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Dr. Heath P. Tarbert
Chairman and Chief Executive
U.S. Commodity Futures
Trading Commission

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Moderator: Christopher Papagianis
President, Paulson Family Foundation

Introduction

Chairman Marie-Josée Kravis

Thank you and good afternoon everyone. And welcome to The Economic Club's 523rd meeting. And I'm Marie-Josée Kravis. I'm the Chairman of The Economic Club of New York and a Senior Fellow at the Hudson Institute. And I'd be remiss if I didn't remind you and brag a little that The Economic Club of New York is really the nation's leading nonpartisan forum for discussions of economic, political and social issues.

I'd like to take a moment to recognize some of our 307 members of the Centennial Society who are attending today. And you really are the financial backbone of the Club and I thank you for your support. It's through your support that we're able to have very wide-ranging, broad and diverse programming. So I thank you very much. And I'd like to also welcome those of our 2020 Class of Fellows, the leaders of tomorrow who have just begun their new program with the Club. And I'd like to welcome you and invite you to attend as many meetings as possible.

And, on that note, it's my pleasure to introduce and to welcome our special guest today, the Chairman of the U.S. Commodity Futures Trading Commission, known as the CFTC, Dr. Heath Tarbert. The mission of the CFTC is to promote the integrity, resilience, and vibrancy of U.S. derivatives markets through sound regulation. The

agency has approximately 700 people based in Chicago, Kansas City, New York, and Washington, D.C. and also works to ensure U.S. commodities and derivatives markets are free of fraud and manipulation.

With extensive experience in the financial services industry and financial services law, Heath Tarbert served in senior leadership positions in the public and private sector. Most recently, he was Assistant Secretary for International Markets and subsequently he was acting Under Secretary for International Affairs at the U.S. Department of the Treasury.

Heath is a graduate of both Mount Saint Mary's and the University of Pennsylvania Law School. Later he obtained the Doctorate in Philosophy and Comparative Law from Oxford University.

The format today will be brief remarks by Heath Tarbert followed by a conversation. And we're very fortunate to have Christopher Papagianis, a partner at Paulson and Company, who will lead this conversation. I want to remind everyone that this discussion is on the record and it's being recorded Live so we please ask you to turn your cell phones off. And, on that note, I welcome Heath Tarbert and Christopher will join him just after his remarks. (Applause)

Dr. Heath P. Tarbert - Chairman and Chief Executive

U.S. Commodity Futures Trading Commission

Well, thank you so much for having me. I'm delighted to be here today. I'm really grateful to the New York Economic Club for having me. I'm particularly grateful for your Chair, Marie-Josée Kravis and your President, Barbara Van Allen and also my old colleague from the White House days, Chris Papagianis, who is President of the Paulson Family Foundation who will be moderating our Q&A part of the program.

In my opening remarks, I want to briefly discuss some threats to the preeminence of New York as the world's number one financial center. And before I go further, I always have to say that the views that I express here today may not necessarily be those of the Commodity Futures Trading Commission, fellow commissioners and staff. But, of course, it's my goal that someday they will be the views of the Commodity Futures Trading Commission, and perhaps all of you as well.

I want to set the stage by talking briefly about the place of New York as not only the financial center of the United States but the financial center of the world. It's clear today that Wall Street – and when I say Wall Street, of course I include Midtown as well – is at the very center of American finance. But I think it's incumbent upon us to remember that

this always hasn't been the case.

The very first bank in the United States, the very first exchange in the United States were not in New York. They were in Philadelphia. Boston tried to vie for part of the economy but Boston has always been a leader in intellectual pursuits, art and academia. Chicago didn't have railway lines or telegraph access until the 1850s. And, of course, San Francisco came even much later in time. But New York rose past Philadelphia and it did so by a variety of different factors. The Erie Canal, of course, the connected New York City to the Great Lakes, the Black Ball passenger line which provided transatlantic customer service, and of course mass immigration from Europe.

Now perhaps not as big as those factors, there's other factors that were at play as well. And I would include organizations like this, like The Economic Club of New York, that helped make this city preeminent. From your inception in 1907 until today, you've always encouraged discussion on leading issues of the day. And one of the things that's impressed me most about your organization is that you've always emphasized the important role that business plays in making the community better. And in this case, it's not just the community, it's the nation as a whole, and even beyond.

