaring its recent inaction with existing law and regulation.⁹⁵

VI. Lack of Transparency and Public Input

Perpetual Futures and 24/7 Trading

As the prediction markets example demonstrates, the CFTC has developed a troubling recent track of allowing new products to be introduced to the market without meaningful consideration. As another example, the CFTC put out a request for comment on perpetual futures (or derivatives contracts without an expiration date) in April 2025, seeking perspectives from the public.⁹⁶ But just two days after the publication of that request, crypto exchanges began self-certifying the introduction of these contracts, with the exchanges advertising allowable leverage up to 10-to-1.⁹⁷ The CFTC likewise sought comment on 24/7 trading in April 2025, with a comment deadline of May 21, 2025.⁹⁸ On May 9, 2025, before the comment deadline on this proposal was reached, Coinbase launched 24/7 trading for margined futures contracts.⁹⁹ The CFTC allowed this to go forward without responding to public commenters, including those in the traditional agriculture futures market that opposed such a change.¹⁰⁰

Spot Crypto Trading on Designated Contract Markets

Meanwhile, the Acting Chair announced on December 4, 2025 that the agency would now allow spot crypto trading on DCMs.¹⁰¹ The Acting Chair did this even though the agency solicited

⁹⁵ See for example a bipartisan letter from Senators Cortez Masto, Curtis, Gallego, Slotkin, Schiff, Padilla and Rosen to Acting Chair Pham on September 30, 2025. Available at: <https://www.cortezmasto.senate.gov/wp-content/uploads/2025/10/2025-September-30-Cortez-Masto-Curtis-CFTC-Letter-Sports-Gaming-FINAL-SIGNED.pdf>

⁹⁶ Commodity Futures Trading Commission. “CFTC Staff Seek Public Comment Regarding Perpetual Contracts in Derivatives Markets.” *CFTC Release 9069-25*, April 21, 2025. Available at: <https://www.cftc.gov/PressRoom/PressReleases/9069-25>

⁹⁷ “Bitnomial Exchange Self-Certifies First Ever U.S. Perpetual Futures Contracts.” *Press Release*, April 23, 2025. Available at: <https://www.prnewswire.com/news-releases/bitnomial-exchange-self-certifies-first-ever-us-perpetual-futures-contracts-302435713.html>

⁹⁸ Commodity Futures Trading Commission. “CFTC Staff Seek Public Comment on 24/7 Trading.” *CFTC Release 9068-25*, April 21, 2025. Available at: <https://www.cftc.gov/PressRoom/PressReleases/9068-25>

⁹⁹ Coinbase. “24/7 futures trading has arrived.” *Coinbase Blog*, May 9, 2025. Available at: <https://www.coinbase.com/blog/24-7-futures-trading-has-arrived>

¹⁰⁰ National Grain and Feed Association. “NGFA urges CFTC to reject 24/7 agricultural futures trading proposal.” *Press Release*, May 21, 2025. Available at: <https://www.ngfa.org/ngfa-urges-cftc-to-reject-24-7-agricultural-futures-trading-proposal/>

¹⁰¹ Commodity Futures Trading Commission. “Acting Chairman Pham Announces First-Ever Listed Spot Crypto Trading on U.S. Regulated Exchanges.” *CFTC Release 9145-25*, December 4, 2025. Available at: <https://www.cftc.gov/PressRoom/PressReleases/9145-25>

comment on this very issue with a comment deadline of August 18, 2025¹⁰² and again, in the context of providing comments on the recommendations in the President’s Working Group Report, with a comment deadline of November 28, 2025.¹⁰³ While the Acting Chair in November noted to the media that she was “personally guiding exchanges”¹⁰⁴ on the launch of spot crypto trading on DCMs, the agency has not been deliberately and comprehensively assessing the merits of various proposals or the public comment file.

