

THE

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we need a bigger boat

in like flynn

Anybody home? Two weeks ago, acting CFTC Chairman Chris Giancarlo presented his case for a bigger agency budget before the House Appropriations Committee – the same day former FBI Director James Comey faced a Senate panel a few hundred yards away, across the Capitol grounds. The House hearing room wasn't exactly dealing with overflow that day, nor was the hearing particularly long. Yesterday, it was Giancarlo's turn on the Senate side for his long-awaited confirmation hearing at the same time the Senate leadership was unveiling its Obamacare replacement. What timing. We noted that two weeks ago at the House budget hearing, the panel opened with only three committee members on hand (no quorum and no chairman), though others managed to slum it over to the hearing room eventually, if only for a few minutes. The committee chairman showed up at 10:30. Hearing started at 10. The tone of the room was clearly favorable to Giancarlo, to say the least. It was a far cry from similar budget hearings for the agency just a few years ago under Chairman Gary Gensler, who often managed to draw fire from Republicans and Democrats alike. Chairman Tim Massad had a better go of it than Gensler, as we recall, but Massad didn't exactly make any waves. Giancarlo's opening comments went smoothly enough (<https://appropriations.house.gov/calendar/eventsingle.aspx?EventID=394896>). We did reckon at least one Democrat would take issue with a single point of art Giancarlo noted early on: He said that US derivative markets are less liquid and less supportive of economic growth than in the past. "The overly prescriptive regulation of American derivative markets is part and parcel of the over-regulation of the US economy that thwarts the revival of US prosperity ... " Ranking member Sanford Bishop D-Ga., didn't bat an eye at the remark, but instead credited the acting chairman for asking for more money. He noted how ironic it was that the commis-



sion was pegged with such a low budget, considering how it has "more than paid for itself," and how it serves as a "financial first responder." "How can anybody deny money to a first responder," Bishop said. Good one. He then asked whether last year's \$40 million request for new tech was good enough and whether it was being "applied appropriately." Giancarlo said in no uncertain terms that the agency had not done a good job in the past to define its tech needs. "Previously the government didn't spec out a lot ... there was no accountability," he said. That's unlike in the private sector where Giancarlo said there is largely "complete accountability when it comes to budget requests." True. He said under his watch, a bit more rigor would be infused into the process. The panel seemed hip to the idea. Up and down the line, Republican and Democrat alike seemed to praise the acting chairman for submitting a budget request that exceeds the president's number by over \$30 million. We sensed no pushback at all, which had to be some sort of first. On the day, the lone member to challenge Giancarlo – and go figure, on his point about regs hurting American pros-

perity – was the late arrival, Rosa DeLauro, D-Conn. She opened well-meaningly w enough, "I am an ally with you on the budget increase," she said to Giancarlo. Soon, however, she pressed Giancarlo to give some examples of the term, "over regulation." "I can't find any support for your claim as to how Dodd-Frank holds back growth." Giancarlo noted that in 2007 we had 150 FCMs. Today, about 50 with the bulk of that business captured by Wall Street banks. "Smaller firms are simply not being served," he said. He noted that too many regs are "draconian." She hit back with, "is it time we relax? Won't risk seep back in," DeLauro asked? "The claim that Dodd-Frank has thwarted growth is overstated," she said. "I want more examples of over regulation," she said, "hard examples of how regulation has held back American prosperity." She asked for a list. Several members asked about the KISS project at the agency, his views on the de minimis threshold (he thinks it should stay the same or be raised, not lowered). He noted that most of the comments that came in on the question had a similar take on the question. The panel seemed agreeable. Rep. Bishop asked about user fees to help pay the agency's freight and he said no thanks. "I don't support user fees," he said, "they may hurt liquidity." In Thursday's confirmation hearing, he repeated this position. On the president's various orders to rein in or reform regulation, Giancarlo noted that at this point, he didn't see the value in debating whether Dodd-Frank is good or bad. "It's done," he said, "that's the reality. My predecessor says that tweaks are needed. We need to fix some and prepare for the future," he said. "Dodd-Frank doesn't discuss cyber or HFT," two massive issues currently in front to the CFTC. "My budget focuses on the future," he says, "not the past."

Thursday's confirmation hearing in front of the Senate Agriculture was a slam-dunk, a fan fest almost. Committee Chairman Pat Roberts, R-Kan., moved the panel along at full tilt and pitched softballs. Giancarlo, surrounded by friends and family (his mom and son were on hand), sailed through the hearing in roughly 43 minutes. It was the fastest confirmation hearing we had ever seen and we covered then all since Jim Newsome's hearing
(Continued)

nearly 20 years ago. We actually ran into Newsome and former agency chief Walt Lukken after the hearing and both agreed that they both had a much harder go of it. Senators were clearly anxious to get to the health care debate across the quad; ranking Democrat Debbie Stabenow, D-Mich., within minutes of the confirmation hearing close, could be heard ripping Majority Leader McConnell's handling of the just-released Trumpcare bill. Before she left she asked about project KISS and "how exactly you can finish Dodd-Frank and at the same time, roll it back." Giancarlo noted that KISS was not about the rollback, but rather how the agency "applies reforms." She asked about the likelihood of a position limits rule, Giancarlo said, "I can get it done." Sen. Amy Klobuchar, D-Minn., asked what the acting chairman "plans to do about HFT." He noted that the jury is still out as to whether HFT is good or bad for markets, "though they do provide liquidity."

Her final question gave us a chuckle and we applauded the acting chief for answering with a straight face: "On the speculation front," Klobuchar asked, "what should we do there ... " If she had time, we reckon her follow-up might have been, "about that internet trading thing, you think it's going to be big?" Sen. Kirsten Gillibrand, D-N.Y., asked a number of very specific policy questions, and ended each question with, "Has the administration contacted you about this?" In all cases, Giancarlo said, "No, no contact." All seemed amenable with the additional budget request and his rationale for it. Roberts said that the acting chairman should expect additional submitted questions from the 16 or 21 committee members who couldn't make the hearing. Bob Casey, D-Pa., was the fifth member in attendance on Thursday, but he left before the Q&A began. No date was given for the final confirmation vote, but we'd bet the farm Giancarlo sails through. We're not as



certain about the other two nominees that the White House has advanced, though a committee staffer said that we may have a schedule before the break. We don't buy it, but if it's true, the second half of the year for the agency should be a wild ride.

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