

**ANNUAL REPORT ON THE  
WHISTLEBLOWER PROGRAM AND  
CUSTOMER EDUCATION INITIATIVES**



**2017 Annual Report**

October 2017

## 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:

- the 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;

---

<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 (2012).

<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;
- the balance of the Fund at the beginning of the preceding fiscal year;
- the amounts deposited into or credited to the Fund during the preceding fiscal year;
- the amount of earnings on investments of amounts in the Fund during the preceding fiscal year;
- the amount paid from the Fund during the preceding fiscal year to whistleblowers;
- the amount paid from the Fund during the preceding fiscal year for customer education initiatives;
- the balance of the Fund at the end of the preceding fiscal year; and
- a 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, 2016 through September 30, 2017 (“Period”).

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

During the Period, the Commission issued two Final Orders denying two whistleblower award applications submitted on Form WB-APP because the applicants did not meet the requirements of 7 U.S.C. § 26 and 17 C.F.R. § 165. The Commission did not pay out any whistleblower awards during the Period.

### **A. Amendments To The Whistleblower Rules**

The notice-and-comment process for amending the Whistleblower Rules occupied much of the Period.<sup>6</sup> The Commission’s Whistleblower Office (“WBO”) worked with the Office of General Counsel to review public comments on the proposed rules that were published in the

---

<sup>5</sup> Federal Accounting Standards do not identify an “income statement” as a financial statement applicable to the Federal Government. Instead, the Statement of Federal Financial Accounting Concepts 2 identifies the “statement of net cost” as the equivalent financial statement. See Financial Accounting Standards Advisory Board, FASAB Handbook of Federal Accounting Standards and Other Pronouncements, as Amended, June 30, 2011. A “statement of net cost” is included in the attached audited financial statements.

<sup>6</sup> The Whistleblower Rules are codified at 17 C.F.R. pt. 165 (2017).

Federal Register in August 2016.<sup>7</sup> The final amended rules were published in May 2017 and went into effect July 31, 2017.<sup>8</sup>

The amendments strengthen anti-retaliation protections for whistleblowers and add transparency to the Commission's process of deciding whistleblower award claims. Key changes or clarifications made by the amendments include:

- A person may not take any action to impede an individual from communicating directly with the Commission's staff about a possible violation of the CEA, including by enforcing, or threatening to enforce, a confidentiality agreement or pre-dispute arbitration agreement with respect to such communications. See 17 C.F.R. § 165.19 (2017).
- The Commission has authority to bring an action against an employer who retaliates against a whistleblower, irrespective of whether the whistleblower qualifies for an award. A whistleblower continues to have the right to pursue a private cause of action against such an employer. See 17 C.F.R. § 165.20 & app. A (2017).
- The required Form WB-APP may be submitted electronically through the Commission's website at <https://www.cftc.gov> or the Commission's Whistleblower Program website at <https://www.whistleblower.gov>. A Form WB-APP must be received by the Commission within 90 days of the date of the Notice of Covered Action or 90 days following the date of a final judgment in a Related Action. See 17 C.F.R. § 165.7(b)(1) (2017).
- The Claims Review Staff replaces the Whistleblower Award Determination Panel, and the claims review process includes additional steps, described in part below. See 17 C.F.R. §§ 165.15(a)(2), 165.7(f)–(l) (2017).
  - The enhanced review process will be similar to that established under the whistleblower rules of the U.S. Securities and Exchange Commission (“SEC”) and includes issuance of a Preliminary Determination by the Claims Review Staff, setting forth a preliminary assessment as to whether an award claim should be granted or denied.
  - A whistleblower will have an opportunity to review the record and contest the Preliminary Determination before the Commission issues a Final Determination.

While the rulemaking procedure on the amendments progressed, the processing of whistleblower award applications was on hold. Once the amended rules took effect on July 31,

---

<sup>7</sup> Whistleblower Awards Process, 81 Fed. Reg. 59,551 (August 30, 2016).

<sup>8</sup> Whistleblower Awards Process, 82 Fed. Reg. 24,487 (May 30, 2017).

2017, the Claims Review Staff met to consider award applications and issued a number of Preliminary Determinations, totaling more than \$45 million.

