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The Giancarlo Agenda: The CFTC Gets Back to the Basics

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On the heels of his nomination by President Trump to be Chairman of the Commodity Futures Trading Commission, Commissioner Giancarlo delivered a **noteworthy speech** outlining his vision for the agency. He signaled a significant change in direction for the CFTC, refocusing the agency on its core missions—"to foster open, transparent, competitive, and financially sound markets"—by simplifying and streamlining its regulatory approach. Below are a few key points from the speech.

– ***Reducing regulatory burdens.*** Channeling former Commissioner Chilton's penchant for pop culture references, Mr. Giancarlo launched Project KISS (Keep it Simple, Stupid). Project KISS will involve an agency-wide review of CFTC rules, regulations and practices, with an aim of applying these rules—as they are currently written—in a less burdensome manner. The CFTC will ask for recommendations from the public on how this may be achieved.

– ***"Right-sizing" the agency.*** A common refrain among CFTC Commissioners has been the lack of resources appropriated to the agency, particularly given the expansion of its regulatory mandate under Dodd-Frank. But rather than asking for more funding, Commissioner Giancarlo plans to address this issue by "right-sizing" the CFTC—refocusing the agency on its core missions related to the regulation of derivatives markets, encouraging cooperation within the CFTC and with other regulators, and evaluating areas within the agency where budget cuts may be appropriate.

– ***Retaining a focus on enforcement.*** Despite the pull-back implied by right-sizing, Commissioner Giancarlo emphasized that the CFTC would continue to aggressively and assertively pursue enforcement. He stated that "[t]here will be no pause, let up or reduction in our duty to enforce the law and punish wrongdoing in our derivatives markets."

– ***Reorganizing market surveillance and intelligence functions.*** Mr. Giancarlo plans to reorganize parts of the CFTC's Division of Market Oversight, including separating market surveillance (which identifies problematic trading activity) from market intelligence (which analyzes market trends and developments). Market surveillance will be moved to the Division of Enforcement. The market intelligence function will be led by a new Chief Market Intelligence Officer, who will report directly to the Chairman.

– ***Revisiting swap regulations.*** Referencing his **2015 white paper on swap trading**, Mr. Giancarlo again set out his view that the CFTC must reevaluate its swap regulations and make improvements, particularly to reduce unnecessary burdens on market participants and improve liquidity in the markets. The speech mentions several areas for evaluation, including swap trading rules and international coordination.

– ***Reinvigorating markets.*** The speech describes several areas in which Mr. Giancarlo believes the CFTC can do more to foster market liquidity and growth. This includes working to embrace technological change by fostering FinTech innovation and, as a member of the FSOC, advocating for the recalibration of bank capital requirements to "better balance systemic risk concerns with healthy economic growth."

If you have any questions regarding the matters covered in this publication, please reach out to any of the lawyers listed below or your usual Davis Polk contact.

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