

Origins of the CFTC: Protecting the Integrity of Commodity Markets

Cantrell Dumas | *Director of Derivatives Policy*

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Introduction


This year, the Commodity Futures Trading Commission (CFTC) celebrates its 50th anniversary as an independent federal agency. Established to oversee the growing U.S. derivatives markets, the CFTC plays an important role in ensuring the integrity and transparency of these complex financial instruments. While its operations may seem distant from the daily concerns of most Americans, its oversight helps stabilize prices for essential goods and services, from [groceries and gasoline to airline tickets and home costs](#). This golden anniversary offers an opportunity to reflect on the agency's origins, its evolution, and its ongoing commitment to protecting both market participants and the broader public.

A Brief History of Commodity Futures Trading

The trading of commodity futures, which are agreements to buy or sell a product at a set price at a future date, has ancient roots. While exchanging goods through barter is as old as civilization itself, the concept of delayed delivery at agreed-upon terms emerged as a crucial innovation to manage uncertainty in volatile markets.

As early as [3000 BCE in Mesopotamia](#), Sumerian merchants recorded contracts on [clay tablets](#) specifying the future delivery of grain, livestock, or other goods. These records, enforced by temple or palace authorities, included key elements such as quantity, quality, and delivery date, [essentially functioning as early forward contracts](#). Although these early contracts were not standardized or traded in open markets, they served the same basic purpose as modern futures contracts by helping buyers and sellers lock in prices and shift the risk of price changes.

Similar practices existed in [Roman law](#), where contracts were developed to account for [uncertainty in future transactions](#). One example was [emptio rei speratae](#), the purchase of a thing expected to come into existence, such as a future crop or the outcome of a fishing expedition. In these agreements, the sale was valid only if the goods eventually materialized, and the price often depended on the actual yield. This protected the buyer from loss if the goods failed to appear. In contrast, [emptio spei](#) referred to the purchase of a hope, where the buyer agreed to pay a fixed



price regardless of the outcome. Even if no crop grew or no fish were caught, the buyer still bore the full risk. These two types of contracts reflected early legal approaches to handling speculative trade and managing risk in uncertain commercial environments.

While early forward contracts laid the groundwork for managing price risk, the concept of a centralized marketplace for such agreements materialized in 18th-century Japan. In 1730, the [Dojima Rice Exchange](#) in Osaka was officially authorized by the Tokugawa shogunate, becoming the world's first organized futures exchange. At Dojima, rice, a staple commodity and a form of currency, was traded through standardized contracts, allowing merchants and samurai to hedge against price fluctuations. The exchange introduced mechanisms such as requiring traders to deposit a financial guarantee to cover potential losses ([margin](#)). Profits and losses were calculated daily to promptly reflect market changes ([daily settlement](#)). And, a central system was established to manage and guarantee all trades reducing the risk of default ([clearinghouse](#)). The Dojima Rice Exchange's innovations provided a blueprint for subsequent futures exchanges worldwide, including those that would emerge in the United States.

By the mid-19th century, these ideas took more formal shape in the United States. [In 1848](#), the Chicago Board of Trade (CBOT) was established to bring order to the grain markets. It introduced standardized contracts for future delivery, which allowed farmers and merchants to manage the risk of price swings and contributed to a more stable and predictable agricultural economy.


However, the early promise of these markets did not come without challenges. A lack of oversight created opportunities for manipulation and fraud, which would eventually [lead to public outcry and demands for government regulation](#).

Market Manipulation and the Origins of Regulation

In its early years, the CBOT became notorious for "[cornering the market](#)" schemes. Traders would buy up large quantities of a commodity to artificially drive up prices and then sell at a profit. These distortions created market chaos and harmed both producers and consumers. These artificial distortions led to volatility that harmed both producers and consumers, shaking public confidence in the legitimacy of the markets. Recognizing the threat these practices posed, the CBOT formally [banned corners as early as 1868](#), defining them as attempts to make it impossible for sellers to fulfill their contracts. While this marked an early step toward internal regulation, the exchange lacked meaningful enforcement power, and manipulation continued largely unchecked.

At the same time, "[bucket shops](#)" sprang up across the country. These establishments allowed individuals to gamble on commodity prices without any actual exchange of goods. Functioning more like gambling houses than legitimate brokerages, bucket shops were often rigged in favor of their operators. The CBOT attempted to limit its influence by [cutting off access to market data](#), but without federal backing, those efforts proved ineffective.

This lack of effective oversight, coupled with prevalent market manipulation schemes, led to significant public distrust. When the CBOT moved to a new building in 1885, protesters outside



referred to it as the "[board of thieves](#)," reflecting widespread skepticism about the integrity of futures trading at the time.

