

Statement of Gary Gensler
Chairman, Commodity Futures Trading Commission
Before the
U.S. House Committee on Oversight and Government Reform
Washington, DC
September 10, 2013

Good morning Chairman Issa, Ranking Member Cummings and members of the Committee.

Thank you for holding this hearing on promoting transparency in government.

Promoting transparency in government is critical so that the public can have a clear window into and participate in the decision-making of their government. The Federal Records Act is key to ensuring for such transparency. The Committee's work has brought this matter into sharper focus.

I joined the Commodity Futures Trading Commission (CFTC) in May of 2009 in the wake of the worst financial crisis in 80 years. Eight million Americans lost their jobs.

The remarkably dedicated CFTC staff have worked around the clock to bring much-needed reforms to the swaps market, which was at the center of the crisis. As we worked to implement reforms, we also took numerous steps to bring greater transparency to the work of the CFTC. We have, among other things:

- Voluntarily posted more than 2,200 external meetings on our website;
- Increased by nearly tenfold the number of public Commission meetings where rules are openly debated; and
- Initiated public roundtables – holding nearly two dozen – to facilitate public interaction on matters before the Commission.

My CFTC colleagues and I rolled up our sleeves and worked day and night. Though I used my official e-mail account far more than my personal e-mail, to get the job done I did routinely engage with CFTC staff and others through my personal e-mail particularly outside normal business hours. Having come to this job after years of not working in a traditional office setting and primarily being a single, stay-at-home dad, I was not attuned to the ways of accessing work e-mail at home. At the CFTC we didn't have a robust training program – and I personally did not receive training – on either remote access or federal records.

As head of the agency, I take full responsibility with regard to records management, training and promoting transparency at the CFTC.

I want to thank the agency's Inspector General who highlighted in a May 2013 report that it is better to avoid using personal e-mail, even though there is no law prohibiting it.

The IG reported that I used my official CFTC e-mail account "far more frequently" than my personal e-mail, as he counted approximately ten times more e-mails using my CFTC e-mail as

compared to my personal e-mail. He also reported that there was “no indication that the Chairman was attempting to hide the use of his personal e-mail from other CFTC employees in an attempt to conduct ‘secret’ official business.” In a subsequent letter to members of Congress, the IG said of my personal e-mail use, “We do not believe it violated any federal statute.”

When this Committee sought e-mails from my personal account, I immediately tasked staff with gathering and delivering all responsive documents.

We provided approximately 11,000 e-mails together with some 3,000 attachments that were sent to, originated from, or copied to my personal e-mail. Approximately 99 percent of these were exchanged with another government official and were on federal systems. Approximately 97 percent were sent to or received from CFTC staff and were on CFTC systems. The remaining documents that were not already at the CFTC are now on CFTC systems. I have directed staff to ensure that all of these documents are filed in a CFTC recordkeeping system as appropriate.

Moving forward, though, I believe that we can and need to do better.

First, I have directed staff to revise and tighten the CFTC e-mail policy, including appropriately restricting the use of personal e-mail. I want to thank David Ferriero, Archivist of the United States, who has agreed to make his staff available to ensure that as we revise our policies, they are in accordance with the Archivist’s guidance.

Second, I have directed the CFTC’s Executive Director and General Counsel to significantly enhance the agency’s training on the Federal Records Act and transparency in government, both for new staff as they arrive and for existing staff. Further, to promote an environment that supports telework and flexible schedules, we also must ensure staff are properly trained on how to access official e-mail remotely.

Third, while we’ve already made some significant changes at the CFTC with regard to enhancing technology, I have directed staff to do more to make these tools flexible and efficient, particularly with regard to access and recordkeeping. I also fully support devoting resources to meet the National Archives and Records Administration’s goals for Capstone electronic e-mail retention by government agencies.

Ensuring full compliance with the Federal Records Act and other transparency laws is critical to the important work of the CFTC. It is critical in maintaining the public’s faith in and understanding of the CFTC.

Thank you.

BIOGRAPHICAL SKETCH CHAIRMAN GARY GENSLER

Gary Gensler was sworn in as the Chairman of the Commodity Futures Trading Commission on May 26, 2009. Chairman Gensler previously served at the U.S. Department of the Treasury as Under Secretary of Domestic Finance (1999-2001) and as Assistant Secretary of Financial Markets (1997-1999). He subsequently served as a Senior Advisor to the Chairman of the U.S. Senate Banking Committee, Senator Paul Sarbanes, on the Sarbanes-Oxley Act, reforming corporate responsibility, accounting and securities laws.

As Under Secretary of the Treasury, Chairman Gensler was the principal advisor to Treasury Secretary Robert Rubin and later to Secretary Lawrence Summers on all aspects of domestic finance. The office was responsible for formulating policy and legislation in the areas of U.S. financial markets, public debt management, the banking system, financial services, fiscal affairs, federal lending, Government Sponsored Enterprises, and community development. In recognition of this service, he was awarded Treasury's highest honor, the Alexander Hamilton Award.

Prior to joining Treasury, Chairman Gensler worked for 18 years at Goldman Sachs, where he was selected as a partner; in his last role he was Co-head of Finance.

Chairman Gensler is the co-author of a book, *The Great Mutual Fund Trap*, which presents common sense investment advice for middle income Americans.

He is a summa cum laude graduate from the University of Pennsylvania's Wharton School in 1978, with a Bachelor of Science in Economics and received a Master of Business Administration from the Wharton School's graduate division in 1979. He lives with his three daughters outside of Baltimore, Maryland.