The CFTC announced its most recent award on July 26, 2016—in an amount of approximately \$50,000 for a whistleblower who voluntarily provided key original information that led to a successful CFTC enforcement action. The largest award announced by the CFTC to date was in April 2016, in the amount of more than \$10 million. Since the inception of the Whistleblower Program, the CFTC has issued four awards totaling approximately \$11 million.

### **B. Whistleblower Tips And Complaints**

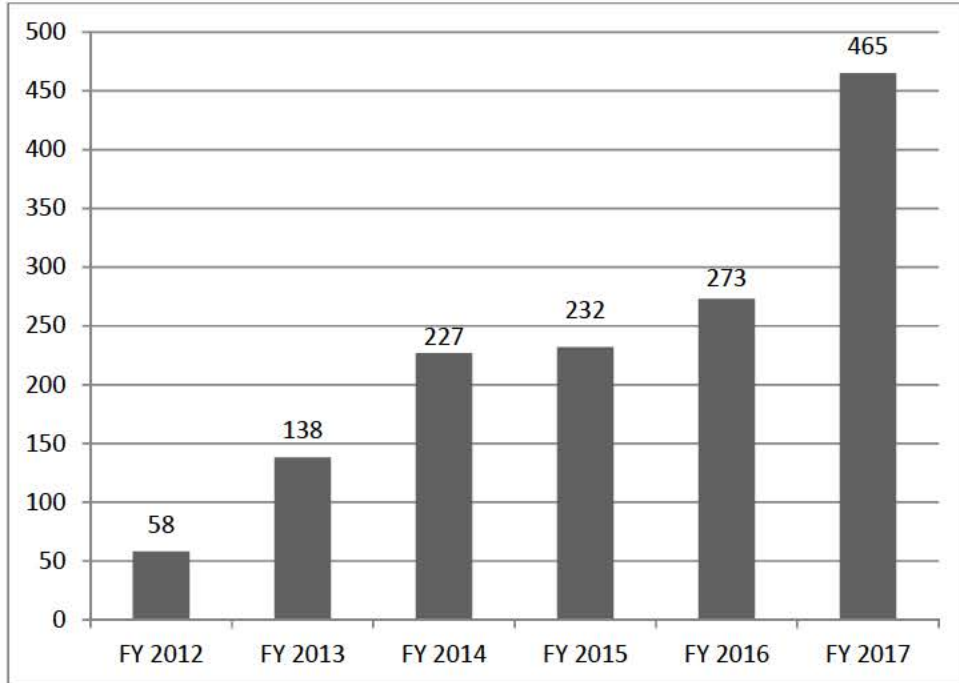
The WBO received 465 whistleblower tips and complaints on Form TCR during the Period,<sup>9</sup> by mail, facsimile, or through the Commission’s web portal.<sup>10</sup> This total represents a 70 percent increase over the number of Form TCRs received during FY 2016. Figure 1 shows the numbers of Form TCRs received each year since FY 2012. The sharp year-over-year increase can be attributed at least in part to the WBO’s sustained outreach efforts, including the first full year of operation for the CFTC’s Whistleblower Program website, at <https://whistleblower.gov>. Those outreach efforts are discussed further below.

---

<sup>9</sup> Under Rules 165.2(p) and 165.3 of the Commission’s Whistleblower Rules, a “whistleblower” is an individual who submits original information to the Commission on a Form TCR either by mail or facsimile, or through the Commission’s website. See 17 C.F.R. §§ 165.2(p), 165.3 (2017).

<sup>10</sup> File a Tip or Complaint: <https://whistleblower.gov/overview/submitatip/>

**Figure 1: Form TCRs received by WBO, by fiscal year**



The WBO also received an additional 110 separate non-whistleblower tips and complaints during the Period,<sup>11</sup> most often by email to 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 virtual currency trading, spoofing and other forms of disruptive trading, market manipulation, false reporting, misrepresentations to customers regarding the handling of their accounts, fraud involving foreign currency exchange, as well as Ponzi schemes and other off-exchange investment scams involving futures.