The cumulative effect of these abuses eroded public trust. In response, the federal government began to intervene. An initial attempt came with the [Future Trading Act of 1921](#), which aimed to regulate grain futures through a tax-based mechanism. However, the Supreme Court [struck down](#) the law in *Hill v. Wallace* (1922), ruling that Congress had improperly used its taxing power to compel compliance with federal regulations, rather than basing its authority on the Commerce Clause.


Congress quickly responded by passing the [Grain Futures Act](#) later that year, this time grounding the legislation in the Commerce Clause. The Grain Futures Act assigned regulatory authority to the U.S. Department of Agriculture (USDA) and required that all grain futures contracts be traded on regulated exchanges. It also created the Grain Futures Administration to monitor and enforce trading practices, marking the first major federal effort to bring structure and accountability to the futures markets.

Support for regulation was further bolstered by a series of [investigative reports](#) issued by the Federal Trade Commission between 1920 and 1926. These seven volumes documented widespread abuses in grain trading and recommended reforms, including the imposition of speculative position limits (rules that prevent any single trader from hoarding an excessive number of commodity contracts). The reports played a critical role in shaping public and political support for continued federal oversight.

The USDA's role expanded with the enactment of the [Commodity Exchange Act \(CEA\) in 1936](#), which replaced the Grain Futures Act and broadened federal regulation to encompass a wider range of commodities, including cotton, rice, mill feeds, butter, eggs, and Irish potatoes, in addition to grains. This legislation marked a significant shift by changing all references from "grains" to "commodities," reflecting the expanded scope. The Grain Futures Commission was restructured into the [Commodity Exchange Commission](#), maintaining its composition of the Secretary of Agriculture, the Secretary of Commerce, and the Attorney General. The CEA [granted](#) this Commission the authority to establish federal speculative position limits but did not empower it to mandate exchanges to set their own limits. Despite these enhancements, by the mid-20th century, the increasing complexity and scale of futures markets had outpaced the regulatory capacity of the USDA.

This growing mismatch between regulatory authority and the complexity of the markets became especially apparent in the post-war decades. Despite earlier efforts to bring oversight to the futures industry, a series of high-profile fraud and manipulation cases revealed deep weaknesses in enforcement.

In the 1950s, traders Vincent Kosuga and Sam Seigel [manipulated the onion market](#) by cornering the available supply. After driving up prices, they abruptly flooded the market, causing prices to collapse. The resulting chaos devastated onion farmers across the country and led to widespread



public outrage. In response, Congress passed the [Onion Futures Act of 1958](#), banning the trading of onion futures. A prohibition that remains in effect to this day.

The 1970s brought further evidence that the regulatory framework was inadequate. [Lloyd, Carr & Company](#) used aggressive and misleading sales tactics to defraud retail investors out of millions. Around the same time, [Goldstein, Samuelson, Inc.](#), which posed as a legitimate commodities trading firm, was exposed as a massive Ponzi scheme. The firm's collapse resulted in substantial investor losses and further undermined public confidence in the integrity of commodities markets.

These incidents highlighted the urgent need for a more specialized regulatory body with the authority and expertise to oversee increasingly complex financial instruments. The cumulative pressure from these scandals helped catalyze the creation of the Commodity Futures Trading Commission in 1974.


The Creation of the Commodity Futures Trading Commission

By the early 1970s, it had become evident that the existing regulatory framework was insufficient to manage the growing complexity, volume, and influence of the futures markets. Originally centered on agricultural commodities like wheat and corn, these markets had expanded to include metals, energy products, and financial instruments. The primary regulator at the time, the [Commodity Exchange Authority](#) within the U.S. Department of Agriculture, had oversight limited to specific agricultural commodities explicitly listed in the Commodity Exchange Act. This narrow jurisdiction left many emerging futures markets, particularly those involving non-agricultural commodities, operating without comprehensive federal regulation.

Recognizing these regulatory gaps and the need for a more robust oversight mechanism, Congress enacted the [Commodity Futures Trading Commission Act of 1974](#). This legislation established the Commodity Futures Trading Commission as an independent federal agency with exclusive jurisdiction over futures trading in all commodities. The CFTC was created to provide comprehensive oversight of the rapidly evolving futures markets.

The creation of the CFTC marked a turning point in market oversight. The agency is empowered to register market participants, monitor trading activity, enforce anti-fraud and anti-manipulation rules, and approve new contracts. Additionally, it has the authority to oversee self-regulatory organizations like exchanges and clearinghouses, adding a layer of federal accountability to the existing market infrastructure.

A cornerstone of the CFTC's mandate is the enforcement of [consumer protection position limits](#), which cap the number of commodity contracts a single trader can hold. These limits are designed to prevent excess speculation that can lead to inflated prices for essential goods like food and energy. By curbing such speculative behaviors, position limits help stabilize markets, ensuring that prices reflect actual supply and demand rather than manipulative trading strategies. This mechanism is vital for maintaining fair prices for everyday items, directly impacting the cost of living for Main Street Americans.