Now, as a result of all of these developments, New York became not just the premier financial center in the United States, but indeed the world. And this just isn't my view.

Duff & Phelps has a Global Regulatory Outlook Survey that they do every year. And the latest version of that survey had 56% of people saying they considered New York to be the world's greatest financial center. In second place, of course, there was London, but only with 34%. And with less than 10% combined were Hong Kong and Singapore.

So what is my message for all of you today? Well, it's this. None of us should take New York's status as the financial center of the world for granted. There are threats – both foreign and domestic – that we ignore at our own peril.

So I want to talk briefly about three threats today. Number one, the politicization of finance and business. Second, market fragmentation. And third, over-regulation.

Well, the first threat is probably known to all of you. And that's the growing politicization of business and finance. And by this, I mean an approach to finance and business that serves political ends. Many of you feel like your industry has basically become a political football in recent years, kicked around to serve whatever the issue of the day is. And my concern with this is these efforts cause collateral economic damage that hurt ordinary people, not just big corporations and the wealthy.

Let me give you a recent example: transaction taxes. Certain lawmakers in Canada proposed financial transaction taxes for trades of stocks, bonds, and derivatives. Under

some of these proposals, the money generated by the tax would be used to fund Social Security, Medicare for All, student loans. And I want to be clear, the government needs the power to tax. It's a necessary part of the government. But what troubles me is some of the rationales I see for these transaction taxes.

One of the claims is that they would target wealthy investors the most. But the fact is that they would really target mutual funds. Mutual funds would feel the greatest burden through these taxes. And it's through mutual funds and similar types of investments, ETFs, that everyday Americans save for their investment, save for their retirement. And so the unintended consequence of this sort of program could lead us to hurt the very people we want to help the most.

This is just one of the examples where I think business and finance have been targeted in today's divisive political culture. We seem to have lost an appreciation for the role of business as a source of good in our communities. We no longer look at finance as a noble profession, as a means to feed entrepreneurship or spur economic growth.

And underlying this politicization, I believe is a broader attack on our American system of free enterprise and I'll talk a little bit about that later. The next threat I want to talk about is market fragmentation. Now this happens when a market is composed of multiple, but highly incompatible trading centers. It forces buyers and sellers of

particular assets to not be able to work on all venues but to choose one trading center over another. So it eliminates the free choice of trading venues.

Restricting the ability of traders to be able to access multiple venues creates fragmented pools of liquidity. And those fragmented pools of liquidity are actually less resilient in bad times. They also result in more volatility. And as everyone in this room knows, more volatility can cause higher prices for investors and it can also make it more difficult for end users to hedge.

Now one of the main sources of market fragmentation is actually divergence among national regulators. One of the things that I struggle with in my job, and I know my counterparts overseas do as well, is figuring out how do we regulate things that are cross-border? How do we regulate activities that occurring here but occurring overseas as well?

One of the reasons I think New York has been preeminent is because investors and people from all over the world want to come here and access our markets. So we've got to grapple with this issue of cross-border jurisdiction because we have situations where multiple laws are applying to financial institutions, their clients, their customers. And it becomes duplicative and conflicting sometimes and that leads to less competitive and less resilient markets. And it can obviously hammer economic growth and job creation.

Let me give you a concrete example of this. Prior to the Dodd-Frank Act, a trader in New York could access trading venues in London and vice versa. After the Dodd-Frank Act, we created something called Swap Execution Facilities which are fine. They're U.S. trading platforms. But what we found is that when Americans wanted to access trading venues abroad, they kept getting kicked out because trading venues abroad did not want to have to register as SEFs and be subject to CFTC supervision and oversight. And it was because the CFTC took the position that it didn't matter how many Americans were involved, if a single American and a single transaction used a trading platform overseas, it would trigger registration requirements.

Now keep in mind, we're talking about swaps. It's illegal for individual citizens, retail investors – so to speak – to trade swaps. You have to be an eligible contract participant which is a pretty high level of sophistication. So we're not talking particularly about retail investors. These are big institutional players in the swaps markets. Yet we said that even a de minimis amount of participation was enough to create it. And as a result, we saw American institutions being pushed off trading platforms overseas.