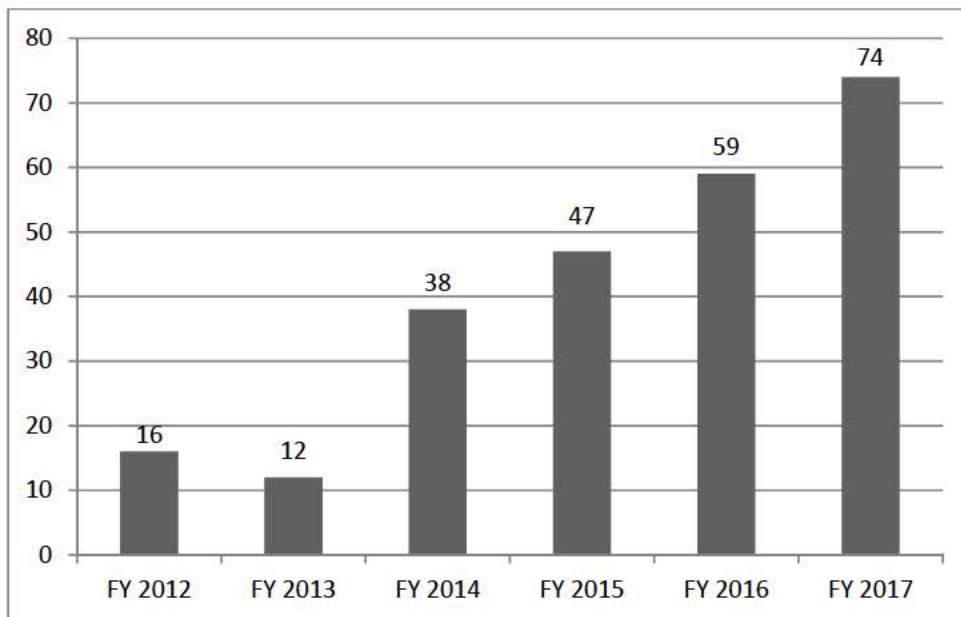
---

<sup>11</sup> This total consists of 61 emails and other non-whistleblower tips and complaints as well as 49 TCRs referred to the Commission by the SEC.

### C. Whistleblower Award Applications

The WBO posts on its website Notices of Covered Actions (“NCAs”) for all judgments and orders entered after July 21, 2010 which impose more than \$1 million in monetary sanctions.<sup>12</sup> The WBO posted 30 NCAs during the Period, down slightly from 36 NCAs posted in FY 2016. During the Period the WBO received 74 whistleblower award claims on Form WB-APP. This represents a 25 percent increase over the number of Form WB-APPs received during FY 2016. Figure 2 below shows the numbers of Form WB-APPs received each year since FY 2012.

**Figure 2: Form WB-APPs received by WBO, by fiscal year**



### D. 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 the WBO, and by attending conferences and other industry gatherings. The WBO’s goal is to inform various constituencies about the

<sup>12</sup> 17 C.F.R. § 165.7(a) (2017).

existence, benefits, and parameters of the program. Those constituencies include Commission staff, whistleblowers and their attorneys, industry and professional groups, other government agencies, self-regulatory organizations, academia, and potential whistleblowers—who may be traders as well as hedgers, farmers, ranchers, producers, and commercial end users. To that end, during the Period the WBO exhibited at more than a dozen industry conferences and trade shows relating to the commodity futures and derivatives markets. These events included agricultural trade shows; conferences focused on the global futures, options, and cleared swaps industry; as well as gatherings of participants in the high-frequency and automated trading space.

The WBO launched its own website, <http://www.whistleblower.gov>, in January 2016. The website continues to educate 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>13</sup> The website 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. It also 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, final award determinations, notices of covered actions, and press releases, while encouraging users to sign up for emailed CFTC Whistleblower Program updates. As of September 30, 2017, more than 30,000 individuals had signed up to receive emails alerting them to updates on the Whistleblower Program website, such as the posting of new NCAs. During the Period, the website received over 111,000 page views.

---

<sup>13</sup> Things To Know: <https://www.whistleblower.gov/news/thingstoknow/>



When the amended Whistleblower Rules went into effect, the WBO updated the website to reflect the reinterpreted authority of the CFTC to protect against retaliation, the additional procedures in the award claims process, the amended Form TCR, and the new submission method for Form WB-APP. The WBO's web portal began accepting Form WB-APP applications for whistleblower awards during the Period, making it even easier for those who have assisted the Commission to submit information to demonstrate their qualifications for award.