A review of the comment files on spot crypto trading indicates a range of stakeholder perspectives that were not considered ahead of the December 4, 2025 spot crypto trading announcement. For example, the Futures Industry Association advised that the CFTC should wait for Congress to pass comprehensive spot crypto market trading legislation before moving forward with transactions outside the scope of those covered by section 2(c)(2)(D) of the CEA.¹⁰⁵ Another commenter noted that with allowable transactions under 2(c)(2)(D) there remains “a lack of clarity regarding the [applicable] requirements and how DCMs or other market participants may comply with them.”¹⁰⁶ Another crypto industry market participant called for the CFTC to impose strict leverage limits to the extent DCMs wanted to offer financed crypto transactions.¹⁰⁷ Another firm called on the CFTC to issue new regulations before allowing spot crypto trading to move forward, citing that “extensive customer protection rules should be put in place to minimize risks to retail market participants from the trading of these contracts, especially if platforms seek to use auto-

¹⁰² Commodity Futures Trading Commission. “Acting Chairman Pham Launches Listed Spot Crypto Trading Initiative.” *CFTC Release Number 9105-25*, August 4, 2025. Available at: <https://www.cftc.gov/PressRoom/PressReleases/9105-25>

¹⁰³ White House. “President’s Working Group on Digital Assets, Strengthening American Leadership in Digital Financial Technology.” July 30, 2025, Available at: <https://www.whitehouse.gov/crypto/>; the CFTC’s website indicated a deadline to comment on this report of November 28, 2025. Available at: <https://comments.cftc.gov/PublicComments/ReleasesWithComments.aspx?Type=ListAll&Year=2025>

¹⁰⁴ Hamilton, Jesse. “U.S. Regulator That May Rule Over Digital Assets Pushing Towards Crypto Spot Trading.” *CoinDesk*, November 9, 2025. Available at: <https://www.coindesk.com/policy/2025/11/07/u-s-regulator-that-may-rule-over-digital-assets-pushing-toward-crypto-spot-trading>

¹⁰⁵ Lurton, Allison. “Listed Spot Crypto Trading Initiative.” *Futures Industry Association Comment Letter to the CFTC*, August 18, 2025. Available at : <https://www.fia.org/sites/default/files/2025-08/FIA%20Letter%20-%20CFTC%20Spot%20Crypto%20Initiative%20-%20Final%208.18.25.pdf>. Specifically, the letter contends that this provision of the CEA only permits the CFTC to oversee spot crypto transactions for a person that enters into, or offers to enter into (even if not entered into), “any agreement, contract or transaction in any commodity” with a retail participant, i.e., a person that is not an eligible contract participant, as defined in the Act, “on a leveraged or margined basis, or financed by the offeror, the counterparty, or a person acting in concert with the offeror or counterparty on a similar basis.”

¹⁰⁶ Dutta, Karen. “Comment for General CFTC Request Input on All Recommendations for the CFTC in the President’s Working Group on Digital Assets.” *Intercontinental Exchange, Inc. Commet Letter to the CFTC*, November 28, 2025. Available at: <https://comments.cftc.gov/PublicComments/ViewComment.aspx?id=113942&SearchText=>

¹⁰⁷ Lasko, Daniel. “Comment for General CFTC Request Input on All Recommendations for the CFTC in the President’s Working Group on Digital Assets.” *dYdX Trading Inc. dba dYdX Labs Comment Letter to the CFTC*, September 24, 2025. Available at: <https://comments.cftc.gov/PublicComments/ViewComment.aspx?id=113721&SearchText=>

liquidating and fully collateralized retail accounts to bypass Futures Commission Merchant (“FCM”) registration.”¹⁰⁸ They also noted that clarifications to customer segregation rules would be needed.¹⁰⁹ Finally, Better Markets issued a comment letter citing a host of issues that needed to be worked through before the agency moved forward on spot crypto trading on DCMs, including clarifying leverage limits, explaining whether auto-liquidation mechanisms would be put in place, addressing the distinct roles of DCMs, FCMs and Derivatives Clearing Organizations (“DCO”) given the vertical integration in the existing crypto market, and clarifying the scope of eligible depositories for accounts holding crypto.¹¹⁰