Now we have segmented and separate liquidity pools. And these pools have less liquidity – as I mentioned, they're more susceptible to market shocks. So it's no wonder the Financial Stability Board headquartered in Basil is studying the impact of market fragmentation.

The third threat I see is over-regulation. And let me be clear about this. I believe in regulation. For the last twenty years, I've studied financial regulation and today it's my day job. In fact, it's my night job as well. Over-regulation occurs when regulations either don't have a legitimate purpose or if there is a legitimate purpose, the regulations themselves don't actually achieve that purpose. So my view is that tackling over-regulation in a responsible way isn't deregulation at all. It's just simply good government.

One of my goals at the CFTC has been to encourage market innovation and enhance the regulatory experience for market participants at home and abroad. It's important to me that these markets continue to thrive and that the financial sector continues to grow. Regulation that's too prescriptive, that doesn't have a legitimate objective or no longer achieves a legitimate objective contributes to over-regulation and can impede American prosperity.

Let me give you an example of over-regulation or potential over-regulation. The European Commission adopted something called EMIR 2.2, the European Market Infrastructure Regulation. And it essentially allows Europe to designate clearinghouses outside of Europe as potentially systemically important and then supervise and regulate those clearinghouses. So that legislation, depending on how it's implemented could lead

to ICE Clear U.S., which is a clearinghouse headquartered right here in New York, being subject to European supervision and regulation.

My concern there is that again we have over-regulation. It can also cause potential fragmentation. It can lead to contradictory and inconsistent risk management requirements. Other countries will also say, well, if Europe does that, then we also should be doing that as well. And then we have a situation as follows: we have too many cooks in the kitchen and too many cooks in the kitchen is a recipe for burning of food, right? And so what does it mean to burn the food? Well, it means liquidity could leave the United States. Our markets will be less efficient. And ultimately it could cause systemic risk here in the United States. So we want to work on that issue.

So what are the threats again, real quick? Politicization of the business and finance environment. Market fragmentation and over-regulation. But don't worry, where there's a threat, there's often an opportunity. So for each of those threats, let me propose to you a potential response.

So first, in the face of the increasing demonization of business and finance in our politics, our response should be a renewed commitment to our free enterprise system. Free enterprise is the bedrock of American values, of economy. It's part of who we are. It's one of the main reasons we're an exceptional nation. And indeed, I would say no

economic system has brought more prosperity, innovation and opportunity to a people and arguably beyond our shores than the American system of free enterprise. Is it perfect? No. Should we continue to work on it and improve it? Yes. But I can't emphasize enough the importance of it to our way of life.

There's always going to be bad behavior in the financial markets. Nobody in this room of course, but potentially others. Why? Look, there's too much money at stake and we're talking about human nature here. The CFTC is committed to ensuring that our markets are free from fraud and manipulation. But one of the other persistent themes that I've been emphasizing since becoming CFTC Chairman is the underlying purpose of our derivatives markets are to serve the everyday needs of Americans. Derivatives touch all corners of the real economy.

On Friday, I was out at a feedlot in Texas. I was dressed a little differently as you can imagine. And the owner of the feedlot uses derivatives to hedge. He uses futures, live cattle futures to hedge his risk. Met farmers in Kansas, also use derivatives. Energy cooperatives use derivatives to hedge price risk in the energy markets. And businesses around the country use it to hedge foreign exchange prices. So, in regulating these markets – the derivatives markets – I sort of view the CFTC as ultimately being a guardian of the free enterprise system.

And left unchecked, political attacks on American business and finance will have a corrosive effect, not just on our economy, but I'm concerned on our national identity as well. My fear is that it will fuel the rise of socialism. And I know I'm telling everybody in this room something you already know, but socialism always starts as a dream and ends as a nightmare. So please, for the sake of future generations, let's champion our free enterprise system.