#### **E. 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 federal agencies and regulators. During the Period, the WBO considered 267 requests to produce documents from the investigation and litigation files of the Commission's Division of Enforcement. Among those, 117 requests involved whistleblowers, and the WBO found 16 requests to implicate whistleblower-identifying information. The WBO assisted the Commission's Division of Enforcement in preparing the documents to remove whistleblower-identifying information or otherwise take steps to preserve whistleblower confidentiality. During the Period, the WBO also considered 56 requests from other federal agencies and regulators to access documents from the Division of Enforcement's files. Among those, 20 requests involved whistleblowers, and the WBO found seven requests to implicate whistleblower-identifying information. Again, the WBO assisted the Commission's Division of Enforcement in making the documents available outside the Commission without divulging confidential whistleblower information.

### 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.

OCEO conducts a majority of its outreach through the SmartCheck initiative, which aims to encourage investors commonly targeted by fraud to check the registrations of the people and companies making sales pitches as a means of avoiding fraud. The CEA requires that certain individuals and firms selling to the public be registered with the CFTC. These registrations are recorded by the National Futures Association (NFA) and are searchable on the NFA's Background Affiliation Status Information Center (BASIC) database. Many frauds involving precious metals, binary options, forex trading and other markets or products regulated by the CFTC are conducted by unregistered actors, and the majority of commonly targeted victims fail to check registrations and backgrounds of financial professionals before investing.<sup>14</sup>

Investment fraud research indicates that common victims of investment fraud tend to be men and women over age 50 with higher household incomes, higher levels of financial literacy, and a willingness to accept investment risks.<sup>15</sup> The CFTC SmartCheck initiative attempts to reach potential victims where they are, before they fall victim to fraud, to educate them on the importance of checking registrations and encourage them to change their behavior by conducting registration checks as part of their investment research. SmartCheck.gov is designed to facilitate

---

<sup>14</sup> The 2007 FINRA Foundation Senior Fraud Risk Survey indicated that 79 percent of all respondents ages 50-64 didn't check their brokers for previous law violations, and 65 percent didn't check their brokers' registrations.

<sup>15</sup> *Investor Fraud Study*, NASD Investor Education Foundation, 2006, The Consumer Fraud Research Group. *AARP Foundation National Fraud Victim Study*, 2011, Doug Shadel and Karla Pak. A more recent AARP Investment Fraud Vulnerability Study, 2017, Shadel and Pak, is also consistent with the 2006 and 2011 studies. However, it did indicate that victims are aging, with more victims over age 70 than the rest of the investing population, and that more victims preferred unregulated investments than the general investing population.

this behavior change by providing educational information and by funneling potential fraud targets to BASIC or BrokerCheck, a database maintained by the Financial Industry Regulatory Authority (FINRA) that includes registration information about broker-dealers and investment advisers.

#### IV. CUSTOMER PROTECTION FUND

As of September 30, 2017, the Fund had an ending balance of \$196,336,209:

<b>Description</b>	<b>FY 2017</b>
Balance of the Fund at the beginning of the Period:	\$247,550,496
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:	\$1,538,309
Amount paid from the Fund to whistleblowers during the Period:	\$0
Amount paid from the Fund for customer education initiatives during the Period:	(\$3,023,984)
Amount of unpaid customer education initiatives expenses incurred during the Period:	(\$1,672,316)
Amount paid from the Fund for administrative expenses during the Period:	(\$1,530,523) <sup>16</sup>
Amount of unpaid administrative expenses incurred during the Period:	(\$1,025,773) <sup>17</sup>
Amount of contingent claims to Fund resources accrued during the Period:	(\$45,500,000)
Balance of the Fund as of September 30, 2017:	\$196,336,209

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>16</sup> The administrative expenses of the WBO and OCEO are charged to the Fund pursuant to GAO Decision B-321788, 2011 WL 3510145 (Comp. Gen. Aug. 8, 2011).

<sup>17</sup> Unpaid administrative expenses include amortization of software which is not a future disbursement.



**U.S. COMMODITY FUTURES TRADING COMMISSION**

**OFFICE OF INSPECTOR GENERAL**

Three Lafayette Centre

1155 21st Street, NW, Washington, DC 20581

Telephone: (202) 418-5110

**TO:** J. Christopher Giancarlo, Chairman  
Brian D. Quintenz, Commissioner  
Rostin Behnam, Commissioner

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

**DATE:** October 27, 2017

**SUBJECT:** Audit of the CFTC Customer Protection Fund Financial Statements  
for Fiscal Year 2017

Annually the Office of the Inspector General (OIG) conducts an audit of the CFTC Customer Protection Fund (Fund) financial statements. The Balance of the Fund as of September 30, 2017, was \$196,336,209. We contracted with the independent certified public accounting firm Allmond & Company, LLC (Allmond & Co.) to audit the financial statements of the Fund as of September 30, 2017, 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*.
- No material weaknesses in internal control or non-compliance with laws and regulations.

