

July 8, 2025

MEMORANDUM FOR HOWARD W. LUTNICK, U.S. SECRETARY OF COMMERCE

FROM: DAVID A. WARRINGTON, COUNSEL TO THE PRESIDENT

SUBJECT: Limited Waiver Pursuant to 18 U.S.C. § 208(b)(1)

This memorandum provides you with a limited interim waiver, pursuant to 18 U.S.C. § 208(b)(1) and subject to the limitations stated below, that will allow you to participate personally and substantially as Secretary of the Department of Commerce ("Secretary") in particular matters of general applicability that may have a direct and predictable effect on Cantor Fitzgerald, L.P., Newmark Group, Inc., and BGC Group, Inc. (the "Assets"), while you are awaiting U.S. and foreign regulatory approvals to close on purchase agreements transferring to 26 North, Oak Hill Advisors and Cantor Fitzgerald, L.P. (the "Buyers") the direct and indirect interests in the Assets owned by you, your spouse, trusts of which you are the beneficiary, and LLCs in which you have a financial interest.¹

As discussed below and as contemplated in your Ethics Agreement dated January 21, 2025, this waiver does not extend to, and you will not be permitted to participate in, specific party matters in which Cantor Fitzgerald L.P., BGC Group, Inc., or Newmark Group, Inc. is or represents a party.

None of the pending regulatory approvals involve the U.S. Department of Commerce (the "Department"). Should an unforeseen situation arise whereby the Department is required to approve any of the pending sales, this waiver does not and would not allow you to participate in any discussions or decisions relating to any regulatory approval the Department provides or may provide. Nor does this waiver allow you to participate in any discussions or decisions relating to any domestic regulatory approvals of the purchase agreements.

This waiver is being issued based on the full disclosure of your financial interests and consideration of the nature and circumstances of matters in which you may be involved as Secretary of the Department.

Purchase Agreements

As set forth in your Ethics Agreement, you entered into signed purchase agreements on May 16, 2025, to sell the Assets to the Buyers at a fixed price. The Assets are currently owned directly and indirectly by you, your spouse, or through trusts that you are the beneficiary of. Pursuant to the terms of the purchase agreements, you have foregone all economic benefits in the Assets as of May 16, 2025, and the purchase agreements divest your (and trusts that you are the

¹ The associated entities (that own Cantor Fitzgerald, L.P., Newmark Group, Inc., and BGC Group, Inc) that are being transferred per the purchase agreements are CF Group Management, Inc., 1% of Tangible Benefits, LLC, 10% of KBCR Management Partners, LLC, and 14.75% of LFA, LLC.

beneficiary of) ownership, voting, and economic interests in these entities such that any gains or losses in the value of equity relating to your ownership interest (direct and otherwise) in these entities during the period between signing and closing will be for the Buyers' sole benefit and will not accrue to you or result in any economic gain or loss to you.

As a result of these agreements, although you technically continue to have a disqualifying financial interest in the Assets for purposes of 18 U.S.C. § 208 until relevant U.S. and foreign regulatory approvals are obtained and the legal ownership interests in the Assets are formally transferred to the Buyers, your lack of any current or future economic interest in the Assets means that no particular matters affecting the Assets will result in any economic gain or loss to you or increase or decrease any proceeds you receive pursuant to the purchase agreements. Because you continue to have a disqualifying financial interest in the Assets, you have been and remain recused from participating in all particular matters that would have a direct and predictable effect on the financial interests of Cantor Fitzgerald L.P., BGC Group, Inc., Newmark Group, Inc., and their subsidiaries.

Applicable Law

The criminal conflict-of-interest statute, 18 U.S.C. § 208(a), prohibits Executive Branch officers and employees from participating personally and substantially in any particular matter that will have a direct and predictable effect on their financial interests or the financial interests of any spouse; minor child; general partner of a partnership in which they are a general or limited partner; organization in which they serve as an employee, officer, director, partner or trustee; or person or organization with which they are negotiating or have an arrangement concerning prospective employment, unless they are granted a waiver pursuant to 18 U.S.C. § 208(b)(1) or qualify for a regulatory exemption under 18 U.S.C. § 208(b)(2). The term "particular matter" includes only matters that involve deliberation, decision, or action that is focused on the interests of specific persons, or a discrete and identifiable class of persons. The term may include matters that do not involve formal parties and may extend to legislation or policymaking that is narrowly focused on the interests of a discrete and identifiable class of persons.

