



# Whistleblower Program & Customer Education Initiatives

2020 Annual Report

October 2020

## I. INTRODUCTION

Section 748 of the Dodd-Frank Wall Street Reform and Consumer Protection Act<sup>1</sup> amended the Commodity Exchange Act (“CEA”) by adding Section 23, entitled “Commodity Whistleblower Incentives and Protection.”<sup>2</sup> CEA Section 23 established a whistleblower program under which the Commodity Futures Trading Commission (the “Commission” or “CFTC”) will pay awards, based on collected monetary sanctions and under regulations prescribed by the Commission, to eligible whistleblowers who voluntarily provide the Commission with original information about violations of the CEA that lead either to a “covered judicial or administrative action” or a “related action.”<sup>3</sup> CEA Section 23 also established the Commodity Futures Trading Commission Customer Protection Fund (“Fund”), which is used to pay whistleblower awards and to fund “customer education initiatives designed to help customers protect themselves against fraud or other violations of [the CEA], or the rules and regulations thereunder.”<sup>4</sup>

CEA Section 23(g)(5) requires the Commission to transmit an annual report to the Committee on Agriculture, Nutrition and Forestry of the Senate, and the Committee on Agriculture of the House of Representatives, on the following:

- Commission’s whistleblower program, including a description of the number of awards granted and the types of cases in which awards were granted during the preceding fiscal year;

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<sup>1</sup> Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. No. 111-203, § 748, 124 Stat. 1739 (2010).

<sup>2</sup> 7 U.S.C. § 26 (2018).

<sup>3</sup> A “covered judicial or administrative action” is “any judicial or administrative action brought by the Commission under [the CEA] that results in monetary sanctions exceeding \$1,000,000.” 7 U.S.C. § 26(a)(1). The term “related action,” when used with respect to any judicial or administrative action brought by the Commission under the CEA, means “any judicial or administrative action brought by an entity described in [7 U.S.C. § 26(h)(2)(C)(i)(I)-(VI)] that is based upon the original information provided by a whistleblower pursuant to [7 U.S.C. § 26(a)] that led to the successful enforcement of the Commission action.” *Id.* § 26(a)(5).

<sup>4</sup> 7 U.S.C. § 26(g)(2).

- customer education initiatives that were funded by the Fund during the preceding fiscal year;
- balance of the Fund at the beginning of the preceding fiscal year;
- amounts deposited into or credited to the Fund during the preceding fiscal year;
- amount of earnings on investments of amounts in the Fund during the preceding fiscal year;
- amount paid from the Fund during the preceding fiscal year to whistleblowers;
- amount paid from the Fund during the preceding fiscal year for customer education initiatives;
- balance of the Fund at the end of the preceding fiscal year; and
- complete set of audited financial statements, including a balance sheet, income statement,<sup>5</sup> and cash flow analysis.

This report covers the period from October 1, 2019 through September 30, 2020 (“Period”).

## **II. WHISTLEBLOWER PROGRAM AND WHISTLEBLOWER AWARDS**

During the Period, the Commission granted 16 applications for whistleblower awards, totaling approximately \$20 million, to be paid to individuals who voluntarily provided original information or analyses that led to successful enforcement actions. The 11 Final Orders granting those awards include three orders involving multiple whistleblower awardees, two orders granting awards to whistleblowers located outside the United States, and one award based in part on related actions brought by another regulator. Including these 11 Final Orders granting awards, during the Period the Commission issued a total of 72 Final Orders addressing 96 whistleblower award applications submitted on Form WB-APP. Of those 96 Forms WB-APP,

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<sup>5</sup> Federal Accounting Standards do not identify an “income statement” as a financial statement applicable to the Federal Government. Instead, the Federal Accounting Standards Advisory Board Statement of Federal Financial Accounting Concepts 2 ([http://files.fasab.gov/pdffiles/handbook\\_sffac\\_2.pdf](http://files.fasab.gov/pdffiles/handbook_sffac_2.pdf)) identifies the “statement of net cost” as the equivalent financial statement. A “statement of net cost” is included in the attached audited financial statements.

16 were granted and the remaining 80 were denied. The latter were denied because the applicants did not meet the requirements of 7 U.S.C. § 26 and 17 C.F.R. § 165.<sup>6</sup>

Since the inception of the Whistleblower Program, the CFTC has issued 25 orders granting a total of more than \$120 million in awards. The Commission actions associated with those awards have resulted in sanctions orders totaling nearly \$1 billion. Below is an overview of the whistleblower awards made by the Commission during the Period.

***Award to Whistleblower Who Provided Substantial But Incomplete Assistance***

On October 24, 2019, the Commission issued an order for an award to a whistleblower whose information led the CFTC to open an investigation ultimately resulting in the covered action. In his/her Tip, Complaint, or Referral Form (“Form TCR”), the whistleblower identified and discussed “red flags” regarding the firm at issue, particularly with respect to its conduct in seeking new employees and requesting new client referrals. After the investigation was opened, the whistleblower provided additional assistance to the Division of Enforcement, including by providing documents, such as text messages and account statements, and by participating in telephonic interviews with Division staff. However, the whistleblower declined to provide a declaration in support of an enforcement action, thereby reducing the degree of assistance and leading to a reduction in the whistleblower award.<sup>7</sup>

***Award of Approximately \$1 Million to Whistleblower Who Was Original Source***

On December 19, 2019, the Commission issued an order for an award of more than \$1 million to a whistleblower whose tip helped expose a scheme that violated the CEA and eventually led to the CFTC filing charges. The whistleblower was the original source of

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<sup>6</sup> Of the applications that were denied, 59 did not relate to a Notice of Covered Action (“NCA”), a final judgment in a “related action” (as defined in 17 C.F.R. § 165.2(m) (2020)), or a previously filed Form TCR, and so were addressed through a streamlined process under 17 C.F.R. § 165.7(e).

<sup>7</sup> See CFTC Whistleblower Award Determination 20-WB-01 (Oct. 24, 2019).

information that the Commission received from another regulator, and he/she ultimately provided information directly to the CFTC. Although the conduct the whistleblower reported did not itself form the basis for CFTC charges, the information provided by the whistleblower led to evidence of the violation resolved by the covered action.<sup>8</sup>

***Award to Whistleblower Who Provided Crucial Information***

On April 20, 2020, the Commission issued an order for an award to a whistleblower who provided information that was sufficiently specific, credible, and timely to cause the Commission to open an investigation. The CFTC brought a successful covered action based in part on conduct that was the subject of the whistleblower’s original information. The whistleblower also provided Division of Enforcement staff with assistance during the course of their investigation, including crucial information on which staff relied heavily as evidentiary support for the covered action.<sup>9</sup>

***Award of More Than \$2 Million Shared Among Four Whistleblowers***

On May 1, 2020, the Commission issued an order for an award exceeding \$2 million to be shared among four whistleblowers. The whistleblowers jointly submitted a tip to the CFTC, and each individually provided significant, ongoing assistance to the Division of Enforcement. The award recognized the contributions of the whistleblowers to the covered action and to related actions brought by another regulator.<sup>10</sup>

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<sup>8</sup> See CFTC Whistleblower Award Determination 20-WB-02 (Dec. 19, 2019); CFTC Press Rel. No. 8098-19, “CFTC Awards More Than \$1 Million to Whistleblower.” <https://www.cftc.gov/PressRoom/PressReleases/8098-19>.

<sup>9</sup> See CFTC Whistleblower Award Determination 20-WB-03 (April 20, 2020).

<sup>10</sup> See CFTC Whistleblower Award Determination 20-WB-04 (May 1, 2020); CFTC Press Rel. No. 8159-20, “CFTC Awards More Than \$2 Million to Four Whistleblowers.” <https://www.cftc.gov/PressRoom/PressReleases/8159-20>.

### ***Award of More Than \$6 Million to Whistleblower***

On June 5, 2020, the Commission issued an order for an award of more than \$6 million to a whistleblower who voluntarily provided original information that led the CFTC to bring a successful enforcement action. The CFTC opened its investigation upon receiving the whistleblower's information, which was specific, credible, and timely.<sup>11</sup>

### ***Award to Whistleblower Whose Information Led to a Successful Enforcement Action***

On June 12, 2020, the Commission issued an order for an award to a whistleblower who provided information that was sufficiently specific, credible, and timely to cause the Commission to open an investigation. The CFTC brought a successful covered action based in part on conduct that was the subject of the whistleblower's original information. The whistleblower also provided Division of Enforcement staff with assistance during the course of their investigation.<sup>12</sup>

### ***Award of More Than \$1 Million Split by Two Whistleblowers***

On July 20, 2020, the Commission issued an order for an award exceeding \$1 million to be shared by two whistleblowers. The CFTC opened an investigation after the first whistleblower's information was deemed to be sufficiently specific, credible, and timely. The second whistleblower significantly contributed to the matter by providing investigative staff with first-hand information obtained through participation in the underlying scheme.<sup>13</sup>

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<sup>11</sup> See CFTC Whistleblower Award Determination 20-WB-05 (June 5, 2020); CFTC Press Rel. No. 8175-20, "CFTC Announces \$6 Million Whistleblower Award." <https://www.cftc.gov/PressRoom/PressReleases/8175-20>.