As the range of issues raised in these comment letters demonstrate, the CFTC has abandoned a traditional process around notice and comment rulemaking under the Administrative Procedure Act. Instead, when Acting Chair Pham made the spot crypto trading announcement on December 4, 2025 it was made via a press release with no relevant documents linked to understand the parameters of the products allowed. Instead, the only thing the public knows is that the DCM Bitnomial was granted permission to launch spot crypto trading on December 8, 2025. One has to go to an arcane page on the CFTC’s website to review Bitnomial’s filings, which suggest the exchange wants to offer trading in assets including Bitcoin, Ethereum, XRP and Solana.¹¹¹ Market observers are left with key questions, including just how much retail leverage will be permitted, how the DCM is managing those leverage exposures, whether auto-liquidation mechanisms will be used, and why one DCM was permitted to move forward with these products as a first-mover before any other DCM. Rather than a piecemeal approach established through ad hoc discussions with DCMs, it would make much more sense for the CFTC to either promulgate a rulemaking on the topic or wait for Congress to pass comprehensive legislation.

Tokenized Collateral

In yet another example, earlier this week Acting Chair Pham moved forward with a pilot program without responding to the comment file the CFTC had solicited on the topic. Specifically, less than two weeks after the comment period closed on the CFTC’s request for feedback on using crypto assets as collateral in derivatives markets, Acting Chair Pham announced a pilot program to allow this activity.¹¹² Even more disturbing than the timing of the launch of the program is the fact that the CFTC’s press release announcing it quotes numerous crypto companies applauding the

¹⁰⁸ Maratea, Andrew. “Comment for General CFTC Request Input on All Recommendations for the CFTC in the President’s Working Group on Digital Assets.” *Topstep LLC Comment Letter to the CFTC*, November 26, 2025. Available at: <https://comments.cftc.gov/PublicComments/ViewComment.aspx?id=113935&SearchText=topstep>

¹⁰⁹ *Id*

¹¹⁰ Fischer, Amanda. “Comment for General CFTC Request Input on All Recommendations for the CFTC in the President’s Working Group on Digital Assets.” *Better Markets Comment Letter to the CFTC*, November 28, 2025. Available at: <https://comments.cftc.gov/PublicComments/ViewComment.aspx?id=113957&SearchText=>

¹¹¹ Commodity Futures Trading Commission. “Designated Contract Market Products.” Accessed December 6, 2025. Available at: <https://www.cftc.gov/IndustryOversight/IndustryFilings/TradingOrganizationProducts>

¹¹² Commodity Futures Trading Commission. “Acting Chairman Pham Announces Launch of Digital Assets Pilot Program for Tokenized Collateral in Derivatives Markets.” *CFTC Release 9146-25*, December 8, 2025. Available at: <https://www.cftc.gov/PressRoom/PressReleases/9146-25>

action – an odd action for an agency tasked with serving the public interest and not specific market participants.

Withdrawals and Delays

The CFTC has also engaged in a number of troubling withdrawals of guidance and delays of rules without explaining the rationale of such actions or appropriately abiding by public transparency requirements. For example, earlier this year, the Commission withdrew previous guidance on voluntary carbon credits.¹¹³ This guidance was originally issued to enhance transparency and standardization in the market, including establishing clear standards for physical delivery and other considerations for DCMs to support accurate pricing and enhance liquidity, helping to address concerns over the susceptibility of these contracts to manipulation.¹¹⁴ Withdrawing the guidance simply means that market participants are operating with less clarity. The Commission likewise withdrew guidance on DCO recovery plans,¹¹⁵ creating a vacuum where market participants say a “replacement may be needed” because the previous guidance letter “gave clarity to central counterparty clearinghouses.”¹¹⁶ Finally, the agency, along with the SEC, extended the compliance deadline for a hedge fund transparency rule three separate times – from March to June 2025, then to October 2025, then another full year to October 2026¹¹⁷ – raising questions from one SEC Commissioner as to whether this was just a backdoor way to ensure the rule never becomes effective.¹¹⁸