The second issue: market fragmentation. Our response here should be a renewed commitment to recognizing and granting comity to foreign jurisdictions. There's not a single approach to market fragmentation but a commitment to regulatory cooperation for deference, and I see people from Europe here today. And I'm really committed to working with all of you. I think if we work together, it will be a powerful defense against market fragmentation.

So, how does that work? Well, if people are over here, they play by our rules. If our citizens are over there, they play by their rules. There are also instances where we have registration requirements, capital liquidity, and my view is that if they're applying a similar rule or regulation or set of rules and regulations, we should recognize that and give them credit for that and vice versa. I think it will do a lot to make things together.

So let me go back to EMIR 2.2, which I mentioned is an issue we're facing right now

regarding the clearinghouses. I do believe that other overseas jurisdictions have an interest, a legitimate interest in understanding the risk posed by clearinghouses to their local firms and businesses. Now, right now I can't find any credible evidence that any of our clearinghouses in the United States – even though systemically important, by the way, to the United States – actually present a systemic risk to Europe. Among other reasons, Europe's footprint in our clearinghouses are pretty small. But that doesn't mean I'm not committed to working with the European Commission, with ESMA, to share information and address any concerns they have.

National regulators, both here in the U.S. as well as abroad, should create a regulatory structure that relies on comity and cooperation. I don't think any country should exert extraterritorial, extraordinary jurisdiction over the markets of another country, particularly if that country is already in the G20 and has agreed to implement all of these regulations.

Finally, there is the threat of over-regulation. I think we set the standard for sound regulation here in the United States and it's important that we do so. I think there are a couple of things to address this threat. First, the international comity issue that I mentioned. It works for market fragmentation. It will also work for over-regulation by avoiding duplicative requirements. But second, I think we've got to make our domestic regulation less burdensome and more business-friendly without engaging in a race to

the bottom.

I'm convinced that sound regulation doesn't mean light-touch regulation nor does it mean deregulation. And it doesn't have to jeopardize consumer protection. If we build a sound regulatory system, market participants will come. Consider New York's success recently in attracting digital asset exchanges – cryptocurrency for those of you that like that term. So California is really where the technology is and the futures markets are in Chicago, yet New York has become the center of digital asset trading here in the United States. How did it do this?

Well, you all did it by leveraging your financial market expertise, your Wall Street savvy, and you also created a hospitable regulatory framework for digital assets – the New York bitcoin, the bit license as it's called. And so the brightest and the best people from all around the world want to come here to live and work.

Another opportunity I see is Brexit. I think Brexit represents a great opportunity for the United States, as well as New York in particular, to get a greater share of the global market. A couple of weeks ago, as we all know, Britain left the European Union and with it, London, the EU's largest financial center. So this raises questions about institutions based in London and the United Kingdom continuing to access European clients and customers as well as European firms on the continent accessing the U.K. market.

Well, my view on this is if London is no longer part of the EU but is still carrying on lots of business with the EU, then why should New York be any different. I think this is a great opportunity for us to grow closer with the European Union, also closer with the U.K. And I think that again sound regulation and a system of regulatory deference can help achieve that end.

So as our markets become more global, New York, I think, has a tremendous opportunity to build on our status as the world's preeminent financial center. But in my view, New York can only seize this if we address the threats facing us by championing our free enterprise system, working with our international counterparts, and committing to sound regulation as opposed to either deregulation on the one hand or over-regulation on the other. I think if we do all of this, the Big Apple will remain on top. Thank you very much. (Applause)

Conversation with Dr. Heath P. Tarbert

CHRISTOPHER PAPAGIANIS: Chairman, thanks again for joining us today.

DR. HEATH P. TARBERT: Absolutely.

CHRISTOPHER PAPAGIANIS: You touched briefly on digital assets, whether it's

cryptocurrencies or blockchain, innovative financial technologies are changing the way the derivatives market works today. You touched a bit on the local regulatory environment, but could you speak a little bit about the national regulatory environment?