Importantly, the CFTC is designed to be adaptable, with the flexibility to respond to innovation in the markets it oversees. That adaptability would prove critical in the decades that followed, as the rise of electronic trading, financial derivatives, and global interconnectivity dramatically transformed the landscape of commodity and financial markets.

The establishment of the CFTC was not merely a bureaucratic restructuring. It was the culmination of decades of market abuse, regulatory fragmentation, and public demand for stronger protections. It represented a clear recognition by Congress that the futures markets were vital to the functioning of the broader economy and that those markets required a modern, independent watchdog to ensure fairness, transparency, and resilience.

The CFTC's Evolution and Enduring Relevance

Since its establishment in 1974, the CFTC has navigated a dynamic financial landscape marked by innovation, globalization, and evolving market structures. Initially focused on agricultural commodities, the CFTC's mandate expanded over the decades to encompass a wide array of financial instruments, including interest rate swaps, foreign exchange derivatives, and digital assets.

One significant development was the introduction of stock index futures, which bridged the gap between securities and commodities markets. This overlap led to jurisdictional ambiguities between the CFTC and the SEC. To address this, the [Shad-Johnson Accord of 1981](#) delineated the regulatory boundaries, granting the CFTC authority over futures contracts and the SEC over options on securities. This agreement facilitated the growth of financial futures while maintaining clear oversight responsibilities.

As the markets continued to evolve, the 1990s presented the CFTC with further challenges. The decade was marked by high-profile cases of market manipulation, debates over regulatory authority, and the rapid evolution of financial instruments, all of which tested the agency's capacity to fulfill its mandate. One of the most notable incidents was the [Sumitomo copper scandal](#). In the mid-1990s, Yasuo Hamanaka, a trader at Japan's Sumitomo Corporation, engaged in [unauthorized trading activities](#) that aimed to manipulate the global copper market. Over a period of ten years, Hamanaka's actions led to significant distortions in copper prices, culminating in losses exceeding \$2.6 billion for Sumitomo. The CFTC, in collaboration with international regulators, investigated the matter and [imposed substantial fines](#) on the corporation. This case underscored the challenges of cross-border market surveillance and the necessity for international regulatory cooperation.

In response to the evolving financial landscape, Congress passed the [Commodity Futures Modernization Act \(CFMA\) in 2000](#). This legislation clarified the regulatory framework for derivatives, effectively exempting many over-the-counter (OTC) derivatives from CFTC oversight. While the CFMA aimed to provide legal certainty and promote innovation, [critics argued](#) that it contributed to the conditions leading to the 2007–2008 financial crisis by allowing risky financial products to proliferate without adequate supervision.



Notably, prior to the passage of the CFMA, CFTC Chairperson Brooksley Born [had raised concerns](#) about the lack of oversight in the OTC derivatives market. In 1998, she issued a "[concept release](#)" seeking public comment on the need for regulation in this area. However, her efforts were [met with opposition](#) from other regulators, including the Treasury Department, the Federal Reserve, and the SEC, who feared that regulation could disrupt financial markets.

The 2008 financial crisis marked a turning point, exposing the very regulatory gaps in OTC derivatives market that Brooksley Born had warned about a decade earlier. In response, the [Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010](#) rebuked the approach taken in the CFMA and significantly expanded the CFTC's authority. Under Title VII of the Act, the CFTC was tasked with overseeing the swaps markets, bringing previously unregulated financial instruments under its purview. This expansion aimed to enhance transparency, reduce systemic risk, and protect market participants from abusive practices. The CFTC implemented new rules mandating the central clearing of standardized swaps, real-time reporting of swap transactions, and the registration of swap dealers and major swap participants. These measures brought greater transparency to the derivatives markets and aimed to prevent the kind of opaque risk accumulation that contributed to the financial crisis.

Conclusion

As the Commodity Futures Trading Commission (CFTC) marks its 50th anniversary, this milestone serves not only as a reflection on its historical journey but also as a prompt to consider its future trajectory. The agency now faces challenges reminiscent of its early days, as the emergence of digital assets and event-based contracts, such as those tied to sports outcomes, blur the lines between regulated financial instruments and speculative gambling. Some CFTC-regulated exchanges have introduced sports event contracts marketed as derivatives products under CFTC oversight, raising concerns about circumventing state gambling laws and potentially destabilizing the carefully balanced regulatory environment.

This scenario reflects the era of "bucket shops," where speculative betting disguised itself as legitimate trading, resulting in market manipulation and public distrust. The CFTC was established to counteract such threats, emphasizing the need for vigilant oversight. As financial innovation accelerates, the agency must draw lessons from its past to navigate the fine line between fostering innovation and preventing market exploitation. The history of the CFTC highlights that without diligent and expert supervision, markets can be exploited to the detriment of producers, consumers, investors, and the broader economy.



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