<sup>12</sup> See CFTC Whistleblower Award Determination 20-WB-06 (June 12, 2020).

<sup>13</sup> See CFTC Whistleblower Award Determination 20-WB-07 (July 20, 2020); CFTC Press Rel. No. 8208-20, "CFTC Announces Whistleblower Awards Totaling More Than \$1 Million." <https://www.cftc.gov/PressRoom/PressReleases/8208-20>.

### ***Award of More Than \$9 Million to Whistleblower***

On July 24, 2020, the Commission issued an order for an award of approximately \$9 million to a whistleblower whose specific, credible, and timely tip led the Commission to open an investigation and ultimately bring a successful enforcement action. This award stands as one of the five largest granted in the history of the CFTC Whistleblower Program.<sup>14</sup>

### ***Award to Whistleblower for Exposing Ongoing Fraud***

On August 28, 2020, the Commission issued an order for an award to a whistleblower whose information led the Commission to open an investigation into ongoing fraudulent activity and successfully bring an enforcement action. In addition to the initial tip, the whistleblower also provided extensive assistance, including documents that were essential to establishing wrongdoing. This additional support enabled the CFTC to take action more quickly and conserve resources.<sup>15</sup>

### ***Award Split by Two Whistleblowers, One Domestic, One International***

On September 4, 2020, the Commission issued an order for an award to two whistleblowers whose specific, credible, and timely information led the CFTC to open an investigation, and whose continued assistance helped lead to a successful enforcement action. One whistleblower, based in the United States, first alerted the CFTC to the wrongdoers' fraudulent activity, and that whistleblower continued to provide helpful information and documents the Division of Enforcement may not have otherwise obtained. A second whistleblower, based overseas, subsequently provided the CFTC with information about an

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<sup>14</sup> See CFTC Whistleblower Award Determination 20-WB-08 (July 24, 2020); CFTC Press Rel. No. 8213-20, "CFTC Awards Approximately \$9 Million to Whistleblower." <https://www.cftc.gov/PressRoom/PressReleases/8213-20>.

<sup>15</sup> See CFTC Whistleblower Award Determination 20-WB-09 (Aug. 28, 2020); CFTC Press Rel. No. 8233-20, "CFTC Awards Whistleblower for Exposing Ongoing Fraud." <https://www.cftc.gov/PressRoom/PressReleases/8233-20>.

ongoing fraud being perpetrated by the same wrongdoers as well as their efforts to avoid detection by the CFTC.<sup>16</sup>

***Award of About \$250,000 to Whistleblower Who Assisted but Delayed Reporting***

On September 28, 2020, the Commission issued an order for an award of approximately \$250,000 to a whistleblower who provided significant information that caused the Commission to open an investigation. The whistleblower also provided substantial assistance to Division of Enforcement staff throughout the investigation. The award was reduced, however, because the whistleblower did not promptly report the violations.<sup>17</sup>

**A. Whistleblower Tips and Complaints**

The Commission’s Whistleblower Office (“WBO”) received 1,030 whistleblower tips and complaints on Form TCR during the Period, by mail, facsimile, or through the Commission’s web portal.<sup>18</sup> This record-high total represents a jump of 126% over the 455 Forms TCR received in Fiscal Year (“FY”) 2019 and an increase of 36% over the previous high-water mark of 760 in FY 2018. On top of this total, whistleblowers submitted an additional 190 supplements to their Forms TCR during the Period. Figure 1 shows the number of Forms TCR received each fiscal year since FY 2012.

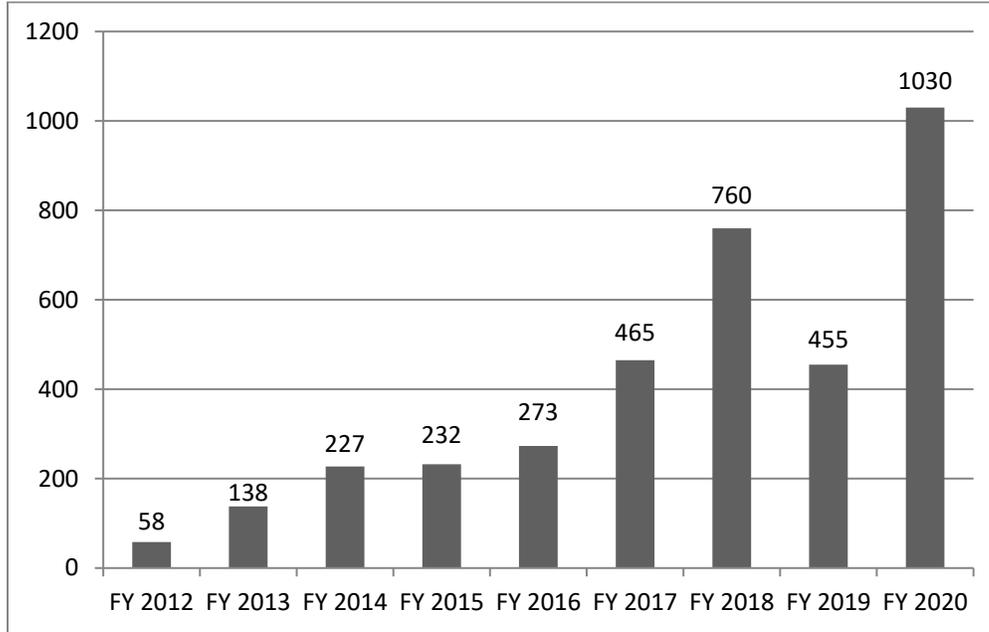
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<sup>16</sup> See CFTC Whistleblower Award Determination 20-WB-10 (Sept. 4, 2020); CFTC Press Rel. No. 8239-20, “CFTC Awards Domestic and International Whistleblowers.” <https://www.cftc.gov/PressRoom/PressReleases/8239-20>.

<sup>17</sup> See CFTC Whistleblower Award Determination 20-WB-11 (Sept. 28, 2020); CFTC Press Rel. No. 8262-20, “CFTC Awards Whistleblower \$250,000.” <https://www.cftc.gov/PressRoom/PressReleases/8262-20>.

<sup>18</sup> See File a Tip or Complaint: <https://www.whistleblower.gov/overview/submitatip>.

**Figure 1: Forms TCR received by WBO, by fiscal year**



The WBO also received an additional 191 separate non-whistleblower tips and complaints during the Period,<sup>19</sup> most often by email to [whistleblower@cftc.gov](mailto:whistleblower@cftc.gov). When appropriate, the WBO communicates with non-whistleblower correspondents and invites them to become whistleblowers by submitting a Form TCR. The WBO forwards all tips and complaints to the Commission's Division of Enforcement for evaluation and disposition.

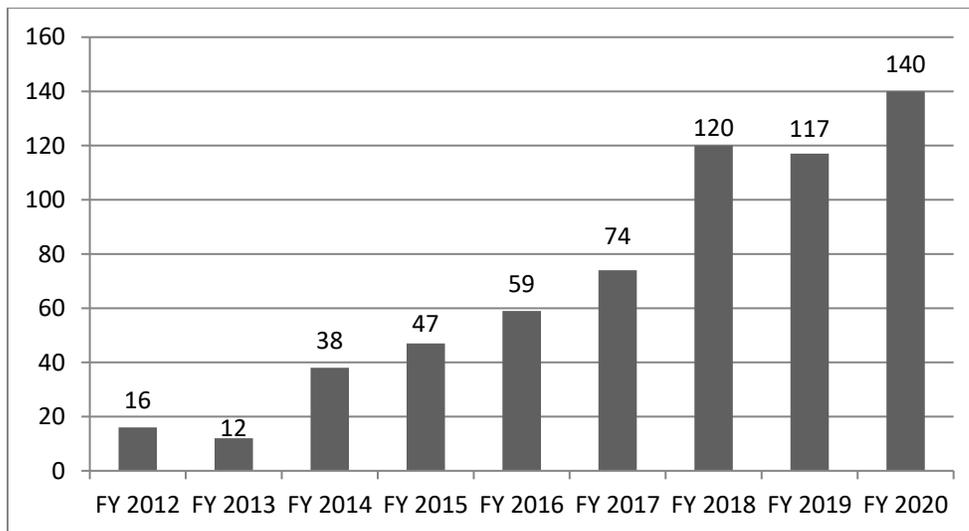
During the Period, the WBO received tips and complaints regarding activities such as failures to supervise; record keeping or registration violations; swap dealer business conduct; wash trading; solicitation, misappropriation, and other types of fraud; use of deceptive or manipulative devices in trading; as well as spoofing and other forms of disruptive trading or market manipulation.