DR. HEATH P. TARBERT: I mean to some extent there is no national regulatory environment. What we see is sort of fragmentation and we don't have a lot of clarity quite frankly. At the national level, there's sort of a question of every digital asset, what is it? Is it a security? Is it a commodity? And basically the commodity definition is very broad. If you go to our statute and you say what is a commodity, there are only two things that are not commodities. Anybody want to guess what they are. One is onions, because there was a problem in the 1950s so an onion is not a commodity. It's illegal to have a futures product on an onion. And the second are movie box office receipts. So if you have to say that onions, which really are a commodity, are not a commodity for legal purposes and you have to say box office tickets are not a commodity, basically it means pretty much every other financial product is a commodity. However, if it's a security, then it's pulled out of the commodity definition. The SEC regulates that. So the first question that everyone has to ask when a digital asset comes is, is it a security? And if it's not a security, it likely falls within our jurisdiction. Right now there are two digital assets that happen to be the largest that have been viewed as not securities by the SEC and hence they're commodities under our jurisdiction – bitcoin and ether. And so we regulate those. But there's still a lot of, sort of people want to see clarity on the

status of a particular type of digital asset.

CHRISTOPHER PAPAGIANIS: That's very helpful. You spoke about threats and opportunities. On the threat side, you mentioned over-regulation. I've heard you say before that how you regulate is just as important as what you regulate. Could you talk a bit about principles-based regulation because I know it's something that you care deeply about?

DR. HEATH P. TARBERT: Yes, I think there are, so there are sort of two ways you can regulate in terms of once you figure out what you want to regulate. You can do so by higher level principles which basically state an objective and then allow some flexibility for private sector to meet that principle. Or you can be much more prescriptive and do a rules-based regime. And this is not ideological. I don't think one side favors principle and one side favors rule. What I've tried to do is to have some objective content. I believe there are a number of areas where principles-based regulation makes sense. I think there are a number of areas where rules-based regulation makes sense. I've tried to sort of come up with an approach to do that. But let me give you some examples. If the technology is rapidly changing and if we came up with prescriptive rules, they would be obsolete. If there's more than one way to skin a cat, if we're worried about creative evasion, you know with lawyers and rules, then you want to go with a principles-based approach because you can hold people accountable. If we're worried about clarity and

we want to protect retail investors, for example, there's really only one way to do it. If we're talking about data, for example, that needs to be uniform that we're collecting, or we're worried about private litigation, we're worried about people getting sued, then you want to go with a rules-based approach. So I've sort of thought about that, and as we make our rules and we revisit our regulatory regime, we're applying both of those approaches. So if it's something like position limits that we're using, we want clear, broad, you know, bright line rules. And where retail investors are involved, for areas like fin-tech that are rapidly changing, cyber-security, risk management, we're going to take a more higher-level principles-based approached. And we find also too, that involves senior management at a much higher level than things that are much more legalistic.

CHRISTOPHER PAPAGIANIS: That's great. We're here at The Economic Club, zooming out for a moment, given your position as Chair of the CFTC, could you just give us your view on the economy right now – whether that's through entities that you regulate or what you're observing as you mentioned, you know, crossing the country and visiting Texas and other...

DR. HEATH P. TARBERT: The big picture, when I go out there, people seem to be very optimistic about the economy. I guess when looking at the jobs report that just came out, 225,000 new jobs were announced that were added, last Friday. Unemployment is near a 50-year low. Workplace participation, I think, is the best in seven years. So the

economy, it's hard to say anything sort of bad about the economy. But I can tell you, when I talk with Americans that are out there in the field, working in factories that use our products, even corporate boardrooms sort of outside of New York, there tends to be a lot of optimism. Our markets, in particular, our job is not necessarily to worry about prices and things of that nature, but really to make sure these markets have integrity, that they're resilient and they're vibrant. So that is my focus. It's just making sure that when someone goes to use a futures exchange, that futures price is not based on manipulation or the whims of traders but rather, in fact, represents real supply and demand for that product. And so that's my role on all this.

CHRISTOPHER PAPAGIANIS: You touched on EMIR 2.2. Could you give us a sense of how the negotiations are actually going? Is Europe listening? I mean, as you were going through that, I think one, we're led to wonder about how effective that communication is going.

