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**Senate Agriculture Committee Hearing  
CFTC Nominations  
March 2, 2022  
Provided by:**



## OVERVIEW

Today, the Senate Ag Committee held a [hearing](#) to consider the nominations of Christy Goldsmith Romero, Kristin Johnson, Summer Mersinger, and Caroline Pham to be Commissioners of the Commodity Futures Trading Commission (CFTC or Commission).

Below is a summary of the hearing prepared by Delta Strategy Group. It includes high-level takeaways from the hearing, followed by a summary of opening statements and witness testimony and the Q&A portion of the hearing.

### Key Takeaways

The following is a summary of the key topics explored in today's hearing. Each is discussed in further detail in the Discussion section below.

- All witnesses agreed that the CFTC is well positioned to take on an expanded role in digital asset commodity spot markets. Christy Goldsmith Romero, Summer Mersinger, and Kristin Johnson mentioned the importance of collaborating with other financial regulators to ensure customers had adequate protections, while Caroline Pham emphasized the importance of providing market participants with clear regulatory guidance and the role that the CFTC's self-certification model will play in encouraging thoughtful innovation.
- Witnesses also agreed that the CFTC has an important role to play in mitigating the physical and transition risks posed by climate change. Pham and Mersinger emphasized the importance of the CFTC fostering an environment where markets will find solutions to these risks.
- Committee Chair Debbie Stabenow (D-MI) said that the CFTC must be allocated more resources should it take on more responsibilities in new asset spaces.

## SUMMARY

## **Opening Statement and Testimony**

### **Chair Debbie Stabenow (D-MI)**

The CFTC has gone far too long without a full complement of Commissioners, and it needs to get back to its full capacity. Russia's invasion of Ukraine has led to ag market price volatility, and unregulated crypto markets may be used to circumvent sanctions. We look forward to working with the Commission to bringing appropriate oversight to digital asset spot markets. Our markets must work for everyone, so it is critical to include differing backgrounds and viewpoints in these vital issues.

As we think about federal regulation for digital assets, we are going to lean on the leadership of CFTC Commissioners. The CFTC can rise to this challenge, but it will need additional resources to handle this authority. We cannot repeat the mistakes of Dodd-Frank and add responsibility without resources. The CFTC will also play an important role in the transition to a carbon-neutral economy both through risk protection and creating financial incentives for farmers to transition.

### **Ranking Member John Boozman (R-AR)**

Beyond legacy commodity contracts that have been used for centuries to manage risks, the CFTC has taken on many other novel, innovative financial products. The CFTC also has fraud and manipulation enforcement authorities. These nominees will play a critical role in guiding Congress through the long journey of creating appropriate regulations for new products, such as digital asset commodities. Like any agency, the CFTC functions best with a full staff and full slate of Commissioners.

### **Christy Goldsmith Romero**

The CFTC's mission to promote the strength of derivatives markets through sound regulations has made the U.S. markets the strongest and most resilient throughout the world. The Commission plays a critical role in ensuring all American markets work well, beginning with ag markets. Farmers need derivatives markets for accurate price discovery and risk hedging. Through my work as Special Inspector General for the Troubled Asset Relief Program (SIGTARP), I gained strong experience safeguarding consumers and the financial system as a whole.

If confirmed, my highest priority would be to ensure that cryptocurrency and security markets are working well and are open, fair, and competitive. I would work to ensure that these markets function with proper consumer safeguards

through a culture of compliance coupled with strong enforcement. It is important to listen to all sides of this argument and collaborate with other regulators to ensure that all regulations are strong and sensible.

### **Kristin Johnson**

Our futures and derivatives markets are globally preeminent. In our domestic economy, these markets impact many Americans, from everyday consumers to major producers. Much work remains for the growth of the CFTC's role beyond the additional authorities given after the 2008 financial crisis. During crises, the CFTC's role of protecting market integrity becomes even more vital to Americans and the economy as a whole.