<sup>19</sup> This total consists of 127 emails and other non-whistleblower tips and complaints as well as 64 Forms TCR referred to the CFTC by the U.S. Securities and Exchange Commission.

## B. Whistleblower Award Applications

The WBO posts on its website NCAs for all final judgments and orders entered after July 21, 2010 that impose more than \$1 million in monetary sanctions.<sup>20</sup> The WBO posted 35 NCAs during the Period, up from the 31 NCAs posted in FY 2019. During the Period, the WBO received 140 whistleblower award applications on Form WB-APP. This is an increase of 20% over the 117 received in FY 2019. Figure 2 below shows the number of Forms WB-APP received each year since FY 2012.

**Figure 2: Forms WB-APP received by WBO, by fiscal year**



## C. Whistleblower Education and Outreach Efforts

During the Period, the WBO also continued its efforts to educate stakeholders about the Whistleblower Program through speeches, web postings, panel and seminar appearances, by answering questions about the program posed directly to WBO staff, and by attending conferences and other industry gatherings. The WBO's goal is to inform various constituencies about the existence, benefits, and parameters of the program. Those constituencies include Commission staff, whistleblowers and their attorneys, industry and professional groups, other

<sup>20</sup> 17 C.F.R. § 165.7(a).

government agencies, self-regulatory organizations, academia, and potential whistleblowers—who may be traders as well as hedgers, farmers, ranchers, producers, commercial end users, or other market participants.

To that end, during the Period, the WBO exhibited at two industry conferences and trade shows relating to the markets that the CFTC oversees. In addition, during the Period, members of the WBO presented at three public events attended by members of the global futures, options, and cleared swaps industry; corporate counsel; the whistleblower bar; and potential whistleblowers—with the aims of raising the profile of the program and enhancing those stakeholders’ understanding of the program. These numbers are down somewhat from FY 2019 because the COVID-19 (coronavirus) pandemic limited many of the usual outreach efforts.

The WBO launched <https://www.whistleblower.gov>, in January 2016. The website educates the public about the Whistleblower Program, serving as a one-stop-shop for information about the Whistleblower Program to answer frequently asked questions and offer helpful guidance on navigating the program.<sup>21</sup> It also affords a convenient way for the public to submit both whistleblower tips about potential violations of the CEA and award applications—on Form TCR and Form WB-APP, respectively. Additionally, the website outlines whistleblower rights and protections and guides users through the process of filing a whistleblower tip and applying for an award. The website also provides users with easy access to the rules and regulations governing the CFTC’s Whistleblower Program,<sup>22</sup> final award determinations, NCAs, and press releases, while encouraging users to sign up for automatically emailed CFTC Whistleblower Program updates. As of September 30, 2020, more than 58,000 individuals had registered to

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<sup>21</sup> See, e.g., Things To Know: <https://www.whistleblower.gov/news/thingstoknow>.

<sup>22</sup> The Whistleblower Program rules are codified at 17 C.F.R. pt. 165 (as amended by 82 Fed. Reg. 24,487, 24,496–521 (May 30, 2017)).

receive emails alerting them to updates on the Whistleblower Program website, such as the posting of new NCAs. During the Period, the website received almost 292,000 page views.

During the Period, the WBO continued using its website to publish alerts on trending topics. In addition to the four posted in FY 2019 (covering Bank Secrecy Act/anti-money laundering, foreign corrupt practices, insider trading, and virtual currencies), the WBO posted an alert on spoofing in the commodities and derivatives markets.<sup>23</sup> The purpose of the alerts is to inform members of the public about how they make themselves eligible for both financial awards and certain protections while helping stop violations of the CEA. WBO staff also distributed relevant alerts at events attended during the Period. These alerts have helped raise awareness of areas of particular interest to the Division of Enforcement.

As an added dimension of outreach during the Period, the WBO leveraged the CFTC pages on Twitter and Facebook to publicize these alerts, Things To Know, Frequently Asked Questions, and other website content through a week-long series of posts in January 2020. Additional information on the Commission's social media outreach is provided further below.

#### **D. Whistleblower Office Coordination on Confidentiality in Enforcement**

The WBO also plays an important role in protecting whistleblower confidentiality while allowing the Commission to litigate judicial and administrative actions, and to coordinate its enforcement efforts with other government agencies and regulators. During the Period, the WBO considered 298 requests to produce documents from the investigation and litigation files of the Commission's Division of Enforcement. Among those, 188 requests involved whistleblowers, and the WBO found 22 requests to implicate whistleblower-identifying information. The WBO assisted the Commission's Division of Enforcement in preparing the

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<sup>23</sup> These alerts are available on the Whistleblower Program website's main landing page, <https://www.whistleblower.gov>, as well as on a dedicated alerts page, <https://www.whistleblower.gov/whistleblower-alerts>.

documents by removing whistleblower-identifying information or otherwise taking steps to preserve whistleblower confidentiality. During the Period, the WBO also considered 139 requests from other government agencies and regulators to access documents from the Division of Enforcement's files. Among those, 81 requests involved whistleblowers, and the WBO found 15 requests to implicate whistleblower-identifying information. Again, the WBO assisted the Commission's Division of Enforcement in making the documents available outside the Commission consistent with the confidentiality obligations imposed by the CEA and the Whistleblower Program rules.

### **III. CUSTOMER EDUCATION INITIATIVES**

The Office of Customer Education and Outreach ("OCEO") administers the CFTC's customer and public education initiatives. Among its duties, the OCEO supports the Commission by creating and distributing financial education messages and materials designed to help customers spot, avoid, and report fraud and other violations of the CEA.

#### **A. Coronavirus Response**

Major news events and market uncertainty are opportunities for fraudsters. Expecting a surge in fraud to follow the economic disruption caused by the coronavirus pandemic, the OCEO stepped up efforts to identify potential fraud trends and provide timely warnings and other information to the public. Between March and August 2020, the OCEO released four customer advisories and three articles on its website that focused on coronavirus-related fraud. These warnings and messages were further amplified through press releases, media stories including the *Wall Street Journal*, and social media posts.

Fraud complaints historically increase following significant market downturns. The most recent example was the 2008-2009 Great Recession. As markets declined—and for years afterward—the government experienced a significant influx of fraud cases. From 2008 through

2011, the Federal Bureau of Investigation reported a 52 percent increase in securities and commodities fraud investigations.<sup>24</sup> Similarly, the CFTC saw its enforcement actions grow 155 percent, from 40 actions in 2008 to 102 actions filed in 2012. The markets experienced a similar shock between February and March 2020.<sup>25</sup> Since that time, the CFTC has experienced a significant increase in fraud complaints.

The OCEO first advised customers in March to be on alert for scams that attempt to take advantage of coronavirus-related news to build credibility.<sup>26</sup> The advisory reminded customers of common psychological biases and red flags that can be used to identify frauds. It also recommended that retail traders only do business with registered intermediaries, and provided information on how to check a firm or individual's registration status.

In April, the OCEO warned against advance-fee frauds proliferating on social media platforms.<sup>27</sup> These frauds convince victims they have made large profits in a very short amount of time then require the victim to pay one fee after another to access their "profits." For example, an offeror might start by telling victims that if they invest \$500 they could earn \$10,000 in a week. The fraudsters show victims fake account balances that grow to meet or exceed the goals. However, when the customers try to withdraw the funds they first must pay commissions of up to 20 percent (\$2,000), when the customers pay the commissions they are

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<sup>24</sup> See Federal Bureau of Investigation. Financial Crimes Report to the Public, Fiscal Years 2010-2011. (<https://www.fbi.gov/stats-services/publications/financial-crimes-report-2010-2011>).

<sup>25</sup> Between February and March 2020 the Standard & Poor's 500-stock index shed 34 percent of its value.

<sup>26</sup> See Customer Advisory: Be on Alert for Frauds Seeking to Profit from Market Volatility Related to COVID-19 ([https://www.cftc.gov/LearnAndProtect/AdvisoriesAndArticles/fraud\\_alert\\_profit\\_from\\_market\\_volatility\\_covid\\_19.htm](https://www.cftc.gov/LearnAndProtect/AdvisoriesAndArticles/fraud_alert_profit_from_market_volatility_covid_19.htm)).