DR. HEATH P. TARBERT: We've had constructive talks with the Europeans. I mean I take a backup and I say let's think about it this way. From the European perspective, imagine if the state of New York seceded from the United States, and with it, New York City. People in Washington would say, well, what do we do now? Right? And so Europe needs a toolbox that it didn't have before, the European Union – to be more technical – needs a toolbox that it didn't have before so we can address, I think, real, legitimate risk

arising from Brexit. The issue is that the way the law is written, it refers to third countries, meaning a country outside the European Union. But we're a third country. New York and Chicago, nothing has changed with us. Right? We've always been there. We've always been doing what we're doing. And so the concern is that this rule could be misapplied to apply to the United States in a way that I think many of the people that supported it did not intend.

CHRISTOPHER PAPAGIANIS: You've been very busy in your first year at the CFTC – rules on swap execution facilities, speculative position limits, cross-border swaps. Could you give us some sense of what the agenda is moving forward over the next six months or maybe just looking out to 2020?

DR. HEATH P. TARBERT: It's a big agenda. And we're focused really, the way, I'd divide in half. So a lot of this is sort of unfinished business. We've got three or four rulemakings that are left over from the Dodd-Frank era where we haven't gotten them done. Position limits, there were attempts to get it done. A court got in the way and struck the first version down. And there have been subsequent attempts but we really need to get that done and finished so when people use our futures markets, they can be confident no one is doing corners and squeezes. The second issue is capital. Right now there's no swap deal capital ten years later. And so we just need to sort of get that done. Cross-border, I mentioned, is another area. But we also just can't revisit the past.

I want to focus on the future. So we've really got to understand how do we approach digital assets. How do we look at things like automated trading? Things that weren't in existence ten, twenty years ago, but things that we need to focus on. So I would say that's it. And then the other thing is there's an emphasis, as I mentioned before, the derivatives markets are really interesting because they do affect every sector of the U.S. economy. And I think to be a good CFTC chairman, you really have to try your best to understand how those other sectors work. I feel like I generally know finance, but I don't know agriculture. I haven't, until last Friday I had never been on a feedlot. But understanding how all that works is important because I think these markets have to continue to work for all Americans. And so that is another push. So we're looking at things like customer protection for example. Updating our bankruptcy rules. They have not been updated in 37 years, but a lot has changed. So things like that.

CHRISTOPHER PAPAGIANIS: The size of the derivative market, I think is, people forget just how big it is. So over-the-counter derivatives, the notional amount outstanding, I think, is over $500 trillion now. That's a staggering amount to be entrusted with overseeing or regulating. Can you talk about the importance of transparency? You just touched on it a little bit, but the transparency with regards to the marketplace and the different actors.

DR. HEATH P. TARBERT: Yes, so we have been focused on making sure that – the

futures markets are a much smaller sliver of that, but they are very transparent. You can get pre-trade and post-trade transparency, you know, at the blink of an eye. The over-the-counter swaps, of course, have been very different. They developed basically on phone and email. And we are working on making that market more transparent at the very least now, we have margin requirements, so no longer can someone be totally leveraged up. We have margin requirements at least among the main dealers in the community. But things like SEFs, requiring things to be traded on swap execution facilities, that's increased transparency. But we're also working now on our swap data reporting rules. So in about ten days' time, we will introduce a new proposal to streamline and fortify our swaps data reporting. And we've tried to coordinate with the SEC, because we had, like 200 fields to fill out, the SEC had different fields, and the Europeans had another set of fields. So we've tried to work it out so at least there will be a major overlap between the major jurisdictions. And then we can actually share the data and make use of it, making things more transparent.

CHRISTOPHER PAPAGIANIS: That's great. Before taking on the chair role at CFTC, you were at the U.S. Treasury Department. In the more distant past, you worked in the White House. Could you speak a little bit about just how different it is for you, or maybe if it's the same, in taking on the mantel of running an independent regulatory agency?