In connection with the contract, we reviewed Allmond & Co.'s report and related documentation and inquired of its representatives. Our review, as differentiated from an audit in accordance with GAGAS, was not intended to enable us to express, and we do not express, opinions on financial statements or internal control or on whether the Fund complied with laws and regulations. Allmond & Co. is responsible for the attached auditor's report dated October 27, 2017 and the conclusions expressed in the report. However, our review disclosed no instances where Allmond & Co. did not comply, in all material respects, with GAGAS.

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

**cc:** Michael Gill, Chief of Staff  
Kevin S. Webb, Chief of Staff  
John Dunfee, Acting Special Counsel  
Christopher Ehrman, Director. Whistleblower Office  
Anthony C. Thompson, Executive Director  
Mary Jean Buhler, Chief Financial Officer  
Keith A. Ingram, Accounting Officer  
Melissa Jurgens, Acting Chief Privacy Officer  
A. Roy Lavik, Inspector General  
Judith A. Ringle, Deputy Inspector General and Chief Counsel



## 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 sheet as of September 30, 2017 and 2016 the related statement of net cost, statement of changes in net position, and combined statement of budgetary resources for the year 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 U.S. generally accepted accounting principles; this includes the design, implementation, and maintenance of internal control relevant to the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

### *Auditors' Responsibility*

Our responsibility is to express an opinion on the fiscal year 2017 and 2016 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 OMB Bulletin No. 17-03, *Audit Requirements for Federal Financial Statements*. Those standards and OMB Bulletin No. 17-03 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.

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

***Opinion***

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the U.S. Commodity Futures Trading Commission Customer Protection Fund as of September 30, 2017 and 2016, and its net costs, changes in net position, and budgetary resources for the year then ended in conformity with general accepted accounting principles in the United States of America.

**Other 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 measurement and presentation of this information. 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 the financial statements as of and for the year ended September 30, 2017, we considered CPF's internal control over financial reporting by obtaining an understanding of CPF's internal control, determining whether internal control had been placed in operation, assessing control risk, and performing tests of control to determine auditing procedures for the purpose of expressing our opinion on the financial statements, but not to provide 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. 17-03. We did not test all internal controls relevant to operating objectives as broadly defined by the Federal Managers' Financial Integrity Act of 1982.

Our consideration of internal control over financial reporting was for the limited purpose as described in the paragraph above and was not designed to identify all deficiencies in internal control over financial reporting that might be a control deficiency, significant deficiency, or material weakness.

A control 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 significant deficiency is a control deficiency or a combination of control deficiencies, that adversely affects CPFs' ability to initiate, authorize, record, process, or report financial data reliably in accordance with generally accepted accounting principles such that there is more than a remote likelihood that a misstatement of the CPF's financial statements that is more than inconsequential will not be prevented or detected. A material weakness is a significant deficiency, or combination of significant deficiencies, that results in more than a remote likelihood that a material misstatement of the financial statements will not be prevented or detected.

In our fiscal year 2017 audit, we did not identify any deficiencies in internal control over financial reporting that we considered to be a material weakness or significant deficiency, as defined above.

***Compliance and Other Matters***

As part of obtaining reasonable assurance about whether CPFs' fiscal year 2017 financial statements are free of material misstatements, we performed tests of CPFs' compliance with certain provisions of laws and regulations, which noncompliance with could have a direct and material effect on the determination of the consolidated financial statement amounts, and certain provisions of other laws specified in OMB Bulletin No. 17-03. 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. 17-03.

***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 and the result 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 and regulations which could have a material effect on CPF's financial statements. Accordingly, this communication is not suitable for any other purpose.