<sup>27</sup> See Customer Advisory: Beware of Fee Scams Targeting Workers Sidelined by COVID-19 ([https://www.cftc.gov/LearnAndProtect/AdvisoriesAndArticles/CustomerAdvisory\\_CoronaFees.htm](https://www.cftc.gov/LearnAndProtect/AdvisoriesAndArticles/CustomerAdvisory_CoronaFees.htm)).

told they must pay a 15 percent tax (\$1,500), and so on. The fees continue until the victims stop paying.

Other advisories informed customers to learn the unique risks related to commodities trading before investing in commodity-backed exchange-traded products,<sup>28</sup> and to avoid schemes that encouraged taking distributions from retirement savings plans under the Coronavirus Aid, Relief, and Economic Security Act (the “CARES Act”) to speculate in gold or silver.<sup>29</sup>

Web articles during this period included tips for people in isolation to avoid fraud, six steps customers should take if they discover they have been a victim of fraud,<sup>30</sup> and how to spot and avoid recovery fraud, when government imposters or companies claim they can recover money lost to previous frauds for a fee.<sup>31</sup>

#### **B. A Newly Redesigned Learn & Protect Section of cftc.gov.**

In FY 2020, the OCEO decommissioned the smartcheck.gov website and moved much of the site’s content to cftc.gov. The Learn & Protect section<sup>32</sup> of cftc.gov was reorganized with new pages and content types to accommodate the material and tools that were transferred and updated. For example, the primary feature on smartcheck.gov was the ability to check the CFTC registration status of firms and individuals. Similar functionality did not exist on cftc.gov, so the OCEO launched cftc.gov/check, a page that explains why registration is important, explains the

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<sup>28</sup> See Customer Advisory: Learn About Risks Before Investing in Commodity ETPs or Funds ([https://www.cftc.gov/LearnAndProtect/AdvisoriesAndArticles/CustomerAdvisory\\_CommodityETPs.htm](https://www.cftc.gov/LearnAndProtect/AdvisoriesAndArticles/CustomerAdvisory_CommodityETPs.htm)).

<sup>29</sup> See Customer Advisory: Beware of Gold and Silver Schemes Designed to Drain Your Retirement Savings ([https://www.cftc.gov/LearnAndProtect/AdvisoriesAndArticles/CustomerAdvisory\\_COVID19PreciousMetals.htm](https://www.cftc.gov/LearnAndProtect/AdvisoriesAndArticles/CustomerAdvisory_COVID19PreciousMetals.htm)).

<sup>30</sup> See Article: 6 Steps to Take after Discovering Fraud (<https://www.cftc.gov/LearnAndProtect/AdvisoriesAndArticles/6Steps.html>).

<sup>31</sup> See Don’t be Re-Victimized by Recovery Frauds (<https://www.cftc.gov/LearnAndProtect/AdvisoriesAndArticles/RecoveryFrauds.html>).

<sup>32</sup> See <https://www.cftc.gov/LearnAndProtect>.

relationship between the National Futures Association (“NFA”) and the CFTC,<sup>33</sup> and provides a link to NFA’s BASIC database.<sup>34</sup> The page also features an expandable Frequently Asked Questions area that includes how to check registrations for other entities, such as broker/dealers, registered investment advisors, and digital asset spot market websites.

## [cftc.gov/check](https://cftc.gov/check)

The screenshot shows the CFTC website's 'check' page. At the top, there is the CFTC logo and navigation links for Transparency, Careers, and Contact Us. Below the logo is a search bar and social media icons. The main navigation bar includes links for About the CFTC, Industry Oversight, Law & Regulation, Market Data & Economic Analysis, Forms & Submissions, Learn & Protect, and News & Events. The 'Learn & Protect' section is expanded, showing links for Check Registration & Disciplinary History, Submit a Tip, Reparations Program, RED List, Advisories & Articles, Videos, and Publications. The main content area is titled 'Be Smart: Check Registration & Backgrounds Before You Trade' and contains the following text:

Before working with any person or firm to trade in commodity futures, commodity pools, options, forex, or other derivatives, verify that the entity is properly registered with the CFTC. The Commodity Exchange Act requires certain firms and individuals to be registered with the CFTC. Registration and examination of intermediaries is conducted on behalf of the CFTC by the National Futures Association (NFA) under the supervision of the CFTC.

**Do a Check**

Visit the **NFA BASIC database** to check:

- Registration
- Disciplinary or regulatory history
- Financial information

**First Things First**

Verify the registration status and disciplinary history of the person or firm selling a product or strategy before researching the risks or potential returns of the trade itself.

While registration and a clean disciplinary record won't protect you from fraud, most scams involve unregistered entities, people, and products.

For more information, review the frequently asked questions and answers below.

**Registration FAQs**

Who needs to be registered?	Show
Why is registration important?	Show
What if a firm, trading platform or advisor is not registered?	Show
What should I do if I suspect fraud?	Show

*The new [cftc.gov/check](https://cftc.gov/check) page enables customers to check the registration status of firms or individuals, provides context on the importance of registration, and includes frequently asked questions for additional information.*

<sup>33</sup> NFA is a registered futures association and the industrywide, self-regulatory organization for the U.S. derivatives industry. Registration and examination of intermediaries is conducted on behalf of the CFTC by the NFA under the supervision of the CFTC.

<sup>34</sup> BASIC is a free tool that NFA Members and investors can use to research the background of derivatives industry professionals. The database contains CFTC registration information, NFA membership information, regulatory actions and information concerning certain types of customer claims.

An updated and improved Registration Deficient (“RED”) List, another innovation from the smartcheck.gov website, also migrated to cftc.gov.<sup>35</sup> First approved by the Commission in 2015, the RED List was developed to help customers identify unregistered non-U.S. entities that appear to be acting in a capacity which requires registration with the CFTC. Improvements to the tool include:

- Shorter introductory text, which adheres to Federal plain language guidelines and web design best practices.
- Providing each RED List entity with its own page that displays the entity’s home page and web address, country of origin, owners and operators of the site if known, the products offered, and date it was added to the RED List.
- Each entity page also includes information about the significance of being on the RED List, why registration is important, and how to report tips about fraud or other suspicious websites that should be reviewed as potential RED List entries.
- Each entity page also includes information that improves its visibility to mainstream search engines, and extends RED List warnings to search result descriptions.

Other educational improvements to the Learn & Protect section include a new Advisories & Articles page<sup>36</sup> that can be easily sorted or searched by topic, an updated Reparations Program page,<sup>37</sup> Videos,<sup>38</sup> and Publications.<sup>39</sup>

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<sup>35</sup> See <https://www.cftc.gov/LearnAndProtect/Resources/Check/redlist.htm>.

<sup>36</sup> See [https://www.cftc.gov/LearnAndProtect/article\\_and\\_advisory/index.htm](https://www.cftc.gov/LearnAndProtect/article_and_advisory/index.htm).

<sup>37</sup> See <https://www.cftc.gov/LearnAndProtect/ReparationsProgram/index.htm>.

<sup>38</sup> See <https://www.cftc.gov/LearnAndProtect/videos/index.htm>.

<sup>39</sup> See <https://www.cftc.gov/LearnAndProtect/Publication/index.htm>.

## RED List Entity Page

The screenshot shows the CFTC website's RED List Entity Page for FXVIP. At the top, the CFTC logo is displayed with the text "COMMODITY FUTURES TRADING COMMISSION". Navigation links include "About the CFTC", "Industry Oversight", "Law & Regulation", "Market Data & Economic Analysis", "Forms & Submissions", "Learn & Protect", and "News & Events". A search bar and social media icons are also present.

**Learn & Protect**

- Check Registration & Disciplinary History
- Submit a Tip
- Reparations Program
- RED List
- Advisories & Articles
- Videos
- Publications

**RED List: FXVIP**

**FXVIP**  
**Web address:** <https://fxvip.com/>  
**Origin:** St. Vincent and the Grenadines  
**Owned and Operated by:** Goldman Global Group  
**Type of Offerings:** Over-the-Counter Foreign Exchange Trading, Contracts for Difference  
**RED List date:** 07/16/2020

This entity operates outside the United States with no or limited U.S. presence. It is soliciting and/or accepting funds from U.S. customers and offering a product within the CFTC's jurisdiction. A review by the Commission has revealed that this entity is acting in a capacity that appears to require registration, but it is not registered with the CFTC.

