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Statement

Statement of Commissioner Bart Chilton Regarding CFTC/SEC Merger

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In the midst of grave economic conditions, brought about (at least in part) by a failure or lack of adequate government oversight, it is a particularly appropriate time to reassess the framework of our current federal financial regulatory structure. We should consider all points of view dispassionately, with an eye toward two overriding goals: consumer protection and market integrity.

In that vein, recent Congressional testimony and numerous opinion pieces (by regulators past and present) have revivified discussions relating to merger of the Securities and Exchange Commission (SEC) and the Commodity Futures Trading Commission (CFTC). It's a fair question, and one that deserves thoughtful consideration.

Many at the CFTC have maintained a "hell no we won't go" stance with regard to merger, for some good and sound reasons. Merging a smaller agency like the CFTC with a larger on like the SEC normally means only one thing—the smaller agency ends up in the other's basement and the issues of the smaller agency (in this case, the one with responsibility for oversight of futures) become less of a priority. Politicians are able to claim they have streamlined and consolidated by merging, that they have done good government work. But lessening the attention on the futures industry would be bad for consumers and businesses. The CFTC has an exceedingly strong enforcement arm. We are the Cop on the Beat. At any one time, we are investigating or prosecuting between 750 and 1,000 individuals or companies. We have done this for years with less than a staff one-sixth the size of the SEC's. Does anyone want the CFTC to lighten its oversight of energy traders, given what has happened with oil and gas prices this year? Do we want those markets to be less regulated? I think not.

That doesn't mean, however, that—given the events of recent months—the issue of merger should be off the table. Things have changed since the last time the issue was debated. We have an ongoing economic meltdown, particularly in the credit markets, and the SEC has been one of the key targets of those who say lax regulation is one of the primary culprits of the financial fiasco. Finger-pointing is rampant, and Senator

McCain has even called for the removal of the SEC Chairman Cox, a man who served as his colleague in the U.S. Congress. But all that begs the question, does merging the smaller CFTC with the troubled SEC make sense? It would be easy to continue to say "absolutely not."

"Easy," however, is not what government needs to be about these days. It should be clear to all by now that we have the responsibility to address certain critical problem areas, and to take care of protecting consumers and taxpayers who rely on these markets and who have been hurt as a result of lax government oversight. The agencies may remain free-standing or not, but either way it is clear that a review of our regulatory oversight system is in order.

At a minimum, there are changes that Congress can effect in the short-term to address serious market concerns. First, regulators must have a window into over the counter (OTC) "dark markets." I'm pleased that the House of Representatives passed a measure that would provide the CFTC with authority to obtain information on these markets, and to act, swiftly and surely, if there are market disturbances that negatively impact the price discovery and risk management functions of the regulated markets. Second, financial regulators (like the SEC and CFTC at a minimum) should meet publicly to discuss areas of mutual interest and provide greater regulatory transparency. Third, these are world-wide markets that operate nearly 24/7/365. We need to recognize the cross-border impacts of our domestic policies, and serve a leadership role in galvanizing efforts to improve customer protections and market integrity enhancements globally.

Whether or not lawmakers decide that the agencies eventually should be merged, I believe Congress should act now to give the CFTC needed authorities regarding OTC dark markets, and provide needed protections to American consumers and businesses. This is something that can be achieved in the short-term, and can have tangible, practical results for the economy and for consumers.

In any event, simply saying "nay" to change is no longer unacceptable. The tragedy of the 2008 credit crisis shows us that we need to engage in a serious self-analysis of the U.S. financial oversight system. Indeed, perhaps in this instance a smaller agency can even give a little assistance to the larger agency. We are faced with more, and more consequential, federal financial market issues than at any other time in the past 75 years, and we must ensure that we target appropriate changes to the system, that we get it done, and that we get it done right.