DR. HEATH P. TARBERT: Yes, so there are definitely some parallels with government

service. So some of the things that I've gotten used to, at the Treasury Department I carry over certainly the relationships because I was in the International Division of the Treasury Department. But it is really different being at a regulator. First of all, number one, you pass and promulgate rules that have the force of law so that's very different than at the Treasury where I was more in a diplomatic role. Secondly, we have an Enforcement Division so it's almost like having a U.S. Attorney's Office reporting to you with 160 enforcement personnel always investigating and looking out for fraud and manipulation and pursuing it. So that's a difference. And then finally, I'd say, you know, we've got a commission so I am the chairman of a commission so I set the agenda for the commission, but I'm the CEO of the organization. But we've got two Republican members and two Democrat members and then me. And so working with the other commissioners is something that I hadn't done before because Treasury is fairly hierarchical, as is the White House. But it's been really fascinating. And, of course, you have to build coalitions if you want to get stuff done and that stuff is not executive in nature but requires rulemaking, you need to get the other commissioners on board. And that has made me a better chairman, particularly having the Democratic commissioners on there because the give-and-take has been really helpful. So I have found it, you know, all four of the commissioners are outstanding colleagues. They're thoughtful. They care about the agency and its mission. And they also come from varied backgrounds. Some have an energy background. Some have an agriculture background. So that has really enriched me and I think, you know, made me a better

chairman.

CHRISTOPHER PAPAGIANIS: That's great. I know that innovation, you're very focused on it at the CFTC. Could you speak a bit about artificial intelligence, whether that's from the perspective of the regulator, whether you see on the horizon being able to utilize artificial intelligence, and then also how artificial intelligence is changing the derivatives market and therefore presenting new challenges?

DR. HEATH P. TARBERT: Yes, so in terms of the second part of that, it's definitely changing things. And there are people in this room that I know have some of the most sophisticated trading systems in the world. And so we are seeing trading, once we moved from the old, you know, open outcry pit where people were screaming at each other over orange juice futures and whatnot like in the movies, and we've moved to the electronic platforms, algorithms, technology, all of that has become far more important. On our side we're saying, well, now, you know, we were set up to look at fraud and manipulation in markets that are very different than the ones we see today. So we are working on building up our analytical capabilities, our data capabilities, for example to detect things like spoofing. Coming up with algorithms where we can detect market behavior that, you know, is potentially indicative of fraud and manipulation. So we are trying to build our internal artificial intelligence capability as well.

CHRISTOPHER PAPAGIANIS: That's exciting – on a government budget. (Laughter) Do we have time for a couple of questions maybe from the audience if the chairman will...any questions out there?

So you mentioned bit license and the concerns about market fragmentation. Just seeing like Wyoming coming up with, you know, the Special Purpose Depository Institutions. Governor Newsom saying he's going to open an Office of Innovation in California. Is there a concern around having 50 regulatory regimes around things like digital assets?

DR. HEATH P. TARBERT: I think if you talk to people in the field, they would say yes. I think there are certain areas like custody for example that historically the federal government has never regulated anyway. But I think the market could benefit from some national uniformity. Right now the CFTC has regulatory jurisdiction over anything that's a futures contract. We don't have regulatory jurisdiction over the spot market. But we do have enforcement jurisdiction over the spot market. So it's really interesting because we can't regulate it directly, but if there's fraud, there's manipulation in the spot market, it will adversely affect the futures market. So, as a result, we've gotten in there. I think there are a number of people calling for, hey, why don't we have that federal regime of some sort apply to spot transactions as well. It's ultimately a question for Congress but it seems to me if there's a role for our interstate commerce clause, it's pretty much digital assets are in interstate commerce so, you know, policymakers will

ultimately make that decision, but there's no question that there's a lot of fragmentation.

Doug Peterson from S&P Global. One of the new organizations that came up after the financial crisis was the FSOC. You're a member of FSOC. Can you tell us a little bit about how it works as well as are there any credit bubbles or issues you're seeing when you look systemically across all of the financial regulators?