The inclusion of this entity's name on the RED List does not mean that the CFTC or a court has concluded that a violation of any provision of the Commodity Exchange Act or the Commission's regulations has occurred.

**Registration Matters**

Even if the entity you are considering is not on the RED List, **always check to see if it is registered** with the CFTC before opening an account or paying any money.

Generally, entities that solicit you to trade are required to register with the CFTC. If a foreign entity is registered with the Commission, then it is subject to the same regulations and oversight that apply to U.S. registrants.

You may have little or no protections if you choose to trade with unregistered firms that operate outside the United States.

If an unregistered entity solicits you, exercise extreme caution, and watch for the **RED flags of fraud**. (Although registration offers many protections, it is no guarantee against fraud or mismanagement.)

**Suggest a RED List Entity**

The RED List is developed from tips and leads from the public or other sources. Help us protect other traders. If you have a RED List lead, **send us the web address**.

**Report Fraud**

If you believe you have been a victim of fraud, **submit a tip** the CFTC.

*The new cftc.gov RED List warns customers about unregistered non-U.S. entities that appear to be acting in a capacity which requires registration with the CFTC.*

In late September, the OCEO also helped produce a dedicated web page for agricultural customers.<sup>40</sup> The page contains checklists and advisories that could help customers select registered brokers or advisors, review monthly or quarterly account statements for errors or inappropriate activity, spot and avoid potential frauds, and better understand commodity pools or commodity-based exchange traded products. The page also features articles on how to find free or low-cost educational opportunities from reputable sources, as well as a collection of

<sup>40</sup> See <https://www.cftc.gov/Agriculture>.

educational resource links available from universities, industry, nonprofit organizations, and the federal government.

Since the relaunch, the Learn & Protect section has attracted at least 80,000 page views.<sup>41</sup> Among the most visited pages are the Check Registration page (13,000 page views), RED List (9,000 page views), and Fraud Tips and Complaints (7,200 page views).

### **C. Outreach**

As part of the migration of educational material to [cftc.gov](http://cftc.gov), the OCEO's social media outreach also transitioned to CFTC pages on Twitter and Facebook. To coincide with the transition, a new social media strategy was launched to satisfy the anti-fraud and educational needs of current social media followers and potential new followers by providing content for investors at all knowledge levels. The OCEO achieves this by disseminating information as weekly topics that introduce followers to a subject and then provide more in-depth information on the topic throughout the week. The new strategy also includes rotating weekly reminders about several important topics such as checking the background of a financial professional and submitting a tip to the CFTC. The CFTC's Twitter handle has more than 45,000 followers and the CFTC's Facebook page has nearly 30,000 followers.

Direct customer outreach by the OCEO has been limited by pandemic-related restrictions on travel and large gatherings. Nevertheless, the OCEO continues to work with other federal agencies and international regulators<sup>42</sup> to strengthen investor education. Prior to the pandemic, the OCEO represented the agency at multiple events and the OCEO has presented at CFTC advisory committee meetings. Throughout the Period, the OCEO coordinated its efforts and

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<sup>41</sup> Web analytics are for the period from April 1 through September 23.

<sup>42</sup> The OCEO represents the CFTC on the International Organization of Securities Commissions ("IOSCO") Committee on Retail Investors ("Committee 8").

resources with other member agencies of the Financial Literacy and Education Commission (“FLEC”), as well as supported the 2020 update to the U.S. National Strategy for Financial Literacy,<sup>43</sup> which encourages agencies to take leadership roles that support and inform the country’s financial education infrastructure by:

- Promoting best practices;
- Sharing evidence;
- Creating specific resources, where appropriate; and
- Deploying policy solutions.

With this role in mind, the CFTC began participating in a liaison capacity on the Advisory Council of Futures Fundamentals, an educational website<sup>44</sup> that aims to help build a baseline understanding of the futures industry and engage the next generation of market participants. CME Group developed the website and works with Discovery Education to disseminate information to educators. Partners on the project include the National Futures Association, the Futures Industry Association, the Institute for Financial Markets, and the Intercontinental Exchange. The Advisory Council guides the nonprofit educational website’s content and other programming to ensure it fosters understanding of the futures and derivatives markets for learners of all ages. In its role as liaison, the OCEO fosters collaboration by attending Advisory Council meetings and serving as a subject matter expert on the subject of derivatives fraud. CFTC assisted in the development of new content for FuturesFundamentals.org about market regulation, due diligence, and fraud in the markets.

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<sup>43</sup> See <https://home.treasury.gov/system/files/136/US-National-Strategy-Financial-Literacy-2020.pdf>.

<sup>44</sup> See <https://www.futuresfundamentals.org/>.

#### IV. CUSTOMER PROTECTION FUND

As of September 30, 2020, the Fund had an ending balance of \$117,027,972:

Description	FY 2020
Balance of the Fund at the beginning of the Period:	\$125,439,162
Amounts deposited into, or credited to, the Fund during the Period:	\$0
Amount of earnings on investments of amounts in the Fund during the Period:	\$1,082,980
Amount paid from the Fund to whistleblowers during the Period for claims not reported in prior years:	(\$2,227) <sup>45</sup>
Amount paid from the Fund for customer education initiatives during the Period:	(\$1,534,307)
Amount of unpaid customer education initiatives expenses incurred during the Period:	(\$226,442)
Amount paid from the Fund for administrative expenses during the Period:	(\$2,592,421) <sup>46</sup>
Amount of unpaid administrative expenses incurred during the Period:	(\$1,117,899) <sup>47</sup>
Amount of unpaid claims to Fund resources accrued during the Period for whistleblower claims not reported in prior years:	(\$4,020,874) <sup>48</sup>
Balance of the Fund as of September 30, 2020:	\$117,027,972

Attached as an Appendix to this report are the audited financial statements for the Fund, including a balance sheet, a statement of net cost, a statement of changes in net position, a statement of budgetary resources, and a supplementary cash flow analysis schedule.

<sup>45</sup> \$27,262,890 was disbursed from the Fund for whistleblower awards during the Period. The cash disbursed included \$27,260,663 in awards that were previously reported as pending claims or accounts payable as of September 30, 2019, and an additional \$2,227 in new amounts awarded and disbursed during FY 2020.

<sup>46</sup> The administrative expenses of the WBO and the OCEO are charged to the Fund pursuant to GAO Decision B-321788, 2011 WL 3510145 (Comp. Gen. Aug. 8, 2011).

<sup>47</sup> Unpaid administrative expenses include amortization of software which is not a future disbursement.

<sup>48</sup> The amount of unpaid claims to Fund resources of \$4,020,874 consists of final whistleblower awards due and payable plus the amount of new awards preliminarily determined by the Commission as of September 30, 2020, but not issued as final awards during the Period.

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**U.S. COMMODITY FUTURES TRADING COMMISSION  
OFFICE OF INSPECTOR GENERAL**

Three Lafayette Centre  
1155 21st Street, NW, Washington, DC 20581

**TO:** Dr. Heath Tarbert, Chairman  
Brian D. Quintenz, Commissioner  
Rostin Behnam, Commissioner  
Dawn Stump, Commissioner  
Dan Berkovitz, Commissioner

**FROM:** Miguel A. Castillo, *CPA, CRMA*  
Assistant Inspector General for Auditing

**DATE:** October 28, 2020

**SUBJECT:** Audit of the CFTC Customer Protection Fund Financial Statements  
(Fiscal Year 2020)

Annually the Office of the Inspector General (OIG) engages an independent public accountant (IPA) to perform a required audit of the CFTC Customer Protection Fund (Fund) financial statements. The balance of the Fund<sup>1</sup> as of September 30, 2020, was \$117,027,972. We contracted Allmond & Company, LLC (Allmond & Co.) to audit the financial statements of the Fund as of September 30, 2020, and for the year then ended, to provide negative assurance on internal control and compliance with laws and regulations for financial reporting. We required that the audit be done in accordance with *U.S. Generally Accepted Government Auditing Standards (GAGAS)*.

In its audit of the Fund, Allmond & Co. found:

- The financial statements were fairly presented, in all material respects, in conformity with *U.S. Generally Accepted Accounting Principles*.

In connection with the contract, we reviewed Allmond & Company's report and related documentation and inquired of its representatives. Our review, as differentiated from an audit of the financial statements in accordance with U.S. generally accepted government auditing standards, was not intended to enable us to express, and we do not express, opinions on CFTC's financial statements or internal control over financial reporting, or on compliance with laws and other matters. Allmond & Co. is responsible for the attached auditor's report dated October 14, 2020 and the conclusions expressed therein. However, our review disclosed no instances where Allmond & Co. did not comply, in all material respects, with GAGAS.

