SEC-CFTC

FACT SHEET

An SEC-CFTC Merger Would Not Save Money and Would Endanger Main Street Families

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Introduction

Recent reports suggest that the Trump administration and Elon Musk's misnamed Department of Government Efficiency (DOGE) are considering merging two financial regulators, the Securities and Exchange Commission (SEC) and the Commodity Futures Trading Commission (CFTC). Some claim this would "eliminate duplicative oversight," and others say such a merger would be "low-hanging fruit" for DOGE. These claims are wrong.

Tellingly, the suggestion that Congress should merge the SEC and CFTC is not new. It has been around for years. But the reason it hasn't happened is that the proponents of a merger ignore the critically important and unique roles that the SEC and CFTC play. The SEC and CFTC have two very different missions and mandates. So while it sounds like combining the agencies would save money and improve efficiency, in reality, it would not lead to any cost savings and would instead endanger Main Street Americans' wallets and pocketbooks as well as investors, retirees, markets, and financial stability.

Indeed, the Treasury Department considered whether there should be an SEC-CFTC merger at the beginning of the first Trump administration. It concluded that

> merging the SEC and CFTC is unlikely to materially enhance the efficiency in which their core activities are carried out. . . . Treasury believes that merging the SEC and the CFTC would not appreciably improve on the current system.

There is no reason to reach a different result today.

The SEC and the CFTC Have Different Missions and Mandates

Congress created the SEC in 1934 in response to the stock market crash of 1929 and the ensuing Great Depression. Rampant speculation and illegal behavior on Wall Street caused the crash. This led to investors losing their life savings and eventually to the Dow losing almost 90% in value between September 1929 and the summer of 1932. At the same time, tens of millions of Americans were thrown out of work and out of their homes, as the Great Depression devastated families across the country.

It was obvious that the securities markets had to be regulated and policed to protect the American people from Wall Street's recklessness. The idea was that for capitalism to flourish - for American businesses to raise capital and create jobs and economic growth - America needed to protect investors from fraud, manipulation, recklessness, conflicts of interest, self-dealing, and unfair sales practices. This is why the SEC's mission is to protect investors, ensure fair and efficient markets, and facilitate capital formation.

So Congress created the SEC to regulate and police the U.S. capital markets, which 90 years later are the deepest, most liquid markets in the world. They provide the capital that fuels our economy, generates business formation, creates jobs, and raises living standards. However, investors worldwide only put their money in those markets because they have faith, trust, and confidence that those markets are well-regulated and well-policed. That is due to the SEC; it is the foundation of investors' faith, trust, and confidence and the reason those markets are preeminent. As the SEC's third Chair, the future Supreme Court Justice William O. Douglas, said the SEC is "the investor's advocate."

The CFTC, on the other hand, was not created until 1974, to regulate the rapidly evolving futures and derivatives markets. Before then, futures trading was focused on agricultural commodities and was handled by the Agriculture Department under the Commodities Futures Act. However, by the mid-20th century, financial futures, energy futures, and other derivatives had expanded the markets significantly. Recognizing the need for a focused, expert, specialized, and independent regulator, Congress established the CFTC and tasked it with overseeing derivatives markets as well as commodity markets. The goal was to ensure the integrity of those markets while preventing fraud and manipulation.

So the CFTC regulates and polices those markets to ensure vital products are available to the American people at the right time, in the right amounts, and roughly priced based on supply and demand. From cereal at breakfast and bread for lunch sandwiches to gas for the car and oil to heat the house, every American depends on the CFTC doing its job.

Unlike the SEC, however, which has an explicit investor protection mandate, the CFTC's mission is to promote the integrity, resilience, and vibrancy of the derivatives and commodities markets. Because the participants in those markets are almost entirely large financial institutions with the resources, incentives, and ability to promote and protect their own interests, the CFTC's role has always been more of a referee than a protector. That is in a sharp contrast to the SEC, whose markets are dominated by retail investors.

Thus, although the SEC and CFTC are both financial regulatory agencies, they serve very different and unique purposes with very little overlap. The SEC regulates the securities markets and is primarily an investor protection agency. The CFTC regulates the derivatives markets and lacks an investor protection mandate. While retail investors have always been active in, and indeed critical to, the securities markets and specifically the equities markets, they have not traditionally participated in the more complex derivatives and commodities markets, which are dominated by large institutions.

Merging the SEC and the CFTC Would Weaken the Ability of Both Regulators to Police the Markets they Oversee

As a result, the SEC could not do the job of the CFTC, the CFTC could not do the job of the SEC, and a combined agency would still have to carry out the functions of each agency. As Bart Chilton, then a CFTC Commissioner, said in a speech in 2007:

> The CFTC and the SEC, while both financial regulators, oversee two completely different types of markets, and consequently have two completely different sets of statutory and regulatory schema. You could put us both in the same building, but we would still have two different sets of laws to carry out, two different sets of regulatory responsibilities, and two different Congressional mandates.

At least some legislators have also previously recognized this state of affairs. In 2012, Republican Senator Pat Roberts said that there was no reason to merge

> two regulators who regulate different aspects of our economy.

