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## Remarks

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### Opening Remarks CFTC Commissioner Walt Lukken Hearing on Boards of Trade Located Outside the U.S. June 27, 2006

Today we will discuss when an exchange is “located outside the United States.” However, the policy ramifications of our dialogue far exceed this focused legal determination. Today’s topic goes to the heart of how regulators will carry out their mission in the modern global marketplace. Twenty-five years ago when this statutory language was adopted, it was much easier to draw such “bright line” distinctions between exchanges located inside the U.S. and those located outside our borders. But regulators no longer live in this “bright-line” world. Determining where an exchange is located is difficult, if not impossible, with its server, board of directors, customers, clearing and self-regulators scattered around the globe. Former Federal Reserve Chairman Alan Greenspan recently noted that “Organizing financial exchanges in a geographic place doesn't seem necessary...The only market out there...is cyberspace.” How does the modern regulator, defined by the quirks of its nation’s laws and history, function in an interconnected global economy? The short answer is carefully.

My guidance to this question will come from the policy themes set out in the Commodity Futures Modernization Act, which, in my view, is tailor-made for today’s electronic global marketplace. First, flexibility is paramount. The CFMA equipped our agency with a “principles-based” regulatory regime—one of the few in the world—that enables the CFTC to adapt and tailor its regulations to identified public risks without unnecessarily harming market competition. The CFMA puts the regulatory focus on the desired outcome instead of the means, allowing compliance from several different paths. “Bright-line” regulatory rules were replaced with risk-based approaches that temper responses based on potential harm to the public. I look forward to hearing from the panelists on where these risks lie.

Second, the CFMA taught us that regulatory coordination is vital. Agencies like ours do not have the resources to sufficiently monitor the entirety of the global marketplace and its participants. We must rely on the expertise of other regulators, both domestic and foreign, in fulfilling our public mission. This does not mean that the CFTC should relinquish our duties to others. Quite the opposite; the CFTC must continue to vigorously monitor the industry’s adherence to statutory core principles. However, the means for accomplishing this mission may involve coordination and information sharing among those foreign regulators who abide by the

highest global standards. The CFTC has long been a leader in the international community with its participation in IOSCO and its early appreciation of “mutual recognition” among foreign regulators, dating back to the inception of our Part 30 regime for foreign firms in 1986. I am hopeful that our agency will continue to rely on the “mutual recognition” concept as we move forward on this issue.

Mr. Chairman, I want to thank you for organizing this important hearing and I look forward to hearing from our distinguished panelists.