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<sup>1</sup> Total net position.

Attached is a copy of Allmond & Co.'s unmodified (clean) opinion. Please call me if any questions at (202) 418-5084.

**Cc:**

Jamie Klima, Chief of Staff  
Kevin S. Webb, Chief of Staff  
John Dunfee, Chief of Staff  
Daniel Bucsa, Chief of Staff  
Erik Remmler, Chief of Staff  
Christopher Ehrman, Director. Whistleblower Office  
Anthony C. Thompson, Executive Director  
Joel Mattingley, Chief Financial Officer  
Keith A. Ingram, Accounting Officer  
John Rogers, Senior Advisor  
A. Roy Lavik, Inspector General  
Judith A. Ringle, Deputy Inspector General and Chief Counsel



ALLMOND &amp; COMPANY, LLC

CERTIFIED PUBLIC ACCOUNTANTS

7501 FORBES BOULEVARD, SUITE 200  
LANHAM, MARYLAND 20706(301) 918-8200  
FACSIMILE (301) 918-8201

## Independent Auditors' Report

Chairman and Inspector General of  
U.S. Commodity Futures Trading Commission:

### Report on the Financial Statements

We have audited the accompanying financial statements of the U.S. Commodity Futures Trading Commission (CFTC) Customer Protection Fund (CPF), which comprise the balance sheets as of September 30, 2020 and 2019; the related statements of net cost, changes in net position, and budgetary resources for the fiscal years then ended; and the related notes to the financial statements (hereinafter referred to as the financial statements).

### Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this responsibility includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

### Auditor's Responsibility

Our responsibility is to express an opinion on the fiscal year 2020 and 2019 financial statements of CPF based on our audits. We conducted our audits in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States; and Office of Management and Budget (OMB) Bulletin No. 19-03, *Audit Requirements for Federal Financial Statements*. Those standards and OMB Bulletin No. 19-03 require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditors' judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion.

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**Independent Auditors' Report**

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An audit also includes evaluating the appropriateness of the accounting policies used and the reasonableness of significant accounting estimates made by management, as well as the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

**Opinion**

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of U.S. Commodity Futures Trading Commission Customer Protection Fund as of September 30, 2020 and 2019, and its net cost of operations, changes in net position, and budgetary resources for the fiscal years then ended in accordance with accounting principles generally accepted in the United States of America.

**Other Matter***Required Supplementary Information*

The information in CPF's Annual Report to Congress and the Cash Flow Analysis are not a required part of the basic financial statements, but are supplementary information required by the Dodd-Frank Wall Street Reform and Consumer Protection Act. We have applied certain limited procedures, which consisted principally of inquiries of management regarding the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of CPF's financial statements. However, we did not audit this information and, accordingly, we express no opinion on it.

**Other Reporting Required by Government Auditing Standards***Internal Control over Financial Reporting*

In planning and performing our audit of CPF's financial statements as of and for the year ended September 30, 2020, in accordance with generally accepted government auditing standards, we considered CPF's internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances for the purpose of expressing our opinion on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of CPF's internal control over financial reporting. Accordingly, we do not express an opinion on CPF's internal controls over financial reporting. We limited internal control testing to those necessary to achieve the objectives described in OMB Bulletin No. 19-03. We did not test all internal control relevant to operating objectives as broadly defined by the Federal Managers' Financial Integrity Act of 1982.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct misstatement on a timely basis. A material weakness is a deficiency, or combination of deficiencies, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected, on a timely basis. A significant deficiency is a deficiency or a combination of deficiencies, in internal control that is less severe than a material weakness yet important enough to merit the attention by those charged with governance.

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**Independent Auditors' Report**

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Our consideration of internal control over financial reporting was for the limited purpose as described in the first paragraph of this section, and was not designed to identify all deficiencies in internal control over financial reporting that might be material weaknesses or significant deficiencies and therefore material weaknesses or significant deficiencies may exist that were not identified. Given these limitations, during our fiscal year 2020 audit we did not identify any deficiencies in internal control over financial reporting that we considered to be a material weakness, as defined above. However, material weaknesses may exist that have not been identified.

***Compliance and Other Matters***

As part of obtaining reasonable assurance about whether CPF's fiscal year 2020 financial statements are free of material misstatements, we performed tests of CPF's compliance with certain provisions of applicable laws, regulations, contracts, and grant agreements, which noncompliance could have a direct and material effect on the determination of material amounts and disclosures in CPF's financial statements, and certain provisions of other laws specified in OMB Bulletin No. 19-03. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion.

The results of our tests of compliance as described in the preceding paragraph, disclosed no instances of noncompliance or other matters that are required to be reported herein under *Government Auditing Standards* or OMB Bulletin No. 19-03.

**Purpose of the Other Reporting Required by Government Auditing Standards**

The purpose of the communication described in the Other Reporting Required by Government Auditing Standards section is solely to describe the scope of our testing of internal control and compliance with selected provisions of applicable laws, regulations, contracts, and grant agreements, and the results of that testing, and not to provide an opinion on the effectiveness of CPF's internal control or on compliance. This communication is an integral part of an audit performed in accordance with U.S. generally accepted government auditing standards in considering internal controls and compliance with laws, regulations, contracts, and grant agreements which could have a material effect on CPF's financial statements. Accordingly, this communication is not suitable for any other purpose.

*Allmond & Company, LLC*

Lanham, MD  
October 14, 2020

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# **FINANCIAL STATEMENTS FOR THE CUSTOMER PROTECTION FUND REPORT TO CONGRESS**

**as of September 30, 2020**

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**U.S. COMMODITY FUTURES TRADING COMMISSION  
CUSTOMER PROTECTION FUND REPORT TO CONGRESS: FINANCIAL STATEMENTS**

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**COMMODITY FUTURES TRADING COMMISSION**  
**CUSTOMER PROTECTION FUND**  
**BALANCE SHEETS**  
**AS OF SEPTEMBER 30, 2020 AND 2019**

	2020	2019
<b>ASSETS</b>		
Intragovernmental:		
Fund Balance With Treasury (Note 2)	\$ 5,351,553	\$ 13,148,336
Investments (Note 3)	117,000,000	141,300,000
Prepayments	9,685	221,818
<b>Total Intragovernmental</b>	<b>122,361,238</b>	<b>154,670,154</b>
Accounts Receivable, Net	842	-
General Property, Plant and Equipment, Net (Note 4)	7,161	50,126
<b>TOTAL ASSETS</b>	<b>\$ 122,369,241</b>	<b>\$ 154,720,280</b>
<b>LIABILITIES</b>		
Intragovernmental:		
Employer Contributions and Payroll Taxes Payable	44,970	28,667
<b>Total Intragovernmental</b>	<b>44,970</b>	<b>28,667</b>
Accounts Payable	1,234,029	8,670,172
Accrued Payroll	174,343	112,825
Annual Leave	260,900	189,308
Liability for Whistleblower Awards (Note 5)	3,627,027	20,280,146
<b>Total Liabilities</b>	<b>\$ 5,341,269</b>	<b>\$ 29,281,118</b>
Contingent Liabilities (Note 6)		
<b>NET POSITION</b>		
Cumulative Results of Operations - Funds from Dedicated Collections	\$ 117,027,972	\$ 125,439,162
<b>Total Net Position</b>	<b>\$ 117,027,972</b>	<b>\$ 125,439,162</b>
<b>TOTAL LIABILITIES AND NET POSITION</b>	<b>\$ 122,369,241</b>	<b>\$ 154,720,280</b>

The accompanying notes are an integral part of these financial statements.