I will work to promote the CFTC's missions of promoting transparency, resiliency, liquidity, and consumer protections in markets. New innovations, such as DeFi markets, smart contracts, blockchain technology, and automated trading offer many benefits to the financial system, but there are also growing concerns over data breaches, cyberattacks, limited visibility, and uncertainty regarding customer protections.

### **Summer Mersinger**

My work in the government has given me a wide range of experiences in working with many of the different stakeholders in CFTC markets and understanding the need to balance risk management with the need to promote strong, transparent, and resilient markets. The CFTC is beginning a journey into a new frontier full of innovations but reaping these innovations' benefits will include managing risks and any hazards they may bring.

### **Caroline Pham**

I was raised in a farming town and American farmers and producers have been a long part of my life and my family's history in the U.S. My career has taken me around the world and shown me that global markets must function well with clear rules of the road that promote compliance, market integrity, innovation and growth.

This is an inflection point for the U.S., and the CFTC specifically, to reshape global market structures. We have an opportunity to use a pragmatic approach to protect Americans and businesses through risk management and price discovery.

## **Discussion**

### **Digital Assets**

*Stabenow (D-MI):* Is the CFTC well positioned to be a primary overseer of digital asset spot markets? *All:* Yes.

*Boozman (R-AR):* Should CFTC provide a list on which digital assets it considers to be commodities? *Pham:* There have to be clear rules of the road to allow for customer protections and promote growth. The U.S. should lead in these markets, and providing clear guidance is the best way to do that. Providing a list does not always keep up with innovation, but the CFTC allows for self-certification which is positive for new products; *Mersinger:* We need to look beyond a list. We need to balance the opportunities and risks of digital assets. We need to have discussions with state and federal regulators as well as stakeholders; *Johnson:* I am a firm believer in responsible innovation. I am enthusiastic to offer clear and effective guidelines, and I am thoughtful about the diversity of assets in this asset class. I am mindful that we will need to engage in roundtables and conversations with constituents to find a balance between innovation and protection; *Goldsmith Romero:* This is something that Congress should consider. It could be helpful to provide more clarity into how this differentiation should be made.

*Brown (D-OH):* What should the CFTC's role be in protecting consumers in digital assets? *Johnson:* I am particularly concerned with protecting retail investors. It is imperative that the CFTC ensures collaboration between market regulators such as the FDIC, OCC, and SEC. We have to balance market vibrancy with protecting the most vulnerable market participants; *Goldsmith Romero:* Regulation is not mutually exclusive with innovation. The CFTC has the authority to police spot markets, but they cannot regulate it, and they have limited visibility. It is appropriate to collaborate with the SEC to protect customers without stifling innovation. Congress should consider adding customer protections for retail investors.

*Tuberville (R-AL):* Why is the CFTC well suited to address market failures in digital asset markets? *Goldsmith Romero:* The CFTC has been a leader by allowing innovative products in this space while using enforcement to deal with fraud and manipulation; *Johnson:* The CFTC is well-suited because it has an established track record in similar spaces. The CFTC engages with commercial users and end users to promote innovation with customer safety; *Mersinger:* The CFTC's principles-based regulation fosters innovation; *Pham:* The CFTC has been promoting innovation since its inception, and it will continue to do so in the future.

*Hoeven (R-SD):* How should CFTC help educate and regulate surrounding digital assets? *Goldsmith Romero:* There has been explosive retail engagement in this space. We have to ensure that customers have the protections they need and are appropriately aware of market risks.

*Thune (R-SD):* What are your thoughts on digital asset companies participating in ag markets? *Goldsmith Romero:* The CFTC has a principles-based regulatory framework that applies to all market participants equally, so we cannot lower the bar for anyone in a market; *Johnson:* We must ensure a level playing field for all constituents; *Pham:* Markets function best with clear and simple rules with common standards. Any market changes must be careful and thoughtful to avoid unintended consequences.