*Allmond & Company, LLC*

October 27, 2017  
Landover, MD





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

**September 30, 2017**

---

**U.S. Commodity Futures Trading Commission  
Customer Protection Fund Report to Congress: Financial Statements**

**Table of Contents**

Financial Statements .....	3
Notes to the Financial Statements.....	7
Supplementary Schedule:	
Cash Flow Analysis.....	12

**Commodity Futures Trading Commission  
Customer Protection Fund  
Balance Sheets  
As of September 30, 2017 and 2016**

	<u>2017</u>	<u>2016</u>
<b>Assets</b>		
Intragovernmental:		
Fund Balance With Treasury (Note 2)	\$ 7,560,992	\$ 5,485,412
Investments (Note 3)	234,006,240	244,000,000
Prepayments	2,541,984	-
<b>Total Intragovernmental</b>	<b>244,109,216</b>	<b>249,485,412</b>
General Property, Plant and Equipment, Net (Note 4)	136,055	179,020
Prepayments	15,190	4,369
<b>Total Assets</b>	<b>\$ 244,260,461</b>	<b>\$ 249,668,801</b>
 <b>Liabilities</b>		
Intragovernmental:		
Employer Contributions and Payroll Taxes Payable	21,726	16,108
<b>Total Intragovernmental</b>	<b>21,726</b>	<b>16,108</b>
Accounts Payable	2,169,637	1,932,814
Accrued Payroll	108,530	83,589
Accrued Annual Leave	124,359	85,794
Contingent Liabilities (Note 5)	45,500,000	-
<b>Total Liabilities</b>	<b>47,924,252</b>	<b>2,118,305</b>
 <b>Net Position</b>		
Cumulative Results of Operations - Funds from Dedicated Collections	196,336,209	247,550,496
<b>Total Net Position</b>	<b>196,336,209</b>	<b>247,550,496</b>
<b>Total Liabilities and Net Position</b>	<b>\$ 244,260,461</b>	<b>\$ 249,668,801</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, 2017 and 2016**

	<u>2017</u>	<u>2016</u>
<b>Net Costs of Operations (Note 6)</b>		
Gross Costs	\$ 52,752,596	\$ 20,551,582
<b>Total Net Cost of Operations</b>	<b>\$ 52,752,596</b>	<b>\$ 20,551,582</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, 2017 and 2016**

	<u>2017</u>	<u>2016</u>
<b>Cumulative Results of Operations</b>		
<b>Beginning Balances, October 1</b>	<b>\$ 247,550,496</b>	<b>\$ 267,612,410</b>
<b>Budgetary Financing Sources:</b>		
Nonexchange Interest Revenue	1,538,309	489,668
<b>Total Financing Sources</b>	<u>1,538,309</u>	<u>489,668</u>
<b>Net Cost of Operations</b>	(52,752,596)	(20,551,582)
<b>Net Change</b>	<u>(51,214,287)</u>	<u>(20,061,914)</u>
<b>Total Cumulative Results of Operations, September 30</b>	<b>\$ 196,336,209</b>	<b>\$ 247,550,496</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, 2017 and 2016**

	<b>2017</b>	<b>2016</b>
<b>BUDGETARY RESOURCES</b>		
Unobligated Balance Brought Forward, October 1	\$ 245,160,899	\$ 264,251,379
Recoveries of Prior Year Unpaid Obligations	279,083	235,289
Other Changes in Unobligated Balance	85,914	117,351
Unobligated Balance from Prior Year Budget Authority, Net	245,525,896	264,604,019
Spending Authority from Offsetting Collections	1,426,356	456,371
<b>Total Budgetary Resources</b>	<b>\$ 246,952,252</b>	<b>\$ 265,060,390</b>
<b>STATUS OF BUDGETARY RESOURCES</b>		
New Obligations and Upward Adjustments	\$ 12,177,314	\$ 19,899,491
Unobligated Balance, End of Year		
Apportioned, Unexpired Accounts	234,455,541	245,160,899
Unapportioned, Unexpired Accounts	319,397	-
Unobligated Balance, End of Year (Total)	234,774,938	245,160,899
<b>Total Budgetary Resources</b>	<b>\$ 246,952,252</b>	<b>\$ 265,060,390</b>
<b>CHANGE IN OBLIGATED BALANCE</b>		
Unpaid Obligations:		
Unpaid Obligations, Brought Forward, October 1	\$ 4,240,141	\$ 4,291,207
New Obligations and Upward Adjustments	12,177,314	19,899,491
Outlays (Gross)	(9,542,403)	(19,715,268)
Recoveries of Prior-Year Unpaid Obligations	(279,083)	(235,289)
Unpaid Obligations, End of Year	6,595,969	4,240,141
Memorandum Entries:		
Obligated Balance, Start of Year	\$ 4,240,141	\$ 4,291,207
Obligated Balance, End of Year	\$ 6,595,969	\$ 4,240,141
<b>BUDGET AUTHORITY AND OUTLAYS, NET</b>		
Budget Authority, Gross	\$ 1,426,356	\$ 456,371
Actual Offsetting Collections	(1,617,983)	(607,019)
Recoveries of prior year paid obligations (discretionary and mandatory)	85,914	117,351
Budget Authority, Net	<b>\$ (105,713)</b>	<b>\$ (33,297)</b>
Outlays, Gross	\$ 9,542,403	\$ 19,715,268
Actual Offsetting Collections	(1,617,983)	(607,019)
Agency Outlays, Net	<b>\$ 7,924,420</b>	<b>\$ 19,108,249</b>