**COMMODITY FUTURES TRADING COMMISSION  
CUSTOMER PROTECTION FUND  
STATEMENTS OF NET COST  
FOR THE YEARS ENDED SEPTEMBER 30, 2020 AND 2019**

	2020	2019
<b>NET COSTS OF OPERATIONS</b>		
Gross Costs	\$ 9,494,170	\$ 36,104,893
<b>TOTAL NET COST OF OPERATIONS</b>	<b>\$ 9,494,170</b>	<b>\$ 36,104,893</b>

*The accompanying notes are an integral part of these financial statements.*

**COMMODITY FUTURES TRADING COMMISSION  
CUSTOMER PROTECTION FUND  
STATEMENTS OF CHANGES IN NET POSITION  
FOR THE YEARS ENDED SEPTEMBER 30, 2020 AND 2019**

	2020	2019
<b>CUMULATIVE RESULTS OF OPERATIONS</b>		
BEGINNING BALANCES, OCTOBER 1	\$ 125,439,162	\$ 158,337,598
<b>BUDGETARY FINANCING SOURCES:</b>		
Nonexchange Interest Revenue	1,082,980	3,206,457
Total Financing Sources	1,082,980	3,206,457
Net Cost of Operations	(9,494,170)	(36,104,893)
Net Change	(8,411,190)	(32,898,436)
<b>TOTAL CUMULATIVE RESULTS OF OPERATIONS, SEPTEMBER 30</b>	<b>\$ 117,027,972</b>	<b>\$ 125,439,162</b>

*The accompanying notes are an integral part of these financial statements.*

**COMMODITY FUTURES TRADING COMMISSION**  
**CUSTOMER PROTECTION FUND**  
**STATEMENTS OF BUDGETARY RESOURCES**  
**FOR THE YEARS ENDED SEPTEMBER 30, 2020 AND 2019**

	2020	2019
<b>BUDGETARY RESOURCES</b>		
Unobligated Balance from Prior Year Budget Authority, Net (Note 7)	\$ 143,572,792	\$ 159,272,922
Spending Authority from Offsetting Collections	1,019,085	3,024,893
<b>TOTAL BUDGETARY RESOURCES</b>	<b>\$ 144,591,877</b>	<b>\$ 162,297,815</b>
<b>STATUS OF BUDGETARY RESOURCES</b>		
New Obligations and Upward Adjustments	\$ 26,250,571	\$ 20,862,226
Unobligated Balance, End of Year		
Apportioned, Unexpired Accounts	118,341,306	141,435,589
Unobligated Balance, End of Year (Total)	118,341,306	141,435,589
<b>TOTAL BUDGETARY RESOURCES</b>	<b>\$ 144,591,877</b>	<b>\$ 162,297,815</b>
<b>OUTLAYS, NET</b>		
<b>AGENCY OUTLAYS, NET</b>	<b>\$ 32,096,783</b>	<b>\$ 10,345,063</b>

*The accompanying notes are an integral part of these financial statements.*

## NOTES TO THE FINANCIAL STATEMENTS FOR THE YEARS ENDED SEPTEMBER 30, 2020 AND 2019

### Note 1. Summary of Significant Accounting Policies

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#### **A. Reporting Fund**

The Commodity Futures Trading Commission (CFTC or the Commission) is an independent agency of the executive branch of the Federal Government. Its mission is to “protect market users and the public from fraud, manipulation, and abusive practices related to the sale of commodity futures and options, and to foster open, competitive, and financially sound commodity futures and options markets.”

On July 21, 2010, the “Dodd-Frank Wall Street Reform and Consumer Protection Act” (the Dodd-Frank Act, or the Act) was signed into law, significantly expanding the powers and responsibilities of the CFTC. According to Section 748 of the Act, there is established in the Treasury of the United States a revolving fund known as the “Commodity Futures Trading Commission Customer Protection Fund” (the Fund). The Fund shall be available to the Commission, without further appropriation or fiscal year limitation, for a) the payment of awards to whistleblowers; and b) the funding of customer education initiatives designed to help customers protect themselves against fraud or other violations of this Act or the rules and regulations thereunder.

The Act requires CFTC to transmit to the Committee on Agriculture, Nutrition and Forestry of the Senate, and the Committee on Agriculture of the House of Representatives a report which includes a complete set of audited financial statements and supplementary information, including balance sheet, income statement, and cash flow analysis, no later than October 30, of each year.

#### **B. Basis of Presentation**

The financial statements have been prepared to report the financial position and results of operations for the Fund, as required by the Dodd-Frank Act. These statements have been prepared from the Fund's books and records, which are a component of the Commission's books and records, in conformity with U.S. generally accepted accounting principles (GAAP), as prescribed for the Federal government by the Federal Accounting Standards Advisory Board (FASAB) and in accordance with the form and content requirements contained in Office of Management and Budget (OMB) Circular A-136, *Financial Reporting Requirements*, as amended. Accounting standards allow certain presentations and disclosures to be modified, if needed, to prevent the disclosure of classified information.

The Fund was established in July 2010 and funded by transfers from CFTC's Civil Monetary Penalties, Fines and Administrative Fees receipt account. These transfers do not meet the criteria of reportable revenue as defined by the Statement of Federal Financial Accounting Standards (SFFAS) 7, *Accounting*

*Customer Protection Fund FY 2020 Financial Statements*

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*for Revenue and Other Financing Sources and Concepts for Reconciling Budgetary and Financial Accounting.*

The financial statements report on the Fund's financial position, changes in net position, net cost and budgetary resources. The books and records of the Fund served as the source of information for preparing the financial statements in the prescribed formats. All Fund financial statements and reports used to monitor and control financial resources are prepared from the same books and records. The statements should be read with the understanding that they relate to a fund controlled by CFTC, a component of the U.S. Government, a sovereign entity.

The Balance Sheet presents the financial position of the Fund. The Statement of Net Cost presents the Fund's operating results. The Statement of Changes in Net Position displays the changes in the Fund's net position, and the Statement of Budgetary Resources shows the spending authority of the Fund derived from eligible deposits of civil monetary collections.

**C. Fund Balance with Treasury**

Fund Balance with Treasury is the aggregate amount of the Fund's balance with the U.S. Treasury. The balance in the Fund is available to pay current liabilities and finance authorized operations.

The Fund does not maintain bank accounts of its own, has no disbursing authority, and does not maintain cash held outside of Treasury. Treasury makes disbursements for the Fund.

**D. Investments in U.S. Government Securities**

The CFTC has authority to invest amounts in the Customer Protection Fund in market-based U.S. Treasury securities. Market-based Treasury securities are debt securities that the U.S. Treasury issues to Federal entities without statutorily determined interest rates. Although the securities are not marketable, the terms (prices and interest rates) mirror the terms of marketable Treasury securities. Investments are carried at their historical cost basis which approximates fair value due to their short-term nature.

The interest earned on the investments is a component of the Fund and is available to be used for expenses of the Fund. Additional details regarding investments are provided in Note 3. Investments.

**E. General Property, Plant and Equipment, Net**

The Commission capitalizes assets annually if they have useful lives of at least two years and an individual value of \$25,000 or more. Bulk or aggregate purchases are capitalized when the individual useful lives are at least two years and the purchase is a value of \$25,000 or more. Property, plant and equipment that do not meet the capitalization criteria are expensed when acquired. Depreciation for equipment and amortization for software is computed on a straight-line basis using a 5-year life. The Commission's assets are valued net of accumulated depreciation or amortization.

As of September 30, 2020, the Commission has capitalized as software the costs for development of a website for the CFTC Whistleblower Office. Additional details regarding general property, plant, and equipment are provided in Note 4. General Property, Plant and Equipment, Net.

#### **F. Liabilities**

The Fund's liabilities consist of actual and estimated amounts that are likely to be paid as a result of transactions covered by the Whistleblower Incentives and Protection regulation, and will be paid from available balances remaining in the Fund. In addition, the salaries and operating expenses of the Whistleblower's Office and Office of Customer Education and Outreach were funded through the Fund. Total accrued payroll is composed of amounts to be paid to Fund employees as well as the related intragovernmental payable for employer contributions and payroll taxes. The accrued annual leave liability is the amount owed to employees for unused annual leave as of the end of the reporting period. At the end of each quarter, the balance in the accrued annual leave account is adjusted to reflect current balances and pay rates. Sick leave and other types of non-vested leave are expensed as taken. The Fund's liabilities are considered current liabilities.

#### **G. Funds from Dedicated Collections**

The Fund contains dedicated collections that can only be used to operate a whistleblower program and support customer education initiatives. See Note 1.A. for a description of the purpose of the Fund and its authority to use the revenues and other financing sources. Deposits into the Fund are credited from monetary sanctions collected by the Commission in covered judicial or administrative actions not otherwise distributed to victims of a violation of the Dodd-Frank Act or the rules and regulations underlying such action, unless the balance of the Fund at the time the monetary judgment is collected exceeded \$100 million. No new legislation was enacted as of September 30, 2020, that significantly changed the purpose of the dedicated collections or redirected a material portion of the accumulated balance.

#### **H. Revenues and Other Financing Sources**

The CFTC Customer Protection Fund is funded through monetary sanctions resulting from judicial or administrative action brought by the Commission under the Commodity Exchange Act. All collections are deposited into a receipt account. Eligible collections are transferred into the Fund from the CFTC's Civil Monetary Penalties, Fines and Administrative Fees receipt account.