Under 18 U.S.C. § 208(b)(1), the Government official responsible for an employee's appointment (or their delegate) may permit an employee to participate in a particular matter in which they have an otherwise disqualifying financial interest, if it is determined that the disqualifying interest is not so substantial as to be deemed likely to affect the integrity of the employee's services to the Government.

In determining whether a financial interest is not so substantial as to affect the integrity of an employee's Government services, the following factors may be taken into consideration: (1) the type of financial interest creating the disqualification; (2) the identity of the person whose financial interest is involved, and if the interest is not the employee's, the relationship of that person to the employee; (3) the dollar value of the potential gain or loss that may result from participation in the particular matters; (4) the value of the financial instrument or holding from which the disqualifying financial interest arises and its value in relation to the individual's assets; (5) the nature and importance of the employee's role in the particular matter, including the extent to which the employee is called upon to exercise discretion in the particular matters; and (6)

other factors including the sensitivity of the particular matters, the need for the employee's service in the particular matters, and adjustments that could be made in the employee's duties that would eliminate or reduce the likelihood that the integrity of the employee's services would be questioned by a reasonable person. *See* 5 C.F.R. § 2640.301(b).

Particular Matters

As the Secretary of the Department, you are responsible for the overarching functioning of the Department and its constituent bureaus. This includes, but is not limited to, fostering, promoting, and developing the foreign and domestic commerce, mining, manufacturing, and fishery industries of the United States; accepting, holding, administering, and utilizing gifts and bequests of property to aid and facilitate the work of the Department; conducting research on all telecommunications sciences; and encouraging, promoting, and developing travel within the United States. The statutory responsibilities of the Secretary are outlined in the laws codified at Chapter 40 of Title 15 of the United States Code and subsequent sections cited therein. *See also, e.g.,* Title 35 of the United States Code.

The Secretary plays a critical role in shaping the duties and responsibilities of every employee within the Department. As the chief executive of the Department, the Secretary's decisions and initiatives influence all actions taken under its jurisdiction, including formulating policy and providing advice to the President. Moreover, the Secretary's work includes providing program leadership for the Department's functions and exercising general supervision over the operating units within the agency. This waiver has been drafted out of an abundance of caution to account for the comprehensive scope and significance of the Secretary's responsibilities.

Pursuant to this waiver, you may engage in such duties such as providing remarks during meetings; giving speeches or other public commentary on various office initiatives; and receiving briefings on initiatives across the Department, which, if implemented, would likely influence the interests of a class of entities including the Assets. However, given the focus on high-level strategy and implementation, your participation in these matters of general applicability is anticipated to have at most a minimal effect on the Assets.

These are only some of the particular matters of general applicability you might be called upon to participate in. If you ever have any questions about whether something is a particular matter involving specific parties as opposed to a particular matter involving general applicability, you should consult with the Department of Commerce Ethics Law and Program Office (ELPO). If an activity is determined to be a party matter in which Cantor Fitzgerald L.P., BGC Group, Inc., or Newmark Group is or represents a party, it is not covered by the terms of this waiver, and you agree to recuse yourself from those duties until such a time as you have fully divested all ownership interests in the Assets.

Waiver Determination

Based on the totality of the circumstances and subject to the limitations stated below, I have determined that the financial interests that are the subject of this waiver are not so substantial as to be deemed likely to affect the integrity of your services to the Government. This

waiver is necessitated by legal ownership interests in the Assets which are held directly and indirectly by you, or your spouse, as well as by certain trusts of which you are the beneficiary and LLCs in which you have a financial interest. While you have entered into purchase agreements to divest of the Assets, the sale of the Assets cannot be completed until all regulatory approvals, U.S. and foreign, have been granted. Therefore, this waiver authorizes you to participate in particular matters of general applicability that may affect the financial interests of Cantor Fitzgerald L.P., BGC Group, Inc., and Newmark Group, Inc, pending receipt of such approvals and divestiture of the Assets

Subject to the limitations set forth below, I have determined that your disqualifying financial interest is not so substantial as to be likely to affect the integrity of your service to the Government, and therefore grant you this waiver which authorizes you to participate in particular matters of general applicability that could affect the financial interests of Cantor Fitzgerald L.P., BGC Group, Inc., and Newmark Group, Inc. In determining that a waiver is warranted under 18 U.S.C. § 208(b)(1), I considered the following:

- You cannot divest your direct and indirect ownership interest in Cantor Fitzgerald, L.P., BGC Group, Inc., and Newmark Group, Inc. until the sales receive regulatory approvals. However, you have entered into purchase agreements to sell the Assets at a fixed price. Once regulatory approvals are granted, you will transfer all of your direct and indirect legal ownership interests in the Assets to the Buyers.
- Pending U.S. and foreign regulatory approvals, and legal ownership of the Assets transferring to the Buyers, you will receive payment for the Assets in an amount determined in and fixed by the purchase agreements. Per the purchase agreements, you will not continue to receive any financial or economic benefit (or detriment) from the Assets, nor will any person whose interests are imputed to you under 18 U.S.C. § 208(a). Rather, only the Buyers would be impacted financially or economically by anything affecting the Assets. As you will not have any economic gains or losses associated with your continued legal ownership of these entities, your actions as Secretary would not impact your personal financial interests.
- I anticipate that the particular matters of general applicability in which you will be permitted to participate will not have a substantial effect on the financial interests of the Assets for the reasons discussed above. A particular matter of general applicability, by definition, is not directed towards the Assets specifically, and such matters in which you will be permitted to participate are of such a strategic level that it is unlikely that any such matter will have a measurable effect on the Assets.
- As discussed above, you will not be permitted to participate in specific party matters in which Cantor Fitzgerald, L.P., BCG Group, or Newmark Group, Inc. is a party or represents a party. While domestic regulatory approvals are not under the purview of the Department, should a situation arise whereby the Department engages in said regulatory approvals, you will not be allowed to participate in any discussions or decisions relating to domestic regulatory approvals of the purchase agreements.

- Finally, this waiver is time-limited and will only remain in effect until regulatory approvals are received, the closings are complete, and the Assets are transferred to the Buyers; after that point, the waiver will no longer be necessary due to your complete divestiture of the Assets. You have agreed to close the transactions and divest as soon as required regulatory approvals are obtained. Given the time-limited nature of this waiver, it is unlikely that any particular matters in which you would participate would have a measurable effect on the Assets. A review of the types of particular matters reported out of your office for which you have been asked or for which you may be asked to participate indicates that a particular matter of general applicability that could impact the financial interests of the Assets is unlikely to arise during the period of time contemplated by this waiver, and the waiver is granted in an abundance of caution.

Limitations on Waiver

This limited interim waiver permits your participation in your role as Secretary in particular matters of general applicability that could have a direct and predictable effect on the financial interests of Cantor Fitzgerald L.P., BGC Group Inc., or Newmark Group Inc., subject to the following limitations:

- This waiver does not permit you to participate in specific party matters where Cantor Fitzgerald L.P., BGC Group, Inc., or Newmark Group, Inc. is a party or represents a party. Upon appointment, a “gatekeeping agreement” was provided to your staff by ELPO, identifying specific individuals to whom you delegate the authorities necessary to screen you from all specific party matters and act in your stead to ensure full compliance with this requirement.
- While domestic regulatory approvals are not under the purview of the Department, should a situation arise whereby the Department engages in said regulatory approvals, this waiver does not allow you to participate in any discussions or decisions relating to domestic regulatory approvals of the purchase agreements
- This waiver does not permit you to hold meetings with representatives of Cantor Fitzgerald L.P., BGC Group, Inc., or Newmark Group, Inc., including discussing particular matters of general applicability.
- This waiver applies only to the legal ownership interest in the Assets and does not extend to any economic interest in these same Assets or any other asset of Cantor Fitzgerald L.P., BGC Group, Inc., or Newmark Group, Inc., or any other entity not identified in this waiver.
- As previously discussed, this is a time-limited waiver. As such, this waiver only applies during the period of time required to receive U.S. and foreign regulatory approval of the Assets and to execute the sale(s).

- For this waiver to remain in effect, neither you, your spouse, nor any minor children (if applicable) may acquire any new interests, directly or indirectly, in Cantor Fitzgerald L.P., BGC Group, Inc., or Newmark Group, Inc.

We expect that you and your staff will continue to consult with the ELPO, as you have since you were sworn in as Secretary, and the Ethics Office will continue to provide guidance in connection with any matters that may be impacted by this waiver. As noted above, this waiver is being issued out of an abundance of caution to account for the comprehensive scope and significance of the Secretary's responsibilities.

In accordance with 5 C.F.R. § 2640.303, the U.S. Office of Government Ethics was consulted during the determination process. Additionally, a copy of this waiver shall be made available upon request to the public by the Department, and the public release of this waiver shall be in accordance with the procedures set forth in section 105 of the Ethics in Government Act of 1978, as amended. 5 C.F.R § 2640.304(a).

This waiver is effective upon signature.