¹¹³ Commodity Futures Trading Commission. “CFTC Withdraws Guidance Regarding Listing Voluntary Carbon Credit Derivative Contracts.” *CFTC Release 9119-25*, September 10, 2025. Available at: <https://www.cftc.gov/PressRoom/PressReleases/9119-25>

¹¹⁴ Dumas, Cantrell. “Can the CFTC Tame Carbon Fraud and Create Trust in a Broken System?” *Better Markets*, October 10, 2025. Available at: <https://bettermarkets.org/wp-content/uploads/2024/10/Better Markets Fact Sheet Carbon Markets-10.10.24.pdf>

¹¹⁵ Commodity Futures Trading Commission. “CFTC Staff Withdraws Guidance on DCO Recovery Plans and Wind-down Plans.” *CFTC Release 9120-25*, September 11, 2025. Available at: <https://www.cftc.gov/PressRoom/PressReleases/9120-25>

¹¹⁶ Kirkel, Janice. “Reluctant farewell to CFTC’s clearing house recovery guidance.” *Risk.net*, October 15, 2025. Available at: <https://www.risk.net/regulation/7962328/reluctant-farewell-to-cftc%20%99s-clearing-house-recovery-guidance>

¹¹⁷ Commodity Futures Trading Commission. “CFTC and SEC Extend Form PF Compliance Date to Oct. 1, 2026.” *CFTC Release 9126-25*, September 17, 2025. Available at: <https://www.cftc.gov/PressRoom/PressReleases/9126-25>

¹¹⁸ Securities and Exchange Commission. “Repeal By Extension: Statement on Yet Another Extension of the Form PF Compliance Date.” *Statement by SEC Commissioner Caroline Crenshaw*, September 17, 2025. Available at: <https://www.sec.gov/newsroom/speeches-statements/crenshaw-091725-repeal-extension-statement-yet-another-extension-form-pf-compliance-date>

CEO Innovation Council

Last month, Acting Chair Pham announced the creation of a “CEO Innovation Council,”¹¹⁹ with reporting indicating that the Council will advise the agency on crypto and prediction market policy.¹²⁰ From the press release, it is unclear if this Council will abide by Federal Advisory Committee Act conditions that require balanced membership across stakeholders,¹²¹ and not just another mechanism for crypto industry insiders to influence policy at the expense of traditional CFTC constituencies and public interest organizations. Again, we suggest a return to regular order for stakeholder input on these emerging topics.

VII. Conclusion

The CFTC touches nearly every part of our economy. It affects the daily lives of producers like farmers, ranchers and manufacturers, and has a crucial role to play in ensuring that prices for everyday staples reflect true supply and demand in the economy. The Committee is right to focus on reauthorization of the agency at this important time. As this testimony demonstrates, the agency has in many ways strayed from its traditional mission, while also deviating from bipartisan history and downsizing staff in ways that may likely harm the public. Agency leadership should shift the Commission’s focus back to core issues, return to regular order, seriously consider public input and reinvigorate the bipartisan track-record that has categorized the CFTC for the last 50 years.

¹¹⁹ Commodity Futures Trading Commission. “Acting Chairman Caroline D. Pham Seeks Nominations for CFTC CEO Innovation Council by December 8.” *CFTC Release 9142-25*, November 25, 2025. Available at: <https://www.cftc.gov/PressRoom/PressReleases/9142-25>

¹²⁰ Hamilton, Jesse. “U.S. Crypto Regulator, CFTC, Seeking Names for New 'CEO Innovation Council.'” *CoinDesk*, November 25, 2025. Available at: <https://www.coindesk.com/policy/2025/11/25/u-s-crypto-regulator-cftc-seeking-names-for-new-ceo-innovation-council>

¹²¹ Marchsteiner, Kathleen E. and Meghan M. Stuessy. “The Federal Advisory Committee Act (FACA): Overview and Considerations for Congress.” *Congressional Research Service Report R47984*, March 26, 2025. Available at: <https://www.congress.gov/crs-product/R47984>