Indeed, an SEC-CFTC merger would likely decrease, rather than increase, regulatory effectiveness. The most likely outcome would be for the CFTC to simply become one of the many divisions of the SEC. Because its functions would be so dissimilar, detached, and disconnected from all the other SEC divisions, the CFTC division would likely become something of an unwanted and neglected orphan. Put differently, the other SEC divisions are all focused on the capital markets, their activities have significant overlap, and their personnel interact seamlessly. None of that would be true for the new CFTC division.

This would make the key role and functions of the CFTC – providing vital protections for America's families - even less prominent than it is today. The CFTC already does not garner the same attention as the SEC does. That's because the industry has largely succeeded in keeping the CFTC underfunded, diminishing its profile, which would shrink even more after being folded into SEC. If the CFTC was just part of the SEC, the derivatives and commodities markets – their supervision, regulation and policing - would be just one concern of many for the SEC, but not a priority and not even much of a concern when considered in the context of the SEC's priority and overwhelming focus on its core mission related to the capital markets. The CFTC is simply too important for this to be the case.

Rather than improving regulatory effectiveness, such a merger would further dilute the CFTC's ability to fulfill its mission, weakening oversight of the commodities and derivatives markets, which play a vital role to Main Street Americans. The CFTC has adequately supervised, regulated and policed the markets under its jurisdiction, always with far fewer resources than the SEC. At any given time, the CFTC is actively engaged in numerous investigations and prosecutions, despite having only a fraction of the SEC's staff. The agency's work is essential to protecting markets from fraud and manipulation, particularly in areas like commodities trading, which directly impacts consumers and businesses. Weakening the CFTC's ability to police these markets by folding it into the SEC would be a dangerous mistake that would cause untold harm to the American people.

Merging the SEC and the CFTC Would Not Save Money

In addition to not protecting the public, an SEC-CFTC merger not save money. A merger would not save money because the combined agency would still need to execute the divergent missions of each standalone entity. The SEC does not have expertise in regulating the derivatives and commodities markets. The CFTC does not have expertise in regulating the securities markets. Therefore, a combined agency would still need to employ the existing personnel with their very different expertise at each agency, even if they shared a roof, to discharge their duties as mandated by law. As Richard R. Lindsey, then the SEC's Director of the Division of Market Regulation, testified in 1998:

> The cost savings associated with a merger may be limited, because the new combined agency would still need to retain operating divisions to oversee each of the regulatory areas within its jurisdiction, such as corporation finance, investment management, the securities markets, and the commodities markets.

In this respect, it's important to remember that the SEC and the CFTC are already both severely underfunded. The SEC has only 5,000 employees. Yet it is responsible for overseeing our $100 trillion capital markets. This includes regulating 15,000 investment advisers, 13,000 registered funds, 3,400 broker-dealers, 24 national securities exchanges, 103 alternative trading systems, 33 self-regulatory organizations, 10 credit rating agencies, and six registered clearing agencies. The SEC simply could not take on the additional responsibility of policing the derivatives and commodities markets and still do its job regulating and policing the securities markets effectively.

The CFTC also has been chronically underfunded, with only around 700 employees responsible for overseeing the massive and complex multi-trillion dollar derivatives markets, which include everything from agricultural futures to complex financial derivatives with trillions of dollars in notional value. The commodity markets under the CFTC's jurisdiction are vast and multifaceted, spanning energy, metals, and agricultural products that are essential to global trade and economic stability. These markets influence everything from food prices to fuel costs, and their complexity is compounded by global supply chains, geopolitical risks, and high-frequency trading. Ensuring fair and transparent trading in these markets is critical, yet the CFTC must do so with significantly fewer resources than other financial regulators. This imbalance threatens the agency's ability to effectively police fraud, manipulation, and excessive speculation in markets that directly impact consumers and businesses.

Unlike the SEC, which is funded by fees collected from regulated entities and does not cost taxpayers a dime, the CFTC relies entirely on annual congressional appropriations. This funding structure makes its budget not only uncertain but also subject to political pressures that can hinder its ability to regulate a rapidly evolving and global marketplace effectively. As a result, the CFTC often operates with fewer resources than necessary, limiting its capacity to provide robust oversight.

Prior to the enactment of the Dodd-Frank Act, the CFTC had a budget of approximately $168 million and was responsible for overseeing a derivatives market valued at around $37 trillion. Today, the CFTC's budget stands at approximately $365 million—only a little more than double its pre-Dodd-Frank levels—yet the derivatives markets have exploded in size, now exceeding $600 trillion in notional value. This represents an increase of nearly 20 times the market size, while the agency's budget has failed to keep pace. The disparity between the CFTC's funding and the size of the markets it polices severely constrains its ability to effectively supervise, regulate, and enforce laws in these critical financial markets.

The only even theoretical way a merger could save money would be by cutting or eliminating parts of the CFTC, but as detailed, this is not possible without undermining essential oversight functions.

A far better way to reduce taxpayer costs while maintaining strong regulatory oversight would be to fund the CFTC the same way as the SEC and banking regulators—through industry fees rather than taxpayer dollars. This reform would immediately save taxpayers the entire CFTC budget of $365 million while ensuring that the agency has stable and sufficient funding to carry out its mission. Instead of pushing for a misguided and ineffective merger, the focus should be on implementing this funding model to enhance the CFTC's market oversight without burdening taxpayers.

Conclusion

For all of these reasons, there is no more cause to merge the SEC and CFTC now than all the other times that this idea has been raised, considered, and rejected.

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