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

**Notes to the Financial Statements**  
**For the Years Ended September 30, 2017 and 2016**

**Note 1. Summary of Significant Accounting Policies**

**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.

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 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 the deposits eligible from 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, 2017, 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. Liabilities totaled \$47,924,252 and \$2,118,305 as of September 30, 2017, and 2016, respectively. 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, 2017, 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 were transferred during FY 2017 or FY 2016 because the Fund reached its legislative maximum during 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 \$918,000 and \$736,530 that were allocated to the Fund for the years ended September 30, 2017, and 2016. 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

The Fund Balance with Treasury by type of fund and Status of Fund Balance with Treasury as of September 30, 2017, and 2016, consists of the following:

	2017	2016
Revolving Funds	\$ 7,560,992	\$ 5,485,412
<b>TOTAL FUND BALANCE WITH TREASURY</b>	<b>\$ 7,560,992</b>	<b>\$ 5,485,412</b>
Revolving Funds		
Unobligated Fund Balance		
Available	\$ 965,023	\$ 1,245,271
Obligated Balance Not Yet Disbursed	6,595,969	4,240,141
<b>Total Revolving Funds</b>	<b>7,560,992</b>	<b>5,485,412</b>
<b>TOTAL FUND BALANCE WITH TREASURY</b>	<b>\$ 7,560,992</b>	<b>\$ 5,485,412</b>

### 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 consists of collections of fines and penalties not owed to harmed investors. Obligation of these funds is controlled by apportionments made by OMB. Until such funds are apportioned by OMB for use in the current period, they are unavailable to be obligated.

## Note 3. Investments

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, 2017, and 2016, were \$234 million and \$244 million, respectively. Related nonexchange interest revenue for the years ended September 30, 2017, and 2016, was \$1,538,309 and \$489,668, 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.

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

Property, Plant and Equipment as of September 30, 2017, and 2016, consisted of the following:

2017				
Major Class	Service Life and Method	Cost	Accumulated Amortization/ Depreciation	Net Book Value
IT Software	5 Years/Straight Line	214,824	(78,769)	136,055
		<u>\$ 214,824</u>	<u>\$ (78,769)</u>	<u>\$ 136,055</u>
2016				
Major Class	Service Life and Method	Cost	Accumulated Amortization/ Depreciation	Net Book Value
IT Software	5 Years/Straight Line	214,824	(35,804)	179,020
		<u>\$ 214,824</u>	<u>\$ (35,804)</u>	<u>\$ 179,020</u>

#### Note 5. Contingencies

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

As mentioned in Note 1.A. Reporting Fund, 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.

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. As of September 30, 2017, the Commission has determined that it is probable that it will make whistleblower awards of approximately \$45.5 million as a result of valid whistleblower claims on Commission-imposed sanctions that have already been collected. There were no unasserted claims deemed reasonably probable and measurable, or reasonably possible, as of September 30, 2017.

#### Note 6. Intragovernmental Costs

The Statement of Net Cost presents the Customer Protection Fund's results of operations for the activities to run the Whistleblower's Office and Office of Customer Education and Outreach. Intragovernmental costs arise from the purchases of goods and services from other components of the Federal Government (including other CFTC funds). In contrast, public costs are those which arise from the purchase of goods and services from non-Federal entities. The Fund incurred \$553,534 and \$695,091 in net intragovernmental costs and \$52,199,062 and \$19,856,491 in net costs with the public for the years ended September 30, 2017, and 2016, respectively. The significant increase in costs with the public is primarily due to \$45.5 million in whistleblower awards in FY 2017 compared to \$11.5 million in FY 2016.