Congress enacted the Dodd-Frank Act that provides the CFTC with the authority to establish the Fund. The Fund is available to the Commission, without further appropriation or fiscal year limitation. These funds are considered financing sources under U.S. Treasury Department guidelines. Per the Act, no sanction collected by the Commission can be deposited into the Fund if the Fund's balance exceeds \$100 million. The CFTC may request the Secretary of the Treasury to invest Fund amounts in Treasury

obligations. No eligible collections have been transferred into the Fund since it reached its legislative maximum during fiscal year (FY) 2014.

### **I. Intra- and Inter-Agency Relationships**

The CFTC is an independent Federal agency. The Commodity Futures Trading Commission Customer Protection Fund is a fund within the CFTC, and these financial statements present a segment of the CFTC financial activity. The financial events of the Fund are consolidated into the CFTC annual financial statements.

### **J. Use of Management Estimates**

In addition to accruals for goods and services, management estimates were used to calculate overhead expenses in the amount of \$1,163,398 and \$1,487,000 that were allocated to the Fund for the years ended September 30, 2020, and 2019. These amounts were derived by multiplying management's estimated overhead cost per full-time equivalent (FTE) by the number of FTE charged to the Fund.

### **K. Limitations of the Financial Statements**

The principal financial statements included in this report have been prepared to report the financial position and results of operations of the Fund, pursuant to the requirements of Section 748 of the Dodd-Frank Consumer Protection Act. While the statements have been prepared from the books and records of the CFTC in accordance with GAAP for Federal entities, these statements are in addition to the reports used to monitor and control the financial activity of the CFTC, which are prepared from the same books and records. The statements should be read with the understanding that they are for the Customer Protection Fund, a single fund within the CFTC.

## **Note 2. Fund Balance with Treasury**

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### **A. Reconciliation to Treasury**

There are no differences between the fund balance reflected in the Fund's Balance Sheet and the balance in the Treasury account.

### **B. Fund Balance with Treasury**

Fund Balance with Treasury as of September 30, 2020, and 2019, consisted of the following:

	2020	2019
Unobligated Fund Balance		
Available	\$ 2,021,560	\$ 751,948
Obligated Balance Not Yet Disbursed	3,329,993	12,396,388
<b>TOTAL FUND BALANCE WITH TREASURY</b>	<b>\$ 5,351,553</b>	<b>\$ 13,148,336</b>

### **Note 3. Investments**

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The CFTC invests amounts deposited in the Fund in overnight short-term Treasury securities. Treasury overnight certificates of indebtedness are issued with a stated rate of interest to be applied to their par amount, mature on the business day immediately following their issue date, are redeemed at their par amount at maturity, and have interest payable at maturity.

The overnight certificates are Treasury securities whose interest rates or prices are determined based on the interest rates or prices of Treasury-related financial instruments issued or trading in the market, rather than on the interest rates or prices of outstanding marketable Treasury securities. The Commission may invest in other short-term or long-term Treasury securities at management's discretion

The Commission's investments as of September 30, 2020, and 2019, were \$117,000,000 and \$141,300,000, respectively. Related nonexchange interest revenue for the years ended September 30, 2020, and 2019, was \$1,082,980 and \$3,206,457, respectively.

#### *Intragovernmental Investments in Treasury Securities*

The Federal Government does not set aside assets to pay future claims or other expenditures associated with funds from dedicated collections deposited into the Customer Protection Fund. The dedicated cash receipts collected by the Commission as a result of monetary sanctions are deposited in the U.S. Treasury, which uses the cash for general Government purposes. As discussed above and in Note 1.D., the Commission invests the majority of these funds in Treasury securities. These Treasury securities are an asset of the Commission and a liability of the U.S. Treasury. Because the Commission and the U.S. Treasury are both components of the Government, these assets and liabilities offset each other from the standpoint of the Government as a whole. For this reason, the investments presented by the Commission do not represent an asset or a liability in the U.S. Government-wide financial statements.

Treasury securities provide the Commission with authority to draw upon the U.S. Treasury to pay future claims or other expenditures. When the Commission requires redemption of these securities to make expenditures, the Government finances those expenditures out of accumulated cash balances, by raising taxes or other receipts, by borrowing from the public or repaying less debt, or by curtailing other expenditures. This is the same manner in which the Government finances all expenditures.

*Customer Protection Fund FY 2020 Financial Statements*

#### **Note 4. General Property, Plant and Equipment, Net**

Property, Plant and Equipment as of September 30, 2020, and 2019, consisted of the following:

2020			Accumulated	Net Book
Major Class	Service Life and Method	Cost	Amortization/ Depreciation	Value
IT Software	5 Years/Straight Line	\$ 214,824	\$ (207,663)	\$ 7,161
<b>TOTAL GENERAL PROPERTY, PLANT, AND EQUIPMENT, NET</b>		<b>\$ 214,824</b>	<b>\$ (207,663)</b>	<b>\$ 7,161</b>

2019			Accumulated	Net Book
Major Class	Service Life and Method	Cost	Amortization/ Depreciation	Value
IT Software	5 Years/Straight Line	\$ 214,824	\$ (164,698)	\$ 50,126
<b>TOTAL GENERAL PROPERTY, PLANT, AND EQUIPMENT, NET</b>		<b>\$ 214,824</b>	<b>\$ (164,698)</b>	<b>\$ 50,126</b>

#### **Note 5. Liability for Whistleblower Awards**

As mentioned in Note 1A, the Fund will be used to pay awards to whistleblowers if they voluntarily provide original information to the CFTC that leads to the successful enforcement by the CFTC of a covered judicial or administrative action in which monetary sanctions exceeding \$1 million are imposed. Whistleblowers are entitled to appeal any decisions by the Commission in regards to claims made against the Fund.

At the time the whistleblower voluntarily provides information to CFTC, they have no guarantee or promise that the Commission will exchange funds in return for that information. In accordance with federal accounting standards, the Commission records liabilities for these nonexchange transactions when they are due and payable. The Commission therefore records a liability for pending whistleblower payment after the whistleblower has been formally notified of an award and the related sanction, or some portion thereof, has been collected. The liability will be paid when the appeal period has ended and the whistleblower has provided necessary banking information. As of September 30, 2020, and September 30, 2019, the Commission recorded liabilities for pending payments to whistleblowers of approximately \$3,627,027 and \$20,280,146, respectively. During FY 2020, the Commission disbursed \$27,262,890 in whistleblower awards, which primarily consisted of approximately \$20,261,000 from pending payments and \$7,000,000 from accounts payable at the end of FY 2019. Accounts payable as of September 30, 2020, includes approximately \$413,000 for awards that have been finalized as of the end of FY 2020.

In addition to the pending payments to whistleblowers, the Commission had 18 additional whistleblower claims currently under review as of September 30, 2020. These additional claims, depending on whether the whistleblowers are determined to be eligible for an award and the related sanctions have been collected, could result in total future payments ranging from \$0 to \$43,152,147.

## Note 6. Contingencies

Unasserted claims are actions or potential actions the Commission is aware of in which future events may result in claims against the Fund.

In accordance with Federal accounting standards, CFTC records contingent liabilities for any unasserted claim in which payment has been deemed probable and for which the amount of potential liability can be estimated. The Commission also discloses all claims for which payment is reasonably possible. There were no unasserted claims deemed probable or reasonably possible as of September 30, 2020.

## Note 7. Statement of Budgetary Resources: Adjustments to Unobligated Balance Brought Forward, October 1

The Unobligated Balance Brought Forward from the prior fiscal year has been adjusted for recoveries of prior year paid and unpaid obligations. The Adjustments to Unobligated Balance Brought Forward, October 1, as of September 30, 2020, and 2019, consisted of the following:

	2020	2019
Unobligated Balance Brought Forward, October 1	\$ 141,435,589	\$ 158,949,546
Recoveries of Prior Year Obligations	2,137,203	323,376
<b>UNOBLIGATED BALANCE FROM PRIOR YEAR BUDGET AUTHORITY, NET</b>	<b>\$ 143,572,792</b>	<b>\$ 159,272,922</b>

**Supplementary Schedule**

**Commodity Futures Trading Commission  
Customer Protection Fund  
Cash Flow Analysis  
For the Period from October 1, 2019 to September 30, 2020**

CASH AS OF OCTOBER 1, 2019	\$	13,148,336
Cash flows from operating activities		
Paid Expenses for Whistleblower and Consumer Education and Outreach Offices	\$	(33,179,763)
Net cash flows from operating activities	\$	(33,179,763)
Cash flows from investing activities		
Redemptions of US Treasury Securities	\$	24,300,000
Interest collected from investing in US Treasury Securities		1,082,980
Net cash flows from investing activities	\$	25,382,980
Net increase/(decrease) in cash and cash equivalents		(7,796,783)
CASH AS OF SEPTEMBER 30, 2020	\$	5,351,553