DR. HEATH P. TARBERT: Right, so for those of you that may not be as familiar, one concern with the financial regulatory framework prior to the crisis was, well, we had everybody looking at their little space but no one was looking at everything. There was a discussion, should we have one systemic risk regulator or should we have something else? And what Congress decided to do was create the Financial Stability Oversight Council, which is a council of all the regulators where we sit and we talk about the financial system as a whole. So we meet on a monthly basis. We talk about risk. And there's a Deputy's Committee and committees under that where they're meeting on a much more frequent basis. We publish a report every year, the FSOC Annual Report – the Treasury Secretary chairs the FSOC – where we highlighted some of the issues we're looking at. So what are we looking at? Well, in the loan space they're worried about leveraged lending and so there are some things there that are involved. The CFTC really doesn't have a stake. That's really a banking issue. The issue that I think we're focused on that does look like it could – if it's not addressed adequately – become

a potential systemic risk is the LIBOR transition. So that's an example of where we're coordinating. I'm working with the New York Fed, the Federal Reserve Board as well as the FCA, which is the British regulator that regulates LIBOR, to ensure that at least in our markets the derivatives contracts can switch over to an alternative reference rate when LIBOR goes away or otherwise becomes what they say non-representative. In other words, you can't really use it anymore.

So your comments at the beginning about digital assets made me wonder what are the tradeoffs of merging the CFTC and the SEC versus keeping going as independent agencies of each other?

DR. HEATH P. TARBERT: Look, I was asked this question when I first interviewed with the Senate Agriculture Committee and they said, now, do you think the SEC and the CFTC should ever merge? And my answer then is the same as my answer now. If you need the CFTC to take over the SEC to save it, I'm willing to do that. (Laughter) But no, seriously, I think, you know, the way that I actually explain it is – there are some people shaking their heads yes, but I think we've got enough on our plate now. The SEC really focuses on capital formation and investment protection. Our markets are very different. We are focused on hedging instruments for risk. And so the markets are set up to do very different things. And also too, we have a historical interest in the agricultural markets, in the energy markets, and I think if you combined everything and just focused

on Wall Street, some of that would be left behind. So I do think they are very different markets. One is about capital formation and investment. The other is about having risk hedging instruments.

Thank you. Bill Rhodes. I'm very interested in your thoughts – and thank you for your presentation, I'm going to be seeing you later I think – your thoughts about the impact on the commodity markets of the coronavirus because, as we all know, China is one of the major importers of commodities. And within the trade arrangement that was just signed with the United States and China, the biggest single component are commodities. And so I'd be very interested as to what you think the impact has been, if any, and what it will be because a lot of people are concerned that this may really turn into a pandemic and not just an isolated situation which SARS was. I was in the middle of traveling to China a lot when SARS, in '02 and '03, but that was really a very limited type situation. This, for all the reasons we know, has the possibility of being much different than anything to do with SARS. Thank you.

DR. HEATH P. TARBERT: Yes, so the answer is that we don't know and we're monitoring it closely. So it is potentially, has the potential to affect the underlying prices of commodities, I think mainly from the demand side. If people are not working, if people are concerned, then Chinese businesses, Chinese consumers are not necessarily demanding some of our supplies. Now, that may not affect agriculture as much. I don't

know because ultimately, they're still going to need to eat – soybeans, pork, things of that nature. But it's something we're monitoring. I don't know whether it will affect production on the Chinese side of rare earth and other types of commodities that we import into the United States. But the answer is, I think, we don't know. It's important enough and material enough that it's something that we are looking at and we got a briefing on Friday from our markets department, our Market Intelligence Bureau, on this subject. So we have people that are looking at it closely.

(Applause)

DR. HEATH P. TARBERT: Thank you. Thank you.

CHAIRMAN MARIE-JOSÉE KRAVIS: Thank you very much, Heath, for your very timely and also very candid insights. And thank you, Christopher, for facilitating this conversation. I hope you'll both be back visiting the Club as often as possible. I just want to remind our members that we have quite a heavy and interesting agenda going forward, and I hope many of you will be attending. On February 26, we'll receive Ambassador Douglas Silliman, who is the President of the Arab Gulf States Institute in Washington, but he was also the former Ambassador to Iraq. This will be followed by March 14, our Real Estate Investment Panel, which will include Steve Roth from Vornado, Bill Rudin, the Chairman of Rudin Management, and Lisa Picard, the CEO of EQ. We have our March 11th Women in Business Summit. We hope many of you will

attend that. And on April 16, David Solomon followed by May 16, Larry Kudlow, the Advisor to the President for Economic Policy and the Director of the National Economic Council. There will be other events and we will inform you as those develop. But thank you for being here today and I hope to see you soon and often. Thank you again.

(Applause)