### **Climate Change/Carbon Markets**

*Stabenow (D-MI):* How can the CFTC address the risks of climate change? *Goldsmith Romero:* The CFTC's first job is to understand the different threats that climate change poses to financial markets. The CFTC can help provide tools to hedge against the financial risks of climate change; *Johnson:* The CFTC has a role to promote derivatives that correspond to climate change. There are also many constituents impacted by the severe weather risks of climate change; *Mersinger:* Climate risks is one of the many risks that businesses must prepare for, and CFTC markets serve as a tool to manage both the weather and transition risks associated with climate change. I look forward to working with Chair Behnam as he addresses this; *Pham:* This difficult issue must be studied, as it impacts so many important stakeholders. With that level of scale and complexity, I believe in the power of markets to tackle risks. The CFTC has been managing that since its inception.

*Hoeven (R-ND):* What are your thoughts on the Market Risk Advisory Committee (MRAC) report on managing climate risk? Should one commodity fuel type be preferred over another? *Pham:* Climate is a hard issue that must be thoughtfully studied. I believe in the market's ability to create solutions to these problems; *Mersinger:* It is important that the CFTC remains commodity-neutral. Our job is to ensure that markets function regardless of the underlying commodity; *Johnson:* The CFTC has a history of even-handed engagement with all commodities without preference; *Goldsmith Romero:* The CFTC's role is to engage with the risks of climate change by listening to all stakeholders.

### **Ag/Livestock**

*Tuberville (R-AL):* How will you approach stakeholder engagement in the ag space? *Mersinger:* I have experience with working with ag groups and stakeholders to learn about how they use markets and whether the markets work for them. I look forward to getting out and visiting these producers to gain a better understanding of the different stakeholders in our markets; *Pham:* I would love to visit with farmers to gain a better understanding of their work. It is a privilege to hear from people in the real world on how they run their businesses and grow the economy.

*Thune (R-SD):* How would you protect the viability of cattle markets while ensuring that hedging tools are available and priced correctly? *Mersinger:* I am keenly aware of the concerns in cattle markets, and I believe the most important tool is transparency fueled by constant communication. We need these markets to work as price setters and risk management tools; *Johnson:* I hope to bring my expertise to these markets to ensure transparency and that the markets work as they should for all market participants. Our ag markets are central to the success of our economy and our nation; *Goldsmith Romero:* Transparency is vitally important in derivatives markets. I am experienced in investigating market manipulation and fraud, which is key to ensure that markets function; *Pham:* Transparency is foundational to any financial market.

*Hoeven (R-ND):* What can the CFTC do to help farmers hedge risks? *Mersinger:* The CFTC began with helping these markets have strong price discovery and hedge risks, and it should not get away from this original goal. We could offer more education to farmers to help them understand these risks.

## **Enforcement**

*Boozman (R-AR):* Enforcement seems to be playing an increasingly common role in the CFTC's regulation. Would you commit to working to proactively fix issues instead of defaulting to bringing penalties when problems could be solved other ways? *Goldsmith Romero:* Yes; *Johnson:* I believe in strong and robust enforcement, but I can imagine balancing that with encouraging a culture of compliance; *Mersinger:* Yes; *Pham:* Yes, and I believe in providing regulatory clarity and guidance to our markets.

## **Derivative Trading**

*Braun (R-IN):* What are your thoughts on limits for volatile trading in futures markets? *Goldsmith Romero:* My top priority is to ensure that derivatives markets are open and transparent and serving the hedging risks that they are designed for. I will look for instances of market manipulation that may be occurring; *Johnson:* In times of high volatility, the CFTC monitors markets more closely to ensure that it has proper market visibility to watch for misconduct. It is imperative to consider the downstream effects on market counterparties; *Mersinger:* I would be happy to work with experts to gather any information on how markets such as lumber that saw significant volatility are functioning; *Pham:* It is important to engage with the public when considering ideas such as limits.

### **Cyberattacks**

*Stabenow (D-MI):* How can the CFTC protect against cyberattacks? *Johnson:* This is a critical issue for the world right now. The CFTC must be prepared to effectively oversee markets and handle this threat. We will use technology to install system safeguards, and the CFTC will work with platform registrants on organizing resiliency programs.