

**STATEMENT OF JILL E. SOMMERS**  
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**BEFORE THE**  
**SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS**  
**HOUSE COMMITTEE ON FINANCIAL SERVICES**  
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Good afternoon Chairman Neugebauer, Ranking Member Capuano and members of the Subcommittee. Thank you for inviting me to today's hearing on "The Costs of Implementing the Dodd-Frank Act: Budgetary and Economic." I am Jill Sommers. I have worked in the derivatives industry for over fifteen years and have been a Commissioner at the Commodity Futures Trading Commission since August of 2007. The views I present today are my own and not those of the Commission.

The Dodd-Frank Act is the most far reaching financial reform effort we have seen since the 1930s. Its scope and complexity are unparalleled. Similarly, Title VII of the Dodd-Frank Act, which ushers in a new era of regulation for derivatives transactions and market participants, is sweeping in its breadth. Notwithstanding its breadth and complexity, it requires the Commodity Futures Trading Commission to promulgate final rules within one year, and in some cases earlier than one year.

Since August, we have held eight public roundtables, twelve Commission meetings and have issued more than 50 proposed rules, notices, or other requests seeking public comment on Dodd-Frank related issues. While this pace has been a

challenge for the Commission, I constantly hear from market participants and the public that they do not have a meaningful opportunity to comment on the proposals. Their view is that, with so many comment periods open at the same time for proposals from multiple regulatory agencies, they do not have the opportunity to provide meaningful comment on how the various rules, taken together, will impact the markets and market participants. I am sympathetic to that view for three reasons. First, this is a tremendous amount of complex material to digest in a very short period of time; second, I take all comments very seriously and want commenters to provide me and the Commission with the highest quality analysis for us to consider before we vote on final rules; and third, the Commission has not released proposed rules in a logical order. For instance, as we sit here today, we have proposed nearly 50 rules, but have yet to propose a rule that defines what a swap is.

Never before has the CFTC issued so many technical and complex proposed rules in such a compressed timeframe. While each proposed rule involves consideration of varying substantive issues, regardless of the issues involved, the Commodity Exchange Act requires the Commission to consider the costs and benefits associated with each of its regulations and orders.

Section 15(a) of the Commodity Exchange Act requires that, “Before promulgating a regulation . . . or issuing an order . . . the Commission shall consider the costs and benefits of the action of the Commission.” Section 15(a) goes on to require that, “The costs and benefits of the proposed Commission action shall be evaluated in light of – (A) considerations of protection of market participants and the public; (B)

considerations of the efficiency, competitiveness, and financial integrity of futures markets; (C) considerations of price discovery; (D) considerations of sound risk management practices; and (E) other public interest considerations.”

When promulgating regulations, the Commission typically does not perform a robust cost-benefit analysis at either the proposed rule stage or the final rule stage. We do not quantify in detail what the costs of complying with a rule may be. Instead, proposals usually contain a statement that the Commission is only required to “consider” the costs, and is not required to “quantify” them, or to determine whether the benefits outweigh the costs. While we do ask for comment from the public on the costs and benefits at the proposal stage, we rarely, if ever, attempt to quantify the costs before finalizing a rule.

As we add layer upon layer of rules, regulations, restrictions and new duties, my preference is that the Commission include in each proposed rule a thorough cost-benefit analysis that attempts to quantify the cost associated with compliance. This would give the public the opportunity to comment on our analysis. To me, that is good government. If we wait until we issue a final rule to conduct a thorough cost-benefit analysis, the public is deprived of the opportunity to comment on our analysis because there is no comment period associated with a final rule.

I would like to point out that in proposed rules the Commission does attempt to quantify costs under the Paperwork Reduction Act, but this analysis is limited to the costs of any new recordkeeping or reporting requirements mandated by a rule.

Quantifying costs for Paperwork Reduction Act purposes is not designed to quantify the overall cost of compliance. While the Commission has attempted to quantify this limited subset of costs in its Dodd-Frank proposals, many commenters have criticized the Commission's Paperwork Reduction Act analysis and have indicated that our analysis grossly underestimates the actual costs involved.

Before I finish I would like to say that I agree wholeheartedly with the President's recent Executive Order on "Improving Regulation and Regulatory Review." In that Executive Order, the President called upon agencies to, among other things: use the best, most innovative, and least burdensome tools for achieving regulatory ends; propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs; take into account benefits and costs, both quantitative and qualitative; specify performance objectives, rather than the particular manner of compliance, where feasible; identify and assess available alternatives to direct regulation; and identify and consider regulatory approaches that reduce burdens and maintain flexibility. Although as an independent agency, the CFTC is not bound by the President's Executive Order, I am hopeful that we will undertake this type of analysis before we get to the stage of finalizing rules in order to provide stakeholders with a meaningful opportunity to review and comment on the requirements

Thank you. I am grateful for the opportunity to speak about these important issues and am happy to answer any questions.